

Current Affairs

CONSTITUTIONAL AMENDMENTS

WINGS OF FISCAL & FINANCIAL COMMISSION TO BE CLIPPED

Morobe complains as Finance Ministry looms larger

Government is intent on drastically reducing the size of the Fiscal & Financial Commission (FFC), thereby confirming fears expressed by FFC chairman Murphy Morobe that the commission is being marginalised.

The Constitution of SA Second Amendment Bill contains a clause that provides for the reduction of the FFC membership from 22 to eight and for the cut in the number of provincial representatives from nine to two.

The proposed change is in conflict with constitutional principle 27, one of the principles that laid the basis for agreement on a new Constitution, which led to SA's first fully democratic elections in 1994.

Principle 27 stipulates that each of the nine provinces be represented on the FFC to help it ensure that provincial and local

governments receive an equitable share of nationally collected revenue.

But if the proposed amendment is endorsed by parliament without alteration, provincial interests specifically will be represented by only two FFC members, appointed by the President after consultation with the provincial governments.

The envisaged changes will greatly strengthen the hand of the President and, through him, the central government, in the FFC. While retaining his power to appoint the chairman and deputy chairman of the FFC, the President will appoint all remaining six members, with the proviso that he will have to consult with the provincial governments and "organised local government" before appointing two members to represent provincial interests and two to represent those of local gov-

ernment structures.

One of the constitutionally prescribed functions of the FFC is to provide an independent assessment of the division of revenue between the national, provincial and local government in terms of certain criteria, including balancing the needs and obligations of national government against those of the other two tiers.

Democratic Alliance finance spokesman Ken Andrew says the proposed move will concentrate more power in the hands of the President. He notes further that the existing right of each province — including those not controlled by the African National Congress — to voice its concerns is under threat.

He also says the proposed change will deprive all legislatures, including the National Assembly, of an independent assessment of government's proposed allocation of revenue.

The proposed change in the composition of the FFC is the second to downgrade its status since the adoption of the present Constitution in 1996, the first being the scrapping of the requirement that the chairman and deputy chairman of the FFC should be full-time officials. A commission deemed not to require a full-time

chairman is manifestly not as important an institution as one that does.

As if in anticipation of the present amendment, Morobe, a former leader of the pro-ANC United Democratic Front, complains in the latest FFC annual report about the commission's marginalisation.

Defining the FFC as an "integral part of

the systems of checks and balances in our democracy", he says it "should not have to fight for a place in the sun".

In what seems to have been a rebuke directed at the Finance Ministry, Morobe says it has "still not developed a clear view on how to deal with [FFC] inputs, despite the constitutional provisions governing the budget process".

He goes on: "Being born of the Constitution, [the FFC's] role should be understood, welcomed and even facilitated so as to enhance the critical role it has of contributing to the integrity of the revenue sharing regime in SA."

But Morobe — whose status remains that of a full-time chairman, though that is no longer prescribed by law — qualifies the statement contained in the annual

report during an interview with the *FM*. He says the statement was designed to respond to particular difficulties which are now being resolved. But An-

drew still insists that Finance Minister Trevor Manuel "considers the FFC to be a nuisance and would be happy to see it disappear".

A parallel amendment contained in the Bill will certainly increase the power wielded by the Finance Minister and thereby make it even more difficult for the FFC to fulfil a "checks and balances" role.

Under the present Constitution, only a Minister of Finance may introduce a money Bill. The envisaged amendment will, however, apply the same rule to all legislation relevant to Chapter 13 of the Constitution, with the exception of three clauses relating to the financial administration of parliament, the remuneration of MPs, and the regulation of property rates.

Chapter 13, however, covers a wide range of institutions, including the National Revenue Fund, the Provincial Revenue Funds, the Treasury and the Reserve Bank. Thus the already formidable power of the Finance Minister will be even greater if the amendment is endorsed, especially as the definition of a money Bill is widened to include all exemptions to taxes and levies, as well as the appropriation of money and the imposition of taxes, levies and duties.

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