THE CHANGING ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE COMMISSION DURING THE PERIOD 1990-2000: AN EVALUATION

by

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DECLARATION

I declare that "THE CHANGING ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE COMMISSION DURING THE PERIOD 1990-2000: AN EVALUATION" is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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SUMMARY

The dissertation examines the effect of changes since 1994 on the role of the South African Public Service Commission (hereafter referred to as the Commission). Its contention is that the changes since 1994 re-focussed the role of the Commission on development and modernisation of public administration practices. The role of the Commission is now confined to monitoring, evaluation, investigation and research.

The dissertation finds that the Commission does not have a formal transversal monitoring and evaluation system. The co-operation between the Commission and other oversight bodies (such as the Public Protector and the Auditor-General) involved in monitoring and evaluation of public service delivery is minimal. There is no 'national consensus' yet on what the constitutional value and principle that public administration must be development-orientated means. The Commission has not set out research as its key performance area whereas its role in labour relations is superfluous. Recommendations in respect of the foregoing shortcomings are made in the dissertation.

Key terms

Changing role; Transformation; Evaluation; South African Public Service Commission; Commission for Administration; British Civil Service Commission; American Civil Service Commission; Categorical system of the responsibilities of the Commission; Apartheid dispensation; Democratic dispensation; Public Service.

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CHAPTER 1

INTRODUCTION

1.1. Statement of the research problem

Since the inception of the democratic dispensation in 1994, fundamental changes in the system of governance in South Africa occurred. Those changes were primarily precipitated by the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993 – hereafter referred to as the Interim Constitution of 1993) and the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996 - hereafter referred to as the Constitution of 1996) respectively. The Interim Constitution of 1993 came into operation on 27 April 1994 and necessitated the transition from the apartheid system of governance to the democratic one. It was repealed on 4 February 1997 by the Constitution of 1996.

The Interim Constitution of 1993 and the Constitution of 1996, together with a host of legislations and other policy decisions made to give effect to their provisions with regard to public administration, respectively accentuated that the South African public service system should be embedded in the imperatives of democracy. The constitutional injunctions for public service propensity to the values and principles of democracy required public institutions to reposition themselves so that their functioning could befit the new dispensation. It is in respect of the Public Service Commission, which occupies an important strategic position in the South African system of governance, that the changes since the inception of the democratic dispensation brought about 'a most radical transformation' (Sangweni 1997:36-46). Against the foregoing background, the following research question/problem was formulated:

What is the effect of the changes since 1994 on the role of the Public Service Commission in South Africa?

This dissertation is premised on the above-mentioned question. The research question was raised solely because; in as far as one could ascertain from the literature dissected, it was not dealt with adequately. Sangweni (1997:36-46) provided a comprehensive disquisition from the insider perspective on the changing *role of the Public Service Commission, hereafter referred to only as the Commission,* in the nineties. The disquisition was, however, more concern with the description of '...the changing nature and role of the Commission in the post-1994 period following the assumption of power and the adoption of South Africa's 1996 Constitution' (Sangweni 1997:36-46). Sangweni's disquisition did not necessarily focus on the effect of changes on the role of the Commission.

The Report of the Presidential Review Commission (1998), hereafter referred to as the Report of 1998, also did not address the question of the effect of changes in the nineties on the role of the Commission. It was only opinionated in the Report of 1998 that the new powers and functions of the Commission as spelt out in section 196 of the Constitution of 1996 constitutes the core functions of the Commission. The Report of 1998 fell-short to explicates the effect of changes on the role of the Commission. The effect of changes since 1994 on the role of the Commission in South Africa was therefore, during the time of this research, not yet scientifically determined.

1.2. **Aims of the research**

The research was prompted by the fact that, as indicated in sub-section 1.1 above, *the effect of changes since 1994 on the role of the Commission in South Africa* was not dealt with adequately in the available literature. The objective of this dissertation therefore was to fill the void alluded to in the foregoing. The dissertation evaluated the powers and functions of the Commission in South Africa during the period 1990-2000. The foregoing exercise was aimed at determining the effect of changes since 1994 on the role of the Commission. An evaluation of the role of the Commission in the dissertation specifically and systematically determined the effect of changes on *the role of the Commission brought about:*

- by and under the Interim Constitution of 1993,
- by the Cabinet decision of 1996,
- by the arrangements with regard to its transition from the Interim Constitution of 1993 to the Constitution of 1996, and
- by and under the Constitution of 1996.

The above-mentioned exercise would hopefully make a significant contribution towards the understanding of the new mandate of the Commission under the Constitution of 1996. It is also hoped that the dissertation would make an important contribution to the discourse on whether the Commission in South Africa is still necessary, given the number of key departments/institutions/bodies established in terms of the Constitution of 1996 to monitor and evaluate public service delivery.

1.3. **Scope of the research**

The scope of the dissertation was largely restricted to the period 1990-2000. The rationale for the confinement of the research to the foregoing period was premised on that, to determine the effect of changes since 1994 on the role of the Commission, it is imperative that its role before 1994 should first be adequately understood. Given that the role of the Commission since 1912 until 1994 remained largely the same although regulated throughout the years by various Acts of Parliament (*vide* Baxter 1984:120-121), the year 1990 was, for the purpose of tractability of the study, chosen as the *terminus a quo*.

The dissertation therefore begun by examining the role of the Commission during the period 1990-1993, as a representative period of the previous apartheid dispensation, to establish the basis to determine the effect of changes since 1994 on its role. Thereafter, the role of the Commission during the period 1994-2000 was examined. The Commission constituted in terms of the Constitution of 1996 only commenced with its formal operations on 1 July 1999 (*vide* Annual Report of the Public Service Commission 2000/2001:06). In view of the foregoing, it was deemed appropriate that, for the purpose of the completeness of this research, the scope of the dissertation should cover the period ending in 2000. The choice of the year 2000 as the *terminus ad quem* was therefore based entirely on the foregoing explication.

1.4. Problems encountered during the course of research

The study on the changing role of the Commission in South Africa was not an easy exercise. A variety of problems or hurdles were encountered during the course of the research. As indicated in sub-section 1.5 below, qualitative research methods/ designs in the form of written documents, interviews and questionnaires were used to collect data on the role of the Commission. Attempts to secure appointments for personal interviews with the members of the Public Service Commission did not always succeed because of their busy schedules and geographical dispersion of their respective work locations.

The Public Service Commission is comprised of 14 members, five stationed in Pretoria and one each stationed in the nine provinces of South Africa. This means that to reach all the members of the Commission was going to be costly, as the research grant allocated to researcher would not have been enough to cover the expenses incurred in travelling to different provinces to personally conduct interviews. As a result of the financial stringencies, the questionnaire was, instead, used. The questionnaire was structured in a qualitative manner to solicit the opinions, experiences and knowledge of the Commissioners regarding the effect of changes since 1994 on the role of the Commission. It was sent to all 14 members of the Commission.

The majority of the current members of the Public Service Commission were appointed for the first time as Commissioners in January 1999 and officially assumed office on 1 July 1999. They are therefore relatively new particularly in terms of their knowledge and experience with regard to the functioning of the Commission in the past. The foregoing imposed limitations on the study as those members could not respond to the questionnaire sent to them because most of the questions covered the period before their appointment as Commissioners. Some were even appointed in 2001, the period which falls beyond the scope of the research (see Annexure A). As a result of the foregoing, only five out of 14 members of the Commission responded to the questionnaire.

Senior officials at the level of a Director or Deputy Director of Human Resources in different state departments also formed part of the targeted population group for the research on the role of the Commission. Securing an appointment with them for personal interviews with regard to this research was also not always easy. Some of them, on the one hand, took a long time to respond to a request for an interview whereas, on the other hand, others did not bother to respond at all. A formal procedure of having to put down in writing an application for permission to conduct interviews for research purposes, and thereafter wait for response, retarded the progress of the study. Consequently, the research took much longer than anticipated for its completion. As a grant-holder, the foregoing put the researcher in 'hot water' as the Director of Research at Technikon Northern Gauteng (the institution where the researcher is employed) wanted an explanation regarding the unspent money allocated for the conducting of this research (see Annexure B).

Some of the Directors of Human Resources interviewed in different state departments were relatively new in the public service and therefore, could not answer some of the questions relating the role of the Commission in the past. The research on the role of the Commission was also, in some instances, met with 'bureaucratic arrogance' that flagrantly besmirch the spirit of *Batho Pele* (people first approach to public service delivery) the government is busy trying to inculcate in the South African public administration system.

1.5. **Research methodologies**

Historiography, theoretical and empirical research methods were combined and applied to collect data used to provide an answer to the research problem raised in sub-section 1.1 above.

1.5.1. **Historiography**

Historiography is a method of research that refers to methodical collection and impartial examination of data connected to past occurrences used to explain the current occurrences (Adams and White 1994:569; Gay 1990:186). To understand the changing role of the Public Service Commission in South Africa, historiography was used in the study to narrate its history. This method of research was used to describe the changes in the role of the Public Service Commission from the historical perspective. With this research method, the dissertation examined the role of the

Commission pre and post 1994. The historical approach helped in explaining the current role of the Commission in South Africa.

The literature on the history of the Public Service Commission was, in the dissertation, used to narrate its roles through the years. The term literature, as used above, should be understood in its broader context. It refers to all types of written materials, such as textbooks, articles, official documents and files detailing the history of the Commission. The historical data obtained from the sources alluded to in the foregoing was organised, analysed and synthesised in a manner that provided rational explanation or reasons for the changing role of the Commission. This exercise made it possible to give a logical interpretation of the effect of changes since 1994 on the role of the Commission.

1.5.2. **Empirical research method**

Adams and White's (1994:569) definition of empirical study is embracing. It encompasses all the mainstream social science methods (quantitative research designs), case studies, qualitative research designs and their respective techniques. The empirical research method used in the dissertation to obtain data on the changing role of the Commission in South Africa was, however, qualitative research designs only.

The contention that quantitative data, according to Guy *et al* (1987:257), frequently culminates in qualitative study might create confusion in understanding what qualitative research methods exactly entail. The qualitative research could therefore be confounded with quantitative study. This is more often likely to be case as the writers on qualitative research 'appear reluctant to commit themselves to a single definition of the concept' (Wessels 1999:390). It therefore appears important from the foregoing that, to understand qualitative research designs as used in the dissertation, quantitative research design should first be explained.

The quantitative research design refers to 'formalised and explicitly controlled' method commonly used in social science research to make generalisations or a universal statement premised on the quantities that have been measured (Mouton and Marais 1988:155). The quantitative method is designed 'to produce data appropriate for quantitative (statistical) analysis' (Babbie 1992:261). The quantitative designs used to glean data from relevant research subjects are

structured questionnaires. For a quantitative questionnaire to be useful it should be structured in a way that is incisive, attractive, and easy to respond to and concentrate only on the important aspects of the research (see Gay 1990:196; O'Sullivan and Rassel 1995:206-212; Welch and Comer 1988: 67-69).

A structured item normally comprises of a statement and an array of responses from which the respondents are expected to choose one. Each response is assigned a number used for the purpose of scoring. A structured item normally used is multiple-choice in nature. It is mostly argued that the quantitative research design expedites responses, make data analysis easy and promote objective and efficient scoring (see Brynard and Hanekom 1997:29, 38; Gay 1990:196-198; Mouton and Marais 1988:155-156; Robinson 1993:116; Welch and Comer 1988: 67-69).

The above exposition notwithstanding, the quantitative research methods do have their inadequacies. The disadvantage with the quantitative research design is the possibility that a research subject's true response might not be among the alternatives (Gay 1990:196-198). Also, as pointed out in Guy *et al* (1987:256) quantitative data is often concern with 'knowing about' than 'knowing' itself. As explicated in Guy *et al* (1987:256) 'knowing about' pertains to knowledge of the subject matter based on what others said about it. The distance between the researcher and the subject matter often leads to distortion of reality. The quantitative methods might also create the danger of parochial study.

In contrast to quantitative research methods, qualitative methods are not formalised (Mouton and Marais 1988:155). The qualitative research methods are designs used in social sciences research to get descriptive data: people's own written or spoken words and observations (Brynard and Hanekom 1997:29). These methods are, according to Guy *et al* (1987:256), related to field methods. The field methods pertain to direct and personal contact with the unit analysis or the subject of the study.

Ostensibly, field methods are predicated on the assertion that proximity to sources of data makes one to develop a clear perspicacity with regard to the phenomenon investigated (Patton 1987:16-17). The relation between qualitative research methods and field methods Guy *et al* (1987:256) mentioned above is clearly explicated in the view that the qualitative approaches, according to Patton

(1987:16), stresses the imperative of proximity to the people and situations being studied to acquire a full grasp of the realities of the research object.

The focus of the qualitative methods is, therefore, on the place where the phenomenon investigated takes place and the real-life experience of people. The qualitative methods are underpinned by the idea that 'context is essential for understanding a situation' (Mouton and Marais 1988:204). Guy *et al* (1987:256) further expanded in explicating qualitative research methods. The qualitative methods seek to address the following questions:

- what kinds of things people are doing,
- what kinds of processes are at work,
- what kinds of meaning are constructed,
- what kinds of purposes and goals inform the participants' act,
- what kinds of problems, constraints, and contingencies they see in the worlds they occupy (Guy *et al* 1987:256).

A complex changing phenomenon such as the role of the Commission cannot be analysed using numerical or statistical data. It 'requires disciplined exploration and observation, effective interviewing, discovery of critical incidents, informed comparisons', and meticulous content and discourse analyses of relevant materials/documents (Jreisat 1997:180; Wessels 1999:389-392). In juxtaposition with the quantitative designs/methods, the qualitative ones were found to be appropriate for the collection and analysis of data to provide an answer to the research question put forth in sub-section 1.1 above.

The qualitative research methodology was therefore chosen and used in the dissertation. The choice of the qualitative method should not, however, be misconstrued as 'a denigration of quantitative methodologies' (Clapper 2000:08). The qualitative and quantitative methodologies are both valid in their own rights (*vide* Hammersley 1996:160-163). The choice of qualitative methodology was premised solely on its appropriateness to research the subject matter of the dissertation. The qualitative methods of data collection used in the dissertation were, as hereunder looked at, official documents, open-ended interviews and a qualitative questionnaire.

1.5.2.1. **Official documents**

The official documents such as the White Paper on the Transformation of the Public Service (1995) and a host of legislations relating to the Commission and its role were obtained from the Government Printer and used in conducting the research. Following a formal request (see Annexure C), other important official documents of the Commission were made available. Those documents included, *inter alia*, Annual and Half-Yearly Reports of the Commission, Special Reports of the Commission, and official files. The Report of the Presidential Review Commission, speeches of the Chairperson of the Commission and the Minister of the Public Service and Administration, and press releases of the Commission were obtained from the internet. All the documentations mentioned in the foregoing were read and thoroughly analysed to develop full understanding of their contents with regard to the role of the Commission in South Africa.

1.5.2.2. **Interviews**

Deep open-ended qualitative interviews were conducted with the Directors and, in some cases, Deputy Directors of Human Resources in different state departments whose personnel function, in terms of the Constitution of 1996 and the *Public Service Act*, 1994 (Act 103 of 1994), falls within the jurisdiction of the Commission (see Annexure D). Interviews were also conducted in the Office of the Commission with the Chief Director, Labour Relations and the Director of Monitoring, Evaluation and Research. The questions explored during the interviews were formulated after thorough reading of the relevant literature on the role of the Commission (see Annexure E). The questionnaire that comprises annexure E of this dissertation was applied in an unstructured manner, mainly to guide discussions during interviews. In some instances, the interviewees agreed to have the interview recorded on tape. This eased the task of talking and taking notes at the same time. All tape-recorded and scribed information was carefully transcribed.

The descriptive data obtained through interviews from the targeted population group, as indicated above, was appropriately cited and acknowledged in the text of the dissertation. The unstructured interviews, as Gay (1990:196-197) attests, accorded the interviewees an undiminished freedom of response. The qualitative method allowed greater profundity of response. It also made it possible for one to develop an understanding into reasons for response (Gay 1990:196-197).

1.5.2.3. **Questionnaire for Public Service Commissioners**

As indicated in sub-section 1.4 above, the Commission in South Africa is comprised of 14 members, five stationed in Pretoria and one stationed in each province. As a result of the busy schedules of the Commissioners (see Annexure F) and the vast geographical dispersion of their work locations in different provinces, it was not possible to secure an appointment for personal interviews with them. The questionnaire was therefore used to solicit their opinions, experiences and knowledge regarding the effect of changes since 1994 on the role of the Commission. It was sent to all 14 members of the Commission for completion.

The questionnaire, which was qualitative in nature, comprised of two parts. The first part was concerned with the role of the Commission under the Interim Constitution of 1993 whereas; the second part was concerned with its role under the Constitution of 1996. It was important that both sides of the questionnaire should be fully completed for the purpose of comparative analysis (see Annexure G). The majority of the members of the current Public Service Commission are, however, relatively new as they were appointed for the first time as Commissioners in January 1999 and officially assumed office on 1 July 1999. As already mentioned in sub-section 1.4, the effect of the foregoing was that, only five of the 14 members of the Commission managed to fully complete the questionnaire. This means that 64 percent of the members of the Commission could not complete the questionnaire, as most of the questions covered the period before their appointment as Commissioners (see Annexure A).

As much as it was anticipated that at least 60 percent of the members would respond, a 36 percent response rate is not necessarily indicative of a poor response, more so that the approach of the research was qualitative than quantitative. The qualitative way the questionnaire was structured made it possible to get descriptive and explanatory data used in drawing valid conclusions and making findings regarding the effect of changes since 1994 on the role of the Commission.

1.5.3. **Theoretical study**

Adams and White (1994:569) succinctly explicates that a theoretical study essentially depends on secondary sources of data. It pertains to 'logical argument and often critical analysis' (Adams and White 1994:569). The theoretical study therefore refers to intellectual and systematic analysis of the composition quality of textbooks and articles to present a particular view. This type of study is important to understand theory that undergirds a particular position. The theoretical discourse is necessary for the purpose of developing a framework of analysis that could be used to understand reality about certain phenomena.

The extensive literature analyses and reviews were made to establish a theoretical premise to understand the changing role of the Commission in South Africa. Using the theoretical insight obtained from the books and articles as theoretical sources, the origin of the Commission in the British civil service was analysed. The development of the Commission in the American civil service system was also accorded considerable attention in the dissertation. The theory that undergirds the developments of the Commission in these two countries was examined and used to develop an analytical instrument to evaluate the two phases (pre and post 1994 phases) in the history of the Commission in South Africa from a comparative perspective. The comparative analysis was necessary to determine the effect of changes since 1994 on the role of the Commission in South Africa.

Various sources of data used in the dissertation can be divided into two main categories: human behaviour and human characteristics, and products of human behaviour and human characteristics (*vide* Mouton 1996:141-142). These categories of data have been combined and applied in the dissertation to obtain relevant and reliable data to answer the research question raised in sub-section 1.1 above. The foregoing is, in the following page 12, illustrated in a plan designed to systematically and coherently conduct research on the changing role of the Commission in South Africa in Figure 1.1 as follows:

Figure 1.1 Illustration of research plan

Unit of analysis	South African public service commission	
Characteristics	Effect, change and role	
Categories of data	**Human behaviour and human characteristics**	**Products of human behaviour and human characteristics**
Sources of data	Members of the Public Service Commission; Chief Director in the Office of the Public Service Commission-Labour Relations; Director of Monitoring, Evaluation and Research-Office of the Public Service Commission; Directors or Deputy-Directors of Human Resources in different state departments (see bibliography)	White Papers, Annual and Half-Yearly Reports of the Public Service Commission, Special Reports of the Commission, officials files, Report of the Presidential Review Commission, textbooks and articles
Research methodology	**Empirical research method**: Qualitative research methods/design, namely unstructured interviews and questionnaire for Public Service Commissioners in South Africa	**Theoretical research method** (philosophy); historiography (narrative); content analysis (reading and understanding of texts).

(Adapted from Wessels 1999:376)

1.5.4. Data analysis and validation

The content and discourse analyses of the interviews, White Papers and legislation relating to the role of the Commission were done. This exercise entailed reading of the contents of the texts, organisation of the descriptive and explanatory data from the interviews and official documents into themes. The data related to the research problem were pooled together, and then sub-divided into coherent categories, patterns and themes. The contents of the data were read and classified into some meaningful and tractable themes and categories. This exercise made it possible to attach meaning, elucidate descriptive patterns and look for relationships and linkages among descriptive dimensions. Consequently, appropriate conclusions were drawn. The conclusions drawn were validated through triangulation of the results of the interview data with the results of the content and discourse analyses of the official documents and the theoretical data.

1.6. Harvard referencing technique

The sources of data cited in the text of the dissertation were duly acknowledged using the shortened Harvard referencing technique (Roux 1989:05). At the end of the dissertation, a complete bibliographical information of all sources of data used to write the dissertation was provided. This was followed by the addition of information related to the subject matter of the dissertation in the form of annexures.

1.7. Terminological/conceptual demystification

In the social science, terms/concepts are used intermittently such that their true meaning is always susceptible to distortions. This often results in terminological/conceptual ambiguities and obscurities. Such ambiguities and obscurities vitiate development of knowledge. The terminological/conceptual lucidity is therefore sacrosanct. It should be maintained at all times in the social sciences discourses to ensure efficacy in the dissemination of scientific knowledge. Against this background, key terms/concepts used are hereunder, at the outset, demystified to maintain lucidity of the dissertation.

1.7.1. Effect

'Effect' is a key word that appears in the research question as stated in sub-section 1.1 above. It means, as explained in *Webster's Comprehensive Reference Dictionary and Encyclopaedia* (1954:167), result or outcome. In the context of this dissertation, 'effect' should be fathomed as the result or outcome of the changes since 1994 on the role of the Commission in South Africa.

1.7.2. Changes

The word 'changes', just like 'effect' as explained in sub-section 1.7.1 above, appear in the research question/problem as stated in sub-section 1.1 above. As delineated in *Webster's Comprehensive Reference Dictionary and Encyclopaedia* (1954:101), the word 'change' means 'alteration or variation from one state or form to another'. 'Changes' in the dissertation was used to refer to alterations or variations of the role of the Commission from what it used to be during the apartheid era (1990-1993) to what it came to be since the inception of the democratic dispensation in 1994.

1.7.3. **Role**

The word 'role' appears both in the title and the research question/problem of the dissertation. Literally, 'role' means function. In the dissertation, the word 'role' was used to refer to the total sum of all the functions assigned to the Commission under different constitutional dispensations, as indicated in the disquisitions of the text of the dissertation, during the period 1990-1993 and 1994-2000.

1.7.4. **Public Service Commission**

The Public Service Commission is the unit of analysis of this research. It refers to a statutory and apolitical central administrative institution created with the objective of promoting the value of merit and efficiency in the public service. The idea of creating the Public Service Commission originated in the mid-nineteenth century British civil service and permeated the public service of the Commonwealth and other countries across the globe. In South Africa, the Public Service Commission was established in 1912. Its designation in 1980 changed to the Commission for Administration until 1994 when it again became known as the Public Service Commission under the Interim Constitution of 1993. The Interim Constitution of 1993 was repealed by the Constitution of 1996, which assigned the Commission the mandate of monitoring and evaluation of the public service performance.

In the text of the dissertation, the designations 'Public Service Commission' and 'Civil Service Commission' were used. The designation 'Public Service Commission' was used in the dissertation to refer to the Commission in South Africa whereas, the designation 'Civil Service Commission' was used to refer to the Commission in Britain and United States of America.

1.7.5. **Commonwealth countries**

Commonwealth is a term used to refer to the association of sovereign states that have chosen to be politically linked. The idea of commonwealth, according to McLean (1996:86-87), was first conceived in the meetings between Britain and its former colonies (Australia, Canada, South Africa, and New Zealand) during the First and the Second World Wars. In terms of the Statute of Westminster of 1931 these dominions/countries were under the jurisdiction of the British Crown. These British colonies were, according to McLean (1996:86-87), granted full sovereignty after the

Second World War and more countries also started to join the commonwealth. In 1947 India, Pakistan and Ceylon decided to join the commonwealth. Other states in Africa, Asia, the Caribbean, and the Pacific also joined after they acquired their independence (McLean 1996:86-87).

1.7.6. **Presidential Review Commission**

The Presidential Review Commission, hereafter referred to as the PRC, refers to the Commission which was established on 8 March 1996. Officially the PRC was titled *The Commission of Inquiry Regarding the Transformation and Reform of the Public Service.* The need for the PRC was first pointed out in the *White Paper on the Transformation of the Public Service*, Notice No. 1227 of 1995, published in the *Government Gazette* No. 16838 of 24 November 1995. It was created to assist in accelerating the process of transforming the public service in South Africa. The brief of the PRC was published in Government Gazette No. 17020 as follows:

> inquire into the structures and functions of the public service and statutory bodies; conduct an internal audit and review of each ministry, department, provincial administration, organizational component, office and agency concerning its objective, structure, function, staffing, financing, and related matters; and conduct review and revision of the systems, routines and procedures of planning, budgeting and financial execution in the public service, to increase public accountability with a view to making recommendations and proposals regarding the transformation and reform as envisaged in the *White Paper on the Transformation of the Public Service*, Notice No. 1227 of 1995, published in the *Government Gazette* No. 16838 of 24 November 1995.

1.7.7. **Draft Strategy Position Paper**

The Draft Strategy Position Paper of 1997, as explained in the *Annual Report of the Public Service Commission* (1997:35), refers to a 'discussion document that examines the implications of the roles and functions of the Public Service Commission contained in the Constitution of 1996'. It articulates the vision, mission and operating principles of the Commission under the Constitution of 1996. The document further outlines possible ways and means the Commission could strategically reposition itself to contend with its new mandate.

1.7.8. **Colony**

It is pointed out in chapter 5 of the dissertation that, historically, South Africa comprised of four British colonies. The concept 'colony' is, however, often confounded with 'protectorate'. 'Colony' is inextricably related to annexation. It refers to a country controlled by another foreign country. A colonial state is therefore characterised by foreign settlement as well as foreign political and economic domination (*vide* Heywood 1997:116, 145). Gie (1928:126 Vol.2) observed that 'centralisation, emigration and anglisation' underpinned the second British occupation of the Cape, Natal, Transvaal and Orange Free State. The British settlers felt themselves as much part of the foregoing territories as those whose ancestors they displaced (*vide* Gie 1928:126 Vol.2; McLean 1996:83-84).

Sifting through the *British Foreign Jurisdiction Act* of 1890, it is clear that the intention of the British government was to ensure that the territories mentioned in the above exposition were governed as colonies than protectorates (*vide* Du Plessis 1992:47; Marais 1989:47). In view of the foregoing, Cape, Natal, Transvaal and Orange Free State were, as is also the case in the writings of authors such as Marais (1989), Muller (1977) and Walker (1957), referred to as British colonies in the dissertation.

1.7.9. **Britain**

The intermittent use of the designation 'Britain' conjures up ambivalence regarding the country referred to. As pointed out in Birch (1986:03), the designation is every often used as an abridged 'equivalent of the political entity called United Kingdom of *Great Britain and Northern Ireland, some times as a short version of the social entity* called Great Britain, and frequently (by the English) as a synonym for England'. This inconsistency creates enormous confusion about the country referred to whenever the designation 'Britain' is used. For the purpose of this dissertation, the designation *'Britain' refers to England, Wales and Scotland, whereas United Kingdom of Great* Britain refers to England, Scotland, Wales and Northern Ireland.

1.7.10. **Civil Service/Public Service**

The terms 'civil service' and 'public service' are normally construed as being synonymous. These terms/concepts broadly refer to the operational realm of government where public policies are translated into practice. Notwithstanding the foregoing delineation, 'civil service' and 'public service' were not inconsistently used interchangeably in the dissertation. The concept/term 'civil service' was used specifically to refer to the operational branch of government in Britain and United Stated States of America, whereas 'public service' was used to refer to the operational administrative machinery of government in South Africa. As provided in the *Public Service Act*, 1994 (Act 103 of 1994-hereafter referred to as Act 103 of 1994), the public service in South Africa is comprised of the following persons holding posts on the fixed establishment:

- classified in the A division and the B division;
- in the services;
- in the National Intelligence Services; and
- in the state educational institutions.

The public service in South Africa is also, according to Act 103 of 1994, inclusive of persons who-

- having ceased to hold posts on the fixed establishment as contemplated above, and not having retired or having been discharged, are employed additional to the fixed establishment or who are deemed to continue to hold posts in the division in which their posts were included immediately before the direction excluding the posts of officers from both the divisions mentioned above was effected came into force;
- are appointed permanently additional to the fixed establishment;
- hold posts on the fixed establishment other than posts classified in the A division, B division, services, or state educational institutions as mentioned above;
- are employed temporarily or under a special contract in a department, whether in a full-time or part-time capacity, additional to the fixed establishment or in vacant posts on the fixed establishment.

1.7.11. **Egalitarianism**

The doctrine of egalitarianism is associated with the notion of government by-any man Andrew Jackson, the seventh President of the United States of America, so much propounded between the period 1829 and 1883. 'Egalitarianism' means equality among all citizens of a state. This doctrine dictates that all citizens must have equal rights in respects of matters such as access to politics, suffrage and law. Factors such as religion, class and ethnicity should not be used to violate the citizens' right to equality. Egalitarianism is therefore an anti-thesis of elitism (*vide* McLean 1996:152).

1.7.12. **Constitutional democracy and constitutional supremacy**

The notion of the 'constitutional democracy' is inextricably intertwined to 'constitutional supremacy'. 'Constitutional democracy', on the one hand, refers to a system of governance where everyone, including the government, must follow the rules in the Constitution, whereas 'constitutional supremacy', on the other hand, means that the Constitution is the supreme law or the highest law in South Africa. It must be respected and followed by the President, the government and all the people of South Africa.

All other laws in the country must be formulated and made with due consideration to the Constitution. Legislation, policy decisions and actions of government that are contrary to the provisions of the Constitution are null and void. The Constitutional Court in South Africa was established in terms of the Constitution of 1996 to play a strategic judicial role of custodianship of the supremacy of the Constitution.

1.7.13. **Confucianism**

Webster's Comprehensive Reference Dictionary and Encyclopaedia (1954:118) delineate 'Confucianism' as the 'doctrine or principles laid down by Confucius: it is based on ancestor worship, inculcating filial piety and enjoining veneration of the founders or progenitors of families as guardian spirits of their descendants'. 'Confucius' is derived from the Chinese word 'kungfutse' meaning 'master kung'. 'Master kung' means great Chinese moral teacher or philosopher, whose philosophies are said to have preponderated around 530-479 B.C. (before Christ). The origin of the idea of merit system in the dissertation was traced from Confucianism, that is, ancient Chinese philosophies.

1.8. Summary and sequence of the chapters

Chapter 1 is an introduction to the subject matter of the dissertation. It commenced with a statement of the research problem/question. The reasons and specific aims for undertaking this research were set out in detail in this chapter. The demarcation of the scope of research and its limitations were also delineated. Furthermore, research methodologies used to undertake this research and explanation of concepts/terms used throughout the dissertation were explained. The referencing technique used in the dissertation was succinctly elucidated as well.

In **chapter 2** the dissertation traced the origin of the Public Service Commission in Britain. The reason for the foregoing is that the Public Service Commission in Britain is regarded as the 'ancestor' of the one (the Public Service Commission) in South Africa. To understand the historical context of the origin of the Commission in a systematic manner, this chapter commenced with an analysis of the eighteenth century British civil service system. It was thereafter argued that the idea of a commission system originated in the Northcote-Trevelyan Report of 1853 as a response to the eighteenth century disintegrated British civil service system. The fundamental objective of the Commission was to protect the public service from political venality. This chapter continued to examine the development of the Commission in Britain since its inception in 1855. It ended with analyses of the Fulton Report of 1968 and the Next Step Initiative of 1988, which, as contended, challenged the Northcote-Trevelyan Report of 1853's conception of Civil Service Commission.

Chapter 3 examined the development of the Commission in the United States of America within the historical context of its civil service system. It was argued that the English commission system, following the civil service reform initiatives of 1871, permeated the American civil service system. After its establishment, the American Civil Service Commission had serious financial problems and consequently, its life-span was cut-short in 1874. The American Civil Service Commission was re-established in 1883. This chapter continued with an analysis of the development of the Commission since its re-establishment in America. It was shown, with the emergence of the contemporary perspectives in the 1930s accentuated the 'positive personnel management', the notion of the commission system was challenged. Consequently in 1978 the American Civil Service Commission ceased to exist and its

functions were re-assigned to three agencies established as its replacements, namely: Office of Personnel Management, Merit System Protection Board, and the Federal Labour Relations Authority.

It was deduced from the historical disquisition in chapters 2 and 3 that the development of the Commission in Britain and United States of America was influenced by two analytically distinct paradigms, namely the traditional model of public administration and the new public management approach. These paradigms were discussed in **chapter 4** to develop a theoretical framework used to understand the changing role of the Commission in South Africa. Towards the end of chapter 4, an instrument to analyse the role of the Commission was developed. The analytical instrument alluded to in the foregoing was used to analyse the roles of the Commission in Britain and United States of America from a comparative perspective. It was also used in chapters 5 and 6 of the dissertation respectively to analyse the role of the Commission in South Africa.

To determine the effect of changes since 1994 on the role of the Commission in South Africa, it was deemed imperative that its role before 1994 need to be first understood in its entirety. **Chapter 5,** therefore, examined the role of the Commission before 1994. An analysis of the role of the Commission was limited to the period 1990-1993. The first part of chapter 5, notwithstanding the foregoing, traced the historical evolvement of the Commission in South Africa from 1847-1993. The traditional model of public administration was used as a theoretical framework to understand the historical development of the Commission. Thereafter, the role of the Commission between the periods 1990-1993 was, using the analytical instrument developed in chapter 4, analysed.

Chapter 6 focussed on the role of the Commission since the inception of the democratic dispensation in South Africa (1994-2000). Using the analytical instrument developed in chapter 4, chapter 6 analysed the powers and functions of the Commission under the Interim Constitution of 1993 and the Constitution 1996. It showed that the powers and functions of the Commission during the period 1994-1996 were ingratiated in the imperatives of the traditional model of public administration. The traditional model of public administration was therefore used as the theoretical framework to understand the powers and functions of the Commission under the Interim Constitution of 1993, whereas the new public management

approach was used as a theoretical framework to understand the new role of the Commission under the Constitution of 1996.

From the above exercise, the effect of changes since 1994 on the role of the Commission in South Africa was determined. A summation, research findings and recommendations in respect of the foregoing were provided in **chapter 7,** which is the concluding chapter of the dissertation. The study on the role of the Commission in South Africa pointed out to a variety of areas for further research. Some salient areas related to, and derived from, the research for this dissertation were also succinctly provided in **chapter 7**.

CHAPTER 2

ORIGIN OF THE BRITISH CIVIL SERVICE COMMISSION

2.1. Introduction

This chapter traces the origin of the Civil Service Commission, hereafter referred to only as the Commission, in Britain (see sub-section 1.7.9 page 16 for the demystification of the designation 'Britain', as is often intermittently used). It is contended that the idea of a commission system originated in the British civil service of the nineteenth century. Its conception was in response to the disintegrations in the British civil service system of the eighteenth century. To authenticate the foregoing assumption in a systematic manner, this chapter commences with the analysis of the problems that beset the British civil service system of the eighteenth century.

An analysis of the eighteenth century British civil service is important for understanding the originating of the Commission in Britain. Parris' (1969:22-27) treatise that the 'eighteenth century British civil service was not civil, not permanent, and not a service' is used as a theoretical framework of analysis in this chapter. The perspectives that jettisoned the eighteenth century British civil service system are also accorded considerable attention to understand the basis for a quest for an alternative civil service system in the nineteenth century. The foregoing exercise is aimed at delineating the rationale for the conception of the commission system in the British administration.

The Northcote-Trevelyan Report of 1853 is also extensively examined as the fundamentally consequential civil service reform initiative in the history of the British administration. The origin of the Commission in Britain is traced from the Northcote-

Trevelyan Report and thereafter, its development since its inception in 1855 is discussed at great length. This is followed by a review of the perspectives that started to emerge towards the end of the nineteenth century that challenged the notion of a commission system in the British civil service. The perspectives alluded to in the foregoing preponderated in the twentieth century. The effect of the Fulton Report of 1968 and the Next Step Initiative of 1988 on the British Civil Service Commission is also examined. At end of this chapter conclusions regarding the origin and development of the Commission in Britain are drawn.

2.2. **Eighteenth century British civil service**

As already indicated in sub-section 2.1 above, the conception of the Civil Service Commission was a reaction to a variety of infirmities and inadequacies inherently abounded in the British civil service system of the eighteenth century. The immensity of the disintegrations is aptly captured in Parris treatise that the 'eighteenth century British civil service was not civil, not permanent and not a service' (Parris 1969:22-27). Parris' analogy of the British civil service system of the eighteenth century is, in the sub-sections that follow, used as an analytical instrument to examine factors that led to the conception of the Civil Service Commission in the British administrative system. The purpose of this sub-section is not, *per se*, to detail the history of the British civil service. But, so much relating to the development of the British Civil Service Commission is defined by the experiences of the eighteenth century. Therefore, the analysis of data relating to the history of the British civil service in this chapter is inevitable.

2.2.1. **Eighteenth century civil service not civil**

Parris' discourse analysis that the eighteenth century British civil service was not 'civil' is predicated on the fact that the service was not distinct from the political or parliamentary service of the Crown. The Concept 'Crown', as used in the foregoing, refers to the type of the state under royal sovereignty. According to Parris (1969:23-24), the political and administrative duties were intermingled into one another. This blurred the distinction between political and administrative roles (Greenwood and Wilson 1989:101).

Parris' view on the eighteenth century British civil service is attested in Hoon's (1938:84) findings that 'in studying the relations between the Secretaries of State and the Customs Department one is impressed on the one hand by the triviality of the custom business laid before the Secretaries, and on the other hand by their attention to detail'. The administrative work of the government was executed by the ministers.

In authenticating the above assertion, Parris (1969:24) cited Darvall's (1934:228) observation that 'in the Regency period, the political heads of the Home Office kept a close touch with all its work, personally interviewing magistrates, members of Parliament, and even spies and prisoners, with information from the localities, and being not merely nominally but actually responsible for even minor departmental acts'. Even at the beginning of the nineteenth century, instances of ministers performing administrative functions occurred quite often. This is glaringly clear in Thomas' (1978: 37-38) statement that 'Haldane's experience in British government was a Minister rather than a civil servant but, in [his] capacity as War Minister at the beginning of this century; [he] was responsible for the administration of the War Offices'.

The eighteenth century British civil service also executed political tasks. Different authors typified instances of civil service pre-occupation with political matters. For instance, Ward (1953:55) stated that 'a Land Tax Surveyor was found supplying Harley with detailed reports on the electoral situation in [his] locality'. It is also stated in Namier (1957:358-389) that at Harwich, the custom officers secured seats in Parliament for Treasury nominees. Forrester (1941:34) also observed that 'when Tory fortunes were at their height in Queen Anne's reign, a Northamptonshire exciseman was 'a zealous man for the present Ministry, and has sense, and make use of it, to satisfy the people in [his] Ride of the condition were in, and what an excellent parliament this is'.

A list of instances that typified the indistinguishable character of the eighteenth century British civil service is not exhaustive. Few citations made above, however, suffice for understanding Parris' treatise that the eighteenth century British civil service was not civil. A lack of clear distinction between political and administrative roles was, ostensibly, not regarded as a problem in the British civil service system of the eighteenth century. In fact, in 1723 the Treasury acknowledged that the

execution of political service by the civil servants 'must sometimes be accepted as an excuse for defective administration' (Parris 1969:24). The foregoing explains the doctrinal premise of the British philosophy that politics and administration are not separate processes. In this regard, Thomas (1978:22) explicate that 'in the process of government, the two functions of politics and administration are fused rather than independent'.

2.2.2. **Eighteenth century civil service not a service**

Parris (1969:22) described 'a service' as implying 'a body of full-time salaried officers, systematically recruited, with clear lines of authority, and uniform rules on such questions as superannuation'. This description, however, did not befit the British civil service of the eighteenth century. The foregoing argument is advanced on the basis that, according to Finer (1957:09) and Parris (1969:22), the core functions of the government were carried out by amateurs who were not even employed on full-time basis. For instance, land tax, just like defence and maintenance of order, constitute the core functions of government. However, the determination of land tax was a responsibility consigned to unpaid, unskilled and inexperienced officials acting for different administrative divisions of Britain or counties (Parris 1969:22).

The recruitment of personnel in the British civil service of the eighteenth century was premised on the patronage system (see chapter 4 for a detailed discussion on the patronage system). The public offices were overtly for sale or were granted as rewards for service to the Crown (Finer 1957:112). The application of the patronage system in the eighteenth century British civil service is aptly explicated in the Northcote-Trevelyan Report of 1853 (Reader 1981:79) as follows:

> The character of young men admitted to the public service depends chiefly upon the discretion with which the heads of departments, and others, who are entrusted with the distribution of patronage, exercise that privilege. In those cases in which the patronage of departments belong to their chief for time being, the appointments which it commonly falls to his lot to make are... those junior clerks, to whom no very important duties are in the first instance to be assigned...(A) s the character and abilities of the new junior clerk will produce but little immediate effect upon the office, the chief of the department is naturally led to regard the selection as a matter of small moment, and will probably bestow the office upon the son or dependent of someone having personal or political claims upon him, or perhaps upon the son of some meritorious public servant, without instituting any very minute inquiry into the merits of the young man himself.

Finer (1957:09) and Udoji (1982:158) contends that the patronage practices in the British civil service of the eighteenth century thrived because of the absence of a civil service law. This, according to Udoji (1982:158), resulted in corruption and inefficiency. Barnes (1969:121) and Brown (1971:03) supports Udoji's perspective in the observation that the disintegration in the British civil service was manifested by lack of consistency, uniform system of appointing civil servants and sporadic acts of corruption.

The appointments in the British civil service were not based on the skills commensurate to the responsibilities attached to different posts in the civil service. Instead, extraneous characteristics of patronage and nepotism were, according to Barnes (1969:121) and Brown (1983:05), rife in both strategic positions and routine or lower levels jobs. Barnes (1969:121) and Brown (1983:05) further explicate that at times; senior members of the civil service siphoned public monies and deposited them into their personal accounts. The interests that accumulated from those public monies were then taken so that they could unduly enrich themselves.

Charles Trevelyan and Stafford Northcote (Reader 1981:78-79) concurs with Barnes (1969:121), Brown (1971:03), Finer (1957:09,112) and Udoji (1982:158) on the effect of the patronage system in the British civil service in stating that:

> It may be noticed in particular that the comparative lightness of the work, and the certainty of provision in case of retirement owing to bodily incapacity, furnish strong inducements to the parents and friends of sickly youths to endeavour to obtain for them employment in the service of the Government...
>
> The result naturally is that the public service suffers both in internal efficiency and in public estimation. The character of the individuals influences the mass, and it is thus that we often hear complaints of officials delays, official evasions of difficulty, and official indisposition to improvement.

The organisational structure of the eighteenth century British civil service also lacked clear and well-defined lines of authority (*vide* Robbins 1990:310 for a detailed explanation of 'well-defined authority of hierarchy'). It was, according to the Northcote-Trevelyan Report of 1853 (Reader 1981:80), fragmentary in character. Each department determined its *modus operandi* according to its internal imperatives. The 'fragmentary nature of the eighteenth century British civil service confined 'each man' s experience, interests, hopes and fears to the special branch of

service in which he is himself engaged' (Northcote-Trevelyan Report of 1853 in Reader 1981:80).

The patterns of relationships through which the activities of the civil service were carried out were, clearly, impervious to co-ordination. The Northcote-Trevelyan Report of 1853 (Reader 1981:80) captured the effects of the fragmented British civil service of the eighteenth century as follows:

> The effect naturally is, to cramp the energies of the whole body, to encourage the growth of narrow views and departmental prejudices, to limit the acquisition of experience, and to repress and almost extinguish the spirit of emulation and competition; besides which, considerable inconvenience results from the want of facilities for transferring strength from an office where the work is becoming slack to one in which it is increasing, and from the consequent necessity of sometimes keeping up particular departments on a scale beyond their actual requirements.

This extract clearly emphasises that the eighteenth century British civil service was not a unified system. For example, interdepartmental transfers and promotions could not be made. This had a negative impact on the young officials who joined the civil service at the time. As Northcote-Trevelyan Report (Reader 1981:79) pointed out, the first years of service of the young officials were spent doing a mechanical and pure routine work. In two or three years time the officials mastered the job. Instead of transferring or promoting them so that they could impart their skills to other sections of the civil service, they were retained at the same position doing the same job. This had a distressing effect on their official lives. The work of their offices became repugnant to them (Northcote-Trevelyan Report of 1853 in Reader 1981:79).

The fragmented character of the British civil service system was obdurate to the psychological theory of transference, which, according to Barnes (1969:121-125), postulates that the skills obtained in one field can be transferred to another unrelated fields. Brown and Steel (1979:21-23), and Drewry and Butcher (1988:42) observed that the manner in which the British civil service of the eighteenth century was structured made it difficult for the higher authority to effectively supervise and exercise control over lower offices. This is authenticated in Ward's (1953:140) observation that the Central Tax Office did not know the number

of the tax collectors that were operating in the British counties and 'could not estimate more closely than between 20 000 and 30 000'.

The views of a variety of authors cited above attests to the authenticity of Parris' treatise that the eighteenth century British civil service was not a service as its organisational structure obscured clear lines of authority. A lack of clear lines of authority smack of impermeability to co-ordination of government activities. This explains the reason the Central Tax Office could not supervise and control activities of the local tax offices in different British counties.

2.2.3. **Eighteenth century civil service not permanent**

The other aspect Parris used in the analogy of the eighteenth century British civil service is 'permanence'. It is contended in Parris (1969:26) that, apart from the fact that the term civil service was already in use in the eighteenth century, the British civil service was not permanent. Charles Trevelyan and Stafford Northcote (Reader 1981: 77), in the Report on the *Organisation of the Permanent Civil Service* submitted to the British Parliament in 1854, authenticated Parris' contention that the eighteenth century British civil service was not permanent. This is clearly articulated in the Northcote-Trevelyan Report of 1853's contention on the importance of the permanent civil service that:

> It cannot be necessary to enter into any lengthened argument for the purpose of showing the high importance of the Permanent Civil Service of the country in the present day. The great and increasing accumulation of public business, and the consequent pressure upon the Government, need only be alluded to; and the inconveniences, which are inseparable from the frequent changes, which take place in the responsible administration, are matters of sufficient notoriety. It may safely be asserted that, as matters now stand, the Government of the Country could not be carried on without the aid of an efficient of permanent officers, occupying a position duly subordinate to that of the Ministers, who are directly responsible to Crown and to Parliament, yet possessing sufficient independence, character and ability and experience to be able to advise and, to some extent, influence those who are from time to time set over them (Northcote and Trevelyan Report of 1853 in Reader 1981:77).

Parris' disquisition, however, acknowledge that some of the administrators did work as civil servants for a very longer period. The profile of Thomas Pratt in the eighteenth century British civil service typified that some of the civil servants 'did hang on to their jobs for extraordinarily long periods - far longer, indeed, than would

be possible today' (Parris 1969:26). Thomas Pratt joined the Treasury at the tender age of seventeen years in 1724 and worked for eighty years in the British civil service. Most administrators who executed administrative duties for the Crown also worked for very long periods.

The above could be attributed to the fact that it was not so easy to get rid of the administrators, even when found guilty of neglect of duties. In 1742 John Scrope, apart from conducting dubious transactions characteristics of unethical behaviour, could not be dismissed from the civil service. Instead, the Duke of Bedford held that Mr Scrope was the only man known that thoroughly understood the business of the Treasury, and was versed in drawing money bills. On this foundation Scrope stood secured, and was as immovable as a rock (Namier 1955:53). In this regard, Parris (1969:26) added that 'patent officers had much more security of tenure...'

The security of tenure and the mere retention of job for a long time as delineated above do not, however, necessarily befit Parris' conception of a 'permanent civil service'. Parris (1969:27) explicate that the notion of a 'permanent civil service' should be understood in its broader context. 'Permanence' is not only about 'security of tenure or mere retention of a job for a long time'. It is more than that. 'Permanence' means uninterrupted continuation of the civil service even during the times when government changes.

The civil servants retained their jobs irrespective of who took over the political power. The conception of permanence postulates that the British civil servants are the servants of the Crown, serving with complete impartiality regardless of who is in power (Birch 1986:135; Parris 1969:27). It means that the civil service should not align itself with a particular ideological conviction of any political grouping. Permanence, as conceptualised by Parris, is indeed the postulation of the idea of civil service impartiality/neutrality.

The notion of neutrality, as explicated in *Webster's Comprehensive Dictionary and Encyclopaedia* (1954:350) means 'not engaged on either side'. This concept is 'linked to indicators, such as keeping a distance, not getting involved, not taking sides, and, in a negative way, to indifference. In science it is associated with objectivity, with validity and reliability of scientific research, and with independence and openness. Neutrality is even related to (neo-positivism); according to others it is related to self-

reflection and constructive criticism (de Vries 1996:80). Kernaghan (1976:433) expounded on the theoretical basis of neutrality as follows:

- *Politics and policy are separated from administration. Thus, politicians make policy* decisions; public servants execute these decisions
- Public servants are appointed and promoted on the basis of merit rather than affiliation or contribution.
- Public servants do not engage in partisan political activities
- Public servants do not express publicly their personal views on government policies or administration
- Public servants provide forthright and objective advise to their political masters in private and in confidence. In return, political executives protect the anonymity of public servants by publicly accepting responsibility for departmental decisions.
- Public servants execute policy decisions loyally and zealously irrespective of the philosophy and programme of the party in power and regardless of their personal opinions. As a result, public servants enjoy security of tenure during good behaviour and satisfactory performance.

Thus far, the eighteenth century British civil service system was analysed using the Parris' treatise that it 'was not civil, not a service and not permanent'. The analysis detailed above clearly indicates that the eighteenth century British civil service was fraught with a myriad of problems that impacted negatively on the efficacy of the administration. This culminated in members of the public not getting value for their money. According to Barnes (1969:121), in the nineteenth century a staunch public aversion revolted against the British government. The aversion glaringly encapsulated in the Burke and Fox campaign galvanised government to seriously consider the importance of overhauling the civil service. In the following sub-section, a quest for an alternative civil service system as necessitated by the public aversion of the nineteenth century is examined.

2.3. **Quest for an alternative civil service system**

Edmund Burke (Argyriades 1996:47), in an oft-quoted lecture made two hundred years ago, deprecated incidence of 'corrupt influence which is itself the perennial source of all prodigality and all disorder which...takes away the vigour from our arms, wisdom from our councils and every shadow of authority and credit from the most venerable parts of our constitution'. Argyriades (1996:47) explicate that 'this attack on jobbery was prompted by a desire to shield the political system from its nefarious influence, and by a concern to uphold the authority of government, which even in those days was seen as predicated on a measure of coherence and accountability in public policy-making and service-delivery'.

Brown and Steel (1979:22) and Porter (1938:182-186) are of the opinion that the Burke and Fox criticism of the patronage system in the British civil service was inconsequential as it did not suggest an alternative personnel system readily available for application. As much as the foregoing opinion might seem valid, the preponderance of the Burke and Fox campaign on the development of the British civil service cannot be underestimated. Corruption, inefficiency and other abuse of the patronage and spoils system which Burke and Fox vehemently deprecated are, according to Udoji (1982:158), some of the reasons that compelled the European countries to adopt the concept of a non-political civil service.

In Britain during the 1850s a remarkable development with regard to the revitalisation of the civil service was seriously pursued. A two-man committee comprised of Sir Stafford Northcote and Sir Charles Trevelyan was constituted. The Northcote-Trevelyan Committee was, in terms of the Treasury Minute of 12 April 1853 (Reader 1981:76), entrusted with the task of 'inquiring into various public establishments with a view to a more efficient and economical performance of the public business'. It was basically commissioned to explore the possibilities of overhauling the British civil service. Northcote and Trevelyan, dubbed legendaries in the administrative history, accomplished their task and submitted a Report to the British Parliament in 1854. The Northcote-Trevelyan Report of 1853 is hereunder examined.

2.3.1. **Northcote-Trevelyan Report of 1853**

The Northcote-Trevelyan Report of 1853 introduced fundamental changes in the British civil service system. Deducing from Drewry and Butcher (1988:42), and Parris' (1969:288) writings, the Northcote-Trevelyan Report was influenced by the Indian civil service system. This deduction is based on that the actual author of the Northcote-Trevelyan Report, Sir Charles Trevelyan, was a product of Haileybury College established in 1806 by the East India Company to educate young prospective civil servants who wanted to join the company's civil service and also a former member of the Indian civil service which by then had already been ameliorated (Drewry and Butcher 1988:42). Trevelyan was the brother-in-law of Lord Thomas Babington Macaulay who chaired puissant inquisition into the Indian civil service in 1854. The insight gained by Trevelyan through the association with the Indian civil service and Macaulay, undoubtedly, sharpened his acumen, which, probably, informed the contents of the Northcote-Trevelyan Report of 1853 (Barnes 1969:121).

The Northcote-Trevelyan Report of 1853 (Reader 1981:76-91; also see Brown and Steel 1979:22-23; Ingraham and Eisenberg 1995:133-134) recommended that:

- Posts in the civil service must be classified on the basis of the nature of the responsibilities attached to them. For instance, those posts that require high intellectual capacity should be classified as administrative work while those that required only competence to do routine tasks should be categorized as clerical work.

- A unified civil service system should be established. The fragmented departments should be unified so that interdepartmental transfers could be made possible and easy. This recommendation is ostensibly premised on the psychological theory of transference, which, according to Barnes (1969:121-125), espouses the fact that skills obtained in one field can be transferred to another unrelated field.

- A permanent, professional and a politically neutral civil service should be established. This recommendation maintained the fact that ingression to the civil service and promotions should strictly cling to merit rather than political affiliations and convictions of candidates. An open competitive examination should be used to choose competent candidates.

Judging from the foregoing recommendations, it is clear that the ideals, which the Northcote-Trevelyan Report propagated, were multitudinous. Some of them (ideals) could not be actualised by being handled within the operating departments or by ministers, while others took sometimes before they could be implemented (Parris

1969:288). The ideal of a permanent and politically neutral civil service the Northcote-Trevelyan Report emphasised is, for the purpose of the scope of this chapter, important, as is the basis for the originating of the British Civil Service Commission. To examine the origin of the Commission in Britain in a coherent manner, it is therefore important that the notion of a permanent and politically neutral civil service should be first examined.

2.3.2. **Ideal of a permanent and politically neutral civil service system**

The Northcote-Trevelyan Report of 1853 (Reader 1981:81) resolutely deprecated the patronage system as applied in the British civil service and recommended that:

> The public service should be carried on by the admission into its lower ranks of a carefully selected body of young men, who should be employed from the first upon work suited to their capacities and their education, and should be made constantly to feel that their promotion and future prospects depend entirely on the industry and the ability with which they discharge their duties, that with average abilities and reasonable application they may look forward confidently to a certain provision of their lives, that with superior powers they may rationally hope to attain to the highest prizes in the Service, while if they prove decidedly incompetent, or incurably indolent, they must expect to be removed.

This proposition clearly propounded a paradigm shift from patronage to a new personnel system based on the values of meritocracy. The *New Encyclopaedia Britannica, Macropaedia* (1992:298, Vol. 26) states that the concept *meritocracy* entail the following:

- appointment of best individuals for each job;
- competitive examination of entry into the public service; and
- competency based-selection and promotion.

The personnel system accentuated above is underpinned by the philosophy of merit, which postulates that every person who has the required qualifications prescribed for a particular position may apply for appointment in the civil service. Each candidate would be subjected to the necessary trials to determine the suitability of the candidature. Candidates distinguishing themselves as the best qualified and best

suitable for public service positions should be appointed, retained, remunerated and promoted on merit.

The ideal of a permanent and politically neutral civil service as postulated by Northcote and Treveylan in their famous Report of 1853 could be traced to ancient China's great thinkers who, around 300 B.C (before Christ), propagated the concept that society required permanent cadre of competent officials (Argyriades 1996:48; Berkley 1971:04-05; Wamalwa 1982:51). China's ancient thinkers, apart from that they were employed as civil servants, commented on the embarrassment, which the administration of government often caused.

Mo Ti' s conception of a 'basic pragmatic test' to determine whether the institutions benefit society is indeed the postulation of civil service neutrality or impartiality. The philosophical antecedents of the foregoing test could be traced to the doctrine of *Confucianism, of which is explained in sub-section 1.7.13 page 18,* that 'a wise and judicious administration by well-qualified men' is an antidote for the quandary of repression and sufferings members of the society are subjected to (Berkley 1971: 04-05).

The concept of civil service neutrality is, according to Caiden (1996:22), premised on the doctrine that public administration could be separated or removed from the hurry and strife of politics. This ideal, however, could not be actualised. This was probably due to the fact that it challenged the patronage practices that were used by the tyrannies to consolidate their powers. The dissipation of Confucius did not obliterate the ideal that they sought to inculcate in the administration of government. In fact, the ideal of 'a wise and judicious administration by well-qualified men' gained momentum around 202 B.C-A.D 221 (Berkley 1971:05).

With the development of the science of public administration, particularly since the 1800s, the ancient Chinese philosophy of administration featured prominently in the discourses of the time, albeit not in its original form. The discourse centred on the promotion of the general well being of the members of society through the establishment of a permanent civil service system that is free from political influences (*vide* de Vries 1996:78).

Authors such as Karl Marx and Robert Michels deliberated the question of the distinction between public administration and politics. The well-known treatise that propagated the idea of separating politics from administration is the classic work of Woodrow Wilson published as early as 1887(de Vries 1996:78). Wilson's treatise was propounded to salvage the administration from 'the dysfunctional consequences of the spoils system' (Thomas 1978:33). The discourse on the separation of politics from administration sought to establish an alternative personnel system that could ensure that the civil service would always be shielded from political interference.

As indicated in the extract above, the Northcote-Trevelyan Report of 1853 recommended the merit system approach to the administration of personnel in the British civil service. The merit system was advanced as a possible solution to the problem of patronage practices. With the merit system, Northcote and Trevelyan were supposedly convinced that a permanent, professional, and politically neutral civil service could be established and properly maintained. The appointment and promotion of candidates on the basis of merit was to be achieved through open competitive literary examination. The examination was to be structured in such a way that it would inquire into the merit of each candidate. The Northcote-Trevelyan Report of 1853 (Reader 1981:83) clarified that the examination 'ought not to exclude careful previous inquiry into the age, health, and moral fitness of candidates.

2.3.3. **Board of Examiners**

To put into practice the examination system, the Northcote-Trevelyan Report of 1853 recommended that a Board of Examiners comprising of men who distinguished themselves as independent thinkers experienced in the education of the youth and the business of government must be established. It was determined that the head of the Board of Examiners must be a person who is in the rank of Privy Councillor. The Board of Examiners was entrusted with the task of 'conducting examination of all candidates for the public service whom it may thought (sic) right to subject to such test'. (Northcote-Trevelyan Report 1853 in Reader 1981:82.)

The civil service examination conducted by the Board of Examiners had to be on par with the quality of education prescribed for other educational institutions in Britain. For instance, competitive examinations for the intellectual work should be on the same level with the highest description of education in the universities. Successful

candidates were to be furnished with the certificates of qualification that would have made them eligible for appointment in the civil service.

Northcote and Trevelyan, in their Report, strongly contended that entry into the civil service should strictly be confined to young men who must be subjected to on-the-job training for the duties that they have been employed to execute. An age limit of 19-25 was prescribed for entry into superior posts whereas, for inferior posts, the limit was 17-21 years of age. The contention of Northcote and Trevelyan for the appointment of young men seems to be based on other reasons than the philosophy of merit itself. The reasoning for the appointment of young men was ostensibly motivated by an attempt to avoid the problems that the old experienced officials normally bring. That is, as it was put, 'too much stress... which a long official life necessarily brings with it.' (Northcote-Trevelyan Report of 1853 in Reader 1981:81.)

It was also argued that the maintenance of discipline is much easier among the young men than older ones. The other reason advanced is that 'young man who has not made trials in other professions will be induced to enter that of the Civil Service by a much more moderate remuneration that would suffice to attract [him] a few years later from the pursuit of one in which [he] had overcome the first difficulties and begun to achieve success; while attempt to fill the ranks of the Civil Service with those who had failed somewhere, and on that account willing to accept a moderate salary, would be simply to bring it into discredit'. (Northcote-Trevelyan Report of 1853 in Reader 1981:81.)

The Northcote-Trevelyan Report's rationalisation of the recommendation to appoint young men in the British civil service, much as is understandable, creates a misconception that young men were better qualified and best suitable for public service positions than other people falling outside the age group determined above. To be a young man who did not explore other professions does not necessarily mean that you are a perfect candidate who will be effective in discharging official duties. This proposition was therefore meretricious in that it distorts the theory of merit. It ironically contradicted the essence of the British philosophy of democracy articulated in the Magna Carta of 1215. Clause 39-40 of the Magna Carta read with the Petition of Right (1658) and the Habeas Corpus Act (1679) emphasised 'equality' and 'justice' as the fundamental values of the British system of administration. The discrimination of other age groups in the employment of government service impugned directly on

these values that constitutes the integral cornerstone of the English constitution (Barker and Jackson 1974:22; Davis 1977:09).

2.3.4. **Origin of the British Civil Service Commission**

A quest for a new civil service system in British administration heralded the conception of a civil service commission. As already indicated in the sub-section 2.3.3 above, the Northcote-Trevelyan Report of 1853 recommended that, to put into practice the examination system, a Board of Examiners must be established. The British Parliament acted on this proposition. The Order in Council of 21 May 1855 gave effect to the proposition that the Board of Examiners must be established so that it could serve as a custodian of a new personnel system based on the values of meritocracy (see Annexure H, an extract of the British Parliamentary Order in Council of 21 May 1855 as reprinted in Reader 1981:92-93).

It is clear from the British Parliamentary Order in Council of 21 May 1855 that the British Civil Service Commission was charged with the function of facilitating the actualisation of the ideal of a permanent and politically neutral civil service system by eliminating practices of patronage through an open competitive examination system. According to Chapman (1995:11) 'corruption and partisan political influences in the executive operations of government' are the reasons for the creation of such an institution. Drewry and Butcher (1988:44-45) further explicate that in executing its functions, the Civil Service Commission was given a high degree of independence.

The enabling legislation was also promulgated to make it possible for the Commission to function in a manner that would realize the objective of cushioning the public service from the scourge of political patronage. An Order in Council of 1870 was actually promulgated to give effect to the Order in Council of 21 May 1855. The 1870 British Order in Council, according to Drewry and Butcher (1988:44-45), stated that all vacant positions in the British civil service should be filled by open competition.

All candidates, except those vying for the positions in the Foreign and Home Affairs Offices, were supposed to go through the open examination organized by the Commission in consultation with the nominating departments: Its duty was to certify the appropriateness of candidates by determining whether they meet the prescribed age limit, were physically fit and have the required erudition for the duties recruited

for. The powers of the Commission were buttressed by the *Superannuation Act*, 1859 which stated that only people with certificate from Commission were entitled to a pension (Drewry and Butcher 1988:44-45).

The British system of using the Civil Service Commission to cushion the public service from party political influences permeated the public service system of its former colonies and other countries across the globe (Wamalwa 1982:51). In fact, the constitutions of most African countries such as Nigeria, Zambia, Zimbabwe, and South Africa make provision for the establishment of Public Service Commissions. Apart from these African countries, other countries such as the United States of America, New Zealand, Sweden, Canada, and Australia also did establish their Civil Service Commissions (Ingraham and Eisenberg 1995:133-150). Due to the limited scope of this study, reference on how the Commission evolved in other countries as enumerated in the foregoing is limited to the United States of America and South Africa in chapters 3 and 5 of the dissertation respectively.

