

[2/4/3/9/13]

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CONSTITUTIONAL ASSEMBLY
THEMES COMMITTEE 3

27/2/95

9/3/95

CONTENT OF BAG

3 TAPES

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[20/4/3/19/13]

Chairperson:

I must say defense, that I have been busy a bit the past two weeks and I am not on top of everything and you must please help me. We could also be glad to welcome the Director General of the Eastern Province. I presume he has fled from the Eastern Province this morning. Come down here to us. Very welcome to you all. Now, if I could just put an agenda to you, the first document of our documentation, open that and also welcome to our expo's. Thank you very much for attenuating. We have minutes, thirdly as matters arising, it is taken up in agenda at items. We have fourthly a framework of heading too, a time table for heading too, and then a report on submission from Civil Society. We have a point in general, and hopefully we can close quickly.

Now, shall we first go to the minutes of the previous meeting? I believe there are two sets of minutes. The Meeting on 16/2 and the meeting of 15 February. Shall we first go through 15 February? Sorry I am deurmekaar. Here I have it. Call group meeting of 20 *Core Group* February. The minutes, I don't think there is anything there. Point 4 of these minutes, review of the report - is everything OK there? We just ring the correctness at this stage - Dr King, it is a document called CG 3/12, CG 4/12 on the top. We have extra copies here. Are you OK Dr?

I don't know if you are confused or I am confused, what about the other call group meeting minutes of 6th of February and the other documents that we received, 23/13 for instance.

Chairperson:

Could we ask the Secretary to help us here..

Chairperson, the other documents of the other call group Minutes, that are on the Theme Committee, once out.. The information of the theme committee, that actually been approved.

Chairperson:

Thank you. We are on page 3 of this minutes. Looking for correctness, point 5 of it, framework for heading 2. Next page, - point 6, that is amongst others the Technical experts. What they have to deal with. Next page 7, the visit or Mr Jock Clarke. Then the general point going over to the last page and then the agenda of today

Mr Curry

In fact, I was also present at the meeting. I came in a bit late. I certainly joined the meeting for the 6 o'clock part of it.

Can I ask that could be rectified please. Any other comments or corrections. Do I have an apposal that it is adapted? Got it and second it, thank you.

Mr Chairman, I want to know something that is probably not the usual thing. On page four 5.4 - The Call Group requested the Technical experts drafted proposal on the framework for heading to - with as many sub-headings as possible. I just want to emphasize that for further discussion. Thank you.

Chairperson;

The technical experts, we want headings every second sentence please. We have a lot to read, so we read only the Headings. Thank you Dr King. I think it is good that you asked that. Could we move on to the matters arising and that will be in point 4 of our agenda. I am on the framework for heading two. Now we must look again on our Minutes on page 3.5 Shall I quickly go through it and re-fresh our memory? Yes, we shall do it.

- 5.1 The frame work must be decided upon before the closing date for the report for heading two can be confirmed.
- 5.2 The proposed framework was as follows -
 1. Final suggestion for framework for the discussion of legislative and executive competencies of the Legislative and National and Provincial Government. Required as soon as possible.
 2. Equatable fiscal can financial allocation. Referring to certain constitutional principals and from fiscal powers etc. The request was that the technical committee in the researches International practices and experience in this regard, and we now have also Australian knowledge available here, with reference to the structure and meganisms used, including the powers, functions and compositions of such structures required by 30 April only - long term.
- 5.3 The call group requested the technical experts to draft a proposal on the frame work for heading 2 with as many sub-headings as possible and they agreed to fax the details and we now have that available. Is that this Mr Mahlangu?

Mr Mahlangu

Last week on Wednesday afternoon we received a fax from Prof Venter which was circulated that evening to the members.

The Fax headed Potchefstroom University.

Would you like us to go through it quickly or shall we ask the experts to go through this for us?

Mr Andrew

May I just raise a point at this stage? A point of procedure, it is not a technical point of order. The fact that the IFP have withdrawn

from proceedings, creates quite a difficult situation - in that on the one hand one doesn't want to be hold duransome, on the other hand one has a kind of unpleasant feeling of quite a lot of what we might do in the next two weeks will be a waste of time, because at the end of the day, they will come back and say that 'we weren't there when that was happening therefore we want all that re-opened.' I don't have the management committee or the Constitutional Committee itself has given any thought as to how this should be handled or should we just have the intention of plough on as if nothing has changed even if we suspect that we are wasting our time, we are not going to operate as if we are wasting our time.

