

## Morobe's jobs spark debate

### Jonathan Katzenellenbogen

THE appointment of Murphy Morobe, head of the Financial and Fiscal Commission, as chairman of accounting and business advisory firm Ernst & Young from June 1 has set off a debate about whether this might conflict with constitutional requirements.

Morobe is the first black to be appointed chairman of one of the Big Five professional services firms. He will continue to hold the positions of chairman and CEO of the commission.

Under the constitution, the commission is required to be independent and impartial, and some lawyers believe the appointment to the firm could compromise the commission.

A senior legal source, who has acted on constitutional cases, said: "I don't know how he thinks he can take up the appointment." He said the appointment as chairman of Ernst & Young could compromise the commission's independence and impartiality. As a major player in business, Ernst & Young would probably be seeking national as well

as provincial government contracts, he said.

It is not as if this firm "is a charity or school board, however respected it may be," he said.

However, Michael Judin, senior partner at Goldman, Judin, Maisels, who works on constitutional and corporate governance issues, said that because Morobe was chairman of the commission did not necessarily mean he should not be chairman of Ernst & Young. Judin said that if there was a conflict, Morobe would have to consider resigning from one of the positions.

He believed Morobe's position was no different from that of any other director who would have to recuse himself from discussion or voting if a conflict of interest arose.

The Financial and Fiscal Commission makes recommendations on how revenue should be divided between the provinces and between national government and the provinces. It has no authority to appoint provincial auditors or decide on government contracts.

In the commission's most recent annual report, issued in January, Morobe complained that govern-

ment had ignored its recommendations and that it had been sidelined.

Morobe's current five-year term as head of the commission expires in 2003.

The position of chairman of Ernst & Young will be a non-executive position and Morobe will take over from Tom Wixley, who has been a partner of the firm since 1970 and is retiring.

Ernst & Young CEO Philip Hourquebie said last night that Morobe's, "relationship with Ernst & Young in no way could compromise the constitutional requirements of independence and impartiality in the deliberations of the commission".

Morobe said the Ernst & Young appointment was not dissimilar from other roles he had on the National Parks Board and with a non-governmental organisation which raises funds and makes grants.

Up to March 1999, the constitution required that the commission chairman and deputy were full-time members. Morobe said he worked at nights and over weekends to ensure that all his obligations to the commission were met.