Gladden (1961:293) contends that the British idea of using a Commission has been a panacea against the scourge of patronage and nepotism in many countries. It ushered in a new personnel system that salvaged the administrative hierarchy from the evils of spoils politics that manipulated the administration of personnel with the intent of distributing civil service positions among supporters of the political party in power. Dudley Foulke (Stahl 1956:512-513) is also of the same view that the idea of a public service commission made it infeasible 'for the politician seeking the control of patronage to appoint the particular man he want'.

Notwithstanding the above exposition, the emergence of the twentieth century discourse on effective management of public affairs challenged the foundation upon which the British civil service system was built, namely the ideals propagated by the Northcote and Trevelyan in their Report of 1853. The foregoing necessitated a need for civil service reconfiguration so that it could keep pace with the changes that were taking place. The task of exploring ways and means of aligning the British civil service with the developments and trends that were taking place was assigned to the Fulton Committee. The Report of the Fulton Committee and its effect of the British Civil Service Commission system are hereunder examined.

2.4. Fulton Report and the British Civil Service Commission system

There is no gaining-saying that the Northcote-Trevelyan Report of 1853 made a significant contribution towards the development of the British civil service. Indeed, the British civil service system was contrived in accordance with the imperatives Northcote and Trevelyan postulated in their Report. The increase in the volume and complexity of government work, however, changed the *modus operandi* of the civil service and antiquated the Northcote-Trevelyan imperatives. The Fulton Committee was instituted with a brief to explore ways and means of aligning the British civil service with the developments or changes that were taking place (Greenwood and Wilson 1989:102-104). In this rubric the Fulton Report is examined with the purpose of determining its effect on the British Civil Service Commission system.

2.4.1. Infirmities in the British civil service system

The Fulton Report of 1968 contained a litany of criticisms that branded the British civil service. It was contended that the organisational structure and practices of the civil service were anachronistic. The Report raised a variety of issues, which, in the Committee's analysis, indicate serious infirmities in the British civil service system. Greenwood and Wilson (1989:102-107) and Parris (1969:284-316) enumerated six critical areas of concern explicated in the Fulton Report. Those areas are hereunder succinctly examined.

2.4.1.1. Generalist dominance

The concept generalist, also known as all-rounder, is aptly explicated in Macaulay's (see sub-section 2.3.1 above for who Macaulay was) conviction that... 'men who have been engaged, up to one or two and twenty, in studies which have no immediate connexion with the business of any profession, and of which the effect is merely to open, to invigorate, and to enrich the mind, will gradually be found, in the business of every profession, superior to men who have, at the eighteen or nineteen, devoted themselves to the special studies of their calling' (Parris 1969:287).

In the words of Fulton, 'all-rounder' or 'generalist' means that 'the gifted layman' with the competence to take 'a practical view of any problem, irrespective of the subject-matter' is a perfect candidate for a position in the civil service. As already

indicated in sub-section 2.3.1 above, Macaulay's ideas influenced the Northcote-Trevelyan Report. The Fulton Committee deprecated the dominance of Macaulay's theory of 'all-rounder' in the British civil service, which Northcote and Trevelyan recommended, on the basis that it inculcate amateurism in the administration of the British civil service.

2.4.1.2. Class system

As indicated in sub-section 2.3.1 above, the Northcote-Trevelyan Report of 1853 recommended that the British civil service must be divided into an administrative and routine or mechanical division (Northcote-Tevelyan Report in Reader 1981:86-87). This recommendation was implemented in the twentieth century. The administrative division comprised of intellectuals whose duties were to advise ministers on policy issues (Kellner and Crowther-Hunt 1980:33). The mechanical category, on the other hand, comprised of officials who were executing routine work (Greenwood and Wilson 1989:103-104). The division of the British civil service into administrative and mechanical categories incurred intense opprobrium in the Fulton Report. The Report criticised such categorisation as it created the class system, which perilously encumbers the work of the civil service.

2.4.1.3. Specialist skills undervalued

The concept 'specialist' is a direct corollary of 'generalist'. The specialist approach, as explicated by Jowett (Parris 1969:288) postulates that the 'recruitment examination should have regard, among other things, to the special attainments needed in a particular department of the public service....' The special requirements of the higher departments of the public offices appear to be chiefly two, namely a knowledge of the principles of commerce, taxation, and political economy in the Treasury, Board of Trade of modern languages and modern history, under which last may be included international law, in the Foreign Office. In the offices which are principally offices of account, mathematical talent may with advantage be insisted upon'.

Parris (1969:289) observed that the majority of the Fulton Committee propounded Jowett's philosophy of specialism. This explains the basis for the Fulton Report's contention that specialists in the British civil service were undervalued. They were not given the full responsibilities or opportunities that they ought to have. Their role

was to give technical advice to the generalists so that they could eventually formulate policy proposals to the minister. Drewry and Butcher (1988:141-143) criticise this arrangement on the basis that it has the potential of leading to a situation where expert advice of the specialists could be distorted or misunderstood. This could result in ministers pursuing courses of action that are flawed.

2.4.1.4. **Lack of management skills**

The Fulton Report (Greenwood and Wilson 1989:104) further contends that managerial skills in the British civil service were wanting. Only few civil servants were skilled managers. Greenwood and Wilson contend that the reason for this could be that, apart from the fact that the 'major managerial role within departments fell to the administrative class, most of its members saw themselves as policy advisors rather than departmental managers'. The Fulton Report ascribed reason for a lack of sufficient management capacity to inadequate training in management.

2.4.1.5. **Isolated and exclusive service**

The Fulton Committee criticised the idea of anonymity in the British civil service system. The idea of anonymity of the civil service is premised on the doctrine of ministerial responsibility. This doctrine postulates that ministers, irrespective of the fact that most of their time is spent on political matters, are responsible for administrative efficacy of the departments. It means that ministers are accountable for the actions of civil servants. Civil servants are shielded from the public limelight (Parris 1969:294-296). The Fulton Report rejected the doctrine of anonymity in the British civil service on the basis of the fact that it isolate the civil service from the 'rest of the community' in that the 'administrative process is surrounded by too much secrecy' (Greenwood and Wilson 1989:104-105; Parris 1969:294).

2.4.1.6. **Poor human resource management**

The other area, which the Fulton Committee found wanting in the British civil service was efficacy in human resource management. Fulton's criticism of the management of human resources was premised on the fact that, although 'mobility across class lines was possible - and was increasingly encouraged - for the majority of officials transfer to another class was unlikely to happen; and even when it did happen, transferees usually faced competition for subsequent promotion from younger and

better educated candidates who had entered the higher class direct' (Greenwood and Wilson 1989:106). The Fulton Report contended that the poor human resource management in the British civil service was caused by the fact that the responsibility to manage the personnel was assigned to the Treasury, who also had to carry out functions in relations to public financial matters. Implicitly, the foregoing suggests that the Treasury was encumbered and therefore did not have much time to deal with issues of human resource management.

2.4.2. Effect of the Fulton Report on the British Civil Service Commission system

On the basis of the foregoing infirmities, the Fulton Committee made 158 proposals which, some were mainly concerned with departmental organisation. Due to the limited scope of this chapter, only recommendations that impacted on the British Civil Service Commission will be examined. Recommendations that are more specific to the civil service which the Fulton Report of 1968 (Greenwood and Wilson 1989:107) postulated could be summed up as follows:

- All classes should be established and replaced by a single, unified grading structure covering all civil servants from top to bottom.
- The service should develop greater professionalism both among specialists...and administrators...For the former this means more training in management, and opportunities for greater responsibility and wider careers.
- [When recruiting graduates] more account should be taken of the relevance of their university courses in the administration and management and a wide range of shorter courses. It should also have important research functions.
- A new Civil Service Department be set up... under the control of the Prime Minister...The Permanent Secretary of the Civil Service Department should be designated Head of the Home Civil Service.
- [More attention to] career management.
- Greater mobility [between the civil service] and other employments.

In 1968 the British government officially accepted the recommendations of the Fulton Committee. This necessitated the implementation of the proposals. The implementation of the proposals was rather difficult. As a result, the implementation concentrated only on the following major areas, namely:

(a) Establishment of a Civil Service Department (CSD).

(b) Elimination of classes.

(c) Creation of a Civil Service College.

(d) Transformation of the recruitment system (Greenwood and Wilson 1989:108).

Glaringly, the recommendation that gave effect to the establishment of a new Civil Service Department, hereafter referred to as CSD, impacted directly on the British Civil Service Commission system. The CSD took over the recruitment function of the Civil Service Commission and the former Treasury's Pay and Management Group (Greenwood and Wilson 1989:108). This arrangement, according to Drewry and Butcher (1988:93) was spurred by the intention to develop a strong 'central management capacity' in the British civil service. The implication of these arrangements as recommended in the Fulton Report with regard to recruitment suggests that the British Civil Service Commission did not help in terms of the development of the strong management capacity in the civil service. A paradigm shift from the generalist to specialist approach in the recruitment system in the British civil service also antiquated the idea of a commission system as conceptualised by in the Northcote- Trevelyan Report of 1853.

Greenwood and Wilson (1989:108) observed that in practice the objective of developing a strong central management capacity through the creation of the CSD could not be realised. Chapman (1983:59-60) did not view the foregoing as a failure, rather part of the twentieth century discourse on effective management approach. In 1981 the CSD, as a result of the enormity of the problems abounding, had to be disbanded. The Treasury regained its functions. With regard to management, personnel, training, and recruitment functions, a new unit called the Management and Personnel Office established within the Cabinet Office was given the responsibility of executing them. Clearly, the institution of such a new unit heralded a shift from the Civil Service Commission system in the British administration. To further consolidate efforts to maintain efficiency and effectiveness in the British civil service, the programme dubbed Next Steps Initiative was pursued in 1988 (Greer 1994:01). The Next Steps Initiative is hereunder examined to determine its effect on the Civil Service Commission system in Britain.

2.4.3. Next Steps Initiative and the British Civil Service Commission system

The Next Steps Initiative was embarked on in 1988 following the report of the Prime Ministers' Efficiency Unit. The objective of the Initiative was to 'create durable improvements in management in government and to deliver services more efficiently and effectively within available resources for the benefit of customers, tax-payers and staff (Greer 1994:01). Next Steps Initiative introduced the concept of executive agency system in the British civil service. This agency system is premised on the 'agency theory'.

The 'agency theory' postulates that 'social and political life can be understood as a series of contracts in which one party, referred to as principal, enters into exchanges with another party, referred to as agent' (Greer 1994:13). In the context of public management, this strategy or approach entailed the contracting out of identified government functions to private institutions. In the British civil service system, the executive agencies that functioned independently from the operational arm of government were established. These agencies rendered public services to the members of the public in accordance with the prescriptions of the contract entered into with government institutions.

The development of the British civil service system in accordance with the ideals propagated in the Next Steps Initiative further antiquated the concept of a Civil Service Commission system. This assertion is authenticated in Greer's contention that the power of the executive agency to directly recruit the staff 'breaks the levelling influence of the Civil Service Commission in decisions on the type of skills and characteristics that are desirable across the breath of the civil service' (Greer 1994: 100).

The executive agencies were accorded freedom to determine, in terms of the specialised skills and personalities, the type of staff they want without any influence or interference from the Commission. Greer (1994:100) contends that the foregoing was likely to result in diversity in terms of the staff composition of different executive agencies.

2.5. **Conclusion**

In this chapter the origin of the Public Service Commission in Britain was examined. To understand the historical context in which the Commission originated, this chapter commenced with the analysis of the eighteenth century British civil service system. Parris treatise that the eighteenth century British civil service system 'was not civil, not permanent, and not a service' was used as an analytical instrument to examine factors that spurred the conception of a Civil Service Commission in the British administrative system. Using the analytical instrument alluded to in the foregoing, this chapter contended that the eighteenth century British civil service was indistinguishable in character as there was a lack of clear distinction between political and administrative roles.

The historical data used in the chapter authenticated the foregoing contention that, more often, the civil service on the one hand carried out political functions, whereas the political authority on the other hand carried out administrative functions. It was further contended that the eighteenth century British civil service did not comprise of a body of full-time salaried officers permanently employed, systematically recruited, with clear lines of authority, and uniform rules on such matters as superannuation. On the basis of the foregoing contention, this chapter contended that the eighteenth century British civil service system was fraught with disintegrations.

The disintegrated eighteenth century British civil service aroused public aversion that compelled the government to seriously consider the question of civil service reforms. A quest for a new civil service system heralded the conception of the Civil Service Commission. The notion of a Civil Service Commission originated in the Northcote-Trevelyan Report of 1853 in response to the eighteenth century disintegrated British civil service system. The fundamental objective for the establishment of the Public Service Commission in Britain in 1855 was to cushion the public service against the scourge of political patronage in the public service.

The idea of a commission system marked the fundamental shift in terms of the administration of the public service personnel from the patronage/spoils system of the eighteenth century. It ushered in new personnel system underpinned by the philosophy of merit. The philosophy of merit postulates that personnel decisions ought to be based on what the candidates know, not whom they know. The foregoing means that before a decision could be reached on whom should be appointed or

promoted the capabilities of the candidate must be taken into account as a determining factor. This approach to personnel administration was dubbed the merit system.

The British system of utilising a Commission as the custodian of the merit principles sprawled to public service systems of many other countries. Due to the limited scope of the study, reference on how the commission system evolved in other countries is only made to the United States of America and South Africa in chapters 3 and 5 respectively. This chapter also examined the effect of the Fulton Report of 1968, which jettisoned the organisational structure and practices of the British civil service premised on the imperatives of the Northcote-Trevelyan Report of 1853 as being anachronistic.

The Fulton Report pointed out a variety of infirmities in the British Civil Service and made 158 recommendations to be considered in effecting necessary rectifications and improvements. Due to the limited scope of this study, this chapter made reference to only recommendations that were more specific to the Civil Service Commission. The recommendations of the Fulton Report moved away from the idea of a Public Service Commission system as conceptualised in the Northcote-Trevelyan Report. Furthermore, it was pointed out in this chapter that the Next Steps Initiative of 1988, with its conception of an executive agency system, antiquated the notion of a public service commission in the British administrative system. Consequently, the British Civil Service Commission, in the twentieth century, was disbanded and its functions were assigned to the Treasury and Management and Personnel Office.

In the context of the historical disquisition provided in this chapter, it is inferred that the development of the British Civil Service Commission was influenced by two analytically distinct paradigms, namely the traditional model of public administration [espoused in the Northcote-Trevelyan Report of 1853] and the new public management approach [espoused in the Fulton Report 1968 and the Next Step Initiative of 1988]. A reflection on the foregoing paradigms as the theoretical premises undergird the development of the Commission in Britain would be made in chapter 4 of the dissertation. The succeeding chapter 3 examines the historical development of the Civil Service Commission in the United States of America.

CHAPTER 3

HISTORICAL DEVELOPMENT OF THE CIVIL SERVICE COMMISSION IN THE UNITED STATES OF AMERICA

3.1. Introduction

It was pointed out in chapter 2 that the Civil Service Commission originated in the nineteenth century British civil service. Its founding objective was to cushion the civil service against the scourge of political patronage. The British commission system spread to the Commonwealth countries such as Nigeria, India, Zambia, Zimbabwe, South Africa and also other countries such as the United States of America. It would be inclusive of the study to look into details at how the British Civil Service Commission system evolved in all the countries enumerated in the foregoing. However, due to its limited scope, the focus in this chapter is only circumscribed to the historical development of the Commission in the United States of America.

The evolution of the Civil Service Commission is, in this chapter, analysed within the context of the historical development of the American civil service. Loverd and Pavlak (1995:02) observe that scholars such as Mosher (1968), Van Riper (1958) and White (1948, 1951, 1954, and 1958) developed different analytical methods that are used to examine the historical development of the American civil service. White's analytical method is based on the analysis of the historical developments according to the major political eras, namely *The Federalists*, *The Jeffersonians*, *Jacksonians*, and *The Republican Eras*. Mosher's analysis is based on six major trends in the American civil service, whereas Van Riper uses 13 historical periods as framework of analysis.

The different methods of analyses postulated by the authors cited in the above exposition and the work of other authors are crystallised in Loverd and Pavlak (1995:02) to formulate a general historical framework of analysis. Loverd and Pavlak's analytical method is based on four major general historical periods, namely *Government by gentlemen* (1789-1829), *Government by any-man* (1829-1883), *Merit expansion* (1883-1937) and *The contemporary civil service* (1937 up to date). This general framework of analysis is somewhat similar to Lee's (1987:15-25) approach to the history of public personnel administration in the American civil service.

Lee's approach is premised on three main historical periods, namely 'the period extending from the Presidency of George Washington through that of John Quincy Adams... the period beginning in 1829 with the administration of Andrew Jackson... and the period that began in 1883 with the passage of the *Pendleton Act*....' The foregoing different framework of analyses notwithstanding, Loverd and Pavlak's general historical framework of analysis as succinctly explicated above is chosen as the appropriate one for this chapter to trace the historical development of the Civil Service Commission in the United States of America.

3.2. **Government by gentlemen (1789-1829)**

Loverd and Pavlak's (1995:03) framework of analysis identify the period between 1789 and 1829 as the first era in the development of the American civil service. This era, dubbed the period of *government by gentlemen*, was characterised by aristocracy in the administration of the American civil service personnel. Aristocracy means 'rule by the best' (McLean 1996:20). The bases upon which the so-called 'the best' are selected, however, varies. Fitness to govern may be determined on the basis of technical competence, meritocratic grounds, historical or dynastic ways. Van Riper (1958:17-18) contend that, although the bases or rationales for selection differs, the result of aristocracy are the same. The influence of aristocracy in the early development of the American civil service during the periods 1789-1829 is, in the following sub-sections, examined.

3.2.1. **Influence of aristocracy on the early development of the American civil service**

The establishment of the national government under the Constitution of the United States of America in 1789 ostensibly necessitated the development of the American civil service (*vide* Dimock *et al* 1960:278). The Constitution of the United States was not prescriptive in determining the type of personnel system that should be applied in the American civil service. Instead, the power to determine how the American civil service personnel should be administered was granted to the Congress, not the President (see the Constitution of the United States as reprinted in Webster's Comprehensive Reference Dictionary and Encyclopedia 1954:1221-1228). The foregoing notwithstanding, Washington seized the opportunity as the first President of the United States of America to set a course for the administration of the civil service personnel (Gortner 1981:302; Lee 1987:17). The public personnel system Washington propounded was etched in the ideals of aristocracy (*vide* Barton and Chappell 1985:94).

The aristocratic imperatives preponderated over the early developmental stage of the American civil service. Early Presidents of the United Sates of America such as George Washington, John Adams, and Thomas Jefferson ensured that the American civil service was contrived in accordance with the imperatives of aristocracy. This was glaringly manifested in George Washington's 'rule of fitness' or 'standard of fitness of character' which, contrary to the explanation provided in McLean (1996:20) as cited above, did not mean technical competence in making appointments in the civil service. Emphasis for appointment in the American civil service was placed on personal integrity and community standing of the prospective appointees (Lee 1987:17; Loverd and Pavlak 1995:03). Various authors bandied about the objectives of Washington's appointment policy. White (1948: 259) asserts that Washington wanted to 'consolidate the position and prestige of the new government among the people in all parts of the country'. Yet, on the other hand, Loverd and Pavlak (1995:03) contend that Washington wanted to give 'dignity and lustre' to America's national character.

In taking over Presidency from Washington, John Adams did not bring significant changes in as far as the ideological premise of the American public personnel system was concerned (*vide* Powell 1956:74). The reason for this could be ascribed to the fact that both Washington and Adams were federalists (Lee 1987:17; Powell

1956:74). John Adams maintained the concept of staffing the American civil service along the aristocratic lines. Unlike Washington, Adams' approach in appointing staff for civil service positions put more emphasis on talent than the upper class standing as a primary criterion. However, talent was defined in terms of college education, which the majority of the ordinary citizens in America did not have. Only the rich could afford the college education (*vide* Lee 1987:17; Loverd and Pavlak 1995:03; Powell 1956:74).

The above implies that it was only the upper class who could secure employment in the American civil service (Loverd and Pavlak 1995:03). Adams' approach therefore sidelined the ordinary citizens in favour of the upper class. The ordinary citizens were viewed as '...unsuited to government service' (Loverd and Pavlak 1995:03). This much is captured in Aronson (1964:05) that 'they (the ordinary citizens/people) are (were) not the best keepers of their own liberties. They are (were) the worst conceivable, they are (were) no keepers at all. They can neither act, judge, think or will'.

Jefferson's approach in the administration of the civil service personnel differed with that of Adams and Washington. This could be ascribed to that Jefferson, after the assumption of Presidency, pursued an 'anti-Federalist platform' which heralded changes in the administration of the American civil service personnel (Powell 1956:74). Just like Washington and Adams, Jefferson also considered talent as the most important aspect that must be taken into account when determining the basis for the appointment of candidates in the American civil service (Loverd and Pavlak 1995:03).

Jefferson's version of talent, however, differed fundamentally with the one Washington and Adams propounded during their tenures as Presidents of the United States of America respectively. As indicated above, Washington viewed talent in terms of personal integrity and community standing of the prospective employees, whereas Adams defined talent in terms of college education. In juxtaposition with [his] predecessors, Jefferson tried to be as inclusive as possible in defining the concept *talent.* This much was clear in Jefferson's articulation of government's employment policy position that 'natural aristocracy' of virtue and talents are more fundamental than the artificial one of wealth and birth and also considered the fact

that ordinary citizens, just like the rich, are also imbued with 'native ability' which must be 'sought and cultivated' (Aronson 1964:10; Loverd and Pavlak 1995:03).

In contrast to the version of talent Washington and Adams propagated during their times as Presidents respectively, Jefferson's conception of talent with regard to civil service appointments was inclusive of both the rich and the ordinary citizens. Presumably, Jefferson's conception of talent was underpinned by the idea of equal opportunities with regard to civil service appointments. This much was clear in Jefferson's view that schools could play an important function of fine-tuning native ability and talents of students 'from every condition of life' so that they could match the 'competition of wealth and birth for public trusts' (Loverd and Pavlak 1995:03).

In the context of the above exposition, there is no gainsaying that Jefferson's policy developments on civil service appointments were gravitating towards the right direction. However, its intentions could not be realised. Loverd and Pavlak (1995:03) attribute the failure to accomplish the objectives of the policy that were initiated to Jefferson's strong ideological inclination to aristocracy. Aronson (1964:10) further contend that Jefferson's assertion that schools must be used to nurture the native ability and talents was unrealistic in that the majority of the ordinary citizens or the masses could not afford to use such educational facilities.

The insistence on higher education as a condition for appointment in the civil service marginalised the very same people Jefferson's policy initiatives wanted to promote. This resulted in the same employment system practised by Jefferson's predecessors that was biased to upper class (Aronson 1964:10). The government of the United of States America was a 'government led by well educated, the well born, the prosperous, and their adherents. In short it was a government of the upper classes' (Van Riper 1958:17-18).

Apart from the aristocratic considerations in appointing the civil service personnel in the United States of America, 'political orthodoxy' and geography also played a pivotal role in the determination of candidates fitness for public office during the early development of the American civil service (Dimock *et al* 1960:278; Fish 1904:09). These aspects are also important for broadly understanding the history of the American civil service. Hereafter therefore, political orthodoxy and geography are examined to determine their impact on the administration of the American civil service personnel.

3.2.2. **Political orthodoxy and geography in the administration of civil service personnel in America**

The political orthodoxy implies loyalty to government. Loverd and Pavlak (1995:03) observe that, starting with the latter part of Washington's term, the definition of loyalty encompassed partisan considerations as well. This observation correlates aptly with Barton and Chappell's (1985:94) contention that 'President Washington and [his] successors sought qualified individuals, but their selections were influenced by the political leanings of appointees'. In fact, Washington, in a letter addressed to Pickering towards the end of the second term, stated that:

> I shall not, whilst I have the honour of administering the government, bring men into any office of consequence knowingly whose political tenets are adverse to the measures the general government is pursuing; for this, in my opinion, would be a sort of political suicide' (Fish 1920: 13-14, 30-31).

As indicated in Barton and Chappell (1985:94), Adams and Jefferson as Washington's successors respectively, seems to have accepted the practice of considering political inclinations of appointees for civil service positions as being sacrosanct. The personnel practice of taking into account political leanings of candidates was so rife when appointments to prominent government positions in the United States of America were made.

The practice mentioned above was characteristics of the spoils system, which, according to Cloete (1996:167) refers to that type of personnel system 'where the political party which gains the power after an election regards public service posts as booty to be taken at will and distributed among its supporters'. However, as Powell (1956:74) observes, the term spoils system during the tenure of Washington, Adams and Jefferson had not yet been coined. Ostensibly, the spoils system during the period 1789-1829 had not been recognised as the personnel system (see chapter 4 for a detailed theoretical exposition of the spoils system).

Loverd and Pavlak (1995:04) further observed that geography also played an important role in filling government positions, particularly at the upper level. Driven by a quest to maintain the legitimacy of government, early Presidents of the United States of America wanted each region to be represented in the national government. The foregoing was glaringly exemplified in the composition of the first Cabinet of Washington, which was representative of regions such as Massachusetts,

Pennsylvania, Virginia, Maryland and South Carolina. The trend of considering the place where candidates come from when personnel decisions were made was even more conspicuous at the 'field level': candidates were taken 'from the state and locality in which the officials were to serve; local jealousy would have tolerated nothing less' (White 1948:260).

3.2.3. Early development of public personnel administration in the American civil service: a reflective perspective

The exposition in sub-sections 3.2.1 and 3.2.2 above indicates that the early development of public personnel administration in the American civil service was dictated by a variety of imperatives, namely aristocratic, political and regional imperatives. The aristocratic imperative pertained to the requirement that government positions must be reserved for the aristocracy or upper class. This requirement was, glaringly, fulfilled during the tenure of Washington, Adams and Jefferson. Washington, as indicated above, put emphasis on personal integrity and community standing for appointment in the American civil service, whereas Adams and Jefferson accentuated higher education of which, as contended in sub-section 3.2.1 above, the majority of the ordinary citizens did not have. The approach pursued by the early Presidents of the United States of America was elitist in nature (Van Riper 1958:17-18).

The political imperative required that government positions must be distributed among the followers of the political party in power. This imperative manifested itself when partisanship of candidates determined their appointments to prominent positions in the American civil service. Regional imperative, on the other hand, required that government positions must be filled with people originating from the state and locality in which they were to serve. This imperative is ostensibly etched in the ideals of regionalism. Regional imperative manifested itself in the early developments of the American civil service when Presidents Washington, Adams, and Jefferson, probably spurred by a quest to maintain legitimacy of their governments, wanted each region to be represented in the national government (Loverd and Pavlak 1995:04; White 1948:260).

The influence the imperatives explained above had on the administration of the American civil service personnel purportedly spawned different personnel systems. However, the literature studied (*vide* Barton and Chappell 1985:94; Dimock *et al*

1960:278; Fish 1904:09; Loverd and Pavlak 1995:04; Van Riper 1958:17-18; White 1948:260) identify only one personnel system that emanated in response to the preponderance of aristocracy over the administration of the American civil service personnel during the period 1789-1829. Other personnel systems that must have also evolved as a result of the influence of political and geographic imperatives are not mentioned. Indeed, it is conclusively stated in the works of the authors cited in the foregoing that the development of the American civil service during the period 1789-1829 was inclined to aristocratic imperatives.

Ostensibly, there is a general consensus that the aristocratic personnel system preponderated over the early development of the American civil service. But, do the foregoing mean that the influence of political and regional imperatives on the administration of the American civil service personnel during the period 1789-1829 was inconsequential? The answer to this question is obviously not affirmative in that partisan and geographic considerations in appointing civil service personnel were also accentuated in the United States of America (*vide* Loverd and Pavlak 1995:03-04; White 1948:260).

In the context of the discourse above, this chapter contend that there was a co-existence of different personnel systems emanated as a result of aristocratic, political and geographic/regional imperatives. The degree of influence which each imperative had on the administration of the American civil service personnel, however, varied. Aristocratic imperative preponderated over the early development of the American civil service during the period 1789-1829 in that, according to Van Riper (1958:17-18), it comprised of upper class citizens. Probably, this explain why authors such as Barton and Chappell (1985:94); Dimock *et al* (1960:278); Fish (1904:09); Loverd and Pavlak (1995:04); Van Riper (1958:17-18); and White (1948:260) tend to imply that the aristocratic personnel system is the only system that existed during the early development of the American civil service.

The development of the American civil service along the aristocratic lines during the period 1789-1829 was branded with litany of criticisms. Loverd and Pavlak (1995:05) criticised the American civil service system of the time for its elitist character and bigoted definition of competence and talent. The American civil service was elitist in that, as Van Riper (1958:17-18) observe, it comprised of upper class citizens. Washington's 'rule of fitness' or 'standard of fitness of character' did not

mean technical competence in making appointments in the civil service. Instead emphasis was placed on personal integrity and community standing of the prospective appointees (Lee 1987:17; Loverd and Pavlak 1995:03). This discriminated against the ordinary citizens. The definition of talent in terms of college education further tarnished the prospects of the ordinary citizens joining the civil service in that, according to Aronson (1964:194), 'less than two Americans out of every thousand went to college' at that time. The majority of the ordinary citizens in the United States of America did not have college education. The rich could only afford college education. This meant that it was only the rich who could be employed in the American civil service. Therefore, the American government of 1789-1829 was, indeed, the *government by gentlemen*.

The criticisms levelled against aristocracy and the fundamental political changes that came as result of Jackson's election victory in 1828 ushered in a new perspective on public employment, namely *government by any man* (*vide* Cox III *et al*: 1994:55). This perspective marked the beginning of another important historical period in the development of the American civil service. Loverd and Pavlak's (1995:03) framework of analysis identify the foregoing historical period as ranging from 1829 to 1883. The American civil service system between the periods 1829 and 1883 is hereafter examined to determine the effect of the notion of *government by any-man* on its development.

3.3. **Government by any-man (1829-1883)**

The democratisation of America in 1829 jettisoned a public personnel system that developed as a result of aristocratic imperatives. This necessitated fundamental changes in public personnel administration. Government moved away from the paradigm that civil service positions are the preserve of the elite to the one that postulates that 'any applicant could aspire to any office' (Fish 1904:113). The enfranchisement of more and more people, the emergence of political parties and the abrupt occurrence of democratic ambiance in America certainly spurred the conception that any man could occupy any position in government (*vide* Barton and Chappell 1985:94; White 1954:11), hence the caption government by any-man.

3.3.1. **Idea of 'government by any man' in the administration of American civil service personnel**

Loverd and Pavlak (1995:05) observed that many authors regard Andrew Jackson, the seventh President of the United States of America, as the pioneer of the 'ideas and activities associated with government by any man'. Jackson, however, did not originate the idea of government by any man. This idea had already been 'established in a number of states and localities' long before Jackson assumed the Presidency of the United States of America in 1829 (*vide* Fish 1904:113; Loverd and Pavlak 1995:05; Webster 1954:858). This, however, did not mean that Jackson was insignificant in as far as the inculcation of the ideas of government by any man were concerned. Indeed, Jackson 'introduced them (ideas and activities associated with the notion of government by any-man) to national government on a wider scale than any of [his] predecessors and for carrying them out openly-indeed proudly- rather than apologetically and quietly' (Kaufman 1965:20).

The idea of government by any man was an anti-thesis of the 'elitist tendencies of the previous (aristocratic) era' (Loverd and Pavlak 1995:05). Jackson countered the rationale of setting stringent prerequisites for entry into the civil service and argued that 'the importance of government jobs and the abilities necessary to perform them well had been exaggerated and misguided' (Loverd and Pavlak 1995:05). This perspective was aptly articulated in Jackson's message to the Congress that: '...the duties of all public offices are, or at least admit of being made so plain and simple, that men of intelligence may readily qualify themselves for this performance' (Richardson 1896:448-449). The foregoing contends that public office was not as demanding as people thought (Barton and Chappell 1985:94).

Jackson believed that ordinary men of intelligence could also undertake the responsibilities of public office in that they too have competence and talents, just like the wealthy and college educated appointees. As Jackson contended, competence and talents were not only found in the wealthy and college educated ranks. Ordinary citizens also had attributes that were imperative for effective and efficient administration of the country. Jackson further asserted that the 'masses' (ordinary citizens), just like the rich, were also people of stern moral rectitude (Loverd and Pavlak 1995:05). In a nutshell, it could be contended that Jackson was inculcating the concept of a classless society whose existence is underpinned by the principle of equality. The assertion that the 'farmer, the mechanic, and laborer were the bone

and sinew of the country' indeed authenticate the preceding contention (Aronson 1964:16).

3.3.2. Challenge of putting into practice ideals of 'government by any-man' in the American civil service

In contrast to the aristocratic system, there is no gainsaying that the civil service system Jackson wanted to establish in the United States of America was excellent. Nonetheless, to put into practice the ideals propounded was a daunting challenge that seemed insurmountable. Aristocratic practices of the past had secured lifetime tenure for most employees in the American civil service. As a result, Jackson was confronted with the challenge of how to provide access for appointees whose appointments would reflect the ideological inclination of [his] Presidency. Ostensibly, Jackson took up the gauntlet thrown down earnestly in that eventually a solution as to how the current employees could be removed from the public office was found. Rotation in office was proclaimed as the solution (*vide* Lee 1987:18; Loverd and Pavlak 1995:05-06). Jackson rationalised the removal of current employees through rotation in office in the oft-cited first annual message to the Congress that:

> There are, perhaps, few men who can for any length of time enjoy office and power without being more or less under the influence of feelings unfavourable to the faithful discharge of their public duties. Their integrity may be proof against improper considerations immediately addressed to themselves, but they are apt to acquire a habit of looking with indifference upon the public interests and of tolerating conduct from which an unpractised man would revolt. Office is considered as a species of property, and government rather as a means of promoting individual interests than as an instrument created solely for the service of the people. Corruption in some and in others a perversion of correct feelings and principles divert government from its legitimate ends and make it an engine for the support of the few at the expense of the many. The duties of all public officers are, or at least admit of being made, so plain and simple that man of intelligence may readily qualify themselves for their performance; and I cannot but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience (Richardson 1896:448-449).

Jackson's message cited above accentuated the 'moral purpose' of rotation in office which Loverd and Pavlak (1995:06) contend that it was to be anticipated. Loverd and Pavlak's (1995:06) opinion is ostensibly informed by White's (1954:319) view that Jackson wielded strong moral authority. The course of rotation in office Jackson pursued was devoid of ulterior motives except to provide access to new appointees whose appointments would have demonstrated government's commitment to the

idea of government by any-man. Nonetheless, moral prudence of Jackson's course of action did not yield flawless results.

Jackson's conviction that a good heart rather than a good head afford the right of qualification for public position was a misnomer for prowess in governance. The final outcome of the belief that 'the duties of all public offices are, or at least admit of being made so plain and simple', therefore needed no skill of epic proportions, was to leave the skills in the hands of private enterprise. Instead of government by the people, government by the financial interests was what frequently resulted from Jackson's system' (Richardson 1896:448-449; see also Riley 1993:08-21; and Shafritz *et al* 1981:07-25).

Furthermore, Jackson ostensibly overlooked the possibility of party political advantage that came along with rotation in office (*vide* Kaufman 1965:31; Loverd and Pavlak 1995:06; Mosher 1968:63 and White 1954:319). This was apart from that Senator William Marcy of New York suggested such possibility in a speech made in 1832. The speech accentuated that:

> When they are contending for victory, they avow the intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim as matter of right, the advantages of success. They see nothing wrong in the rule that to the victor belong the spoils of the enemy (Consolidated Encyclopaedia, Volume IX).

Jackson's noble idea of correcting aristocratic legacy of the previous era heralded the spoils systems. The phrase spoils system, as explicated in the *Consolidated Encyclopaedia*, was used in the United States of America to describe a system of appointing the adherents of the political party in power to public office in exchange for political service rendered. Senator Marcy aptly captured the essence of the spoils system in the speech of 1832 as cited above. A detailed theoretical exposition of the spoils system is provided in chapter 4. However, the effect of the spoils system on the administration of American civil service personnel is hereafter examined.

3.3.3. **Effect of the spoils system in the American civil service**

Cox III *et al* (1994:55) explain that Jackson's concept of 'rotation in office was not intrinsically evil; it was the abuse of the system that led to the evils of the spoils'. Indeed, Jackson's contemporaries and successors manipulated the concept of rotation in office for party political advantages. They did not see anything wrong in the assertion that... 'to the victor belong the spoils of the enemy' (Shafritz *et al.* 1992:07; Tolchin and Tolchin 1971:01). This means that the personnel practice of appointing the adherents of the political party in power in exchange for political service rendered replaced the aristocratic system of the previous era. Fred Malek, the sinew of Nixon administration bluntly stated that:

> In our constitutional form of government, the Executive Branch is, and always will be a political institution. This is not to say that the application of good management practices, sound policy formulations and the highest calibre of program implementation are not vital importance. The best politics is still good Government. BUT YOU CANNOT ACHIEVE MANAGEMENT, POLICY OR PROGRAM CONTROL UNLESS YOU HAVE ESTABLISHED POLITICAL CONTROL. The record is quite replete with instances of the failures of program, policy and management goals because of sabotage by employees of the Executive Branch who engage in the frustration of those efforts because of their political persuasion and their loyalty to the majority party of Congress rather than the executive that supervises them. And yet, in their own eyes, they are sincere and loyal to their Government (Stein 1952:80-81)..

The concept of rotation in office Jackson engendered in the American civil service resulted in what Loverd and Pavlak (1995:06) describe as 'tremendous opportunities to exercise patronage by rewarding faithful party followers from all segments of society'. Lee (1987:18) observe that 'turnover of federal workers in the Jackson administration was not as great as might have been expected, but wide-spread firings and replacements by the politically favoured were the characteristic of subsequent administrations'.

Downs and Larkey (1986:191) also observe that the most efficient and competent employees were regularly dismissed. The following letter written in 1880s authenticates Downs and Larkey (1986:191) and Lee (1987:18) observations about the effect of the spoils system in the administration of the American civil service personnel:

To Whom It May Concern:

It affords me a great pleasure to be able to certify to the fact that my intercourse with Mr. Lewis N. Rollis, former clerk of this office under Mr. John H. Sellman, formerly collector and my predecessor, was of the most pleasant and satisfactory character and such as to enable me to ascertain that he was a most conscientious and efficient officer and a gentleman of the stricter integrity and honor.

He was requested to resign his position by me for no fault whatever, save that we differed politically, thus coming under the old rule that 'to the victor belongs the spoils'. I can commend Mr. Rollis with confidence to anyone who may desire the services of a faithful and efficient employee

J.K. Roberts, Collector
District of Maryland

(*vide* Downs and Larkey 1986:191).

Government positions, as the letter cited above attest, were pawned for political service rendered to the party in power. In addition, Williams (1980:397) indicate that the spoils system in the American civil service was applied also for political tithing. Political tithing refers to a certain amount of money collected from the political appointees and used to sustain the financial viability of the party (*vide* Williams 1980:397). Due to the fact that the purpose of the spoils system is to reward party adherents, Kaufman (1965:31) and Loverd and Pavlak (1995:06) observe that those appointed to occupy positions in the civil service did not always possess the necessary qualifications. This, according to Barton and Chappell (1985:94) 'resulted in amateur administration and corruption'. Mosher (1968:63) observes that the American civil service, 'previously viewed as an honorable pursuit for gentlemen', then became strongly influenced by partisan politics that made it susceptible to incompetence, maladroit and corruption.

Some of the beneficiaries of the spoils system enriched themselves with public money. Samuel Swartwout, Collector of Port of New York stole more than a million dollars and fled to Europe (United States Civil Service Commission 1941:22). The Indian Peace Commission also found in 1868 that 'agents have pocketed funds appropriated by the government and driven the Indians to starvation... these officers have been selected from partisan ranks, not so much on account of honesty and qualifications as for devotion to party interests and their willingness to apply the money of the Indian to promote selfish schemes of local politicians' (Rosenbloom 1971:67).

Having observed incidents of corruption that mostly took place during the tenure of President Grant, Van Riper (1958:75) state that ... 'when one considers that corruption was just as rife in state and local government...it is no wonder that many were exercised over the state of the nation. Never had public morals fallen so low'. Lee (1987:19) also observes that the spoils system hindered prospects of career development in the American civil service. This impacted negatively on staff morale. Lee (1987:20) further observes that in some instances executives appointed political friends of legislators who were not necessarily in agreement with their political views.

The above is authenticated by the United States Civil Service Commission (1974:24) findings that, during the Mexican-American War, General Scott's authority was undermined by the insubordination of volunteer officers appointed through the spoils system. The United State Civil Service Commission (1974:24) cautioned that 'the spoils system, having been extended into the Army and Navy, impaired the effectiveness of our (American's) forces not only in 1848 but also in many Civil War campaigns'. As Loverd and Pavlak (1995:07) note, the chief executives could not do anything with the disobedience of authority by the political friends of the legislators in that they feared to run the gauntlet of incurring political opprobrium.

The spoils system in the American civil service put the chief executives in a compromising position. It made them 'petty job brokers' and distracted their 'strength and attention from more important matters of the state to the dispensation of hundreds of posts under the greatest pressure' (Kaufman 1965:31-32). Apart from the foregoing, the spoils system continued to be strongly ensconced in the American civil service during the tenures of Tyler, Polk and Taylor. Polk laid off 13,500 of the nation's 16,000 postmasters whereas; Taylor got rid of over half the presidential officers and one third of the total government employees in a period of one year (Hoogenboom 1968:06). Kaufman (1973:300-307) observed that 'Polk (1845-1849) removed more incumbents than any of the ten presidents who preceded him'. Some of the Presidents of the United States of America, however, reacted to the pressure of appointing the adherents of the political party in power exerted on them. President James Polk reacting to the pressure of pawning government positions for political loyalty exclaimed:

> Will the pressure for office ever cease! It is one year today since I entered on the duties of my office, and still the pressure for office has not abated. I most sincerely wish I had no offices to bestow' (White 1954:304).

The results of the spoils system explicated above made government to run the gauntlet of criticisms that prompted civil service reforms in the United States of America. In 1851 the Congress asked Cabinet officers to come up with a system for 'examination, classification, graded pay and systematic promotion for their insubordinates' (Cox III *et al* 1994:56). In 1853, the Congress voted for a reform measure that gave effect to the examination system in the American civil service. This measure set the 'precedent for civil service examination' in the United States of America (Cox III *et al* 1994:56). However, as Barton and Chappell (1985:95) observed, attempts to reform the American civil service system did not yield much success. The foregoing civil service reforms initiated during Millard Fillmore's administration floundered in 1857 when James Buchanan assumed the American Presidency and thus, followed Pierce. Both Buchanan and Pierce were Democrats. However, Buchanan dismissed all the Democrats that supported re-nomination of Pierce for Presidency from the public offices. As William Marcy observe, President Buchanan surely wanted to ensure that [his] political camp was absolutely devoid of any pillage (Fish 1904:83).

The practice of rewarding political loyalty to the Union with government positions continued even during the reign of President Lincoln. In fact, Lincoln in 1861 remarked about the spoils system that: 'I seem like a man so busy letting rooms at one end of [his] house that [he] has no time left to put out the fire that is blazing and destroying at the other end' (President Lincoln as cited in Cox III *et al* 1994:56-57). According to Cox III *et al* (1994:57) and Fish (1904:170) most candidates managed to get public offices in that 'Lincoln made 1459 of the 1639 removals within his power'.

Lincoln applied the spoils system to protect the Union and the Republican Party. Upon re-election as the President of the United States of America, Lincoln did not effect changes to previous political appointments. This was regarded as acme of the spoils system in the history of the American civil service (*vide* Fish 1904:172; Van Riper 1958:43–44). Some civil service reforms measures were pursued during the Lincoln administration. In 1864, Senator Summer revived the idea of the examination system that emanated during the Millard Fillmore's administration. A civil service bill providing for examinations and promotions based on seniority and merit was introduced (Fish 1904:210). Congressman Thomas Jenckes also in 1864 introduced bills dealing with civil service reforms. Unfortunately Jenckes' bills did not

get the necessary majority support and as a result, were trounced (Van Riper 1958:65-66).

Cox III *et al* (1994:57) note that in 1871, 'the first modern civil service legislation was passed'. The legislation stipulated that:

> Sec. 9 ...the President of the United States be, and he is hereby, authorized to prescribe such rules and regulations for the admission of persons into the civil service of the United States as will best promote the efficiency hereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter, and for this purpose the President is authorized to employ suitable persons to conduct said inquiries, to prescribe their duties, and to establish regulations for the conduct said inquiries, to prescribe their duties, and to establish regulations for the conduct of persons who may receive appointments in the civil service (Van Riper 1958:68).

President Grant pursued civil service reforms articulated in the foregoing legislation with great vigour in establishing the Civil Service Commission in the United States of America. The Commission comprised of seven men under the chairmanship of George Curtis, a legendary in civil service reforms. In 1873 and 1874, the Congress failed to allocate funds to the Commission for its operations and as a result, it ceased to exist (Barton and Chappell 1985:95; Van Riper 1958:69-71). The pace of civil service reform increased when the reform movements started to organise themselves. New York Civil Service Reform Association was set up in 1877 whereas, in 1881, the National Civil Service Reform League repositioned itself so that it could contend with the challenges of exerting pressure for civil service reform. The impetus for reform, hereafter discussed, ushered in what Loverd and Pavlak (1995:02; 08) termed *merit expansion era* ranging from 1883 to 1937.

3.4. **Merit expansion (1883-1937)**

The concept of merit system permeated the American civil service in 1883 as a result of variety of problems associated with the spoils system. The merit system, *vide Webster's Comprehensive Reference Dictionary and Encyclopaedia* (1954:326), refers to a (personnel) system of hiring and promoting civil service employees on the basis of 'efficiency and opposed to the spoils system'. A comprehensive theoretical analysis of the merit system is made in chapter 4. In the following sub-sections, only

the development of the merit system and its influence on the administration of the American civil service are considered.

3.4.1. Antecedents of the merit system in the United States of America

Charles J. Guiteau supported James Garfield in the 1880 election with the expectation that a government job would be offered in return as gratitude for political loyalty. This much was glaringly clear in a letter Guiteau addressed to the newly elected President (Garfield). The letter read that:

> I understand ... that I am to have a consulship. I hope it is the consulship at Paris, as that is the only one I care to take... (Barton and Chappell 1985:95).

Guiteau's expectations were dashed as no such position nor just a mere appointment was offered. This caused enormous rage that culminated in assassination of Garfield. The death of Garfield was but one factor that added impetus for civil service reform in the United States of America (*vide* Barton and Chappell 1985:95; Dimock *et al* 1960:278; Lee 1987:20; Loverd and Pavlak 1995:08; Powell 1956:76). Other factors that spurred the process of civil service reform to unfold quickly are identified in Williams (1980:402-403) as: 'corruption of the Grant administration (1869-1876) and the exploitation of civil servants for party political gains in 1870s.

The exploitation of civil service servants for party political gains incurred judicial censure as the Supreme Court 'upheld the guilty verdict of Newton Carter in *Ex Parte Curtis*' (Gortner 1981:304-305). It was upheld that Mr Carter, who by then was a Treasury Department employee and also treasurer of the New Republic Party, was guilty of exhorting political tithing from the federal employees. As already explained in sub-section 3.3.3 above, political tithing refers to a certain amount of money collected from the party political appointees and used to sustain the financial viability of the party (*vide* Williams 1980:397). Cayer (1975:25) further contends that another important factor that necessitated civil service reforms in the United States of America stem from the election of 1882. The Republic Party performed unsatisfactorily in the 1882 elections and realised that if this downward trend continue, the likelihood of losing the presidential election vote in 1884 would be high. Therefore, the power to appoint civil servants would as well be forfeited. The apprehension that emanated as a result of the foregoing probability galvanised the

Republic Party into action in as far as the reformation of the American civil service was concerned (*vide* Gortner 1981:304-305).

Dimock *et al* (1960:278) observed that, with the establishment of the National Civil Service Reform League in 1879, civil service reform in America assumed a nation-wide scale. It was untenable. The British civil service system discussed in chapter 2 was used as a model for civil service reform in the United States of America. President Hayes briefed Eaton to conduct a study of the British civil service system. Eaton (1980:06) believed that 'no nation can afford to be ill-informed as to methods by which other nations advance their strength and prosperity'. The British experience of civil service reforms was used in the transformation of the American civil service system. Eaton and the National Civil Service Reform League denounced the spoils system and wanted it purged so that efficiency and effectiveness in the civil service could thrive (Chandler and Plano 1988:254; Nigro 1959:05;). Ohio Democratic Senator George Pendleton, in introducing a Civil Service Bill aimed at eliminating the spoils system in the American civil service, accentuated that:

> ... This subject (about civil service reforms), in all its ramifications, was submitted to the people of the United States at the fall of elections and they have spoken in no low or uncertain tone... I do say that the civil service is inefficient; that it is expensive; that it is extravagant; that it is in many cases and in some sense of corrupt; that it has welded the whole body of its employees into a great political machine; that it has converted them into an army of officers and men, veterans in political warfare, disciplined and trained, whose salaries, whose time, whose exertions at least twice within a very short period in the history of our country have robbed the people of the fair results of Presidential elections.
>
> Mr. Jefferson was right. The experience of the eighty years has shown it. The man best fitted should be the man placed in office, especially if the servants of the people make the appointment. It is true as truth can be that fidelity, capacity, honesty, are essential elements of fitness, and that the man who is most capable and most faithful and most honest is the man who is the most fit, and he should be appointed to office...(Congressional Record of December 1882 in Williams 1980:403).

3.4.2. **Development of the merit system in the American civil service**

Glaringly, the antecedents of the merit system discussed above argued vehemently for a change of perspective in as far as public employment was concerned. Pendleton, Eaton, and the National Civil Service Reform League propagated the idea of a merit-based civil service system. The promulgation of a civil service reform

legislation, titled 'A Bill to Regulate and Improve the Civil Service of the United States', popularly known as *the Pendleton Act*, officially ushered in the philosophy of merit in the American civil service in 1883 (Barton and Chappell 1985:95; Van Riper 1958:554). Ironically, as Powell (1956:76) observe, Chester Arthur, a staunch proponent of the spoils system who assumed the American Presidency after the death of Garfield, signed a Bill intended to introduce a merit based civil service system into an Act. As Barton and Chappell (1985:95) note, the *Pendleton Act* heralded a new era that Loverd and Pavlak (1995:08) termed the 'merit expansion era' (1883-1937). Key provisions of the *Pendleton Act* of 1883 with regard to civil service reform are identified in the literature cited in the foregoing as follows:

- Appointment of candidates for civil service positions must be conducted through competitive examination.
- Civil service employees must be protected against party political influence.
- A Civil Service Commission must be established so that it could ensure that merit principles are applied (Barton and Chappell 1985:95; Lee 1987:21).

The *Pendleton Act* did not herald full-blown changes in that only 13,780 out of 110,000 employees were placed in the competitive civil service. However, the Act 'made it possible to extend the number and character of positions to which competitive examination were applicable' (Powell 1956:76). Furthermore, Powell (1956:76) contends that the 'fight-the-spoilsman' approach that introduced the merit system was negative. Nigro (1959:04) did not necessarily agree with the foregoing view on the basis that the question whether 'fight-the-spoilsman' was negative or not depends on considerations of time and place. In fact, Nigro (1959:06) note that 'it seems irrefutable that in Eaton's times, 'fight-the-spoilsman' approach was positive and affirmative, addressed the needs of the time'.

Lee (1987:20-21) and Loverd and Pavlak (1995:09) note that other states and local governments followed suit in promulgating laws similar to the *Pendleton Act*. New York and Massachusetts introduced similar laws in 1883 and 1884 respectively. Lee (1987:20) also observes that from 1884 to 1905 little progress was made in terms of civil service reforms at the state level. A number of states only managed to achieve some strides from 1905, namely Wisconsin and Illinois (1905); Colorado (1907);

New Jersey (1908) and Ohio (1912). All these states promulgated the laws that accentuated the philosophy of merit in the administration of civil service personnel (*vide* Lee 1987:20; Loverd and Pavlak 1995:09).

The merit system in the administration of the American civil service personnel required that personnel decisions be premised on 'what the applicants and employees know, not whom they know' (Williams 1980:400). Emphasis must be put on competence, not college education or the political inclination of candidates. Candidates must be subjected to open, competitive examinations so as to avoid preponderance of political influences in the appointment process. Those who distinguished themselves as best qualified must be selected and appointed permanently. Officials so appointed would most likely be imbued with the attributes of a cadre 'with politically neutral competence' that 'envisions a continuous, uncommitted facility at the disposal and for the support of, political leadership' (Heclo 1975:81; Loverd and Pavlak 1995:09). This means that merit appointees would serve administrations of different successive political parties and also, would be loyal to whichever party in power. Their tenure would be protected against political exploitation (*vide* Heclo 1975:81; Loverd and Pavlak 1995:09; Stahl 1971:31; Williams 1980:401).

3.4.3. **Emergence of the Civil Service Commission in the United States of America**

The Civil Service Commission in the United States of America was established in terms of the *Pendleton Act* of 1883. Its founding objective was to protect the American civil service against the scourge of political manipulations. As Fougere (1967:17) observe, 'the Civil Service Commission thereby became the operating head of the merit system'... The constitution of the American Civil Service Commission was effected in a manner that it would 'be above and outside the political arena' so that it could 'immunize appointments and in-service activity from political influence' (Mosher 1968:69). Its composition was bipartisan in character. The rationale for bipartisan composition of the Commission was, ostensibly, to maintain its credibility in terms of political neutrality (Mosher 1968:69). As the *Pendleton Act* prescribed, the Commission comprised of three members chosen by the President and endorsed by the Senate. In the different states of America, the Civil Service Commissions normally comprised of three to seven members. Unlike at

the federal level, members of the Commission in the states were appointed by the 'chief executive with the consent of the legislature' (Loverd and Pavlak 1995:10).

The American Civil Service Commission was, in terms of the *Pendleton Act*, charged with a variety of functions which, *inter alia*, included the following:

- Formulating civil service regulations. It is important to point out the fact that the regulations that were made by the Commission were supposed to be in line with the rules determined by the President.

- Selecting candidates on the basis of merit. The Civil Service Commission was charged with the responsibility of merit selection, not appointments. It served as a conduit through which the best qualified (normally three candidates) would be selected and their names furnished to appointing officers to choose the candidate they want.

- Checking instances of abuse. Loverd and Pavlak (1995:10) aptly explain that 'in all phases of merit system personnel practices, the Civil Service Commission acted as a watchdog, looking for instances of abuse and striving to keep them in check'.

- Adjudicating of cases. The Civil Service Commission also played a quasi-judicial role of hearing cases of unfair labour practice. Public employees who felt prejudiced by the action of their supervisor/s had a right to appeal to the Commission for recourse (*vide* Fougere 1967:17; Loverd and Pavlak 1995:10).

The scientific management movement of the early twentieth century necessitated the development of scientific methods of personnel administration. This augmented the functions of the Civil Service Commission enumerated above. The American Civil Service Commission had to develop scientific personnel methods such as 'job analysis, position classification, and pay system, more objective systematically devised examinations, job related training programs and efficiency rating' (Mosher 1968:70-71; Loverd and Pavlak 1995:11).

The efficacy of merit based public personnel administration was, however, questioned. In 1933, the Social Science Research Council appointed, with the consent of President Roosevelt, a Commission of Inquiry on Public Service Personnel. The Commission questioned the negative way in which the merit system in the American civil service was couched. It was fight-the-spoilsman articulation. The Commission of Inquiry on Public Service Personnel argued that the focus of the merit system must shift from the protection of the civil service to improvement of performance. Ostensibly, the Commission accentuated positive personnel administration in the American civil service (Powell 1956:77).

The postulation of positive public personnel administration gained momentum in the 1930s and heralded another important era in the history of the American civil service. Loverd and Pavlak (1995:11), in their framework of analysis, identified the era associated with positive personnel administration perspectives as the contemporary phase in the development of the American civil service. The contemporary phase in the development of the American civil service ranging from 1937 up date is hereafter examined.

3.5. Contemporary civil service (1937 to date)

Loverd and Pavlak's (1995:11) framework of analysis considers the period from 1937 up to date as the last and the most contemporary phase in the development of the American civil service. The contemporary phase is characterised by the critical review of the merit system. As indicated in the last part of sub-section 3.4.3, the discourse surrounding the merit system originated in 1933 from the findings of the Commission of Inquiry on Public Service Personnel appointed with the approval of President Roosevelt by the Social Science Research Council. Ostensibly, the findings of the Commission of Inquiry on Public Service Personnel that questioned the efficacy of the merit system prompted rigorous debates and studies. In the sub-sections that follow, the discourse surrounding the merit system and the contemporary personnel system, which the critiques of merit system propagated, are examined.

3.5.1. **Development of the contemporary personnel system and its impact on the American Civil Service Commission**

The development of the contemporary personnel system in the American civil service could be traced to 1937 when the President's Committee on Administrative Management reviewed the merit system and noted in its report the failures and the success of the merit system. The Federal Civil Service Commission, as the custodian of the merit system, was also the subject of review. Indeed, the Report of the President's Committee on Administrative Management (1937:9-10) pointed out that the Federal Civil Service Commission had 'endeavoured conscientiously to observe the statutes and orders that have been laid down for its guidance... achieved its greatest success in the administration of open competitive examination... and pioneered in personnel research and efficiency ratings'.

Apart from the foregoing positive reflection, the President's Committee on Administrative Management (1937:9-10) also noted that the then 'existing civil service is (was) poorly adapted to meet the larger responsibilities of serving as a central personnel agency for a vast and complicated governmental administration', and the agency itself displayed 'a negative, protective and legalistic role, whereas the need today is for a positive, constructive and active personnel agency'. Authors such as Barton and Chappell (1985:97); Nigro (1959:16-17); Powell (1956:77); and Reeves (1944:327-340) also observe that the role of the Federal Civil Service Commission was fraught with imperfections. Nigro (1959:16-17) and Reeves (1944:327-340) accentuates the observation made by the President's Committee on Administrative Management that the 'fight the spoils-man' approach and the protective nature of the function of the Commission were largely negative. Its legislative orientation was not developmental; it was more of a policing.

The Civil Service Commission had huge power and authority. Barton and Chappell (1985:96) note that the Commission had the authority to issue rules. Rules that were aimed at protecting employees, however, inhibited dynamism in the management of personnel by the chief executive and other administrators. Those rules were so rigid in that they did not make it easy for staff reshuffling to take place. The rules of the Civil Service Commission further created a situation where the merit employees were 'unresponsive to the directives of elected officials' (Barton and Chappell 1985:97). Powell (1956:70) and Reeves (1944:327-340) contend further that the Commission maintained outdated lists of persons who have passed

qualifying examinations because it took them a year to compile civil service eligible list. This resulted in government being unable to fill vacant positions with the best-qualified personnel. Some individuals occupied positions that they did not qualify for them (Dimock *et al* 1960:280).

It is imperative to note that the work of the different scholars and the reports of the Commission of Enquiry/Committee cited above did not question the existence of the Civil Service Commission in the United States of America *per se*. In fact, some of the authors pointed out that a need for such a central body was sacrosanct (*vide* Dimock *et al* 1960:279; Reeves 1944:327-340). The criticisms detailed above were levelled at the methods, practices, and attitudes of the Civil Service Commission (Dimock *et al* 1960:280). In 1974 the United States Civil Service Commission (1974:67) explicitly accepted the validity of the criticism in its pronouncement that 'the big test...was whether a system conceived for an essentially negative purpose, that is control of patronage and corruption in appointment to public office, could be adapted to modern needs, discoveries, and requirements in personnel management'. The 'big test' that the Commission talked about in the foregoing citation is, indeed, part of the contemporary discourse about the efficacy of the merit system.

The merit system is currently being questioned in that doubts about its efficacy abounds. Loverd and Pavlak (1995:12) contend that the merit system hinders the exercise of executive and managerial authority. Sometimes the merit system civil service systems and its specialists personnel seems to follow the rules of their occupations with such excessive strictness that alienates the management (*vide* Loverd and Pavlak 1995:12). The rule-bound demeanour of the American merit system civil service, which Hayes and Reeves (1984:268-270) vehemently criticised, inhibited managerial initiatives. Loverd and Pavlak (1995:12) note that, 'as the guardians against the violations of the merit system, their (members of the American merit system civil service) concern seem to lie more in adherence to personnel rules and procedures than in the support of management'. In addition, a Report of the Committee for Economic Development (1978:44-46) identified quite a number of infirmities ingrained in the merit system:

- Sluggish system of recruiting personnel.

- Loss of best-qualified applicants to other job opportunities as a result of bureaucratic hurdles that delayed the compilation of a list of eligible candidates that passed the civil service examination.

- Efficiency in allocating work was hindered by a lack of flexible classification system.

- The management authority with regard to rewarding of outstanding performance, disciplining or firing non-performers was emasculated.

The merit system also impelled career civil servants to pursue what Loverd and Pavlak (1995:12) called 'self-direction', a direction that was not reflective of the policies of the government. To use Gerth and Mills' (1946:232) words, the foregoing occurred probably as a result that 'the political master finds himself in the position of the dilettante who stands opposite the expert, facing the trained officials who stand within the management of administration'. Rourke (1976:14) remarked that 'no fear has been more constant in modern politics-shared by revolutionaries and reactionaries alike-than the apprehension that bureaucrats might become the power elite and dominate the government process in which they are meant to play insubordinate role'. Gerth and Mill (1946:232) and Rourke (1976:14)'s perspectives are accentuated by Max Weber, a well-known sociologist, who cautioned many years ago that the power position of a fully developed bureaucracy is always over-towering. This means that the specialists or career civil servants, because of their expertise, might manipulate power and dictate to the politicians a particular course of action that must be pursued.

The infirmities as explicated above culminated in the myriads of attempts to circumvent the merit system. A variety of mechanisms to avoid the system were used, namely:

- Creation of new government positions outside the ambit of merit system. This way of avoiding the merit system was used by President Roosevelt and Eisenhower; the former created quite a number of agencies that were exempted from merit; whereas the latter created what is called Schedule C

category. This category comprised of jobs of a confidential or policy-making nature, also exempted from the merit ambit (*vide* Kaufman 1965:46-49).

- 'Parallel system of temporary or provisional civil service position' (Loverd and Pavlak 1995:13). This mechanism of avoiding merit system involved 'creation of informal parallel systems of temporary or provisional civil service that continued for years. This method was popular in New York City and Chicago (Tolchin and Tolchin 1971:40-41).

- Privatisation. The final mechanism of avoiding merit system was through privatisation or contracting out of civil services to the private sector organizations.

Loverd and Pavlak (1995:13) further observed that the scientific personnel methods developed along with the establishment of merit system are also being questioned. Sayre (1948:137) criticises methods such as 'job classification, factor analysis, numerical efficiency ratings, formal promotion charts and all their procedural relatives' on the basis of the fact that they 'lack the objectivity which is their sole claim to usefulness; they provide merely the appearance, not the substance, of the relevant measurement of ability and merit. The variables of personnel administration are too many and too subtle to be contained within a purely statistical frame of reference'.

The public sector unions, minority groups, and women also questioned the integrity of the so-called scientific techniques. Public sector unions wanted to have more say through bilateral negotiations on issues such as position classification, pay and promotion. They did not want scientific methods dictate decisions on these issues (Nollen 1975:17). Criticisms levelled against the merit system and the American Civil Service Commission ushered in yet another approach to public personnel management. Indeed, Loverd and Pavlak (1995:14) observe that a positive and flexible personnel system emanated. In the sub-section that follows the new public personnel system is examined in order to determine its effect on the Civil Service Commission.

3.5.2. **Positive public personnel system and its effect on the American Civil Service Commission**

The 'positive personnel management' approach was propagated by a variety of institutions such as the President's Committee on Administrative Management (1937), the first and the second Hoover Commission (1949 and 1955), the Municipal Manpower Commission (1962), the National Civil Service League (1970), the President's 1977 Federal Personnel Management Project (which propagated the passage of *Civil Service Reform Act* of 1978), and the Committee for Economic Development (1978). As Loverd and Pavlak (1995:14) observe, the proponents of the 'positive management approach' contend that the improvement of 'merit civil service responsiveness to executive direction start with the restructuring' of the Civil Service Commission itself.