Chairperson

Thank you, I think that is an important point. Could we have discussion on Mit, reaction from the floor. I must say that the Management Committee and the Constitutional committee has not addressed this as yet. We are waiting for the instructions in this regard. Welcome Mr Louw. Do we have to have a discussion about it? How does the ANC feel about it?

Mr Gordon:

It is a valid point, what we should do though is to subject to what the Constitutional committee decide this afternoon. One carry one with the work - Two, will the Secretary keep them informed of what we are doing - Three, if there is a, if we decided on submissions or inputs from the parties, request that from them as well. So that at every stage they input in this process and finally I would imagine that if we had a report prepared, and they are back on board at some stage, they have the opportunity to comment on that. Indicate their differences on that report. I think that will enable us to move ahead, give them the opportunity to input all the way through and the final instances - if they don't make use of that opportunity, it is their undemocratic right. If they want to do that. This is not the end of the process. Further steps is still going to take place in terms of negotiating the constitution and in that sense the party is not the prior of opportunity to input.

Chairperson:

Thank you Mr Gordon. I think that is ... contribution. You have that for our minutes. Could I also say that I believe, talking objectively from the chair if I might Just for your information, while you were on we decided we would only minute topics discussed, I got no objection, I agree with Mr Gordon, haven't got a problem, but we decided topics discussed and decisions made would be what was recorded rather than amends.If there is no guidance from the Management Committee or the Constitution Committee at this stage, I am quite happy, I don't try to have a prolong discussion, I am in agreement with what Mr Gordon has said and if there isn't a director from .. We just need to proceed and hope for the best.Can I

just say that we say that this is a recommendation from the Call group to the Theme Committee and perhaps as a recommendation to the CC this afternoon. So that we can get some feedback on that.

Chairperson: How do you feel about that Mr Andries

Mr Andries; I am happy about that.

Dr King As far as we are concerned, we feel that we must carry on - the time is too limited to waste. I think that we are fortunate to, in any case in our Theme committee, that we are in the beginning of a new block where there is a lot of research needed and we are not forced to produce documents in any case in the next couple of days. So, I think that we can just forward the work that is required by us and I think just play by ear as we carry on. I think there is sufficient work to carry on without having to call a go slow on it, to accommodate the other party and lets hope that before it becomes important that they will have joined us again.

Chairperson: Miss De Lille, any comment on this - it is an important stage in our committee's work, because this Committee's work is very important also for the IFP.

Miss De Lille I endorse the view expressed by Mr Gordon

Chairperson Thank you. Could I also just say that we are lucky in this respect that - I think we have a public duty. That the IFP have provided quite an extensive and quite extensive documentation and I think we have to check almost on their behalf that when we draft anything at this stage, that we take account of previous documentation which they have given to us. It focus naturally. Thank you very much for the discussion. Now, could I ask who of the Technical experts are going to take us through this proposed framework? Do you have a copy available?

Thank you chair. I think I must point out that the document was drawn up by Prof Venter. He should be with us shortly, but shouldn't the correct way to go about it, be to hear the points of view of the members of the Call group. If they read through the document, perhaps we could respond to their inputs.

Chairperson: Yes, are you ready for discussion or should I just take you through the head points of it? Have everyone got a copy of the document?

It is in view of the fact that only one member of the Technical committee has drawn up this document and I am sure they also need the opportunity to discuss it themselves. What I suggest we do, we

give them some quick feedback to the extent that we can now, and that, before the theme committee meeting they have the opportunity to re-visit the document and need be, revise it. Then perhaps give us feedback at the theme committee meeting itself. That exchange might be very helpful, both for them to find themselves and for us to also give them some feedback which they could use to revisit this particular document. Can I suggest that proceeding, if we finish this in the next 15 or 20 minutes, we can come back to this when the Theme committee itself meets at 11.30

Chairperson: Everyone agreed to this?

Prof Deiss: I agree entirely. It seems to me that in fact it might be very valuable to go through this with the Theme committee for a reason, because there is a lot of assumptions here. You know, for example which could give the members of the Theme Committee some indication of how different constitutions work with these particular powers. So in a sense it becomes an information exercise at the same time. It might be valuable for various parties submissions.

Chairperson: Excellent. Mr Gordon, would you want to - has everyone agreed that we go this way? Mr Gordon, would you like to give reaction to the document or anyone else of the Call group.

