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CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 6.2 : FINANCIAL INSTITUTIONS & PUBLIC ENTERPRISES

SOUTH AFRICAN RESERVE BANK DEBATE

22 MAY 1995

- RD R Davies (Chair, ANC)
- KA K Andrew (DP)
- FJ F Jacobz (NP)
- Gill G Marcs (ANC)
- BN B Nair (ANC)
- PW P Welgemoed (NP)
- CR C Rustomjee (Technical Advisor)

CASSETTE ONE

Abbreviations in text:

- AG Auditor General
- RB Reserve Bank
- LA Law advisors
- MC Management Committee
- CA Constitutional Assembly
- CC Constitutional Committee
- CB Central Bank
- FFC Finance and Fiscal Commissions
- PW Doesn't matter if we're about number 12 or number 15 or report number 17 or something like

RD Okay, we actually agreed on that before so let's do that.

PW Please because

RD I think that what we've got to do today - since I don't see that we've got a written agenda, I think we've got three things, one of them is very briefly an announcement

KA We do have a written agenda. I mean - on page 1 of the document

RD Alright page 1 of the document. Oh yes that is for today's meeting. Sorry, I thought it was the previous one. Okay, there's various minutes to adopt and then we have to discuss the AG and the RB. Are there any proposed changes to the minutes. I have one actually, its on page 6

Pat Which one is that

RD Em the text for the AG under 2.3(a). As I remember before we

said that the question of saying a joint committee of the houses of parliament - I remember saying that this was to preempt all sorts of other sections of the constitution and that what we should say is "nominated by a committee of parliament". I think we agreed on that. Otherwise I think the minutes are accurate. I don't know if anybody else - Ken

KA Ya there are two things. em which I think there are 3. Okay, so we're taking the "joint" out there

RD And houses of

KA Oh yes, okay. We'll we actually - there's a kind of typographical type error in the previous minutes of the 8th of May. You actually moved straight to the 16. On page 3 in 4.3 in the 4th line should read conduct all levels of government and all publicly funded institutions.

RD Correct, so we change that as well

KA Then on page there's an omission - well there was something I would liked to have recorded - one accepts that not all the discussion is recorded. So in that sense - and there were two points made. (1) was the committee noting that its not a committee of lawyers and therefore in looking at these drafts that we get from the LA we're looking at it from a - a kind of layperson perspective. The second point relating and partly arising from that was a specific request that I made that that was when we get to doing whatever we do with this e legal things that that resolutions be in writing. This specific point I want to know precisely and I want it recorded the terms of what one is agreeing to or not agreeing to, in other words we agreeing to the general thrust or the precise working etc and I requested that we have that in writing. Now we may or may not agree to do it but I would like my request recorded in the minutes please.

RD Okay we can put that request in - I think that's a matter for the MC whether they can accommodate us or not.

KA And then the on page 6, well no, I suppose its a matte arising of this thing of whether the notion of audit is construed to include performance audits. But that would be a sort matter arising, have we heard from the law advisors on it. The minutes are correct, sorry.

RD Okay. Well we don't actually have an item of matters arising but I think much of it is covered of what we're going to be discussion in the rest of the agenda. But in any case if there are any that aren't going to be can we have them now. Okay. Then next item then would be the Reformulated draft on the AG. We've only just got it. So I wonder whether we should just

perhaps, perhaps I should read out the each clause and then just see whether that is acceptable

FJ We'd like to read it

RD I'm just to work out, there are two possibilities. Either I can read it out aloud and we can do it that way or you can just have few minutes to read it.

PW We'd like a few minutes.

RD Okay then let's have a few minutes to read them

KA Chairperson, I'm sorry there are so many changes in this and many of our instructions that haven't been incorporated that really I don't want to handle it now. Because you know if there were just one or two minor things. Bc just for example we discussed about the committee of parliament - if you look at the existing thing, they're now just say representative committee. And you know quite honestly one's going to need to go through this with a fine tooth comb. I don't think its going to be practical to sort of read through and say and you're looking at the one and you're looking at the other, looking at the originals and so on and then say well, it looks alright. I've got a problem.

RD Well I noted that particular one myself but if other members feel like Ken then we'll have again some time during the week or next week. Do you want to leave this item.

PW Yes

RD Okay is that the general view. Okay then we leave this item, we'll try to find another occasion when we can assemble to discuss it. I think that we must make a general observation. I think that we cannot really deal with these things if we don't get them in advance. I thin we do just get them given out to us on the day itself we are going to have some difficulty dealing with them.

The second on the agenda is the question of the RB - and basically I think most people were in the CA on Friday. Ken wasn't there I know. I don't think Willy was there either

Pat He was there

RD Oh you were there, sorry. And I think you all recall what the agreement was in the committee last time. Basically the issue of the RB and the opinion of the LA which is made in response to our proposal about he consultation process between the government and the Minister of finance in terms of issues of goals and policy - that matter was referred back to us with one objective and I think one objectively only and that is to see whether there is a possibility of achieving a greater

degree of consensus around this particular issue. Now I noticed that everybody has been given a copy of a message to one of the members of the committee from the governor. Francois do you want to say something about that

FJ Thank you Mr Chairman. I would just like as a matter of explanation to indicate to the committee where that came from. Going back to our meeting that we had last week on how we were going to handle this matter with the CA, it became clear that when the documents were submitted to us on what was going to happen at the CA, that the way that the RB matter was handled it seemed to be completely different from what we had decided at the committee here. And it was only after, after certain discussions later on that it became what the approach was going to be - the process that we were going to go through. Now my interpretation of this was that this matter was going to be discussed and debated at the CA irrespective - notwithstanding of what we said here at our meeting here because this was the published document that came from the CA. I then took the opportunity of discussing this with Dr Stals and said well, can you give some guidance. If we have to go into a debate on this what is the point of view. And this was the result of that. So I just wanted to point out to the committee Mr Chairman that the purpose of getting that from Dr Stals was merely in view of the fact that I was under the impression that we were going to have a debate on Friday, and that this matter would come forward. It was not in any way to take any powers or any opportunities away from the committee to discuss this with Dr Stals himself.