Ostensibly, the above-mentioned contention spurred the Carter administration to effect structural changes on the American Civil Service Commission. A legislative framework in the form of a *Civil Service Reform Act* of 1978 was developed so as to necessitate structural changes on the American Civil Service Commission. This exercise was fundamental in that it sought to align the *modus operandi* of the Commission with the emerging 'positive management' perspective on the administration of American civil service personnel. In 1978, the American Civil Service Commission ceased to exist in its present form and its functions were distributed among three agencies established as replacements, namely the Office of Personnel Management, the Merit System Protection Board, and the Federal Labour Relations Authority (Barton and Chappell 1985:97).

The President in consultation with the Senate appointed the members of these boards. The attributes looked at by the President and Senate in appointing members of the various personnel-related boards mentioned in the foregoing were 'experience, the political persuasion, and the personnel philosophy of the appointees' (Gortner 1981:299). The Office of Personnel Management was entrusted with the responsibility of dealing with the administrative functions of the Commission that entailed the formulation of personnel policy, conducting of examinations and advising the President on matters that pertained to the administration of civil service personnel. Functions of the Merit Systems Board, on the other hand, included: investigating personnel practices that encroached upon the merit principles, and

hearing of appeals by the employees whereas; Federal Labour Relation Authority took charge of managing labour relations (Barton and Chappell 1985:97).

The above structural arrangements effected on the Civil Service Commission were, ostensibly, premised on the National Civil Service League's (1970:05) model of personnel laws which emphasised that: 'most public jurisdictions have reached the point where sound administrative practices as well as a sense of political fair play demand that the chief elected official be given greater authority over the personnel function if we are to continue to charge [him] with the ultimate responsibility of administering the jurisdiction'. These arrangements bolstered the management authority of the chief executive and therefore ensured that the personnel agency was directly responsible to the chief executive. Furthermore, it was contended that 'the public would benefit as well, because chief executives and their managerial subordinates could be held more directly accountable for personnel actions initiated' (Loverd and Pavlak 1995:14-15).

In 1978 the *Civil Service Reform Act* was promulgated and identified nine principles of merit, namely:

1. Recruitment should be from qualified individuals from appropriate sources in an endeavour to achieve a work force from all segments of society and advancement should be determined solely on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.

2. All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, colour, and religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

3. Equal pay should be provided for the work of equal value, with appropriate consideration of both national and local rates paid by employees in the private sector, appropriate incentives and recognition should be provided for excellence in performance.

4. All employees should maintain high standards of integrity, conduct, and concern for public interest.

5. The Federal work force should be used efficiently and effectively.

6. Employees should be retained on the basis of adequacy of their performance, inadequate performance should be corrected, and employees should be separated from those who cannot or will not improve their performance to meet the required standards.

7. Employees should be provided with effective education and training in cases in which such an education and training would result in better organisational and individual performance.

8. Employees should be-

   A. Protected against arbitrary action, personal favouritism, or coercion for partisan political purposes and

   B. Prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

9. Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences-

   A. A violation of any law, rule or regulation, or

   B. Mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety (Lee 1987:24-25).

As compared to the previous eras, these merit principles that the *Civil Service Reforms Act* of 1978 sought to inculcate in the American civil service indeed postulated 'positive management approach' to public personnel administration. Merit principles as stipulated in the *Act* cited in the foregoing heralded a change in philosophy as to how personnel system should operate. As Henry (1986:206) observe, the fundamental thrust of the civil service reforms reiterated in the speeches and arguments of reform activists was government by managers. Management of government activities concentrate more on the administrative activities that take place within government departments, instead of emphasis on the political considerations that promote the policy process and provide the external relations of government organisations. The 'positive personnel management' perspective as explicated above instilled, however, a sense of apprehension in the unions, minorities and women (*vide* Gortner 1981:307).

As Shafritz and Hyde (1992:21) observed, unions viewed positive management initiatives as being too management oriented. They feared that it would result in authoritarianism and oppression in the management of government affairs (*vide* Thayer 1978:309-314). Minorities and women also criticised the positive management initiatives in that it did not spell out how the enhanced executive leadership would intensify their prospects of being employed in great numbers in the civil service (Howard 1978:305-309). It was conjectured that the personnel

initiatives seek to re-introduce and probably also to legitimise the spoils system that developed during the era of Government by any man (1829-1883) (*vide* Loverd and Pavlak 1995:05; Rosen 1978:301-304).

3.6. **Conclusion**

In this chapter, the development of the Civil Service Commission is examined within the historical context of the American Civil Service. Loverd and Pavlak's general frame-work of analysis premised on four major general historical periods, namely *Government by gentlemen* (1789-1829), *Government by any-man* (1829-1883), *Merit expansion* (1883-1937) and *The contemporary perspectives* (1937 up to date), is used to trace the evolvement of the English system of using a commission to cushion the civil service against the scourge of political patronage in the United States of America. The period between 1789 and 1829 is identified as the first era in the development of the American civil service. Administration of civil service personnel during this early period was influenced by a variety of imperatives, namely aristocratic, political and geographic imperatives. These imperatives must have surely resulted in different public personnel systems. However, the literature studied identify only one personnel system emanated in response to the preponderance of aristocracy over the administration of the American civil service personnel during the period 1789-1829. There is a general consensus that the aristocratic personnel system dominated the early development of the American civil service.

Notwithstanding the perspective above, this chapter contend that there was a co-existence of different personnel systems emanated as a result of aristocratic, political and geographic/regional imperatives. The degree of influence which each imperative had on the administration of the American civil service personnel, however, varied. The aristocratic imperative dominated the early development of the American civil service. As a result, the American civil service of 1789-1829 comprised of upper class citizens. The democratisation of America in 1829 heralded the second stage in the development of the American civil service. Andrew Jackson, the seventh President of the United States of America, jettisoned elitism that characterised the aristocratic civil service system and inculcated the idea of government by any-man. This idea was, however, manipulated and eventually heralded the spoils system. Distribution of civil service positions to the adherents of political party in power

resulted in amateurish administration and corruption that necessitated civil service reform.

Civil service reform initiatives of 1871 resulted in the establishment of the first Civil Service Commission in the United States of America. However, the Commission had to disband as the Congress failed to allocate money for its operations in 1873 and 1874. This did not enfeeble national consciousness for civil service reforms in the United States of America. In 1881, impetus for reform intensified and heralded the third stage of civil service development in America, namely *merit expansion* (1883-1937). *The Pendleton Act* of 1883 formally introduced a merit based civil service system. The merit system in the administration of civil service personnel required that personnel decisions be premised on the ability of candidates, not political loyalty or social standing.

The Civil Service Commission, which existed for a short period during the tenure of President Grant, was re-established in 1883 and entrusted with the responsibility of being a custodian of the merit system. Contemporary perspectives that, in terms of Loverd and Pavlak's framework of analysis, became visible in 1930s challenged the efficacy of the merit system on the basis that it is couched in negative terms. The Civil Service Commission, as the custodian of the merit system, also had to be reviewed. This exercise ushered in 'positive personnel management'. In 1978 the American Civil Service Commission ceased to function in its form then and its functions were distributed among three agencies established as replacements, namely: the Office of Personnel Management, the Merit System Protection Board, and the Federal Labour Relations Authority. The new perspective propounding 'positive personnel management' instilled, however, a sense of fear, particularly among the unions and women. It is feared that 'positive personnel management' is likely to re-introduce the spoils system that emerged during the second stage of American civil service development (1829-1883).

In the context of the historical disquisition presented in this chapter, it is inferred that the development of the American Civil Service Commission, just like its British counterpart *(vide* chapter 2 for a comprehensive disquisition on the history of the British Civil Service Commission), was influenced by two analytically distinct paradigms, namely the traditional model of public administration and the new public management approach. These paradigms are discussed in chapter 4 as the

theoretical premises undergird the historical development of the Civil Service Commission in both Britain and the United States. A theoretical reflection on the development of the Commission in the two countries mentioned in the foregoing is important for the purpose of developing a framework to understand the changing role of the Commission in South Africa.

CHAPTER 4

THEORETICAL REFLECTION ON THE HISTORICAL DEVELOPMENT OF THE CIVIL SERVICE COMMISSION

4.1 Introduction

A comprehensive disquisition on the history of the Civil Service Commission in Britain and United States of America is provided in chapters 2 and 3 of the study respectively. The dissection of the historical data used in the foregoing chapters point to the fact that the Commission evolved within the theoretical context of the traditional model of public administration. The theory that undergirds the traditional model of public administration emanated from the discourses in the writings of authors from different philosophical orientations, namely Woodrow Wilson in the United States of America, Stafford Northcote and Charles Trevelyan in the United Kingdom, and Max Weber, a German philosopher linked to bureaucratic model of organisation (*vide* Nothcote-Trevelyan Report of 1853 in Reader 1981:75-93; Robbins 1990:308-327; Wilson 1887:197-222).

In this chapter, the traditional model of public administration is examined to demystify the theoretical context the Civil Service Commission in Britain and United States of America evolved. This chapter starts with a brief and cursory reflection on the early administration focusing mainly on the administrative systems in ancient Europe because of their global influence. A succinct reflection, at the outset, on the early administration is important in understanding the rationale for propounding the traditional model of public administration. For the purpose of this study, early administration refers to the administrative system that existed during the period prior to the conception of the traditional model of public administration in the nineteenth century. The 'personal service' and 'patronage/spoils system' are discussed as fundamental aspects characteristics of the early administration. These

aspects are important for understanding the *raison d'être* for the conception of the traditional model of public administration (see sub-section 4.2.1.1 and 4.2.1.2 *infra*)

The disquisition on the early administration is followed by a detailed reflection on the theoretical premise of the traditional model of public administration. A merit-based civil service system as an intellectual out-put of the traditional model of public administration perspectives is examined to delineate the theoretical context for the conception of a civil service commission system. This is followed by a disquisition analysis of the roles and functions of the Commission in the context of the traditional model of public administration in Britain and United States of America. An analytical instrument is developed in sub-section 4.3.4.1 below to analyse the roles and functions of the Commission in the two countries alluded to in the foregoing from a comparative perspective.

The public management approach to the public sector that evolved as a result of the inadequacies of the traditional model of public administration and its impact on the concept of a civil service commission is also examined in this chapter. The changing of the traditional roles and functions of the Commission in Britain and United States of America as a result of the preponderance of the public management perspectives is accorded extensive attention. In juxtaposition with their ingratiation in the paradigm of the traditional model of public administration, the roles and functions of the Commission in the context of the new public management approach are, with the aid of the analytical instrument developed in sub-section 4.3.4.1, analysed. Towards the end of this chapter, deductions from the reflective disquisition on the developments of the Civil Service Commission in Britain and United States of America are made. Those deductions are used to develop a theoretical framework to analyse and evaluate the two phases (pre and post 1994 phases) in the historical development of the Public Service Commission in South Africa.

4.2. **Reflection on the early administration**

Public administration is as old as humankind yet knowledge of early administrative systems is scanty because 'writing was only invented after the fourth millennium B.C' (Gladden 1972a:01). The invention of writing at such relatively late stage of human existence is arguably an enigma to intellectual heritage in that...'evidence of administration before this time is hard to come by' (Gladden 1972a:01).

Nonetheless, the invention of writing after the fourth millennium spurred organisational theorists to incessantly pen ruminations about the human conduct in an institutional set up. The early writings on public administration which date back to biblical times and before constitute the most important information resource used to understand the theoretical antecedents of the modern administrative systems (*vide* Argyle 1994:01-02; Shafritz and Hyde 1992:01). The early administrative systems are hereunder examined.

4.2.1. **Early administrative systems**

The obtrusive existence of public administration could be traced to the emergence of the agricultural era about 6000 B.C when early humankind started to live within organised social units such as villages, towns and cities (Argyle 1994:01). Some form of administrative systems indubitably developed during this time to sustain communal livelihood. Hughes (1994:24) state that the identifiable 'administrative system existed in ancient Egypt to administer irrigation from the annual floods of Nile and to build the pyramids'. In China, the evolution of the administrative system could be traced to Han dynasty (206 BC-220 AD) acceptance of the Confucius postulation that society requires a permanent cadre of competent officials. The Confucius postulation alluded to in the foregoing glaringly ingrain the thesis that 'a wise and judicious administration by well-qualified men' is an antidote for the quandary of repression and melancholy members of the society are subjected to (Argyriades 1996:48; Berkley 1971:04-05; Wamalwa 1982:51).

In ancient Europe a monarchic administrative system existed. Literally, the concept *monarchy* means 'rule by one person' (McLean 1996:326). In broad terms, however, Heywood (1997:16) defines monarchy as 'the institution through which the post of the head of state is filled through inheritance or dynastic succession'. In ancient Europe the monarch appointed officials and charged them with the responsibility of executing different activities concerned with the affairs of the kingdom. In maintaining control over different administrative activities, the monarch centralised power (Huque 1990:03). The centralisation of power naturally heralded a highly centralised administrative system. The different empires in Europe such as the Greek, Roman and Spanish were, indeed, 'administrative empires controlled from the centre by the rules and procedures' (Hughes 1994:24-25). The thrust of monarchism

in ancient Europe was to preserve 'the interest of the rulers and not the ruled' (Huque 1990:03).

In analysing the early administrative systems, Hughes (1994:25) used Max Weber's theory of bureaucracy. The Weberian theory postulates that efficiency and effectiveness in an institution could be achieved through the 'division of labour, clear lines of authority, formal selection procedures and detailed rules and regulations and impersonal relationships' (Robbins 1990:37). The early administrative systems did not, according Hughes (1994:25) analysis, reflect the theory of bureaucracy, particularly the principle of impersonal relationships. The early systems of administration were personal in that they were premised on 'loyalty to a particular individual such as king or a minister, instead of 'impersonal, based on legality and loyalty to the organisation and the state' (Hughes 1994:25). The value of professionalism, as espoused in the theory of bureaucracy, was such desideratum (Heady 1979:199). A 'personal service' type of personnel system therefore emanated as a result of the preponderance of monarchism during the early public administration (*vide* Megginson 1967:04-05). In the following sub-section, a 'personal service' as a personnel system is examined.

4.2.1.1. **Personal service**

In terms of this personnel practice [personal service] officials were appointed by the king or any member of the royal household who had the authority to do so. The officials were appointed on the basis of their loyalty to the king, not necessarily competence. In addition to the prerogative to make appointments, the king could as well dismiss any official and the decision to that effect was hardly ever questioned. The officials so appointed were entrusted with the responsibility of preserving 'the interest of the ruler and not the ruled' (Huque 1990:03). The foregoing means that the officials had to serve the king as a person and not as a public institution established to cater for the interests of society. Heady (1979:158) noted that 'Max Weber used the concept of *patrimonialism* to characterise [the] pattern of authority relationships' that existed during the monarchic era. As further explicated in Heady (1979:158), 'in the patrimonial structure of authority, the royal household and the royal domain are managed by the king's personal servants. In principle, grants of power to these officials are arbitrary decisions made by the ruler which can be altered by the ruler as [he] sees fit'. This means that the idea of professionalism accentuated in the theory of bureaucracy was nonexistent (*vide* Heady 1979:199).

Hughes (1994:25) observed that these early administrative practices with regard to the administration of personnel, evidently embedded in the royal sovereignty, 'often resulted in corruption or misuse of office for personal gain'. This is one of the reasons that the cradle of the Western democratic ideology as ensconced in the Magna Carta jettisoned the system of royal sovereignty as practised during that time. Magna Carta is a well-known document signed on 15 June 1215 by king John of England. Even up to date, this document still constitutes the fundamental premise of the British constitutional law and is the pillar of the Western democracies. The objective of the Magna Carta was to determine the constitutional relations between the Crown, the Common Council and the members of the public. Magna Carta necessitated a paradigm shift from monarchy to democracy. It laid down a basis upon which the system of parliamentary sovereignty developed (*vide* Gildenhuys 1993:52-53; Hanekom and Thornhill 1983:09-10).

The concept of parliamentary sovereignty is defined in Heywood (1997:283) as 'absolute and unlimited authority of a parliament or legislature, reflected in its ability to make, amend, or repeal any law it wishes'. In the context of the Western democratisation processes, this means that the elected legislative institutions took over the administration of the country from the Kings. The responsibility of administering the country no longer lied with the King/Crown but with the elected representatives of the people. The adage that 'no taxation without representation' as proclaimed in the Magna Carta is indeed the accentuation of the British parliamentary democracy (*vide* Gildenhuys 1993:52-53; Hanekom and Thornhill 1983:09-10).

The ideological shift in the administration of the country from the royal sovereignty to parliamentary democracy marked the demise of a 'personal service' in the administration of the public service personnel (*vide* Megginson 1967:04-05). With the inception of the parliamentary democracy, 'the course of personnel administration was determined by the personal whims of the executive political office-bearers', not the king anymore (Cloete 1990:47). The authority to appoint and dismiss staff shifted to the political representatives. As Hughes (1994:25) observed, it was a common practice that the political representatives dispense public service positions to their supporters, friends and relatives. This ushered in the system of patronage/spoils in the administration of the public service personnel. The

patronage/spoils system, as evolved after the obliteration of the 'personal service', is hereunder examined.

4.2.1.2. **Patronage/spoils system**

There is no gainsaying that lucidity in the use of concepts is important in that it make it easy for one to understand theories used to explain administrative phenomena. In the literature studied the phrases 'patronage' and 'spoils' are, however, used intermittently. Other authors use the word patronage than spoils whereas others prefer the word spoils than patronage. Intermittent use of these phrases is likely to create confusion as to whether they are synonymous or the distinction between them is so inherently blurred such that an attempt to separate them is perhaps not necessarily possible. In view of the foregoing, this study deems it imperative to first demystify the conceptual use of patronage and spoils in their historical context as personnel systems that existed in the public services of Britain and United States of America.

4.2.1.2.1. **Clarification of the concepts *patronage* and *spoils***

The concept *patronage* originated from a Latin word *patronus* meaning 'protector' or 'defender'. During the medieval times, this concept (patronage) was used to describe the authority which one had to appoint 'a clergyman to occupy a parish' (McLean 1996:366). With the inception of the system of parliamentary government during the reign of Edward I (1272-1307) in Britain, the concept *patronage* was used as a system of recruiting personnel in the civil service. The recruitment of personnel in the British civil service before the conception of the traditional model of public administration was premised on the patronage system (*vide* Finer 1957:112; Hughes 1994:25; Northcote-Trevelyan Report of 1853 in Reader 1981:78-79).

The word *patronage* was used to describe the personnel practices of selling or granting public offices as rewards for service proffered to the British Crown or the political party in power (Finer 1957:112). Its permeation of the parlance of public personnel administration was noticeable during the Victorian and Edwardian era in the British administrative system. The Civil Service Office of Patronage Secretary to Treasury was established and entrusted with the responsibility of distributing public service positions to the supporters of the political party in power in return for votes

or whatever assistance of political nature that secured election victory (McLean 1996:366).

In the United States of America, the word 'spoils' is used to describe the same practice of appointing the adherents of the political party in power to occupy public offices in exchange for the political service rendered as explained above. In a variety of American literature dissected, various authors bandied about the question: when did the spoils system begin in the United States of America? Channing (1932:123) contends that the spoils system first developed in the American civil service during the tenure of President Washington. This contention is ostensibly premised on the contents of a letter Washington wrote to Pickering towards the end of [his] second term (*vide* Fish 1920:13-14, 30-31 and sub-section 3.2.2 page 52 of the study for the contents of the letter Washington wrote and addressed to Pickering).

Friedrich (1937:10-16) on the other hand argued that the British imperialism bequeathed the notion of the spoils system in the American civil service during the colonial times. Powell (1956:74), however, observed that the phrase 'spoils system' was not yet coined during the colonial era. Gortner (1981:303) expound that the term spoils system originated in Senator Marcy's oft-cited speech that 'to the victor belong the spoils of the enemy'. The essence of the foregoing adage is demystified in Hughes (1994:25) thus: 'after an election in which a new party was elected - and this applied to election from the local level to the Presidency - every administrative job from the top to the bottom was open to be filled by an appointee from the winning party'.

In view of the above exposition, it is clear that there are diverse perspectives regarding the evolvement of the concept of spoils system in the United States of America. The different stances of the authors with regard to the question raised above are validated by the extensive historical data (Powell 1956:74). The foregoing notwithstanding, this study subscribe to a widely held view that the spoils system as a personnel practice of dispensing public service positions among the supporters of the political party in power emanated during the presidency of Jackson (*vide* Barton and Chappell 1985: 94; Gortner 1981: 303-304; Henry 1986: 196; Hughes 1994: 25-26; Lee 1987: 18; Loverd and Pavlak 1995: 05-08; Mosher 1982: 64-66; Shafritz and Hyde 1992: 01-10; Webster 1954: 858).

For the purpose of this study, the words patronage and spoils are both used to describe the same administrative phenomenon. These words are therefore used interchangeably in this study as meaning the same thing. The 'patronage' and 'spoils' are synonymous. They are used to describe the personnel practice of appointing the adherents of the political party in power to public office in exchange for the political services proffered to secure election victory. This personnel practice is 'a naked political *quid pro quo*' in that the positions in the public service are dispensed among the prospective candidates on the basis of the contribution they made to the political party in power and, as well as to the Crown in the case of the British administrative system (*vide* Finer 1957:112; Sarouf 1960:30).

The detailed historical disquisitions on the patronage/spoils system are provided in chapters 2 and 3 of the study respectively. It is argued that the patronage/spoils system dominated the eighteenth century British and American civil services. The theoretical premises of such personnel practices of the eighteenth century are not, however, accorded adequate consideration in chapters 2 and 3 of the study as their focuses are only on the historical aspects. This void is henceforth addressed in this chapter. The notion of patronage/spoils system, due to the fact that it is inextricably related to the idea of a Civil Service Commission, is hereunder examined focusing both on the perspectives that propound and jettison the patronage/spoils system.

4.2.1.2.2. **Rationalisation of the patronage/spoils system**

The rationalisation of the patronage/spoils system as practised in the eighteenth century British and American civil service is glaringly premised on the contention that the success of government is subject to the loyalty of its public service (*vide* Hays and Kearney 1995:07-08; Mosher 1982:65; Richardson 1903:438). The public service, as its fundamental function is to translate government intentions into practice, must always display a sense of constancy to government. This could be achieved if government establish political control over the administration of the country. The foregoing perspective is accentuated in the Malek Manual of 1979, a document developed during the tenure of President Nixon in the United States of America and named after Fred Malek who was the head of the White House Staff.

In expounding on the 'realpolitik of the federal personnel system, the Malek Manual cautioned that the bureaucracy might sabotage the president's program and offered advice on how to manipulate personnel processes' (Hays and Kearney 1995:08). The Manual contends that the officials cannot 'achieve management, policy, or program control' unless 'political control' is achieved (Malek Manual 1979:187; also see Stein 1952:80-81). Certainly, there is merit in the foregoing contention in that if government looses political control over its public administration terrain the implementation of its public programmes and policies is likely to flounder in the midst of bureaucratic disobedience. The political control over the administration is therefore necessary. Hays and Kearney (1995:08) contend that 'democracy requires that elected policy-makers exert substantial control over bureaucracy'. The consolidation of government's political control is achieved through staffing public service with the adherents of the political party in power.

The patronage/spoils system could maintain co-operative interaction between the administrative and political realms of government. Such interaction is necessary in that some officials, particularly those occupying high public offices, often execute functions that are mostly political in nature. In the British administrative system of the eighteenth century, the civil service was not 'civil' in that it was not distinct from the political or parliamentary service to the Crown. The political and administrative duties were intermingled into one another (Parris 1969:23-24). This means that the civil service also performed functions that were mostly political in nature (*vide* Forrester 1941:34; Greenwood and Wilson 1989:101; Namier 1957:358-389; Parris 1969:22-23; Thomas 1978:37-38; Ward 1953:55). In the context of the foregoing, the patronage system in the eighteenth century civil service was therefore sacrosanct in staffing government positions.

The staffing of government institutions with candidates whose political orientation gravitates towards the thinking of the political party could also foster common understanding between the politicians and officials with regard to the policy objectives of government. The officials appointed in terms of the patronage/spoils system in the public service could easily understand and identify themselves with a particular course of action government is pursuing (*vide* Gortner 1981:303).

In the American administrative system, egalitarianism and the doctrine of simplicity of work undergirds the basis for the theoretical rationalisation of the spoils system (*vide* Mosher 1982:64-65). As explained in Heywood (1997:404), egalitarianism refers to 'a theory or practice based on the desire to promote equality, or the belief that equality is the primary political value'. The egalitarian perspectives espoused during the Jackson era 'contemplated a government by the people on the basis of free elections of the masses as well as the well-to-do, and administration by individuals responsive to the electorate either by frequent election or by immediate dependence upon elected officials' (Mosher 1982:64).

The doctrine of simplicity of work is predicated on the contention that... 'the duties of all public offices are, or at least admit of being made so plain and simple, that men of ordinary intelligence may readily qualify themselves for their performance' (Richardson 1896:448-449). This doctrine is an antithesis of elitist perspectives that inflated the requirements for entry into the civil service. Andrew Jackson, the proponent of the doctrine of simplicity of work, believed that the public service was not as demanding as people thought. The ordinary men of intelligence could undertake the responsibilities of the public office in that they too have competence and talents, just like the wealthy and college educated appointees (*vide* Barton and Chappell 1985:94; Loverd and Pavlak 1995:05).

The patronage/spoils system necessitates personnel turnover in the public service. The historical data contend that such personnel turnover obliterated elitism and monarchic legacies in the British and American administrative systems. In the American civil service system, Lee (1987:19) contends that a high personnel turnover presented an opportunity for 'upward mobility for people from lower class' as well as a means to rid the public service of the 'deadwood'. The patronage/spoils system is also rationalised in the view that the positions in the public service are created to promote the general welfare of the members of the public and therefore, everyone must be given an opportunity to occupy them (*vide* Uys *et al* 1997:169-171).

It is further contended that people who stay for a long time in the public service tend to be lethargic in whatever they have been employed to do. Therefore, according to the foregoing perspective, permanency in the public service encourages officials to develop personal affinity to their respective positions, which consequently extricate a

sense of public service from them. This would obviously result in public duties being executed with the objective of promoting individual interests than the general welfare of the members of the public. Such practice twist public institutions into a 'closed shop' bent on catering for its interests at the expense of societal needs (*vide* Uys *et al* 1997:169-171).

The above contention could be intertwined with the observation Northcote and Trevelyan made in their Report of 1853 that permanent public service, apart from the fact that it could 'essentially contributes to the proper discharge of the functions of government', is abound with infirmities. The Northcote-Trevelyan Report of 1853 (Reader 1981:77-78) pointed out that security of tenure in the British civil service engendered indolence. Such sluggishness epitomised itself in the form of officials delays in executing public duties, 'official evasions of difficulty and official indisposition to improvement'. Officials with security of tenure... 'obtain an honourable livelihood with little labour, and with no risk; where their success depends upon simply avoiding any flagrant misconduct, and attending with moderate regularity to routine duties; and which they are secured against the ordinary consequences of old age, or failing health, by an arrangement which provides them with the means of supporting themselves after they have become incapacitated' (Northcote-Trevelyan Report of 1853 in Reader 1981:78).

In dealing with the negative consequences of permanent civil service, the American antidote was rotation in office. Rotation in office propagated the idea that people employed during the previous era must be replaced with 'men of diligence whose talents will insure in their respective stations able and faithful co-operation' (Richardson 1903:438). The replacement of public officials with the followers of the political party in power would, of course, instil a sense of fear in the public service. Such ubiquitous menace of discharge from the public office could, *vide* Loverd and Pavlak (1995:07) and Lee (1987:19-20), 'encourage more responsiveness from government employees'. The patronage/spoils system could therefore, in the context of the foregoing contention, 'serves as a vehicle for keeping the bureaucracy responsible and accountable to elected officials' (Hays and Kearney 1995:05).

Inferring from the above disquisition, it is clear that there are a variety of perspectives that support the notion of the patronage/spoils system as a personnel practice in the public service. The perspectives rationalising the patronage/spoils

system are, however, demurred in the discourses on the administrative systems that distinctly evolved in the nineteenth century. In the following sub-section, arguments that jettison postulations propagating the personnel practice of staffing the public service with the adherents of the political party in power are examined. The consideration of the antithesis of patronage/spoils system in the study is important for the purpose of understanding the reasoning for the postulation of the nineteenth century traditional model of public administration which this chapter contends that it undergirds the theoretical premise of the idea of a Civil Service Commission system.

4.2.1.2.3. **Antithesis of the patronage/spoils system**

Sifting through the theoretical perspectives of the nineteenth century on the administrative system, it is contended that the patronage/spoils system is more concerned with the aggrandisement of political power than bolstering institutional capacity to enhance qualitative public service delivery. This contention is advanced on the basis of the fact that the patronage/spoils system advocates the notion of distributing public service positions among the adherents of the political party in power in exchange 'for a job well done in working for the party and getting candidates elected to office' (Loverd and Pavlak 1995:06).

As explained in Kaufman (1965:31), the ideals of patronage/spoils system are also pursued by placing 'a high premium on *featherbedding*, the creation of extra jobs to provide additional political currency and also lighten the workload so that loyal political partisans would have time for their assigned tasks'. The preoccupation of public officials in the political activities could be understood within the context of the turnover of personnel in the public service that take place 'wherever a new political party wins control of the government' (Lee 1987:19). The officials who are the beneficiaries of the patronage/spoils system normally devote much of the time building the capacity of the party in power because they know that they would not be re-appointed if it looses the elections (*vide* Uys *et al* 1997:171).

The personnel turnover in the public service as necessitated by a shift in terms of 'partisan electoral fortunes' may also encourage patronage heirs to use public offices for personal gains during their 'short-term employment' (Loverd and Pavlak 1995:06). This perspective is aptly captured in Henry Clay's statement made in 1829 that 'incumbents, feeling the instability of their situation, and knowing their liability to periodic removals, at short terms, without any regard to the manner in which they

have executed their trust, will be disposed to make the most of their uncertain offices while they have them, and hence we may expect immediate cases of fraud, predation, and corruption' (Fish 1904:140).

The patronage system as explained in the above exposition could be an inefficient practice in that it is driven by political expediency without due regard to the importance of cost-effectiveness in the delivery of public services (*vide* Lee 1987:19). The patronage/spoils system dislodges the fundamental public administration ideal of promoting the general welfare of the members of the public. Aspects such as competence, skills, qualifications and knowledge necessary for effective and efficient execution of public duties are not given adequate consideration when appointing the followers of the political party in power in the public service (Lee 1987:19). This is, arguably, due to the fact that the fundamental thrust of the patronage/spoils system is to consolidate party political cohesion in the public service. The patronage/spoils system is not focussed on the actual performance of public duties. The public officials appointed in terms of this system are mostly engrossed in political duties intended to buttress the ideological position of the party in the public service (*vide* Lee 1987:19). Sarouf (1960:28-24) explicate that the strength of the political party in power could be bolstered by sustaining party organisation, supporting intra-party unity, attracting voters and supporters, funding the party and its candidates, obtaining positive government action as well as inculcating party discipline in policymaking.

The patronage/spoils system could also bring down the morale of the public servants because those who choose to stay out of politics would find it frightening to work in a politically charged environment. Certainly, this would impact negatively on their sense of public service. When issues of staff development or promotions are considered, officials who are not politically aligned to the party in power would normally be overlooked. This might create despondency among the officials that are not aligned to the political party in power, therefore exposes skills that are important in the public service for snatch by the private sectors. The foregoing is exactly what happened in the United States of America during the tenure of Andrew Jackson. Highly skilled officials relinquished their positions in the public service and joined the private sector (*vide* chapter 3 of the study).

The turnover of personnel in the public service could also divert the attention of public service managers from the fundamental function of facilitating the implementation of government policies in that much time would be spent on appointments and dismissals (*vide* Lee 1987:10-20). This contention is validated in Lincoln's (Cox III *et al* 1994:56-57) metaphoric assertion about the spoils system: '[I] seem like a man so busy letting rooms at one end of his house that [he] has no time left to put out the fire that is blazing and destroying at the other end'. Glaringly, the responsibility of dispensing public service positions to the followers of the party in power is so burdensome and irritating. This observation is true in respect of President James Polk exclamation thus: 'will the pressure for office cease! It is one year today since [I] entered on the duties of my office and still the pressure for office has not abated. [I] most sincerely wish [I] had no offices to bestow.'

As indicated in chapters 2 and 3 of the study, the British and American civil service systems were riddled with corruption and fraud attributable to the patronage/spoils system. Finer (1957:09) and Udoji (1982:158) observed that the patronage practices in the British civil service system of the eighteenth century thrived because of a lack of civil service law. According to Barnes (1969:121) and Brown (1971:03), sporadic acts of corruption manifesting themselves in varied forms ranging from nepotism to fraud typified the British civil service system. Stafford Northcote and Charles Trevelyan (Reader 1981:79) observed that the positions for junior clerks were bestowed upon 'the son[s] or dependent[s] of someone having personal or political claims upon him, or perhaps upon the son of some meritorious public servant, without instituting any very minute of inquiry into the merits of the young man himself'.

With regard to senior [staff] appointments in the British civil service system of the eighteenth century preference in most cases was given to outside candidates who some of them did not have the necessary insight, knowledge or skills in governance. Family or political allegiances played a decisive role in making such appointments for high public offices. The appointment of 'strangers' to positions of 'considerable emolument over the heads of public servants of long standing and undoubted merit' is indicative nepotism (Northcote-Trevelyan Report of 1853 in Reader 1981:80). It is further observed in Barnes (1969:121) and Brown (1983:05) that senior members of the civil service, mostly the beneficiaries of the patronage system, siphoned funds

and deposited them into their accounts. The interests that accumulated from those public monies were snatched for personal enrichment.

In the United States of America, cases of corruption and fraud directly related to the patronage/spoils system also occurred. As indicated in chapter 3, some of the beneficiaries of the spoils system enriched themselves with public money. Samuel Swartwout, Collector of Port of New York stole more than a million dollars and fled to Europe (United States Civil Service Commission 1941:22). The Indian Peace Commission also found in 1868 that 'agents have pocketed funds appropriated by the government and driven Indians to starvation...' These are but few examples of cases of corruption and fraud Henry Clays, as quoted above, anticipated as the possible consequences of the patronage/spoils system (*vide* Fish 1904:140).

Andrew Jackson's doctrine of simplicity of work used to rationalise the patronage/spoils system is also jettisoned as a misnomer for prowess in governance. It undermines the complexity of public administration. In the contemporary political system, ministers rely much on the high ranked officials for effective governance. The public servants must have the necessary skills, qualifications, and competence so that they could be able to advise the political leadership of the state departments appropriately. The intricacies of governance need people with skills of epic proportions. The accentuation of the patronage-based doctrine of simplicity of work and ideological compatibility in effecting appointments in the public service could emaciates those skills that are necessary for effective public service delivery. This could eventuate in a situation where there is a loyal corps of public officials who are, however, unable to adroitly execute government policies in an effective and efficient manner because of a lack of managerial and technical skills (*vide* Thompson 1993:18-22).

The contention that the patronage/spoils system could inculcate a culture of bureaucratic accountability and responsiveness to the political leadership is also impugned. Indeed, Lee (1987:20) observed that 'the executives, by appointing political friends of legislators, in many instances named people who were not in agreement with them'. Commenting on the consequences of the patronage/spoils system in the American civil service, Mosher (1968:64) states that ... 'incompetence, inefficiency, and corruption' abounded in the 'public service strongly associated with partisan politics'. Parton (1887:20) also observed that 'the government, formerly

served by the elite of the nation, is now served to a very considerable extent by its refuse'. This observation is accentuated by Bing (Hoogenboom 1961:01) that 'at present, there is no organisation save that of corruption, no system save that of chaos, no test of integrity save that of partisanship and no test of qualification save that of intrigue'.

Inferring from the perspectives articulated in the above exposition, it is clear that the patronage/spoils system is inherently fraught with infirmities. The views that jettison the patronage practices originated in the nineteenth century public aversion revolted against the British government. The aversion glaringly encapsulated in the Burke and Fox campaign impelled government to reform its civil service (*vide* Barnes 1969:121). Edmund Burke (Argyriades 1996:47) vehemently remonstrated against the patronage system and called for measures to be undertaken in order to cushion the public service from politics. The nineteenth century civil service reform movements/perspectives ushered in the traditional model of public administration. The traditional model of public administration necessitated a fundamental paradigm shift in terms of the administration of the public service. In the following sub-section, the traditional model of public administration is examined.

4.3. **Traditional model of public administration**

The traditional model of public administration originated in the nineteenth century and continued to be the subject of reflective discourses that prevailed in most Western countries until the last part of the twentieth century. This model emanated from the discourses advanced in the writings of authors from different philosophical orientations, namely: Stafford Northcote and Charles Trevelyan in the United Kingdom, Woodrow Wilson in the United States of America, and Max Weber, a German philosopher linked to bureaucratic model of organisation (*vide* Northcote-Trevelyan Report of 1853 in Reader 1981:75-93; Robbins 1990:308-327; Wilson 1887: 197-222). As pointed out in Hughes (1994:24), 'the traditional model of public administration is the longest standing and most successful theory of management in the public sector'. It is premised on the theoretical postulations that the public service must be:

- under the formal control of the political leadership;
- structured strictly in accordance with the hierarchical model of bureaucracy;

- staffed on permanent basis by officials appointed on the basis of merit;
- comprised of officials that are neutral and anonymous;
- directed by the welfare of society so that it could serve 'any governing party equally, not contributing to policy but merely administering those policies decided by the politicians' (Hughes 1994:23).

Judging from the above theoretical premises, it is clear that the traditional model of public administration perspectives ushered in the concept of merit-based civil service system. The concept of merit system is expounded in Northcote-Trevelyan Report of 1853 which, as indicated in chapter 2, recommended that 'the public service should be carried out by the admission into its lower ranks of a carefully selected body of young men' through 'the establishment of a proper system of examination before appointment' (Northcote-Trvelyan Report of 1853 in Reader 1981: 79-81). The foregoing recommendation heralded a fundamental paradigm shift in that it demurred the patronage system and postulated the notion of merit-based civil service system. As indicated in chapter 3, the British conception of the merit system influenced civil service reforms in the United States of America as well (Rowat 1961:440).

In the sub-sections that follow, the notion of merit system is examined. Nigro and Nigro (1989:230) observed that 'throughout the history of civil service there have been different concepts of the merit principle'. For the purpose of conceptual clarity, merit as a personnel system is hereafter demystified. The enunciation of the concept *merit* is followed by the discussion of its principles as well as the analysis of its theoretical premise. The concept of merit system is so intrinsically intertwined with the idea of a civil service commission such that the disquisition on one without the other will remain rudimentary. A considerable attention is, therefore, also paid to the Civil Service Commission as the custodian of the merit system in the public service.

4.3.1. **Meaning of the concept *merit***

In a literal sense, *vide Webster's Comprehensive Reference Dictionary and Encyclopaedia* (1954), the concept *merit* means excellence, worth or deserve reward. However, in the context of human resource management in the public service the concept *merit* denotes a particular personnel system. In Lee (1987:15) the concept is considered as 'making personnel decisions based on qualifications or

capabilities of individual rather than on their political allegiances or friendships'. Webster (1954:326) defines merit as 'the system of hiring and promoting civil service employees on the basis of efficiency as opposed to the spoils system'. Stahl (1971:30-31) defines the concept *merit* in its broadest sense as 'a personal system in which comparative merit or achievement govern each individuals' selection and progress in the service and in which the conditions and rewards of performance contribute to the competency and continuity of the service'.

The definitions of merit in public personnel administration as provided above are glaringly not confined to only 'the degree to which political influence [is] was kept out of appointments and promotions' in that they also focuses on the level of competence in the public service (Nigro and Nigro 1989:230-231). Consideration of appointments, remunerations and promotions in the public service are based on the candidates' skills, abilities, and qualifications. Therefore, the concept of merit should, for the purpose of this study, be fathomed in its ubiquitous sense. The merit system is concerned with the protection of the public service from the scourge of political exploitation as well as competence (*vide* Lee 1987:15; Loverd and Pavlak 1995:11; Nigro and Nigro 1989: 230-231; Stahl 1971:30-31; Webster 1954:326).

4.3.2. **Principles of the merit system in the public service**

A need to maintain moral rectitude as well as competency in the public service spurred the conception of the merit system (*vide* sub-section 4.3.1 *supra* for the meaning of merit system). Sifting through the perspectives contained in the writings of authors such as Argyriades (1996:48), Caiden (1996:22), Heclo (1977:20), and McMurty (1976:07), three fundamental principles of the merit system could be discerned: merit-based appointment through an open and competitive examination system, security of tenure and civil service neutrality (*vide* sub-section 4.3.3 *infra* for the theoretical analysis of the principles of merit system). The merit principles of security of tenure and competence are so lucid and understandable whereas, civil service neutrality on the other hand is immersed in obscurity and 'caused problems for civil service reformers' (Loverd and Pavlak 1995:09).

As indicated in chapter 2 of the study, the concept *neutrality*, as explained in *Webster's Comprehensive Reference Dictionary and Encyclopaedia* (1954), means 'not engaged on either side'. This concept is 'linked to indicators, such as keeping a distance, not getting involved, not taking sides, and, in a negative way, to

indifference. In science it is associated with objectivity, with validity and reliability of scientific research, and with independence and openness...it is even related to [neo-positivism]; according to others it is related to self-reflection and constructive criticism' (de Vries 1996:80). The notion of neutrality in the administration of public service personnel developed in Europe and permeated the American civil service system (Rowat 1961: 440). According to Mosher (1968:67), the foregoing notion 'gave the early enthusiasts of civil service reform difficulties, even as it continues to give difficulties today. How can a public service which is neutral in political matters and which is protected by responsive to a public which expresses its wishes through the machinery of elections and political parties?'

The doctrine of the politics-administration dichotomy was advanced as the solution to the conundrum of civil service neutrality. This doctrine is based on Woodrow Wilson treatise that 'the field of administration is a field of business. It is removed from the hurry and strife of politics; it at most points stands apart even from debatable ground of constitutional study' (Wilson in Shafritz and Hyde 1992:18). The principles of civil service neutrality are provided in Kernaghan (1976:433) as follows:

- Politics and policy are separated from administration. Thus, politicians make policy decisions; public servants execute these decisions.
- Public servants are appointed and promoted on the basis of merit rather than affiliation or contribution.
- Public servants do not engage in partisan political activities.
- Public servants do not express publicly their personal views on government policies or administration.
- Public servants provide forthright and objective advice to their political masters in private and in confidence. In return, political executives protect the anonymity of public servants by publicly accepting responsibility for departmental decisions.
- Public servants execute policy decisions loyally and zealously irrespective of the philosophy and programme of the party in power and regardless of their personal opinions. As a result, public servants enjoy security of tenure during good behaviour and satisfactory performance.

Sifting through the above disquisition, it is clear that the principles of the merit system requires that vacant positions existing in the public service must be adequately made public so that all those interested could apply for appointment. Such publicity must contain information about the requirements for the existing

vacant positions so that members of the public across the class divide could be in a position to determine whether they qualify or not. Those who qualify must have the opportunity to demonstrate proficiency and interest in the position by applying. Candidates must be subjected to competitive examinations conducted by an independent personnel agency (*vide* discussion on the Civil Service Commission as the custodian of merit system in sub-section 4.3.4 *infra*). The standard of the examination must be commensurate to the position/s to be filled and must apply impartially. The examination must be structured in a manner that it would inquire into the merit of the candidates. Their fitness for public service and their abilities must be clearly determined. Those who distinguish themselves as best qualified must be selected and permanently appointed (*vide* Stahl 1971:31). The decision regarding the appointment of the candidates ought to be premised on 'what the applicants and employees know, not whom they know' (Williams 1980:400-401).

The public officials appointed in accordance with the principles of merit should be willing to serve administrations of different successive political parties with a high degree of impartiality. They should be loyal to whichever political party in power and maintain a high degree of neutrality. The tenure of public officials appointed on merit should be protected against the scourge of political exploitation. The officials must be ranked on the basis of a relative appraisal of their ability and fitness. The promotions and remunerations should be determined by the quality of performance. Those who are not efficient in carrying out the business of government should be laid off so that the public service could remain only with the best that could serve the state (*vide* Stahl 1971:31). Using Caiden (1982:81) words, the principles of merit system could be summarised as follows:

> ...politicians should rule; public officials should do their bidding. Political offices should be filled competitively in the political arena; bureaucratic offices should be filled competitively in the bureaucratic arena. Political officials should be selected on the basis of their political competence; bureaucratic officials should be selected on the basis of their bureaucratic competence. The separation of political and career routes should be institutionalised by legal or constitutional prohibition on concurrent office holding and interchange. Politicians should be judged by the electorate or their political peers; officials should be judged by their political overseers or their bureaucratic peers. Political office should be of limited tenure and subject to frequent elections; bureaucratic office should be of unlimited tenure, subject to good behaviour.

4.3.3. **Analysis of the merit system in the public service**

The theoretical premise of the merit system is glaringly ingrained in the British moral philosophy that 'power corrupts and antidote is service, that the justification of' the existence of public institutions 'is service and efficiency, that breach of trust is never forget by the public, and that a meritocracy is the only sure road to public confidence' and the government's survival' (Dimock and Vermont 1978: xviii). This perspective could be linked to the ancient Chinese philosophy that 'the best shall serve the state' (Argyriades 1996:48; Berkley 1971:4-5; Wamalwa 1982:51).

China's great ancient thinkers asserted as early as 300 BC that society requires a permanent cadre of competent officials. The adage that 'the best shall serve the state' is accentuated in Mo Ti conception of 'a basic pragmatic test' developed to determine whether public institutions benefit society. This test is espoused in Confucius thesis that 'a wise and judicious administration by well qualified men' is an antidote for quandary of repression and melancholy members of the civil society are mostly subjected (Berkley 1971:4-5). Confucius thesis could be related to the Islamic persuasion that 'a ruler who appoints any man to an office when there is in his dominions another man better qualified for it, sins against God and against the state'.

The above postulates indubitably provide a theoretical context for the conception of merit system. Sifting through the principles of merit system in sub-section 4.3.2 above, it is clear that its fundamental thrust is to clear the 'moral atmosphere of official life by establishing the sanctity of public office as a public trust, and, by making the service unpartisan' as well as competent (Loverd and Pavlak 1995:09; Wilson in Shafritz and Hyde 1992:18). As indicated in sub-section 4.3.2 above, the doctrine of politics-administration dichotomy was accentuated as a means to cushion the public service from the 'corrupting influence of partisan politics' (Loverd and Pavlak 1995:09). The theory of separation of politics and administration postulates that 'if public administration could be separated from party domination it could be more businesslike...' (Thomas 1978: 33-35).

The notion of separation of politics and administration is embedded in the traditional American philosophy of administration. Authors such as Karl Marx and Robert Michels reflected on the theory of politics-administration dichotomy in the contention that public administration must promote the general welfare of society through the

establishment of a permanent civil service that is free from political influences (*vide* de Vries 1996:78). The foregoing view is premised on the concept of 'politics' as 'party influence'. The debate on the separation between politics and administration is arguably about the means to achieve the ideals of merit system. The politics-administration dichotomy ensures that unpartisan civil service system exists. Such civil service is likely to execute public functions in an efficient and effective manner in that it is not engrossed in policy or political issues. It only concentrates on administrative matters of government. The merit principle of security of tenure maintains continuity in terms of 'keep[ing] the government mechanism well-oiled and working order' (Heclo 1975:83). The theory of separation of politics and administration makes it infeasible for the politicians seeking the control of patronage to appoint the political adherents.

The conception of the merit system in the context of the theoretical postulation that politics and administration are two separate processes could, however, exude negative consequences. The merit-based civil service system constructed in accordance with the American philosophy of administration enunciated above could 'inevitably results in a rigid and unimaginative bureaucracy' inimical to creativity and development in the public service (Dimock and Vermont 1978: xvii). The more the public service 'depoliticize' itself, the less it will know about the 'political process and substantive fields of government and hence in effect [it] abdicate what is perhaps the most valuable part of [its] social responsibility' . The public service so constituted could therefore run the gauntlet of alienating itself as shaper of public policies. Consequently, the political and administrative realms of government could be at variance on policy issues because of a lack of collaborative governance.

The British philosophy of administration differs fundamentally with the American doctrine of politics-administration dichotomy. It postulates that 'in the process of government, the two functions of politics and administration are fused rather than independent' (Thomas 1978:22). The British conception of 'politics' varies so much with the American version in that it was 'conceived principally as the activity of policy-making', not 'party influence'. The British perspective is therefore an antithesis of the American doctrine of politics-administration dichotomy enunciated above. The British and American approaches in ensconcing the merit system vary indubitably as a result of their different philosophies of administration. In Britain, competitive examination system was used to eliminate patronage whereas; in the United States

of America the separation of politics and administration was accentuated as a means to achieve a civil service system that is free from political manipulations.

The British concept of fusion of politics and administration is based on *realism*. Reality is that effective governance only prevails if there is synergy between public officials and politicians. As observed in Thomas (1978:25), most authors concur with the British doctrine of fusion between policy-making and administration in the contention that it promotes interactive governance. However, it is countered that the involvement of public service in policy issues is likely to enhance the bureaucratic power of the public officials. Such power could pose a menace of the *rule of bureau* characterised by 'excessive rules and regulations, lack of initiative on behalf of public officials and delays in administration' (Thomas 1978:25-26)

With regard to the merit system in the public service, Demetriadi (1921:28-29) observed that in the late nineteenth century Britain had already made significant strides in pinioning patronage appointments through the implementation of the competitive examination system. The competitive examination system approach 'secured educated staff for departments' and contributed towards 'enlisting the best brains' into the public service. The method of recruiting the public servants by competitive examination system ensures that the public service is comprised of 'competent group of politically neutral civil servants' with appropriate 'professional experience and knowledge' necessary to contend with the 'intricacies of the public bureaucracy' in an impartial manner (Loverd and Pavlak 1995:11).

The above exposition not withstanding, Muir (1910:52-66) observed that the competitive examination system is fraught with inherent infirmities. It is claimed that the examination in Britain was too academic and thus, bias towards Oxford and Cambridge graduates. The recruitment by competitive examination brought into the public service 'people of narrow literary ability rather than of administrative competence. ...a mere qualifying examination is no effective substitute because it imposed upon the examiner invidious task of damning the prospects of a candidate; a task in which the examiner is naturally and constantly tempted to stretch a point in favour of doubtful to the advantage of the candidate and the disadvantage of the state...' (Greaves 1947:25-26).

The recruitment of civil service personnel by competitive examination exemplifies short-sightedness in that the merit system initially did not focus on the level of competence. The merit system emphasised only the 'degree to which political influence was kept out of appointments and promotions, rather than the level of competence in the public service' (Nigro and Nigro 1989:230). This is ostensibly the basis for the contention that, in the British civil service, the merit system 'ruined the good material rather than making full use of it' (Thomas 1978:217). The merit principle of security of tenure and anonymity could also 'inhibit initiative since the intelligent recruit finds that unless [he] displays flagrant misconduct, [he] will gain the maximum pay of [his] class within a given number of years and subsequently retire on pension' (Thomas 1978:217). The Northcote-Trevelyan Report of 1853 (Reader 1981:77-78), apart from the fact that it advocated the inculcation of the merit system, also cautioned that the security of tenure in the public service could engender indolence that might manifest itself in the form of 'official evasions of difficulty, and official indisposition to improvement'.

Loverd and Pavlak (1995:12) contend that the merit system hinders the exercise of executive and managerial authority. Sometimes the civil service system and its specialists personnel follow the rules of their occupation with such strictness that alienates the management (*vide* Loverd and Pavlak 1995:12). Rule-bound demeanour of the American civil service inhibited managerial initiatives (Hayes and Reeves 1984:268-270). Loverd and Pavlak (1995:12) noted that, 'as the guardians against the violations of the merit system', members of the civil service 'concern seem to lie more in adherence to personnel rules and procedures than in the support of management'. The Committee for Economic Development (1978:44-46) identified pitfalls of merit system as follows:

- Sluggish system of recruiting the personnel.
- Loss of best-qualified applicants to other job opportunities as a result of bureaucratic hurdles that delay the compilation of a list of eligible candidates that passed the civil service examinations.
- Efficiency in allocating work was hindered by a lack of flexible classification system.
- Management authority with regard to rewarding of outstanding performance, disciplining or firing of non-performers was emasculated.

The merit system impels career civil servants to pursue what Loverd and Pavlak (1995:12) called 'self-direction', a direction not reflective of the policies of government. To use Gerth and Mills (1946:232) words, the foregoing occur probably as a result of the fact that 'political master finds himself in a position of the dilettante who stand opposite the expert, facing trained officials who stands within the management of administration'. Rourke (1976:14) remarked that no fears has been more constant in modern politics-shared by revolutionaries and reactionaries alike-than the apprehension that bureaucrats might become a power elite and dominate the government process in which they are meant to play insubordinate role'. Max Weber, a well-known sociologist, who cautioned many years ago that the power position of a fully developed bureaucracy is always over-towering, accentuates Gerth and Mills (1946:232) and Rourke (1976:14) perspectives articulated in the foregoing. This means that the specialists or career civil servants, because of their expertise, might manipulate power and dictate a particular course of action that must be pursued.

At the heart of the merit system lay the Civil Service Commission. The Civil Service Commission emanated from the theoretical postulations of the traditional model of public administration perspectives that preponderated from the nineteenth to the last part of the twentieth century. It was established as a means to actualise the ideal of a merit based civil service system. The merit system is therefore inextricably intertwined with the idea of a civil service commission. It is obvious that a review of the merit system without reference to the Commission would remain a rudimentary exercise. More so that it (Civil Service Commission) constitutes the unit of analysis of this study.

A detailed historical disquisition on the development of the Commission in Britain and United States of America is provided in chapters 2 and 3 of the dissertation respectively. Scrutiny of the theoretical data attests the contention that the Civil Service Commission evolved within the context of the traditional model of public administration (*vide* Northcote-Trevelyan Report of 1853 reprinted in Reader 1981:75-93; Robbins 1990:308-327; Wilson 1887:197-222). The traditional model of public administration is examined at great length in sub-section 4.3 page 95 above in order to demystify the theoretical context in which the Commission developed. In the following sub-section, the focus is turned to the roles and functions of the Civil Service Commission. Its roles and functions in Britain and United States

of America are, within the theoretical context of the traditional model of public administration, examined from a comparative perspective.

4.3.4. **Roles and functions of the Civil Service Commission in Britain and United States of America in a comparative perspective**

As contended in sub-section 4.3.3 above, the traditional model of public administration spurred the conception of a civil service commission as the custodian of the merit system in the public service. The first Civil Service Commission was established in Britain (*vide* chapter 2 of the study for a detailed historical disquisition on the Civil Service Commission in Britain). Muthien (1997:07) observed that the British civil service commission system permeated the public services of the Commonwealth (*vide* sub-section 1.6.2 in Chapter 1 page 14-15 for the definition of the Commonwealth countries) and other countries such as the United States of America (*vide* chapter 3 for a detailed historical disquisition on how the British commission system pervaded the American civil service).

In Britain, the roles and functions of the Civil Service Commissions were assigned in terms of the Parliament Orders in Council (*vide* British Parliament Orders in Council of 1855 and 1870). The British civil service was accountable to the monarch rather than the Prime Minister. Pyper (1995:26) conjectured that such arrangement was put in place in order to secure the independence of the Civil Service Commission from political manipulations in carrying out its functions. In the United States of America, the roles and functions of the Civil Service Commission were stipulated in the legislation (*vide Pendleton Act* of 1883). The American Civil Service Commission was answerable to the President for the manner it carried out its statutory roles and functions.

The roles and functions of the Civil Service Commissions in Britain and United States of America differed. However, the philosophy underpinning its conception was the same and still constitutes the integral part of the modern public service systems. The founding objective of the Civil Service Commission was to protect the public service from the scourge of political manipulations (*vide* Muthien 1997:07). In the British administrative system, the roles and functions of the Civil Service Commission entailed the following:

- Receiving and processing of the applications for employment in the public service.
- Conducting of open and competitive examinations.
- Keeping records of all employees who completed the civil service examinations.
- Awarding of certificates of qualifications. Candidates prescribed age limit, physical fitness, character, knowledge and ability determined the issuance of such certificates (*vide* United Kingdom. 1855. British Parliament Order in Council. Reprinted in Reader 1981:92-93).

Yet, on the other hand, the American Civil Service Commission was charged with the following functions:

- Formulation of civil service regulations.
- Selection of candidates on the basis of merit.
- Checking instances of abuse.
- Adjudicating of cases.
- Development of scientific personnel methods such as 'job analysis, position classification, pay system, a more objective systematically devised examinations, job related training programs and efficiency rating' (Fougere 1967:17; Loverd and Pavlak 1995:11; Mosher 1968:70-71). The latter function evolved as a result of the development of scientific methods of personnel administration in the twentieth century (*vide* sub-section 3.4.3 chapter 3 page 67- 69 of the study).

In order to demystify the distinction between the roles and functions of the Civil Service Commission in Britain and United States of America, it is imperative that a comparative analysis is provided. For such analysis to be consistent, an analytical instrument needs to be developed. In the following sub-section, an analytical instrument alluded to in the foregoing is hereunder developed from the works of Bartholomew (1959:01), Berkley *et al* (1991:02-03), Cloete (1986:01-02), Dimock and Dimock (1966:03), Du Toit and Van der Waldt (1999:73-74), Estimates of National Expenditure, National Treasury: South Africa (2001:206), Funk and Wagnalls (1946:968), Gladden (1971:03), Gove (1981:1140), Hutchinson (1992:669), Leedy (1989:04-08), Nigro (1951:201-203) and Stahl (1983:200). The analytical instrument developed in this chapter would not only be used to analyse the roles and functions of the Commission in Britain and United States of America. It would also be applied in other subsequent chapters to also, more importantly, analyse the powers and functions of the Public Service Commission in South Africa.

4.3.4.1. **Analytical instrument for comparative analysis**

Stahl (1983:200-201) advanced the contention that the roles and functions of modern Civil Service Commissions are comprised of the following:

- Determining of the scope and extent of merit procedures.
- *Developing of personnel purvey bases, setting of realisable qualification requirements,* collaborating with educational organisations and functional bodies and using of effective recruitment strategies to attract capable people to the service.
- Testing and recording of suitable applicants.
- Advising of the operating departments.
- Overseeing of the manner in which the operating departments handle the record or register of suitable candidates and the methods of induction and redeployment.
- Determining of the basis for the grading and arrangement of positions.
- Overseeing of the remuneration roll and effecting minor modifications premised on accurate examination of competitive circumstances.
- Formulating of policies and procedures for interdepartmental translocation and upward mobility, for attendance and leave, for behaviour and control, for appeal and complaints.
- Ameliorating of guidelines and vitalising of excellent practice supervision.
- Improving of working conditions and exploring of motivational strategies that would make people to work.
- Appraisal of work performance.
- Rendering of in-service training in order to maximise performance.
- Conducting of research in the fields or areas of personnel administration.
- Maintaining of public accountability.
- Consulting with the labour unions of matters that fall within the parameters of personnel administration.
- Making of recommendations or advising of the heads of departments or the legislative institution about changes, ameliorations or any matter that has an impact on the personnel policy.
- Performing of all the above tasks with a high degree of integrity.

The synchronisation of the roles and functions of the Civil Service Commissions as enumerated above is comprehensive, but does not provide a useful framework for comparative analysis. It is just a long list of activities without any indication on how the roles and functions of the Commission could be analysed. Stahl's (1983:200-201) synchronisation does not provide a *categorical system*. A *categorical system* or taxonomy is an 'orderly schema for classification and description... It is important in social science research in that it specify the unit of empirical reality to be analysed and indicate how the unit may be described' (Nachmias and Nachmias 1987:41). The roles and functions of what Stahl termed 'a modern Central Personnel Agency' enumerated above are, for the purpose of comparative analysis in this study, crystallised and categorised into three major categories, namely *influence*, *research* and *administration* (*vide* Nigro 1951:203; Stahl 1983:200-203). Each category of the responsibilities of the Commission mentioned in the foregoing is hereunder explained.

4.3.4.1.1. **Influence category**

'Influence' is the first category of the responsibilities of the Commission. In order to understand the nature of the powers and functions of the Commission falling under this category, it is important that the term 'influence' is, at the outset, explicated. In *Webster's International Dictionary*, 'influence' is explicated as:

- act, process, or power of producing an effect without apparent exertion of tangible force or direct exercise of command and often without deliberate effort or intent;
- power or capacity of causing an effect in indirect or intangible ways; and
- power exerted over others, often through high position, strength of intellect, force of character or degree of accomplishment, whether sometimes exercised unconsciously and felt insensibly, sometimes consciously or calculatedly brought to bear (Gove 1981:1140).

The definitions cited in the foregoing are lucid and comprehensive. However, for the purpose of this dissertation, 'influence' need to be understood in terms of the powers and functions of the Commission, which, when they are exercised and carried, exert an effect on the business of the operating departments. The question of 'influence' also involves power and authority assigned to the Commission by the appropriate legislation. Legislative empowerment of the Commission makes it possible for it to exercise and carry out its influential powers and functions without hindrance. In view

of the foregoing, the influence category of the responsibilities of the Commission refers to all powers and functions of the Commission that are influential in nature.

The responsibilities of the Commission falling under the influence category comprises of mostly its strategic functions. Examples of the influential powers and functions of the Commission encompasses, *inter alia*, making civil service regulations/rules/ policies, checking and investigating instances of abuse, determining the scope and extent of merit procedures, monitoring and evaluating public service performance and advising operating departments. The responsibilities of the Commission falling under the influence category require a high degree of ingenuity. For a Commission to execute its functions falling under this category in an effective and efficient manner, its members must be imbued with adroit influential qualities and skills (*vide* Nigro 1951:203).

4.3.4.1.2. **Research category**

The second category of the responsibilities of the Commission pertains to research on a variety of matters related to public administration. Various authors express themselves differently in defining research. However, their different articulations are the same in respect of inherent aspects that characterise research. The *Concise Oxford Dictionary* defines research as 'careful search or inquiry after or for; an endeavour to discover new facts by scientific study of a subject, course of critical investigation'. Leedy (1989:04-08) states that research is an intellectual process on facts and data gathered to establish what the facts 'say' and what the data means. Hutchinson (1992:669) defines research as scientific inquiry and study pursued with the intention of determining the facts to reach new conclusions. Funk and Wagnalls (1946:968) regard research as a long careful investigation of some phenomenon or a series of phenomenon.

The definitions of research as provided in the above exposition are the same in respect of the fact that they all emphasise research as a systematic and scientific collection, analysis and interpretation of data to establish the facts; to generate new knowledge; to answer questions; and to provide solutions to the problems about social phenomenon/phenomena. In the context of public administration, research is therefore about creation of new knowledge and solution of administrative conundrum with a view to enhance excellence in governance. Conducting of research is an important function as it enables both government and operating departments to

proactively contend with new challenges and developments taking place in the field of public administration. The Commission must therefore continuously conduct research on matters related to governance and advise government and operating departments about new trends and developments in the field of public administration.

4.3.4.1.3. **Administration category**

'Administration' constitutes the third category of the responsibilities of the Commission. Imprudent usage of the word 'administration' might, however, conjure conjectures as, sifting through the literature; no one has yet formulated a straightforward and somewhat universally acceptable definition to both practitioners and scholars. Gladden (1971:03) shares the same view mentioned in the foregoing regarding the meaning of 'administration'. The meaning of 'administration' is therefore a matter of academic discourse. Various authors define 'administration' differently to befit the contexts of their respective disquisitions.

