

# Letters to the Editor

## Cronin disingenuous

DEAR SIR — Deputy Public Works Minister Jeremy Cronin is disingenuous in the way he reflects the Western Cape government's comments on the Expropriation Bill (Dr Jeffery's ideological dyslexia, Letters, May 21) which misrepresents our position in a way that cannot go unchallenged.

He completely misunderstands our reasoning in opposing the bill because, as we explained in our submission, what would make expropriation lengthy and complex based on the bill as it stands is that it centralises the authority to expropriate generally and manifests this power exclusively in the public works minister. This means that the provincial transport department would have to seek approval from the national department and the minister to embark on an expropriation project.

Our opposition to the Expropriation Bill is that it lacks appropriate checks and balances to prevent the state abusing its powers of expropriation, especially given their concentration in the hands of the minister. This is alongside other flaws, such as that the definition of "property" is too wide and applies to any property with an economic value.

Mr Cronin's commitment to consider Western Cape premier Helen Zille's concerns is welcome but we hope it also applies to the other concerns.

**Zak Mbhele**  
Spokesman for premier Helen Zille



## Cronin offers a school of red herrings

DEAR SIR — Jeremy Cronin claims I have "completely misread" the Expropriation Bill of 2013, but this is not so (Dr Jeffery's ideological dyslexia, May 21). Rather, it is Mr Cronin — whose communist ideology failed many years ago — who misrepresents the bill and the dangers it presents.

Under the current Expropriation Act of 1975, only the minister of public works has the power to expropriate. Under the bill, that power is also given to "the executive authority of a national or provincial department, the municipal council of a municipality, or an organ of state empowered by a law of general application", among others.

It is thus correct to say that the bill extends the power to expropriate from the minister alone to at least 500 state entities. It is a red herring for Mr Cronin to note that other organs of state already have powers to expropriate under various other laws. This is of course so. What he plays down is that the bill will trump all other laws on expropriation which conflict with its terms. This will give the bill overarching authority over all expropriations and remove all limitations on expropriation in other legislation.

Contrary to what Mr Cronin implies, there is naught for the comfort of the expropriated owner in the two stages which must precede the state's issuing of a notice to expropriate. In the first stage, the state must investigate the property it seeks to take. However, the focus of this probe is not the constitutionality of the proposed expropriation but rather "the suitability of the property" for the state's purposes, its market value and other factors relevant to compensation, and the existence of a bond or



other rights over it. Contrary to what Mr Cronin claims, nothing in the bill obliges the state "to establish if the intended expropriation is required and meets the test of being for a public purpose or in the public interest".

In conducting such a probe, the expropriating authority has the power to demand documents, enter property, dig or bore, and demarcate boundaries. It does not need court authority for any of these actions.

In the second stage, the state must give notice of its intention to expropriate. Again, the constitutionality of the intended taking does not enter into the picture. Instead, the expropriating authority must simply inform the owner and any other rights holders that it intends to expropriate the property described. It must invite objections within 30 days, and enter into negotiations with those who object within another 30 days. But "if no agreement can be reached" with the owner within 60 days, the expropriating authority can simply — and with-

out giving reasons — decide to proceed with the expropriation by serving a notice of expropriation on him.

The notice of expropriation must state the dates on which the state will take ownership and possession.

It also must state the amount of compensation offered and how this was computed. As the bill makes clear, "the ownership of the property described in the notice of expropriation vests in the expropriating authority on the date of expropriation" stated in the notice. Similarly, "possession of the property passes to the expropriating authority on the date stated" in the notice.

Mr Cronin's accusations are unfounded and false. They are also red herrings, designed to distract attention from the nub of my critique.

The bill is unconstitutional in allowing the state to take ownership and possession of property by notice of expropriation and without a prior court order confirming that the proposed expropriation is (objectively) for public purposes, or in the public interest, that it is not arbitrary, that it will not involve an unauthorised eviction of any people from their home, and that the compensation envisaged is indeed just and equitable in all the circumstances. This is the critical point the government should address. It also should show why the current Expropriation Act of 1975 cannot be brought into line with the constitution through the three simple amendments I have proposed — and without the further sweeping changes the bill seeks to usher in.

**Dr Anthea Jeffery**  
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