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**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 6.2**

**FINANCIAL INSTITUTIONS AND PUBLIC ENTERPRISES**

**SUBMISSIONS**

**(AS AT 15 MAY 1995)**

**VOLUME 13**

**POLITICAL PARTIES**

# SUBMISSIONS - POLITICAL PARTIES

## VOLUME 13

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AFRICAN NATIONAL CONGRESS  
SUBMISSION TO CONSTITUTIONAL ASSEMBLY SUB-COMMITTEE 6.2

*The National Revenue Fund, Annual budget, Procurement administration and other matters  
related to Financial Institutions and Public Enterprises*

The present submission deals with the National Revenue Fund, the Annual Budget, Procurement Administration and other constitutional provisions relating to financial institutions and public enterprises, except for the South African Reserve Bank and the Auditor General (which were dealt with in previous submissions) and the Finance and Fiscal Commission (which will be dealt with in a future submission).

*1. The National Revenue Fund, Annual Budget and Procurement Administration*

The ANC is generally satisfied with Sections 185-187 of the Interim Constitution, and is of the view that similar clauses should be included in the Final Constitution.

However, we believe that consideration should be given to a suggestion made by COSAB, which was also broadly supported by SACOB, that Section 185 (1) should be amended to provide that:

- All monies raised and received shall be paid into and form the National Revenue Fund unless a specific Act of Parliament creates a specific fund into which monies collected under such Act are to be paid.

It seems to us that this would allow greater flexibility and permit the establishment of dedicated funds through legislation.

We are also of the view that the clause in Section 185 (2) which reads, "Provided that revenue to which a province is entitled to in terms of section 155 (2) (a), (b), (c) and (d) shall form a direct charge against the National Revenue Fund to be credited to the respective Provincial Revenue Funds", should be held pending until the content of provisions on inter-governmental fiscal relations has been determined.

*2. Matters covered by Sections 188-190 of the Interim Constitution*

These do not necessarily deal with financial institutions as such, but are included in Chapter 12 of the Interim Constitution and thus require the attention of the CA.

Consideration of Section 188 should be held over until TC3 has completed its work on inter-governmental fiscal relations.

A clause similar to that in Section 190 of the Interim Constitution should, in our view, be retained in the Final Constitution.

There may well also be a case for including provisions similar to those in Sections 189 and 190 A of the Interim Constitution. This, however, requires further reflection at CC level.

*3. Other Provisions on Financial Institutions and Public Enterprises*

Besides the matters mentioned above, the ANC is not in favour of including further provisions in the Constitution on financial institutions or public enterprises.

Footnote: The ANC would be more than willing to see further discussion about the desirability or otherwise of providing a degree of autonomy to the Commission for Inland Revenue. We would, however, see this as a matter that should be dealt with by legislation rather than in the Constitution.



5 May 1995

**DEMOCRATIC PARTY SUBMISSION: BLOCK 2**  
**THEME COMMITTEE 6.2**

**GENERAL FINANCIAL AFFAIRS**

1. National Revenue Fund (Section 185)

Acceptable as is except that words "credited to" in last line be replaced by "paid into".

2. Annual Budget (Section 186)

2.1 Introductory comments

- (a) One of the objectives of a Constitution is to provide protection from the abuse of power by any level of government. Abuse of power can take on many forms. In respect off financial affairs, there are certain matters which warrant constitutional attention.

Some relate to honest, open and accountable administration. Hence provision is, for example, made for an independent and impartial Auditor-General (Section 191 to 194), Public Protector (Sections 110 to 114) and tender boards (Section 187). Others relate to less obvious abuses in which a government may manipulate fiscal or monetary policy for its own short-term political advantage but to the detriment of the economy in the medium and long-term. Excessive money creation and/or borrowing are two examples and should be circumscribed by the Constitution.

The issue of money creation is addressed by the establishment of an independent central bank (Sections 195 to 197), but the problem of excessive borrowing at national level is not addressed. The following proposed addition to Section 186 is an attempt to do so.

The challenge in this regard is to achieve the correct balance between the need, on one hand, to prevent the abuse of power whilst, on the other hand, not prescribing economic policy nor ignoring the need to cater for exceptional circumstances from time to time.

- 2.1 (b) Financial affairs are of great importance to a country and need to be recognised as such in the Constitution.

The limited provisions of Section 186 in respect of the annual budget are inadequate and outdated.