Miss De Lille Chairperson, on page 2 - under question 1 - Prof Venter says that impossible approach would be to use a similar recipe as that employed in the present section 1(26) which also appears to be consistent of the constitution principle 21. Now chairperson, I looked at section 126 and constitutional principle 21 - I would have loved to know from him how section 1(26) is consistent with constitutional principle 21, because to me, it does not give the same impressions. I don't know whether some of the other experts would like to comment on that one. Then I leave my other question till we get to the next page.

chairperson: A decisive question. Will you react to it Prof Davies.

Prof Davies In this sense, it could well be that section 1(26) does is concerned with a notion of overriding power, but I wouldn't necessarily suggest personally that is what you would want to do. If I might just make one point, which might be valuable to the parties - I just had an experience in the Constitutional Court, which I think is quite valuable and I think people need to bear this in mind. In the bill of rights, there is a limitation clause, they were selling .. Borrot from the German Constitution Court and the ... essential content of the right. No one knew what it meant at the time and the drafters didn't know what it meant and it was passed through the

Constitutional Assembly and it has come back to haunt us now. The judges want to know what it means. What I am saying is that I really do urge parties, that when they do make their recommendations and we do draft their constitutions, we do know what our words mean and what 1(26) does, unfortunately, it is throwing everything in - is that I am not sure that it is going to be very easy to litigate on that. You might want to address that, give money to lawyers. But at the end of the day, all I am saying is that it might be very valuable as a starting point for us to actually be rather careful with regard to the way we go by the business - the answer is that this is just one of a series alternatives Miss De Lille that one could use, but not necessarily the only one.

Chairperson: Thank you, welcome to Prof Venter who is brought too many books.

Mr Gordon: In the following on question ...

Chairperson: Can I just ask that we inform Prof Venter where we are - on the framework

Mr Gordon: Taking up on Prof Davis's point, what we might want to do, to start on a very general footing here and then ask our selves what are the key issues that obtain to this question of National and Provincial competency at first. Question 1, unfortunately takes us into one mechanism to deal with this question. I.e. listing the competencies. I imagine that constitutionally there are other mechanisms that are available. So I would think that the first question amongst us to ask are, what are the mechanisms available to deal with the question of competencies. And the relationship between National and Provincial. If the experts could ... that out for us. Say these are the 20 different mechanisms that are available. That then places before us a range of options . I think it is for us to put this to the C A finally, to say choose one of these options. Most compatible, with what our needs are and secondly what the constitutional principles prescribe on the other hand. So the second question would be what are the strictures or opportunities that the Constitutional principles provide for us. In other words, what are the various interpretations that we can give to the constitutional principles in order that we can see what are the limitations that we have to work within and also what are the opportunities that we have - to be creative in our particular context. That then leaves me to an observation in terms of line 246 of the answer. Of the comment of the applicable constitutional principle, what says a possible approach would be to use a similar recipe as an employer employed in 126. That obviously brings the question - what other options are there. That being one of them, but that I think is in line with question 1. What I am now doing Chairperson, let us just start on the general footing,

that the first question should be one of the mechanisms available and the second question - what are the strictures and opportunities presented by the Constitutional principles and then of course we can work on from there.

chairperson: Thank you for that well phrased question. We leave it unanswered as they work on it. Miss De Lille?

Miss de Lille Chairperson, I want to follow Mr Gordon, as saying, she must ask the Technical experts that - if you miss provincial competencies, and you don't list the National one, the influence of the constitutional influence, I think after all, parties will have to decide which one are we going to list. Say, if we decide that we want to list the Provincial competencies and another party decides otherwise, I think the experts must also point out to us - taking on consideration the principles, the implications there of - because definitely, we will be required to make a choice. Which powers we want to list as different parties.

Chairperson: Thank you I have noted that question. Could I incorrectly from the chair also ask something round principle 19 while we are around it. The nature of my question is this - if you look at the wording of principle 19 - I haven't got it in front of me, you will see it has two parts. The second part referred to delegated administrative powers. The question is technically whether that second part has an influence on reading of the first part of principle 19 by virtue of the principle of the technique of interpretate - are you... generous. That means to say, that should the first part of principle 19 only refer to legislative powers or would it be constitutionally in order if only administrative exclusive powers be given by virtue of principle 19 and not exclusive legislative powers as well, because principle 19 does not distinguish between Legislative and Administrative exclusive and concurrent powers. Now, we have a question from Miss De Lille or did I miss another hand? Miss De Lille please.