RD I must say I think there are a number of irregularities in this regard and I think I need to just mention some of them. I think first of all the fact that this has now been tabled at the meeting of this committee without any consultation with the chairperson and to just come through the secretariat and it went without any reference to the committee as such. I think that first of all is fairly irregular. And secondly, I think last time we actually discussed very briefly the possibility of calling Dr Stals here and I think we had not actually decided on a policy with regard on calling the governor here. So I think that the way in which this communication has come to the committee's attention, I think is actually fairly irregular and I think I need to put that on record. Having said that I think that we cannot ignore that it's here, it's a fair accomplishment on the table and I think that we have to take that into account as well as the to her documentation which we had. As I said at the beginning, I think we've got one question before us. And that is, is there a possibility of achieving a degree of consensus or not, if we don't, we can report to the CC that the matter remains a matter of contention and we can leave it at that and it will go for a debate in the CA. That is as I understand the

process. So I don't know that - unless, I mean I don't know, perhaps the NP would care to say what conclusion it draws from this, is its conclusion that it is completely opposed to anything on the lines that the law advisor is suggesting. Perhaps we do a round of that and see where we stand.

FJ Well, could I just start of at the beginning again. Do you accept my explanation of how this - how my - how it occurred that I had a discussion with Dr Stals

RD I have no reason not accept it

FJ Alright, so Dr Stals sent me - I didn't ask Dr Stals for a report on this at all. He did it out of his own. And I received that report on Friday. Now I would - the thought that was going through my mind this morning when I got to my office fairly late, was that if it should come to the notice of the committee that Dr Stals had sent me a communication, a written communication on this, you in your position as chairman would have the right to ask my why I didn't bring that to the attention of the committee. So in order to obviate any misunderstanding, I contacted the secretary here and said this is - I have received this documentation here from Dr Stals, I'm faxing it through or I'll send it through to your office. So I'm pleased - there are no ulterior motives whatsoever, I was merely trying to ensure that the committee is fully informed with all the information that I have. You as a chairman or any other committee member could have taken me to task if I had received this document and not brought it to the attention of this committee.

Gill While accepting there's just a couple of things in the response that leave me - that I would just like some clarity on. Because the question is it refers to a memorandum at the back and I'm not sure which memorandum it refers to in the last sentence. I don't know what memorandum - Perhaps Dr Jacobsz if you could help us. And secondly, I'm not sure where and I know I've missed a few meetings, so it may be my fault, but I'm no sure where we said that we want concurrence from the Minister of finance for the actions of the RB. So I'm just not sure in the sense of the response whether I'm misunderstanding from a memo or what that I'm not aware of.

FJ No, there's no memorandum at all Mr Chairman it was the report of the - that was going to be tabled at the CA. I'd given Dr Stals information about that report and that - these are the conflict areas, can you give me some guidance on this.

RD Well I must that I think that was has actually happened here is that we were beginning to discuss a process under which we might draw Dr Stals into the consultations. And what has happened, you have pre-empted the process. And not only have

you pre-empted the process in the sense of contacting Dr Stals but also you have delivered an epistle here without any consultation with the committee as to whether it should be tabled or not. It was distributed to everybody before we got here. I think that that having been said I think that we should not labour the point any further and I think we should probably just discuss the contents now. Ken.

KA Yes I must say I think that your comments and sort of ruling are entirely inappropriate. I mean we're supposed to operate on an open and transparent basis. I believe that any member of this committee has the right to table any document, to distribute a document, to say their say and whatever. So I mean, I can't. I'm rather flabbergasted that there's a - you know there's a problem. I mean I would think if I had something and I wanted to distribute it, I could distribute it. I don't see the need for kind of standing on ceremony. Secondly, as has been pointed repeatedly in this CA process, its appallingly managed. And therefore, one can hardly blame people. You know and you kindly helped me out of my difficulty but you know how we were and you as well were having to run around because they suddenly put it on the CA agenda and then I was told that even though we'd ask that it not be the agenda that the MC had said oh well if its not on the agenda we won't have anything to do on Friday so we're going to put it on the agenda despite your request and subsequently after talking to you I think you made further representations and in the end it was decided to be handled in a certain way. So I think in all the circumstances I really do think you're (a) making an unnecessary problem out of something that shouldn't be a problem and in the process being rather unfair on Francois. That's my personal opinion.