Bartholomew (1959:01) contends that 'administration', in the context of political science, has two meanings. In a broader context, Bartholomew (1959:01) contends that 'administration' refers to the 'work involved in the actual conduct of government affairs, such as the administration of justice or the administration of the affairs of any office', whereas in a narrow context, it refers to the 'operations of the administrative branch only, that is, the activities of the chief executive and affiliated officials called administrators'. The broad definition of 'administration' put forth by Bartholomew (1959:01) as referred to in the foregoing is arguably, influenced by Woodrow Wilson's (1887) perspective that propounded 'administration' as 'the practical or business end of government because its objective is to get the public business done as efficiently and as much in accord with the peoples' tastes and desires as possible' (Dimock and Dimock 1966:03).

Cloete (1986:01-02) on the other hand advance the opinion that 'administration' is a 'social phenomenon consisting of mental effort and other activities' that are undertaken to achieve a particular objective. In Berkley *et al* (1991:02-03) 'administration' is viewed as a process in which human beings work together towards achieving common goals. This view is similar to Cloete's (1986:01-02) perspective referred to in the foregoing. Both Berkley *et al* (1991:02-03) and Cloete (1986:01-02) emphasise that administration is a 'social phenomenon' that 'involves people,

action, and interaction'. Inferring from the diverse perspective alluded to in this disquisition, it is clear that 'administration' could mean different things to different people, depending on the context in which it is used. The definitions so far provided do not necessarily define 'administration' for the purpose of this context.

'Administration', in this context, needs to be understood in a narrow sense as the operations or activities of administrative nature that are carried out to enable the Commission to achieve its strategic objectives. It is therefore comprised of the functions or activities that involves administration of routine work such as receiving and processing of the applications for employment in the public service, recruitment, classification, remuneration of Commissioners, conducting of open competitive civil service examinations, certification, and keeping records of all employees who completed the civil service examination. 'Administration' is concern with the overall management of the activities such as financial management, personnel and provisioning administration, legal and other support functions performed to make it possible for the Commission to accomplish its strategic objective (*vide* Bartholomew 1959:01; Du Toit and Van der Waldt 1999:73-74; Estimates of National Expenditure, National Treasury: South Africa 2001:206; Nigro 1951:203; Stahl 1983:203).

As an activity or function, 'administration' is therefore auxiliary and supportive in nature carried out to enable the Commission to always be in a position to deliver on its mandate. Nigro (1951:207) contends that 'administration' is not as important as other functions falling under the 'influence' and 'research' categories referred to in sub-sections 4.3.4.1.1 and 4.3.4.1.2 above respectively. This contention is seemingly premised on the fact that the responsibilities that fall within the 'administration' category are mostly routine in nature and could take much time the Commission need to focus on its strategic objectives. The foregoing notwithstanding, it is contended that 'administration' is equally important in that, without it being carried out, the Commission would not be in a position to accomplish the objective for which it was created.

To further demystify the taxonomy or *categorical system* of the responsibilities of the Commission as explained in the above exposition, a table is used. The usage of tables in this study is predicated on the fact that they organise data in a lucid and user-friendly manner, thus make it simple for the reader to follow the contentions of

the disquisition with relative ease. The taxonomy/*categorical system* of the responsibilities of the Commission is hereunder illustrated as follows in Table 4.1:

Table 4.1: *Categorical system* of the responsibilities of the Commission

Most important ▲ Scale of importance ▼ Less important

Levels of the categories of the responsibilities of the Civil Service Commission	Categories of responsibilities of the Civil Service Commission	Example of the responsibilities of the Civil Service Commission per category
Level 1 category	Influence	Making of civil service regulations/rules/policies, checking and investigating of instances of abuse, determination of the scope and extent of merit procedures, monitoring and evaluation of the public sector performance, and advising of the operating departments
Level 2 category	Research/development	Conducting of research matters pertaining to the administration of the public service personnel. This includes development of scientific personnel methods
Level 3 category	Administration	Administration of routine work such as receiving and processing of the applications for employment in the public service, conducting of open competitive civil service examinations, keeping records of all employees who completed the civil service examination, classification, certification, and recruitment

The taxonomy or *categorical system* of the responsibilities of the Commission as explicated and illustrated in the above exposition is the synthesis of theoretical data from different sources or literature as cited and duly acknowledged in accordance with the Harvard Referencing Technique used throughout the text. In Table 4.1 above, **Level 1 category** refers to **influence,** whereas **Levels 2 and 3 categories** refers to **research** and **administration** respectively. These levels of the categories are important in that they provide an orderly classification of the powers and functions of the Commission for analytical purposes. The *categorical system*

delineated in the foregoing is propounded in this study as an analytical instrument to be used to analyse the powers and functions of the Commission. In the following sub-section, the *categorical system* is instantaneously used as an analytical instrument to, for the purpose of this dissertation, analyse the powers and functions of the Commission in Britain and United States of America from a comparative perspective.

4.3.4.2. **Comparative analysis of the powers and functions of the Civil Service Commission in Britain and United States of America**

The juxtaposition posited in sub-section 4.3.4 above accentuate that the roles and functions of the Civil Service Commission in Britain and United States of America differed. Such variation was quite conspicuous in respect of the powers and functions that fall under the **influence** and **administration** categories of responsibilities of the Civil Service Commission. As explained in sub-sections 4.3.4.1.1 and 4.3.4.1.3 above, the **influence** category is comprised of all the functions of the Commission that are influential in nature, whereas the **administration** category consists of the functions or activities that involves mostly the administration of routine work.

As already pointed out in sub-section 4.3.4.1.1 above, the extent to which the Commission could exert an influence on the operating departments is contingent upon the amount of authority and power bestowed unto it by the appropriate legislation. In the British administrative system, the Commission was 'given ...only slender powers' (Greaves 1947:14-15). The roles and functions of the British Civil Service Commission were therefore limited (United Nations 1966:16). Its functions as outlined in the British Parliament Order in Council of 1855 were mainly administrative in nature and therefore fall under Level 3 **category** or the **administration** category of the responsibilities of the Commission (*vide* Table 4.1). Receiving and processing of the applications for employment in the public service, conducting of open and competitive examinations, keeping records of all employees that completed civil service examinations, certifications and recruitment are all but some of the routine administrative functions the British Civil Service Commission mostly focussed on.

As already indicated in sub-section 4.3.4.1.3, Nigro (1951:207) contends that the responsibilities of the Commission that fall under the **administration** category are not as important as those falling under the **influence** and **research** categories

respectively (see the illustration of the foregoing perspective in Table 4.1 above). Save the contention advanced in sub-section 4.3.4.1.3 that **administration** is equally important as research and influential functions, it is argued on the basis of Nigro's (1951:207) contention alluded to in the foregoing that the British Civil Service Commission was engaged in functions of trivialities that were distantly and indirectly linked to its strategic objective of protecting the public service from the political manipulation. The confinement of the jurisdiction of the British Civil Service Commission to the responsibilities falling under the **administration** category spurred scepticism about its ability to carry out the mandate of cushioning the public service against the scourge political interference. Greaves (1947:14-15) observed that the British Civil Service Commission did not 'end patronage' *per se*, but only ensured that the 'nominees had the health, character, and knowledge requisite for their duties'.

In contrast to its British counterpart, the American Civil Service Commission had more power and therefore executed functions that were mostly concern with the responsibilities that fall under the **influence** category. The Commission in the United States of America carried out monitoring, quasi-judicial, executive, legislative and advisory functions (*vide* sub-section 4.3.4 above for the functions of the American Civil Service Commission). These functions ingrain an element of influence. The *Pendleton Act* of 1883 empowered the American Civil Service Commission to execute its influential roles as stated in the foregoing (*vide* Moore 1987:35). Ostensibly, such legislative arrangement necessitated some degree of success in the Commission's conscientious endeavours to carry out the mandate of protecting the public service against the scourge of political patronage (*vide* Report of the President's Committee on Administrative Management 1937:09-11).

The above contention should not, however, be misconstrued as the proposition that the American Civil Service Commission was not concern with the functions falling in other categories of responsibilities of the Commission as illustrated in Table 4.1 above. Indeed, the American Civil Service Commission also carried out functions that fall under the **administration** category. It examined candidates for public service employment. Those candidates found to be more appropriate for employment in the public service were recommended to a relevant state department for appointment. The American Civil Service Commission did not directly make appointments (*vide* Loverd and Pavlak 1995:10-11).

With the development of the scientific management approach, the roles and functions of the American Civil Service Commission increased. It was entrusted with the responsibility of developing scientific personnel methods such as 'job classification, factor analysis, numerical efficiency ratings, formal promotion charts and all their procedural relatives' (Sayre 1948:137). The functions of developing scientific personnel methods could be placed in the **research** category of the responsibilities of the Commission in that they are concerned with innovations or creation of new knowledge in the field of public personnel administration (*vide* sub-section 4.3.4.1.2 above for a detailed explanation of research as the second category of the responsibilities of the Commission in Table 4.1)

The roles and functions of the American Civil Service Commission features in all the three categories [**influence, research** and **administration**] of responsibilities of the Commission whereas, the roles and functions of its British counterpart features only in the **administration** category. Although the powers and functions assigned to the Commissions in Britain and United States of America differed, their strategic objectives were the same. The strategic objectives of the Commissions in Britain and United States of America alluded to in the foregoing were both ingratiated in the ideals of the traditional model of public administration, namely insulating the public service from politics.

The twentieth century perspectives jettisoning the traditional model of public administration questioned the roles and functions of the Civil Service Commissions. The increase in the volume and complexity of government work prompted the discourse on the paradigm shift from the traditional model of public administration to management approaches. It was contended that the Commission displayed a 'negative, protective and legalistic role whereas, the need today is for a positive, constructive and active personnel agency' (Report of the President's Committee on Administrative Management 1937:09-10).

The 'fight-the-spoils-man' manner in which the roles and functions of the Civil Service Commission were couched exemplifies the fact that its *modus operandi* was largely negative. This explains the reason authors such as Gladden (1961:293) define the success of the Civil Service Commission only in terms of the elimination of political patronage than the enhancement of efficiency and effectiveness in the public service. The contentions of the critics further postulated that 'it was improper for the

Civil Service Commission to serve as the president's chief personnel advisor, on the one hand and also act as impartial, quasi-judicial institution, on the other...Critics wondered whether the Civil Service Commission could objectively evaluate the enforcement of legislation it has created? Thus, the critics contended that the legislative and judicial roles should not be combined in the Civil Service Commission' (Moore 1987:46-47).

The Report of the President Committee on Administrative Management (1937:09-10) observed that the Civil Service Commission 'has been slow, cumbersome, wasteful, and ineffective' in the execution of its functions that were so huge and complicated. The functions assigned to the American Civil Service Commission outstripped its capacity to contend with them. Barton and Chappell (1985:96) noted that the rules the Commission used to exert its influence upon the operating departments inhibited dynamism in the management of personnel by the chief executive or other administrators. The foregoing observation glaringly constitutes the basis for the contention that in Britain the Civil Service Commission failed to develop a strong central management capacity in the public service (Greenwood and Wilson 1989:102-104). The rules of the Commission were so rigid and created a situation where the merit employees were 'unresponsive to the directives of elected officials' (Barton and Chappell 1985:97).

Powell (1956:70) and Reeves (1944:327-340) observed that in the United States of America the Commission maintained outdated lists of persons who passed the qualifying examination because it took them a year to compile a list of prospective employees legible for employment in the public service. Such administrative sluggishness resulted in government being unable to fill vacant positions with the best-qualified personnel (Dimock *et al* 1960:280). The confinement of the roles and functions of the Civil Service Commission to the **administration** category in the British administrative system squandered much of its time. Instead of focussing its efforts on the inculcation of the merit principles in the public service, the British Civil Service Commission concentrated on the execution of mundane functions that were distantly linked to its strategic objectives as bequeathed by the imperatives of the traditional model of public administration (*vide* sub-section 4.3 above for a detailed theoretical disquisition of the traditional model of public administration).

It is clear that the perspectives raised above did not question the existence of the Civil Service Commission *per se*. In fact, some authors pointed out that a need for such a central personnel body is sacrosanct (*vide* Dimock *et al* 1960:279; Reeves 1944:327-340). The criticisms detailed above are more concerned with the *modus operandi* of the Civil Service Commission in respect of its roles and functions than the concept itself. The perspectives that jettisoned the traditional model of public administration spurred administrative reforms. Those administrative reforms ushered in a new paradigm ingratiated in managerialism (Hughes 1994:58). In the early eighties, the term 'new public management' was formulated in Britain to explicate the administrative reforms that the Conservative Party under the leadership of Margaret Thatcher relentlessly pursued (Doern 1992:14).

The new public management approach is comprised of 'a coherent set of ideas' that varies fundamentally with the imperatives of the traditional model of public administration (Halligan 1997:01-03). The new management paradigm in the public sector was not just only the out-put of the administrative reforms of the eighties, but a change in the role of a variety of government institutions. The Civil Service Commission, which is the subject of this disquisition, is but one example of the institutions whose functions changed fundamentally in response to the introduction of the new public management approach. In the following sub-section, the new public management paradigm is examined to determine its effect on the roles and functions of the Civil Service Commission.

4.4. **New public management**

The introduction of the 'new public management' perspective in the public sector marked the inception of a fundamental paradigm shift from the traditional model of public administration. It ushered in a totally different system of governance, which is managerially inclined. However, various authors such as Hood (1991), Lan and Rosenbloom (1992), Pollit (1990), Zifcak (1994), Osborne and Gaebler (1992) intermittently use different terms to describe the managerial perspective/approach to the public sector devoid of a clear elucidation. Certainly, this obscures understanding of a management paradigm in public administration. It is therefore imperative in this context that the term 'new public management', in relation to other terms, should be demystified from the out set.

4.4.1 **Clarification of the term *new public management***

In the literature reviewed, the term *new public management* is intermittently used with terms such as *market-based public administration*; *managerialism* and *entrepreneurial government* (*vide* Hood 1991; Lan and Rosenbloom 1992; Pollit 1990; Zifcak 1994; and Osborne and Gaebler 1992). An obvious question frequently asked in this regard is: Do these terms mean the same thing? It is not the intention of this study to engage in a detailed conceptual analysis in order to answer the foregoing question. Suffice to state that the above-mentioned terms should, for the purpose of this study, be understood as meaning the same thing. They are synonymous to the new public management initiative. In the disquisition on the theoretical premise of the managerial approach to the public sector, an attempt is nonetheless made to consistently use only the term new *public management* in order avoid possible mystification.

In order to understand the meaning of 'new public management', it is imperative to first elucidate the concept *management*. The term management originated from a Latin word *manus* meaning to control by hand (Hughes 1994: 05). This concept is defined differently in the works of different authors. Ivancevich *et al* (1994:10) defines management as the process of synchronising the performances of the workforce with the aim of achieving greater results or institutional outcomes. Botes (1994:280) also view management as the process of directing and controlling subordinates to specified goals'. Pollit (1990:05) explains that 'management is clearly an activity which is intimately concerned with directing flows of resources so as to achieve...objectives defined predominately in the language of economics'.

Yet, Schoderbek *et al* (1991:771) on the other hand define management as the aggregation of human, financial and technical skills with a view to accomplishing the objectives of the institution. Allison (1982:17); Cloete (1996:220); Hellriegel and Slocum (1989:06); Robbins and De Cenzo (1995:04) uniformly define the concept *management* on the basis of the activities or functions that managers executes in order to achieve pre-determined institutional objectives. Those management activities or functions are, *inter alia*, planning, leading, and controlling. Allison (1982:17) crystallised the management functions into three main categories, namely: strategy (planning), management of internal components (organising,

staffing, directing, and controlling) and management of external constituencies (management interaction with the external stakeholders).

Apart from the fact that the definitions of management as provided above are couched in different words, there is a semblance of congruence. All the definitions cited above emphasise the question of attaining the objectives of the institution. It is therefore contended that consistent accentuation of goal attainment in the definitions of different authors constitutes the point of confluence. Management is out-put conscious and goal orientated. In the context of the exposition provided, 'new public management' could therefore be fathomed as the process of planning, organising, staffing, directing, controlling, as well as interacting with the external environments in order to ensure efficient, effective, and economic use of public service resources in the realisation of the objective of promoting the general welfare of the members of the public by providing good quality public services.

4.4.2. **Antecedents of the new public management**

The intellectual antecedents of the new public management thought is discernible in the works of organisation theorists such as Frederick Taylor (1911), Elton Mayo (1933), Herbert Simon (1947) and Charles Handy (1976). The classical work of Luther Gulick and Lyndall Urwick (1937) also form an integral part of the theoretical precursor of the management paradigm in the public sector. The literature reviewed uniformly accentuate that public management function is comprised of planning, organising, staffing, leading, controlling and interacting with the external environment (*vide* Allison 1982:17; Du Toit *et al* 1998:48-53; Fox *et al* 1991: chapters 4,5,6,7 and 8; Koontz and O' Donnell 1978: 01-05; Van der Waldt *et al* 1999:179-213). The public management functions as provided in the foregoing literature are, except the function of interacting with the external stakeholders, similar to the principles of administration Gulick and Urwick (1937) propounded in their ingenious masterpiece on the science of administration.

The Fulton Report in Britain (1968) and the Report of the President's Committee on Administrative Management in the United States of America (1937) merit to be mentioned in that they also added significant impetus towards the development of management thought in the public sector (*vide* sub-section 2.5 and sub-section 3.5 for a comprehensive reflection on the Reports referred to in the foregoing). Extensive theoretical reflection on the development of management thought in a particular

time in administrative history in the precursors mentioned above is, however, not possible within the limited scope of this study. Suffice to only point that a more specific and tangible 'managerialist incursion' in the public sector reared its prominence in the administrative reforms of the eighties (*vide* Pollit 1993:01-27)

The 'new public management' approach evolved as a result of the shortcomings abounded in the traditional model of public administration (Hughes 1994:58). It is an intellectual output of the administrative reforms of the eighties precipitated largely by a need to maintain fiscal discipline, variations in the international economic system and societal demands for good quality public services (*vide* Aucoin 1990:235; Commonwealth Secretariat 1995:02; Temmes 1998:441; Wright 1980:103). Such administrative reforms evolved in the United Kingdom at time of Margaret Thatcher and were geared towards minimisation of public expenditure (*vide* Carstens and Thornhill 2000:178-185; Kickert 1997:31).

The administrative reforms of the eighties were not only confined to the United Kingdom. A similar process of transformation was taking place throughout the developed countries. Countries such as Australia, New Zealand, Canada and United States of America also embarked on administrative reform programmes (*vide* Carstens and Thornhill 2000:177-192; Hood 1991:3-7; Hughes 1994:65; Organisation for Economic Co-operation and Development 1991:11; Osborne and Gaebler 1992:20; and Zifcak 1994:07). Zifcak (1994:07) explicate that the fundamental objective of the administrative reforms in the eighties was 'to improve the way in which government was managed'. In the following sub-section, the theoretical bases of the new public management are considered in some detail.

4.4.3. **Theoretical bases of public management**

Various authors such as Hood (1991); Osborne and Gaebler (1992); and Rhodes (1991) provided a theoretical framework for reflective disquisition on new public management. Rhodes (1991:01), whose work is based entirely on Hood's (1991:3-7) description of the doctrinal components of new public management, viewed the management paradigm as a 'determined effort to implement the "3Es" of the economy, efficiency and effectiveness' in the public sector. Rhodes (1991:01) argues from the British perspective that the new public management is premised on the following:

> ... a focus on management, not policy, and on performance appraisal and efficiency; the disaggregation of public bureaucracies into agencies which deal with each other on a user-pay basis; the use of quasi-markets and contracting out to foster competition; cost cutting; and a style of management which emphasises, amongst other things, output targets, limited-terms contracts, monetary incentives and freedom to manage.

Hughes (1994:02) explicate that these doctrines 'largely focuses inside the organisation and implies that substantial changes are required, especially for personnel, but does also point to some of the main features of the new management'. Osborne and Gaebler (1992:20) conception of re-invention of government also postulate the idea of managerialism in the public sector from the American perspective. A ten-point programme for entrepreneurial government ingrains the following doctrines:

> ... entrepreneurial government must promote *competition* between service providers. They *empower* citizens by pushing control out of bureaucracy, into the community. They measure the performance of their agencies, focusing not on inputs but on *outcomes*. They are driven by their goals-their *missions*-not their rules and regulations. They redefine their clients as *customers* and offer them choice... They *prevent* problems before they emerge, rather than simply offering services afterwards. They put their energies into *earning* money, not simply spending it. They *decentralise* authority, embracing participatory management. They prefer *market* mechanisms to bureaucratic mechanisms. And they focus not simply on providing public services, but on catalysing all sectors-public, private and voluntary-into action to solve their community's problems (Osborne and Gaebler 1992:20).

Sifting through the above doctrinal exposition, it is contended that the theoretical premise of the new public management is ingratiated in economics and private (sector) management whereas; the virtuous of three E's that is economy, efficiency and effectiveness constitutés its fundamental thrust (*vide* Pollit 1990:58-59). Economics and private management are hereunder considered as the theoretical bases of the new public management.

4.4.3.1 **Economic imperatives**

The economic turmoil in Britain in the seventies characterised by a high inflation rate, unemployment and problems with regard to balance of payment and decline in the dollar value spurred a shift from Keynesian to monetarism (Wright 1980:110). The monetarist perspective is premised on the theory that a healthy economy is achieved by limiting the intervention of government in the market economy,

reduction of the public expenditure as well as the public sector so that it could be more of a tractable size (Bacon and Eltis 1976:110-111; Heald 1983:38-41). The foregoing perspectives are the articulation of the market economic system.

Brown and Jackson (1990:15) explain that the market system operates from the premise that uninterrupted interaction between individuals will automatically provides answer to the economic conundrum of society. It is contended that such free interaction necessitates economic growth, increased production as well as wealth (*vide* Brown and Jackson 1990:15). The market system therefore advocates the idea of public choice in the public administration domain. A public choice theory is premised on the postulation that members of the public could rationally make their choices on how they want to conduct their lives (Hague *et al* 1993:350). It is 'concerned with the application of micro-economic to political and social areas' (Brown and Jackson 1990:15).

The economic theory of principal and agent is also one of the fundamental economic imperatives applied prominently in the public sector (Hughes 1994:13). It postulates that 'social and political life can be understood as a series of contracts in which one party, referred to as principal, enters into exchanges with another party, referred to as agent' (Greer 1994:13-14). In terms of the contractual obligation the agent undertakes to provide a particular service on behalf of the principal. In the context of the public sector, the government is the principal and the private sector institutions are the agents. Private sector institutions are accountable to government as the principal. They must carry out the business of government contracted-out to them in accordance with the mandate government provided to them. The permeation of monetarist thinking in the domain of public administration is aptly surmised in Carter, Klein and Day (1992:13) as follows:

> The drive for better budgetary systems, the identification of objectives, and the measurement of outputs coincided with, and to an extent reflected, the rise of 'econocrats' in government (Self 1975). The intellectual history of the influence of economists and their notions on the techniques of government still waits to be written. But it is evident that it was rapidly from the 1960s onwards on both sides of the Atlantic. Not only were more economists at work in Whitehall...but their ideas were permeating the training of civil servants, who were being introduced to the language of cost-benefit analysis and similar notions.

4.4.3.2. **Private management**

Management in the private sector is profit-driven and therefore, more focussed on institutional outcomes/results. It is ... 'an activity which is intimately concern with directing the flows of resources so as to achieve ...objectives defined predominantly in the language of economics' (Pollit 1990:05). Without the necessary outcomes, private sector organisations would flounder in bankruptcy and consequently collapse. The accentuation of institutional results/outcomes in the management of the public sector is derived from the imperatives of private management. The notion of flexibility in managing the private sector is so much also emphasised in the realm of public administration (*vide* Hughes 1994:170).

The idea of strategic planning evolved in the private sector in the sixties and 'is where the concepts of mission and environmental scan or analysis first appear' (Hughes 1994:170). This private management conception permeated the terrain of public administration. Nutt and Backoff (1992:55) contend that 'strategy is used to create focus, consistency and purpose for an organisation by producing plans, ploys, patterns, positions and perspectives that guide the strategic action'. Hughes (1994:168) further explain that 'strategic perspective considers the organisation in its external environment; it aims to specify clear goals and objectives; it attempts to move away from routine management tasks to consider, in a systematic, longer-term considerations of the very future of the organisation'.

With regard to the management of human resources, government embraced a variety of private sector management personnel management theories and practices. The use of 'incentives and disincentives' such as performance related remuneration system, performance evaluation, discharge with relative ease from the public service of officials whose performance is not satisfactory are but some of the few examples of the private sector practices that spawned into the parlance of human resource management in the public sector (Hughes 1994:168).

In the context of the above exposition, it is inferred that the economic imperatives and private sector management constitutes the fundamental theoretical underpinnings of the new public management. Therefore, the 'new public management' marked the fundamental paradigm shift from the traditional model of public administration that put a high premium on public service stability. The management approach to the public sector is result-driven or goal orientated. It

demands the results in terms of efficiency, effectiveness and goal quality public services. In the context of the theoretical delineation provided, the effect of the new public management on the functioning of the Civil Service Commission is hereunder determined.

4.4.4. Impact of the 'new public management' on the Civil Service Commission

The managerially focussed system of governance impacted on the roles of a variety of government institutions. The Civil Service Commission, which is the subject of this discourse, is but one example of the institutions whose functions and roles were fundamentally influenced by the introduction of the new public management paradigm. A predilection for the concept of management in the public sector antiquated the conventional *modus operandi* of the Civil Service Commission as bequeathed by the traditional model of public administration (*vide* Pyper 1995:23-46). In the following sub-section, the effect of the new public management on the Civil Service Commission of Britain and United States of America is, respectively, examined.

4.4.4.1 British Civil Service Commission

The preponderance of public management perspectives in the twentieth century necessitated fundamental changes in as far as the roles and functions of the British Civil Service Commission were concerned. As contended in sub-section 4.3.4.2 *supra*, the roles and functions of the British Civil Service Commission ingratiated in the paradigm of the traditional model of public administration were mainly administrative in nature and therefore, in terms of the *categorical system* developed as an analytical instrument in sub-section 4.3.4.1 *supra*, fall under the **Level 3 category** of the responsibilities of the Commission [**administration category**]. It is, indeed, in respect of the roles and functions of the Commission falling under the **administration** category that the new public management paradigm necessitated fundamental changes.

The significant changes that occurred were in respect of the centralised systems of recruitment and selection that stayed on uncontested for over a period of a century. The recruitment and selection functions of the British Civil Service Commission were, in line with managerial imperatives in the public administration of the eighties and

nineties, decentralised. The foregoing was arguably spurred specifically by the new public management principles of decentralisation of authority, promotion of participatory management and flexibility with respect to personnel recruitment and methods of retaining their services (*vide* Auriacombe 1999:124-136; Hood 1991:3-7; Osborne and Gaebler 1992:20; Pyper 1995: 23-46).

The Civil Service Council of 1982 granted state departments delegated powers to directly recruit staff at the junior level. In exercising this power, the state departments and the executive agencies had to abide by the principles of merit, fairness and transparency. These principles provided an important framework to ensure reasonableness in exercising discretionary powers on personnel matters in a relatively autonomous set up. The promulgation of the Civil Service Order in Council in 1991 added further impetus towards the decentralisation of the roles and functions of the Civil Service Commission. The Civil Service Order in Council of 1991 alluded to in the foregoing consigned the responsibility for recruitment to all grades below Grade 7 (the Old Principal Grade) to the state departments and executive agencies (Pyper 1995:30).

The so-called *fast-stream recruitment* remained, however, within the jurisdiction of the British Civil Service Commission. The British Civil Service Commissioners (1991:03) quantified the amount of responsibility over recruitment relocated to state departments and executive agencies after 1983 as having increased steadily from 85 to 95 percent. The new public management imperative of decentralisation of authority on matters related to personnel administration fundamentally reduced the roles and functions of the British Civil Service Commission that, in terms of the *categorical system* of its responsibilities, fall under the **administration** category. The British Civil Service Commission was assigned the functions of making sure that the state departments and executive agencies comply with the rules of the Ministry of the Civil Service with regard to matters relating to public personnel administration. It was also assigned the responsibility of advising the Minister of Civil Service on the regulation of recruitment in the public service (*vide* British Civil Service Commissioners Report: 1991).

In terms of the *categorical system* of the responsibilities of the Commission, the roles and functions of the British Civil Service Commission as mentioned in the foregoing assigned in response to the imperatives of the new public management

paradigm fall under the **Level 1 category** or **influence** category. The monitoring and advisory functions assigned to the British Civil Service Commission were intended to exert an influence on the state departments and the Ministry of the Civil Service respectively. They were therefore influential in nature. The foregoing would mean that, in the context of the new public management paradigm, the British Civil Service Commission ceded its roles and functions that fall under the **administration** category, except the fast-stream recruitment, to the state departments and assumed the responsibilities that fall under the **influence** category in the *categorical system* of the responsibilities of the Commission (*vide* 4.3.4.1.1 for a comprehensive disquisition on the **influence** category of the responsibilities of the Commission).

The state departments and executive agencies enjoyed a considerable degree of autonomy in the execution of its recruitment function within the context of the broader framework of rules lay by the Ministry of the Civil Service. As long as the rules of the Ministry were not violated or undermined, the state departments and the executive agencies could design their recruitment systems or contract out such function to private agencies (Pyper 1995:30). The arrangement to let the state departments or executive agencies to operate on an autonomous fashion was arguably precipitated by a need to allow more flexibility with respect to recruitment of personnel in the public service. The notion of contracting out of the public service work to private sector succinctly alluded to above in passing constitute one of the fundamental imperatives of the new public management that greatly contributed towards the reduction of the roles and functions of the British Civil Service Commission falling under the **administration** category (*vide* Auriacombe 1999:124-136; Hood 1991:03-07; Osborne and Gaebler 1992:20)

The Next Step Initiative embarked upon in 1988 following the recommendation of the Prime Minister's Efficiency Unit introduced the concept of executive system in the form of Recruitment and Assessment Agency. This concept weakened the influential capacity of the British Civil Service Commission in the administration of the public service personnel. The power of the Recruitment and Assessment Agency to directly recruit staff 'breaks the levelling influence of the Civil Service Commission in decisions on the type of skills and characteristics that are desirable across the breath of the civil service' (Greer 1994:100). The Recruitment and Assessment Agency served as an alternative conduit the state departments and executive agencies used to recruit staff. It is accorded the freedom to determine, in so far as the skills and

personalities are concerned, the type of staff needed without any influence from the British Civil Service Commission. Greer (1994:100) states that the advantage of the executive agency system is that it promotes diversity in staff composition of the different state department and executive agencies.

The reforms of the British civil service system in accordance with the new public management perspectives eventually emasculated the Civil Service Commission. The British Civil Service Commission was unbundled. The unbundling exercise culminated in the creation of the Management and Personnel Office and the Civil Service Department, hereafter referred to as MPO and CSD respectively. The MPO is a unit assigned with the task of managing the civil service whereas, CSD assumed the responsibility of co-ordinating 'recruitment, training, management services, manpower planning and remuneration' (Smith 1988:74). The life span of the CSD was, however, short-lived in that 'it failed to assert itself among the common service departments at the centre'. Margaret Thatcher's policies of strict fiscal discipline disbanded the CSD and its functions that involved public monies were assigned to the Treasury whereas, its personnel functions were consigned to MPO (Greenwood and Wilson 1989:108; Smith 1988:74). Chapman (1983:59-60) did not view the disbandment of the CSD as a failure, rather part of the twentieth century discourse on effective management approach in the public service.

4.4.4.2. **American Civil Service Commission**

In sub-section 4.3.4.2 *supra*, it is contended that the American Civil Service Commission in the theoretical context of the traditional model of public administration was, in juxtaposition to its British counterpart, assigned more powers and functions in respect of responsibilities that fall under the **influence** category. The American Civil Service Commission was also assigned functions that fall under **research** and **administration** categories (*vide* sub-section 4.3.4.1 for a comprehensive explanation of the *categorical system* of the responsibilities of the Commission used as analytical instrument in this study). The emergence of a new model of governance based on managerialism that evolved across the United States of America in the eighties ushered in radical changes, particularly in respect of the functions of the Civil Service Commission.

In contrast to the British Civil Service Orders in Councils of 1982 and 1991 that provided for the changing of the roles of the Commission, the American Civil Service Reform Act of 1978 made stipulations to the effect that the body cease to exist. Consequently, the functions of the American Civil Service Commission that, in terms of the *categorical system* of the responsibilities of the Commission, fall under **influence**, **research** and **administration** categories were distributed among three agencies established as replacements, namely: the Office of the Personnel Management, the Merit System Protection Board and the Federation of Labour Relations Authority (Barton and Chappell 1985:97). The foregoing exercise was in pursuit of the imperatives of the new model of governance articulated in Osborne and Gaebler's *Reinventing government* (1992). The establishment of the three agencies alluded to in the foregoing was, specifically, in line with the new public management principles of unbundling government institutions in order to create operational units that are more efficient and effective in the execution of their respective mandates (*vide* Hague *et al* 1998:229; Hood 1996:3-7; Osborne and Gaebler 1992:125-310).

The Office of the Personnel Management was entrusted with the responsibility of the American Civil Service Commission that entails the formulation of personnel policy, conducting of examinations and advising the President on matters pertaining to the administration of the civil service personnel. The functions of the Merit System Board were more quasi-judicial in nature as they involved investigating personnel practices that encroached upon the principles of merit and hearing of appeals by the employees whereas, the Federal Labour Relations Authority took charge of managing labour relations (Barton and Chappell 1985:97). Loverd and Pavlak (1995:14-15) contend that the foregoing arrangements bolstered the management authority of the chief executive. They ensure that the 'chief executive and their managerial subordinates could be held more directly accountable for personnel actions initiated' (Loverd and Pavlak 1995:14-15). The foregoing contention accentuates the new public management ideal of decentralisation of authority. The public managers are given more discretion on matters of human resource management and are held responsible for results (*vide* Hood 1996:3-7).

Inferring from the exposition above, it is contended that the Anglo-American democracies made significant strides in the actualisation of the new philosophy of a managerially inclined system of governance. The influence of the new public

management paradigm on the British and American Civil Service Commissions, however, differed. In Britain, a more gradualist approach in aligning the status of the Commission within the new management thinking was pursued. The British approach did not instantaneously dissipate the Civil Service Commission from its civil service system. The British Civil Service Commission continued to function, albeit on a totally new philosophical basis. Its functions were significantly trimmed. The American approach, on the other hand, discontinued the existence of the Civil Service Commission rather abruptly. This was quite a radical approach. As explained above, the three agencies were established to take over the functions of the defunct American Civil Service Commission. In the following sub-section, deductions from the reflective disquisition on the developments of the Civil Service Commissions in Britain and United States of America are made to develop a theoretical framework to analyse the two phases (pre and post 1994 phases) in the historical development of the Public Service Commission in South Africa.

4.5. Theoretical framework for the analysis of the changing role of the Public Service Commission in South Africa

It is stated in sub-section 1.2 page 2 that the purpose of this study is to examine the effect of changes since 1994 on the role of the Public Service Commission in South Africa. The study on the changing phenomena as the roles and functions of the Public Service Commission could, however, run the gauntlet of being mired in too many historical minutias that may obscure its purpose if a framework of analysis is not properly formulated. A framework for analysis is important in that 'it creates a means through which existing literature in the field can be surveyed and systematized' and also 'provides the mould into which the substance of the survey's findings can be poured' (Zifcak 1994:137).

The purpose of the theoretical reflection on the development of the Civil Service Commission in Britain and United States of America in this chapter was to develop a theoretical framework of analysis, which, its importance is emphasised above. A framework for analysis is derived from the theoretical data analysed to establish a reality about the roles and functions of the Commission. The theoretical data used in this chapter point to the fact that the development of the Civil Service Commissions in Britain and United States of America was influenced by two fundamental

paradigms in the history of public administration, namely: the traditional model of public administration and the new public management.

The theoretical imperatives of the traditional model of public administration spurred the conception of the notion of a civil service commission system. The Civil Service Commission is therefore an intellectual construct of the traditional model of public administration. As already pointed out in sub-section 4.3 above, 'the traditional model of public administration is the longest standing and most successful theory of management in the public sector' (Hughes 1994:24). The prevalence of the traditional model perspectives from the nineteenth century to the last part of the twentieth century accentuated the importance of the civil service commission system as a means to maintain stability in the public service.

The emergence of the new public management perspectives in the twentieth century jettisoned the traditional model of public administration and replaced it as an alternative model premised on the imperatives of economy, efficiency and effectiveness. The managerial approach to the public sector is goal orientated. Its emphasis is on institutional outcomes rather than rules and procedures. The new public management paradigm impacted profoundly on the civil service commission system as bequeathed by the traditional model of public administration. The Civil Service Commission was unbundled and its traditional roles were assigned to different agencies.

Inferring from the above theoretical reflections, this study contends that the development of the Civil Service Commission in Britain and United States of America is comprised of analytically distinct paradigms, namely: the traditional model of public administration and the new public management. These paradigms are advanced in this study as the theoretical framework to analyse and evaluate the two phases (pre and post 1994) in the development of the Public Service Commission in South Africa in the subsequent chapters 5 and 6 respectively. The *categorical system* of the responsibilities of the Commission as explained in sub-section 4.3.4.1 is built-in within the foregoing theoretical framework and would be used as an analytical instrument to analyse the roles and functions Public Service Commission in South Africa before and after 1994.

4.6. **Conclusion**

This chapter reflected comprehensively on the theoretical aspects related to the development of the Civil Service Commission in Britain and United States of America. The fundamental contention of this chapter is that the Civil Service Commission evolved within the theoretical context of the traditional model of public administration. To authenticate the foregoing contention in a systematic manner, this chapter commenced with a brief and cursory reflection on the early administrative system in ancient Europe because of their global influence. The personnel practices that evolved during the early administration such as 'personal service' and patronage/spoils systems are extensively examined. Early administration, for the purpose of this study, refers to a period prior to the conception of the traditional model of public administration in the nineteenth century.

The disquisition on the early administration is followed by a review of the traditional model of public administration. It is contended that the traditional model of public administration emanated from the discourses advanced in the writings of authors from different philosophical orientations, namely Stafford Northcote and Charles Trevelyan in the United Kingdom, Woodrow Wilson in the United States of America and Max Weber, a German philosopher linked to bureaucratic model of organisation.

The traditional model of public administration ushered in the concept of politically neutral civil service system, which is premised on the principle of merit. The concept of merit as a personnel system is demystified and also its principles are examined. This is followed by the analysis of the merit system. This chapter further demonstrate that the merit system is closely intertwined with the idea of a civil service commission. Therefore, a discussion on the merit system without reference to the Civil Service Commission would have remained a rudimentary exercise; more so that its development in Britain and United States of America is important for the purpose of developing a theoretical framework to analyse the role of the Public Service Commission in South Africa.

The Civil Service Commission was established as the custodian of the merit system in the public service. The Commission is, therefore, an intellectual construct of the traditional model of public administration. The roles and functions of the Civil Service Commission in Britain and United States of America are examined from a

comparative perspective. The juxtaposition analysis in this chapter indicates that the powers and functions of the Commission in these countries alluded to in the foregoing differed. The *categorical system* of the responsibilities of the Civil Service Commission developed as an analytical instrument in this chapter is used to clearly put on view the authenticity of the foregoing observation. Comparatively, the roles and functions of the British Civil Service Commission were limited whereas; its American counterpart had more responsibilities.

The perspectives that emanated in the twentieth century jettisoned the traditional model of public administration. This culminated in the introduction of a management paradigm in the public sector, which is examined at great length. It is contended that the theoretical premise of the management approach to the public sector is ingratiated in economics and private (sector) management. The economics and private (sector) management are discussed as the theoretical bases of the new public management approach in the public sector. The concept of managerialism in governance marked the fundamental paradigm shift from the traditional model of public administration. It is driven by the imperatives of economy, efficiency, and effectiveness in public administration. The management approach to the public sector is result-driven and goal orientated. The accentuation of the new management approach antiquated the conventional functioning of the Civil Service Commission as bequeathed by the traditional model of public administration.

The impact of the management paradigm on the Civil Service Commission in the Anglo-American democracies was, however, not the same. In Britain, a more gradualist approach in aligning the status of the Commission within the new management thinking was pursued. The British approach did not abruptly dissipate the commission system from its civil service. The British Civil Service Commission continued to exist, albeit on a totally different philosophical basis, for some time. Its roles and functions were considerably trimmed. In America, the existence of the Civil Service Commission was discontinued rather abruptly. It was quite a radical approach pursued in order to incorporate managerial philosophies in the American civil service system. The traditional roles and functions of the Civil Service Commission in both Britain and America were consigned to different agencies that were created.

Deducing from the above theoretical reflections, this study advances the contention that the development of the Civil Service Commission in Britain and United States of America is comprised of analytically distinct paradigms, namely traditional model of public administration and new public management approach. These paradigms are put forward as the theoretical framework to analyse the development of the Public Service Commission in South Africa. The *categorical system* of the responsibilities of the Commission developed in sub-section 4.3.4.1 above as an analytical instrument will be used to analyse the roles and functions of the Commission in the context of the distinct analytical paradigms alluded to in the foregoing in chapters 5 and 6 respectively.

CHAPTER 5

ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE COMMISSION DURING THE PERIOD 1990-1993

5.1. Introduction

As indicated in chapter 1 sub-section 1.2 page 2-3, the purpose of this study is to determine the effect of changes since 1994 on the role of the South African Public Service Commission, hereafter referred to as the Commission. To realise the foregoing objective, it is imperative that the role of the Commission before 1994 is considered to serve as a basis for the evaluation of its role after 1994. This chapter examines the role of the Commission before 1994. Due to the limited scope of the study, the analysis of the role of the Commission in this chapter is restricted to the period 1990-1993. The role of the Commission after 1994 in the South African public service is looked at in chapter 6.

In chapter 4, it is contented that the development of the Civil Service Commission in Britain and the United States of America is comprised of analytically distinct paradigms, namely the traditional model of public administration and the new public management approach. It is contended in this chapter that the development of the Commission in South Africa since its inception in 1912 to 1994 gravitated towards the imperatives of the traditional model of public administration. Therefore, the role of the Commission during the period 1990-1993 is, in this chapter, analysed within the theoretical context of the traditional model of public administration. Within the theoretical context of the traditional model of public administration, the *categorical system* of the responsibilities of the Commission developed in chapter 4 as an analytical instrument is used to analyse the role of the Commission during the period alluded to in the foregoing (*vide* chapter 4 sub-section 4.3.4.1 page 107-113 for a comprehensive explanation of the *categorical system* of the responsibilities of the Commission developed as an analytical instrument).

The analysis of the role of the Commission in this chapter is preceded by a comprehensive disquisition of its historical development in South Africa. The ratiocination for the foregoing approach is premised on the contention that the role of the Commission in South Africa during the period 1990-1993 could be lucidly fathomed in the historical context from which it evolved. Historically, South Africa comprised of four British colonies, namely Cape, Natal, Transvaal and Orange Free State (see chapter 1 sub-section 1.7.8 page 16 for the meaning of the concept Colony and the reason for its usage in the dissertation). In narrating the history of the Commission in South Africa, this chapter therefore commences by looking at how this English system evolved in the British colonies alluded to in the foregoing. An attempt to trace the evolution of the commission system in the British colonies of Cape, Natal, Transvaal and Orange Free State (1847-1910) is followed by a detailed disquisition on its development after the Union of South Africa (1910-1993).

5.2. Historical development of the Public Service Commission in the British colonies (1847-1910)

The administrative system of using the Civil Service Commission to curb the public service from the scourge of political patronage is an intellectual construct of the nineteenth century traditional model of public administration that preponderated over most Western countries until the last part of the twentieth century. As indicated in chapters 2, 3 and 4 of the study, the commission system originated in Britain. It permeated the United States of America and Commonwealth countries such as Nigeria, India, Zambia, Zimbabwe and South Africa. Due to the limited scope of this study, South Africa is the only Commonwealth country or a former British colony its Public Service Commission is looked at in this chapter. An attempt is hereunder made to trace the development of the English commission system in the former British colonies of Cape, Natal, Transvaal and Orange Free State.

5.2.1 Cape Colony

The nineteenth century administrative system of using the Civil Service Commission to protect the public service from the political patronage in South Africa could be traced back to the Montaqu Report of 1848 in the Cape Colony. In 1847 John Montaqu, who was then the Colonial Secretary of the Cape, was appointed to chair a Commission established to explore ways and means of bettering and systematising entry into the public service of the Cape. The Commission carried out the brief and

completed its report in 1848. The Montaqu Report of 1848 revealed serious pitfalls in the system of public personnel administration of the Cape. It was found that there had never been a systematic directive in the Cape public service with regard to qualification, appointment and promotion of officials. The Report further highlighted that there was no prescribed age requirements for entry into the public service, no form of evaluation to determine the candidates qualifications, no consistency in the increase of salary scale and that salaries were not commensurate to the nature and amount of the services required (Hutton 1883:11).

As a result of the administrative infirmities succinctly alluded to above, the Montaqu Report of 1848 proposed recommendations that necessitated fundamental changes in the public service system of the Cape Colony. Those changes gravitated towards the precepts of the traditional model of public administration (*vide* chapter 4 sub-section 4.3 page 95-105 for a detailed disquisition on the traditional model of public administration). The foregoing contention is authenticated in the fact that the public service positions in the Cape Colony were, seemingly on the basis of their numerical value, assorted into upper, middle and lower grades (*vide* Montaqu 1848:ii-iv). Such assortment of the public service positions was evidently in line with the principle of the traditional model of public administration that the public service must be structured strictly in accordance with the hierarchical model of bureaucracy. The monetary value of each position in the public service of the Cape was determined according to the grade it belonged to (*vide* Hughes 1994:23; Montaqu 1848: ii-iv).

Furthermore, rigid measures that made the transfers within the public service difficult in the Cape Colony were relaxed. The interdepartmental transfers in the lower grades could easily be effected while in the upper grades it could only be effected on the basis of what was termed 'superior fitness' (Montaqu 1848: ii-iv). The ideas of probationary period of one year and preliminary entrance examination raised in the Montaqu Report of 1848 and subsequently practised in the Cape accentuated the principle of the merit system in the public service. The merit system is the fundamental theoretical premise of the traditional model of public administration. It required that the public service in the Cape Colony must be staffed on the basis of merit (*vide* chapter 4 sub-section 4.3.1 page 96-97 for the meaning of the concept merit). The foregoing observation is validated in the fact that, in 1850, a Board of Examiners was established and assigned the responsibility of

functions of department, lay off unproductive personnel, develop a proposal on how to improve efficiency in the public service and make recommendations on matters that pertain to salary. The Hutton Commission of Inquiry carried out its brief and its recommendations were crystallised into a Civil Service Bill in 1885. This Bill was, however, rejected (Hutton 1883: passim).

It is clear from the above exposition that since 1847 the restructuring of the public service of the Cape was vigorously pursued. This is evident in the series of regulations made during that time. The nineteenth century perspectives of the traditional model of public administration evidently informed those regulations aimed at giving effect to the restructuring of the public service in the Cape Colony. This contention is advanced on the basis that those regulations were aimed at maintaining stability in the public service. It appears, however, that those public service regulations were just mere *ad hoc* measures that could not be applied on sustainable basis because they were only effective for shorter periods. The reason for the foregoing could perhaps be that the restructuring of the public service at that time hinged on ministerial discretion. When a minister vacates the office, the successor had the discretion to either continue or discontinue with what had already been initiated (*vide Civil Service List*, Cape, 1885:75). This obviously impacted on consistency and continuity in the course of developing the public service at the Cape. In 1885 the *Civil Service Act*, 1885 (Act 42 of 1885) was passed. This Act was, although amended by *Civil Service Act*, 1886(Act 23 of 1886) and *Civil Service Act*, 1888 (Act 31 of 1888), the first ever 'Civil Service Act' promulgated to define and regulate the public service at the Cape Colony (Marais 1989:95).

In view of the above exposition, it appears that the Acts that were enacted before 1885 did not succeed in achieving the traditional model of public administration ideal of public service stability. Compared to the Acts enacted before, the sets of Acts promulgated since 1885 seems to have been complementary and consistent to each other in advancing the course of stability in the public service of the Cape Colony. This is discernible in the fact that the *Civil Service Act*, 1886 (Act 23 of 1886) and the *Civil Service Act*, 1888 (Act 31 of 1888) were integrated and constituted the *Civil Service and Pension Fund Act*, 1895 (Act 32 of 1895). The *Civil Service and Pension Fund Act*, 1895 (Act 32 of 1895), hereafter referred to as Act 32 of 1895, resuscitated the idea of examination system in the public service, which was seemly on the brink of dissipation. This is evident in Section 5 of Act 32 of 1895 that made

provision for the appointment of the Board of Commissioners. It is stated in the *Civil Service List*, Cape (1910:412) that the Board of Commissioners was by and large fashioned 'Civil Service Commission'. The Board of Commissioners was entrusted with the responsibility of administering the Civil Service Examinations which, according to Marais (1989:95), were not intended for entrants into the public service, but for officials who were already working.

In spite of the fact that Act 32 of 1895, comparatively, could have had impacted positively on the development of the public service in terms of its stability at the Cape, the Wilmot Report of 1904 contended that there were still inconsistencies in the application of rules and regulations in personnel matters. It was recommended that the foregoing anomaly could be alleviated if a permanent Civil Service Commission comprising of Heads of Departments was established (*vide* Wilmot Report on the Select Committee on the Civil Service of 1904). In the same year another report that varied with Wilmot's in terms of the composition of the Commission was issued. That report recommended the establishment of the Civil Service Commission comprising of three heads of departments who, in addition to their normal departmental duties, would have had to work on part-time basis as the members of the Commission. Such a Commission as envisaged in the report was established in 1906. The heads of departments appointed as Civil Service Commissioners did not have to resign from their normal departmental duties. They worked in the Civil Service Commission on part-time basis. Apart from conducting the examinations, the Civil Service Commission was also entrusted with the responsibility of recording all public servants who passed the examinations and recommending promotions (*Civil Service List*, Cape 1906:415).

5.2.2. **Natal Colony**

The civil service in the Natal Colony during the British rule (1843-1910) was fragmentary in nature. It had separate institutions for Whites, Blacks and Indians. The British in Natal also created different health care institutions and separate legal and educational systems. The fragmentary character of the civil service in the Natal Colony could be compared with the eighteenth century British civil service system Northcote and Trevelyan (Reader 1981:80) criticised in their Report of 1848 that it confined 'each man's experience, interests, hopes and fears to the special branch of service in which he is himself engaged'. The same argument could be used to characterise the effect of the fragmented nature of the civil service system in the

Natal Colony during the British rule. The fragmentation of the civil service made the patterns of relationships among different government institutions impervious to co-ordination. This obviously made collaborative efforts to achieve common objectives difficult. The interdepartmental transfers and promotions could also not be possible in a civil service system that was not unified (*vide* Northcote and Trevelyan Report of 1853 as reprinted in Reader 1981:77-80).

The Governor in the Natal Colony had the prerogative to appoint civil servants such as judges, magistrates, civil commissioners, ministers and other officers (*Civil Service List*, Natal, 1905:11-12). Cloete (1990:48), *Civil Service List*, Natal (1905:11-12) and Marais (1989:100-108) did not examine the manner in which the Governor exercised the authority to appoint the members of the public service. It is, however, contended that the arrangement that the Governor appoint members of the public service was susceptible to patronage system (*vide* chapter 4 pages 85-97 for a detailed disquisition on the patronage system). The Governor could have easily abused the authority by making appointments in the public service for political expediency. Inferring from the foregoing, it is contended that the civil service in the Natal Colony during the British rule, to a certain extent, epitomised features of the early administrative systems (*vide* chapter 4 sub-section 4.2 page 81-85 for a detailed disquisition on the early administrative systems).

The above exposition notwithstanding, it appears that the nineteenth century traditional model of public administration permeated the civil service system in the Natal Colony. This observation is advanced on the basis that the Governor instituted the system of using a commission to protect the public service against the scourge of political manipulations in 1894 in the form of a Civil Service Board (Cloete 1990:48). The establishment of the foregoing Board exemplified the permeation of the civil service commission system as the intellectual construct of the traditional model of public administration in the Natal Colony. The Board comprised of five members, namely the Chief Under-Secretary, the Secretary of the Railways and Harbours, the Clerk of the Legislative Assembly, the Under-Treasurer and the Postmaster-General. The function of the Board was to advise the Minister of the Interior on human resource management issues in the public service (Du Plessis 1980:03).

The efficacy of the Civil Service Board in realising its function in the Natal Colony was, however, hampered by its negative standing in the public service. It is unclear from the literature studied as to what exactly the Board did to besmirch its integrity in the public service. The gravity of the negative reputation of the Civil Service Board in Natal was exemplified in that ministers disregarded its advices on matters pertaining to the administration of public service personnel. One of the members of the Board even went to the extent of suggesting that it must be disbanded. However, the foregoing suggestion could not be effected. The Civil Service Board in Natal was never dissolved. It continued to exist until 1910 when Natal was incorporated into the Union of South Africa in 1910 (Du Plessis 1980:03).

5.2.3. **Transvaal Colony**

The Transvaal, initially known as the *Zuid Afrikaansche Republiek*, was annexed by the British in terms of the Proclamation of 1 September 1900 which stated thus: 'Her Majesty is pleased to direct that the new Territories shall henceforth be known as the Transvaal' (Eybers 1918:515). The Letters of Patent of 23 September 1902 stipulated that the Transvaal must be governed by the Legislative and Executive Councils whose members were the same people that were nominated. The Legislative and Executive Councils comprised of the Colonial Secretary, the Attorney-General, the Commissioners of Native Affairs, the Colonial Treasurer, the Commissioner of Mines, and the Commissioners of Lands (*Civil Service List*, Transvaal 1904:03-04).

In 1907 the system of government in Transvaal as explained in the above exposition changed. The Legislative Council of 15 members and an Executive Council of 6 members that were initially nominated for period of four years were created. The members of the foregoing Councils were later elected, not nominated anymore. A Legislative Assembly comprised of 69 members that were directly elected by the public was also established (*Civil Service List*, Transvaal 1909:03). Lord Milner, initially appointed as the Administrator, served as the Governor and Commander-in-Chief in the Transvaal (*vide Civil Service List*, Transvaal 1904:03-04; Eybers 1918:515).

Lord Milner's attempts to ensure that the Transvaal Colony was reflective of the English cultural norms and value system (anglisation) foundered in the midst of huge public opprobrium (Marais 1989:131). Yet, the foregoing does not necessarily mean

that there was no large-scale permeation of the British administrative systems that, arguably, were highly influenced by the ideas of the nineteenth century traditional model of public administration (*vide* Hanekom and Thornhill 1994: 07-29). The Milner administrative reforms were intended to rid the Transvaal Colony of the disintegrations abounded in its civil service system and therefore, maintained stability (*vide* Civil Service List, Transvaal 1909). The question of maintaining stability in the civil service is the fundamental imperative of the traditional model of public administration (*vide* Hughes 1994:23-57).

The 1906 Solomon Report on the public service of the Transvaal constituted the fundamental basis for the Milner administrative reforms. Marais (1989:132) observed that the Solomon Report was the most encyclopaedic document comprised of 9 parts. For the purpose of this context, reference is however made to only parts 3 and 6 of the Report as they are directly linked to the development of the Civil Service Commission in the Transvaal Colony. Part 3 of the Solomon Report of 1906 detailed a variety of anomalies abounded in the Transvaal public service. The following are but some of the few anomalies pointed out in the Report:

> ... the Civil Service of the Transvaal has no legal constitution as a corporate body...The position in actual practice is that no civil servant, unless he enjoys the definite protection of the law or unless his appointment has been specifically allowed by the crown, is not regarded as having fixity of tenure...'(Solomon 1906, Report 3, paragraph 1).

The citation above clearly shows that the appointments in the public service were temporary and also the prerogative of the Crown. Such authority to appoint public servants could easily be abused, as there were no check and balances. Furthermore, the Solomon Report of 1906 pointed out that there was a lack of proper organisational arrangement of posts in the Transvaal public service. These revelations suggested public service disarray. To deal with the anomalies mentioned in the foregoing, Part 6 of the Solomon Report arguably recommended the restructuring of the public service on the basis of the imperatives of the traditional model of public administration. This much is clear in the recommendation that a permanent Civil Service Commission comprising of the Secretary to the Department of Justice, the Superintendent of Education and the Secretary to the Treasury need to be established in the Transvaal Colony (*vide* Solomon Report 1906, Report 6, par

68). The civil service commission system is the intellectual construct of the traditional model of public administration.

The recommendation that the Secretary to the Treasury should also serve in the Civil Service Commission was rationalised as a means to establish a link between what was termed 'two systems of control' (Solomon Report 1906, Report 6, par 68). The two systems, as explained in Marais (1989:133), related to personnel and financial control. Furthermore, the Report recommended that the Civil Service Commission must be assigned the duties of conducting public service examinations, regulating the transfers of the public service personnel and also ensuring that the value of equity was maintained during the promotions of the civil servants (Solomon Report 1906, Report 6, par 68). As already contended above, the recommendations of the Solomon Commission of Enquiry were clearly aimed at ensuring that a stable civil service system was established in the Transvaal Colony.

The Transvaal Government took up the submissions of the Solomon Commission of Enquiry. Its recommendations laid down the premise for the conception of the *Public Service and Pensions Act*, 1908. This Act established a Civil Service Board comprising of three members in the Transvaal in 1908 (Cloete 1990:48; Civil Service List, Transvaal 1909). In the context of the foregoing disquisition, it is submitted that the traditional system of using the Civil Service Commission in the Transvaal public service system originated during the British rule as a result of the recommendations of the Solomon Report of 1906. The Civil Service Commission in the Transvaal did not, however, have a good relationship with the Treasury (Marais 1989: 133). This could be attributed to the fact that the jurisdictions of the foregoing institutions impacted on each other. The Civil Service Commission in the Transvaal Colony ceased to exist in 1910 as a result of a move to unite the British colonies to form the Union of South Africa (*vide* Cloete 1990:48)

5.2.4. **Orange River Colony**

The British annexed the Orange Free State in 1900 and therefore, it became the Orange River Colony. An Administrator governed the Colony until 1902 when the civil government was established (Muller 1977:356). The government of the Orange River Colony consisted of a Governor, Legislative Council and Legislative Assembly. The members of the Legislative Council and Legislative Assembly were appointed, not elected. With the establishment of responsible government in 1907, the Crown

Colony ceased to exist (*Civil Service List*, Orange Free State, 1910:05). A responsible government in the context of the foregoing exposition imply that the members of the Legislative Council and Legislative Assembly were elected than appointed. The Legislative Assembly comprised of 39 members who were elected; whereas Legislative Council consisted of 11 members who, in terms of a draft Bill, were also supposed to be elected. However, a Bill mentioned in the foregoing had not yet been passed. The Executive Council comprising of 5 ministers that were appointed was also established (*Civil Service List*, Orange Free State, 1910:05).

The British annexation of the Orange Free State in 1900 did not usher in significant changes in the public service. Marais (1989:149) explain that the reason for the foregoing could be ascribed to the fact that the Republic of Orange Free State had exceptionally good Presidents in as far as the administration of the public service was concerned. The understanding of public administration by the Presidents of the Orange Free States necessitated formulation of rules and regulations that contributed significantly towards the development of a stable public service system. The Cape civil service system, which in 1900 had already been well established, was used as a model for the restructuring of the Orange Free State public service system. The English public servants from the Cape were also employed in the Orange Free State. Surely, their experience in public administration contributed greatly towards the development of the public service in the Orange Free State. Therefore, after the annexation, the British had nothing to develop in as far as the civil service was concerned. Not even a single legislation on the public service was enacted (Marais 1989:149-150).

The Orange River Colony continued to use the rules and regulations that were formulated before the British occupation (Marais 1989:149). The foregoing exposition implies that the public service of the Orange Free State was on par with the ones established in other British colonies. As contended in sub-sections 5.2.2, 5.2.3 and 5.2.4 above, the ideas of the traditional model of public administration played a significant role in the restructuring of the public service in the British colonies of Cape, Natal and Transvaal. If the Orange Free State public service was not so distinct from its counterparts in the British colonies enumerated in the foregoing, it would therefore mean that it was also ingratiated in the perspectives of the traditional model of public administration.

The above exposition notwithstanding, attempts to enact legislation intended to effect some changes in the public service of the Orange River Colony were initiated in 1907 when the Crown Colony relinquished its power. A Commission of Enquiry under the chairmanship of Brebner was constituted with a brief to look into all aspects of the civil service and make some necessary recommendations (Brebner 1909 as cited in Marais 1989:149). However, the unification of the four British Colonies pre-empted the promulgation of the proposed legislation on the civil service, which, probably, could have made a provision for the establishment of the Civil Service Commission in the public service of the Orange River Colony (*vide* Marais 1989:149). Therefore, in the Orange River Colony, the traditional administrative system using a Civil Service Commission to protect the public service against the political patronage was never instituted. In the following sub-section, the development of the Public Service Commission in the South African public service after the Union of South Africa in 1910 is considered at great length.

5.3. Historical development of the Public Service Commission after the Union of South Africa (1910-1993)

The Union of South Africa was achieved through the unification of the Cape, Natal, Transvaal and Orange River colonies. In the context of this study, the term 'unification' must be understood as the process of bringing together the four British colonies mentioned in the foregoing into one State called South Africa (*vide* Marais 1989:151). The development of the Public Service Commission after the Union in 1910 could be generally categorised into three major historical periods in the history of the South African public administration, namely 1910-1947; 1948-1979 and 1980-1993. The history of the Commission would therefore, in the following sub-sections, be approached in accordance with the historical periods mentioned in the foregoing. To put the history of the South African Public Service Commission from 1910 to 1947 in a proper context, it is important that the political background to the unification and its impact on the public services of the British colonies are also looked at in the sub-sections that follows.

5.3.1. Unification of the British colonies

The idea of a Union of South Africa originated in 1858 when the Afrikaner leaders in the Orange Free State put forth a proposition to the Governor of the Cape, Sir George Grey, that the Orange Free State should be united with the Cape Colony

(Kennedy and Schlosberg 1935:53). Those Afrikaner leaders could not, however, sustain and vigorously pursue the course of unification as they mistrusted the English. The Anglo-Boer War deepened the mistrust and sow further divisions. Consequently, the notion of unification dissipated. It was only after the Anglo-Boer War (1899-1902) when all the former Afrikaner republics were under the British rule that the idea of unification was resuscitated (Marais 1985:24).

The so-called kindergarten strongly campaigned for the actualisation of the notion of bringing together the British Colonies into one state. The kindergarten is a name that was given to the young officials graduated from Oxford whom Milner recruited to assist in the administration of the Transvaal Colony. Marais (1989:131) explains that the members of the kindergarten 'were all enthusiastic imperialists and were of the opinion that the British Empire should extend its influence world wide'. The campaign of the kindergarten for the unification of the British colonies was ostensibly an attempt to propagate the 'imperialist' agenda in South Africa. This is clear in the fact that the former High Commissioners for South Africa, namely Lord Selborne and Milner as well as the kindergarten were of the opinion that the federation should be set up before the Afrikaners could be in charge and therefore dictate matters down to them (Marais 1989: 152).

It appears, however, that the pre-emptive attempts by the British to forge unification as explained above did not actually yield the desired results in that the Afrikaners managed to assume power before the actualisation of the British version of unification. This put the Afrikaner in an advantageous position to proceed unhindered with their course of establishing a union. The Cape, Natal, Transvaal and Orange River Colonies were, in terms of the *South Africa Act*, 1909 (Act 108 of 1909), united and therefore, established as a unitary state with a parliamentary system of government. A parliamentary form of government also referred to as a cabinet system of government, refers to that system of government where the executive branch is part of the legislative branch of government. In essence, the minister or cabinet in a parliamentary system of government controls the Parliament through the parliamentary majority of the political parties (Kennedy and Schlosberg 1935:61; Muller 1977:369; Verloren van Themaat 1967:232-233; Vermooten 1955:84-112).

The government of the Union of South Africa was divided into legislative, executive and judicial authorities. The Parliament comprising of the British King, a Senate and a House of Assembly, was the supreme legislative authority. The Executive Council was basically entrusted with the responsibility of advising the Governor-General on matters that pertains to the government of the Union while the judiciary was given the function of administering justice (*South Africa Act*, 1909 Section 12:139). The unification of the British colonies did not only impact on the structure of government, but also on the public service. In the following sub-sections, the public service after the Union of South Africa in 1910 is looked at with the intention of tracing the development of the Public Service Commission.