Miss De Lille I want to follow up on your question Chairperson. If you take, if you read constitution of principle 19, subject to constitution of principle 21, what is the implication?

Chairperson: Excellent. That is bothering me a long time already. Did you get Miss De Lille's question? Would you like to repeat it? You have got it.

Miss De Lille I am saying, what is the implications if you read constitutional principles 19 subject to constitutional principle 21.

Chairperson

All these principles should be read as a whole Prof Venter. We are not really answering. We are putting the questions now at this stage and if I have it right, perhaps if we have the time before the Theme committee, you could start addressing these questions, some of them go very deep and some research must be needed for that. I have understanding. Now, where are we now. I was thinking substantially and I wasn't thinking procedure. Mr Andries?

Mr Andries

I think we must, just in terms of how we, I think it is fine the way how we discussing it, but we must just distinguish between questions we are asking the Technical experts. As appose to the questions to be answered in parties submissions. And I mean, I think it is entirely appropriate that we discuss both or raise both now. I think that the issues that have been asked now in a sense correctly are issues that the Technics of Mr Gordon's example, what other ways of doing it are there. That is not a question we are going to ask the parties to each try and answer. They are obviously welcome to say what they want. That is and these headings we are looking at here, because the questions, are in fact for the parties to arrange their submissions. So we sort of doing two things at once. As long as we are aware that they are separate things, that is fine

Chairperson:

Excellent Boet, you see the problem if I see it rightly for the parties is, within what scope of the Constitutional principles they have options available for policy political oppositions. When are they going over the boarder, then it is outside the principle, then it can't be a position legally. Thank you. Could we hear if we are finished with the questions now to the experts at this stage?

Crop up again. Anything further.

Each of the questions one at a time. Let we finish with question one and then deal with question two

Chairperson:

I put question two. Should the competencies of the provinces be fixed by the constitution or should the constitution allow for an illusionary process and we could also add as or for an elastic process. Or elastic system of competence which is different than evolutionary. Discussion and questions around that.

Mr Gordon:

Again chair, I think different options need to be put to us. What are they? What is elastic. I am sure each has its own notion of elasticity as well what is evolutionary. Again, what are the structures of the constitutional principles in this regard, because they have a pre-application here. There are two other issues that I think arise here. The first is, in terms of line 245. Of the commentary where there is reference to the frequent inter-governmental

constitution litigation. Now, the question that arises is, how can you immediate this to ensure that litigation is not the first instance of interface between or interaction between the two levels of interaction of Government. What role do the Governmental forums play in resolving conflict and whether you can constitutionalize that or not. Particularly in a situation where we talk about a National reconciliation and mediation as a mechanism to resolve difficulties. What role does that have here and then, four lines further down we talk in order to minimize conflict - the Constitutional Management will overlap of concurrence will be formulated as tightly as possible again the question arises, what are the options available in this particular regard.

Chairperson: Thank you again Mr Gordon. Perhaps you can add, I must say I am a bit worried that the reference, the point of departure is always section 126 as such. Whether the question at the end of question 2 - whether the provisions of 126(3) and (4) satisfy the requirement. I think there are some parties which have a different approach - for example the PAC, that we should .. The thing should be written new if I read the news correctly. The constitution must be .. New. Whether we shouldn't think of this just in terms of the constitutional principles. Could I also add to Mr Gordon's question, the consideration of the effect of principle 23. Under presumption which is created there. I put question 3. Are we finished with question 2?

Miss De Lille I just want to ask Prof Venter, through your chair if it is in order to minimize conflict , the constitutional management and overlap and concurrence should be formulated as tightly as possible. Will that not be regulated by the Constitutional Court section 1980. Are you referring to a different mechanism that must regulate the relationship there?

Chairperson: Do you have the question?

Prof Venter Thank you Mr Chairman. It is a matter of how the Constitution provides for the resolution of possible clashes here. If it is not formulated very clearly, the chances are of the inter Governmental constitutional litigation will be enhanced if it is formulated tightly. And if even provision is made for mechanism such as those that are being developed automatically such as inter Governmental conferences and things. And inter Ministerial conferences and that could also lighten the problem. If it is vague, as to my mind, subsection 3 especially of 126 as an example - at this stage is, you tend to run into more problems as otherwise.

Chairperson : Thank you Prof Venter. Can we go on to question 3. I put question 3. What ... of the Provinces, National involvement in matters concerning Provincial Government B. Referring to principle 18. Mr Gordon?