RD Okay, Billy

BN Mr chairman, no, I beg to differ with Ken. You see this isn't the process of debate and discussion. I'm not going to - arguing at all or testing - questioning rather the bona fides of Francois. He genuinely had the impression that this was going to be discussed at the CA and therefore wanted the views of the governor. In the interim, this is still in the melting pot. We know that this issue was going to be debated and discussed at the Theme Committee level and it was going to go through a process. There were differing views on the very day that we met here. That was last week. So, that being so, the impression that will be created in the mind of the governor would be that we are now firm you know on you on the issue and this was going to - in any event, there are two sides to the coin. We may very well, there maybe people here who press for a differentiation between independence you know in regard to - whether there should be independence in regard to goals and so on. Then there'll be differing views. And of course I agree

with Ken that we are open, transparent, we would like to - and each member is entitled to refer issues to experts or anyone outside. But the impression that may be created in the mind of the governor would be there are forces that are at work out to undermine his independence. That's - it's a problem area.

FJ Without labouring this point, I think we're wasting a lot of time on an unnecessary subject, it would seem to that one of the cardinal issues that we should discuss here, as you said we have to see if could come to some consensus. The cardinal issue as far as I see it that we have to discuss here is this question of independence, of operational independence and goal independence. I was very interested to read the documentation that was sent through to us on this issue when you had this workshop earlier in the year. However, we as a committee, and those of us who weren't at that workshop have not had the opportunity really of discussing the implications of an approach which revolves around organised - functional independence and goal independence. And I would have thought if this committee was going to get anywhere near a consensus it would be necessary for us to evaluate these concepts and get more information on the practical implications of it - whether this can work in practise. And I would suggest if we want to get consensus as far as this whole matter is concerned, we should be adopting the approach where we could get more information on this and discuss it in this committee.

RD Now I just want to say one thing finally before on the process issues just before we pass on I hope. I think that in sort of sense, general sense that everybody has a right as Ken says to put on the table whatever document they want to. I don't dispute that in any way. I think that what has happened here and maybe there are specific reasons that Francois has explained for this. But that Dr Stals' opinion is a rather important opinion for the committee as a whole to take into account at an appropriate stage in its deliberations. And what we have here, is we have a way in which this has been pre-empted in a particular kind of way. Now if Francois cannot be blamed for the way in which Dr Stals has chosen to respond to this and I guess he's correct in drawing this to our attention when he got a written document. But I think that the manner in which his view has come into the process at the moment has not been particularly helpful to our debate at the moment. I think that we needed to go through a couple of steps before we called in the governor's views. And now here we've got the governor's view spelt out rather clearly and I don't know that its going to be very helpful to our deliberations. But anyway there we have it. Let's not labour the point any more, let's get onto the content.

PW Before you go on to the content, would you not like to spell out in broad guidelines how you see the process in the next

week or two.

RD Well I think what I would have envisaged was that first of all we would have discussed with the aid perhaps of the people who were there and our technical advisor, the significance of the distinction between goal and operational independence and some of the points which came out of the conference. I think we would then have seen whether that was a meaningful distinction or as Dr Stals says an academic distinction which cannot be in fact implemented in practise. If you remember from the documentation there were a number of suggestions as to how that could be achieved. There were also not one but several models - international models with different degrees of independence and different issues that were also mentioned in that conference. And I think that possibly what we could have done would have been to discuss some those issues. And then at a - drawn in as many people as possible depending on how we saw those issues in the committee. I think that if we'd come at an early stage and say well, there is no possibility of any agreement or consensus on this, that this is a matter of contention, we simply have to report that and send it up to the CC. I think that's basically what we're involved in. That is our task is to see whether we can achieve a broader degree of consensus or not. If we can't then we simply report that we can't and it remains a matter of contention.

FJ Mr chairman, the person who's sitting with the responsibility of the RB is the president - the governor or the RB. I don't now to what extent he was involved in this workshop, whether attended it and so on. I did see according to the papers that he did read a paper there on the functioning of the RB. However he has a certain approach to what the practical problems are with regard to the functional - the operational independence of the RB. And he finds it very difficult to make a distinction between the goal and the operational independence. I still think that we are quite within our rights to investigate this.

RD I would have thought that the possibility might have arisen out of our discussions, that we would have asked Dr Stals to come again and give us a comment on that and we would have actually met with Dr Stals again. I would have thought that would have been a possibility. I'm not sure that its actually worth it now that he's chosen to give us an opinion. Anyway, there we are, maybe we've saved him an airfare.

FJ No Mr Chairman, I think its extremely important from our side. If Dr Stals makes a statement like that I want to tell you now that I necessarily agree with him. If he makes a statement like that, he come and defend it. Surely its our - we will - we will not be acting responsibly if we didn't go into the actual issue involved here, and that is to find out why its



such a problem as far as the RB is concerned. Because that's going to depend - that's going to determine our approach towards the CA.

RD Okay, let's begin to debate the issues and then let's see where we go from here. But I said to you just now that I think we need to go on the basis on whether or not there's a degree of consensus. Maybe we should just have some kind of introductory remark from the different parties as to how they at this point see the issues and let's just see where we stand. Would that be acceptable as a modus operandi. We've all read the legal opinion, we've all seen what's there, we all know what the issue is and we've all read the document on the conference and we've all read Dr Stals' letter. Now maybe we can just an opening remark from people as where we stand.

WB Mr Chairman before we do that, what we're saying here is recorded, is that record, do you record it - are those recordings available to us afterwards - what's the purpose of this recordings. Because I would like you know to have the recordings, to listen to them again. You know this whole meeting is conducted in English, my first language is in Afrikaans. Sometimes I would like to listen again to certain things. Would there be any objections if I make my own recording. There may be times when certain things are - I don't think but we have discussed now is necessary to be recorded. But when we come to the contents of what's before us, I would like to have my own recording.