5.3.2. **Merging of the public services of the British Colonies**

Marais (1989:189) states that the unification of the British Colonies (Cape, Natal, Transvaal and Orange Free State) also denoted that their public services had to be merged to create a single public service. The new departmental infrastructures that would have augured well with the imperatives of a Union had to be set up; public servants that were considered redundant had to be laid off. It seems, however, that the foregoing did not happen immediately. The reason could be that the *South Africa Act*, 1909 (Act 108 of 1909) (hereafter referred to as the Act 108 of 1909), although it made a provision for the establishment of the Union of South Africa, did not spell out in details the question of the restructuring of the public service. The Act 108 of 1909 was therefore incomplete as it only made general provisions (Cloete 1993:111; Kennedy and Schlosberg 1935:71). As a result, the process of restructuring the public service was relatively delayed as attempts were made to broaden the Act 108 of 1909 by promulgating a variety of Acts that dealt with the question of restructuring the public service (*vide* Marais 1989:191).

The Union of South Africa that officially came into existence on 31 May 1910 used the public service of the Transvaal Colony as an interim public service. The reason for using the Transvaal public service could perhaps be found in Marais contention that it was 'well-established' (Marais 1989:191). As contended in sub-section 5.2.4 above, the Transvaal public service system was embedded in the theory of the traditional model of public administration. The foregoing therefore means that, the South African public service system at the beginning of the Union in 1910 was based on the imperatives of the traditional model of public administration. The public service of the Union of South Africa comprised of 13 departments, 'namely Internal

Affairs, External Affairs, Finance, Public Works, Justice, Agriculture, Mining, Education, Native Affairs, Irrigation, Forestry, Auditor-General and Defence' (Marais 1989:192). The Public Service Commission was also established. The attempts to restructure the public service were only initiated three years after the inception of the Union of South African in 1910. The Restructuring Committee was established in 1913 with a brief to explore the possibilities of creating the public service for the Union. In the following sub-section, attention is now devoted to the establishment and the development of the South African Public Service Commission after the Union of South Africa from 1910-1947.

5.3.3. Establishment and development of the Public Service Commission from 1910 to 1947

As contended in chapter 4, the idea of a public service commission is an intellectual construct of the nineteenth century traditional model of public administration conceived with the intention of maintaining stability in the administration of the public service personnel. In the Union of South Africa, the Public Service Commission was established on 1 August 1912 (Baxter 1984:120-121). The foregoing was in line with the proposition of the National Convention that met in 1908 and 1909 to prepare the draft constitution for the Union of South Africa that the new state (the Union of South Africa) must establish a Public Service Commission. The proposition of the National Convention was crystallised into section 142 of the *South Africa Act*, 1909. This section provided that:

> After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

The *Public Service and Pension Act*, 1912 (Act 29 of 1912), hereafter referred to as Act 29 of 1912, was promulgated to give effect to the constitutional provision cited in the foregoing (Cloete 1990:49). In the following sub-section, the establishment and the development of the South African Public Service Commission in the context of the Act 29 of 1912 is examined. The purpose of the sub-section hereunder is to therefore ensure a full grasp of the evolvement of the Commission from its early periods after the establishment of the Union of South Africa in 1910.

5.3.3.1. Establishment and development of the South African Public Service Commission in terms of the Public Service and Pensions Act, 1912 (Act 29 of 1912)

In terms of the *Public Service and Pension Act*, 1912 (Act 29 of 1912-hereafter referred to as Act 29 of 1912), the Public Service Commission, as conceived by the National Convention, was established for the duration of five years. The Commission comprised of not more than three members and was chaired by Sir Eric Stockenstrom. Section 2(3) of Act 29 of 1912 stated that the functions of the Public Service Commission were to:

- Keep records of all candidates who had passed the Public Service Examinations;
- Make recommendations about appointments and promotions of persons in the administrative and clerical sections;
- Maintain a Civil Service List contained information about the promotions of all officials as well as their salaries;
- Make suggestions about the management of departments and their organisational arrangements;
- Investigate and report on cases of misconduct;
- Making suggestions about the drawing up of regulations;
- Compile an annual report for submission to the Minister of Interior who would then forward it to the Parliament; and
- Execute other functions deemed imperative by the Governor-General (*vide* Section 2(3) of the Public Service and Pension Act 29 of 1912).

Section 2(3)(b) of Act 29 of 1912 limited the powers of the Public Service Commission with regard to the appointment of the staff in the public service. The Commission did not have the authority to appoint the Secretary of a Department, Head of a Provincial Department, and a professionally qualified person to senior position[s]. Since its inception in 1912 the South African Public Service Commission encountered problems in asserting itself in the public service in that its authority, as stated in Brooks (1930:336), was consistently disobeyed. The reason for the foregoing is apparently premised on the fact that the Act 29 of 1912 did not provide measures that could regulate the relations between the Public Service Commission and other government institutions such as the Treasury. The existence of both the

Treasury and the Public Service Commission resulted in what Marais termed a dual control system over the public service (Marais 1989:198).

A dual control system, as explained in Marais (1989:198), refers to situations where the functions of one institution impact directly on the jurisdiction of another institution. For example, the Public Service Commission regulates personnel matters. Its regulatory functions include the creation of departments, restructuring of departments, the creation of new posts and the determination of salaries of the public servants. The execution of these functions would certainly increase the expenditure of government. This would, in turn, impact on the jurisdiction of the Treasury whose function is to control the financial matters of the state. Naturally, the Treasury would always resist to be directed by any public institution with regard to state expenditure. It is therefore important that such dual control system as explained in the foregoing needs to be properly managed. However, the Act 29 of 1912 did not indicate how this system could be managed (*vide* Marais 1989:198).

The Restructuring Committee established in 1913 to look into the development of the public service also did not provide an answer on how the relations between the Treasury and the Public Service Commission could be managed. This resulted in adversarial relations between the Treasury and the Public Service Commission (Marais 1989:191-192,197-199). The Treasury objected to the functioning of the Commission as stipulated in the Act 29 of 1912 (Cloete 1990:49). It argued that the Public Service Commission had no authority at all over financial matters of the state (Wronsley 1982:16). The Provincial Administrations or the former British colonies undermined the authority of the Public Service Commission by continuing with their old practices of creating posts at any time they deem necessary. When the new posts were brought into being, the Treasury, not the Commission, was consulted in order to clear financial implications. The Public Service Commission took a strong exception against the foregoing practice and reported the matter to Parliament (Marais 1989:200). In the following sub-section, the legislative position taken by the Parliament in order to solve the rift between the Treasury and the Public Service Commission is examined.

5.3.3.2. Legislative position of Parliament with regard to the conflict between the Treasury and the Public Service Commission

In 1914 a Parliamentary Select Committee chaired by Patrick Duncan was appointed to look into the issue of the deterioration of relations between the Treasury and the Public Service Commission. The Report of the Committee, which was accepted by the Parliament, contended that the Treasury was the only institution that can exercise control over the public service. Any decision of a state institution that required new expenditure could only be actualised after the approval of the Treasury (Duncan 1914:10). The Report of the Duncan Select Committee was apparently used in formulating the amendments to Act 29 of 1912 which, according to Cloete (1990:49), took away some of the powers of the Commission.

The Public Service Commission was reduced to just a mere advisory body. This is clear in section 7 of the *Public Service and Pension Act*, 1916 (Act 39 of 1916) that stated that when officials were promoted, the Public Service Commission could be consulted so that it could state its view. This, however, did not mean that whatever had been decided upon could be changed to concur with the view of the Commission. The Governor-General, irrespective of what the views of the Commission were, would continue to execute [his] own resolutions. The chairperson of the Commission who, seemingly, was angered by what appeared a contemptuous treatment of the Commission relinquished [his] position and therefore, only two members were left. The position of the chairperson was intently not filled (*vide* Civil Service Commission Act, 15 of 1915).

The government enacted legislation to the effect that the Commission would comprise of only two members (*vide* Civil Service Commission Act, 15 of 1915). Apart from the foregoing arrangements, the Public Service Commission continued to encounter problems. The functions that were executed by the Commission during the time that it did not have a chairman were considered *ultra vires* (Brooks 1930:18). Ostensibly, the foregoing spurred the appointment of the Graham Commission of Inquiry in 1918. The Report of the Graham Commission appointed with a brief of looking into the problems that beset the public service came with recommendations that impacted directly on the Commission. The impact of the 1918 Report of the Graham Commission of Inquiry on the South African Public Service Commission is hereunder examined.

5.3.3.3. Impact of the 1918 Report of the Graham Commission of Inquiry on the South African Public Service Commission

As indicated in sub-sections 5.3.3 above, the Graham Commission of Inquiry was appointed in 1918 to research all the problems that beset the public service and, inferring from its findings, the Public Service Commission was glaringly part of the problem. The Report of the Graham Commission hereafter referred to as the Report of 1918, found that a lack of integrated approach over the control of the public service was the cause of contrariety among the controlling institutions. The other anomalies abounding in the South African public service the Graham Commission of Inquiry pointed out in the Report of 1918 were the circumvention of the responsibilities, repetition of functions, inefficiency and disbursement of state money on insignificant things (*vide* the Report of the Graham Commission of Inquiry 1918, par. 30-32).

The Report of the Graham Commission of 1918 further raised a concern about the fact that the recommendations of a 'capable body' as the Public Service Commission were ignored, disallowed and even changed by persons and institutions that did not even have sufficient knowledge of personnel matters. In view of the foregoing, the Report of 1918 recommended that the existing Public Service Commission be disbanded and a new Public Service Commission bestowed with appropriate authority be established (*vide* the Report of the Graham Commission of Inquiry 1918: par. 30-32). The recommendations of the Graham Commission were used as a basis for the formulation of the *Public Service and Pensions Act*, 1923 (Act 27 of 1923) which repealed the *Public Service and Pension Act*, 1912 (Act 29 of 1912).

The *Public Service and Pension Act*, 1923 (Act 27 of 1923), hereafter referred to as the Act 27 of 1923, established the Public Service Commission comprising of three members. In terms of Act 27 of 1923, the Commission was granted more authority over personnel matters (Cloete 1990:49). On the relationship between the Public Service Commission and other controlling institutions such as the Treasury the Act 27 of 1923 was vague. This obscurity was demystified in the Financial Regulations issued in terms of Act 27 of 1923 and published in 1926. These Financial Regulations provided that the Treasury approval should first be sought for the expenses that might be incurred relating to the establishment or creation of posts, salaries of the public servants, travel and subsistence allowances and other payments to public servants (Wronsley 1982:17).

Apart from the fact that there were some few conflicts that involved the Heads of Departments, the Public Service Commission and the Treasury functioned relatively well for a considerable time (Cloete 1990:50). The *Public Service and Pension Amendment Act*, 1936 (Act 36 of 1936), hereafter referred to as Act 36 of 1936, amended Act 27 of 1923. This amendment Act 36 of 1936 extended the powers of the Commission. The conferment of more powers to the Commission could clearly be seen in section 13 (1) of Act 36 of 1936. This section stated that the Governor-General's directive with regard to the salaries and payments of the public servants could only be made on the recommendations of the Public Service Commission.

In 1937 the conflict between the Treasury and the Public Service Commission recurred. The Treasury had disapproved the recommendations of the Public Service Commission that certain salaries of the public servants should be increased. Supposedly, as pre-emptive measure to curb yet another polarisation of relations between the Treasury and the Public Service Commission the Treasury was enjoined not to jettison the recommendations of the Commissions that involved salaries and payments. The attempts were, however, made in 1939 to reverse the foregoing arrangements. It was proposed that all the recommendations of the Commission that involved the expenditure of the state should be subjected to Treasury approval. This suggestion was vehemently rejected and it was eventually withdrawn (Centlivres, Fifth Report 1947:02). Further attempts of government to establish a viable Public Service Commission system are hereunder examined.

5.3.3.4. Report of the Centlivres Commission on the Public Service Commission

The Centlivres Commission of Inquiry was set up in 1947 and its brief was to help the government in its endeavours to establish a viable Public Service Commission system. The Report of the Centlivres Commission, hereafter referred to as the Report of 1947, candidly avowed that it was the purpose of the Public Service Commission to make recommendations on personnel matters in relations to salaries and creation of new posts (Centlivres, Fifth Report 1947, par. 71-74). The change of government in 1948 as a result of the National Party assumption of power delayed the official decision on the propositions of the Centlivres Commission of Inquiry. The development of the South African Public Service Commission during the National Party rule from 1948 to 1979 is hereunder considered in great detail.

5.3.4. Development of the South African Public Service Commission during the period 1948 - 1979

The National Party government considered the 1947 Report of the Centlivres Commission of Inquiry in 1957 and accorded it an official recognition. The recommendations contained in the Report of 1947 were crystallised and incorporated in the *Public Service Act*, 1957 (Act 54 of 1957). The *Public Service Act*, 1957 (Act 54 of 1957), hereafter referred to as Act 54 of 1957, repealed the *Public Service and Pension Amendment Act*, 1936 (Act 36 of 1936). Act 54 of 1957 enhanced the position of the Public Service Commission in the South African public service. The Ministers and Provincial Administrators were enjoined to implement the recommendations of the Public Service Commission (*vide* Cloete 1990:51-52; Marais 1989:202-203).

The arrangement that the Public Service Commission must not commit the finances of the state without prior approval of the Treasury formed part of Act 54 of 1957. With the promulgation of the *Exchequer and Audit Act*, 1975 (Act 6 of 1975), Financial Regulations and Treasury Instructions, this principle remained unchanged (Wronsley 1982:17). Apart from the enactment made to regulate the relationship between the Public Service Commission and the Treasury, the cordial relations that prevailed seem to have emanated as a result of the gentleman's agreements. The solution of the foregoing conflict did not mean that the Commission was free from other problems. In fact, the politicisation of the public service, hereunder looked at, came out as another problem during the apartheid era as it compromised and besmirched the integrity of the South African Public Service Commission.

5.3.4.1. Policy of apartheid and the South African Public Service Commission

Woodrow Wilson asserted that the field of administration is far 'removed from the hurry and strife of politics' (Wilson in Shafritz and Hyde 1992:18). This assertion form part of the fundamental principles of the traditional model of public administration. The antithesis of the foregoing, however, occurred in South Africa. The politicisation of the public service came out as another problem that compromised and besmirched the independent integrity of the South African Public Service Commission. Since the National Party assumed power in 1948 the South African public service became undiscernibly politicised (Maphai 1992:72). It introduced the policy of apartheid that protected the white labour market. The South

African public service was used to alleviate the 'poor white' problem. Whites who could not make it in the private sectors were appointed in the public service without due regard to the value of merit (Mokgoro 1994:121). The foregoing clearly reneged on the principles of the traditional model of public administration that the public service must be permanently staffed by officials appointed on the basis of merit (*vide* chapter 4 sub-section 4.3 page 95-105 for a detailed disquisition on the traditional model of public administration).

The National Party administration was reminiscent of the eighteenth century patronage system that preponderated over the British and the American civil service systems (*vide* chapter 2 and 3 as well as sub-section 4.2.1.2 in chapter 4 page 85-87 of the study for the meaning of patronage system). In South Africa the Afrikaner-dominated public service which, according to Marais (1989:204-205), advanced the ideology of the National Party rather than government functions, developed. Consequently, the South African public service was associated with the National Party government. The inclination of the public service to the National Party ideology of apartheid impacted perniciously on the independence and impartiality of the South African Public Service Commission (Cloete 1995:194).

Cloete (1995:194) further explains that the South African Public Service Commission failed to maintain a politically neutral public service system. Public service neutrality is one of the fundamental principles of the traditional model of public administration (*vide* Hughes 1994:23; Kernaghan 1976: 433). The South African Public Service Commission was politically enervated and as a result, labelled apartheid bureaucracy established to consolidate the Afrikaner citadel in the South African public service (*vide* Cloete 1995:194). The South African public service system during the National Party rule had the problem of legitimacy, as the majority of the citizens did not identify themselves with it. This obviously impacted on its efficiency in the delivery of the public services. As from the early eighties, a variety of attempts aimed at the public service reforms in South Africa were consistently pursued. The reform efforts of the eighties and early nineties constitutes, for the purpose of this study, another important historical period in the development of the public service, namely the period 1980-1993. The South African Public Service Commission is, in the context of the development of the public service in the period mentioned in the foregoing, hereunder researched:

5.3.5. Development of the South African Public Service Commission during the period 1980-1993

The officials of the Public Service Commission in 1980 were assigned the task of undertaking a probe on ways and means of improving the South African public service system. The findings of the Commission were used as a basis for the formulation of the *White Paper on the Rationalisation of the Public Service and other Related Institutions* in 1980, hereafter referred to as the White Paper of 1980. The National Party government embarked on a programme of rationalising the public service and other related institutions such as the state corporations. The objective of the 1980 public service rationalisation programme was to 'place the central administration on a basis that will be able to function efficiently in any set of circumstances and will be manned by an adequate and competent body of staff' (White Paper on the Rationalisation of the Public Service and other Related Institutions 1980:03-04). The White Paper of 1980 necessitated a paradigm shift from fragmented to a more unified public service system. This is glaringly the basis for Marais (1989:292) contention that the rationalisation of the public service in the 1980s 'did not imply the integration of existing departments; it merely meant combining departments into larger groups, that is conglomerations were formed'.

A shift in terms of thinking towards unity did not, however, imply a new theoretical paradigm in the South African public service system. The traditional model of public administration remained the fundamental theoretical thrust for the rationalisation of the public service in 1980. Marais (1989:292) contend that the above rationalisation programme originated from the 'total onslaught philosophy, later called total strategy'. Sifting through the imperatives of the 'total strategy', it is clear that the intention of the National Party government was to ensure that it remains in total control of all levers of government. A quest for total control, particularly in the public service, validates the contention raised above that the rationalisation of the public service in 1980 was imbedded in the theoretical imperatives of the traditional model of public administration. Control-orientated public service system is characteristics of the theory of the traditional model of public administration.

The rationalisation programme of 1980 ushered in a highly centralised personnel system in the South African public service. This had a direct impact on the Public Service Commission established in terms of the *Public Service Act*, 1957 (Act 54 of 1957), hereafter referred to as Act 54 of 1957. The jurisdiction and functions of the

Commission had to be expanded so that it could be in a position to contend with voluminous work arising as a result of the centralisation of the administration of the public service personnel. Arguably, the foregoing state of affairs necessitated the formulation of the *Commission for Administration Act*, 1984 (Act 65 of 1984), hereafter referred to as Act 65 of 1984. Act 65 of 1984, promulgated on 23 May 1984, effected necessary amendments to Act 54 of 1957. It changed the name of the Commission from the Public Service Commission to Commission for Administration. According to Wessels (1997:On-Line), the changing of the name of the Commission demonstrated the broadening of the sphere of its jurisdiction and functions in the South African public service. Cameron and Stone (1995:16) collaborated Wessels' observation in the contention that 'the Commission for Administration controlled all service conditions of central and provincial administrative personnel'.

In August 1984 the *Public Service Act*, 1984 (Act 111 of 1984), hereafter referred to as Act 111 of 1984, repealed Act 54 of 1957. Act 65 of 1984 and Act 111 of 1984 maintained the position of the Commission for Administration in the South African public service. These Acts of Parliament further made a provision for the creation of the Commissions for Administration in self-governing territories created as part of the apartheid regime grand plan of separate of development. The focus of this study is, however, restricted to the Commission for Administration at the central level of government. Section 2 of Act 65 of 1984 made a provision for the Commission for Administration comprising of no more than three members. The President appointed the members of the Commission and also designated one member as its chairperson. Section 2(3) of Act 65 of 1984 directed that when members of the Commission were appointed, due regard should be paid to the knowledge and experience of the candidates in public administration. The members of the Commission were appointed for a period of five years, not as members of the public service. They occupied statutory positions. It was only the State President who could suspend or remove a member of the Commission from office on account of misconduct, unfitness for duty or reason that would promote efficiency in the public service.

On 22 December 1993 the last tricameral Parliament in South Africa adopted the *Constitution of the Republic of South Africa Act,* 1993 (Act 200 of 1993), hereafter referred to as the Interim Constitution of 1993. The adoption of the Interim Constitution of 1993 did not, however, effectively nullify the public service system existing during that time. The reason for the foregoing is that the Interim

Constitution of 1993 only came into effect on 27 April 1994. The Commission for Administration therefore continued to exist in terms of Act 65 of 1984 and Act 111 of 1984 during the period ending in 1993. Indeed, section 238 of the Interim Constitution of 1993 made a provision that the Commission for Administration should continue to function and its chairperson and members should also remain in office according to the laws regulating their appointments until new members of the Commission were appointed. In addition, section 210(2) of the Constitution of 1993 provided that the legislation that regulated the functioning of the Commission at the time of its inception shall remain in force until amended or repealed by legislation. Therefore, for at least the period ending in 1993, the Commission for Administration continued to exist as established in terms of Act 65 of 1984 and Act 111 of 1984.

Thus far, the historical development of the South African Public Service Commission from 1847-1993 has been discussed. It is on the basis of the above historical disquisition that the focus is now turned to the intention of this chapter as clearly articulated in sub-section 5.1 above, namely the analysis of the role of the South African Public Service Commission during the period 1990-1993. The logic behind the inception of this chapter with the history of the Commission in South Africa is, as pointed out in sub-section 5.1 above, premised on the contention that its changing role could be lucidly fathomed in the historical context from which it evolved. In the following sub-sections, the role of the Commission is described and analysed within the theoretical context of the traditional model of public administration. The *categorical system* developed in chapter 4 as an analytical instrument is, within the theoretical context of the traditional model of public administration alluded to in the foregoing, used to analyse the role of the Commission in South Africa between the period 1990-1993.

5.4. Role of the South African Public Service Commission during the period 1990-1993

The Public Service Commission in South Africa was, since its inception in 1912 till 1993, assigned the role of being the custodian of merit and efficiency principles in the public service (*vide* Sangweni 1997:37). It had to play a critical role of ensuring that the public service was immune from the political dictates of the executive authority on matters relating to appointments, promotions, terminations of service and discipline of public servants. The Commission had to safeguard the merit

principle and purge nepotism or patronage by ensuring that the set procedures in the execution of the personnel functions mentioned in the foregoing were adhered to. It had to cushion the public servants from unfair dismissals and arbitrary political abuse by making sure that the public servants would only be disciplined and dismissed for reasons of misconduct or incompetence (*vide* Baxter 1984:120-121; Muthien 1997:07).

The role of the Commission in South Africa as explained above was ingratiated in the imperatives of the traditional model of public administration, which preponderated in most western countries during the nineteenth century. Its conception was spurred by a quest for stability in the public service (*vide* Hughes 1994:23; Northcote-Trevelyan Report of 1853 in Reader 1981:75-93; Robbins 1990: 308-327;Wilson 1887:197-222). Various Acts of Parliament determined and regulated the role of the Commission in South Africa. Yet, its role from 1912 to 1993 remained relatively the same (*vide* Public Service and Pension Act 29 of 1912; Public Service and Pension Act 39 of 1916; Civil Service Commission Act 15 of 1915; Public Service and Pension Act 27 of 1923; Public Service Act 54 of 1957; Exchequer and Audit Act 6 of 1975; Commission for Administration Act 65 of 1984 and Public Service Act 111 of 1984). The foregoing therefore means that since its inception after the Union in 1912 till 1993, the role of the Commission were ingratiated in the imperatives of the nineteenth century traditional model of public administration.

As indicated above, the scope of this chapter is limited to the period 1990-1993. Therefore, reference is, for descriptive and analytical purposes, only made to the Acts that determined and regulated the role of the Commission during the period 1990-1993. Inferring from the disquisition in sub-section 5.3.5 above, Act 65 of 1984 and Act 111 of 1984 determined the role of the Commission in the South African public service system during the period under review. These two Acts of Parliament are therefore referred to in describing the role of the Commission in the following sub-section.

5.4.1. Role of the Commission for Administration as determined in the Commission for Administration Act, 1984(Act 65 of 1984), and Public Service Act, 1984(Act 111 of 1984)

Sections 7 and 8 of Act 65 of 1984 and sections 3, 4 and 5 of Act 111 of 1984 determined the powers, functions and duties of the Commission for Administration. Sifting through the provisions of the sections mentioned in the foregoing, it is clear that the role of the Commission in the South African public service during the period 1990-1993 was three-fold dimensional. The Commission could recommend, direct and advise. Section 3(2) of Act 111 of 1984 provided that the Commission may make recommendations regarding:

- the creation or abolition of departments, sub-departments, branches, offices or institutions, the transfer of functions from one department to another or from a department to any other body or from any other body to a department;
- control, organisation and readjustment of departments, sub-departments, branches, offices or institutions;
- the number, grading, regarding designation, re-designation or conversion of posts on fixed establishment;
- the number of people to be employed temporarily or under special contract on a full-time or part-time basis;
- the employment of officers in posts graded lower or higher than their own grade;
- the promotion of efficiency and economy in the administration of departments, sub-departments, branches, offices, and institutions by means of improved organisation methods, procedures and supervision;
- the salary scales, wages and allowances for all classes and grades of officers and employees;
- the persons to be appointed and promoted to the positions in the A division of the public service;
- the grievances of the officers; and
- the promulgation or amendment of regulations in respect of the promotions, transfer, discipline, conduct, duties, hours of attendance, and other related personnel matters.

The recommendations of the Commission for Administration in respect of the matters listed above were made to the ministers and provincial administrators. Sifting through section 4 of Act 111 of 1984, it is clear that the recommendations of the Commission duly conveyed to the ministers and provincial administrators were

mandatory as they had to be carried out within six calendar months unless withdrawn, amended or turned down. The recommendations of the Commission that involved public expenditure had to be first cleared with the Treasury before they could be carried out. The State President had the authority to accept, change or reject the recommendations of the Commission. Act 111 of 1984 prescribed that the amendment of the recommendations of the Commission by the State President had to be made within six calendar months after they had been put forth. The Commission for Administration could also withdraw or amend its recommendations that the State President did not change within the period of six calendar months. Section 4 of Act 111 of 1984 prescribed the procedure to be followed in amending or withdrawing the recommendations of the Commission. Such procedure was, before the promulgation of Act 111 of 1984, stipulated in Act 54 of 1957. Cloete (1990:55) observe that the State President turned down only few recommendations of the Commission.

In addition to the function of making recommendations on matters of government organisation and public personnel administration, section 3(3) of Act 111 of 1984 provided that the Commission may give directions regarding:

- the age, educational, language and other qualifications to be possessed by persons on appointment, transfer or promotion in or to the public service, where those qualifications are not prescribed in the legislation;

- the classes of posts and positions in respect of which, the circumstances under which and the conditions on which a minister or an administrator has delegated the power of appointment, transfer or promotion, may require qualifications other than those contemplated in the foregoing;

- the requirements with which the condition of health of a person shall comply before he may be appointed as an officer;

- the security requirements, when considered necessary, with which officers and employees have to comply; and

- the training which officers and employees have to undergo.

The power of the Commission to recommend and direct was not confined only to matters listed above. According to section 3(1) of Act 111 of 1984, the Commission for Administration could make recommendations or give directions on other matters not specified in the Act or any other law. The other important function of the

Commission provided in section 7(3) of Act 65 of 1984 was to offer specialised advise on:

- the employment, remuneration or other conditions of service of functionaries whose remuneration or allowances derive wholly or partially from money appropriated by Parliament;
- the employment of persons in a department in terms of any law other than the Public Service Act;
- the employment of staff or the remuneration and other conditions of services of the staff or the office-bearers of councils, institutions or other bodies which were not, in terms of section 24 of the Republic of South Africa Constitution Act, 1983(Act 110 of 1983); and
- any other matter in respect of such functionaries, persons, councils, institutions or bodies in respect of which any power, function or duty has under any law been conferred upon, entrusted to or imposed upon the State President or the minister concerned or another minister, which the State President or such minister may refer to the Commission.

Act 65 of 1984, however, barred the Commission for Administration from performing advisory functions in respect of matters listed above on its own initiative. This means that the Commission could only advise if the State President so directed or at the request of the government of the day. The ministers could seek the advise of the Commission on issues pertaining to the country's administrative system either individually or collectively, as the cabinet. The implementation of the advise of the Commission depended entirely on the discretion of the ministers or the cabinet. Apart from the functions of making recommendations, giving directions and advises, section 3(4) of Act 111 of 1984 further assigned the Commission the functions of :

- keeping a record of officers employed in posts in the A-division;
- inquiring into the grievances of officers and employees and, subject to the provisions of this Act, shall make such recommendations thereon as it may think fit;
- providing, if it deemed necessary, training or cause training to be provided or conduct examinations or tests or cause examinations or tests to be conducted, as it may direct or as may be prescribed as a qualification for the appointment, promotion or transfer of persons in or to the public service;
- issuing directives which are not contrary to this Act to elucidate or supplement any regulations; and
- making recommendation regarding the establishment or operation of, but excluding the management of and control over, any pension, housing or other scheme which is or will be a

condition of service of officers and employees, but which has not or will not be established by or under this Act.

To enable the Commission to carry out its statutory mandate, section 5(1) of Act 111 of 1984 granted it the power to inspect the state departments. The Commission, in carrying out its inspection function, could access official documents and obtain any information required. It had the power to summon the heads of departments, other officers and employees or other persons in the service of departments to give an account on any matter deemed necessary for inspection purposes. The Commission was further, in terms of section 8(1) of Act 65 of 1984, empowered to conduct an inquiry on any matter that has a bearing on the administration of the public service. The Commission could summon any person whom it is believed to be in possession of any information or material that has a bearing on the subject of inquiry. Any person who, without justifiable ground, failed to honour the summons of the Commission or withheld information was guilty of an offence and could be liable upon conviction to a fine not exceeding R600.

Section 10(1) of Act 65 of 1984 provided that at the end of each year the Commission must compile a report on matters that have been dealt with during the year. The Commission could also, if deemed necessary, compile special reports. Every report of the Commission had to be submitted to the President. Upon receipt of the report of the Commission, the President was, in terms of section 10(2), required to table it in Parliament within seven days and if the Parliament was not in session, 'within seven days after the commencement of its next ensuing session'. The legislative requirement that the annual report of the Commission should be submitted to the President raises the critical question of whether the Commission was accountable to the head of state or Parliament. With the foregoing legislative arrangement, the Commission run the gauntlet of being susceptible to political manipulations likely to compromise its independence in the public service.

The powers, duties and functions of the Commission as provided in Act 65 of 1984 and Act 111 of 1984 thus far described could be divided into two main areas, namely government organisation and public personnel administration. In respect of the foregoing areas of its focus, the Commission could direct, advise or recommend. The powers, duties and functions of the Commission as stipulated in Act 65 of 1984 and Act 111 of 1984 were couched in a manner intended to maintain public service

neutrality and stability. The principles of merit and efficiency underpinned the *modus operandi* of the Commission in the public service. As contended in sub-section 4.3, the questions of public service neutrality and merit are the fundamental imperatives of the traditional model of public administration. It is therefore contended that the role of the Commission during the period 1990-1993 in South Africa was ingratiated in the imperatives of the traditional model of public administration. For analytical purposes, the powers, functions and duties of the Commission for Administration as determined in Act 65 of 1984 and Act 111 of 1984 are, according to the *categorical system* of its responsibilities developed in chapter 4 as an analytical instrument, classified into 'influence', 'research' and 'administration' categories. In respect of each category alluded to in the foregoing, the powers, duties and functions of the Commission are hereunder analysed.

5.4.1.1. Influence category of the responsibilities of the Commission for Administration during the period 1990-1993

As explained in chapter 4 sub-section 4.3.4.1.1 page 108-109, the influence category of the responsibilities of the Commission refers to all powers and functions of the Commission, which, when they are exercised and carried out, exert an effect on the operating departments. The Commission in South Africa during the period 1990-1993 was, indeed, assigned the powers and functions that fall under the influence category. This much is glaringly clear in Act 65 of 1984 and Act 111 of 1984 that granted the Commission 'supra-departmental power' to regulate the business of the operating departments (Cloete 1990:60). Such huge amount of power was important for the purpose of enabling the Commission to achieve its strategic objective of protecting the public service from the scourge of political patronage. The Commission had the power to inspect and inquire into administrations of the operating departments to ensure compliance with its recommendations on various matters as determined in Act 65 of 1984 and Act 111 of 1984.

The recommendations of the Commission were mandatory in nature. They had to be carried out by the operating departments within the period of six months unless they involved public expenditure, rejected by the President, withdrawn or varied by the Commission itself. This means that recommendations of the Commission had a special meaning and therefore, should not be fathomed in their conventional sense. The special meaning of the recommendations of the Commission was ingrained in their obligatory nature as they 'had to be carried out' by the operating departments

unless the circumstances mentioned in the foregoing existed. The recommendations of the Commission were therefore rather the question of a 'must', not 'take it or leave it' (*vide* Annual Report of the Public Service Commission 1994:03; Muthien 1997:09). Muthien (1997:07) states that if the executive authority disregards the recommendations or directives of the Commission without any justifiable ground a binding legal recourse could be sought.

The above exposition demonstrates the extent of power the Commission in South Africa had in the public service. With such amount of power, the Commission had the capacity to influence the functioning of the operating departments. In juxtaposition with its counterparts in Britain and other Commonwealth countries like Nigeria, India, Zimbabwe, Zambia and Namibia, the Commission for Administration had too much power in more functional competencies (*vide* Muthien 1997:07; Wessels 1995:118). The wide-ranging power of the Commission in South Africa could be compared with those the *Pendleton Act* of 1883 assigned to the American Civil Service Commission in the nineteenth century (*vide* Fourgere 1967:17; Loverd and Pavlak 1995:11; Mosher 1968:70-71).

Commensurate to its wide-ranging power, the Commission in South Africa, like its American counterpart, was entrusted with so many functions. It was assigned policy-making, executive and monitoring functions. The operational domain of the Commission involved the formulation of broad policy directives on a variety of issues and control of the implementation of functions on a broad ranging spectrum of personnel practices (Wessels 1990:51; Wessels 1995:18). In terms of the *categorical system* of the responsibilities of the Commission used in this context as analytical instrument, the powers and functions of the Commission in South Africa enumerated in the foregoing fall under the influence category.

The Commission determined broad policy frameworks within which the management of the operating departments had to take place. This was, according to the *Annual Report of the Commission for Administration* (1990:07-10), in line with the philosophy of devolution of power the Commission pursued in the early nineties. The policy of maximum devolution of power sought to assign heads of departments with maximum authority in terms of their organisation, posts, personnel and equipments. The objective was to create an environment where managers could be in a position to manage their departments in an effective and efficient way. A document entitled

'Guidelines for the Administration of the Public Service', which was approved by the Cabinet in 1990, accentuated the concept of greater managerial autonomy of the operating departments in the South African public service system.

Notwithstanding the foregoing exposition, it appears that only matters of triviality were delegated to the state departments. As far as more important matters were concerned, the Commission fully retained its function of control. The foregoing is authenticated in Cameron and Stone (1995:16) observation that the Commission controlled 'all service conditions of central and provincial administrative personnel'. Therefore, administration of the South African public service personnel, in all intent and purposes in the early nineties, remained highly centralised. The notion of 'greater managerial autonomy' referred to above was, in the realm of public service personnel administration, just an ideal than practice. The Commission, operating at the central point, continued to exercise full control over the personnel matters of the state department that fall within its jurisdiction. The centralisation of the public service personnel system could, however, be necessary in maintaining uniformity in terms of personnel practices and application of rules.

The power of the Commission to control personnel matters of other government institutions is a clear manifestation that it executed the roles and functions that were influential in nature in the South African public service during the period 1990-1993 (*vide* Annual Reports of the Commission for Administration 1990, 1991, 1992 & 1993). However, the influential roles and functions of the Commission encountered vehement demur in the public service. Cloete (1990:62) observe that 'the Commission did not take a lead in public personnel administration and was merely tolerated by the heads of state departments and ministers'. Its recommendations and policies were perceived among the members of the public service as more of interference in the day to day running of the state departments. The control-orientated role of the Commission stifled innovations in the administration of the operating departments as they were often subjected to its cumbersome policies (*vide* Wessels and Viljoen 1992a:16).

The influential roles and functions of the Commission were couched in a negative manner, therefore creating the misconception that efficiency and effectiveness in the public service could be achieved if nepotism and victimisation were eradicated. Over-concentration of the Commission on the protection and control of officials obscured

its fundamental purpose of being the custodian of the merit and efficiency principles in the public service. The rules and regulations of the Commission protected all and sundry, including the corrupt and ineffective officials, instead of focussing on the inculcation of a culture of excellence in the public service (*vide* Cloete 1990:60-64; 1996:170). Some members of the public service lost faith/confidence in the Commission's competency to maintain the principles of merit and efficiency in the public service as a result of its glaring 'expediency to political office-bearers' (Wessels and Viljoen 1992a:16).

Act 65 of 1984 and Act 111 of 1984 granted the State President so much power over the functioning of the Commission. For instance, the State President could, as indicated above, accept, vary or reject the recommendations of the Commission. Incontrovertibly, the foregoing arrangement exposed the Commission to political manipulations. The Commission for Administration, during the period 1990-1993, carried out its influential roles and functions in the South African public service in accordance with the dictates of the imperatives of apartheid. It was politically enervated and, therefore failed to maintain a neutral public service system. As a result, the Commission was branded apartheid bureaucracy established to consolidate the Afrikaner citadel in the South African public service (Cloete 1995:194).

In the context of the analytical disquisition provided in the foregoing, it is submitted that the Commission for Administration during the period 1990-1993 was assigned wide-ranging powers. Proportionate to its wide-ranging powers, the Commission was assigned too many functions that were influential in nature. Its role in the public service was therefore influential in character. However, the influential role of the Commission in the public service had a negative effect on the functioning of the operating departments during the period under review. The sub-section hereunder continues with analysis of the roles and functions of the Commission on the basis of research function as its other important responsibility in terms of the *categorical system* used as an analytical instrument in this study.

5.4.1.2. **Research category of the responsibilities of the Commission for Administration during the period 1990-1993**

Analysis of Act 65 of 1984 and Act 111 of 1984 indicate that research was not explicitly mentioned as part of the function of the Commission for Administration in

South Africa. The foregoing could perhaps be fathomed within the historical background that, 'until recently, no scientific research on public personnel administration was undertaken in South Africa' (Cloete 1990:224). The Commissions of Inquiry or Committees often carried out investigations on *ad hoc* basis regarding a variety of issues on the administration of the public service. The investigations carried out by the Commissions of Enquiry and Committees could not, however, be regarded as scientific research. They were more of a fact-finding exercise. As indicated above, research is a systematic collection, analysis and interpretation of data. It is distinct from fact-finding exercise on the basis of its epistemological, methodological, sociological and ontological dimensions (Mouton 1996:28-32, 35, 41-45, 46).

Cloete (1990:224) observed that it was only after the creation of the National Institute of Personnel Research and Human Sciences Research Council that research in public personnel administration could be conducted. The Commission for Administration depended on the Human Sciences Research Council's Public Administration Division for research on matters related to the administration of the public service. The reliance of the Commission for Administration on the Human Science Research Council, hereafter referred to as Council, did not necessarily mean that the Commission during the period 1990-1993 wholly abdicated itself from the activities related to research. In fact, in 1993 the Commission was engaged in the scientific analysis of government functions with a view to align them within the context of the envisaged Transitional Constitution. The Transitional Constitution was approved and 'adopted by the last tricameral government in South Africa on 22 December 1993 as the *Constitution of the Republic of South Africa Act*, 1993 (Act 200 of 1993). The scientific approach of the Commission to the 'redeployment of government functions' so that they could be in harmony with the Transitional Constitution' exemplify that the Commission was, albeit in a very limited way, involved in the functions related to research (Annual Report of the Commission for Administration 1994:11).

In the context of the above analytical disquisition, it is advanced that the South African Public Service Commission during the period 1990-1993 did not perform the research function. The Commission was, however, involved in activities related to research function. The fact that the Commission in South Africa did not carry out the function of research in respect of matters of public personnel administration and

organisation of the public service is inconceivable as there was glaringly a need for it. The Commission could not just only depend on the Human Science Research Council because the research focus of the Council on matters of governance was not necessarily confined to its areas of jurisdiction in the administration of the public service as determined in Act 65 of 1984 and Act 111 of 1984, *namely personnel* administration and organisation of the public service. The research scope of the Council on matters of public administration was so huge. The Council conducted research on a variety of matters of public administration that did not necessarily befit the specific mandate of the Commission.

Furthermore, it is important to point out that the Council was not, in terms of its founding legislation, accountable to the Commission in as far as research on matters of public personnel administration were concerned. Therefore, it was important that the Commission should have also carried out, on continuous basis, the function of research in areas of public personnel administration and organisation of the public service. This could have ensured that the recommendations, directives and advises of the Commission on critical aspects of public personnel administration and organisation of the public service were always based on scientific information. The disquisition hereunder continue to analyse the roles and functions of the Commission *during the period* 1990-1993 on the basis of the third category of its responsibility in terms of the *categorical system* of its responsibilities, namely administration category.

5.4.1.3. Administration category of the responsibilities of the Commission for Administration during the period 1990-1993

Analysis of Act 65 of 1984 and Act 111 of 1984 indicate that the Commission in South Africa during the period 1990-1993 was, in addition to its influential roles and functions, assigned the responsibilities that were administrative in nature. The functions of the Commission that were administrative in nature as described in sub-section 5.4.1 above included *inter alia*:

- Keeping of record of all officers in the A-Division.
- Conducting of examinations in such subjects as it may deem necessary.
- Compiling of annual report on matters dealt within particular year for submission to Parliament.

Cloete (1990:55) further observe that the Commission conducted and administered the merit rating system that was very complicated. The Commission was also involved in day-to-day administration of the state departments. It recruited, trained, and utilised staff in the public service. The Commission was also charged with the maintenance of discipline, promotion of sound labour relations, proper use and care of state property, saving in government expenditure, establishment and administration of drought aids schemes (*vide* Sangweni 1997:37; Wessels 1990:51). Some of the foregoing tasks/functions were assigned to the Commission on *ad hoc* basis and they, glaringly, exceeded its formal administrative domain in that they fall within the functional competencies of other state departments. The functions/tasks of the Commission mentioned in the foregoing could have been properly handled had they been assigned to independent establishments or state departments.

In view of the above exposition, it is contended that the Commission in South Africa during the period 1990-1993 was concentrated with huge amount of the responsibilities that fall under the **administration** category. The huge amount of the administration functions assigned to the Commission posed a danger of obscuring its focus on the strategic objective of promoting the principles of merit and efficiency in the public service. Some of the administrative functions of the Commission were too routine and trivial, but likely to squander much time the Commission needed to achieve its strategic objective alluded to in the foregoing. According to Nigro (1951:207), the responsibilities of the Commission falling under the **administration** category are not as important as those falling under **influence** and **research** categories. As indicated in chapter 4 sub-section 4.3.4.1.3 page 110, the foregoing contention notwithstanding, the responsibilities of the Commission falling under the **administration** category are equally important as other functions falling under **influence** and **research** categories respectively. Without the administration functions being carried out, the Commission would not effectively accomplish its strategic objective.

For the Commission for Administration to undertake 'the great volume of administrative and clerical work' assigned to it (Cloete 1990:57), the Office of the Commission was created in terms of section 9 of Act 65 of 1984. The Office of the Commission comprised of the Director-General as its administrative head, Deputy Director-General and other officials. The Office of the Commission for Administration, for the purpose of the application of Act 111 of 1984, had the status of a state

department. The officials of the Office of the Commission were appointed and regulated in terms of Act 111 of 1984. The Office of the Commission was structured into five chief directorates and six directorates. The general objectives of the Office of the Commission for Administration were as follows:

- To promote rational grouping and organising of functions with a view to developing a basis for optimal rendering of services using available resources.

- To create and maintain personnel dispensations and measures to form a basis for adequate recruiting and retaining of the necessary calibre of personnel for the public service; an acceptable standard of personnel satisfaction; and administrative efficaciousness through simplification of systems and measures.

- To promote the maximum devolution of powers to departments with regard to organisation, posts and personnel on a basis compatible with an acceptable level of essential transversal order.

- To ensure the speedy, accurate and correct handling of all matters referred to the Commission and its Office, with the merit and efficiency principles as basis.

5.5. Conclusion

This chapter examined the role of the South African Public Service Commission during the period 1990-1993. The analysis of the role of the Commission was preceded by a comprehensive disquisition of its history in South Africa. The rational for the foregoing approach is based on the contention that the changing role of the Commission in South Africa could be lucidly fathomed in the historical context it evolved. The development of the Commission in this chapter was discussed in accordance with two major historical periods in South Africa, namely 1847-1910 and 1910-1993.

It was contended in this chapter that the administrative system of using Commission to counterbalance political influence in the administration of the public service personnel is the intellectual construct of the nineteenth century traditional model of public administration. The origin of the commission system in South Africa was traced to Montaqu Report of 1848 that accentuated the principles of the traditional model of public administration as a basis for the restructuring of the public service in the Cape Colony. The development of the Cape public service system in accordance with the imperatives of the traditional model of public administration necessitated the establishment of a Board of Examiners in 1850. Such Board of Examiners was

entrusted with the function of conducting selection or preliminary entrance examinations in the public service.

With the promulgation of the *University Incorporation Act*, 1873 (Act 16 of 1873), the Board of Examiners was abolished and its functions were transferred to the Council of the University of the Cape of Good Hope. The Council of the University did not function well in discharging its duties and as a result, a Board of Commissioners established in terms of the *Civil Service and Pension Act*, 1895(Act 32 of 1895) replaced it. A Board of Commissioners was further, in terms of the *Civil Service and Pension Act* of 1906, replaced by the Civil Service Commission, which existed until 1910, when the Union of South Africa was formed. The Civil Service Commission was assigned the functions of administering civil service examinations, recording of all civil servants who passed the examinations, making of suggestions about the promotions and executing of other responsibilities consigned to it.

The commission system as the intellectual construct of the traditional model of public administration already established in the Cape colony permeated the Natal public service system. A Civil Service Board comprising of the Chief Under-Secretary, the Secretary of Railways and Harbours, the Clerk of the Legislative Assembly, the Under-Treasurer and the Postmaster-General was established in the Natal colony in 1894. The objective of the Board was to advise the Minister of the Interior on matters concerning the administration of the public service personnel. The efficacy of the Civil Service Board in realising its objective was hampered by that its advises were, in the public service of the Natal colony, disregarded. This spurred an appeal for its dissolution. The Board, however, continued to exist until 1910 when the Natal colony was incorporated into a Union of South Africa.

The nineteenth century traditional administrative system of using a commission to protect the public service against the scourge of political patronage in the Transvaal colony developed in 1908 after the British had taken away its independence in 1881. The commission system in the Transvaal colony was established following the recommendations of the Solomon Commission of Enquiry in 1906. The recommendations of the Solomon Commission of Enquiry were ingratiated in the imperatives of the traditional model of public administration in that they sought to maintain stability in the Transvaal public service system. The Civil Service Commission in the Transvaal colony was tasked with the functions of administering

public service examinations, maintaining equity with regard to promotions and exercising of control over the transfer of personnel. As a result of a move to unite the British colonies, the Civil Service Commission in the Transvaal also ceased to exist.

The Orange River Colony public service was also restructured in accordance with the imperatives of the traditional model of public administration. This contention is advanced on the basis of the fact that the Cape public service system, which in 1900 had already been well-established on the principles of the traditional model of public administration, was used as a model for the restructuring of the Orange Free State public service. However, unlike in other British colonies such as Cape, Natal and Transvaal, the Civil Service Commission was never established in the Orange Free State. The reasons for the foregoing are not clear in the literature studied. It appears, however, that attempts to institute a Public Service Commission in the Orange Free State were predated by the establishment of a Union of South Africa in 1910.

The idea of a Union originated in 1858 and willed into existence in 1910 when the Cape, Natal, Transvaal and Orange River colonies were, in terms of the *South Africa Act*, 1909(Act 108 of 1909), united and formed South Africa. The unification of the foregoing British colonies denoted that their public services also had to be merged in order to create a single public service befitting the imperatives of a Union. However, due to a lack of adequate legislative framework, the process of restructuring the public service was delayed. While attempts were made to broaden the Act of 1909 by promulgating a variety of Acts that deal with the question of restructuring the public service, a Union of South Africa, which officially came into existence on 31 May 1910, used the public service of the Transvaal colony as an interim public service.

As contended in this chapter, the Transvaal public service system was embedded in the imperatives of the traditional model of public administration. Its usage after the unification of 1910 therefore implies that the nineteenth century traditional model of public administration continued to remain the theoretical thrust for the development of the public service in the Union of South Africa. Indeed, a variety of policies promulgated during the period 1910-1993 necessitated the restructuring of the South African public service according to the imperatives of the traditional model of public administration. The foregoing is authenticated in the fact that the Public

Service Commission, as the intellectual construct of the nineteenth century traditional model of public administration, formed part of the South African public administration system since the creation of the Union of South Africa in 1910.

The first Public Service Commission in South Africa was established in 1912 in terms of the *South Africa Act*, 1909(Act 108 of 1909). The *Public Service Act*, 1912(Act 29 of 1912) determined the powers and functions of the Commission. Since its inception in 1912, the Commission encountered problems in asserting itself in the public service as its authority was consistently disobeyed. This was due to a lack of policy framework that could have regulated the relations between the Public Service Commission and other controlling bodies such as the Treasury. The foregoing resulted in conflict between the Public Service Commission and the Treasury, which was eventually resolved through the gentleman's agreement. Such solution did not, however, mean that the Commission was free from other problems.

The politicisation of the public service came out as another problem during the apartheid era as it compromised and besmirched the integrity of the South African Public Service Commission. Since the National Party assumed power in 1948 the public service became undiscernibly politicised. It was associated with the National Party government. The inclination of the public service to the National Party ideology of apartheid impacted perniciously on the independence and impartiality of the Public Service Commission. As a result, the Public Service Commission failed to maintain a politically neutral public service system. The Commission was politically enervated and labelled apartheid bureaucracy established to consolidate the Afrikaner citadel in the South African public service.

In the early eighties the public service reform initiatives were pursued in South Africa. Those reform initiatives, as encapsulated in the *White Paper on the Rationalisation of the Public Service and other Related Institutions* (1980), concentrated more on the rationalisation of the public service than its transformation from the apartheid mould. The traditional model of public administration remained the fundamental theoretical thrust for the rationalisation of the public service in the eighties. The rationalisation of the public service in 1980 ushered in a highly centralised personnel system that directly impacted on the Public Service Commission as established in terms of Act 54 of 1957. The jurisdiction and functions of the Commission had to be expanded so that it could be in a position to contend

with the voluminous work arising from the centralisation of the administration of the public service. This necessitated the formulation of a new legislative framework. The Act 65 of 1984 was, on 23 May 1984, promulgated and effectively effected necessary amendments to Act 54 of 1957. It broadened the Commission's sphere of jurisdiction and functions in the South African public service system. The name of the Commission was also changed from Public Service Commission to Commission for Administration.

In August 1984, Act 111 of 1984 repealed Act 54 of 1957. Act 111 of 1984 and Act 65 of 1984 therefore complemented each other in maintaining the position of the Commission for Administration in the South African public service system. On 22 December 1993 the last tricameral Parliament in South Africa adopted the Interim Constitution of 1993 that set the foundation for the creation of a new public service system ingratiated in the imperatives of democracy. The Interim Constitution of 1993 that necessitated fundamental changes in the South African public service system. Those changes had a direct bearing on the Commission. The adoption of the Interim Constitution of 1993, however, did not effectively nullify the public service system existing during that time. The Interim Constitution of 1993 only came into effect on 27 April 1994. Therefore, in the mean time, the Commission continued to exist in terms of Act 65 of 1984 and Act 111 of 1984. The Interim Constitution of 1993 did not have an impact on the position of the Commission for Administration for at least the period ending in 1993. It is on the basis of the foregoing explication that, in examining the role of the Commission during the period 1990-1993 in this chapter, reference was only made to Act 65 of 1984 and Act 111 of 1984.

The role of the Commission as determined in Act 65 of 1984 and Act 111 of 1984 was three fold-dimensional. The Commission could recommend, direct and advise. The matters in respect of which the Commission could recommend, direct and advise were, in the context of the foregoing legislative framework, described in detail in this chapter. The powers of the Commission to inspect the state departments and conduct inquiries on matters of public service administration have also been described. It is clear in the descriptions that the Commission during the period under review had so many functions and bestowed with huge powers. The *categorical system* of the responsibilities of the Commission developed in chapter 4 of the study as an analytical instrument was used in this chapter to classify and analyse the functions and powers of the Commission. In terms of the foregoing *categorical*

system, the roles and functions of the Commission as determined in Act 65 of 1984 and Act 111 of 1984 during the period 1990-1993 were crystallised into three major categories. The first category is comprised of the roles and functions of the Commission that are influential in nature. The second category is concerned with the responsibilities of the Commission that involve research whereas; the third category is comprised of the functions that entail the administration of routine work.

In South Africa during the period 1990-1993, the Commission had 'supra-departmental powers' that exerted huge effect on the business of the operating departments. The Commission had the power to inspect and inquire into the administrations of the operating departments. It could make recommendations and give directives in respect of various matters determined in Act 65 of 1984 and Act 111 of 1984. The recommendations of the Commission had a special meaning, as they were mandatory in nature. They had to be carried out by the operating departments. This demonstrates the extent to which the Commission could influence the functioning of the operating departments. Therefore, in the context of the foregoing, the role of the Commission in South Africa during the period 1990-1993 was influential in nature.

In juxtaposition with its counterparts in Britain and other Commonwealth countries like Nigeria, Zimbabwe, Zambia and Namibia, the Commission in South Africa had too much power in more functional competencies. It was entrusted with policy-making, executive and monitoring functions. The operational domain of the Commission involved the determination of broad policy directives on a variety of issues and control of the implementation of functions on a broad ranging spectrum of personnel practices. Although the Commission in the early nineties propounded the policy of devolution of power, it continued to carry out its function of control on more important matters. The Commission only delegated matters of triviality to the state departments. Therefore, during the period 1990-1993, the Commission played an influential and control-orientated role in the South African public service. The influential and control-orientated role of the Commission was, however, questioned. Its recommendations were perceived among the members of the public service as more of interference in the day to day running of the state departments. The influential and control-orientated role of the Commission stifled innovations in the administration of the operating departments as they were often subjected to its cumbersome policies. The negative manner in which the influential and control -

orientated role of the Commission was couched created a misconception that efficiency and effectiveness in the public service could be achieved if nepotism and victimisation were eradicated.

The over-concentration of the Commission on the protection and control of officials dislodged its fundamental purpose of being the custodian of merit and efficiency in the public service. Its myriad of rules and regulations protected all and sundry, including the corrupt and ineffective officials, instead of focussing on the inculcation of a sense of excellence in the public service. The influential and control-orientated role of the Commission was susceptible to political manipulations. The imperatives of apartheid enervated the Commission and consequently, failed to maintain a politically neutral public service system. The wide-ranging powers and functions of the Commission during the period 1990-1993 had a negative effect on the functioning of the operating departments.

The roles and functions of the Commission during the period 1990-1993 were also, in this chapter, analysed on the basis of research as its other important responsibility in terms of the *categorical system* used an analytical instrument. A research is a systematic and scientific collection, analysis and interpretation of data to establish facts in order to generate new knowledge, answer questions and provide solutions to the problems about social phenomenon/phenomena. The Commission during the period under review did not perform the research function. It was, however, often involved in activities related to research function. The Act 65 of 1984 and Act 111 of 1984 did not explicitly mention research as another important function of the Commission.

The administration of routine work constitutes, according to the *categorical system*, the other category of the responsibilities used in this chapter to analyse the role of the Commission during the period under review. The Act 65 of 1984 and Act 111 of 1984 assigned the Commission functions that were administrative in nature. The administrative functions of the Commission were too many such that they exceeded its formal administrative domain. The administrative functions of the Commission encroached upon the administrative competencies of other state departments. Some of the administrative functions of the Commission too routine and trivial, but likely to squander much time the Commission needed to achieve its strategic objective. The

Commission carried out its functions that fall under **administration** category through its Office created in terms of Act 65 of 1984.

In the context of the above disquisition analysis, it is concluded that the Commission for Administration in South Africa during the period 1990-1993 was concentrated with too many functions and huge powers in relation to its responsibilities falling under the **influence** and the **administration** categories respectively. The Commission was involved in matters related to research in a very limited way. The wide-ranging powers and functions of the Commission in respect of its responsibilities that, in terms of the *categorical system*, fell under the **influence** and the **administration** categories and that it played a limited role in the **research** category spurred a myriad of concerns and criticisms in 1994. Those concerns and criticisms, which are researched in more detail in the following chapter, necessitated the changing of the roles and functions of the Public Service Commission in South Africa. The effect of those changes since 1994 on the role of the Commission is examined in chapter 6 of the study.

CHAPTER 6

ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE COMMISSION SINCE THE INCEPTION OF THE DEMOCRATIC DISPENSATION (1994-2000)

6.1. Introduction

The inception of the democratic dispensation since 1994 necessitated fundamental changes in the system of governance in South Africa. Those changes were chiefly brought about by, and under, the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993 – hereafter referred to as the Interim Constitution of 1993) and the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996 – hereafter referred to as the Constitution of 1996) correspondingly. The Interim Constitution of 1993 and the Constitution of 1996, together with a plethora of legislation and other policy decisions made with regard to public administration, required that the South African public service system must break-away from the apartheid paradigm and embrace the values and norms of democracy.

The constitutional enjoin for the democratisation of the public service spurred government institutions to reposition themselves to ensure that their functioning befit the new dispensation. It is in respect of the Public Service Commission, which occupies an important strategic position in the South African system of governance, that the changes since the inception of the democratic dispensation brought about 'a most radical transformation'(Sangweni 1997:36-46). But, what is the effect of those changes since 1994 on the role of the Commission in South Africa?

As stated in chapter 1 sub-section 1.1 page 2, this study is based on the above-mentioned research question. An attempt is therefore, in this chapter, made to provide an answer. This chapter commences by researching the Commission under the Interim Constitution of 1993. It provides the description of the powers and functions of the Commission as provided in the Interim Constitution of 1993, *Public*

Service Act, 1994 (Act 103 of 1994) and *Public Service Commission Act*, 1984 (65 of 1984) as amended and; thereafter analyse them. Using the *categorical system* of the responsibilities of the Commission developed in chapter 4 as an analytical instrument and applied in chapter 5 of the study, the role of the Commission under the Interim Constitution of 1993 is analysed within the theoretical context of the traditional model of public administration.

The analysis of the powers and functions of the Commission under the Interim Constitution of 1993 is followed by a discussion on the changing of its role in the public service since 1994. The perspectives that jettisoned the executive policy-making powers and functions of the Commission under the Interim Constitution of 1993 are also reviewed in this chapter to understand the basis for the changing of its role. Thereafter, the transition of the role of the Commission from the Interim Constitution of 1993 to the Constitution of 1996 is examined.

Following the above exercise, the Commission under the Constitution of 1996 is researched. The powers and functions of the Commission as provided in the Constitution of 1996 and other concomitant legislation such as the *Public Service Commission Act*, 1997 (Act 46 of 1997) and the *Public Service Laws Amendment Act*, 1997 (Act 47 of 1997) are analysed. The *categorical system* of the responsibility of the Commission is still used to analyse the role of the Commission under the Constitution of 1996. The role of the Commission under the Constitution of 1996 is analysed within the theoretical context of the new public management paradigm.

6.2. South African Public Service Commission under the Interim Constitution of 1993

The Interim Constitution of 1993 came into effect on 27 April 1994. Section 209(1) [of the Interim Constitution of 1993] made provision for the establishment of the Public Service Commission. As Wessels (1997:on-line) observed, it was for the first time in the history of the South African public service that a provision in the Constitution was made for the establishment of the Commission. Section 213 of the Interim Constitution of 1993 further made provision for the establishment of the Provincial Service Commissions. However, for the purpose of this study, the focus is limited to the Public Service Commission as envisaged in section 209(1) of the Interim Constitution of 1993. The Interim Constitution of 1993 did not only make

provision for the establishment of the Public Service Commission, but also set out its powers and functions. The powers and functions of the Commission as stipulated in the Interim Constitution of 1993 are hereunder described.

6.2.1. Powers and functions of the Public Service Commission as provided in the Interim Constitution of 1993

Section 210(1) of the Constitution of 1993 assigned the Commission the powers and functions to make recommendations, give directions and conduct enquiries in respect of the following matters:

(i) the organisation and administration of departments and the public service;

(ii) the conditions of service of members of the public service and matters related thereto;

(iii) personnel practices in the public service, appointments, promotions, transfers, discharge and other career incidents of members of the public service and matters in connection with the employment of personnel;

(iv) the promotion of efficiency and effectiveness in departments and the public service; and

(v) a code of conduct applicable to the members of the public service.

The Commission was further, according to section 210 (1) of the Interim Constitution of 1993, assigned the function of advising the President, a Minister or a member of the Executive Council of a province on 'any matter relating to the public service or the employment, remuneration of the conditions of service of functionaries employed by any institution or body which receives funds wholly or partly appropriated by Parliament or a provincial legislature'. It is important to note that, according to section 210(1) (b) of the Interim Constitution of 1993, the Commission could not provide advises in respect of the foregoing matters on its own initiative. This means that the Commission could only advice if so requested by the President, a Minister or a member of the Executive Council of a province.

Section 210(2) of the Interim Constitution of 1993 provided that the powers and functions of the Commission mentioned above should be exercised and performed not only in accordance with the provision of the Interim Constitution of 1993, but also in accordance with the legislation in force at the time when it (Constitution of 1993) came into effect. As stated in Basson (1994:271), the two Acts of Parliament, namely the *Commission for Administration Act*, 1984 (Act 65 of 1984) and the *Public*

Service Act, 1984 (Act 111 of 1984), dealt with the powers and functions of the Commission at the commencement of the Interim Constitution of 1993 and were, therefore, in terms of Section 210(2) of the Interim Constitution of 1993, retained. The transitional arrangements contained in section 238 of the Interim Constitution of 1993 synchronised the provision of section 210(2). Section 238 of the Interim Constitution of 1993 made provision that the Commission existed at the commencement of the Interim Constitution of 1993 should continue to function and its chairperson and members should remain in office in accordance with the laws regulating their appointments until the Commission referred to in section 209(1) was instituted.

The transitional arrangements contained section 238 read with section 210(2) were ostensibly fraught with incongruities in that the provisions of Act 111 of 1984 and Act 65 of 1984 were, in many respects, not in line with the Constitution of 1993. Act 111 of 1984 and Act 65 of 1984 were consequently reviewed with a view to establish a legislative framework befitting the provisions of the Constitution of 1993. A review of Act 111 of 1984 resulted in the proclamation of the *Public Service Act*, 1994 (Act 103 of 1994), hereafter referred to as Act 103 of 1994. Act 103 of 1994 completely replaced Act 111 of 1984. With regard to Act 65 of 1984, a similar replacement approach pursued in the case of Act 111 of 1984 as explained in the foregoing was not followed (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.1).

Act 65 of 1984 was only amended to the extent that it conformed to the provisions of the Constitution of 1993. The amendment of Act 65 of 1984 entailed the expunging of the provisions that were already covered in or contrary to the Constitution of 1993. The title of Act 65 of 1984, namely Commission for Administration Act, was also changed to Public Service Commission Act, therefore effectively changing the name Commission for Administration to Public Service Commission. The year of assent, however, remained unchanged. This arrangement was rather peculiar in that Act 65 of 1984, in certain respects, governed the body created by the Constitution of 1993 (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.1). The powers and functions of the Commission as provided in Act 103 of 1994 and Act 65 of 1984 as amended are hereunder described.