Mr Gordon: I think this question could be perhaps phrased more positively, what should be the nature and the extent of the provinces involvement (a) what comes in later. Involvement in National executive and legislative structures. In that sense covers question 3(a) but puts it slightly differently. In other words, a second Parliamentary chamber is one form that Provincial presence at a National level take - for example, we have a regional list at the moment. Which is another form. Again one would be interested in knowing what are the mechanisms available for incorporating Provincial presence at a National level. Second chamber being one or what are the options being available. 3(b) of course, there is no 39(b) - 3(b) is OK.

Chairperson: If I could just ask to extend that question. In this respect we really need international information. Not only the classical Australia, Canada, Germany models, but Austria and going into a lot of possible conflict resolutions. Why did it fail in Russia - the federal experiment. That type of thing we need. Are we also covering 3(a) and 3(b)? No more questions on that? Can we go to 4? Should the fields of potential activity of Provincial authorities be amended referring again to principle 18(2) where provinces ... competency is to be substantially less than or substantially inferior to those presently provided for the one which gives the big difficulties in this committee - as long as the end result is quantitatively and qualitatively similar or superior to the present dispensation. Schedule 6 however does not refer to specific powers and functions but it defines the functional areas within which the provinces may operate. The question whether this list needs refinement and or extension, or whether it should be much shorter if we talk about functional areas. Questions about this question? This is really the allocation of powers which I hear. For example, should police still be a functional area of the provinces? That is the question here to some extent. Should we arrange the functional area presently in ... 6, more in terms of how the present broad range of departments in the provinces are constituted and being organized. That is the type of questions that arise here. It is a hell of a lot very difficult problems here. Mr Gordon.

Mr Gordon Clearly chair, this is an area which requires us to reflect on our experiences on implementing the Interim Constitution. It is not a abstract thing. We have the opportunity to draw in lessons of the last nine months or so in terms of schedule 6. What has it meant in practice, what has it experienced being with Policing or any other

functional area. I was just wondering if we could ask the Technical Experts to look into that question to see how based can we firstly establish what the experience has been and what it is that we are looking for. Secondly, how do we draw in that experience into applying our minds into this particular question.

Chairperson: Thank you Mr. Gordon. Prof Venter?

Prof Venter: The matter of establishing what the provincial experience is at the moment is something that we certainly cannot undertake. We haven't got the infrastructure for that, but there is an institution which I serious represent at the moment here at the commission of Provincial Government which I think was established specifically for that purpose of maintaining contact and monitoring and doing other things in regarding the Provincial system. We as a Technical committee I really can't see how we can obtain that info - it is completely impossible.

Mr Gordon: Chair, I think Prof Venter has missed my point completely. I said that the Technical experts have to apply their ... as to how it can be done. Not to actually do it and to see what wisdom is there in this particular approach. I think it is a comment and I take the point that not only the Commission, but the department of Constitutional affairs and Provincial affairs have a lot to offer in this regard as well, but I think the questions of a more general nature rather than a more specific nature.

Chairperson: Mr Andrews, I can't see whether you was first

Mr Andrews: Yes, I think it is going to be relevant as we made the point on a number of occasions before. That it is one of the mass disadvantages, to try and rush into drawing up a new constitution before we have really, many of these departments have night mare experiences given all of what they are trying to do in a short period of time. I would see that one wants to get that experience from two or three angles. One is from some of the key government department and in particular constitutional development. Secondly, get it directly from the horse's mouth. From the Provinces themselves. To have them also come and give evidence to their experiences and thirdly then from Mr Botha's commission, who are in a sense in the middle, trying to help both ends and resolve it and getting it functioning well. I would agree that it is a necessary information that we want, but I believe the best way to get it is in each case directly from the horse's mouth. I think we should make provision in our programme once we got our framework thing to actually invite submissions in oral evidence from all three categories. Thank you.

Chairperson: Are you suggesting that perhaps soon, before we decide on anything, we might get a report on this. That we advertise for special submissions on this problem and hearings

Mr Andrews Yes, we advertise in the normal way, but in addition, we specifically write and request / invite each of the provinces as well as Mr Botha's commission as well as the Part Constitutional affairs. We don't rely on them reading the newspaper and then coming along. We specifically request them to do so in each case.

Chairperson: We are making progress. Prof. Douglas, are you also talking about the subject around it?