RD Do you have your own device or you're asking if you can use this

WB I have my own. If you have a micro cassette recorder, you just put it here and you get everything loud and clear.

RD I don't think - I don't see any objection. I think you can do it if you like

WB Thank you very it. It will save the secretariat a lot of effort

PAT But I sometimes I - most times I actually transcribe, if there's something I didn't understand at the meeting. So its always available. I can give you the transcription of what I've done to make a comparison with your notes.

WB Ya but it will be much easier for me you know. I have 3, 4 meetings a day and I don't have time for this. But if the chairman rules its okay, I would appreciate it very much

RD I wonder, I don't know if people from the parties feel they want to make a note - an opening remark. Otherwise we might

ask our technical expert if he would like to just summarise the issue

KA It seems we've already including me seems to be uncharacteristically shy today. Em my first problem is the understanding - I mean I have a general sense of what people could be alluding to in terms of the various words being used. But I do have a difficulty in understanding where the distinctions and particularly when you are going to have to put it into constitutional, legal language. Unless you spell it out in a great deal of detail, I have difficulty in understanding the precise differences between the objectives of the RB, the goals of the RB and the operational goals or whatever you want - you know that would come under operational independence. And in fact the reading the document that was provided to us in various parts it struck me - now obviously it was a workshop so in a sense its going to reflect more than one view. But nevertheless it did strike rather as - it said that the devil can quote from the bible for his own purposes - that you could whatever line you wanted to take, you could actually choose your text and build up a very strong argument. I mean just for example, and this is in terms of the kind of problem I have with the terminology, on page 47 the second paragraph, this is under key issues from the workshop discussions and

PW Page Ken

KA Page 47 - well its - our document page 47 is page 32 of the document of and it says there was broad agreement among the participants on the desirability of defining the objectives of the central Bank narrowly on a single goal achieving price stability. Now I don't want to make a meal of it, but there in the same sentence, by saying the "objectives and the goal" are the same thing. So it's - well, on the one hand I believe very strongly in the independence of the RB, on the other hand I accept the RB does not operate in a stratosphere and therefore there have to be kind of links with the South African world and economy. But in that area of lack of precision, if goal interprets to undermining in any way the independence to achieve the objectives I will have serious problems. If goal ends up meaning something else in terms of meaning some kind of concurrence then you know I'm very happy to happy to look at it. So that's where I have a problem and in a sense the note from Stals reflects largely the point of view that I would have. I think a 3rd point to bear in mind is that given the sensitivity, not just the political sensitivity inside parliament or inside the subcommittee on this issue, we should under underrate the kind of signals that will be sent out if in fact the constitution that we're looking at appears to be backing off either the constitutional principle or in fact the provisions in the interim constitution. I think there will be

a considerable economic price to pay in perceptions and then in translating into reality if that happens. And if we decide we're prepared to pay that price for what we'll consider a better constitution then we must pay that price. But I don't think we must pretend that there isn't a price in that respect as well. Thank you.

RD Okay, Cyrus.

CR Thank you chairperson. I hesitated when you asked me if I wanted to make broad comments. I think issue is far too - I think I'm going to apparently contradict myself in a second, but I think the issue is far too important to just make a few cursory remarks. Besides which I don't think I'm the expert on this and I'd like more time to go and do some more research. Having said that, I think the issue itself, the substantive issue isn't quite as earth shattering as it may appear at first glance. The impression I got from the workshop incidentally at which Dr Stals was present was that this is an issue which is quite generally internationally accepted as the framework within which the issue of the independence of the RB is commonly framed. This is the sort of broad framework and its quite possibly because its so theoretical and academic as to use Dr Stals' words that it ends up in his opinion being extremely difficult to apply in practise. Its because this has - this appears to have been that the way the debate is crystallised. So what I'm trying to say in this, is that although I think the issues are substantive, I think the issue one is tackling here and the second thing about the distinction about the distinction between operational and goal independence isn't itself such a shattering issue. Its the framework within which these issue are dealt with. My suggestion on this is that he committee does have a session where this issue is addressed. One further suggestion is that we do get hold of all the conference papers, try and focus them on this. I was very,very sensitive to the comment made last week that I should ensure that whatever I was distributing was not biased in any way. Just for the record, I hope its understood by this committee that I've never given that's biased in any way. But in doing that, all I could do was to give this. I am aware that there were conference papers which dealt specifically with this. But to my mind in a very - in a manner which very much favours the - this kind of distinction being made for practical purposes as a framework within which to discuss these issues. So I wouldn't want to put those out for fear of any possibility of being suggested to be biased in any way. But certainly if there are others who have these conference papers, I think it will be well worthwhile doing that. Couple more comments if you wouldn't mind my droning on a little. This issue to my understanding has bee raised as a conceptual framework by a very, very well known international neo classical economist, Stanley fisher

who I understand framed this as the method of explaining what the various dilemmas are, some of which are specifically what the last speaker raised. Now my suggestion would be that the committee has another look at this closely because I do feel that when it has been closely looked at it will appear to be very, very uncontentious. The second thing is, something that does puzzle me a little bit and I'm asking for a bit of clarity. I've tried to follow the discussions in the committee. At no stage that I'm aware of but I want to be corrected if I am wrong here, has there been any party suggesting that there should be concurrence. I'm raising now the second issue but I want to be on the ball and perhaps I'm missing something and I'd like to be properly informed. That's the thing on the concurrence of Minister of Finance. I thought the discussion was about "in consultation" and "after consultation". There are interpretations whether that means concurrence or not. But if any party's used that word I very much like to be informed. Final comment if I may, I'm sorry, the organiser of this conference from CREFSA - from the Centre at the London School of Economics is now based in South Africa, that was Maria Ramos and she was instrumental together with the governor in getting the conference off the ground. You may want to refer to her because she's far more of an expert on these issues than I am.