6.2.2. Powers and functions of the Commission as provided in the Commission for Administration Act, 1984 (Act 65 of 1984) as amended and the Public Service Act, 1994 (Act 103 of 1994)

In as far as the powers and functions of the Commission were concerned, Act 65 of 1984 as amended and Act 103 of 1994 gave effect to the provisions of the Interim Constitution of 1993. These two Acts, as proclaimed by the President in terms of section 237(3) of the Interim Constitution of 1993, delineated the powers of the Commission to conduct inquiries and inspections in government departments. Compared to section 210 of the Interim Constitution of 1993, section 3(3) of Act 103 of 1994 was more detailed in enumerating different matters in respects of which the Commission could make recommendations. The Commission could make recommendations regarding:

- the establishment or abolition of departments, the functions of departments, the transfer of functions from one department to another or from a department to any other body or from any other body to a department;
- the establishment or abolition of sub-departments, branches, offices or institutions;
- the control, organisation or readjustment of departments, sub-departments, branches, offices or institutions;
- the number, grading, regrading, designation, redesignation or conversion of posts on the fixed establishment;
- the number of persons to be employed temporarily or under a special contract, whether in a full-time or a part-time capacity;
- the employment of a person or continued employment of an officer in or against a post graded higher or lower than his or her own grade, or additional to the fixed establishment;
- the promotion of effectiveness, efficiency and economy;
- the scales of salaries, wages or allowances of all the various classes, ranks and grades of officers and employees, as well as salary ranges in respect of particular classes, ranks and grades of officers and employees;
- the establishment and operation of pension, housing or other schemes which constitutes a condition of service of officers or employees;

- the employment, promotion and transfer of officers and employees, including temporary employment, employment additional to the fixed establishments of departments and employment out of adjustments;

- a code of conduct applicable to the members of the public service; and

- promotion of sound labour relations.

Section 3(4) of Act 103 of 1994 further assigned the Commission the power to give direction regarding:

- the requirements as to the age of persons, and the educational, language and other qualifications to be possessed by them for the purposes of appointment, transfer or promotion in or to the public service, where those requirements or qualifications were not prescribed by or under any other law;

- the classes of posts and positions in respect of which, the circumstances under which and the conditions on which an executing authority, or any officer to whom such authority has delegated the power of appointment, transfer or promotion, may require qualifications other than those contemplated in the foregoing;

- the health requirements to which a person should conform before he/she could be appointed in the public service;

- the security requirements the officers and employees must, in certain circumstances, comply with;

- the training which the officers and employees have to undergo; and

- the application of information technology.

In addition to the functions enumerated above, section 3(5) of Act 103 of 1994 entrusted the Commission with the responsibilities of:

- keeping record of all officers occupying A-division positions in the public service;

- inquiring into the grievances of officers and employees and make necessary recommendations;

- providing training or cause training to be provided or conduct examinations or tests or cause examinations or tests to be conducted;

- issuing directives to elucidate and supplement any regulation;

- making recommendations regarding the establishment or operation of, but excluding the management and control over, any pension, housing or other scheme which was or would be a

condition of service of officers and employees, but which has not or would not be established by or under this Act (Act 103 of 1994);and

- making recommendations and giving directions to ensure clarity in respect of the jurisdiction of the Commission as against that of a provincial service commission.

As stated in Muthien (1997:09), Act 103 of 1994 'made a provision for dual decision-making on personnel matters'. Such dualism in terms of making decisions on public service personnel matters glaringly manifested itself in the fact that the Commission would make recommendations or give directions, but the actual implementation rested with the relevant executing authority. For the purpose of this study, the 'executing authority is either a member of Cabinet or a provincial executive council responsible for a particular department (Muthien 1997:09). It is also important to point out that the *Public Service Labour Relations Act*, 1994 (Act 105 of 1994), hereafter referred to as Act 105 of 1994, limited the Commission's power to make recommendation or give direction in respect of matters dealing with collective bargaining in the public service and settlement of disputes between the state as employer and employee organisation. Act 105 of 1994 provided that 'all matters of mutual interest' between the employer and employee must be negotiated in the relevant chambers of the Public Service Bargaining Council. The power of the commission to make recommendation or give direction in respect of the matters of 'mutual interests' was therefore limited by the agreements arrived at in the Bargaining Chambers (Muthien 1997:09).

In addition to the functions and powers of the Commission to make recommendations, give directions, and conduct inquiries in respect of the matters described above, the Commission was assigned, as hereunder examined, 'special constitutional responsibilities'. For the purpose of this study, 'special constitutional responsibilities' refers to all functions assigned to the Commission in terms of section 3(5)(a)(vii) of Act 103 of 1994 and section 237(2) of the Interim Constitution of 1993. The special constitutional responsibilities of the Commission were concerned with the transformation and rationalisation of the South African public service with a view to realise the objectives accentuated in the Constitutional Principle 30 and section 212 of the Interim Constitution of 1993.

6.2.3. **Special constitutional responsibilities of the Commission**

The Interim Constitution of 1993 set a foundation for the creation of a new public service system ingratiated in the norms and values of democracy. This much is clear in the Constitutional Principle 30 and section 212 of the Interim Constitution of 1993, which stipulated that:

> There shall be an efficient, non-partisan, career-orientated public service broadly representative of the South African community, functioning on the basis of fairness and which serve all members of the public in an unbiased and impartial manner, and shall, in the exercise of its powers and in compliance with its duties, loyally execute the lawful policies of the government of the day in the performance of its administrative functions.

The responsibility to ensure that the public service system as envisaged in the foregoing constitutional injunction was established rested with the Public Service Commission. According to the *Annual Report of the Public Service Commission* (1994:14), the Act 103 of 1994 'was amended to enable the Commission to give directions regarding measures to promote the objective set out in section 212(2) of the Constitution of 1993'. The measures regarding the promotion of the objectives articulated in the Constitutional Principle 30 and section 212(2) entailed the development of policy framework to direct the rationalisation and transformation of the public service.

As stated in the *Annual Report of the Public Service Commission* (1994:3-8), the 'Commission in 1994 focussed most of its activities on the rationalisation and transformation of the public service'. This should be understood within the context of section 237(2) of the Interim Constitution of 1993 that the responsibility to rationalise the public service primarily but not exclusively rest with the national government, which shall exercise such responsibility in co-operation with provincial governments and the Commission of Provincial Government, and with due regard to the advice of the Public Service Commission. The 'strong executive powers' given to the Commission by the Interim Constitution of 1993 made it possible for it (Commission) to assume 'strong leadership role' in the rationalisation of the public service (Annual Report of the Public Service Commission 1996:03).

In realising the objectives stated in Constitutional Principle 30 and section 212 of the Interim Constitution of 1993, the activities of the Commission did not only focus on rationalisation, but also on the transformation of the public service. It developed policy framework for the promotion of a broadly representative public service. Such policy framework entailed putting into place 'measures, systems and programmes in order to direct, facilitate, support and evaluate affirmative action activities aimed at promoting the objective of a public service broadly representative of the South African demography' (Annual Report of the Public Service Commission 1994:14). Specifically, the Public Service Commission was responsible for:

- developing and maintaining a central data base in respect of the public service's composition;
- advising government on affirmative action policy and targets;
- the development, establishment and upholding of policy actions, measures and/or programmes recommended or directed in terms of section 3(5)(a)(viii) of the Public Service Act, 1994, to promote a broadly representative public service;
- the overhead management of specific actions, measures and/or programmes, where it is deemed necessary;
- the development and presentation of enablement training to participants in social programmes, and training of managers to effectively manage the process, where such training cannot be presented departmentally; and
- monitoring and ensuring progress towards greater representivity and reporting to Cabinet and Parliament in this regard (Office of the Public Service Commission, Amendment Slip no. *1/4/1(3/95)*).

Thus far, the powers and functions of the Public Service Commission under the Interim Constitution of 1993 have been described. As Wessels (1997:on-line) observed, the *Interim Constitution of 1993 brought 'a significant change in the* constitutional position of the Public Service Commission'. As indicated in sub-section 6.2 above, a provision was for the first time in the history of the South African public service made in the Constitution for the establishment of the Commission. The significance of the Constitution of 1993 was, however, not only in terms of the provision for the establishment of the Commission, but also with regard to its powers and functions. The powers and functions of the Commission under the Interim Constitution of 1993 as described in sub-sections 6.2.1, 6.2.2 and 6.2.3 above are hereunder analysed.

6.2.4. **Analysis of the powers and functions of the Commission under the Interim Constitution of 1993**

Following the amendment of Act 65 of 1984 and the introduction of Act 103 of 1994, the powers and functions of the Commission under the Interim Constitution of 1993 increased, not necessarily changed. This means that the Commission under the Interim Constitution of 1993 continued to carry out the similar functions that were assigned to its predecessor, namely the Commission for Administration, albeit in a totally different political context. The Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended therefore did not change the theoretical orientation of the role of the Commission in South Africa. Just like in the previous dispensation, the role of the Commission under the Interim Constitution of 1993 continued to be ingratiated in the imperatives of the traditional model of public administration until February 1996. The powers and functions of the Commission under the Interim Constitution of 1993, as enumerated in sub-sections 6.2.1 and 6.2.2 above, were couched in a control orientated manner, therefore put it in an sturdy position to maintain stability and order in the public service. The question of public service stability is characteristics of the traditional model of public administration.

The Commission was a point of over-centralised power greatly feared in the public service. Its *modus operandi* was immersed in bureaucratic imperatives (Personal interview: Deputy Director of Human Resources, Department of Agriculture 2002). The centralisation of power on the Commission and its focus on achieving public service stability exemplify the extent of its ingratiation in the fundamental imperatives of the traditional model of public administration (see chapter 4 sub-section 4.3 page 95-105 for a detailed theoretical disquisition on the traditional model of public administration).

The powers and functions of the Commission under the Interim Constitution of 1993 are hereunder, according to the *categorical system* developed in chapter 4 and applied in chapter 5 as an analytical instrument, classified into **influence**, **research** and **administration** categories and analysed from a comparative perspective. This exercise would determine the extent to which the powers and functions of the Commission under the Interim Constitution of 1993 increased.

6.2.4.1. **Influence category of the responsibilities of the Commission under the Interim Constitution of 1993**

It is contended in chapter 5 of the study that the Public Service Commission during the period 1990-1993 was assigned too much executive policy-making powers and functions, which, when being exercised and performed, directly influenced the functioning or the business of the operating departments. The executive policy-making powers and functions of the Commission were therefore influential in nature. With the inception of the Interim Constitution of 1993, the Commission was, in juxtaposition with the previous dispensation, concentrated with even more wide-ranging executive policy-making powers and functions. The powers and functions of the Commission to make recommendations and give directions in respect of the matters described in sub-sections 6.2.1, 6.2.2 and 6.2.3 above are classified under the **influence** category. This classification is premised on the fact that the recommendations and directions of the Commission were obligatory, 'not merely advisory in the sense of take it or leave it' (Muthien 1997:09).

In Act 111 of 1984 and Act 65 of 1984 reference was only made to 'recommendations' and not 'directions' of the Commission. It was stated in the legislation alluded to in the foregoing that the President could reject or change the recommendations of the Commission, no mention was made of its directions. With the coming into effect of the Interim Constitution of 1993, reference was also made to the directions of the Commission. Indeed, the Interim Constitution of 1993 provided that the recommendations and directions of the Commission must be carried out by the operating departments within the period of six months unless they involved public expenditure, rejected by the President or withdrawn. Unlike in the previous dispensation, the recommendations and directions of the Commission, regardless of whether or not they are linked to a particular, could be turned down or sent back, but not changed, by the President. This arrangement was important as it probably enhanced the independence of the Commission in carrying out its functions as provided in the Interim Constitution of 1993, Act 65 of 1984 as amended and Act 103 of 1994.

Muthien (1997:07) state that if the executive authority disregards the recommendations and directions of the Commission without justifiable ground a binding legal recourse could be sought. This statement authenticates the contention that the powers and functions of the Commission under the Interim Constitution of

1993 were exuberated with the capacity to exert an influence on the functioning or the business of the operating departments in the public service. It is therefore, in the context of the foregoing disquisition analysis, clear that the Commission was, under the Interim Constitution of 1993, concentrated with wide-ranging executive policy making powers and functions that were influential in nature. The operating departments were compelled to comply with the recommendations and directions of the Commission, as they were mandatory.

As indicated above, following the proclamation of Act 103 of 1994, the influential powers and functions of the Commission, in juxtaposition with the previous dispensation, increased and its sphere of jurisdiction broadened. The powers and functions of the Commission to make recommendations were extended to encompass the question of the promotion of sound labour relations, whereas its power to give directions was also extended to cover information technology. The broadening scope of the influential powers and functions of the Commission was further epitomised in the fact that it was, in terms of section 3(5)(vi) of Act 103 of 1994, assigned the power to make recommendations and give directions in the case of uncertainty over the jurisdiction of the Commission as against that of the provincial service commissions. The constitutional injunction for the creation of a new public service system embedded in the imperatives of democracy added to a number of influential functions assigned to the Commission under the Interim Constitution of 1993.

The Commission was further entrusted with the responsibility of making recommendations and giving directions regarding the transformation and rationalisation of the public service with a view to realise the objectives accentuated in the Constitutional Principle 30 and section 212 of the Interim Constitution of 1993. The amendment of Act 103 of 1994 enabled the Commission to make recommendations and give directions regarding measures to promote the objective set out in section 212(2) of the Interim Constitution of 1993 (*vide* Annual Report of the Public Service Commission 1994:14). The huge amount of executive policy-making powers and functions that were influential in nature assigned to the Commission were, in some instances, necessary, particularly with regard to the transformation and rationalisation of the public service.

The question of transformation and rationalisation of the public service in South Africa was a complex and tension-filled exercise that needed to be pursued with tact and circumspection. The policy-making executive powers assigned to the Commission under the Interim Constitution of 1993 made it possible for it to assume a strong leadership role in the transformation and rationalisation of the public service (*vide* Annual Report of the Public Service Commission 1996:03; Report on the Rationalisation of Public Administration in South Africa 1994-1996, the Public Service Commission 1997a: on-line). With the recommendations and directions of the Commission, the state departments managed to handle intricate processes of transformation and rationalisation with relative ease, therefore contained a potentially explosive situation likely to plunge the entire public service into crisis (*vide* Office of the Public Service Commission, Amendment Slip No. 1/4/1(3/95).

The wide-ranging executive policy making powers and functions of the Commission were shared between the Public Service Commission at the national level of government and the Provincial Service Commissions established in each nine provinces of South Africa. As indicated above, the Provincial Service Commissions were established in terms of the Interim Constitution of 1993. The Commission at the national level of government focussed on the determination of national norms and standards, which the Provincial Service Commissions were required to adhere to them when implementing the Provincial Service Commission Acts in their respective provinces (Questionnaire for Public Service Commissioners in South Africa 2002:Question 1.2).

The arrangement explained in the above exposition fostered cohesion, which helped in relieving the Commission at the national level of its huge amount of responsibilities assigned to it in terms of the Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended. The foregoing notwithstanding, the Provincial Service Commissions did not have enough human resource capacity to perform all the functions assigned to them. This had a negative effect on the efficiency and effectiveness of the Commission. As a result of the foregoing, concerns were raised that the Commission was not as efficient and effective as it was required (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.2). The Commission therefore, under the Interim Constitution of 1993, had difficulty in contending with the wide-ranging executive policy making powers assigned to it.

6.2.4.2. **Research category of the responsibilities of the Commission under the Interim Constitution of 1993**

The environment of public administration is not static. It is so dynamic that it changes all the time. The imperativeness of conducting research on a continuous basis to keep abreast of the rapidly changing and complex environment of public administration cannot, therefore, be over-emphasised. The Public Service Commission is strategically placed in the public service to conduct research so that it could advice on a variety of issues in public administration. Analysis of the Interim Constitution of 1993, Act 65 of 1984 as amended, and Act 103 of 1994 indicate that research was not explicitly mentioned as part of the functions of the Commission enumerated in sub-sections 6.2.1, 6.2.2 and 6.2.3 above. However, the nature of the responsibilities assigned to the Commission required that it should conduct research to ensure that its recommendations and directions, particularly given that they were mandatory in nature, would always be based on scientific information.

In juxtaposition with the previous dispensation, the Commission under the Interim Constitution of 1993 conducted research on a variety of public administration related issues. The Commission during the period under review 'did engage in extensive research both in terms of the appropriateness and extent of the powers and functions given to it' (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.3). The Commission also conducted research in the area of transformation and rationalisation of the public service (*vide* Report on the Rationalisation of Public Administration in the Republic of South Africa 1994-1996, the Public Service Commission 1997a: on-line).

The research conducted by the Commission 'was not only focussed in South Africa, but also with regard to international experience' (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.3). The Code of Conduct for public servants promulgated by the President as part of the public service regulations is an example of the outcome of the extensive research conducted inside and outside South Africa (Questionnaire for Public Service Commissioners in South Africa 2002: Question 1.3; *vide* Annual Report, Public Service Commission 1997:05-06).

According to the *Annual Report of the Public Service Commission* (1997:05) the 'research and development endeavours' of the Commission in 1996 heralded 'positive results, not only for the Commission, but also for administration as a whole'. The extensive research the Commission conducted under the Interim Constitution of 1993 during the period 1994-1996 laid down the basis for the development and implementation in 1997 of projects aimed at giving effect to the Commission's new constitutional role (Annual Report of the Public Service Commission 1997:05). The foregoing notwithstanding, it appears, however, from the *Annual Reports of the Public Service Commission* (1994, 1995, 1996 and 1997) that the Commission during the period 1994-1996 carried out the function of research on an *ad hoc* basis.

6.2.4.3. **Administration category of the responsibilities of the Commission under the Interim Constitution of 1993**

In chapter 5 sub-section 5.4.1.3 page 169-171 it is contended that the Commission under Act 65 of 1984 and Act 111 of 1984 was assigned huge amount of work, which in terms of the *categorical system* used as analytical instrument, fall under the **administration** category. The coming into effect of the Interim Constitution of 1993 did not, however, necessarily change the foregoing situation regarding the administration function of the Commission. Analysis of the Interim Constitution of 1993, Act 65 of 1984 as amended and Act 103 of 1994 indicate that the functions of the Commission, which, in terms of the *categorical system* of its responsibilities fall under the **administration** category increased to proportionate its functions falling under the **influence** category.

The Office of the Public Service Commission, hereafter referred to as the Office of the Commission, with a status of a fully-fledged national department under the headship of a Director-General as its chief executive officer, was, in accordance with the provision of the Interim Constitution of 1993, created and therefore replaced the Office of the Commission for Administration (Secretariate), which was established in terms of section 9 of Act 65 of 1984 to carry out the administrative function of the Commission (*vide* Annual Report of the Public Service Commission 1995: 04; Cloete 1990:57; Muthien 1997:10). The Office of the Commission is a support structure that carries out the administrative function of the Commission. It is assigned the function of rendering administrative support to the Commission so that it could be enabled to accomplish its constitutional and statutory mandates (Personal interview: Chief Director of Labour Relations, Public Service Commission 2002).

As indicated in chapter 4 sub-section 4.3.4.1.3 page 110-113, the responsibilities of the Commission falling under the **administration** category are not as important as those in the **influence** and **research** categories; yet they could take much time the Commission need to achieve its strategic objectives. The assigning of the administration functions of the Commission to a line-function office was therefore a well thought-out arrangement in the South African public service system. It extricated the Commission from being engrossed into too much administrative function, therefore making sure that it remains focussed to its strategic objectives. To support the Commission in accomplishing its constitutional mandate, the tasks of the Office under the Interim Constitution of 1993 were organised into nine chief directorates, namely:

- Organisational Structures.
- Organisational Planning and Establishment Monitoring.
- Information Technology.
- Remuneration.
- General Conditions of Service.
- Human Resource Management.
- Affirmative Action.
- Personnel Development Policy.
- South African Management and Development Institute (Annual Report, Public Service Commission 1995:04).

The organisation of the Office of the Commission under the Interim Constitution of 1993 *into nine chief directorates demonstrates that the functions of the Commission*, which in terms of the *categorical system* of its responsibilities fall under the **administration** category, increased. This argument is advanced on the basis that the previous Office of the Commission for Administration was structured into only five chief directorates. Muthien (1997:10-11) explain that the Office of the Commission under the Constitution of 1993 was structured in accordance with the focal areas mentioned above to render support to the Commission on the following matters:

- Government functions, governmental organising and establishment requirement of departments.
- Standardisation, procurement and deployment of information technology in the public service.
- Remuneration matters, including the maintenance of the service dispensations of the occupational classes in the public service.
- Maintenance of an overhead administrative labour relations policy for the public service.
- Systematic rationalisation, revision, modernisation and maintenance of personnel practices and systems.
- Monitoring of pension and medical schemes and funds.
- Human resource provisioning and utilisation policies and practices. This includes the assessment of career incidents such as appointments, promotions, transfers and termination of service, as well as advice on misconduct, inefficiency and grievances.
- Policies and practices to promote a broadly representative public service.
- Human resource development policy.
- Provision of training programmes through the South African Management Development Institute.

In the context of the above exposition, it is contended that the Commission under the Interim Constitution of 1993 was assigned powers and functions that, in terms of the categorical system of its responsibilities, fell under the **administration** category. The powers and functions of the Commission that fall under the **administration** category were, in juxtaposition with the previous dispensation, too many. The Office of the Commission carried out its administration functions.

The wide-ranging executive policy-making powers and too much administration functions assigned to the Commission spurred a myriad of concerns and criticisms in political and governmental circles that necessitated the changing of its role in 'a totally new system of governance' (Fifield 1998:on-line). The changing of the role of the Commission in the post-1994 period following the assumption of power by the South African Government of National Unity and the adoption of the Constitution of 1996 is hereunder examined.

6.3. Changing role of the South African Public Service Commission

The fundamental changes have been ushered into the public service since the inception of the democratic dispensation in 1994. Sangweni (1997:38) observed that it is in respect of the role of the Public Service Commission that the changes alluded to in the foregoing 'have brought about a most radical transformation'. An in depth disquisition on the changing role of the Commission, starting with the review of the perspectives that critiqued its executive policy-making powers and functions, is hereunder presented. The review of the perspectives that jettisoned the executive policy making powers and functions of the Commission is important for understanding the basis for the changing its role since 1994.

6.3.1. Review of the perspectives jettisoned the powers and functions of the Public Service Commission under the Interim Constitution of 1993

According to Muthien (1997:11), 'the traditional role of a public service commission is mainly to uphold the career and merit principles in the public service'. However, as contended in sub-section 6.2.4 above, the wide-ranging functions and huge powers of the Commission in South Africa far-exceeded those of a typical public service commission. The Commission in South Africa was so much bundled with executive, monitoring, and policy functions. The diverse nature of the role of the Commission called into questions its impartiality and independence in the public service. The Interim Constitution of 1993, Act 65 of 1984 (as amended) and Act 103 of 1994 guaranteed the impartiality and independence of the Commission from the political executive authority. However, its wide-ranging executive and policy-making powers and functions contradicted the very notion of an independent and impartial Public Service Commission system.

The above contention is, according to Muthien (1997:10-11), exemplified in the fact that the Commission was, on the one hand 'expected to protect officials from undue political interference' on personnel matters such as appointments, promotions, and disciplines; whereas, on the other hand, it was expected to represent the State as employer in negotiations with trade unions on remunerations and conditions of service'. Such dualism in the functioning of the Commission smack of contradictions that impugned on its independence and impartiality in dealing with matters of public

service personnel administration. In this regard, the Presidential Review Commission in its Report of 1998 comment that the effectiveness and independence of the Commission was most likely to be compromised 'by a potential conflict of interest between its role as an independent monitor and arbiter of activities, ethos and comportment of the public service and its role as a direct implementer of the civil service policies' (Presidential Review Commission 1998: on-line).

Wessels (1995:118) pointed out that the wide-ranging executive policy making powers and functions of the Commission blurred its *locus standi* in the South African public service. It was not clear whether the Public Service Commission was an institution of Parliament or Executive Authority. Muthien (1997:12) also stated that the wide-ranging executive policy making powers and functions of the Commission encroached upon 'the political responsibilities and the prerogatives of the government'. This much is clear in the fact that the statutory definition of the 'recommendations' and 'direction' of the Commission amounted to the executive powers to approve. As Sangweni (1997:38) observed, the foregoing 'has been a cause of conflict between the Commission and political executive authority'.

The Commission determined policies, norms and standards in the public service that must be adhered to by all the state departments that fell within its jurisdiction. If the state departments wanted exemption from those policies, norms and standards, they were supposed to get permission from the Commission. From an administrative point of view, the foregoing arrangement was not efficient in that many state departments and provincial administrations expressed concerns about the laxity of the Commission in dealing with matters that required its decision. It was charged that the Commission did not respond promptly to issues that needed its decision or clarification. The state departments/provincial administrations were therefore often subjected to bureaucratic red tape (Personal interview: Deputy Director of Human Resources, Department of Agriculture 2002; *vide* Presidential Review Commission 1998: on-line).

The former Director-General of the National Department of Finance, Commissioners of Inland Revenue and Customs and Excise as, respectively, cited in the *Pretoria News* of 24 August 1995, too expressed concerns about the cumbersome roles, functions and operations of the Commission. The main concern was that changes in the state departments could not be effected because of what they termed

'cumbersome policies' of the Public Service Commission. Such policies 'curtailed managerial autonomy of the state departments', therefore created leeway for abdication of 'full accountability by the state departments' (Muthien 1997:12). Henry Kluever, the former Auditor-General in the Republic of South Africa, concurred with the views expressed in the foregoing (*vide Pretoria News* 24 August 1995).

The roles and functions of the Public Service Commission in South Africa under the Interim Constitution of 1993 were fraught with contradictions and incongruities. Instead of instilling the culture of meritocracy in the public service, the Commission was hagridden with the protection and control of officials. Its constitutional orientation was more on stability than development. A plethora of rules and regulations were made to control the public service. This approach made the Commission to operate in the most bureaucratic manner. The amorphous functioning of the Commission obscured its objective of promoting the principle of merit in the public service. This hamstrung development in the South African public service (*vide* Presidential Review Commission 1998: on-line). From the theoretical perspective, the role of the Commission under the Interim Constitution of 1993 was embedded in the philosophies of the traditional model of public administration.

The Constitutional Court of the Republic of South Africa raised a similar concern about the powers and functions of the Commission in the public service as expressed in political and governmental circles as well as the works of different authors referred to above. It could not certify section 196 of the Draft Constitutional of 1996, as it was not in line with Principles 20 and 29 of the Interim Constitution of 1993. Principle 29 accentuated the notion of an independent and impartial public service system. The Draft Constitution of 1996 did not provide sufficient information 'neither about the powers and functions of the Commission, nor about the protection it will have to perform its constitutional duties independently and impartially' (Mayibuye 1996:07). In explicating the institution of the Public Service Commission and its role, the verdict of the Court stated that:

> The institution of an independent public service commission to check on the executive power in respect to employment in the civil service come to us from England and is a feature of the Constitutions of many Commonwealth countries. The role of the public service commission is to promote fairness and maintain efficiency and standards in the public service. To this end it is usually required to report on its activities to Parliament. The purpose is to ensure that the prescribed procedures for making appointments, promotions, transfer and dismissals are adhered to, and that any deficiency in the organisation and

> administration of the public service, or the application of fair employment practices are made public. There is, however, no uniformity in regard to the powers vested in a public service commission for the purpose of carrying out its duties (Constitutional Court of the Republic of South Africa, 6 September 1996).

This extract reaffirmed the importance of the Public Service Commission in the administration of the state. The judgement dispelled perspectives that tend to question the relevance of the Commission in South Africa because of its contradictory roles in the public service. The essence of the judgement of the Constitutional Court as cited above is that the problem was not with the institution of the Public Service Commission *per se*, but, rather, with the wide-ranging executive powers and functions assigned to it. The Constitutional Court demystified the role of the Commission in the public service. As cited above, the judgement constituted the fundamental contribution to the discourse on the role of the Public Service Commission. The perspectives that jettisoned the executive policy making powers and functions of the Commission alluded to in this context laid down a basis for the unbundling of the powers and functions of the Public Service Commission, therefore necessitated the changing of its role in the public service. The process of unbundling the role of the Commission within a totally new system/model of state administration in the post-1994 period is hereunder examined.

6.3.2. Unbundling of the powers and functions of the South African Public Service Commission and introduction of the new model/system for state administration

The perspectives that jettisoned the executive policy-making authority of the Public Service Commission in South Africa as reviewed in sub-section 6.3.1 above precipitated the unbundling of its powers and functions within the context of the new system of democratic governance. As stated in Muthien (1997:11), 'at the end of 1994 and throughout 1995', the Commission embarked on an introspective exercise into its functioning in the public service. It reconsidered 'its role and redesigned its structure and functions' (Fifield 1998:on-line; Sangweni 1997:38). The Commission sought to extricate itself from the executive policy making functions and entanglement in the day-to-day administration of state departments.

Fifield (1998: on-line) and Sangweni (1997:38) pointed out that in September 1995, the Public Service Commission 'recommended' the creation of the 'Office of the Minister for the Public Service and Administration as a separate department of the Public Service, under its own Director-General'. The Office of the Minister for the Public Service and Administration was assigned the function of providing support service to the Minister in carrying out legislative and executive roles. It was also assigned line functions 'in the areas of government policy development, administrative reform and labour relations' (Fifield 1998:on-line; Sangweni 1997:38-39).

The setting up of the Office of the Minister for the Public Service and Administration did not necessarily change the role of the Commission as directed by the Constitution of 1993. The Commission acquired the approval of the Cabinet, which decided that, from 1 April 1996, the Office of the Minister for the Public Service and Administration should be re-designated the Department of Public Service and Administration (Fifield 1998:on-line; Sangweni 1997:39). The policy-making powers and functions of the Commission were consigned to the newly created Department of Public Service and Administration whereas its executive powers and functions were re-assigned to line departments (Muthien 1997:16). According to Sangweni (1997:39), the broad role changes 'developed jointly by the Minister for the Public Service and Administration and the Public Service Commission, and approved by Cabinet, ushered into public administration a new model for state administration...' This new model/system of state administration, which according to Muthien (1997:11) was adopted by the Cabinet in February 1996, was in line with the international trends (*vide* Fifield 1998:on-line; Muthien 1997:11; Sangweni 1997:39).

The changing of the role of the Commission as explained in the above exposition marked the fundamental paradigm shift of its role from the traditional model of public administration to managerial public administration in South Africa. This was also in line with the broader transformation agenda pursued to align the public service in South Africa with the contemporary trends and practices emphasising the paradigm of management in governance. The managerial public administration is goal orientated. Its emphasis is, in juxtaposition with the traditional model of public administration, more on the institutional outcomes than bureaucratic procedures and regulations (*vide* Public Service Review Report, Department of Public Service and Administration 1999/2000:60-61).

The notion of 'managerialism in governance' accentuates the question of decentralisation of the responsibilities in the public service, delegation of authority, modernisation of the operation of government and accountability for performance (Public Service Review Report, Department of Public Service and Administration 1999/2000:60-61). It is aimed at achieving a more dynamic, efficient, effective, economic and responsive form of public service system (*vide* Ramaite 1999:288-289; also see chapter 4 sub-section 4.4 page 144-153 of the study for a comprehensive theoretical disquisition on the managerial public administration). The new system/model of state administration alluded to in the foregoing, according to Sangweni (1997:39), 'devolved maximum responsibility and accountability to line function departments'. It 'provided for the determination of broad policy frameworks, norms, standards and practices' nationally and all day-to-day executive functions, which in the past needed a decision of the Commission, were left to the Ministers and their respective departments (Sangweni 1997:39; Skweyiya 1996:on-line).

Vesting of management authority over the public service in the Minister of Public Service and Administration as accentuated in the new system/model of state administration necessitated the devolution of executive powers and functions to line functions (*vide* Public Service Review Report, Department of Public Service and Administration 1999/2000:06-07). This exercise was aimed at maintaining 'greater managerial autonomy of the state departments, with greater emphasis on accountability of line managers for the achievement of results' (Muthien 1997:16). The questions of greater managerial autonomy, accountability for performance and decentralisation of authority as accentuated in the new system/model of state administration constitutes the fundamental principles of managerial public administration. This authenticates the contention raised above that the new system/model of state administration approved by the Cabinet in 1996 was ingratiated in the imperatives of the new public management paradigm (*vide* Public Service Review Report, Department of Public Service and Administration 1999/2000: 60-61).

In the context of the above exposition, the unbundling of the executive policy-making powers and functions of the Commission was therefore in line with the international trends of infusing 'modern management principles and practices into the public service' (*vide* Muthien 1997:16). In order to put the nature of the changes effected on the powers and functions of the Commission into perspective, it is

important that reference is also made to the powers and functions of the Department of Public Service and Administration, Executing Authorities and Heads of Departments in a new system/model of state administration. In this regard, Sangweni (1997:39-41) aptly surmised 'broad role changes endorsed by the Cabinet as follows:

- **The Minister for the Public Service and Administration** was responsible for:

  - all policy (national norms and standards) matters relating to human resource management for the whole of the public service;
  - establishing and maintaining uniform salary dispensations, conditions of service and other service benefits for the whole of the public services;
  - advising the president on the creation or abolition of departments;
  - making decision on the functions of departments and the transfer of functions between institutions;
  - making decision on measures to improve the efficiency and effectiveness of public service institutions;
  - making decision on all requests for deviations from the relaxation of policy (national norms and standards) in those instances where executing authorities have not been empowered to do so.

- **The Executing Authorities** [Ministers, Premiers and Members of the Executive Council] were empowered, within the parameters of the national norms and standards, to deal with:

  - organisational structural matters;
  - creation and abolition of posts;
  - all career incidents, that is appointments, promotions and discharges; and
  - certain deviations from and relaxation of prescribed norms and standards.

- **Heads of department:**

  - were given more latitude to establish departmental policy on human resource management in consultation with the executing authority, as national norms and standards would address these issuers on the basis of principle and at macro level only; and

- could be empowered extensively by means of delegations by the relevant executing authority on issues relating to organisation and establishment matters, as well as all career incidents.

- Within the new system/model of state administration ingratiated in managerial public administration the powers and functions assigned to the **Commission** are:

  - To promote the values and principles set out in section 195 of the new Constitution (1996) throughout the public service.

  - To investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service.

  - To propose measures to ensure effective and efficient performance within the public service.

  - To give directions aimed at ensuring that personnel procedures (relating to recruitment, transfers, promotions, and dismissals) comply with the value and principles set out in section 195.

  - To report on its activities and performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with.

  - To investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature.

  - To investigate grievance of employees in the public service concerning official acts of omissions, and to recommend appropriate remedies.

  - To monitor and investigate adherence to applicable procedures in the public service.

  - To advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of the employees in the public service.

The changing of the powers and functions of the Public Service Commission as depicted above was made in 'anticipation of early adoption of the Constitution of 1996 (Muthien 1997:16). The Constitution of 1996 'was adopted by the Constitutional Assembly on 11 October 1996, ...signed by the President on 10 December 1996' and came into effect on 4 February 1997; whereas the new system/model of state administration alluded to above came into operation on 12 April 1996 (Annual Report of the Public Service Commission 1996: i, 04). The

foregoing implies that the new constitutional framework to legitimate the changes that the Cabinet decision of February 1996 effected on the powers and functions of the Commission was not yet effective at the time of coming into operation of the new model of state administration. As a result of the foregoing, transitional contingency arrangements regarding the functioning of the Commission in 1996 were put place. Those arrangements are hereunder examined to determine their effect on the role of the Commission.

6.3.3. Transition of the role of the Commission from the Interim Constitution of 1993 to the Constitution of the Republic of South Africa, 1996(Act 108 of 1996)

As a result that the new constitutional framework to legitimate the changes that the Cabinet decision of February 1996 effected on the powers and functions of the Commission was not yet operational at the time of coming into effect of the new model of state administration, an 'interim' Commission was appointed by the former Minister of Public Service and Administration (Questionnaire for Public Service Commissioners in South Africa: Question 1.6). The Commission alluded to in the foregoing simultaneously carried out, in 1996, functions assigned under the Interim Constitution of 1993 and those envisaged in the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996 – hereafter referred to as the Constitution of 1996)[*vide* Annual Report of the Public Service Commission 1996:08].

The transitional contingency arrangements for dual-functioning of the Commission as explained in the above exposition was, however, rather considerably peculiar and oxymoronic in that the Commission in 1996 carried out the functions stipulated in the law [Constitution of 1996] that was then not yet an official policy of the government. During that time, the Interim Constitution of 1993 was still intact. It was neither amended nor repealed to accommodate the changes made on the role of the Commission in 1996. It *could therefore be contended that the effecting of* changes on the powers and functions of the Commission before the coming into operation of the Constitution of 1996 was *ultra vires* the provisions of the Interim Constitution of 1993. This contention calls into question the legitimacy of the powers and functions the Commission exercised and carried out in 1996 under the constitutional framework that was then not yet operational as an official policy of government.

The responses of the Public Service Commissioners to a question about the legitimacy of the powers and functions which the Commission exercised and carried out in 1996 under the constitutional framework that was not yet then an official policy of the government did not adequately clarify the issue raised in the foregoing. It was only stated in the responses that the Commission was legitimated to exercise powers and perform functions as defined in the Interim Constitutions of 1993 and 1996. The responses of the Commissioners therefore fell-short to specify the law that legitimated the dual-functioning of the Commission (Questionnaire for Public Service Commissioners in South Africa: Question 1.6).

Taking into account that the democratic South Africa was established on the basis of the principle of constitutional supremacy in 1994, it could further be contended that the Cabinet did not have the jurisdiction to take the decision that smack of changes to the provisions of the Interim Constitution of 1993 regarding the powers and functions of the Commission. The authority to take decisions on such matters that have far-reaching constitutional implications was exclusively reserved for Parliament. The changes that were effected before 1997 with regard to the powers and functions of the Commission were therefore, as argued above, *ultra vires* Interim Constitution of 1993. Notwithstanding the foregoing contention, the Cabinet decision of 1996 stood and was, as such, carried out.

The transitional arrangements for dual-functioning of the Commission as explained in the above exposition confounded its role in the public service. The Commission was put in a precarious position. It had to operate in an environment fraught with 'conflicts of expectations' in terms of what should be its role. On the one hand, there was a set of expectations that the Commission should operate like the old one and indeed, it was often questioned why, in some instances, it did not; whereas on the other hand, there were expectations that resisted the *modus operandi* of 'all powerful Commission' of the previous era. The latter expectation required that the Commission must operate in terms of the new mandate articulated in the Constitution of 1996 (Questionnaire for Public Service Commissioners 2002: Question 2.1).

The Commission was therefore, in terms of the theoretical ingratiation of its role, caught between the traditional model of public administration and new public management paradigms. The 'conflicts of expectations' referred to in the above

exposition made it difficult for the Commission to create conducive environment for the new Commission as envisaged in the Constitution of 1996 (Questionnaire for Public Service Commissioners 2002: Question 2.1). The Constitution of 1996, as indicated above, came into effect on 4 February 1997, therefore repealed the Interim Constitution of 1993. In the following sub-section the Commission under the Constitution of 1996 is hereunder examined.

6.4. South African Public Service Commission under the Constitution of 1996

The Constitution of 1996 ushered in fundamental changes in as far as the institution of the Public Service Commission and its role in South Africa was concerned. It made a provision for the establishment of a single Public Service Commission for the Republic to replace the Public Service Commission and Provincial Service Commissions established in terms of chapter 13 of the Interim Constitution of 1993. With regard to the powers and functions of the Commission, the Constitution of 1996 legitimated 'the evolving political consensus' on its new role as explained in sub-section 6.3.2 above (Sangweni 1997:39). The powers and functions of the Commission as stipulated in the Constitution of 1996 are hereunder described, and would thereafter, under sub-section 6.4.5 below, analysed.

6.4.1. Powers and functions of the Commission as stipulated in the Constitution of 1996

The Constitution of 1996 confirmed the extrication of the Commission from the executive policy making powers and functions and assigned it monitoring, evaluation, investigation, research and advisory functions. This much is clear in the provisions of section 196(4) of the Constitution of 1996. The powers and functions of the Commission as spelt out in the section of the Constitution of 1996 alluded to in the foregoing are as follows:

- To uphold the values and principles of public administration stipulated in section 195 of the Constitution throughout the public service.

- To investigate, monitor and evaluate the organisation, administration, and personnel practices of the public service in order to determine their compliance with the values and principles stipulated in section 195, as well as to public service procedures.

- To suggest step that could be undertaken in order to maintain effectiveness and efficiency in the public service.

- To issue directives intended to make sure that personnel procedures concerning recruitment, transfers, promotions and dismissals adheres to the values and principles of public administration as clearly spelt out in section 195 of the Constitution.

- To advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service.

- To report in respect of its activities and the performance of its functions, including any finding it may make and direction and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with.

- To bring matters of immediate operational concern to the attention of the relevant executive authority.

- To look over the complaints of public service employees and recommend suitable remedies.

The basic constitutional values and principles as enshrined in section 195(1) of the Constitution of 1996 which the Commission must, in terms of section 196(4)(a) alluded to above, maintain and promote throughout the public service are as follows:

- A high standard of professional ethics.

- Efficiency, economic and effective use of resources.

- Development-orientated public administration system.

- Impartiality, fairness and equity in the delivery of public services.

- Public participation in the process of public policy-making and responsiveness to societal needs.

- Accountability in public administration.

- Transparency.

- Good human resource management and career development practices to maximise human potential.

- A broadly representative public administration reflective of South African demography, with employment and personnel practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

According to the Report of the Presidential Review Commission (1998:on-line), the above-mentioned, with the exception of the function of looking over the complaints of the employees of the state, constitutes the core functions of the Public Service Commission. Section 196(2) of the Constitution of 1996 require that the Commission must exercise its powers and perform its functions independently and impartially, 'without any fear, favour or prejudice in the interest of the maintenance of effective and efficient public administration and a high professional ethics in the public service'. This section further makes a provision that the Public Service Commission as envisaged in sub-section (1) of the Constitution of 1996 must be regulated by national legislation. Such national legislation was, however, not yet readily available at the time of coming into effect of the Constitution of 1996. As a result of the foregoing, the 'interim' Commission appointed by the then Minister of Public Service and Administration, as explained in sub-section 6.3.3 above, continued to exist. (Questionnaire for Public Service Commissioners in South Africa 2002: Questions 1.6 and 2.1). The 'interim' Commission, on one hand, carried out its functions under the Interim Constitution of 1993; whereas, on the other hand, it functioned under the Constitution of 1996. This arrangement was in line with the transitional arrangements articulated in schedule 6 item 24(2) of the Constitution of 1996 that:

> The Public service Commission and the provincial service commissions referred to in Chapter 13 of the previous Constitution continue to function in terms of that Chapter and legislation applicable to it as if that Chapter had not been repealed, *until the Commission and provincial service commissions are abolished by an Act* of Parliament passed in terms of section 75 of the new Constitution.

The *Public Service Commission Act*, 1997 (Act 46 of 1997) and the *Public Service Laws Amendment Act*, 1997(Act 47 of 1997) were, towards the end of 1997, passed by Parliament to give effect to section 196(2) and schedule 6 item 24(2) of the Constitution of 1996 as cited in the above. The promulgation of the foregoing Acts of Parliament, hereafter referred to as Act 46 of 1997 and Act 47 of 1997 respectively, established a new legal framework that legislatively legitimated the changing of the powers and functions of the Public Service Commission. These legal instruments are also hereunder examined to determine their effects on role of the Commission.

6.4.2. **Public Service Commission Act, 1997(Act 46 of 1997)**

The Act 46 of 1997 gave effect to the Constitution of 1996. It made provision for the establishment of a single Public Service Commission, as envisaged in section 196(1) of the Constitution of 1996, to replace the Public Service Commission and nine provincial service commissions established in terms of chapter 13 of the Interim Constitution of 1993. It further, in complying with section 196(2) of the Constitution of 1996, provided for the regulation of such a single Public Service Commission. The Act 46 of 1997 is comprised of four parts. Of cardinal importance, for the purpose of this context, is Part III dealing with the functions of the Commission. Part III of Act 46 of 1997 assigned the Commission the powers to:

- Inspect departments and other organisational components in the public service;
- Conduct enquiries into any matter in respect of which is authorised by the Constitution of 1996 or Act 103 of 1994; and
- Make rules, which are not contrary to this Act (Act 46 of 1997) and the Constitution of 1996.

The Act 46 of 1997 ratified broad role changes that necessitated the unbundling of the Commission as endorsed by the Cabinet in 1996. Its provision [Act 46 of 1997], as cited above, gave the Commission the power to realise its mandate as articulated in section 196(4) of the Constitution of 1996. The Act 46 of 1997 was, as indicated in sub-section 6.3.3 above, passed by Parliament in 1997. However, the foregoing Act only became fully operational in 1999. In the meantime therefore the transitional arrangement for dual functioning of the Commission alluded to in sub-section 6.3.3 above continued to exist. The interim Commission established by the Minister of the Public Service and Administration was retained and required to simultaneously carry out its functions under the Interim Constitutions of 1993 and the Constitution of 1996 (*vide* Annual Report of the Public Service Commission 1997:02).

6.4.3. **Public Service Laws Amendment Act, 1997(Act 47 of 1997)**

The Act 47 of 1997 amended Act 103 of 1994. Like Act 46 of 1997, Act 47 of 1997 gave effect to the provisions of section 196 of the Constitution of 1996. It legitimated broad role changes endorsed by the Cabinet in 1996, which accentuates 'the transfer of the management authority for the public service from the Public Service Commission to the Minister of Public Service and Administration' (Public

Service Review Report, Department of Public Service and Administration 1999/2000:06-07). As aptly captured in the Report of the Presidential Review Commission (1997:on-line), 'the main aim of the Act [Act 47 of 1997] is to remove the rigidities imposed by Act 103 of 1994, the associated regulations and staff code, and by so doing to pave the way for the introduction of a much decentralised management system, in which the responsibility to make decisions is devolved to the most appropriate levels of management'. The Act 47 of 1997 readjusted the functions of the Public Service Commission, therefore firmly vested the Minister of Public Service and Administration with policy-making powers. This much is clear in section 3 of Act 47 of 1997 which assigned the Minister with the powers to make policies in respect of the following matters:

- Functions of and organisational arrangements in the public service;
- Employment and other personnel practices, including the promotion of broad representation of the South African demography as well as human resource management and training, in the public service;
- Salaries and other conditions of service of officers and employees;
- Labour relations in the public service;
- Information management and information technology in the public service; and
- Public service transformation and reform.

In addition to the powers and functions provided above, Act 47 of 1997 further state that the Minister may:

- provide a framework of norms and standards with the aim of giving effect to any of the above policies;
- advice the President on the establishment of national departments and related matters;
- allocate, transfer, and abolish public service functions; and
- advise the President, Ministers, Premiers and Members of the Executive Councils (MECs) on a range of public service and related issues.

Act 47 of 1997 was, as indicated in sub-section 6.3.3 above, passed by Parliament in 1997. Its implementation was, however, dawdled. Some delays in the implementation of Act 47 of 1997 resulted in a situation where the Commission in 1998 continued to operate in a transitional mode. The Commission carried out its powers and functions in terms of the Interim Constitution of 1993, on one hand, and the Constitution of 1996 on the other hand. Using Bester's words in the *Annual Report of the Public Service Commission* (1998:02), the Commission was 'swimming in old streams and simultaneously diverting into new streams'. The transitional arrangement for dual functioning of the Commission ceased to exist when a single Public Service Commission as envisaged in section 196(1) of the Constitution of 1996 was instituted. The institution of the Commission in terms of the Constitution of 1996 was therefore significant in that it marked the culmination of the process of changing the role of the Commission in South Africa; hence reference is hereunder succinctly made to it.

6.4.4. **Institution of a single Public Service Commission as envisaged in the Constitution of 1996**

A single Public Service Commission as envisaged in section 196(1) of the Constitution of 1996 was suggested by Parliament in December 1998 and appointed by President as from 1 January 1999 (Questionnaire for Public Service Commissioners 2002: Question 1.6; Skweyiya 1999:on-line). Such Commission could not, however, come into operation because of the Constitutional Court challenge by the Western Cape provincial government to the provisions of the *Public Service Laws Amendment Act* of 1998 which accorded the provincial departments the status of a fully-fledged departments accountable politically through the Members of the Executive Council and administratively through the heads of departments (Premier, Western Cape v President of the Republic of South Africa and others 1999:on-line).

The Constitutional Court challenge launched by the Western Cape Provincial Government was a major hurdle that delayed the implementation of Act 46 of 1997, Act 47 of 1997 and of course, also the formal assumption of office by the newly appointed Public Service Commission (Questionnaire for Public Service Commissioners in South Africa: Question 2.2). The foregoing therefore means that the Western Cape Provincial Government's court challenge had a negative impact on the process of speedy changing of the role of the Commission. Viewed from another

perspective, however, the court action was important as the judgement eventually clarified the fundamental question of power relations between the national and provincial governments/administrations on the issue of transformation of the public service, which also has a considerable bearing on the role of the Commission. The judgement, in a way, greatly contributed towards the development of common understanding of the new constitutional position of the Commission in South Africa.

The members of the new Public Service Commission formally assumed office only on 1 July 1999, following the judgement of the Constitutional Court. The judgement of the Constitutional Court therefore heralded the culmination of the process of changing the role of the Public Service Commission in that Act 47 of 1997 and section 15(1) of Act 46 of 1997 fully came into effect; whereas, Act 65 of 1984 as amended came to an end. The transitional arrangement for dual functioning of the Public Service Commission, as indicated in sub-section 6.3.3 above, also ceased to exist when the new Public Service Commission as envisaged in section 196(1) of the Constitution of 1996 came into operation (*vide* Annual Report of the Public Service Commission 2000/2001:06). The powers and functions of the Commission, as described in sub-section 6.4.1 above, are hereunder analysed to understand its role under the Constitution of 1996.

6.4.5. Analysis of the new role of the Commission under the *Constitution of 1996*

In juxtaposition with the previous dispensation, the constitutional and philosophical orientation of the powers and functions of the Commission as articulated in the Constitution of 1996 are premised on the imperatives of the new public management approach with a developmental focus. The powers and functions of the Commission under the Constitution of 1996 are focussed on the development and modernisation of public administration practices, not the imperatives of the traditional model of public administration accentuating the notion of public service stability (*vide* Half-Yearly Report of the Public Service Commission 2000:04; Hughes 1994:23-24).

The changes since 1994 'crystallise[d] the role of the Public Service Commission as a pure check in the system of governance and safeguard[ed] its independence and impartiality' (Muthien 1997:17). The foregoing was confirmed by the Constitution of 1996. The Commission changed from 'an executive policy-making and implementing institution to an independent, impartial, advisory and monitoring body with

responsibilities for promoting good governance in public administration' (Sangweni 1997:38).

The Commission under the Constitution of 1996 assumed developmental and facilitating role in the public service. The development and facilitative nature of the role of the Commission as prescribed in the Constitution of 1996 is in line with the international trends of establishing specialised units and programmes aimed at developing and modernising public administration practices, *vide* 'Malaysian Administrative Modernisation and Management Planning Unit, English Next Steps Programme, Singapore's Public Service for 21st Century Programme and Hong Kong' Efficiency Unit' (Muthien 1997:17).

In the context of the above theoretical exposition, the specific powers and functions of the Commission under the Constitution of 1996 as described in sub-section 6.4.1 above are hereunder, using the *categorical system* of the responsibilities of the Commission as applied in sub-section 6.2.4 above as an analytical instrument, classified on the basis of their nature into three categories [**influence, administration and research**] and, as such, analysed.

6.4.5.1. Influential powers and functions of the Public Service Commission under the Constitution of 1996

It is contended in sub-section 6.2.4 above that the Commission under the Interim Constitution of 1993 was assigned too much executive policy-making powers and functions, which were even much more than the ones that were assigned to its predecessor, namely the Commission for Administration. In the logic of the *categorical system* of its responsibilities, the foregoing means that the Commission was assigned too much powers and functions in the public service that falls under the **influence** category. Under the Constitution of 1996, the influential powers and functions of the Commission changed rather fundamentally. Those powers and functions did not only change, but also intensely reduced. The Commission does not have the executive policy-making powers any more. It is now, as indicated in sub-section 6.3.6 above, assigned monitoring, evaluation, investigation and advisory functions (*vide* Annual Report of the Public Service Commission 2000/2001:06).

Act 47 of 1997 introduced a much more decentralised management system in the public service in which the responsibility to make decisions is devolved to the state departments. The state departments exercise their powers and carry out their functions in a relatively autonomous environment. And, the Public Service Commission in this regard performs an oversight role to primarily ensure that the practices of public administration comply with the constitutionally enshrined democratic values and principles. The Commission monitors, evaluates and investigates the organisational, personnel and other administrative practices as well as public service delivery and accordingly advice the Executing Authority (*vide* Fifield 1998:on-line; Muthien 1997:12-14; Sangweni 1997:36-46; Skewyiya 1996:on-line).

The Commission is further empowered, in terms of section 196(4)(d) of the Constitution of 1996, to give direction on personnel matters and, in terms of section 11 of Act 46 of 1997, to make rules that are not contrary to the Act itself [Act 46 of 1997] and the Constitution of 1996. The powers and functions of the Commission to monitor, evaluate, investigate, advice, direct and to make rules on the practices of public administration ingrain an element of influence in that, when being exercised and carried out, they directly impact on the functioning of the operating departments. These new powers and functions of the Commission are therefore, in terms of *categorical system* and for the purpose of this study, classified under the *influence* category and, as such, hereunder analysed. The monitoring and evaluation roles/functions of the Commission are, due to the fact that they are inextricable, examined under the same sub-section whereas its powers and functions to give directions, to make rules, to conduct investigations and research on a variety of administrative matters are separately analysed under different sub-sections.

6.4.5.1.1. **Monitoring and evaluation function of the Commission**

Monitoring and evaluation are not synonymous, but inextricably intertwined. In the context of this study, monitoring must be understood as a continual checking of the operational functioning of the public sector by the Commission to ensure compliance with the constitutionally entrenched democratic values and principles of public administration whereas evaluation is an overall assessment of efficiency and effectiveness in public administration. Both monitoring and evaluation are essential to determine whether the public service carry out its mandate in a manner consistent with the constitutional values and principles of public administration; to show

whether public sector performance is maximised; and whether public resources are used efficiently and effectively to achieve the policy objectives of government (*vide* Hanekom 1996:88-100; see also Chapter 10 of the Constitution of the Republic of South Africa, 1996 -Act 108 of 1996).

As aptly captured in the *Half Yearly Report of the Public Service Commission* (2000:14), 'monitoring and evaluation of the public service is the first step to real improvements, since information that identifies the weak areas becomes available for the first time, and improvements becomes possible, through analysis of baseline data and benchmarking'. Therefore, the efficacy of monitoring and evaluation of the public sector performance is contingent upon timeous availability of accurate information. When the Commission assume its new constitutional role, the annual reporting system existing then as a medium for dissemination of information in the South African public service was, however, fraught with serious deficiency that impacted negatively on the efficacy of monitoring and evaluation of the public sector performance (*vide* Annual Report of the Public Service Commission 1998:13).

According to the *Annual Report of the Public Service Commission* (1998:13), the annual reports of most departments did not adequately link the expenditure with the outputs. They did not provide information on the outputs targets of the departments. Therefore the outputs were not related to the expenditure for a particular financial year. Furthermore, most departments did not provide adequate information on their actual performance whereas, in some instances, statistical data devoid of any analysis was provided, thus subjected the data to reader interpretation. The statistical data could be worthless to those who are not numerically literate. The shortcomings in the annual reporting system in the public service as explained in the foregoing made it difficult, if not impossible, for a commission to make an informed judgement on the performance of the departments (Annual Report of the Public Service Commission 1998:13). Therefore, the efficacy of the Commission to carry out its constitutional mandate of monitoring and evaluation of the public sector performance was profoundly impaired.

With the introduction of the Medium Term Expenditure Framework by the National Treasury and the new Public Service Regulations of 1999 by the Minister of the Department of Public Service and Administration, the problem of inadequacy of the annual reporting system in the public service was addressed. The Medium Term

Expenditure Framework, on the one hand, prescribed that the departments must 'provide the statements of objectives, outputs, measurable performance indicators and expenditure against the outputs' whereas on the other hand, the Public Service Regulations 'require departments to provide comprehensive account of their objectives, service delivery standards and targets, as well as an account on a ranges of personnel matters' (Annual Report of the Public Service Commission 1998:13; National Expenditure Survey, Department of Finance 1999; Public Service Regulations 1999:13-24). The *Public Finance Management Act*, 1999 (Act 1 of 1999) as amended legislatively legitimated the annual reporting system accentuated in the Medium Term Expenditure Framework.

The annual reporting system in the public service as prescribed in the official documents cited above made it possible and relatively easy for the Commission to vigorously undertake its constitutional mandate of monitoring and evaluation of the public sector performance. Since 1997 the Commission embarked on a variety of activities in respect of its new constitutional mandate (*vide* Annual Report of the Public Service Commission 1997:03-19; 1998:09-30; Half yearly Report, Public Service Commission 2000:03-18; *Evaluation of the Department of Home Affairs*, Public Service Commission 1998; *The state of representativeness in the public service*, Public Service Commission 2000). The monitoring and evaluation activities of the Commission as chronicled in its annual and half-yearly reports as well as specially prepared and commissioned reports alluded to above are abridged in Table 6.1 *infra* (page 225-227). Due to the limited scope of this study, the activities of the Commission succinctly summed up in Table 6.1 *infra* (page 225-227) only relate to the period 1997-2000, although some of them overlapped to the ensuing year-2001.

The qualitative data gleaned from different state departments unanimously vouch that the monitoring and evaluation role assigned to the Commission is appropriate for developing and enhancing the democratic system of governance in South Africa. The post-apartheid public service is relatively 'young', therefore still on a 'learning curve'. It is not yet fully stabilised. The monitoring and evaluation role of the Commission is therefore, in this regard, important in assisting the state departments to contend with the challenges of the new system of democratic governance. In monitoring and evaluating public sector performance, the Commission uses a variety of specially prepared and commissioned reports. Such reports are, due to their qualitative nature, perceived to be useful in enhancing deeper understanding of the

public sector and its performance in the delivery of public services (Personal interviews: Directors of Human Resources in the Departments of Arts, Culture & Technology, Water & Forestry, Finance, Housing and the Executive Manager, Human Resource Management in the South African Management and Development Institute, 2002).

The qualitative monitoring and evaluation of the operational functioning of the state departments is, however, time-consuming. It 'tied up...the limited resources' of the Commission 'in one or two projects' (Annual Report of the Public Service Commission 1998:01). The foregoing could be attributed to that the Commission does not have a formal transversal monitoring and evaluation system/tool (Half-Yearly Report of the Public Service Commission 2000:13-14). A lack of transversal monitoring and evaluation system makes the Commission to carry out the functions of monitoring and evaluation in a piecemeal or *ad hoc* fashion. This also leads to some delays in gathering reliable data and analysing it into information that facilitates decision-making (Questionnaire for Public Service Commissioners 2002: Question 2.4). The effect of the foregoing is that the Commission evaluates and monitors the activities of the state departments after a long period of time (Personal Interview: Director of Human Resources, Department of Arts, Culture, Science and Technology 2002; *vide* Annual Report of the Public Service Commission 1998:01).

The national departments are also affected in that they do not know, without the availability of the system/tool alluded to above, how to compile information for monitoring and evaluation purposes. They are therefore not necessarily able to gather, analyse, and store information. The effect of the foregoing is that when 'periodic monitoring happens', the departments are unable to retrieve the information that the Commission requires (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.4). It is therefore, on the basis of the foregoing, contended that a lack of monitoring and evaluation system/tool vitiates the capacity of the Commission to frequently monitor and evaluate public sector practices and performances.

The other problem regarding the monitoring and evaluation function of the Commission relates to the basic constitutional value and principle that public administration must be developmental in terms of its orientation. According to the *Annual Report of the Public Service Commission* (2000/2001:02), there is still no

'national consensus' on what it means to have a development orientated public administration. The effect of this is that the Commission would find it difficult to monitor and evaluate the public service on the basis of the constitutional value and principle alluded to in the foregoing. It is therefore critical that the notion of 'development orientation' of public administration must be unpacked to develop a common understanding of its meaning, otherwise monitoring and evaluation in this area would 'remain weak' (*vide* Annual Report of the Public Service Commission 2000/2001:02).

The Commission is also assigned the mandate of monitoring issues related to labour relations in the public service. Initially, the monitoring role of the Commission in the realm of labour relations in the public service was confined to only expression of 'an opinion on the handing (sic) of grievances in public service organisations referred to it by the parties concerned' (Half-Yearly Report of the Public Service Commission 2000:04). The Commission did not engage itself in monitoring the implementation of its recommendations in respect of grievances/complaints it handled. This situation has, however, since changed as the Commission assumed a more strategic role in monitoring labour relations in the public service.

Rule B.5 of the Rules dealing with complaints and grievances of officials in the public service requires that the head of department should communicate the decision regarding the implementation of the recommendations of the Commission. This arrangement effectively extended the role of the Commission to also cover the question of monitoring the implementation of its recommendations on issues related to labour relations in the public service (*vide* Annual Report of the Public Service Commission 2000/2001:02; Half-Yearly Report of the Public Service Commission 2000:04).

The above exposition notwithstanding, the involvement of the Commission in issues of labour relations is, in the light of a number of institutions established to deal with the same, subject to a variety of contestations. The Report of the Presidential Review Commission (1998:on-line) argued that labour grievances in the public service could be well-handled through the mediation and arbitration processes established in terms of the *Labour Relations Act*, 1995(Act 66 of 1995). However, in terms of the current resolution of the Public Service Bargaining Council (PSBC), the Commission for Conciliation, Mediation and Arbitration no longer hears disputes arising out of the

public service concerning specific issues such as dismissals. Such cases are now being referred to the Central Bargaining Council or the General Public Service Sector Bargaining Council, whichever is applicable. The disputes or grievances in the public service are arbitrated in the appropriate Bargaining Council, depending on the sector where the disputes arose, and the arbitration awards that are binding to the parties are normally granted (Personal interview: Chief Director of Labour Relations, Public Service Commission 2002).

In the light of the current arrangements explicated in the above exposition related to dispute resolution mechanisms in the public service, one could ask the question what added value the Commission is bringing in the area of labour relations in the public service. It appears that the role of the Bargaining Councils in issues related to labour relations in the public service carries more weight than that of the Commission. As indicated above, Bargaining Councils could issue a binding arbitration awards in respect of cases arbitrated, whereas the Commission just make recommendations. Therefore, on the basis of the foregoing, it is contended that the monitoring role of the Commission on complaints/grievances of the public service employees is superfluous.

Intertwined to the foregoing is the contention that there are a variety of key departments and institutions/bodies supporting constitutional democracy that plays a critical oversight role of monitoring and evaluation of public service delivery, namely the Office of the Ministry for the Public Service and Administration, Department of Public Service and Administration, Departments of Finance and State Expenditure, Auditor-General, Public Protector, Human Rights Commission and Financial and Fiscal Commission (*vide* Draft Strategy Position Paper, Public Service Commission 1997: 08-09; Report of the Presidential Review Commission, Chapter 3, 1998: on-line; Sangweni 1997:44-45). Quoting from a response of one of the Public Service Commissioners to a question asked in this regard, 'there is relatedness in goal between the Commission and all other listed institutions as they are all concerned with ensuring a value driven, efficient and effective public service' (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.3).

Naturally, the activities these institutions are engaged in to achieve the objective articulated in the foregoing are similar. The question of co-operation among the monitoring and evaluation departments/bodies/institutions alluded to above

therefore become imperative. The *Draft Strategy Position Paper*, Public Service Commission (1997:08-09) indicated that 'the complimentary nature of the responsibilities of these institutions...will in practice necessitate continuous consultation and co-operation between them and the Commission'. It is, however, not clearly delineated in the Draft Position alluded to in the foregoing as to how exactly the Commission would interface co-operatively with the key departments/institutions/bodies supporting constitutional democracy.