Modern, good financial management, budgetary control and accounting practices are necessary in themselves and are, in any event, essential if the provisions of the Constitutional Principles requiring freedom of information and open and accountable administration are to be met. There is the further injunction that effective public finance and administration be maintained.

2.2 Proposed additions to Section 186

- (a) The budget would be required to incorporate a proper set of public-sector accounts, including a full balance sheet of assets and liabilities, an accrual-based operating statement of income and expenditure and a cash flow statement.
- (b) All transactions would need to be specified and quantified in the budget i.e. no off-budget income, expenditure, sale of assets etc.
- (c) Any discount on government loan stock issues should be amortised over the life of the stock.
- (d) In the event of a budget being laid before the National Assembly which provides for:  
(i) current expenditure in excess of current revenue; or  
(ii) total expenditure in excess of current revenue and a cost of servicing government debt in excess of one fifth of total expenditure; or  
(iii) allocations to provinces which are less than or in different proportions to those recommended by the Financial and Fiscal Commission in terms of Section 155,  
it should require a two-thirds majority to be passed by the National Assembly.
- (e) As part of the budget and government accounts, there should be a full statement of current/outstanding guarantees issued by the national government in respect of loans and other actual or contingent liabilities of other levels of government or parastatals.
- (f) Similar provisions should, mutatis mutandis, apply to additional, supplementary or adjustment estimates/appropriations as well as to other money bills.
- (g) All Bills laid before Parliament should be accompanied by a statement indicating the cost that would be involved in implementing the provisions of the Bill. Such statement to be made in consultation with the Minister responsible for national financial affairs.

3. Procurement administration (Section 187)

187 (4) Add the words "and shall be open to public inspection."

4. Guarantees by national government (Section 188)

In addition, any guarantees issued on behalf of parastatals or any other body or person should require prior parliamentary approval.

5. Special pensions (Section 189)

This section should no longer be necessary by the time the new constitution comes into effect.

6. Income tax of elected representatives (Section 190)

This section would be better handled by way of a parliamentary law containing more detail and covering broader elements of an appropriate code of conduct. As it is, it is superfluous in law and also refers to a person not defined in the constitution.

7. General

7.1 Most of the above provisions should also apply to provincial and local governments.

7.2 It is accepted that some of these proposals would be subject to a time delay only becoming legally binding after, say, five years.

## MEMORANDUM TO THEME COMMITTEE 6.2

### NATIONAL REVENUE FUND

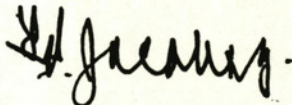
The National Party wishes to state that:

1. after studying the preliminary report on the National Revenue Fund; and
2. after analysing the assignment given to the Financial and Fiscal Commission;

it therefore considers that the National Revenue Fund should be considered in conjunction with the Financial and Fiscal Commission.

The National Party is of the opinion that the financial responsibilities, the control of funds, the treatment of concurrent revenue, the budgets of the provinces as systems are part of the functions of the Financial and Fiscal Commission.

The National Party reserves the right to discuss this matter further at subsequent meetings of the relevant committee.



DR F P JACOBSZ MP  
(FOR AND ON BEHALF OF THE NATIONAL PARTY)

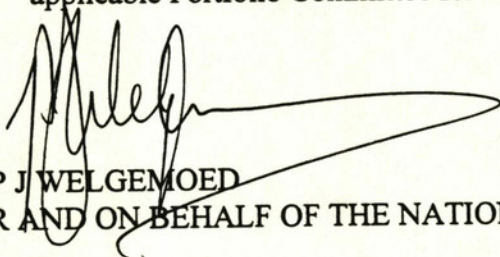


## MEMORANDUM TO THEME COMMITTEE 6.2

### PUBLIC ENTERPRISES

The National Party's viewpoint on Public Enterprises is as follows:

1. That Public Enterprises not be included in the Constitution, as is the existing position regarding Public Enterprises.
2. All matters affecting the operation and control of Public Enterprises should be incorporated in legislation dealing with each enterprise individually.
3. The National Party would like to put forward for consideration that the responsible Minister and Board of Directors submit audited reports that must be tabled in Parliament within six months after year end and discussed by the applicable Portfolio Committee for report back to Parliament.



DR P J WELGEMOED  
(FOR AND ON BEHALF OF THE NATIONAL PARTY)