Prof Douglas: I am talking also about something that in a sense also relates to the interchange to Prof Gordon and Prof Venter. Which is, it seems to me, you are asking one of two things. That is on the one hand the framework for your submissions, but there is also a more extensive document in which we will take a few more days to do. It has nothing to do with what you have to do, period. Which is an underlined research which in comparative model which you can help formulate not only your proposals, but the longer debate in relation there to. In obviously, I would make a similar suggestion to Mr Andrew in regard to bringing in experts. In a sense I take it, they want us I take it as well to make suggestions at that particular time as we go along the way - as you deal physical powers - get the physical and financial commission in or the Revenue department or whatever the case might be. But I just want to make it clear, there seems to be two documents that you are requesting us to prepare. The one is your framework and there is something beyond that if I can call it an information document.

Chairperson: I think that is the idea at the moment - for the while you could correct me on this, I will give you my opinion, but is it that there is a request to the experts, at least consider these methods and amongst them there is this special hearing on allocation. To consider that and make a recommendation on that. Could I just hear the question at the end of Prof Davids comment. Is that - does he understand us correctly? He does.

Mr. Andrews Mr Chair, just looking at the questions in general, most of them center around legislative competence as opposed to executive competent. Which I think is appropriate to do first. In terms of how we go forward and in what order we are doing things. I would suggest that in particular 3(a) and 3(b) should come at the end of this block. In other words we first need to decide the legislative competence of the various levels and how one is going to cater for

them. Then one needs to decide the executive competence. Having decide the other one and then thirdly, one then looks at the structure and mechanisms to give effect to those two competence that we have decided upon so while I think 3(a) and 3(b) are certainly highly relevant to our subject matter and in fact to our block itself, I think they should come after the other things have been sorted out rather than putting them in the middle, because the nature of those structures and mechanisms may well differ considerably and depending on what we want in terms of the legislative and executive competencies.

Chairperson: Thank you. Have you got that. I think it is quite clear. Could I ask if we could move on now. Mr Gordon, something.

Mr Gordon: Chair, we are dealing with relationships of level between Government. One level of Government which is not catered for here is Local Government. In the relationship between Local and National and Local and Provincial is a crucial matter for us as well. I must say - how we are going to deal with it, perhaps we should just note that it is something we have to come back to. Perhaps we can get some advise from that as well.

Chairperson: Thank you. The point is, I think Local Government is in a separate block. But you are right in this respect that this relationship should come into play at this stage perhaps already. Because the moment you say for example, Provinces have exclusive powers over Local Government, just for example. That has bearing on relationship between National and Provincial regarding Local Government. So the principle of the way the relationship should be, be structured - I think that is the question of Mr. Gordon. Would you like to add to that Mr Gordon?

Mr Gordon: Two issues that I could deal with immediately, then we can keys this out Firstly, whether Local Government should be constitutionalized. Should it be an aspect of the constitution or not and what are the models available in this regard. I think that will help to open up this debate a bit. Then secondly, what are the different modules available in terms of modulating the relationship between National and Local directory or in national and Local relationship mediated via the Provinces. Perhaps those two

Chairperson: Prof Venter. Could I say welcome to Mr Groenewald. It is excepted and the ANC is very "geduldig" at ease with that.

Mr Groenewald: Ek waardeer dit Voorsitter, maar ek het 11h00 weer 'n vergadering. (I appreciate that, Mr Chair, but I have another meeting at 11 o' clock again?)

Chairperson: I understand that. Thank you.

Prof Venter: Thank you Mr. Chair. I just want to respond to the matter of Local government being dealt with here. I would suggest that it is being such a huge topic one can also see it from the submissions, that is being presented, especially from the public - a huge and very specialized subject if it has to be addressed at this stage. It should only be addressed ... and not in substance. Then I would also like to point out that principle 24 requires Local Government to a certain extent in any case to be Constitutionalized to it will have to be dealt with. Being such a huge topic, I would really suggest that you consider postponing the debate in detail on that to a later stage.

Chairperson: Yes, it is the framework which is the question in the present constitutional style. I think the thought came over at this stage. When it comes up the principle of it could be realized. Could I ask please - could we step off this framework for the moment? It will come back in the Theme committee

Chair, I just think in the terms of the expeditious procedures of the Theme committee - what are you going to report to them? We have discussed that, so as I understand it, at this stage the Call group is not going to recommend any framework to the Theme committee. Is that correct?

Chairperson: I don't know. I must say. You must lead me on this please. What do you suggest? **End of first tape**

beginning of second tape

And the main framework can go ahead while the Technical committee make inputs on the various questions that is asked of them. All I think is - we don't want to go into the Theme committee and then have a ... because they get this document and the Call group is not giving any suggested Leadership on that.