The foregoing notwithstanding, the Public Service Commissioners indicated that the Commission liaise with the statutory bodies/key departments/institutions mentioned above in the area of monitoring and evaluation. The question of 'formal co-operation' among monitoring and evaluation bodies in terms of resources is, however, not necessarily possible. This should be understood within the context that, 'in these days of performance based assessment', institutions prefer to do things in their own ways (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.3). This certainly 'sacrifice co-operative engagement' among the institutions involved in monitoring and evaluation of the public sector performance (Questionnaire for the Public Service Commissioners in South Africa 2002: Question 2.3). It is therefore, on the basis of the foregoing, contended that co-operation between institutions/key departments/bodies mentioned above and the Commission in monitoring and evaluation is minimal.

6.4.5.1.2. **Investigation function of the Commission**

In addition to monitoring and evaluation, the Commission is, in terms of the Constitution of 1996, assigned the function of investigating the organisation, administration, personnel practices, application of personnel and public administration practices, and grievances of employees in the public service. As is clear in Table 6.1 page 225-227, the Commission during the period 1997-2000, conducted investigations on a wide range spectrum of public administration related matters. In respect of its investigations, the Commission compiled comprehensive reports that do not only point out areas of weakness in the public service, but also provided recommendations for improvements. The recommendations of the Commission in respect of its investigations into a variety of public administration issues during the period 1997-2000, apart from that, unlike in the previous constitutional dispensation, are not mandatory, were accepted and put into practice

by the respective Executing Authorities (*vide* Annual Reports of the Public Service Commission 1997, 1998, 2000/2001).

The perspectives developed by the Commission from the investigations conducted on a variety of issues related to public administration added new insights into the functioning of the public service. The investigation function of the Commission in the public service is focussed on the development of the post-apartheid public service, which is still relatively 'young' (Personal Interviews: Directors of Human Resources in the Departments of Arts, Culture, & Technology, Waters & Forestry, Finance, Housing and the Executive Manager, Human Resource Management in the South African Management and Development Institute, 2002; Questionnaire for Public Service Commissioners in South Africa 2002:Question 2.3).

The opinions/views of the research subjects alluded to in the foregoing unanimously attest that the findings of the investigations of the Commission on a variety of issues are so much useful in building a public service system premised on the imperatives of democracy. The investigation reports on 'career management' and 'verification of the qualifications of senior public servants' were often cited in the interviews in authenticating the worthiness of the investigation function of the Commission (Personal interviews: Directors of Human Resources in the Departments of Arts, Science, Culture and Technology; Finance; Housing; Water and Forestry; and the Executive Manager, Human Resource Management in the South African Development Management Institute 2002).

The thorough and detailed manner in which the Commission conducted its investigations into a variety of public administration practices, just like in the case of monitoring and evaluation function as indicated in sub-section 6.3.8.1.1 above, is however a time-consuming and expensive exercise. This contention is authenticated in the *Annual Report of the Public Service Commission* (1997:13) that, 'investigation into social security system stretched the Commission's limited capacity and financial resources to the limit'. When other issues the Commission similarly investigated, particularly with regard to corruption as indicated in Table 6.1 page 225-227, are taken into account, the impact on its resource capacity become so enormous.

Analysis of the *Annual* and *Half-Yearly Reports of the Public Service Commission* (1997, 1998, 2000, 2000/2001) indicate that the Commission during the period 1997-2000 has been so much engrossed in investigating a variety of cases in

different departments both at national and provincial level of government related to corruption (*vide* Table 6.1 page 225-227). Indubitably, the foregoing was in pursuance of its constitutional mandate of promoting a high standard of professional ethics in the public service. The investigation of the cases of corruption, especially in the provinces, severely strains the resource capacity of the Commission. Consequently, other projects that have to be undertaken at the same time in response to the requests of the diverse stakeholders of the Commission are bound to stretch the resource capacity of the Commission even further (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.8).

Apart from the Public Service Commission, there are also at least ten other agencies assigned investigative role regarding public sector corruption (Camerer 1999:on-line). More often cases of corruption are reported to those other oversight agencies such as the National Directorate of Public Prosecution, Auditor-General, Directorate for Serious Economic Offences, Police Anti-Corruption Unit, Public Protector, and the now defunct Heath Special Investigation Unit (*vide* Camerer 1999:on-line; Half-Yearly Report of the Public Service Commission 2000:07). Given the number of the agencies involved in investigating public sector corruption, the question that has always been asked was: 'What can be done to make these anti-corruption bodies work together more effectively' (Camerer 1999:on-line)?

In order to address the question raised in the foregoing, various endeavours were pursued to ensure that there is co-ordination of efforts among the different oversight agencies established to deal with public sector corruption. Of cardinal importance worth mentioning is the whole idea of creating a national and, in some instances, provincial anti-corruption forums and a four-point resolution adopted in a meeting of January 1999 by the National Directorate of Public Prosecution, Auditor-General, Police Anti-Corruption Unit, Directorate for Serious Economic Offences, Public Protector, Justice Ministry, Public Service Commission and the Heath Special Investigative Unit. The national and, in some respects, provincial anti-corruption forums plays a critical role in fostering co-operation among different anti-corruption agencies in South Africa. These forums are intended to ensure that 'information' and other resources are 'shared, research findings are explored, and where possible joint action undertaken' (Questionnaires for Public Service Commissioners in South Africa 2002: Question 2.7).

In a four-point resolution alluded to in the foregoing the anti-corruption agencies agreed to:

- establish direct lines of communication with each other; each organisation will have a dedicated person who can be contacted for information;
- enhance co-ordination of facilities, mechanisms and abilities at the disposal of agencies for assistance to other bodies in investigations of corruption, fraud and maladministration;
- share information on regular basis; and
- send information on the operations of each body, its *modus operandi*, [and] its powers and methods of recourse to all government departments. This is aimed at making them aware of the role of each anti-corruption agency (Camerer 1999:online).

This four-point resolution, hereafter referred to only as a resolution, accentuates the notion of synergy of efforts among anti-corruption agencies and capacitating of each other. It appears, however, that the resolution did not adequately yield intended results particularly for the Public Service Commission in as far as its resource capacity in investigating cases of corruption in the public service is concern. According to *Half-Yearly Report of the Public Service Commission* (2000:07), 'a large number of individual cases of corruption is reported to the Commission' for investigation. The Commission do not, however, have adequate resources capacity to undertake such investigation (Personal interviews: Director of Human Resources, Department of Arts, Science, Culture & Technology; and Deputy Director of Human Resources, Department of Water and Forestry 2002). The increasing rate of corruption in the public service is overstretching the resources and capacities of the Commission much more further and, inferring from the literature studied and interviews conducted, there is no evidence of assistance in terms of capacities from other agencies as per four point resolution cited above (*vide* Half-Yearly Report of the Public Service Commission 2000:07). This is indicative of the fact that there is a lack of adequate co-ordination/synergy of efforts between the Public Service Commission and other bodies that deal with the question of public sector corruption. The foregoing often results in duplication of roles, which inhibit optimal achievement of results (*vide* Half-Yearly Report of the Public Service Commission 2000:03).

Corruption is a multifarious phenomenon that needs a multi-disciplinary approach. The capacities of each anti-corruption body, including the Public Service Commission, must therefore be adequately enhanced. This could be achieved if synergy of efforts among anti-corruption agencies could be sustained. With regard to the Public Service Commission, a balance need to be struck between its investigation function in the cases of corruption and other constitutional mandates assigned to it. Too much concentration of the Commission on the investigation of cases of public sector corruption could distract its focus from other specific constitutional mandates. In order to proactively deal with the foregoing issue, it is imperative that the role of the Commission vis-à-vis that of other anti-corruption agencies must be clarified. This point is advanced mainly on the basis that the Constitution of 1996 only states that the Commission must promote high standard of professional ethics in the public service.

Indeed, in pursuit of the foregoing constitutional mandate, the Commission in 1997 produced the first Code of Conduct for public servants and embarked on a campaign to promote awareness about it (Annual Report of the Public Service Commission 1997:03). In the ensuing years, the Commission, as indicated above, started to also investigate cases of corruption in the public sector (*vide* Annual Reports of the Public Service Commission 1998, 2000/2001). The question that requires clarification in this regard is therefore whether the promotion of professional ethics in the public service is also inclusive of investigating cases of corruption in the public sector. The demystification of the investigation functions of the Commission apropos that of other anti-corruption is important in that it could alleviate duplication of roles, therefore foster co-ordination and synergy of efforts to achieve optimum results in dealing with public sector corruption.

Table 6.1: Synopsis of monitoring, evaluation and investigation activities of the Public Service Commission during the period 1997-2000

Monitoring and evaluation activities	Investigation activities
1. Monitoring and evaluation of the operational functioning of the Departments of Home Affairs, Welfare, Minerals and Energy 2. Evaluation of the efficiency of the transversal information technology system 3. Monitoring compliance with affirmative action/employment equity policy in the public service 4. Evaluating compliance with the Batho Pele principles at grass-roots level service points 5. Evaluation of fleet management in the Eastern Cape Province 6. Evaluation of the management of a Geographic Information System (GIS) in the Eastern Cape 7. Review of the organisational structure of the Departments of Agriculture and Environment in the Limpopo Province 8. Evaluation of the management structure of the Department of Health in the North-West Province 9. Evaluation and audit of the capacity and effectiveness of departmental system and anti-corruption units in the Eastern Cape Province	1. Investigation into the establishment of the national social security system 2. Investigation into the organisation structure of the Limpopo Province Department of Education 3. Investigation into the management of leave and overtime remuneration in the public service 4. Investigation into career management 5. Investigation into dismissals as a result of misconduct 6. Investigation into the administrative system utilised by departments to manage the payment of allowances 7. Investigation into the management of probation in the public service 8. Investigation into the reasons for the increase and the trends in the number of grievances referred to the Commission by various departments since January 1996 9. Investigation of the trends in the management of suspensions in the public service in terms of Section 22(7) of the Public Service Act, 1994(Act 103 of 1994), Public Service Regulations and Public Service Staff Code 10 Investigation into land administration in the Eastern Cape

10. Monitoring and evaluation of personnel and public administration practices by means of ad hoc requests and complaints from: ❑ Department of Minerals and Energy ❑ Department of Land Affairs ❑ Office of the Premier, Gauteng Province ❑ Department of Safety and Liaison, Gauteng Province 11. Evaluation of annual reports of different departments as accountability mechanisms	11. Investigation into the procedures followed by the Limpopo Province Department of Education for prescribing books for the subject Sepedi Literature from Grades 10 to 12 12. Investigation into allegations of corruption and maladministration in the Department of Education in the Limpopo Province 13. Investigation into the state of representativeness in the public service 14. Investigation into institutional and systems risks on procurement procedures in the Mpumalanga Province 15. Investigation into the verification of qualifications of officials from Director and upwards (level 13-16) 16. Investigation into the verification of the qualification of senior public servants (levels 13-16) in the Mpumalanga Provincial Administration 17. Investigation into alleged irregularities in the human resource practices of the Department of Correctional Services 18. Investigation into various human resources practices at the departmental level 19. Investigation into the allegations of corruption and nepotism in case-specific practices in the Free State Department of Agriculture 20. Investigation into allegations of irregularities in the filling of posts in the Kwazulu-Natal Department of Education 21. Investigation into allegation of fraud, corruption and maladministration in the

	Kwazulu-Natal Department of Education 22. Inquiry into an appointment made by the erstwhile MEC (Executing Authority) of the Kwazulu-Natal Department of Education and Culture, of her brother in the post of Deputy Director-General in her Department 23. Investigation into allegation of nepotism in the filling of various posts in the Department of Public Works, Roads and Transport: Mpumalanga Provincial Administration 24. Investigation into the implementation of the performance agreement system for senior managers 25. Investigation into the management of probationary appointments within the public service departments at national level

6.4.5.1.3. **Directive and advisory roles of the Commission**

As indicated in sub-section 6.3.3, the Commission is empowered in terms of section 196(4)(d) of the Constitution of 1996 'to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195'[of the Constitution]. In terms of section 196(4) (f) (iv) of the Constitution of 1996 the Commission is also assigned the power to 'advice national and provincial organs of state regarding personnel practice in the public service...' The directive and advisory roles of the Commission under the current constitutional dispensation are so important, given the fact that the responsibility and capacity to make decisions are devolved to the management of state departments. Act 47 of 1997 necessitated a paradigm shift from the rule-bound management system to a much

more decentralised one. In this paradigm of decentralised management system, the Commission give directions and advices to public managers to contend with their enhanced and decentralised management responsibilities. The Commission 'study the implementation of policies in context and content; engage public managers on what works well and does not work well; what strategies are necessary to bolster the performance of the departments' (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.5) In the foregoing process of interaction between the Commission and the national departments/provincial administrations, the directions and advices that are given capacitates public managers to carry out their enhanced and decentralised responsibilities excellently.

In juxtaposition with the previous constitutional dispensation, the Commission does not have executive powers. The directions and advises of the Commission on public administration related matters are therefore not mandatory or control-orientated (Questionnaire for Public Service Commissioners 2002: Question 2.6). This means that the Commission cannot, under the current constitutional dispensation, enforce the implementation of its directions. However, if a direction given is ignored and, it is later found out that it was good/strategic, the concerned organ of the state would have to explain why it did not take into account the useful direction given by the Commission to the Parliament, in the case of state departments or to the Provincial Legislature, in the case of provincial administration.

In a way therefore the Parliament or the Provincial Legislatures, in the case of provincial administrations, could enforce the directions and advises of the Commission in cases where it is deemed necessary (*vide* Annual Report, Public Service Commission 1997:38). Judging from the *Annual and Half-Yearly Reports of the Public Service Commission* (1997, 1998, 2000, 2000/2001), there is no evidence of incidents where departments refused to put into practice or carry out the directions and advises of the Commission. The directions and advises of the Commission were accepted and implemented by different state departments (Personal interview: Chief Director of Labour Relations, Public Service Commission 2002). The foregoing therefore means that the Commission, apart from the fact that its directions and advises are not mandatory, is influential in directing the functioning of different state departments with a view to maintain efficiency and effectiveness in the public service.

Since 1997, the Commission carried out a variety of activities in respect of its constitutional mandate of giving directions and advises on issues of public administration. It, *inter alia,* assisted and advised departments on the implementation of the Code of Conduct; advised different departments on human resources issues and; 'it piloted case studies as a method of advising departments on management practices' (Annual Reports of the Public Service Commission 1997:38; 1998:13-14). The Commission also, in terms of Act 103 of 1994, played a critical role in the area of labour relations in the public service. It issued directions in respect of appeals of officials against findings of guilty by the presiding officers and/or the decisions of the heads of departments relating to disciplinary actions; and recommended befitting actions against officials found guilty of misconduct in terms of 'the now repealed prescripts which were applicable to the public service of the former Republic of South Africa (RSA), TBVC states (Transkei, Bophuthatswana, Venda and Ciskei) and self-governing territories' (Annual Report of the Public Service Commission 1998:23-30).

With the coming into effect of the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997, the directive and advisory role of the Commission in respect of appeals and grievances changed. In terms of the legislations mentioned in the foregoing, the powers and functions of the Commission with regard to appeals are now assigned to the Executing Authorities. The role of the Commission in this regard is purely advisory, not directive. It only makes an opinion about the handling of grievances in the public service; make recommendations; and returns the grievances documentations to the department concern (Personal interview: Chief Director of Labour Relations, Public Service Commission 2002; *vide* Annual Report of the Public Service Commission 1998:22-30; Half-Yearly Report of the Public Service Commission 2000:4, 10-11). The foregoing notwithstanding, it is pointed out in the *Half-Yearly Report of the Public Service Commission* (2000:11) that the shifting of 'seat of appeals' to the Executing Authorities raises the question of conflict of interests. In the *Half-Yearly Report of the Public Service Commission* the Commission argues that the appeals in the public service need to be handled by an independent and impartial body like itself, particularly given the fact that it built experience and expertise in this regard over the years.

In addition to the above exposition, the Commission could play an advisory role during the policy formulation processes. The study undertaken by the Commission in 1997 regarding its new role under the Constitution of 1996 stated that the Commission could 'be approached for advice during the policy formulation...' (Annual Report of the Public Service Commission 1997:19-20). However, the involvement of the Commission in policy matters needs to be approached with great circumspection; otherwise its oversight role could be compromised. Its role during policy formulation must be limited to advising the departments. The Commission must, when so requested, advise departments during policy formulation in a manner that it would still remain in a position to evaluate such policy at the later stage.

6.4.5.1.4. **Quasi-policy making powers and functions of the Commission**

The principle that the Commission should not be vested with both executive and policy making powers constituted the fundamental basis for the changing of its role in the South African public service. Indeed, the foregoing principle is maintained in Act 46 of 1997. As explained in sub-section 6.3.2 above, the executive powers and functions of the Commission were in 1996 re-assigned to line departments whereas its policy-making powers were transferred to the Department of Public Service and Administration (*vide* Muthien 1997:16). The Commission, in juxtaposition with its mandate in the previous constitutional dispensation, does not have executive policy-making powers anymore. In terms of sections 3(1) to 3(3) of Act 47 of 1997, control of the mechanisms and infrastructure involved in the formulation of policy and broader administration of the public sector falls within the jurisdiction of the Ministry of Public Service and Administration, not the Commission. The foregoing notwithstanding, the Commission is, according to Part III of Act 46 of 1997, 'entitled to quasi-policy making powers' (Van der Westhuizen 1999:29). This much is clear in section 11 of Act 46 of 1997, which states thus:

> The Commission may make rules which are not inconsistent with this Act or the Constitution as to –
>
> (a) the investigation, monitoring, and evaluation of those matters to which section 196(4) of the Constitution relates, the procedure to be followed at any such investigation, the documents to be submitted to the Commission in connection with any such investigation, and the manner in which and the time within which the said documents shall be submitted;

(b) the powers and duties of the chairperson, the deputy chairperson or any other commissioner, and the delegation or assignment of any power and duty entrusted to the Commission by or under this Act, the Constitution or the Public Service Act to a commissioner referred to in section 196(7) of the Constitution;

(c) the manner in which meetings of the Commission shall be convened, the procedure to be followed at those meetings and the conduct of its business, the quorum at those meetings, and the manner in which minutes of those meetings shall be kept; and

(d) any matter required or permitted to be prescribed by rule under this Act.

In respect of its quasi-policy making powers as cited above, the Commission made a variety of rules with a view to achieve its constitutional and legislative mandate of monitoring, evaluation and investigation of public administration practices. The Commission made rules aimed at promoting 'professional ethos and a healthy working environment throughout the public service' (Annual Reports of the Public Service Commission 1997:05; 1998:23). In 1997, the Commission, in line with its constitutional mandate of promoting a high standard of professional ethics, drafted a Code of Conduct, which was promulgated by the President as part of Public Service Regulations (Annual Report of the Public Service Commission 1997:05).

In the realm of labour relations, the Commission, in terms of the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997, developed new grievance rules for the Departments (Half-Yearly Report of the Public Service Commission 2000:10). The foregoing notwithstanding, it is contended that the development of internal grievances rules for the Departments should be the responsibility of the Department of Public Service and Administration together with the unions. In this regard, the Commission's role should be limited to the development of its own rules on how to deal with complaints referred to it (Half-Yearly Report of the Public Service Commission 2000:10-11). Before the enactment of Act 46 of 1997 and Act 47 of 1997, the Department of Public Service and Administration prescribed the manner in which grievances/complaints should be handled by the departments. This has, as explained above, changed a result of the coming into operation of the new legislative framework (Annual Reports of the Public Service Commission 1997:41; 1998:23).

In addition to the above exposition regarding its quasi-policy powers, the 'Commission developed and approved internal policy for dealing with complaints lodged with the Commission by public servants and members of the public' (Annual Report of the Public Service Commission 2000/2001:32-33). The aim of the internal policy is to make a provision for procedure and/or mechanism of handling grievances referred to the Commission. The Commission also drafted Guidelines to be adhered to by the Executing Authorities when considering the merits of an appeal in cases of misconduct. Before the enactment of Act 46 of 1997 and Act 47 of 1997, the Commission handled appeal in cases of misconduct. However, with effect from July 1999, this responsibility shifted to the Executing Authorities. The Commission is, however, of the view that the foregoing constitutes conflict of interests (Half-Yearly Report of the Public Service Commission 2000:11). It is contended that appeals in cases of misconduct must be handled by an independent and impartial body such the Public Service Commission (Annual Report of the Public Service Commission 1997:39).

The above exposition demonstrates the extent to which the Commission, during the period 1997-2000, exercised its quasi-policy powers in respect of a variety of issues in public administration, mostly in the realm of labour relations. The quasi-policy making power of the Commission should, however, be exercised with great circumspection; otherwise it could amount to executive policy-making power. This caution is advanced solely on the basis that, in some instances as indicated above, the rules of the Commission are aimed at regulating the businesses of the departments. The foregoing does not augur well with the principles that necessitated the changing of the role of the Commission in 1996 and may; indeed, compromise its constitutional position in the public service as a monitoring and advisory institution. The quasi-policy making power of the Commission must be limited to the development of its own rules on how to carry out its constitutional mandate of monitoring and evaluation of public sector performance, not rules for the departments on how to conduct their businesses. The departments must develop their own rules within the context of a broad policy framework determined nationally. In this regard, the Commission's role must be limited to monitoring and evaluation of the rules and the *modus operandi* of the departments to ascertain compliance with the Constitution of 1996 and national policy frameworks.

6.4.5.2. **Research function of the Commission**

Research, in terms of the *categorical system* of the responsibilities of the Commission, constitutes another important function of the Commission. As contended in sub-section 6.2.4.2, the Commission, under the Constitution of 1993, Act 65 of 1984 as amended and Act 103 of 1994, conducted research on a variety of public administration related matters. However, the Commission, during the period referred to in the foregoing, carried out the research function on an *ad hoc* basis. Research was not specifically mentioned as part of the formal functions of the Commission in the Constitution of 1993, Act 65 of 1984 as amended and Act 103 of 1994. Since the inception of the changes in 1994, the working group that examined the operation of Service Commissions in other countries recommended a new model for the Public Service Commission emphasising research as one of its primary functions in the public service. As explained in sub-section 6.3.2, the Cabinet approved the new model for the Commission in 1996(*vide* Fifield 1998:on-line; Report of the Presidential Review Commission, chapter 3, 1998: on-line; Sangweni 1997:39).

As explained in sub-sections 6.4.1, 6.4.2 and 6.4.3, the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997 legitimated changes effected on the role of the Commission, therefore, in juxtaposition with the previous constitutional and legislative dispensations, formally making research part of its primary responsibility (*vide* Report of the Presidential Review Commission, chapter 3, 1998:on-line). This much is glaringly encapsulated in the *Half-Yearly Report of the Public Service Commission* (2000:04, 18) that 'the niche Public Service Commission seeks to carve for itself is that of a knowledge based initiative that make use of reliable and accurate information to contribute meaningfully to the building of a participatory, developmental public service'.

The Commission did not, however, set out research as its key performance area or critical focus area (Questionnaire for Public Service Commission Commissioners in South Africa 2002: Question 2.9). As could clearly be discerned from the *Half-Yearly Annual Report of the Public Service Commission* (2000: 02-15), research is not specifically mentioned as part of six key performance areas and two additional focus areas of the Commission. This omission is incongruous with the Commission's clearly articulated undertaking to reposition itself in the public service as a

knowledge-based institution. To accomplish the foregoing undertaking, research needs to be consistently conducted. The core competencies of the Commission as analysed above, are monitoring, evaluating and advising on strategic public service issues. For these functions to be effectively carried out, it is imperative that a great deal of research need to be conducted on a continuous basis 'to add value to the process of public service management' (Half-Yearly Report of the Public Service Commission 2000:17-18).

The foregoing notwithstanding, since the inception of the new constitutional dispensation, the Commission during the period 1997-2000 carried out its research function by embarking on a variety of projects, which, *inter alia*, include the following:

- Research into certain constitutional functions of the Commission that required elaboration or clarification (Annual Report of the Public Service Commission 1997:38-42).

- Research into international practices with regard to the annual reporting system This research exercise resulted in the review of the annual reporting practice in South Africa (Annual Report of the Public Service Commission 1998:01-02).

- Research on grievance resolution systems in other countries, with a view to developing a system compatible with the South African context (Annual Report of the Public Service Commission 1998:02)

- Research on the latest developments in legislation, rules and trends in labour relations (Annual Report of the Public Service Commission 2000/2001:28)

- Research to determine how evaluation of heads of departments is dealt with in various foreign public services and also considered the unique circumstances that apply to the South African public service (Annual Report of the Public Service Commission 2000/2001: 25)

The officials at the middle-management level of director and deputy director in the human resource sections of different state departments are unanimous in their opinion that the Commission is doing a lot in terms of research (Personal interviews: Directors, Human Resources: National Departments of Arts, Culture, Science & Technology; and Finance; Deputy Directors, Human Resources: National Departments of Water & Forestry; Agriculture; and Housing; Executive Manager, Human Resources: South African Development Management Institute-SAMDI 2002). The research function of the Commission is important for the purpose of enhancing excellence in the delivery of public services. Act 47 of 1997 necessitated

a paradigm shift from a rule-bound management system to a much more decentralised system. The responsibility to make decisions on public service issues is now, in juxtaposition with the previous administrative system, devolved to the management of the state departments. Through research, the Commission advises the state departments on good public administration practices so that they could be in a position to adequately contend with their enhanced and decentralised management responsibilities (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.5).

The Commission interacts frequently with the Departments of Public Service and Administration, the policy arm of government hereafter referred to as DPSA. It communicates its research findings, which the DPSA mostly uses a basis for the formulation of policy framework within which the departments could determine their own policies (Personal interview: Executive Manager, Human Resources, South African Development Management Institute 2002). The interaction between the Commission and the DPSA is important as it would ensure that the policy direction with regard to the administration of the public service is based on scientific information. The Commission must, however, maximise its interaction with other departments as well, particularly with regard to the communication of its research results on a variety of public administration related matters.

The foregoing is advanced on the basis of the fact that the interviewees in some state departments indicated that the impact of the research the Commission conducted on a variety of public administration related matters is not clear to them. This is ascribed mostly to the fact that the interaction between the Commission and state departments is minimal, thus unfavourably impacts on adequate communication of the research results (Personal interviews: Director of Human Resources, Department of Arts, Culture, Science & Technology; Deputy Director, Human Resources, Department of Agriculture 2002). The foregoing should not, however, be misconstrued as impugning on the quality of the Commission's research. The point emphasised is that there is a lack of adequate communication system between the Commission and the line-function departments, particularly in so far as its [Commission] research results are concern. The dispatching of the research reports of the Commission does not necessarily constitute adequate communication. Follow-up workshops and seminars

need to be conducted to ensure that there is a common understanding of the research findings/reports of the Commission in the public service.

Apart from the fact that the Commission, as indicated in the above exposition, played a critical role in conducting research on a variety of public administration related issues, it seems that, as of 2000, it had not yet fully developed adequate research capacity (*vide* Half-Yearly Report of the Public Service Commission 2000:17; Questionnaire for Public Service Commissioners in South Africa: Question 2.9). This much is authenticated in the fact that the Commission outsourced some of its research activities. The Institute for Democracy in South Africa (IDASA) was contracted to conduct research for the Commission (Personal interview: Director of Monitoring, Evaluation and Research, Public Service Commission 2001). The outsourcing of the research function of the Commission is a viable option to deal with a lack of capacity in this area, but could also be expensive route if not pursued with great prudence. The problem of inadequate research capacity of the Commission seems to have, however, been sufficiently dealt with as it is now being said that it is oscillating between 'good' and 'excellent' (Questionnaire for Public Service Commissioners in South Africa 2002: Question 2.9).

In South Africa there are a quite number of institutions that play a critical role in conducting research on a variety of issues that pertains to governance, namely the Human Science Research Council, Institute for Policy Studies, Institute for Democracy in South Africa and academic institutions such as universities and technikons. In its Draft Position Paper (1997:09), the Commission pointed out that it 'will...establish co-operative working relationships and regular interaction with academic and research institutions in order to keep abreast of developments in the field of public administration'. The idea of co-operation accentuated in the foregoing is imperative for co-ordination of research activities in the field of public administration in South Africa. This would help in minimising duplications. At time of this study, the Commission was, however, still busy developing links of co-operation with the academic and research institutions (Questionnaire for Public Service Commissioners 2002: Question 2.10).

The co-operation between the Commission and the institutions referred to in the foregoing, for it to yield huge positive results, should not be limited to the exchange of reports and research materials. It must also involve collaboration and

synergy of research activities in different areas of public administration identified by the Commission during the monitoring and evaluation of public sector performance. Some of the research and academic institutions do have outstanding research capacity, which, through synergic and collaborative processes, could be helpful to the Commission. The National Research Foundation, hereafter referred to as NRF, could be an important strategic partner of the Commission particularly with regard to the forging of linkages in the areas of research with the academic institutions (Own emphasis).

The NRF is an autonomous state-funded organisation dedicated to promoting education and innovation by making funds available for research purposes, mostly in certain focus areas (National Research Foundation 2002:on-line). This institution has well-established interaction facilities with the academic institutions. The Commission could therefore, in this regard, work in partnership with the NRF and use it as a conduit to communicate aspects identified during the monitoring and evaluation of the public service that need to be researched to the academic institutions. The NRF must crystallise those aspects into research focus areas in respect of which funding could be requested by the applicants in different academic institutions.

The applicants awarded research grants in different academic institutions should collaborate with the officials from the Office of the Public Service Commission in conducting research on areas that need to be researched as identified by the Commission during the monitoring and evaluation of the public service. The research results/reports should be communicated to the Commission so that it could always be in a position to effectively deliver on its mandate of advising on strategic public service issues. Synergic, collaborative and interactive system in the area of research propounded in the foregoing could be helpful to the Commission in its endeavour to strategically reposition itself in the public service as a knowledge-based institution 'that makes use of reliable and accurate information to contribute meaningfully to the building of participatory, developmental public service' (Half-Yearly Report of the Public Service Commission 2000:18).

6.4.5.3. **Administration function of the Commission**

As contended in sub-section 6.2.4.3, the Commission under the Interim Constitution of 1993 continued to be assigned similar functions given to it under Act 111 of 1984 and Act 65 of 1984, which, in terms of the *categorical system* of its responsibilities, fall under the *administration category*. This therefore means that the Commission under the Interim Constitution of 1993 was assigned too many administrative functions. The Office of the Commission was established to carry out those administration functions. The unbundling of the functions of the Commission in April 1996 had a profound impact on the Office of the Commission 'due to transfer of functions, personnel and other resources to the Department of Public Service and Administration' and other line function departments (Annual Report of the Public Service Commission 1996:11).

The Commission delegated most of its powers and functions to the heads of departments at the national level of government, thus streamlining its administrative efficiency. This encompassed, *inter alia*, 'effective training and utilisation of staff, the maintenance of discipline, and the promotion of sound labour relations, proper use and care of state property' (Sangweni 1997:37). The Office of the Commission was restructured and repositioned so that it could effectively support the Commission in its new constitutional roles of monitoring, evaluation, investigation and research. In juxtaposition with its organisational structure of nine chief directorates under the Constitution of 1993 as alluded to in sub-section 6.2.4.3 above, the Office of the Commission under the Constitution of 1996 was restructured into two branches, five chief directorates and thirteen directorates (Annual Report of the Public Service Commission 1997: 43).

The 'two broad line functional terrains' into which the Office of the Commission was organised are **Merit and Equity** and **Effectiveness and Efficiency** (Muthien 1997:16). The restructuring of the Office of the Commission as explained in the foregoing was aimed at enabling the Commission to effectively carry out its mandate 'to advise on improvements in public administration' (Muthien 1997:16). The **Merit and Equity** branch of the Office of the Commission rendered the following support functions to the Commission:

- Investigation of grievances of serving former officials.

- Appraisal of human resources practices, including recruitment, training, and probationary practices, and advice on promotion of merit and equity in the public service.
- Support on the promotion of professional ethics in the public service (Muthien 1997:15-16).

The **Effectiveness and Efficiency** branch of the Office of the Commission carried out its functions in respect of the following focus areas:

- Effectiveness of strategic management in the public service.
- Structural or organisational effectiveness of the public service.
- Operational efficiency and the promotion of the efficient, economic and effective use of resources.
- Technological innovation, promotion of transparency through accessibility to information and improvement of computer systems in the public service (Muthien 1997:16).

With the coming into effect of Act 46 of 1997 and Act 47 of 1997 in July 1999, the Office of the Commission was re-organised to render support to Commission in accomplishing its constitutional mandate into the following key performance areas:

- Professional ethics and risk management.
- Anti-corruption investigations.
- Management improvement and service delivery.
- Labour relations monitoring.
- Human resource management.
- Senior management conditions of service.
- Monitoring and evaluation.
- Institution building (Half-Yearly Report, Public Service Commission 2000:05).

The above-mentioned performance areas are managed as chief directorates within two branches, namely **Human Resource Management and Labour Relations** and **Good Governance and Service Delivery**. A Deputy Director-General heads each of these branches. In addition to the foregoing, there are also Regional Offices of the Commission, which are, however, not yet fully developed in terms of their

administrative support capacity 'to play a meaningful and direct role in the monitoring and evaluation of provincial administrations' (Half-Yearly Report of the Public Service Commission 2000:05-06).

In the context of the above disquisition, it is inferred that the Commission under the Constitution of 1996 is assigned administration functions, of which they are carried out through its Office under the headship of the Director-General. The administration functions of the Commission under the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997 are, however, not as many as it was the case in the previous dispensation. This could largely be attributed to the unbundling of its functions in 1996, which necessitated the confinement of its role to monitoring, evaluation, research and investigation.

6.5. **Conclusion**

This chapter examined the changing role of the Public Service Commission since the inception of the democratic dispensation in South Africa. Its purpose was to determine the effect of changes since 1994 on the role of the Commission. In an attempt to achieve the foregoing, the powers and functions of the Commission under the Interim Constitution of 1993 and the Constitution of 1996 were, from a comparative perspective, extensively examined. The disquisition in this chapter was, due to the limited scope of this study, circumscribed to the period 1994-2000. This chapter commenced by describing the powers and functions of the Commission as stipulated in the Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended. It was pointed out that the powers and functions of the Commission under the Constitution of 1993 during the period 1994-1996 were, just like in the previous dispensation, ingratiated in the imperatives of the traditional model of public administration.

The traditional model of public administration was therefore, on the basis of the foregoing contention, used as the theoretical framework to understand the powers and functions of the Commission under the Constitution of 1993. The *categorical system* of the responsibilities of the Commission developed in chapter 4 of the study as an analytical instrument and applied in chapter 5 was used in this chapter to analyse the powers and functions of the Commission. The findings with regard to the

effect of changes brought about by, and under, the Constitutions of 1993 were made and analysed.

The above exercise was followed by the review of the perspectives that jettisoned the powers and functions of the Commission under the Constitution of 1993. Such review is important to understand the reason for the changing role of the Commission since 1994. The process of changing the role of the Commission was thereafter detailed. The transition of the role of the Commission from the Constitution of 1993 to the Constitution of 1996 was examined. The effect of the transitional contingency measures on the role of the Commission was determined. This was followed by the discussion on the new Public Service Commission as envisaged in the Constitution of 1996 and its role were, also, analysed. It was contended that the role of the Commission under the Constitution of 1996 were ingratiated in the imperatives of the new public management paradigm.

The new public management paradigm was therefore used as a theoretical framework to understand the new role of the Commission. The *categorical system* of the responsibilities of the Commission was used as an analytical instrument to analyse the role of the Commission under the Constitution of 1996. The effect of changes on the role of the Commission brought by, and under, the Constitution of 1996 was determined. From the disquisition analysis in this chapter, it is concluded that the changes since 1994 re-focussed the role of the South African Public Service Commission on development and modernisation of public administration practices. The research findings with regard to the effect of the changes since 1994 on the role of the Commission made in this chapter are lucidly presented in the next chapter 7 of the dissertation.

CHAPTER 7

SUMMATION, RESEARCH FINDINGS AND RECOMMENDATIONS

7.1. Introduction

This dissertation examined the changing role of the Public Service Commission in South Africa. The fundamental objective of this study was to determine the effect of the changes since 1994 on the role of the Commission. The disquisition analysis on the role of the Commission was restricted to the period 1990-2000. The ratiocination for the confinement of the study to the period alluded to in the foregoing was premised on the fact that substantial changes with regard to the role of the Commission in South Africa took place in the nineties.

To systematically realise the objective of determining the effect of changes since 1994 on the role of the Commission in South Africa, this dissertation commenced by examining, in chapters 2 and 3 respectively, the historical development of the Commission in Britain and United States of America. It was deduced from the historical disquisition in the chapters mentioned in the foregoing that the development of the Commission in Britain and United States of America was influenced by two analytically distinct paradigms, namely the traditional model of public administration and the new public management approach.

A reflection on the theoretical premises undergirds the development of the Commission in Britain and United States of America was provided in chapter 4 of the dissertation. The purpose of the foregoing exercise was to develop a theoretical framework to understand the changing role of the Commission in South Africa. Towards the end of chapter 4, an analytical instrument to analyse the role of the Commission was developed. The analytical instrument was used to analyse the powers and functions of the Commission before and after 1994 in chapters 5 and 6 respectively. This exercise was aimed at determining the effect of changes since 1994 on the role of the Commission in South Africa.

In summation of the dissertation, the main points raised in each chapters alluded to in the above exposition are hereunder succinctly described. The summation is followed by the description of the research results/findings and recommendations on how shortcomings revealed in the study could be addressed. Areas for further research, which this dissertation could not cover due to its limited scope, are also pointed out in this concluding chapter.

7.2. **Summary of the dissertation**

As already indicated in sub-section 7.1 above, the fundamental objective of this dissertation was to determine the effect of the changes since 1994 on the role of the Public Service Commission in South Africa. To coherently accomplish the foregoing objective, the dissertation commenced with a comprehensive disquisition on the history of the Public Service Commission, as is the *locus* of this research, from the international perspective. Chapter 2 of the dissertation traced the origin of the Commission in Britain. To understand the historical context in which the Commission originated, chapter 2 started with the analysis of the eighteenth century British civil service system.

Parris treatise that the eighteenth century British civil service system 'was not civil, not permanent and not a service' was used as an analytical instrument to examine factors that spurred the conception of a Commission in the British administrative system. Using the foregoing analytical instrument, chapter 2, on the basis of the historical data used in the dissertation, contended that the eighteenth century British civil service system was indistinguishable in character as there was no clear separation of political roles from the administrative ones. In addition to the foregoing, the eighteenth century British civil service did not comprise of a body of full-time salaried officers permanently employed, systematically recruited, with clear lines of authority and uniform rules on such questions such as superannuation.

It is on the basis of the above ratiocination chapter 2 inferred that the eighteenth century British civil service was disintegrated. The disintegrated eighteenth century British civil service system aroused public aversion that compelled government to seriously consider the question of civil service reform. A two-man committee comprised of Sirs Stafford Northcote and Charles Trevelyan was constituted with a brief to explore how the British civil service could be reformed. A quest for a new civil service system in the British administration system heralded the conception of a civil service commission.

The notion of a public service commission originated in the Northcote-Trevelyan Report of 1853 in response to the eighteenth century disintegrated British civil service system. The fundamental objective for the establishment of the Commission in Britain in 1855 was to protect the public service from the political manipulations and patronage, thus served as the custodian of the merit system. Chapter 2 argued that the Commission heralded fundamental paradigm shift in terms of the administration of the public service personnel from the patronage/spoils to the merit system in Britain.

It has also been pointed that the British administrative system of using a Commission to cushion the public service from the political manipulations permeated the public services of many other countries such as Nigeria, India, Zambia, Zimbabwe, United States of America and South Africa. Due to the limited scope of this study, reference on how the Public Service Commission evolved in other countries enumerated in the foregoing was only made to the United States of America and South Africa in chapter 3 and 5 of the dissertation respectively.

Chapter 2 also looked at the Fulton Report of 1968, which challenged the organisational structure and practices of the British civil service premised on the imperatives of the Northcote-Trevelyan Report as being anachronistic. The Fulton Report pointed out a variety of infirmities abounded in the British civil service and made 158 recommendations to be considered in effecting necessary rectifications and improvements. Due to the limited scope of the dissertation, chapter 2 made reference to only recommendations that were more specifically related to the civil service commission.

The Fulton Report made recommendations that moved away from the public service commission system as conceptualised in the Northcote-Trevelyan Report. It was further pointed out in chapter 2 that the Next Step Initiative of 1988, with its notion of the executive agency system, antiquated the public service commission system in the British administration. Consequently, the British Civil Service Commission, in the twentieth century, was disbanded and its functions were assigned to the Treasury and Management and Personnel Office. In the context of the historical disquisition presented, chapter 2 was concluded with the observation that the development of the British Civil Service Commission was influenced by two analytically distinct paradigms, namely the traditional model of public administration and the new public management approach.

The historical development of the Civil Service Commission from the international perspective was continued in chapter 3 of the dissertation. In chapter 3, the development of the Commission in the United States of America was examined within the historical context of its civil service system. Loverd and Pavlak's general historical framework of analysis was used to trace the evolvement of the English system of using a Commission to protect the public service against the scourge of political patronage in the United States of America. The general framework of analysis alluded to in the foregoing is based on four major historical periods, namely government by gentleman (1789-1829), government by any-man (1829-1883), merit expansion(1883-1937) and the contemporary perspective (1937-up to date).

The period 1789-1829 was, within the context of the general historical framework of analysis in chapter 3, identified as the first era in the development of the American civil service. The civil service system during the first era of its development in the United States of America was analysed. It was contended that the administration of the civil service personnel during the early period of development (1789-1829) was influenced by a variety of imperatives, namely aristocratic, political and geographic imperatives.

The degree of influence each imperative mentioned above had on the administration of the civil service personnel differed. The aristocratic imperative preponderated over the early development of the America civil service system. Consequently, the American civil service during the period 1789-1829 comprised of the upper class citizens only. The democratisation process of 1829 jettisoned the aristocratic system of civil service administration, therefore heralded the second stage in the development of the American civil service, namely the era of government by any-man (1829-1883).

The notion of government by any-man was associated with Andrew Jackson, the seventh President of the United States of America who so much propounded it. This notion accentuated the values of egalitarianism in the administration of public affairs. In Chapter 3 it was argued that the notion of government by any-man was, with regard to the administration of the public service personnel, manipulated and eventually heralded the spoils system. The spoils system, described in this study as a personnel practice of distributing civil service positions to the adherents of the political party in power, brought about amateurish administration and corruption that necessitated the American civil service reforms.

The civil service reform initiatives of 1871 ushered in the first Civil Service Commission in the United States of America. Its life-span was, however, short-lived as no money was allocated for its operations in 1873 and 1874. This did not, however, deter the commitment to civil service reforms. The impetus for civil service reforms indeed intensified and heralded the third stage of civil service development in the United States of America, namely merit expansion (1883-1937).

The Pendleton Act of 1883 formally introduced the merit based civil service system in the United States of America. The merit system, as described in this dissertation, requires that the personnel decisions should be based on ability of the candidates, not political loyalty or social standing. The Civil Service Commission, which existed for a short period after its establishment in 1871, was re-established in 1883 and assigned the responsibility of being the custodian of the merit system in the administration of the civil service.

The contemporary perspectives that became conspicuous in the 1930s demurred the merit system on the basis of the fact that it was couched in negative terms. Naturally, the Civil Service Commission, as the custodian of the merit system, also had to be reviewed. The contemporary perspective introduced the concept of 'positive personnel management'. In 1978 the American Civil Service Commission ceased to exist and its functions were distributed to three agencies established as its replacements, namely the Office of Personnel Management, the Merit System Protection Board and the Federal Labour Relations Authority.

It was further indicated in chapter 3 that the positive personnel management perspective created apprehension, particularly among the unions and women in the United States of America. The personnel management paradigm was viewed as another means/way of re-introducing the spoils system that preponderated in the second stage of the development of the American civil service during the period 1829-1883. Just like in chapter 2, chapter 3 was concluded with the observation that the development of the Civil Service Commission in the United States of America was influenced by two analytically distinct paradigms, namely the traditional model of public administration and new public management approach.

On the basis of the historical disquisition presented in chapters 2 and 3, this dissertation, therefore, inferred that the development of the Commission in Britain and United States of America was influenced by two analytically distinct

paradigms, as alluded to in the above exposition, in the history of public administration. A reflection on the traditional model of public administration and the new public management approach was, as indicated in sub-section 7.1 above, presented in chapter 4 of the dissertation.

Chapter 4, as indicated in the foregoing, was premised on the theoretical thrusts underpinning the historical development of the Civil Service Commission, namely the traditional model of public administration and the new public management approach. The theoretical reflection on the developments of the Commission in Britain and United States of America was intended to develop a framework to understand the changing role of the Commission in South Africa. The traditional model of public administration was examined to demystify the theoretical context the Civil Service Commission in Britain and United States of America evolved.

Chapter 4 commenced with a brief and cursory reflection on the early administrative systems in ancient Europe because of their global influence. A succinct reflection on the early administration was important in understanding the rationale for propounding the traditional model of public administration. Early administration was defined in chapter 4 as the administrative systems existed during the period prior to the conception of the traditional model of public administration in the nineteenth century. The 'personal service' and patronage/spoils system were, for the purpose of the scope of this study, discussed as the fundamental aspects characteristics of the early administration.

It was explicated in chapter 4 that a 'personal service' as a personnel system emanated as a result of monarchism preponderance in the early administration. A 'personal service' refers to a type of personnel system where officials were appointed by the king or any member of the household who had the authority to do so, not necessarily on the basis of competence but loyalty to the king. This early administrative practice, with regard to the administration of personnel, embedded in the royal sovereignty resulted in corruption or misuse of office for personal aggrandisement.

The Western democratic ideology articulated in the Magna Carta jettisoned the system of royal sovereignty and introduced the concept of parliamentary democracy. The elected legislative authority took over the administration of the country from the kings. The ideological shift from the royal sovereignty to parliamentary democracy marked the demise of a 'personal service' in the administration of the public service personnel. With the inception of the

parliamentary democracy, the public personnel administration function shifted to the political representatives. The common practice that the political representatives dispense public service positions to their supporters, friends and relatives ushered in the spoils/patronage system in the administration of public service personnel.

It was pointed out in chapter 4 that the literature studied uses the phrases 'patronage' and 'spoils' intermittently. In order to avoid conceptual confusion in this regard, 'patronage' and 'spoils' were demystified. For the purpose of this dissertation, it was contended that the 'patronage' and 'spoils' are synonymous. They were both described as the personnel practice of appointing the adherents of the political party in power to occupy public offices in exchange for the political service rendered.

A detailed historical disquisition on the patronage/spoils system was provided in chapters 2 and 3 of the dissertation respectively. It was argued that the patronage/spoils system preponderated over the eighteenth century British and American civil service systems. The raison d' etre for such personnel practices was not accorded adequate consideration in chapters 2 and 3 as their focus was only on the historical, than theoretical aspects. This void was henceforth addressed in chapter 4.

Chapter 4 examined the perspectives that either rationalised or jettisoned the patronage/spoils system from a critically analytic perspective. On the basis of the analysis alluded to in the foregoing, it was inferred that the patronage / spoils system was inherently fraught with infirmities. The views that jettisoned the patronage practices originated in the nineteenth century public aversion that revolted against the British administration and called for civil service reforms.

The nineteenth century civil service reform movements/perspectives ushered in the traditional model of public administration. The traditional model of public administration necessitated a fundamental paradigm shift in terms of the administration of the public service personnel. The traditional model of public administration was extensively examined in chapter 4. This chapter examined the theoretical postulations of the traditional model of public administration and contended that it introduced the notion of a merit-based civil service system.

The merit system, commencing with its enunciation as it was contended that there have been different concepts of the merit principle, was extensively examined. It was advanced in chapter 4 that the merit system should, for the

purpose of this study, be fathomed in its ubiquitous sense as being concerned with competence and the protection of the public service from the scourge of political exploitation. It was further pointed out that the merit system is intrinsically intertwined with the idea of a public service commission such that the disquisition on one without the other would have remained rudimentary. Considerable attention was, therefore, also paid to the Civil Service Commission as the intellectual construct of the traditional model of public administration in chapter 4.

The roles and functions of the Commission in Britain and United States of America were, within the theoretical context of the traditional model of public administration, examined from the comparative perspective. It was contended that the functions of the Commissions in Britain and United States of America varied. However, the philosophy underpinning its conception was the same and still constitutes the integral component of the modern public service systems in most commonwealth countries. The founding objective of the Civil Service Commission was to protect the public service from the scourge of political manipulations.

In order to demystify the distinction between the roles and functions of the Commission in Britain and United States of America in an analytical manner, an analytical instrument was developed from a variety of the theoretical sources data. The analytical instrument alluded to in the foregoing was designated the *categorical system* of the responsibilities of the Commission. The *categorical system* of the responsibilities of the Commission as an analytical instrument was, with the aid of a table, lucidly and comprehensively enunciated and thereafter used to analyse the roles and functions of the Commission in Britain and United States of America from a comparative perspective. On the basis of the foregoing analytical instrument, it was contended that the powers and functions of the British Civil Service Commission were limited, whereas its American counterpart had more responsibilities.

The perspectives that emerged in the twentieth century jettisoned the traditional model of public administration. The discourses that, on the one hand, jettisoned the traditional model perspectives propagated, on the other hand, the notion of management paradigm in the public sector. Chapter 4 examined the new public management approach to the public sector at great length.

The economics and private sector management were discussed as the theoretical bases of the new public management approach. The introduction of the notion of *managerialism* in governance marked the fundamental paradigm shift from the traditional model of public administration. The accentuation of the new public management approach had a substantial effect on the notion of a civil service commission system as bequeathed by the traditional model of public administration.

The impact of the public management on the Civil Service Commission in the Anglo-American democracies varied. In Britain, a more gradualist approach in aligning the functioning of the Commission within the new management thinking was pursued. The British approach did not abruptly dissipate the commission system from its civil service. The British Civil Service Commission continued to exist, although on a totally different philosophical basis, for some time. Its roles and functions were considerably trimmed. In America, the existence of the Civil Service Commission was discontinued rather abruptly. The American approach pursued in incorporating managerial philosophies was quite radical in dealing with the commission system. The traditional roles and functions of the Commission in both Britain and United States of America were consigned to different agencies that were created as its replacements.

The traditional model of public administration and the new public management approach as explained in chapter 4 were respectively used the theoretical framework in chapters 5 and 6 of the dissertation to understand the historical development and the changing role of the Commission in South Africa. The *categorical system* of the responsibilities of the Commission developed in chapter 4 as an analytical instrument was also used in chapters 5 and 6 to analyse the role of the Commission in South Africa.

To determine the effect of changes since 1994 on the role of the Public Service Commission in South Africa, it was deemed imperative that its role before 1994 need to be first examined to establish a basis for the evaluation of its role after 1994. Chapter 5 of the dissertation examined the role of the Commission in South Africa before 1994. Due to the limited scope of the study, the analysis of the role of the Commission was limited to the period 1990-1993. Notwithstanding the foregoing, chapter 5 commenced with a detailed disquisition on the historical development of the Commission in South Africa. The rational for this approach was premised on the contention that the role of the Commission in South Africa

during the period 1990-1993 could be lucidly fathomed in the historical context it evolved.

It was pointed out in chapter 5 that, historically, South Africa comprised of four British colonies, namely Cape, Natal, Transvaal and Orange Free State. In narrating the history of the Commission in South Africa, this chapter therefore started by looking at how this English system, from 1847-1910, evolved in the British colonies mentioned in the foregoing. This was followed by a detailed disquisition on the development of the commission system after the Union of South Africa (1910-1993). The traditional model of public administration was used in the chapter as the theoretical framework to understand the historical development of the Commission in South Africa.

The commission system in South Africa originated in the Montaqu Report of 1848, which recommended the restructuring of the public service in the Cape colony in accordance with the imperatives of the traditional model of public administration. Following the recommendations of the Montaqu Report, a Board of Examiners was established in the Cape colony in 1850, and was entrusted with the function of conducting selection or preliminary entrance examinations in the public service. With the promulgation of the *University Incorporation Act*, 1873 (Act 16 of 1873), a Board of Examiners alluded to in the foregoing was disbanded and its functions were transferred to the Council of the University of the Cape of Good Hope.

The Council of the University of the Cape of Good Hope did not function well in discharging its duties and was, consequently, replaced by a Board of Commissioners established in terms of the *Civil Service and Pension Act*, 1895 (Act 32 of 1895). A Board of Commissioner referred to in the foregoing was also, in 1906, replaced by the Civil Service Commission assigned the functions of administering the civil service examinations, recording all civil servants who passed the examinations, making suggestions about promotions and executing other responsibilities assigned to it. The Civil Service Commission existed until 1910, when the Union of South Africa was established.

The Commission system established in the Cape colony permeated the Natal colony public service. A Civil Service Board was established in 1894 in the Natal colony and its objective was to advise the Minister of Interior on matters related to the administration of the public service. The efficacy of the Civil Service Board in realising its objective was hampered as its advices were, in the public service

of the Natal colony, disregarded. The Board, however, continued to exist until 1910 when the Natal colony was incorporated into a Union of South Africa.

The eighteenth century traditional administrative system of using a commission to cushion the public service against the scourge of political patronage in the Transvaal colony was traced in the recommendations of the Solomon Commission of Enquiry in 1906. The Civil Service Commission in the Transvaal colony was, following the recommendations of the Solomon Commission of Enquiry, established in 1908 and assigned the functions of administering public service examinations, maintaining equity with regard to promotions and exercising control over the transfer of personnel within the public service. As a result of a move to unite the British colonies, the Civil Service Commission in the Transvaal also ceased to exist.

In the Orange Free State, dissimilar from other British colonies mentioned in the above exposition, a Civil Service Commission was never established. The reasons for the foregoing were not clear in the literature on the history of public administration in South Africa studied. It was, however, observed in chapter 5 of the dissertation that attempts to institute a Commission similar to other British colonies in the Orange Free Sate was predated by the establishment of a Union of South Africa in 1910.

It has been pointed out in chapter 5 that the idea of a Union of South Africa originated in 1858 and willed into practical existence only in 1910 when the Cape, Natal, Transvaal and Orange Free State colonies were, in terms of the *South Africa Act*, 1909 (Act 108 of 1909), united into one State. The unification of the British colonies necessitated the merging of their public services to create a single public service befitting the imperatives of a Union. The process of creating a single public service was dawdled due to a lack of adequate legislative framework. In the interim, the public service of the Transvaal was used in the Union of South Africa, which officially came into existence on 31 May 1910.

Chapter 5 advanced the contention that a variety of policies promulgated during the period 1910-1993 necessitated the restructuring of the public service in South Africa according to the imperatives of the traditional model of public administration. The foregoing contention was authenticated by the fact that the Public Service Commission, as the intellectual construct of the nineteenth century traditional model of public administration, formed part of the South African public administration system since the creation of a Union of South Africa in 1910.

The first Public Service Commission in South Africa was established in 1912. The *Public Service Act*, 1912 (Act 29 of 1912) determined the powers and functions of the Commission. Since its inception in 1912, the Commission encountered problems in asserting itself in the public service as its authority was consistently disobeyed. It was pointed out that the foregoing was caused by lack of a policy framework to have regulated the relations between the Commission and other controlling bodies, particularly the Treasury. The relationship between the Commission and the Treasury was characterised by conflicts, which were eventually resolved through the gentleman agreement.

The politicisation of the public service came out as another problem during the apartheid era as it compromised and besmirched the integrity of the Public Service Commission in South Africa. Since the National Party assumed power in 1948 the public service became undiscernibly politicised. It was associated with the National Party government. The inclination of the public service to the National Party ideology of apartheid impacted perniciously on the independence and impartiality of the Commission. Consequently, the Commission failed to maintain a politically neutral public service system. The Commission was politically enervated and labelled apartheid bureaucracy established to consolidate the Afrikaner citadel in the South African public service.

In the early eighties the public service reforms initiatives were pursued in South Africa. The reform initiatives encapsulated in the *White Paper on the Rationalisation of the South African Public Service and other related Institutions* of 1980 were confined to the rationalisation, than transformation of the public service from the imperatives of apartheid. It has been contended in the dissertation that the traditional model of public administration remained the fundamental theoretical thrust for the rationalisation of the public service in the eighties. The rationalisation of the public service in the 1980s had a direct impact on the Commission as established in terms of Act 54 of 1957. The jurisdiction of the Commission was expanded. Its powers also increased considerably to proportionate with the voluminous amount of work arising from the centralisation of the administration of the public service.

A new legislative framework, namely Act 65 of 1984, was promulgated to effect necessary changes to Act 54 of 1957 and, therefore, legitimated the expanding of the jurisdiction and the increasing of the powers of the Commission. The name of the Commission was changed from the Public Service Commission to the Commission for Administration. Act 111 of 1984 was promulgated to repeal Act

54 of 1957, and therefore complemented Act 65 of 1984 in maintaining the position of the Commission for Administration in the South African public service.

The adoption of the Interim Constitution of 1993 set the foundation for the creation of a new public service system ingratiated in the imperatives of democracy. The Interim Constitution of 1993 necessitated fundamental changes in the South African public service that had direct effect on the Commission. Its adoption did not effectively nullify the Public Service Commission existing during that time. The Interim Constitution of 1993 only came into effect on 27 April 1994 and therefore, in the meantime, the Commission continued to exist in terms of Act 65 of 1984 and Act 111 of 1984. The Interim Constitution of 1993 did not have an impact of the Commission established in terms of Act 65 of 1984 and Act 111 of 1984 for at least a period ending in 1993. It was on the basis of the foregoing that, in examining the role of the Commission during the period 1990-1993 in chapter 5, reference was only made to Act 65 of 1984 and Act 111 of 1984.

The role of the Commission during the period 1990-1993 as determined in Act 65 of 1984 and Act 111 of 1984 was three fold-dimensional. The Commission could recommend, direct and advise. The matters in respect of which the Commission could recommend, direct and advise were, in the context of the foregoing legislative framework, described. The powers of the Commission to inspect departments and conduct inquiries on matters related to public administration were also described.

The powers and functions of the Commission as described in chapter 5 were, using the *categorical system* of its responsibilities developed in chapter 4 as an analytical instrument, classified into **influence**, **research** and **administration** categories. The powers and functions of the Commission during the period 1990-1993 in South Africa that, when being exercised and carried out, exerted an effect on the business of the operating departments were analysed under the **influence** category, whereas those that involve research and administration of the routine work were analysed under **research** and **administration** categories respectively.

In South Africa during the period 1990-1993, the Commission was assigned 'supra-departmental powers' that exerted a huge effect on the business of the operating departments. The Commission had the power to inspect departments and inquire into the administrations of the operating departments. It also had the

power to make recommendations and give directions in respect of a variety of matters as determined in Act 65 of 1984 and Act 111 of 1984. The recommendations of the Commission were obligatory, meaning they had to be carried out by the operating departments. This demonstrates the extent the Commission could influence the functioning of the operating departments.

In juxtaposition with its British counterpart, the Commission in South Africa during the period 1990-1993 was assigned too much power in more functional competencies. It was assigned policy-making, executive and monitoring powers and functions. The operational domain of the Commission involved the determination of broad policy directives on a variety of issues and control of the implementation of functions on a broad ranging spectrum of personnel practices. Although the Commission in the early nineties propagated the policy of devolution of power, it continued to carry out its function of control on more important matters. The Commission only delegated matters of triviality to the state departments. On the basis of the foregoing, chapter 5 concluded that the Commission during the period 1990-1993 played an influential and control-orientated role in the South African public service.

The role of the Commission during the period 1990-1993 was also, in terms of the *categorical system* as an analytical instrument, analysed on the basis of the **research** category. The Act 65 of 1984 and Act 111 of 1984 did not explicitly mention research as another important function of the Commission in South Africa. The Commission during the period under review did not perform the research function. Under the **administration** category, the Commission was, in terms of Act 65 of 1984 and Act 111 of 1984 assigned functions that were administrative in nature.

The administration functions of the Commission were too many, such that they exceeded its formal administrative domain. The administrative functions of the Commission encroached upon the administrative competencies of other state departments. Some of its administrative responsibilities were too routine and trivial. They squandered much time the Commission needed to achieve its strategic objectives. The Commission carried out its functions that fall under the administration categories through its Office created in terms of Act 65 of 1984.

In the context of the above disquisition analysis, chapter 5 concluded that the Commission for Administration in South Africa under Act 65 of 1984 and Act 111 of 1984 during the period 1990-1993 was concentrated with too many functions and huge powers in relations to its responsibilities classified under the **influence** and **administration** categories respectively. The Commission was involved in matters related to **research** in a very limited way. Since the inception of the democratic dispensation in 1994 in South Africa, fundamental changes in the system of governance, which profoundly impacted on the role of the Commission as explained in the foregoing, occurred. Those changes were primarily precipitated by the Interim Constitution of 1993 and the Constitution of 1996 respectively. A host of legislation was introduced to give effect to the provisions of the foregoing Constitutions.

The role of the Commission since the inception of the democratic dispensation in South Africa during the period 1994-2000 was examined in chapter 6 of the dissertation. The purpose of chapter 6 was to determine the effect of changes since 1994 on the role of the Commission. To realise the foregoing purpose, the powers and functions of the Commission under the Interim Constitution of 1993 and the Constitution of 1996 were, from a comparative perspective, extensively examined. Chapter 6 commenced by describing the powers and functions of the Commission as stipulated in the Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended.

It was pointed out that the powers and functions of the Commission under the Interim Constitution of 1993 during the period 1994-1996 were, just like in the previous dispensation, ingratiated in the imperatives of the traditional model of public administration. The traditional model of public administration was therefore used as the theoretical framework to understand the powers and functions of the Commission under the Interim Constitution of 1993.

The *categorical system* of the responsibilities of the Commission developed in chapter 4 of the study as an analytical instrument and applied in chapter 5 was still used in chapter 6 to analyse the powers and functions of the Commission under the Interim Constitution of 1993. The powers and functions of the Commission as provided in the Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended were therefore classified into **influence**, **research** and **administration** categories and, as such, analysed. From the foregoing exercise, the effect of changes on the role of the Commission brought about

under the Interim Constitution of 1993 was determined (see sub-section 7.3.1 *infra*).

The analysis of the powers and functions of the Commission under the Interim Constitution of 1993 was followed by a detailed discussion on the changing of its role in the public service in the public service since 1994. To understand the basis for the changing of the role of the Commission in South Africa, adequate attention was accorded to the perspectives that jettisoned the executive policy-making powers of the Commission under the Interim Constitution of 1993. A review of the perspectives alluded to in the foregoing was followed by a detailed disquisition analysis of the process of changing the role of the Commission since 1994.

The Cabinet decision to effect changes on the role of the Commission in 1996 and the arrangements that were put in place to achieve its transition from the Interim Constitution of 1993 to the Constitution of 1996 were also accorded a considerable attention. In the disquisition analysis of the aspects alluded to in the foregoing, the effect of changes on the role of the Commission brought about by the political decisions made with regard to the transition of the Commission from the Interim Constitution of 1993 to the Constitution of 1996 was determined(see sub-section 7.3.2 *infra*). The disquisition on the changing of the role of the Commission was followed by the analysis of the powers and functions of the Commission under the Constitution of 1996.

The new public management approach was used in chapter 6 as the theoretical framework to understand the new role of the Commission under the Constitution of 1996. The powers and functions of the Commission as provided in the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997 were, using the *categorical system* of the responsibilities of the Commission developed in chapter 4 as an analytical instrument, classified under the **influence**, **research** and **administration** categories and analysed. Consequently, the effect of the changes on the role of the Commission under the Constitution of 1996 was determined (see 7.3.3 *infra*). The research findings in respect of the effect of the changes since 1994 on the role of the Commission in South Africa as determined in chapter 6 are hereunder succinctly presented.

7.3. **Research findings**

The findings of the research with regard to the effect of changes on the role of the South African Public Service Commission since 1994 are sequentially presented as follows:

- Effect of changes by, and under, the Interim Constitution of 1993 on the role of the Commission.
- Effect of changes brought by the Cabinet decision of 1996 on the role of the Commission.
- Effect of changes brought by the contingency transitional arrangements from the Interim Constitution of 1993 to the Constitution of 1996 on the role of the Commission.
- Effect of changes brought by, and under, the Constitution of 1996 on the role of the Commission.

