CONSTITUTIONAL ASSEMBLY

CONSTITUTIONAL COMMITTEE

WEDNESDAY
14 JUNE 1995
09h00

AMENDED FORMULATION: PUBLIC ADMINISTRATION

SIXTH DRAFT - 13 JUNE 1995

Status:

Prepared by CA law advisers as per instruction of CC sub-committee

PUBLIC ADMINISTRATION

Basic values and principles governing public administration

- 1. (1) Public administration at all levels of government, including institutions which are dependent on government funds or other sources of public money, shall be governed by the democratic values and principles enshrined in this Constitution. In particular the following principles shall be applicable:
 - (a) A high standard of professional ethics shall be promoted and maintained in the public administration.
 - (b) Good human resource management and development practices to maximise human potential shall be cultivated in the public administration.
 - (c) Efficiency and the economic and effective use of resources shall be promoted in the public administration.
 - (d) Public administration shall be accountable. Transparency through the provision of accessible, accurate and timeous information to the public shall be fostered.
 - (e) Public administration shall be development oriented and the provision of services shall be conducted on the basis of impartiality and equity to all.

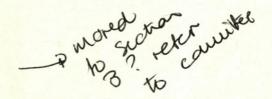
- Public administration shall function on a basis of fairness and shall serve the public in an unbiased and impartial manner.
- Public administration shall be oriented towards public participation in policy-making. It shall be responsive to the needs of the people.
- Public administration shall be broadly representative of the To ochieve his the gost shall South African people. Employment and personnel management put in place mechanisms to reduces practices in the public administration shall be based on past imbalances; competency, objectivity and fairness.

The terms and conditions of service of employees in the public (administration) shall be regulated by law. Employees shall be entitled to a fair pension in terms of a pension scheme regulated by law.

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¹ New paragraph inserted by the CC sub-committee in compliance with CPXXX.

- (3) A limited number of political appointments in the public administration may be made within the framework of the above principles and as regulated by law.²
- (4) Laws regulating the public administration may differentiate between different sectors, administrations or institutions in the public administration.



The sub-committee nevertheless instructed the CA law advisers to submit alternative formulations for further discussion in the CC. We suggest the following:

Option 1:

"(3) A limited number of persons may, as regulated by law, be appointed in the public administration by reason of their political commitment to particular) government policy objectives, provided such appointments are otherwise within the framework of the above principles and as personal yellow.

Option 2:

"(3) A limited number of appointments in the public administration of persons known for their political preferences or affiliations may be made within the framework of the above principles and as regulated by law."

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of in public admin Can account of the particular
policy can sid. of the executive) shall not
be precluded.

The term "political appointments" remains problematic. The sub-committee considered the suggestion that instead of this term, "limited appointments by the executive" or "limited ministerial appointments" should be used. This suggestion, however, does not solve the problem because all appointments in the public service are in fact made by a Minister. The fact that appointments in the public service are made by a Minister, of course, does not mean that they are "political" appointments. The most appropriate way of distinguishing "political" appointments from other appointments is simply to state it in exactly these terms.

Public Administration Commission 2. (1)3 ... as prescribed by nat. law.

- (2) The Public Administration Commission shall be independent and impartial.
- (3) The Public Administration Commission shall perform such provide? functions to safeguard the basic values and principles governing the public administration as prescribed by a national law.

(4) The Public Administration Commission shall be accountable to the prances should be Parliament for its activities. entired to participate in the count. mor a special rep.

(5) Provincial representatives in the Public Administration

Commission shall be competent to exercise and perform such powers and functions

of the Commission with regard to provinces as prescribed by a national law.

Public Service

3. There shall be a public service for the Republic structured and functioning in terms of a law. The public service shall loyally execute the lawful policies of the government of the day.

The sub-committee agreed to a reformulation of this subsection but was unable to agree to the precise wording. The options are:



Option 1:

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[&]quot;(1) There shall be a Public Administration Commission for the Republic. Each of the provinces shall be entitled to representation in the Commission."

Option 2:

[&]quot;(2) There shall be a Public Administration Commission for the Republic. Each of the provinces shall be entitled to nominate a representative for appointment in the Commission."

nominated by the pravince. Sudy representations shall be competent to exercise to perform such perform such perform such perform such perform with regard to his or her pravinces as presented by normal law.