RD There are a couple of things, I just want to try to see if I can put the issue in another kind of way. First of all just to respond to what Cyrus has said just now. The question of concurrence I think arises from the legal opinion in that the law advisor is saying that "in consultation" means concurrence. He's the one that was using it. So I don't think that it's something that somebody in any party has particularly proposed as such but that's his interpretation of what "in consultation with" means. I think that if we look at the document, Ken is quite right that there are obviously a spectrum of views. I understood it and I don't know whether anybody else understands it in the following way. I understood it as being that there's actually quite a lot of consensus, that there is a meaningful distinction between goal independence and operational - instrumental independence as they call. That there is that - that there was agreement that that was a meaningful category. But there were differences as to how you actually ensured that in the constitution. Some of the people were saying that you did this with a very narrowly defined goal which focused in as I think Ken said on the pursuit of price stability. And if that were to be an interpretation, one could say that the clauses that we have in the thing minus the contested clause if you want, that the law advisor has suggested, would provide for goal independence through saying that the goal of the RB is to defend the internal and external value of the currency, whatever it says. That could be one interpretation. We could say that we're

trying to achieve goal independence around that. I think the other thing is, and this is where we actually are in some discussion, is whether the process of consultation itself should make that also clearer. And I think that the law advisor from our side more or less, I would say the law advisor has come out with - I think he's a very important I think proposal which I think we should actually take on board seriously and not just simply dismiss up front. I think that nobody - and I think this is probably a degree of consensus, I don't think that anybody is suggesting that the RB should not be insulated from day to day partisan political interference in its decisions. I think that we all accept that - that is provided for in the constitution. We don't want a situation which Francois said was - prevailed in the past and Willy confirmed - prevailed in the past whereby the bank was subject to political interference. We don't want to see that. We went to see the bank insulated from that. There is consensus on that point. The question is, the policy framework within which the bank operates, does it set its own policy framework or is that policy framework set together with the elected representatives as reflected in the finance ministry. That is the - I think those are the sort of issues which we need to go through. I see Piet.

PW Mr Chairman I would like to deviate and take our discussion a little bit on another rail track. As a transport economist I'll try and do that. The thing that worries me is that I try to work through this and I say again as Cyrus said, we must remember what we've got in front of us are mostly a summary. We haven't got the final papers. That is the first point I would to make. Why I'm saying that is when I'm reading through it and as I say it went very quickly because there was not a lot of time before Friday's debate because on Thursday night in all honesty, I asked my whips and they say es we are going to debate it, you must get your speakers ready. So 6 o'clock Thursday night it was on. But I said it can't be on. We made a deal in the committee as members and we stick to our deal. And we will ask our chairman - we asked him to get up and as you put it and I hope it will be on Hansard, I used more or less the same words. Said but no, no, there must be a debate, CC must sit - or CA must sit. Said well, its the wrong reason why they must sit. But that's another story. That's why I'm saying, let's go back - and then my worry, and now I'm coming to my worry. Is that over the weekend and in the press last week, everyone focused on us on this theme committee 6.2, because of what is happening here. I don't think it is good for the economy as a whole that - because the press and I don't blame the press, each one interpreted its own way, that we go along and say there must be an independent or it must not be independent. That is not what's happening here. It is other issues that are important. And with all the respect I've got for the press, its correct that they report what they see

fit. But it brings us back to another development and that's why I'm saying I would like to take us on another track, is that in the Business Day of 17 May, its Wednesday or Thursday of last week, there was a very important article printed in heavy black on page 14 of the Business Day - "push for independent central bank in the UK" where chancellor Kenneth Clarke and the bank governor Eddie George came out and said and I want to quote what they said "short term interest rate decisions would no longer be directed by politics by the long term interest of the this country" in other words of Great Britain or the United Kingdom. The thing that why I'm saying - why I'm pursuing this a little bit is that looking into and studying these reports and if you look at again at for example page 23, the role of the CB on page 23 on the right side, the second last paragraph and when you page on, and you go back to page 18 also on the right side the economic case for independence, where people put their view points, looking at the different view points, I would like to ask and I'm not a banking economist, I don't know a lot about the banks, but what I would like to ask is, if we can't ask Cyrus or anyone else now to draw up for us some answers on what we discussed already here. For example, and I'm quoting again, we talk about operational independence, I have different definitions of that, we talked about goal independence, some call it what, statutory independence or what they call it, er - what is the other word they use for it- there's another word they use for it -

KA Its operational as a structural

PW Right and then goal independence they use another word for it, I would like to ask that we - as a kick off, get somebody unbiased like our advisor just to put in a paragraph or two what is meant by it. Looking at the summaries, its not coming forth exactly what it is. Probably of the people, we were not - we were not invited to this workshop earlier on or this seminar that was held earlier in the year. For us that were not there, so that we at least start off the debate when we come back here from at least the same level. Then we can query if we don't agree or we -

#### CASSETTE TWO - 22/5/95

PW Otherwise we must go to sit with the legal people. Let them explain to us all, I think its about 10 or 12 - 14 All 14 points again. Because the 14 points as it is stated in this paper that we were supposed to discuss on Friday that we did not discuss and I think it was a good thing that we did not discuss it there - that we brought it back here so we can discuss it in committee. Is, Let they come and spell out for us exactly with the concurrence of. How far can you go in the legal terms - I'm not a legal expert. How far can we go. How

far can the governor and or the minister act in their day to day policy making with or without that word "in concurrence". That is what I would like to ask Mr chairman.

