

was delegating too much power to the executive. It appears that few parliamentarians are aware of the constitutional need to control the power of the executive to make regulations. We discuss this issue further in chapter 7.

PRIVATE MEMBER'S BILLS AND BILLS INITIATED BY A COMMITTEE

The Constitution expressly gives both individual MPs and MPLs, and committees the power to initiate legislation (in sections 73 and 119). The right of individual representatives to introduce bills is recognized in most democratic systems but it is not usually enshrined in a country's constitution.

The fact that it is a power protected by the Constitution in South Africa reflects the importance that the constitution-drafters attached to it. But, it is a power that has seldom been used. In the national Parliament on average fewer than one private member's legislative proposal has been passed each year since 1994.

As far as we are aware, only one province, Gauteng, had passed a private member's bill by June 1999 when interviews for the Legislative Landscape Study were conducted. Interviews also suggested that no provincial committee had initiated any legislation. MPLs suggested that the failure of committees to initiate legislation could be attributed to the fact that they had poor research and drafting back-up but we did not encounter any examples of attempts to initiate legislation that were thwarted in this way. Even if research and legislative drafting skills were adequate, it is not clear that our system is conducive to legislative and policy initiatives by committees. Committees have, generally, been reactive, mainly responding to executive or departmental initiatives.

A different explanation, which was offered by some interviewees, seems more credible. It relates to the usual role of private member's bills in a modern parliamentary system. The role of developing legislation in major policy areas falls to the executive, which bears the main task of implementing the policy of the government. Private member's bills usually concern very specific matters of interest to specific constituencies.

A bill on the PAN South African Language Board before the national Parliament in 2001 provides an example. Members of opposition parties may also seek to introduce their own bills to highlight their policy position on a specific issue. Of course, these will be successful only if the governing party is convinced of their value.

Committees might be expected to initiate legislation relating to matters that are of special interest to the legislature (such as legislation dealing with parliamentary privilege and legislation covering public participation in the legislature) but are unlikely to initiate legislation that involves larger policy initiatives. Thus, the right of MPs, MPLs and committees to initiate legislation is an important one but it is not likely to be exercised very frequently.

Constitution section 73(2):

Only a Cabinet member or a Deputy Minister or a committee or member of the National Assembly may introduce a Bill in the Assembly; but only the Cabinet member responsible for national financial matters may introduce a money Bill in the Assembly.

Constitution Section 119:

Only members of the Executive Council of a province or a committee or member of a provincial legislature may introduce a Bill in the legislature; but only the member of the Executive Council who is responsible for national financial matters may introduce a money Bill in the legislature.