7.3.1. **Effect of changes brought by, and under, the Interim Constitution of 1993 on the role of the Commission**

As indicated in sub-section 7.2 above, chapter 5 of the dissertation concluded that the Commission in South Africa under the Act 65 of 1984 and Act 111 of 1984 during the period 1990-1993 was assigned huge executive policy-making powers/functions and the administration functions that were carried out through its Office with a status of state department. The Act 65 of 1984 and Act 111 of 1984 did not explicitly mention research as the other important of the Commission. The Commission during the period 1990-1993 did not carry out the research function. It was more concern with its executive and policy making roles that were control-orientated in nature.

The Interim Constitution of 1993 ushered in fundamental changes in the system of governance during the inception of the democratic dispensation in South Africa. The changes brought about under the Interim Constitution of 1993 increased, than changed, the executive policy making powers and functions of the Commission. In juxtaposition with the previous dispensation, the Commission under the Interim Constitution of 1993 was assigned even more wide-ranging executive and policy making powers and functions. The constitutional orientation of the executive policy roles of the Commission were more on stability, than development, in the public service.

The functions of the Commission that were administrative nature also increased to proportionate its wide-ranging executive policy functions. The Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1984 as amended did not specifically mention research as the other important responsibility of the Commission. However, in juxtaposition with the previous dispensation, the Commission under the Interim Constitution of 1993 carried out the function of research, albeit on an *ad hoc* basis.

The huge executive policy powers and functions of the Commission, as provided in the Interim Constitution of 1993, Act 103 of 1994 and Act 65 of 1994 as amended put it in a sturdy position to exercise control on the administration of the public service. The control-orientated *modus operandi* of the Commission aroused a myriad of concerns and criticisms in political and governmental circles that jettisoned its executive policy role in the public service. The perspectives that jettisoned the executive policy making powers and functions of the Commission necessitated the changing of its role. In 1996 the Cabinet took a decision to the effect that the executive policy roles of the Commission should be changed. The findings in respect of the effect of changes on the role of the Commission brought about by the political decision of 1996 are hereunder presented.

7.3.2. **Effect of changes brought by the Cabinet decision of 1996 on the role of the Commission**

The Cabinet decision of 1996 changed the executive and policy making roles of the Commission. The executive powers and functions of the Commission were assigned to the line functions departments, whereas its policy-making powers were assigned to the Department of Public Service and Administration. The effect of this was the role of the Commission was reduced to monitoring, evaluation, investigation and research. The changing of the role of the Commission was in line with a new model of state administration ingratiated in the imperatives of the new public management approach.

The changing of the powers and functions of the Commission were made in anticipation of the early adoption of the Constitution of 1996. The Constitution of 1996 was adopted in 1996 and only came into effect on 4 February 1997, whereas the Cabinet decision that changed the executive policy role of the Commission came into effect on 12 April 1996. As a result of the foregoing, the transitional contingency measures regarding the role of the Commission were put in place. The findings in respects of those contingency transitional measures are hereunder presented.

The dissertation contended that the transitional arrangement alluded to in the above exposition was rather considerably peculiar and oxymoronic in that the Commission carried out, as well, the functions stipulated in the law, meaning the Constitution of 1996, which was then not yet an official policy of government. The Interim Constitution of 1993 in 1996 was still in place as the primary policy of the country. It was then neither amended to accommodate changes the Cabinet made with regard to the role of the Commission nor repealed yet. In view of the foregoing, the changing of the role of the Commission in 1996 was *ultra vires* the provisions of the Interim Constitution of 1993.

Intertwined to the above exposition, the dissertation further contended that, given the fact that the democratic South Africa was founded on the principle of the constitutional supremacy in 1994, the Cabinet did not have the authority to take decision that had far-reaching constitutional implications such as changing the powers and functions of the Commission as stated in the Interim Constitution of 1993. The authority to take such decision was exclusively reserved for Parliament, which would have also needed two third majority votes of its members to change the provisions of the Interim Constitution of 1993. Notwithstanding the foregoing, the decision of the cabinet stood, and the role of the Commission was, as such, changed in 1996.

The Constitution of 1996 came into effect on 4 February 1997, thus repealed the Interim Constitution of 1993. However, the provisions of the Constitution of 1996 with regard to the institution of the Public Service Commission could not instantly come into operation as they were contingent upon the national legislations that were not yet promulgated. As a result of the foregoing, transitional measures with regard to the role of the Commission were put in place in 1997. The findings of the research in respect of the effect of changes brought by the transitional measures alluded to in the foregoing on the role of the Commission are hereunder presented.

7.3.3. Effect of changes brought by the transition from the Interim Constitution of 1993 to the Constitution of 1996 on the role of the Commission

As a result that the new constitutional framework to legitimate the changes that the Cabinet decision of February 1996 effected on the powers and functions of the Commission was not yet in operation at the time of coming into effect of the new model of state administration, an 'interim' Commission was appointed by the Former Minister of Public Service and Administration. The Commission alluded to

in the foregoing simultaneously carried out, in 1996, functions assigned under the Interim Constitution of 1993 and those envisaged in the Constitution of 1996. The transitional arrangements alluded in the foregoing confounded the role of the Commission in the public service. The Commission was put in a precarious position in as far as its role was concern. It operated in an environment fraught with 'conflicts of expectations' in terms of what should be its role. On the other hand, there was a set of expectations in the public service that the interim Commission should operate like the old one; whereas, on the other hand, the Commission was expected to operate in terms of the Constitution of 1996.

The 'conflicts of expectations' with regard to the role which the Commission should play as alluded in the above exposition made it difficult for it to create a conducive environment of the new Commission as envisaged in the Constitution of 1996 to operate. The Constitution of 1996 came into effect on 4 February 1997, therefore repealed the Interim Constitution of 1993. The findings with regard to the effect of changes brought by, and under, the Constitution of 1996 are hereunder presented.

7.3.4. **Effect of changes brought by, and under, the Constitution of 1996 on the role of the Commission**

The Constitution of 1996 ushered in fundamental changes in as far as the role of the Public Service Commission in South Africa is concern. It legitimated the changes that were effected as a result of the Cabinet decision of 1996. The Constitution of 1996 re-focussed the role of the Commission on development and modernisation of public administration practices. Following the promulgation of Act 46 of 1997 and Act 47 of 1997, the new Commission as envisaged in the Constitution of 1996 was appointed in January 1999 and formally assume office in July 1999. It assumed developmental role of monitoring, evaluation, investigation and research. The Commission was also given the power to advice, give directions and to make rules on matters that pertains to the administration of the public service. The research findings in respect of the new roles of the Commission as mentioned in the foregoing are hereunder separate sub-sections given.

7.3.4.1. **Monitoring and evaluation role of the Commission**

In monitoring and evaluating public sector performance, the Commission uses a variety of specially prepared and commissioned reports that are qualitative in nature. Such reports are generally viewed in the public service as being useful in

enhancing deeper understanding of the public sector performance in the delivery of the public services. The qualitative approach of the Commission in monitoring and evaluating the operational functioning of the state departments is, however, time consuming. It constrains the resources of the Commission to one or two projects. The dissertation attributed the foregoing to the fact that the Commission does not have a formal transversal monitoring and evaluation system/tool (at the time of the completion of this study in 2002).

A lack of a formal transversal monitoring and evaluation system/tool makes the Commission to carry out the function of monitoring and evaluation in a peace-meal or *ad hoc* fashion. The national departments are also affected by the fact that the Commission does not have a well-known monitoring and evaluation system/tool. They do not know how to compile information for monitoring and evaluation purposes. The departments are therefore not able to gather, analyse and store information. The effect of the foregoing is that, when periodic monitoring happens, the departments are unable to retrieve information that the Commission requires. This vitiates the capacity of the Commission to frequently monitor and evaluate public sector practices and performances.

In addition to the findings articulated in the above exposition, there is no 'national consensus' yet on what the constitutional value and principle that public administration must be development orientated means. The effect of this is that the Commission would find it difficult, if not impossible, to monitor and evaluate the public service on the basis of the constitutional value and principle alluded to in the foregoing. The Commission also monitors issues related to labour relations in the public service. The monitoring role of the Commission in this regard entails handling of grievances/complaints referred to it in the public service. The involvement of the Commission in disputes resolution as alluded in the foregoing is, in the light of quite a number of institutions/bodies/mechanisms established in the public service to deal with the same, is superfluous.

Intertwined to the above finding, there are a variety of institutions/bodies/key departments in South Africa that plays a critical oversight role of monitoring and evaluation of public service delivery. The Commission liaise with those institutions/bodies/key departments involved in monitoring and evaluation of the public service. Such liaison does not, however, amount to 'formal co-operation' in terms of exchange of capacities and resources for monitoring and evaluation purposes. The co-operation between the Commission and other oversight bodies as mentioned in the dissertation in monitoring and evaluation is minimal. The

reason for the foregoing was attributed to the system of institutional performance based assessment system. As a result of the system of performance based assessment, institutions prefer to do things in their own ways, thus, in the process sacrificing inter institutional co-operative engagement.

7.3.4.2. **Investigative role of the Commission**

The Commission also carries out the investigation function on a wide range spectrum of public administration related matters. In respect of its investigations, the Commission compiles comprehensive reports that do not only point out areas of weaknesses in the public service, but also make recommendations for improvements. The recommendations of the Commission arising from its investigations into a variety of issues related to public administration are, contrary to what used to be case in the previous constitutional dispensation, not mandatory. Apart from the foregoing, the recommendations of the Commission are widely accepted and put into practice by the respective Executive Authorities. The research did not find any case where the recommendations of the Commission were not accepted or declined. The perspectives developed by the Commission from its investigations added new insights into the functioning of the public service. They are useful in building a public service system premised on the imperatives of democracy.

A thorough and detailed approach of the Commission in conducting investigations into a variety of public administration practices is, just like in the case of monitoring and evaluation, time-consuming and expensive exercise. It enormously stretches the resource capacity of the Commission. During the period 1997-2000 the Commission was so much engrossed in the investigation of matters related to corruption. The investigation of cases of corruption, especially in the provinces, severely further strains the resource capacity of the Commission. This constrains the capacity of the Commission to undertake other projects in response to the requests of its diverse stakeholders.

In South Africa there are at least ten bodies (such as the Public Protector and National of Directorate of Public Prosecutions), apart from the Public Service Commission, assigned the function of dealing with public sector corruption. There is, however, a lack of adequate co-ordination/synergy of efforts between the Public Service Commission and those other anti-corruption agencies. The increasing rate of corruption in the public service is, as indicated above, overstretching the resource capacity of the Commission and, from the literature

dissected and interviews conducted, there is no evidence of assistance to it in terms of the resource capacity from other agencies during the period 1997-2000.

7.3.4.3. **Directive and advisory role of the Commission**

As pointed out in the dissertation, the Commission is also assigned the function of giving directions and advices to ensure that the personnel practices in the public service, both at national and provincial levels of government, comply with the values and principles of public administration. In juxtaposition with the previous constitutional dispensation, the directions and advices of the Commission are not mandatory or control orientated as it does not have executive policy-making powers anymore. The Commission is, however, still entitled to quasi-policy making powers.

7.3.4.4. **Research function of the Commission**

Under the Constitution of 1996, research was, in juxtaposition with the previous dispensation, formally made part of the function of the Commission. The Commission has, however, not set out research as its key performance area or critical focus area. This omission is incongruous with the Commission undertaking to reposition itself in the public service as a knowledge-based institution. Notwithstanding the foregoing, the Commission during the period 1997-2000 carried out the research function by embarking on a variety of projects. The research results of the Commission are, however, not adequately communicated to state departments. In addition, apart from the fact that the Commission played a critical role in conducting research on a variety of public administration related issues, the dissertation found that, as of 2000, it had not yet fully developed its research capacity.

There are quite a number of institutions in South Africa that play critical role in conducting research on variety of issues that pertains to governance. The importance of the Commission co-operation with those institutions cannot be over-emphasised, particularly given the fact that some of them developed outstanding research capacities over the years. At the time of this research, the Commission was still busy developing links of co-operation with the academic and research institutions in the area of research.

7.3.4.5. **Administration function of the Commission**

The functions of the Commission that are administrative in nature are carried out through its Office under the headship of the Director-General. The Office of the Commission was restructured in a manner that befits its new constitutional mandate. The administration functions (see page 238-240 of the dissertation) of the Commission are not as many as it was the case in the previous dispensation. This is largely attributed to unbundling of its functions in 1996, which necessitated the confinement of its role to monitoring, evaluation, research and investigation.

7.3.5. **Synthesis of the research findings**

On the basis of the findings of the research articulated in the above exposition, the dissertation synthesise that the changes since 1994 necessitated the focussing of the powers and functions of the Commission on the development and modernisation of public administration practices, thus moving away from the imperatives of the traditional model of public administration accentuating the notion of public service stability. The Commission assumed developmental and facilitating role in the public service.

The facilitative and developmental nature of the role of the Commission is in line with the international trends of establishing specialised units and programmes aimed at developing and modernising public administration practices. The constitutional and philosophical orientation of the powers and functions of the Commission as spelt out in the Constitution of 1996, Act 46 of 1997 and Act 47 of 1997 are premised on the imperatives of the new public management approach with a developmental focus.

7.4. **Recommendations/proposals**

The research, as indicated in sub-section 7.3 above, found a variety of shortcomings/inadequacies relating to the role of the Commission in South Africa. The recommendations or proposals on how those weaknesses could be addressed are, in the sub-sections hereunder, provided.

7.4.1. **Development of a formal transversal monitoring and evaluation system/tool**

It is critically important that, in addition to the existing qualitative analysis, a transversal monitoring and evaluation system/tool, which is based on the digital technology, should be developed and put in place to instantly and continuously. provide accurate and reliable data on public sector performance. The development of the digitally based system/tool could tremendously assist in identifying weaknesses in the organisation, administration and personnel practices in the public service on time thus make a swift intervention towards rectification of the problem areas in the public service possible.

In developing the digital monitoring and evaluation system/tool, key issues in the public service as well as the basis on which they must be monitored and evaluated must be clearly identified and delineated. The basic democratic values and principles as enshrined in chapter 10 of the Constitution of 1996 and the *Batho Pele* principles focussing specifically on public service delivery constitutes the fundamental basis for the monitoring and evaluation of public administration practices and performances in South Africa. Therefore, these democratic values and principles as well as the *Batho Pele* principles must be crystallised to develop e-monitoring and evaluation system/tool that could be used to asses the extent of the compliance of the public service with the principles and norms of public administration stated in the Constitution of 1996 and other policies of government.

Notwithstanding the above exposition, a great circumspection need to be taken not to design the system/tool in a manner that would confine it to only monitor and evaluate public service compliance with the values and principles of public administration. The system/tool must be designed in manner that it would also focus on the performance of the state departments. The foregoing would of course require generation 'public service standards of performance' that should as well be built in the digital monitoring and evaluation system/tool. The system/tool proposed in this dissertation could be designated e-monitoring and evaluation.

E-monitoring-evaluation system/tool could enable the Commission to access information from different state departments across the country using fewer resources. With the digital system/tool, the Commission could also be involved in monitoring and evaluating the programmes of different state departments at the

planning phase, not only at the implementation phase. For the purpose of developing the system/tool proposed, the Commission, instead of contracting private information technology companies, must engaged the State Information Technology Agency, hereafter referred to as SITA, as it was created to provide services in this regard.

7.4.2. **Training of officials in different state departments responsible for the management of information**

The Commission must ensure that the transversal monitoring and evaluation system developed is widely known among its clients, namely the departments at both national and provincial levels of government. This could be achieved if the Commission could, advisably with the assistance of SITA, provide intensive training to officials in different state departments responsible for the gathering, analysis and storage of information. The training should be aimed at ensuring that the officials alluded to in the foregoing are equipped with the necessary knowledge and skills on how to compile information that would be needed by the Commission for monitoring and evaluation purposes. The management of the departments should also be provided with the similar training so that they could be in a position to supervise the information officers to determine whether they handle the information according the specification of the Commission.

7.4.3. **Clarification of the notion of development orientation of public administration**

As indicated in sub-section 7.3.4.1, there is no generally accepted meaning of the notion of development public administration. It is therefore critically important that this notion, given the fact that it forms part of the values and principles the Commission is constitutionally bound to promote in the public service, must be demystified. The Commission must engage the academia and the intelligentsia with a view to unpack the notion of development public administration. The approach in developing the meaning of development public administration should that of 'thinking globally, but acting locally'.

A quest for the meaning of development public administration according to the approach proposed in the foregoing would ensure that the South African realities remain the fundamental context of the exercise. The demystification of the notion alluded to in the foregoing would help to develop a common understanding of the constitutional value and principle that the South African public administration must be development orientated. This would make it easy for the Commission to

monitor and evaluate the public service on the basis of the foregoing constitutional value and principle.

7.4.4. Reviewing the role of the Commission in labour relations in the public service

The current role of the Commission in labour relations issues in the public service should be reviewed. The Commission should no longer handle the grievances/complaints of the public servants relating to labour disputes they have with their departments as already there are quite a number of institutions/bodies/mechanisms created to deal with the same in the public service, namely the Bargaining Councils, Commission for Conciliation, Mediation and Arbitration (hereafter referred to as CCMA), Labour Court and Labour Appeal Court.

The role of the Commission in this regard should be limited to the conducting of research on current developments and trends in the field of labour relations and advise the Executing Authorities accordingly. All labour disputes in the public service must be handled and finalised within the Bargaining Councils and other labour dispute resolution bodies/institutions created in terms of the *Labour Relations Act*, 1995(Act 66 of 1995), namely the CCMA, Labour Court and Labour Appeal Court.

7.4.5. Maximisation of co-operation between the Commission and other statutory institutions/bodies involved in monitoring and evaluation of public service delivery

The co-operation between the Commission and other statutory oversight bodies/key departments/ institutions, namely the Office of the Ministry for the Public Service and Administration, Department of Finance and State Expenditure, Department of Public Service and Administration, Auditor-General, Public Protector, Human Rights Commission and Financial and Fiscal Commission, should be maximised. The maximisation of co-operation should not just entail the question liaison, but should also be characterised by the exchange of resources and joint action in certain projects for monitoring and evaluation purposes. The foregoing could be achieved if the assessment of the monitoring and evaluation bodies/institutions/key state departments could be based on their performance as the cluster of oversight bodies, not in their individual capacities. This would necessitate co-operative engagement among the oversight bodies in South Africa.

7.4.6. **Enhancement of the investigation capacity of the Commission**

The capacity of the Commission to investigate the organisation, administration, personnel practices, application of personnel and public administration practices should be beefed up. This could be achieved if the Offices of the 'resident Commissioners' could be fully capacitated by appointing officials that have investigation and research skills to carry out investigation relating to issues referred to in the foregoing in their respective provinces.

In addition to the above exposition, the Commission must also avoid the approach of conducting investigations in response to requests of its stakeholders as such requests are so diverse. Instead, the Commission must encourage departments to identify issues that need to be investigated and communicate them well in advance to it. The Commission should therefore use the information from the departments regarding issues that need to be investigated as a basis for the development of its business plan for the ensuing financial year. This approach would give the Commission time to accumulate and budget for the resources that are commensurate to the amount of the investigation work that need to be accomplished.

7.4.7. **Relationship between the Commission and other bodies assigned the investigative role in dealing with matters of public service corruption**

Corruption is a multifarious phenomenon that needs a multi-disciplinary approach. The capacities of each anti-corruption body, including the Public Service Commission must be enhanced. This could be achieved if synergy of efforts among those anti-corruption bodies could be sustained. With regard to the Public Service Commission, a balance need to be struck between its investigation function in the cases of corruption and other constitutional mandates assigned to it. Too much concentration of the Commission in the investigation of cases of public sector corruption could distract its focus from other specific constitutional mandates. It is therefore imperative that the role of the Commission vis-à-vis that of other anti-corruption bodies/agencies in South Africa should be clarified. This point is advanced mainly on the basis that the Constitution of 1996 only states that the Commission must promote a high standard of professional ethics in the public service.

In the light of a number of anti-corruption agencies established in South Africa, the role of the Commission should be to prevent corruption, than to investigate it. This would minimise duplications of the investigation roles in respect of cases of public sector corruption. The role of the Commission in preventing public sector corruption should, *inter alia*, encompass the following:

- Monitoring and evaluation of ethics practices in the public service.
- Promoting awareness among the public servants and the members of the public in general about ethical standards in the public service through effective mediums of communication.
- Conducting workshops and, with the assistance of the South African Management Development Institute (SAMDI), training sessions in ethical code of conduct in the public service.
- Conducting research in ethics in the public service. The results of such research should be communicated widely in the public service, the objective being to inculcate the culture of ethics.

Given the culturally-diverse nature of the South African society, more often cases of ethical conflicts may arise in the public service. In this regard, the Commission should also assist in the resolution of such ethical problems. The essence of the foregoing recommendation therefore is that the question of investigating corruption should be left to be conducted by other anti-corruption bodies as mentioned in the dissertation such as the National Directorate of Public Prosecution, Auditor-General, Directorate for Serious Economic Offences, Police Anti-Corruption Unit, Public Protector and other Special Investigation Units.

7.4.8. **Advisory role of the Commission on policy matters**

It was pointed in sub-section 6.4.1.4 above that the Commission could be approached for advice during the policy formulation. The involvement of the Commission in policy matters regard need to be pursued with great circumspection, otherwise its oversight role could be compromised. The advisory role of the Commission during the policy formulation process should be carried out in a manner that it would eventually still be in a position to evaluate such policy at a later stage.

7.4.9. **Quasi-policy making powers of the Commission**

The quasi-policy making powers of the Commission should be limited to the development of its own rules on how to carry out its constitutional mandate of monitoring and evaluation of public sector performance, not rules for the departments on how to conduct their businesses. The departments should develop their own rules within the context of the broad policy framework determined nationally. In this regard, the role of the Commission should be restricted to monitoring and evaluation of the rules and the modus operandi of the departments to ascertain their compliance with the Constitution of 1996 and other national policy frameworks.

7.4.10. **Linkages in the area of research**

For the Commission to reposition itself as a knowledge-based institution, it should make the question of research one of its fundamental key performance areas or critical focus areas. In South Africa, there are quite a number of institutions that play critical role in research on a variety of issues that pertain to governance, namely the Human Science Research Council, Institute for Policy Studies, Institute for Democracy in South Africa, and academic institutions such as universities and technikons. The Commission should forge links of co-operation in the area of research with the institutions mentioned in the foregoing.

The co-operation between the Commission and the institutions alluded to in the above exposition, for it to yield huge positive results, should not be limited to exchange of research reports and materials. It must also involve collaboration and synergy of research activities in different areas identified by the Commission during the monitoring and evaluation of public sector performance. Some of the research and academic institutions do have outstanding research capacity, which, through synergic and collaborative processes, could be helpful to the Commission.

The National Research Foundation, hereafter referred to as NRF, could be an important strategic partner of the Commission particularly with regard to the forging of linkages in the areas of research with the academic institutions. It has well-established interaction facilities with the academic institutions in as far a matters of research are concern. The Commission should, therefore, work in close partnership with the NRF and use it as a conduit to communicate aspects identified during the monitoring and evaluation of the public service that needs to be researched by the academic institutions. The NRF should crystallise those

aspects into research focus areas in respect of which funding could be requested by the applicants in different academic institutions in South Africa.

The applicants awarded grants in different academic institutions should collaborate with the officials from the Office of the Public Service Commission in conducting of research in areas identified during the monitoring and evaluation of the public service performance. The research results/reports must be submitted to the Commission. This would help the Commission to be a knowledge-based institution always in a position to give advice on strategic issues in the delivery of public services. A synergic, collaborative and interactive system in the area of research recommended in this dissertation would contribute significantly towards the alignment of the South African public service system so that it could entirely keep pace with the current global developments and trends.

7.5. **Areas for further research**

The study on the role of the Public Service Commission in South Africa pointed out a variety of areas for further research. Some salient areas related to, and derived from, the research for this dissertation are hereunder presented.

7.5.1. **Assessment of the performance of the Public Service Commission**

This dissertation determined the effect of changes since 1994 on the role of the Commission in South Africa. It did not, *per se*; look at the ability of the Commission to address its new mandate as articulated in the Constitution of 1996, although in some instances matters related to its performance were raised and deliberated on in the dissertation. In view of the foregoing, it is important that research on the critical assessment of the Commission should be conducted to determine its ability to fulfil the new constitutional mandate; and to also address the question of what added value is the Commission bringing in the realm of monitoring and evaluation of the public service delivery, given that there are already a variety of oversight bodies dealing with the same.

7.5.2. **Implementation of a monitoring and evaluation system/tool**

The researcher found that the Commission in South Africa does not have a transversal monitoring and evaluation system/tool. The effect of the foregoing is that the Commission monitors and evaluates public sector performance on *ad hoc* or piecemeal fashion. The qualitative method the Commission currently use to

monitor and evaluate the public service proved to be time-consuming and an expensive exercise. It is therefore important that research need to be conducted to examine the feasibility of using information technology to develop a digitally-based monitoring and evaluation system/tool the Commission could use to efficiently fulfil its mandate of promoting the constitutionally entrenched democratic values and principles of public administration in the public service. The research in the development of digital or electronic monitoring and evaluation system would obviously require a multi-disciplinary approach.

7.5.3. **Clarification of a development orientated public administration**

The Public Service Commission is constitutionally bound to promote the basic democratic values and principles of public administration as stated in chapter 10 of the Constitution of 1996. One of those basic values and principles is that public administration must be development orientated. But, what is meant by development public administration? This dissertation has found that there is no generally accepted meaning of development public administration yet. In view of the foregoing, it is necessary that research should be conducted to demystify the notion of 'development public administration' and therefore, contributes towards the development of its common and generally acceptable understanding within the South African context.

7.6. **Conclusion**

This chapter summarised the main points raised in different chapters that constitutes the body of the dissertation. It also succinctly and lucidly described the results/findings of the research relating to the effect of changes since 1994 on the role of the Commission. The findings/results of the research in this chapter were sequentially presented in four broad categories (*vide* sub-section 7.3). The description of the results/findings of the research was followed by the identification and brief discussion of possible action to rectify the shortcomings/weaknesses with regard to the new role of the Commission in South Africa. This chapter ended with an indication of areas for further research, which, due to the limited scope of this research, could not be dealt with.

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ANNEXURE

A

PUBLIC SERVICE COMMISSION

PRIVATE BAG X9130 PIETERMARITZBURG 3200 ☎ (033)345-1533/4 FAX(033) 345-8505 e-mail: bonganik@opsc.pwv.gov.za

✉ X121 **PRETORIA** 0001 ☎ (012)328-7690 FAX: (012)325-8382 ✉ 746 **CAPE TOWN** 8000 ☎ (021) 418 4940 FAX: (021)418-5040

31 May 2002

Mr H.M. Maserumule
P.O. Box 42817
BOORDFONTEIN
0201

Tel. No.: (012) 799-9160
Fax No.: (012) 799-9639
Cell No.: 0829332720

Dear Mr Maserumule

RE: QUESTIONNAIRE FOR PUBLIC SERVICE COMMISSIONERS

I first of all want to sincerely apologise to you for failing to respond timeously. It was only today that I, with the assistance of my diary, woke up to the reality that the questionnaire has to be returned not later than today. However, when I sat down and gave my undivided attention to the task at hand, I was embarrassed to realise that I could not respond to most of the questions because they are framed in such a manner that only people who were Commissioners before 1994 or between 1994 and 1999 or during both periods can meaningfully respond to these questions except question 2.7. Questions 2.8 to 2.10 should be directed to the Commission's Chief Executive Officer (the Director-General). Fortunately, some of the members of the Commission have been through all of the aforementioned periods and I am sure that you will find their responses rising to your expectations.

The original questionnaire will be posted to you in the self-addressed envelope which you kindly provided. Any inconvenience caused is sincerely regretted. I just wish I could have been in a position to contribute more positively towards your cause.

With kind regards.

H.G.B. ZONDI

From:	**Ralph Mgijima <RMgijima@opsc.gov.za>**
To:	**'"maserumule.mh@tng.ac.za"' <maserumule.mh@tng.ac.za>**
Copies to:	**'"Bain@opsc.pwv.gov.za"' <Bain@opsc.pwv.gov.za>**
Subject:	**Maseremule questionnaire**
Date sent:	**Mon, 6 May 2002 11:35:47 +0200**

I have gone thru this document and concluded that it may not apply to my case since I was appointed a Commissioner in the year 2001.The scope of the study according to MH covers the period 1990-2000(see covering letter to questionaire).

In addition I would have thought that questions of this nature would have been best handled centrally,so that a combined document from the PSC is submitted to MH

The questions are straight forward but quite extensive,in effect there will be very little difference between the submissions of the various Commissioners

.Is there room for a rethink of the methodology before wastage of people's time?

Dr R R Mgijima

ANNEXURE

B

From: **"Bailey Greta" <Bailey.g@tng.ac.za>**
To: **<maserumule.mh@tng.ac.za>**
Subject: **Grants - Unspent Funds**
Date sent: **Fri, 22 Feb 2002 11:26:23 +0200**
Organization: **tng**

MH Maserumule

Dear Grantholder

Since the inception of research grants to staff unspent funds were automatically transferred from one year to the next one. This procedure resulted in either "potting up" money for no valid reason, as well as to save or to build up funds for specific purposes. Statistics, however indicate that 10% of the grants were "untouched" over the last three years. In 25% of the grants no activities were registered during 2001.

The external auditors recently requested the Directorate Research not only to minimize the transfer of funds, but to restrict it to exceptional cases.

The current balance on your cost centre KIBG is R8659.00.

It will be appreciated if you could provide the Directorate Research by not later than 8 March 2002 with reasons/motivation why the funds should remain in the relevant cost centre. If possible – please use e-mail facilities only at the following addresses: Kok.PDF@tng.ac.za or Bailey.G@tng.ac.za.

Thank you

Pieter Kok

From: **Self <AC4/MASERUMULE.MH>**
To: **"Bailey Greta" <Bailey.g@tng.ac.za>**
Subject: **Re: Grants - Unspent Funds**
Date sent: **Fri, 8 Mar 2002 10:13:15 GMT+2**

I acknowledge the fact that I did not use the grant allocated to me during the year 2001. This is due to the fact that last year I focussed on the theoretical part of my research, thus the cost involved were only for typing purposes. With regard to typing costs, I had arranged with my typist that I would submit all the theoretical part of the research after my supervisor and editor have, respectively, made their comments and language corrections. This is exactly what I did. At the beginning of this year I submitted the theoretical part of the research(final version) to my typist, after the comments from my supervisor and editor. Due to the voluminous amount of the work, the typist indicated that she would only be in a position to complete typing the work at the end of this month. Therefore, I would only be in a position to know how much did it cost to type that first part of my dissertation at the end of this month.

Having completed the theoretical part of the research, I am currently making arrangements for interviews with the members of the Public Service Commission so that I could gather empirical data to substantiate my hypothesis. The chairperson of the Commission had already granted me a permission to interview the members of the Commission. The members of the Public Service Commission are 14 in number, 5 stationed in Pretoria and others are stationed in all nine provinces. This is means that to reach my targeted population group is going to be costly as I would also have to travel to other provinces in order to conduct interviews. I therefore, in view of the foregoing, herewith kindly request that the research grant allocated to me be retained. I indeed need it, particularly this year, for the completion of my research.

Your sincerely

MH Maserumule
Cost centre KIBG

ANNEXURE

C

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: maserumule.mh@tng.ac.za

20 March, 2002

The Director-General – Office of the Public Service Commission
Private Bag x 121
PRETORIA
0001

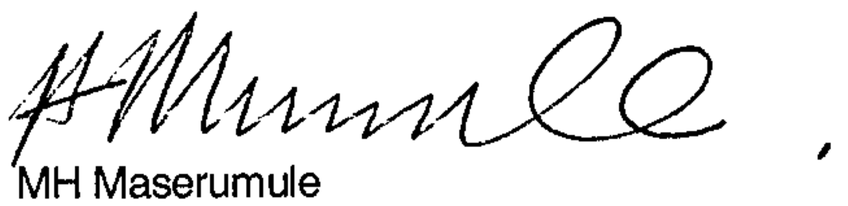
Fax 012-325-8382

Dear Mr M Skhosana

I am a masters student at the University of South Africa (UNISA) conducting research on the changing role of the South African Public Service Commission. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. In view of the foregoing, I wrote to the Chairperson of the Public Service Commission, Professor Sangweni, in November 2001 to apply for a permission to access official documents of the Commission for research purposes. In his response of 29 November 2001, the Chairperson indicated that he referred the matter to your office and suggested that I should make contact with you this year for the assistance I am seeking.

I, therefore, on the basis of the above, herewith make a follow-up regarding my request to access official documents of the Commission. Given the nature of the study, I also kindly request an interview with you or any senior official in the Office of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,



MH Maserumule
Technikon Northern Gauteng

PUBLIC SERVICE COMMISSION

✉ X121 PRETORIA 0001 ☎ (012)328-7690 FAX: (012)325-8382 ✉ 746 CAPE TOWN 8000 ☎ (021) 418 4940 FAX: (021)418-5040

Enq: Mr D T. Vukela ☎ (012) 352-1081 Ref: 9/3/2/2

2002 -04- 18

Mr MH Maserumule
PO Box 42817
BOORDFONTEIN
0201

Dear Mr Maserumule

APPLICATION TO ACCESS THE OFFICIAL DOCUMENTS OF THE PUBLIC SERVICE COMMISSION AND A REQUEST FOR AN INTERVIEW: MR MH MASERUMULE

Your letter dated 20 March 2002, in the above regard, refers.

Your request to conduct research to the Public Service Commission as part of your studies has been considered. Kindly contact Mr T Sefuba, Chief Director: Labour Relations for an appointment at the following telephone number: (012) 352-1012.

Yours faithfully

DIRECTOR-GENERAL

ANNEXURE

D

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

21 February, 2002

The Director-General – Department of Arts, Culture, Science and Technology
Private Bag x 894
PRETORIA
0001

Fax 012-323 2720

Dear Dr Adam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

DEPARTMENT: ARTS, CULTURE, SCIENCE AND TECHNOLOGY
REPUBLIC OF SOUTH AFRICA

Private Bag X894, Pretoria, 0001, South Africa. Tel: (27-12) 337 8000 Fax: (27-12) 323 2720
www.dacst.gov.za

2002-03-04

Mr M H Maseumule
Technikon Northern Gauteng
P O Box 42817
BOORDFONTEWIN
0201

Fax: (012) 799-9639

Dear Mr Maseumule

REQUEST FOR AN INTERVIEW WITH HUMAN RESOURCES SECTION

On behalf of Dr R M Adam, I hereby acknowledge receipt of your faxed letter dated 2002-02-21.

The matter has been referred to Mr P Pedlar, Chief Financial Officer for further handling. For future reference please contact him at (012) 337-8283.

Warm regards

MS T L MLANGENI
ASSISTANT DIRECTOR: OFFICE OF THE DIRECTOR-GENERAL
(598/2002)

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

22 February, 2002

The Director-General – Department of Water and Forestry
Private Bag x 313
PRETORIA
0001

Fax 012-326-2715

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Private Bag X313, Pretoria, 0001
Sédibeng Building, 185 Schoeman Street, Pretoria
Tel: (012) 336-7500, Fax: (012) 323-4472 / (012) 326-2715

NAVRAE
ENQUIRIES : **M. MODIPA**

TELEFOON
TELEPHONE : **012 336 8803**

M H Maserumule
P.O. Box 42817
BOORDFONTEIN
0201

I hereby acknowledge receipt your interview request with our Director or Deputy Director – Human Resources.

Please note that your request has been referred to the Chief Director – Human Resources, Ms S Majiet, for consideration.

P.P.
M. MODIPA
DDG : CORPORATE SERVICES

Date : 13/3/2002

cc S Majiet

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

21 February, 2002

The Director-General – Department of Housing
Private Bag x 644
PRETORIA
0001

Fax 012-341-2998

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

DEPARTMENT: HOUSING
REPUBLIC OF SOUTH AFRICA

Private Bag X644, Pretoria, 0001, RSA, Tel: (012) 421 1311, Fax: (012) 341 8512
Private Bag X9057, Cape Town, 8000, RSA, Tel: (021) 465 1516, Fax: (021) 465 3802
http://www.housing.gov.za

REFERENCE: S1/4/2
ENQUIRIES: Mr M J Sebola
TELEPHONE: 012-421-1403

MR M H MASERUMULE
P.O. BOX 42817
BOORDFONTEIN
0201

Dear Mr Maserumule

RESEARCH ON THE ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE

1. You letter dated 21 February 2002, refers.

2. The Acting Director: Human Resource Management, Mr H Deacon is willing to have an interview with you on the date to be agreed upon yourself and Mr Deacon. His contact number is (012) 421-1379 and E-Mail address Henry@housepta.pwv.gov.za.

3. I hope the above information will address you request.

ACTING DIRECTOR: GENERAL
DATE: 26/3/02

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

22 February, 2002

The Director-General – South African Management Development Institute(SAMDI)
Private Bag x 759
PRETORIA
0001

Fax 012-321-1805

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

Subject: **FW: research on the changing role of SAPSC.**
Date sent: **Wed, 13 Mar 2002 08:18:31 +0200**
From: **"Sibongile S. Makhubele" <Sibongile@samdi.gov.za>**
To: **<maserumule.mh@tng.ac.za>**
Copies to: **"Normia Morodi" <Normia@samdi.gov.za>**

> Dear MH Maserumule
>
>
> I hereby respond to your letter dated 22 february 2002 to conduct a
> research on the changing role of South African Public Service
> Commission. My executive Manager will be available to meet you on
> the 15th March 2002 at 13:30 pm.
>
> For any enquries regarding your meeting (date and time),feel free to
> contact me.
>
>
> your co-operation will be highly appreciated
>
> Regards,
>
>
>
> SIBONGILE MAKHUBELE
> SOUTH AFRICAN MAANAGEMENT DEVELOPMENT INSTITUTE
> HUMAN RESOURCE PRACTITIONER
> TEL 012 314 7173
> FAX 012 321 1810
> CELL 083 5992011
>

TMO

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

21 February, 2002

The Director-General – Department of Health
Private Bag x 828
PRETORIA
0001

Fax 012-325-5706

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

[A]

Date sent: **Thu, 14 Mar 2002 11:22:30 +0200**
From: **"Sidney Tshabalala" <TshabS@health.gov.za>**
To: **<Maserumule.MH@TNG.ac.za>**
Subject: **REQUEST FOR A MEETING**

With reference to your faxed letter dated 28/02/02, the Deputy-Director of Human Resources Management (Health Dept) will be able to meet you around June 2002 due to other commitments.

Regards

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

8 March, 2002

The Director-General – Agriculture
Private Bag x 250
PRETORIA
0001

Fax 012-325-3618

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

MH MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201
TEL NO: 012-799-9160(W) FAX NO: 012-799-9639(W)
CEL NO. 0823937468
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

21 February, 2002

The Director-General – Department of Finance
Private Bag x 115
PRETORIA
0001

Fax 012-323-3262

Dear Sir/ Madam

I am a masters student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act*, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and interviews are used to collect data on the role of the Commission. The research subjects for this study are selected from the population of officials at the middle-management level in the human resource section of different state departments whose personnel functions, in terms of the *Public Service Act*, 1994(Act 103 of 1994), falls within the jurisdiction of the Public Service Commission.

I, therefore, on the basis of the above, herewith request an interview with the director or deputy director of human resources in your Department with a view to solicit his/ her opinion, experience and knowledge regarding the role of the Public Service Commission. I would greatly appreciate it if you could, at your earliest convenience, assist me in this regard. The information obtained from your office would be solely used for the purpose of this research study. Should you wish to get more details on any aspect of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. Your co-operation in this regard would be greatly appreciated and sincerely thanked.

Sincerely,

MH Maserumule
Technikon Northern Gauteng

[D]

From: **Fikile Zitha <Fikile.Zitha@treasury.gov.za>**
To: **"'MASERUMULE.MH@TNG.AC.ZA'" <MASERUMULE.MH@tng.ac.za>**
Subject: **Request for an appointment with an HR official**
Date sent: **Mon, 4 Mar 2002 16:16:28 +0200**

Dear Sir/Madam,

Your letter to the Director-General dated 21 February has reference.

The Office of the Director-General has referred your request to Mr Logan Wort, Chief Director: Human Resource and Support Services, for his attention. His office will contact you in due course, however, should you wish to contact his office, their number is: (012) 315 5399.

I trust that this will assist you.

Regards,

Fikile Zitha (Ms)
Office of the Director-General: National Treasury

ANNEXURE

E

ATTACHED HERETO IS A SAMPLE OF AN ARRAY OF QUESTIONS USED IN AN UNSTRUCTURED MANNER MAINLY TO GUIDE DISCUSSIONS DURING INTERVIEWS WITH THE DIRECTORS OF HUMAN RESOURCES IN DIFFERENT STATE DEPARTMENTS.

INTERVIEWS

RESEARCH TOPIC: THE CHANGING ROLE OF THE SOUTH AFRICAN PUBLIC SERVICE COMMISSION DURING THE PERIOD 1990-2000

NAME OF THE NATIONAL DEPARTMENT WHERE THE INTERVIEW WAS CONDUCTED:

_____

NAME OF THE INTERVIEWEE: _____

DATE OF THE INTERVIEW: _____

PLACE WHERE THE INTERVIEW TOOK PLACE: _____

Interview questions

1. **In the past, there was an outcry particularly with regard to the huge executive policy making powers and functions of the Public Service Commission. This prompted an overhaul of the entire Commission system existing then. And, now we have a totally different model of PSC. What is your view/opinion about this new model of PSC?**

2. **As a Human Resource Directorate, I assume that you interact with the PSC particularly on issues of human resources/personnel practices. [Is this correct]. Given your experiences in those interactions, would you say that there is indeed a need for an institution such as the PSC in the South African public service system? [Immediate follow up question]. Does it really add value into what you are doing?**

3. **In terms of the new model of state administration approved by the Cabinet on 21 February 1996, it is stated that the PSC is no longer involved in the day-to-day administration of the state departments and its functions are now primarily to perform advisory function to promote sound administration as well as fulfilling important monitoring role. In terms of your practical experience in this department, to what extent do the foregoing manifests itself in the public service?**

4. **There is a perception that, given current roles of the bodies/ institutions such as the Auditor-General, Public Protector, Department of Finance and the State Expenditure, Office of the Ministry of Public Service and Administration and the Department of Public Service and Administration in monitoring and evaluation of public service delivery, there is no longer a need for the PSC in South Africa. What is your comment on this perception?**

5. **Section 195(1)(i) of the Constitution of 1996 state that: 'Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to address the imbalances of the past to achieve broad representation'. In this regard, the Presidential Review Commission acknowledged the progress, which the Department have made in achieving representivity. This is one of the basic values and principles of public administration the PSC must, in terms of the Constitution, promote in the public service. To what extent did the PSC assist you in your endeavours to achieve to achieve broad representation in the Department?**

6. **How often do the PSC fulfil its constitutional mandate of evaluating the organisation and administration, and the personnel practices in this Department?**

7. **Do the Department develop its own human resources provisioning policies and procedures or do you depend on DPSA? [If the answer is**

yes, the immediate follow up question is] Do the PSC, as required by the Constitution, give directions aimed at ensuring that those personnel provisioning policies and procedures comply with the basic values and principles of public administration as enshrined in Chapter 10 of the Constitution of 1996?

8. [If the answer to the above question is in affirmative, the immediate follow-up question is] Are directions the PSC give with regard to the personnel policies and procedures mandatory? Are they couched in mandatory terms or in the sense of 'take it or leave it'?

9. The Public Service Laws Amendment Act 47 of 1997 necessitated the introduction of a more decentralised management system in the public service. This Act focuses mainly on the decentralisation of personnel matters. Did the PSC, as required by the Constitution, propose measures to ensure that your more enhanced management authority is exercised in an efficient and effective manner? Or does the PSC monitor how you exercise your management authority?

10. One of the fundamental functions of the PSC as enshrined in Section 196 of the Constitution of 1996 is to investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service.

- What is your view about the investigative capacity of the PSC?

- How do the Commission monitor and evaluate the personnel practices [Clarification by another question] Do they use a specific monitoring and evaluation system?

11. The function of the Public Service Commission entails the whole question of research. What is view your about the research capacity of the PSC?

12. [Apart from the activities of the PSC in your Department referred to earlier] Are there other specific activities that the PSC embarked on in your department between 1996-2000 with a view to promote the basic values and principles of public administration as enshrined in the Constitution of 1996?

13. In other state departments there are units/divisions assigned with the function of monitoring and evaluating public service delivery. Do you also have such an arrangement in your Department? =[Immediate follow-up question if the answer is yes] Are the monitoring and evaluation activities of such unit/division synchronised in a manner that is complementary to the monitoring and evaluation activities of the PSC?

14. **Apart from what we have already talked about, are there other activities that the PSC embarked on in your department between the period 1996-2000 with a view to promote the basic constitutional values and principles of public administration as enshrined in the Constitution of 1996**

15. **In view of what we have already talked about, what would be your general assessment of the PSC in terms of its performance?**

ANNEXURE

F

P.O.Box 42817
Boordfontein
0201
Tel: 012-799-9160
Fax: 012-799-9639
Cel: 0829332720
E-mail: maserumule.mh@tng.ac.za

facsimile transmittal

To: The Chairperson of the Public Service Commission: Professor S S Sangweni **Fax:** 012-325 8382

From: M.H Maserumule **Date:** 11/27/01

Re: Application for official permission to access official documents of the Public Service Commission and interview for research purposes **Pages:** 3 pages [including the cover pages]

CC: The Director-General of the Public Service Commission

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Kindly acknowledge receipt of the letter regarding the application for official permission to access officials documents of the Public Service Commission and interview with you and if possible, other members of the Commission for research purposes.

Sincerely

MH Maserumule

M. H. MASERUMULE

P.O.BOX 42817
BOORDFONTEIN
0201

TEL NO. 012-799 9160 (W)
FAX NO. 012-799 9639 (W)
CEL. NO. 0829332720
E-MAIL: MASERUMULE.MH@TNG.AC.ZA

NOVEMBER 16, 2001

THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION: PROFESSOR S.S SANGWENI
PRIVATE BAG X 121
PRETORIA
0001

Dear Professor Sangweni

I am a master's student at the University of South Africa (UNISA) conducting a research on the changing role of the South African Public Service Commission during the period 1990-1998. The objective of the study is to **determine the effect of changes since 1994 on the role of the Commission**. It is also hoped that this research exercise would make significant contribution to current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the *Constitution of the Republic of South Africa Act,* 1996 (Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents and unstructured interviews are used to collect data on the role of the Commission. I, therefore, on the basis of the foregoing, herewith apply for official permission to access official documents of the Public Service Commission and also request an interview with you and, if possible, other members of the Public Service Commission. The following are broad critical areas I would very much like to solicit your opinion, experience and knowledge regarding effect of changes since 1994 on the role of the Commission:

- The transition of the Public Service Commission from the Constitution Act 200 of 1993 to Constitution Act 108 of 1996.
- Readiness of the Commission in 1996 in terms of the availability of formal monitoring and evaluation systems to carry out its new constitutional mandate.
- Research capacity of the Commission.
- Collaboration of the Commission with other research institutions on matters of research.
- Synergy between the Commission and other independent statutory institutions established as checks and balances on the exercising of executive powers.
- Feedback the Commission now gets in its interaction with the operating departments when carrying out its new constitutional mandate.

I would greatly appreciate it if you could, at your earliest convenience, slot me in your busy schedule just for few minutes to ask you some questions premised on aspects indicated above. The information obtained from you or your office would be solely used for the study/ research purposes. I realize that your time is valuable and to express my appreciation for your assistance I will be pleased to share the results of the study when completed by sending you a copy of my findings.

Should you wish to get more details on any aspects of the research, please do not hesitate to contact me at the postal or electronic addresses, telephone and fax numbers provided on the top of the page. I sincerely thank you and your co-operation in this regard is greatly appreciated.

Sincerely,

_____

MH Maserumule

PUBLIC SERVICE COMMISSION

✉ X121 **PRETORIA** 0001 ☎ (012)328-7690 FAX: (012)325-8382 ✉ 746 **CAPE TOWN** 8000 ☎ (021) 418 4940 FAX: (021)418-5040

Mr M H Maserumule
P O Box 42817
BOORDFONTEIN
0201

Fax: (012) 799-9639

Dear Mr Maserumule

I acknowledge receipt of your faxed letter dated 11/27/01 requesting access to official documents of the Public Service Commission for research purposes. I have asked the Director-General, Mr M Sikhosana, to attend to this matter and he will be contacting you. Dr E Bain, Commissioner, will also contact you. I must, however, say this time of the year is rather difficult as we have a lot of end of the year meetings and related activities. There is hardly any time to accommodate or attend to requests such as yours as we will soon be going away on end of year leave. So I would suggest you plan to make contact early next year, say February 2002, for the kind of assistance you are seeking.

Kind regards

PROF S S SANGWENI
CHAIRPERSON
29 November 2001

REGIONAL OFFICES:
Free State T:(051 448-8696 F:(051) 448-4135 Eastern Cape T:(043) 643-4704 F:(043) 642-1371 KwaZulu-Natal T:(033) 345-1533 F:(033 879-3458505
Gauteng T:(011) 355-1700 F:(011) 355-1709 Northern Cape T:(053) 830-9352 F:(053) 831-4474 Mpumalanga T:(013) 755-4070 F:(013) 752-5814
North-West T:(018) 387-3727 F:(018) 387-3729 Western Cape T:(021) 424-1380 F:(021) 424-1389 Northern Province T:(015) 297-6284 F:(015) 297-6276

ANNEXURE

G

P.O. BOX 42817
BOORDFONTEIN, 0201
TEL No. 012-799 9160(W)
FAX No. 012-799 9639(W)
CEl. No. 0829332720

MH MASERUMULE

17 April, 2002

The South African Public Service Commission
Private Bag x 121
Pretoria
0001

Dear Public Service Commissioner

I am a masters student at the University of South Africa (UNISA) conducting research on the changing role of the South African Public Service Commission. The scope of the study covers the period 1990-2000. This study is aimed at determining the effect of changes since 1994 on the role of the South African Public Service Commission. It is also hoped that this research exercise would make a significant contribution to the current discourse on the role of the Commission in the South African public service system, given the number of key departments/institutions established in terms of the Constitution of the Republic of South Africa Act, 1996(Act 108 of 1996) to monitor and evaluate public service delivery. As part of the methodological approach of the study, qualitative research methods/designs in the form of written documents, interviews and questionnaires are used to collect data on the role of the Commission.

I, therefore, on the basis of the above, herewith kindly request you to complete the questionnaire, hereto attached, containing a list of questions I would very much like to solicit your opinion, experience, and knowledge regarding the effect of changes since 1994 on the role of the Public Service Commission. The questionnaire is comprised of two parts. The first part relates to the function of the Commission under the Constitution of 1993 whereas, the second part relates to its function under the Constitution of 1996. Mindful of your busy schedule, I would greatly appreciate it if you could answer both parts of the questionnaire for the purpose of comparative analysis and send it back before or on **31 May 2002**. For your convenience, enclosed kindly find self-addressed and stamped envelope you can use to send back the completed questionnaire.

Should you wish to get more details on any aspects of the research or questions hereto attached, please do not hesitate to contact me at the postal address, telephone and fax numbers provided on the top of the page. My e-mail address is also appended underneath my signature. The information obtained from you or your office would be solely used for research purposes. I sincerely thank you and your co-operation in this regard is greatly appreciated.

MH Maserumule

maserumule.mh@tng.ac.za

QUESTIONNAIRE FOR PUBLIC SERVICE COMMISSIONERS IN SOUTH AFRICA

Compiled by MH Maserumule

1. THE PUBLIC SERVICE COMMISSION UNDER THE CONSTITUTION OF 1993

1.1. Section 210(2) of the Constitution of 1993 provided that the powers and functions of the Commission as stated in section 210(1) should be exercised and performed not only in accordance with the provision of the Constitution of 1993, but also in accordance with the legislation in force at the time when it (Constitution of 1993) came into effect on 27 April 1994. The two Acts of Parliament, namely *Public Service Act* 111 of 1984 and *Commission for Administration Act* 65 of 1984, dealt with the powers and functions of the Commission at the commencement of the Constitution of 1993 and therefore, in terms of the section 210(2), had to be retained. However, the provisions of Act 111 of 1984 and Act 65 of 1984 were, in many respects, not in line with the Constitution of 1993. How did the Commission, before the promulgation of Act 103 of 1994 and the amendment of Act 65 of 1984, function in a legal framework that was evidently fraught with incongruities?

1.2. A myriad of concerns regarding the huge executive policy-making powers and functions assigned to the former Commission for Administration had already been prevailing in the public service before 1994. However, with the unfolding of the process of democratising the state and society in the nineties, the Commission was concentrated with even more wide-ranging executive policy making powers and functions. Section 3(3)(g)(iv) and (ix) of the *Public Service Act*, 1994(Act 103 of 1994) extended the powers of the Commission to make recommendations to cover the question of the promotion of sound labour relations, whereas its power to give direction was extended to cover the question of the application of information technology. The Commission was further entrusted with the responsibility of making recommendations and giving directions regarding the transformation and rationalisation of the public service with a view to realise the objectives accentuated in the Constitutional Principle 30 and section 212 of the Constitution of 1993. How did the Commission contend with such huge executive policy-making functions?

1.3. Under the Constitution of 1993, the Commission was assigned the powers and functions of making recommendations and giving directions on a variety of matters as stipulated in section 210 of the Constitution of 1993 and section 3(3) of Act 103 of 1994. The recommendations and directions of the Commission were, however, 'not merely advisory in the sense of take it or leave it' (Muthien 1997:09). They were mandatory in nature. Did the Commission, under the Constitution of 1993, engage itself in research as part of its formal responsibility with a view to ensure that its recommendations and directions, particularly given their mandatory nature, would always be based on scientific information?

1.4. Under the Constitution of 1993, one of the tasks of the Public Service Commission was to promote efficiency and effectiveness in the public service. Section 7(3)(b) of the *Public Service Act*, 1994(Act 103 of 1994) on the other hand, provided that: A head of department (Director-General) shall be responsible for the efficient management and administration of his or her department'. In view of the foregoing, the Commission and the heads of state departments were, albeit at different levels, assigned a similar function. Was there any formal interaction between the Commission and the heads of departments with a view to co-ordinate efforts aimed at promoting efficiency and effectiveness in the public service?

1.5. At the end of 1994 and throughout 1995, the Commission embarked on an introspective exercise into its functioning in the public service. This resulted in a review and, subsequently, changing of its powers and functions within the context of the imperatives of democratic governance. The Commission unbundled its powers and functions. Its policy functions were consigned to the Department of Public Service and Administration, whereas its executive functions were re-assigned to line-function departments. As a result of all these changes, the role of the Commission was effectively confined to monitoring, evaluation, investigation and research. These changes were effected with a view to maintain congruency with the new model of state administration approved by the Cabinet in 1996. To what extent was the Commission, after its role was changed in 1996, ready in terms of undertaking its new mandate in the public service?

1.6. The changing of the powers and functions of the Public Service Commission as alluded to in question 1.5 above was made in anticipation of the early adoption of the Constitution of 1996. However, the Constitution of 1996 only came into effect on 4 February 1997. As a result, the Commission in 1996 simultaneously carried out the functions assigned to it under the Constitution of 1993 and those envisaged in the Constitution of 1996, which by then was not yet an official policy of the government. Can you clarify the question of the legitimacy of the powers and functions which the Commission exercised and carried out in 1996 under the constitutional framework that was then not yet in operation?

2. FUNCTIONS OF THE COMMISSION UNDER THE CONSTITUTION OF 1996

2.1. As indicated in question 1.6 above, the Constitution of 1996 came into operation on 4 February 1997. It legitimated the changes effected on the powers and functions of the Commission in 1996. Section 196(2) of the Constitution of 1996 provided that the Commission as envisaged in sub-section (1) must be regulated by the national legislation. Such national legislation was, however, not yet ready at the time of coming into effect of the Constitution of 1996. As a result, the Commission established in terms of the Constitution of 1993 continued to exist and carried out dual functions. This means that the Commission, on the one hand, carried out its functions under the Constitution of 1993 whereas on the other hand, it functioned under the Constitution of 1996. What effect did the foregoing transitional arrangement have on the functioning of the Commission?

2.2. The *Public Service Commission Act*, 1997(Act 46 of 1997) and *Public Service Laws Amendment Act*, 1997(Act 47 of 1997) were, towards the end of 1997, passed by Parliament to, ostensibly, give effect to section 196(2) of the Constitution of 1996. The promulgation of the foregoing Acts of Parliament, hereafter respectively referred to as Act 46 of 1997 and Act 47 of 1997, established a new legal framework to legislatively legitimate the changing of the role of the Commission. The members of the new Public Service Commission as envisaged in section 196(1) of the Constitution of 1996 were nominated and, with effect from 1 January 1999, appointed by the State President. The Act 46 of 1997, Act 47 of 1997 and the new Public Service Commission could not, however, come into operation as a result of the Western Provincial Government court challenge around certain aspects of the Public Service Laws Amendment Act of 1998. Is the Western Cape Provincial Government court challenge the only reason that delayed the implementation of Act 46 of 1997, Act 47 of 1997 and formal assumption of office by the new Public Service Commission?

2.3. The Constitution of 1996 essentially requires that the Public Service Commission must monitor and evaluate public sector performance. However, the Presidential Review Commission, in its Report of 1998 to the former President of the Republic South Africa, seems to have had a problem in understanding how the Public Service Commission would interface with other key departments and institutions supporting constitutional democracy such as Department of the Public Service and Administration, the Auditor-General, Public Protector, Department of Finance and State Expenditure, Human Rights Commission and the Central Bargaining Chamber. 'Given the current roles of many of these bodies in monitoring and evaluation of public service delivery, it was not immediately apparent to the Presidential Review Commission what added value the Public Service Commission would bring in this regard'. How did you clarify your position in this regard? [In your answer, please also clarify whether there is a formal co-operation between the statutory bodies/key departments referred to in the foregoing and the Public Service Commission]

2.4 It is indicated in your annual and half-yearly reports [1997-2000] to Parliament that the Commission at present does not have a formal monitoring and evaluation system/tool. It uses a range of specially prepared and commissioned reports to fulfil its constitutional mandate [of monitoring and evaluating public sector performance]. What is the effect of such lack of a system/tool referred to in the foregoing on the Commission's frequency in monitoring and evaluating public sector performance?

2.5 The *Public Service Laws Amendment Act* 47 of 1997 necessitated a paradigm shift from a centralised rule-bound management system to a much more decentralised one. The responsibility and capacity to make decisions is now, in juxtaposition with the previous administrative system, devolved to the management of the state departments. To what extent does the Public Service Commission assist public managers in different state departments so that they could be in a position to contend with their enhanced and decentralised responsibilities?

2.6. In terms of the Constitution of 1996, the Public Service Commission is required to give **directions** to the state departments on personnel procedures relating to recruitment, transfers, promotions and dismissals to ensure compliance with the constitutional values and principles. Are the 'directions' which the Commission is required to give to the state departments in respects of matters referred to in the foregoing mandatory, like as it was the case under the Constitution of 1993?

2.7. One of the Commission's key performance areas with regard to its constitutional function of promoting a high standard of professional ethics involve the question of addressing corruption in the public service. There are, however, at least ten other bodies that deal with public sector corruption. To what extent does the Commission co-operate with those other anti-corruption bodies? [Co-operation in terms of information, research, intelligence, prevention or resources]

2.8. Sifting through your annual and half-yearly reports to Parliament [1997-2000], it appears that the Commission has been so much involved in investigating quite a number of a variety of cases in different departments both at national and provincial level of government related to corruption. What impact did the foregoing have on the resource capacity of the Commission?

2.9. In your *Half-yearly Annual Report* (2000), it is indicated that 'the niche Public Service Commission seeks to carve for itself is that of a knowledge based initiative that makes use of reliable and accurate information to contribute meaningfully to the building of a participatory, developmental public service.' Clearly, to achieve this, a great deal of research must be conducted on a continuous basis. What is your comment on the research capacity of the Commission to realise the objective alluded to in the foregoing?

2.10. In South Africa, there are quite a number of institutions that plays a critical role in conducting research on a variety of issues that pertains to matters of governance such as Human Science Research Council, Institute for Policy Studies, Institute for Democracy in South Africa and institutions of higher learning such as the Universities. To what extent does the Commission co-operate with this institutions/institutes on matters of research?

ANNEXURE

H

The British Parliamentary Order in Council of 21 May 1855

Whereas it is expedient to make Provision for testing, according to fixed Rules, the Qualification of the young Men who from Time to Time be proposed to be appointed to the Junior Situations in any of Her Majesty s' Civil establishments.

Now therefore, Her Majesty, by and with the Advice and Consent of Her Privy Council, doth order, and it is hereby ordered, that the Right Honourable Sir Edward Ryan, Assistant Comptroller General of the Exchequer, John George Shaw Lfevre, Esquire, Companion of the Bath, Clerk Assistant to the House of Lords, and Edward Romilly, Esquire, Chairman of the Board of Audit, or such other Persons as Her Majesty may from Time to Time approve in the Stead of them or any of them, shall be Commissioners for conducting the Examination of the young men so proposed to be appointed to any of the Junior Situations in the Civil Establishments as aforesaid, and shall hold their offices during the Pleasure of Her Majesty, and shall have Power, subject to the Approval of the Commissioners of Her Majesty s' Treasury, to appoint from Time to Time such Assistant Examiners and others as may be required to assist them in the Performance of the Duties herein-after assigned to them.

And it is hereby ordered, that the Commissioners of Her Majesty s' Treasury do prepare and submit to Parliament an Estimate for the Remuneration of a Secretary to the said Commissioners, and of such Examiners and others as may be required to assist in the Performance of their Duties.

And it is hereby ordered, that all such young Men as may be proposed to be appointed to any Junior Situation in any Department of the Civil Service shall, before they are admitted to Probation, be examined by or under the Directions of the said Commissioners, and shall receive from them a Certificate of Qualification for such Situation.

And it shall be the Duty of the Commissioners in respect of every such Candidate, before granting such Certificate as aforesaid,

1st. To ascertain that the Candidate is within the Limits of Age prescribed in the Department to which he desires to be admitted;

2nd. To ascertain that the Candidate is free from any physical Defect or disease which would be likely to interfere with proper Discharge of his Duties;

3rd. To ascertain that the Character of the Candidate is such as to qualify him for Public Employment; and

4th. To ascertain that the Candidate possesses the requisite Knowledge and Ability for the proper Discharge of his official Duties.

The Rules applicable to each department under each of the above Heads should be settled, with the Assistance of the Commissioners, according to the Discretion of the chief Authorities of the Department; but, except that Candidates for Admission to any of the Junior Situations in any Branch of the Civil service will be required to obtain Certificates of Qualification as aforesaid, such Examining Board shall not make Alteration in respect to the Nomination or appointment of Candidates by those who are or may be charged with the Duty of Nomination and Appointment.

After the candidate has passed his Examination, and received his Certificate of Qualification from the Commissioners, he shall enter a Period of Probation, during which his Conduct and Capacity in the Transaction of Business shall be subjected to such Tests as may be determined by the Chief of the Department for which he is intended; and he shall not be finally appointed to the Public Service unless upon satisfactory Proofs of his Fitness being furnished to the Chief of the Department after six Months Probation.

And it is lastly hereby ordered, that in case the Chief of any Department considers it desirable to appoint to any Situation for which there are no prescribed Limits of Age a Person of mature Age having acquired special Qualification for the Appointment in other Pursuits, such Person shall not in virtue of this Order be required to obtain any Certificate from the said Commissioners in order to obtaining such Appointment, but the Chief of the Department shall cause the Appointment of any Person not previously examined to be formally recorded as having made on account of special Qualification(Reprinted in Reader 1981:92-93).