RD Now That's a concrete proposal then. I would just like to - I think that's a good proposal. I would just like add something to it. I mean I think what Piet is saying we should try to get some clarity on what the meaning the concept goal vs instrumental independence is. I think the other thing that I would like to add on to that is also what I said earlier on, the debate about the means to achieve that. Because as I said earlier on I think I read this document as there'd been a debate about this - about whether the narrow definition of objectives of price stability achieves that or whether there's also a need for some other provisions in relation to the consultation process. So I think If we could have those two things in, Willy.

WB Mr chairman, To complicate this matter further, if Cyrus is going to sort this thing out he is going to make use of legal sources I assume. But this is very much a topic which is discussed in management literature. If you go through that you will find that there is a clear distinction between goals and objectives. And to complicate matters further, some writers throw in the term mission as well. then they have different levels of all these things. So if he can have a look in the management literature as well just to make sure that an expert from that field does not come later and say no, this is what your legal people say but in economic terms, in management terms it means something different.

RD Franscois

FJ Mr chairman, My approach to this type of problem may be a bit more pragmatic because I come from a practical side of the economy. I can quite understand that when you talk about goals, you have to be absolutely clear in your mind what the definition of that is. But say for instance, just say for instance for the purpose of this argument that we regard the goal as the constitution states here is the primary objective and that is the protection of the external value of the currency - internal and external value of the currency. A problem that we have in this regard is that I don't think many people really understand what the full significance of that is and how far that really goes down the line of monetary policy - what the actual implication is. I mean It sounds very simple to talk about price stability and it sounds very simple to talk about the value of the currency. But what does it mean in terms of effective practical policy. And that is something I think should be spelt out very clearly and whatever Cyrus does for us now. Now let's just go one stage further. The question of consultation between the RB and the government of

the day in regard to that primary objective I think is essential. Its absolutely essential. the experience of the recent past has shown us that where that - where that consultation has been taking place that between the governor of the RB and between the minister of finance a large measure of consensus has been achieved. In fact full consensus has been achieved. Because normally the governor - minister of finance has very good consultants at his disposal to understand exactly what the full significance is and what the governor of the RB is telling him as far as the currency is concerned and what effect that can have on our economic growth. And fundamentally the minister of finance is extremely interested in economic growth because that's where the job creation comes from, that's where the creation of wealth comes from, that's where the revenue comes from etc. So I would like to see that we get some more information about that. But Mr chairman, just going a bit further into this thing, if a constitution has to work effectively, there must be checks and balances. It states here in this here, CPXX1X that the reason why this independence and impartiality is given to these 4 entities mentioned here, is to safeguard the interest in the maintenance of effective public finance administration and a high standard of professional ethics in the public service. I would regard the basic approach here is one of trying to create that check and balance. Because if this is going to be left over to the political functionaries only, you could get a deviation from that altogether. Because then political objectives becomes an important thing which may not always be in the public interest. And therefore the independence and the impartiality of these entities becomes an extremely important factor to keep that check there. To see to it that they play an important part in the influencing of the way policy develops in the country. There's a point that I think, if I may, can I just carry on a little bit further on this, there's a point that I also would like to mention to you and which Cyrus may also be able to give consideration to as well. This may be going a bit more on the legal side. But if we come to this whole concept of "in consultation with" and that means with the concurrence of, then I think we must also be aware of the fact that you must create some mechanism in order to resolve conflict. So in the event of the RB - the governor of the RB and the minister of finance not seeing eye to eye on the thing you must have some other thing - you must have some mechanism there to overcome that. Because look, its in the public interest. If a decision has to be made for instance about say something very critical about interest rates, you can't wait about these things. If something comes along like the question of exchange control, those are things that have to be - immediately, you can't get these things you know to go through a long process of consultation before you come to that decision because the financial markets react very fast to a thing like that. And it could be to the detriment of many



people in the country. So if that could also be given some consideration too.

RD Okay, Gill and then Ken

Gill I'm - I just think that in terms of resolution of conflict, I think you need that any way. Whatever form - whatever they arrive at in terms of methods of relating - I think you've got to have a conflict resolution mechanism as part of what you're setting up. So I think that it can be there. I just wanted to raise something that perhaps may not be that appropriate to this discussion. It relates a little bit to the perceptions around the AG draft. We had quite complicated discussions here, you go into a lot of detail. And somehow the draft seems to look for the simplest way of expressing it but it doesn't encapsulate in what you're trying to do unless I'm misunderstanding this. And I'm a little concerned that the depths to which we want to go to explain these objectives are not going to be able to be done in the constitution itself and where does that then get done if you want to have this kind of information. Because just this draft here to me seems to be very sort of the - to put it crudely, a lowest common denominator of what you'd actually be achieving. And I'm a little hesitant if we're going to do the same with the RB, I don't think that anybody including ourselves would actually understand what we're actually trying to drive at. So I'm just worrying about the drafting side of this in relation in what you're trying to get across and how that's going to be done in terms of what you're wanting to achieve for a constitution. And I'm not quite sure - I haven't got an answer but I'm getting a bit worried about what we'll actually have in front of us.