Chairperson: Discussion. Would you suggest from a practical point of view that Prof Venter for example who drafted that, that he should just present the document in the Theme committee this morning. Perhaps talking about a few of the questions that has just come up, please help me with this Mr Gordon, and Mr Louw.

Mr Louw: I would suggest that we adjourn this meeting now and that we give the Technical experts the opportunity to digest what we have put to them and that they give us some feedback when the Theme

committee starts. At that point I think we need to address Mr Andrew's question that is - what is the relationship between the model for or the questions for the submissions of the parties and the questions that we have raised and which we require more extensive work to be done by the Technical experts. We ourselves would like some time to think this through, to see what is the most effective way of dealing with both these issues and what I would suggest that at this stage we don't really make up our minds on that - say there is this relationship and there are these two separate questions who need to find an effective relationship between them and would like to come back at the 11.30 meeting. Share some thoughts on that with our colleagues.

Chairperson: How do you feel? It sounds very sensible to me. Agreed.

Mr Mahlalela: Can I suggest that what we could do - let the experts find a place where they could handle the matter and then the co-group could go on with other issues on the agenda, for instance, in the afternoon, there is the meeting and the Theme committee report .. Should be tabled and it so happened that one of the chairpersons is at the table at that point and that ... Mrs De Lille at that regard. That suggestion needs to be confirmed by the co-group to - we need to look into the issue of an advert. Other committees that issued adverts soliciting submissions from the society - that is from the civil society. We have been given opportunity which other committees haven't, come up with their own advert. Which is going to come up with specific questions as what we really need from them - so we need to look into those. Another thing, who might also want to look at the work schedule - take for instance, try to come up what are we doing for the next 3 weeks for instance. We know that we don't have the participation programme this coming week-end but we might need to decide what we want the progress to be like or what the way forward should be.

Chairperson: I think it is necessary that we should continue while excusing the experts at this stage. We will make it quick. What was your first point? Report. My dear friends, I don't think we must meet here for the call group. It is too formal. We must get around tables for the call group. The first point is just to confirm that Miss Patricia de Lille will make table report this afternoon in the constitutional committee. Has I got. Agreed. Point 2 - what is point 2 again?

The advert.

Miss De Lille: Just before we go further on that, is there any issue that the Theme committee wants answers from regarding the report from the CC

this afternoon and I think those must be pointed out. Are we just going to represent the reporters for information or do we need any response from the CC?

Chairperson: Could you react to that please? I can't think of anything specific.

I just like to make a point. It just didn't happen in the last 7 days but the communications are still aphauling. That they jump around and ender up and mocking us around by, because they change their times and then we don't have our technical experts here, because we thought that was a free slot and the Constitutional committee has changed their time and meeting. I think that whole communication and that kind of speedy informing of call groups in particular who is trying to manage Theme committees or trying to arrange Theme committee work, that still needs to be improved enormously. That was in the last 7 days, last week it created havoc in our, trying to get our work done.

Chairperson: No, it must be better. We must do it ourselves and we will work on it. Please keep on reminding me. Could we then ask Miss De Lille. You will do it. That is agreed. Now, my dear friends. The advertisement, there is no doubt that we must now call for that. Could I hear a discussion on this

Mr Andrews: Chairperson, I would think the procedure in which we need, the sequence in which we need to do things, first thing, we should decide on a framework. Which we in the process of doing it. I don't know how long, having done that, you have to have a framework first. Once you have the framework you can also decide on the time table. Once you have the time table, you can then advertise. I think to try to advertise before you know what you are wanting to say, because I think there is a very specific intention and correctly so, and if you have seen the advertisements of other Theme committees that have been placed - one is breaking down a little more detail as appose to just a banner headline which then allow a complete sort of shotgun approach in submissions. Much as one should like to move on it, I mean the first, once we agreed the framework, then agreeing a time-table and instructing the advertising agency or whatever, follows quite rapidly and quite logically. I don't think we can do it until we have agreed the framework.

Chairperson: It makes sense to me Mr Gordon. How do you feel about it. Have the secretary got that three phrased? Decision? The report of submissions for ... council. Do you except the motion for closure? Agreed. Thank you very much for your attendance.

