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CONSTITUTIONAL ASSEMBLY

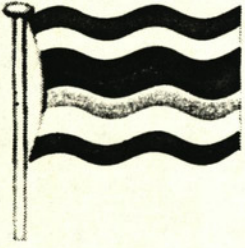
THEME COMMITTEE 6.2

FINANCIAL INSTITUTIONS AND PUBLIC ENTERPRISES

SUBMISSIONS

VOLUME 6(a)

PARTY SUBMISSIONS



INKATHA

Inkatha Freedom Party

Iqembu leNkatha Yenkululeko

THEME COMMITTEE 6 SECOND SUBCOMMITTEE ON THE CENTRAL BANK

POWERS AND FUNCTION

The South African Reserve Bank shall be re-established as "The Central Bank of South Africa"

The Bank's primary objective should remain as it is set out in section 196 (1) of the Interim Constitution i.e. "to protect the internal and external value of the currency in the interests of balanced economic growth in the Republic".

In order to increase the independence of the Bank, its fundamental powers and functions should be specified in the constitution rather than be left to the discretion of the majority of Parliament, as it is the case in terms of section 197 of the interim Constitution.

Against such constitutional identification of its powers and functions, the Bank should enjoy "autonomy" which is the power to adopt the fundamental rules of its organization and operation. It is debatable whether this scheme leaves any space for the legislative competence of Parliament which in any case should be limited to the giving the Central Bank additional or "secondary" goals with related powers, functions and resources, and should not prescribe how such powers and functions are to be organized.

The Bank shall have the powers of regulating banking and credit, and shall be independent within the parameters of the law, and within the scope of predetermined monetary and general economic policy frameworks (as determined in conjunction with government), to use tools of monetary intervention in the public interest.

The Bank shall be the constitutional organ of the Republic with the power to regulate banking to ensure harmony in the monetary policies and in the banking regulation, including that adopted by Provinces, and to guarantee the strength and prosperity of the monetary and banking systems of South Africa, and to undertake all other powers and functions customarily exercised by central banks.

There should be specified minimal limits on the Bank's direct financing of the government.

The Bank should not be obliged to purchase government securities.

STRUCTURES AND ACCOUNTABILITY

Since the final guarantees of the independence of the Bank lie in the Banks structures, this should be determined by the Constitution and not by an Act of Parliament.

The Governor, the two Deputy Governors and three other directors of the Central Bank and shall be appointed by the President in consultation with Parliament or a select committee thereof. A further ten directors of the Banks board should be appointed by organised commerce, industry and labour.

All members of the Bank's board should serve for a five year term which may be renewed on one or more occasions. The Bank's executive should be made up of the Governor, the two Deputy Directors, and three other directors from those appointed by organised commerce, industry and labour.

The Governor shall submit a half yearly report to Parliament on the monetary status of the Republic and on the status of the banking system of the country.

Parliament shall have the power to review any activity of the Bank and to hold hearings to investigate its policies. The bank shall hold regular consultation with the Ministers responsible for national and provincial financial matters.

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THEME COMMITTEE 6 SECOND SUBCOMMITTEE

NATIONAL REVENUE FUND

Section 185 of the interim Constitution is acceptable, with the exception it shall be specified that all transfers from the national government and national revenues allocated to Provinces are to be paid directly into the relevant Provincial Revenue Funds [compare with section 159 of the interim Constitution].

The finalization of this item necessitates finality on the distribution of nationally collected revenues to Provinces and on provincial powers in fiscal and financial matters.

ANNUAL BUDGET

Section 186 of the interim Constitution is acceptable with respect to the finance of the national government.

The constitution shall spell out the rule that the law may not require or authorize any state expenditure which is not provided for in the budget.

Parliament shall have the power to authorize the government to operate for no more than three months with a provisional budget pending the approval of the budget.

The law approving the budget shall not introduce additional taxes or expenses. Any law involving new or additional expenses shall indicate the source of revenue to cover them.

At the beginning of the fiscal year the Government shall submit to Parliament a balanced budget for approval. Parliament shall amend and modify any item or portion of the draft budget. The approved budget shall indicate sources of revenue to cover all State expenditure

By a vote of fifty percent of its members Parliament may authorize the Government to finance the budget by resorting to public debt. When seeking such authorization the Government shall provide a report indicating the foreseeable sources of repayment of the public debt and the underlying economic assumptions. Any increment of the public debt shall be so authorized.

The budget shall be divided in titles, sections and chapters. Any allocated funds which by the end of the fiscal year have not been spent shall be automatically carried over to the next year within the same budget chapter if it exists, or shall be transferred to the most closely related budget chapter if the same budget chapter no longer exists.

The finalization of this item will also depend on the organization of provincial powers in fiscal and financial matters.

PROCUREMENT ADMINISTRATION

Section 187 of the Interim Constitution is acceptable, provide that it is clarified that the Parliament may not legislate with respect to procurement at provincial level once the Province concerned had adopted its own legislation.

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**THEME COMMITTEE 6
SECOND SUBCOMMITTEE
SUBMISSION ON THE AUDITOR GENERAL**

The role, status powers and functions of the Auditor General should be included in the Constitution so as to complete the constitutional system of checks and balances. The inclusions should be the following :

ESTABLISHMENT AND APPOINTMENT

The Auditor General (AG) should be regulated by an Act of Parliament as is the case at present.

The AG should be appointed by the State President after nomination by the Audit Commission and approval of that nomination by a two third vote in the National Assembly and the Senate.

The AG should be a person of appropriate character and expertise.

The AG should serve in that capacity for a maximum of two five year terms.

The remuneration, conditions of service and conditions of removal from office of the AG should be prescribed by an act of parliament, as is presently the case.

The AG should have no personal interests in any of the organisations and bodies audited by the AG's office

POWERS AND FUNCTION

The AG's primary objective(s) should be set out in the constitution, and shall include furthering the optimum employment of all public moneys which includes the desirable levels of efficiency, productivity and sound management.

The AG should audit and report on all the accounts and financial statements of the accounting officers at national and provincial levels of government, and of all other persons/organisations entrusted with public finances and assets.

All audits should include annual regulatory and system audits, and should include economy,

efficiency and effectiveness audits at least every second year. The Audit Commission may request special audits should it consider these to be necessary.

The AG may, when he/she considers it to be necessary, audit and report on the financial and other affairs of any institution that has control of public funds.

The AG must have full access to all relevant books, records and other information necessary to satisfactorily conclude any audit.

The constitution should stipulate the time allowed between the completion of an audit and the submission of that report to parliament.

INDEPENDENCE AND IMPARTIALITY

The AG must exercise his/her powers and functions in an independent and impartial manner, and in so doing must only be subject to the constitution and to the law.

The AG and the staff of the office of the AG should have immunities and privileges as granted them by the present Act of Parliament.

The State should protect the AG and his/her staff from any outside interference in the exercise and performance of their powers and functions.

All institutions audited by the AG must cooperate fully with the AG and shall respect the AG's position of independence.

The AG will as far as possible recover all costs incurred from the bodies audited so as to be self-financing. Charge out rates should be market related.

The AG should not be an office bearer or an activist in any political party or political organisation.

REPORTING

The AG should report to the Audit Commission which should have provincial and central government representation - with no one government having greater representation than others.

The AG's audit reports should go through the various parliaments to their the Public Accounts committees for any possible reaction. Any concerns held by the National Minister of Finance arising out of specific provincial level reports should be dealt with between his/her ministry and the relevant provincial ministry of finance.