KA Yes, well, I was going to raise the point that Francois did about the - if you need "in consultation" what happens, in other words agreement, what happens if you don't have agreement. Because in the current proposed 3.2 on page 13 of our document, the law advisors suggestion to handle the matter which could imply that the bank has to cease discharging its powers and functions until its reached agreement. So em - but that needs to be looked at. I also wanted to ask - you mentioned asking - to try to get a distinction between goal independence and operational independence but I would also ask that we try to get a distinction between what are goals as against objectives. And I'm talking about the objectives in the constitution not just as an esoteric exercise. Willy mentioned management literature and he's absolutely correct. Now I must say in our discussions up until now I would have thought that the primary objectives in the constitution were in fact of a broader nature than the goals one had in mind. In most management literature the goals are the broader thing and objectives are then subsidiary to the goals as kind of the

next step down. So I would like to not only see what goal and operational independence mean but also the relationship between goal independence and what you might call primary objective independence. And then fourthly, if there is a suggestion as there is from the law advisor that the word "policy framework" be used. That policy framework be shown in relation to goals, objectives and so on. Because its another way approximately of saying the same kind of thing. So I would appreciate when that's being looked at if those other words, "policy framework" and objectives or primary objectives could also be included in the analysis.

RD Okay, I think, I think we're close to wrapping up, before we can I can I just - this is just an announcement, I should have made earlier, there are a number of meetings with particular groups, the CA - those of you who were at the one with the business community, they're all taking place at the World Trade Centre, religious groups, youth, labour, women, can I just circulate this and if anybody is able to go - have they all got it - if anybody's able to go could they please contact Pat.

What I want to say was that I think that all the things that people have raised are relevant. But what we need to do just to get to Gill's point is, we're not going to write all of this in the constitution. This is an important background for our decision more or less it seems to me as whether something similar to the clause which the law advisor has proposed - "that the banks shall dispose its powers and functions with due regard to a policy framework to determined in the interest and maintenance of effective public finance in administration by the banking consultation with the said minister " Its all around whether a phrase of that sort should or should not go in the constitution. That's basically what its about. So Its not about writing in the constitution goal independence and operational independence. That of course is an important background to the debate as to whether or not such a clause should go in. So we need then to understand that because as I said earlier on there was a point of view which I think is represented in this that goal independence is already not provided for because the goals are so narrowly defined. And that its covered by simply saying that the role of banks shall be to preserve the internal, external value of the currency. And we should debate that issue I think. Whether its covered by that or whether it requires some specific provision relating to the process of consultation. Now I wonder, I don't know if anybody's got anything really pressing than more to say, I don't think we can really take this much further. I think what we should do is we should try to discuss when we're going to carry on what kind of deadline we're going to put to our deliberations.

RD Piet

PW You more or less answered 60% of my question because to get that back we must give them enough time. That's what I would like. We don't want to sit again tomorrow 12 o'clock. I would like to ask that we give the people enough time. Even give Cyrus enough time to go to the minister of finance if he wants, to the chief law advisor if he wants, to the RB governor if he wants and then come back with a worked out document that can give us an opportunity for once and for all to sort this out. That we at least say to the people that would like to invest in this country, yes we can solve the problem on a consensus basis. And then also I would like to ask him on the top of this pink paper - I don't know how I can call it, because we've got so a lot of paper. Its also number 12, page 13, this booklet, this cream one on the top number 12 this proposal that was put forward by the law advisors. To go back to the law advisors and ask them if this is the only way to phrase it in their language. And now please you can carry on and see how we can solve this problem.

RD Okay so we should give Cyrus enough time to make us a presentation. em I was going to suggest maybe you know this time next week if that was - or is that not enough time for him. I don't know how much time we've got in terms of the CA's time table, Ken

KA Well two things. One in terms of time table, em we have actually - because the only thing we have to do is FFC and that still has to come back from Theme Committee 3 which is a long way from getting to that. So there isn't a sort of great rush. It's not as though we're going to have a whole lot of other things in the near future. em the - So I would say you know, if he needs a week, if he needs two weeks, and then I would simply ask that whenever we schedule our meeting that its within the theme committee 6 time and not in the theme committee 1, 2, 3 time. The second point I would like to make is Just in terms of - because - maybe for my simple mind but in the end I'll be looking at a clause and saying what kind of thing would this clause prevent the governor of the RB doing if he wanted to do it but he couldn't get the agreement of the minister of finance. I mean that's in a sense the question that I'm asking myself. Having said this is the kind of thing that will stop him doing if he was in disagreement, then I will be in a position to say well I think that impacts adversely on the independence to detrimental effect and therefore I'm against it or no, I think that's quite reasonable, to me that's not undermining the independence and impartiality and therefore I haven't got a problem. So in the final analysis that's going to be the kind of simple test that after we've got all the definitions of various words or things, that's going to be the test that someone like myself

is going to apply in trying to assess, does this look like a positive move or a negative move.

