

[2/1/6/9]



CONSTITUTIONAL ASSEMBLY

MEMORANDUM

TO: Members of the Constitutional Committee
FROM: Executive Director
DATE: 25 April 1996
RE: PROPOSED AMENDMENTS TO THE BILL:
ADDITIONAL DP AMENDMENTS

Attached please find the proposed DP amendments additional to those contained in Vol I of the proposed amendments documentation.

H EBRAHIM
EXECUTIVE DIRECTOR
CONSTITUTIONAL ASSEMBLY

P. O. Box 15, Cape Town, 8000
Republic Of South Africa

Tel: (021) 245 031, 403 2252 Fax: (021) 241 160/1/2/3, 461 4487, E-mail: conassem@iaccess.za



You've made your mark



Now have your say

THE NEW CONSTITUTION

25 April 1996

DEMOCRATIC PARTY AMENDMENTS

THE NATIONAL ASSEMBLY COMPOSITION AND ELECTION

44. (2) [National legislation] an Act of Parliament must determine the number of members of the National Assembly in terms of subsection (1).

B. W. E. G. L. U.

Membership

- 45.(1) Every citizen who is qualified to vote for the National Assembly is eligible to be a member of the Assembly, except -
- (a) anyone who is appointed by, or is in the service of, the state and receives remuneration for that appointment or service, other than -
 - (i) the President, Deputy President, Ministers and Deputy Ministers; and
 - (ii) other office-bearers whose functions are compatible with the functions of a member of the Assembly, and have been declared compatible with those functions by [national legislation;] an Act of Parliament
 - (b) permanent delegates to the National Council of Provinces, or members of a provincial legislature or a municipal council;
 - (c) unrehabilitated insolvents;
 - (d) anyone declared to be of unsound mind by a court of the Republic; or
 - (e) anyone who, after this section took effect, has been convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine, either in the Republic, or outside the

Republic if the conduct constituting the offence would have been an offence in the Republic; but, no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A disqualification under this paragraph ends five years after the sentence has been completed.

- (2) A person who is not eligible to be a member of the National Assembly in terms of subsection (1) (a) or (b) may be a candidate for the Assembly, subject to any limits and conditions established by [national legislation;] an Act of Parliament
- (3) A person loses membership of the National Assembly if that person -
 - (a) ceases to be eligible; or
 - (b) is absent from the Assembly without permission in circumstances for which the rules and orders of the Assembly prescribe loss of membership.
- (4) Vacancies in the National Assembly must be filled in terms of [national legislation;] an Act of Parliament.

Lawyer

Democratic Party, Amendment 25/4/96

Privilege

56. (1) Cabinet members and members of the National Assembly -
- (a) have freedom of speech in the Assembly and in its committees, subject to its rules and orders; and
 - (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for -
 - (i) anything that they have said in, produced before, or submitted to the Assembly or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before, or submitted to the Assembly or any of its committees.
- (2) Other privileges and immunities of the National Assembly, Cabinet members and members of the Assembly may be prescribed by [national legislation.] an Act of Parliament.
- (3) Salaries, allowances and benefits payable to members of the National Assembly are a direct charge against the National Revenue Fund, as may be regulated by an Act of Parliament.

David Egan

Democratic Party Amendment 25/4/96

National supervision of provincial administration

98. (1) When a province is responsible for the administration of legislation, or an executive function in terms of the Constitution, and it cannot or does not fulfil its obligations in terms of that law or the Constitution, the national executive may intervene by taking any appropriate steps, including-

- (a) issuing a directive to the provincial executive, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations; and *Should the province thereafter continue to fail to fulfill its obligations*
- (b) assuming responsibility for the administration of that law or function in that province *to the extent that* *it is necessary to -*
 - (i) maintain essential national standards or meet established minimum standards for the rendering of a service;
 - (ii) maintain economic unity;
 - (iii) maintain national security; or
 - (iv) prevent that province from taking unreasonable action that is prejudicial to the interest of another province or to the country as a whole.

(2) When a province is responsible for an executive function in terms of legislation, the national executive may issue a directive or assume responsibility as provided in subsection (1), if -

- (a) it is necessary to do so for any of the reasons listed in subsection (1)(b); or
- (b) the province cannot or does not fulfil its obligations in terms of that law.

(3) Any intervention by the national executive in terms of subsection (1)(b) must be approved by the National Council of Provinces no more than 14 days after the intervention begins.

and subsequently at intervals of not more than two months

Law Edun

DEMOCRATIC PARTY AMENDMENTS

**Central Bank
Establishment**

219. The South African Reserve Bank is the central bank of the Republic and is regulated by [national legislation] an Act of Parliament.