RD Okay and I mean - Gill

Gill Just given the pressure on Cyrus and we haven't got that kind of time deadline I think it would be fairer to make it two weeks from now rather than one. Because I think if we haven't got a real deadline and I don't think we should the pressure on him in that way

WB Chairman I would go along with that but as far as the documents are concerned we would like to have it before the 2nd Monday from now. Say at least the Thursday

KA If we get it on the Wednesday then we can consult with

RD Well, I've got some difficulties if we're going to make it two weeks from now, I won't be here actually

PW But Mr Chairman, we don't, my apologies, but remember on 2nd and 9 June we are going to debate budget posts. For example, transport comes on the 9th.

RD Ya

PW So I cleared this again with my chief whip this morning and the said yes, the 2 and 9 will be used for budget posts because they would like to discuss the final reading of the budget. So I would like to advise you that at least 2 Fridays around

RD No sorry, sorry, the two weeks from now is the 5th June. The 5th of June would be okay for me

PW then we must get it in a week's time - the Wednesday prior to that.

RD Okay, So we'll meet on the 5th June and have this meeting with Cyrus on 5th of June. Cyrus

CR Chairperson, I just wanted to say I'm very happy to do this. I'd like to put a little caveat at the very beginning of this process, that whether its a week of two weeks, the result of a presentation of this nature will really be putting a whole range of different options and explaining why those are options. If the anticipation is that after 2 weeks there will be a clear cut solution, its an impossibility particularly given the broad spectrum of what we're trying to look at. So, I'll certainly do everything in my power to put all the options down but I can't imagine that in 2 weeks clear cut solutions will be on the table. Decisions will need to be made

RD No I think that's understood. I think that we should also - I mean I think it will become very clear through the press reporting and I think I would just like to ask Pat - there seems to be a number of reports in the press that Piet has seen and it might be quite useful to ask the CA if they could perhaps pick up the press reports that have come out on this issue and circulate them to all of us. I think that would probably be useful in the first instance. Secondly I think that within the next two weeks obviously the CA can receive any kinds of comments or whatever from the public and they should come to us as well. They would influence us as well to some degree

RD Piet

PW Can I be difficult Mr chairman and ask you, I would like to suggest, let's carry on for another week to the 12th and then we work back from that and ask Cyrus to let us have his by the 7th. It gives us time on the 8th and 9th as parties to discuss it. Because if we receive it too late we haven't got the opportunity to discuss it with our people from the party. And I would like to ask that let's carry on to the 12th. We've got no work before the 12th because I would like to hear before we walk out what Ken can report back about the FFC in Theme Committee 3 and then we ask Cyrus to let us have not later than the morning of the 7th then I can go back to my people and say let's before caucus on the 8th, that Thursday we would like to discuss this at least that we -

RD I've got a problem with that. From the 8th to the 18th I'm away. I would prefer just the week before hand which gives - which is two weeks from now.

PW Then we want it on the 31st so we can get an opportunity to read it, study it and discuss it with our people.

Pat 31st of

RD Of May.

PW The 31st of May. Because That gives us, that gives him a week - 8 days from today

RD Ya. And I think - I think we're going to have to - we can't keep bouncing the process up and down. I think to some degree after that meeting we're going to have to make a report to the CC. The report could I guess be a progress report. We could say we're beginning to narrow the gap or something of that sort. But I think we're going to have to make some report at that stage on how we're doing. The other thing which is arising is what are we going to do with the AG. Can we meet next Monday and deal with that. The report which we didn't

take this week.

PW Yes

RD So we meet next Monday, next Monday we deal with the AG's report. This theme committee

PW At what time

RD I don't know, we'll leave that up to Pat whenever this committee is schedule to meet. Unless you want to just say this sort of time. This time suits everybody

PW Let's decide between us here because you've go so many other meetings that you are involved in now to advise this one and to advise that one, I would like to ask that we agree - get consensus on it

RD How about the same arrangement as this 12 o'clock, ya

KA My only problem is next Monday presumably, I haven't got the schedules here Theme Committee 3 probably meets in the morning and Theme Committee 6 in the afternoon, it would be the times. So the moment Theme Committee 3 runs over beyond 12 then I've got a problem. And if Theme Committee 3 finishes its work by 12 o'clock, I haven't got a problem. So that's my only concern.

RD Alright well let's just - what can we say 12.30, its not going to go on beyond 12.30

KA Is there any reason why we don't want to make it 2.15 and

RD Because then 6 might meet or something. Alright. Would 2.15

KA I don't know is 6 meeting

RD I don't know, would 2.15 okay. Would that be alright for everybody. Okay so we'll meet at 2.15 and we'll dispense with the AG. I think that the whole question of the FFC - I mean I think that this business that we arranged earlier on where we're going to 3 - some of us are going to 3 from time to time and we find that we're no where near discussing the issues that we're supposed to go to 3 for. And in the meantime we're holding back on doing the FFC. But I think that's a problem maybe we should just draw to the attention of the management. But the decision was taken by the committee in consultation with Theme Committee 3 and there we are, we're supposed to join 3 and as I say this isn't working very well at this point. Gill

Gill No mine was just on the earlier question of putting in my

Apologies for Monday because I won't be back in Cape Town then.

RD Okay

KA May I just say that as far as I'm aware Theme Committee 2 has already got condonation of the fact that its only going to finish its work some time in August. Not that this subcommittee has got that problem. Or this theme group has got that problem. But I would be very surprised when push comes to shove if Theme Committee 3 finishes its work in June. That's my guess. I mean its scheduled at present but you know the schedule tends to be there to be broken

RD Okay, I don't think there's any more business. So thank you everybody.

**Transcriber: Pat Fahrenfort**