Ken C. Jones

DEMOCRATIC PARTY AMENDMENTS

Primary object

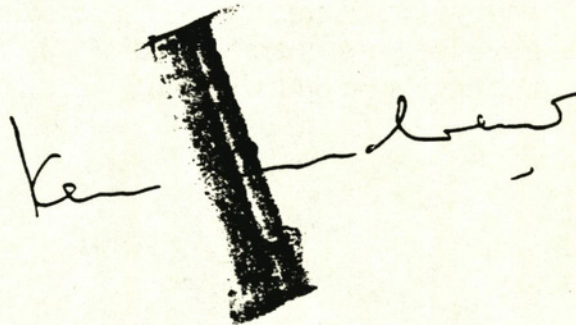
220. (1) The primary object of the South African Reserve Bank is to protect the value of the currency in the interest of balanced and sustainable economic growth in the Republic.
- (2) The South African Reserve Bank [must perform any functions in pursuit of its primary object], in the pursuit of its primary object, must perform its functions independently and without fear, favour or prejudice; but, there must be regular consultation between the Bank and the Cabinet member responsible for national financial matters.

Ken C. ...

DEMOCRATIC PARTY AMENDMENTS

Powers and functions

221. The powers and functions of the South African Reserve Bank are those customarily exercised and performed by central banks, and must be determined by [national legislation] an Act of Parliament.

A handwritten signature in cursive script, possibly reading 'Ken Jones', is written across the page. A large, thick, blacked-out rectangular mark is placed over the signature, partially obscuring it.

DEMOCRATIC PARTY AMENDMENTS

Provincial and Local Financial Matters

Provincial Revenue Funds

222. (1) There is a Provincial Revenue Fund for each province into which [all money specified] all revenue as defined by an Act of Parliament and received by the provincial government must be paid.
- (2) Money may be withdrawn from the Provincial Revenue Fund only -
- (a) in terms of an appropriation by a provincial Act; or
 - (b) as a direct charge against the Provincial Revenue Fund, provided for in terms of the Constitution or a provincial Act.
- (3) Revenue allocated through a province to local government in that province, in terms of section 210(1), is a direct charge against that province's Revenue Fund.

Ken C. ...

DEMOCRATIC PARTY AMENDMENTS

Provincial taxes

224. (1) A provincial legislature may impose -
- (a) taxes, levies, or duties other than income tax, value-added tax, general sales tax or customs duties; and
 - (b) flat-rate surcharges on the tax bases of any tax, levy or duty that is imposed by national legislation, other than the tax bases of corporate income tax, value-added tax or customs duties.
- (2) The power of a provincial legislature to impose taxes, levies, duties and surcharges -
- (a) may not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across provincial boundaries or the national mobility of goods, services, capital or labour; and
 - (b) must be regulated by [national legislation] an Act of Parliament which may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.
- (3) A provincial legislature, notwithstanding subsection (2) (b), has exclusive competence within its province to impose taxes, levies or duties on-
- (a) casinos;
 - (b) gambling, wagering and lotteries;
 - (c) betting; and
 - (d) motor vehicle licences.

Ken A. ...

DEMOCRATIC PARTY AMENDMENTS

Municipal rates and taxes

225. (1) A municipality may impose rates on property, transfer duties on property and excise taxes, and, subject to [national legislation] an Act of Parliament, may impose other taxes, levies or duties; but, within each municipality the rates, taxes, levies and duties must be based on a uniform structure for its area of jurisdiction.
- (1A) A municipality may not impose any income tax, value-added tax, general sales tax, surcharge or customs duty.
- (2) The legislation referred to in subsection (1) may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.

Ken Adams

DEMOCRATIC PARTY AMENDMENTS

Part B

Police to the extent that the provisions of Chapter 11 expressly confer legislative competence upon the provincial legislature

[Refuse removal, refuse dumps and solid waste disposal]

[Ambulances and fire fighting services]

[Town planning]

[Cemeteries, funeral parlours and crematoriums]

Provincial public enterprises in respect of the functional areas in this Schedule

Veterinary services

Population development function

[Provision and administration of gas and electricity supply systems]

[Pontoons, ferries, jetties, piers and small boat harbours]

[Disaster management]

[Liquor licensing]

Provincial archives

Provincial museums

Provincial libraries and library services

[Water and sanitation services, limited to potable water supply systems and domestic waste-water and sewerage disposal systems]

[Stormwater management systems in built up areas]

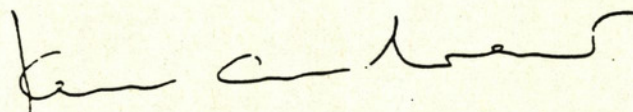
Public Works only in respect of the needs of provincial government departments and municipal councils in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law

[Child care facilities]

Administration of indigenous forests

[Licensing and control of undertakings that purvey food to the public]

[Fencing and fences]



DEMOCRATIC PARTY AMENDMENTS

New Schedule 4A

Schedule 4A
Municipal Functional Areas

Air and noise pollution
Ambulance services
Animal and vermin control
Beaches and amusement facilities
Cemeteries, funeral parlours and cremation
Child care facilities
Civil protection
Cleansing
Combatting of nuisances
Community services
Disaster management
Electricity and gas reticulation
Fencing and fences
Ferries, pontoons, jetties, piers and small boat harbours
Fire fighting services
Land use planning
Library services
Licensing and control of undertakings that purvey food to the public
Liquor licensing
Municipal elections
Municipal roads and traffic regulation
Parks and Recreation
Pounds
Primary health care and public health
Product markets
Refuse removal
Sanitation services and waste water and sewerage disposal
Storm water management
Tourism
Town planning
Trading regulations
Transport planning
Water reticulation