(Beginning of Tape 1)

Chairperson Well the feeling of the people there, which we can see was there, as far as I recall was that it, that it wasn't a problem that the volume of the staff of the Afrikaner bond and the extend to which it would be a hindrance to have him having to excuse himself was not such, that it would impair his ability to make contributions but as a technical adviser, are we happy that we actually..

I must say Mr Chairman I, it was I who organise the problem and I was still by my comrades that if I have a problem with the Broederbond it is, it is a ethical problem which I have and they haven't got so much problems with it, so I think I was over ridden. I, It was not formally put before my caucus at this stage, I think I should just like to have it put before them and be formally overridden and then it can fall away.

Chairperson OK, it is just that I mean presumably Prof Venter rolls on meanwhile.

Ja,

Chairperson Ja, Oh Sorry I mention the points I have promoted. Does anybody have minutes? OK taken as in order, thank you. Then we got the minutes on the next page, page 6 of the meeting we have briefly at the close of the theme committing meeting on Monday evening.

Peter I was there

Chairperson OK. Yes, I don't think Ruth was there I think Peter was or maybe both of you

Can I just explain what about, because I thought you know when we talked about the I thought it's gone a be ten minutes no formality and I did not have a register then I come back and fill in from the memo the next day. Sorry

Chairperson OK

Peter Well done

Chairperson Right, right yes well Ja definitely the other ones you mentioned were there and Peter was there and Peter was there sharing a ashtray with Dirk

So I got it right except for the IFP

Chairperson Ja just take out the R..... which I,.. didn't was there and put in Peter. OK comments I have two, well I have a couple actually under three. Now I saw in the noticed it's been mentioned, I didn't I must say my record action was the workshop on Monday was far beyond concurrence I, .. would someone like to suggesting a wording, shall we just take out the topic being concurrence rather trying to formulate a topic at this stage instead because it is a combination of between Prof Davidson annualise and some other federations as well as aspect of principles that they may have started. People must do it free for them that will bring something so far.

Chairperson OK, right so we just take out the words of the topic being concurrence

Because I think also that what is going to be need for two couldn't be all done in one if you need for two in the workshop

? Yes great

Chairperson OK but I think the one is going to spill over. OK just for the time being just take that one out. I think that 5, I think it is a misunderstanding of a particular discussion which leads onto 6 because I other words I am going to suggest that 5 be deleted. I think that was in the context of, if we are required to rewrite our report on block 1 and we are going to ask the technically committee to do it, in that instant, we should actually give them a written instruction so they know exactly what

they've been ask to do, but I think, on my suggestion present for the time being is just to take 5 out completely. I don't know if that was any of your decision and in respect to 6 I would suggest that we need to sort of noted in a sense but I would like to change the wording to read as follows, "It was agreed that the technical committee will assist the Call Group with those condenses issues which the constitution. which the constitution committee not assembly, was apparently referring back to the Theme Committee for further discussion. OK and then however, the Call Group will await written notification from the CC before taking any action in this regard.

Anybody must just notify us [..]

Chairperson

Well I mean, I don't.. Ja I mean if they want to tell us anything they must tell us it mustn't be sort of hearsay evidence

[...] the constitutional committee must apparently referred back

Chairperson

it was apparently referring back they were due to do so in other words to the Theme Committee for further discussion. Right so the word referred comes out and was apparently referring goes in and then in additional sentence. However the Call Group will await written notification from the CC before taking any action in this regard. OK Right any other amendments to those minutes? OK In order, right those are approved. Now goes to the next item. Minutes of the previous or their two meetings.. is there anything arriving that is not on their agenda when we come to general if something looks to you as though it isn't been covered and you want to covered we can handle it in so that is all right. OK. Framework heading 2. We haven't .. I think it.. it's well I don't has something been handed out because various papers is go to come flying my way while I am chairing the meeting, so I would actually like us to see it, to actually, all have it, the whole Theme

Committee actually not just abstracted from minutes and actually see it on paper

OK I put it back in the bag but of course the last page that shows the changes in section 8

Chairperson Oh I see

because it is subsequence it became after it you know what I am saying but otherwise it's gone to change

Chairperson OK

If that will make it easier for you and then[...]

Chairperson all right I would like to suggest that the way one sets it out is as follows. You put subheadings for heading 2 as you've got so we take out the suggested, oh well it was suggested but now in terms of what we are doing OK so you take out suggested. You take out in that context the words covering into area and then you have face 1 allocation of powers. OK and then underneath you say, that is kind of the first heading and one says, covering into ?, the answers to, OK and then you actually type out those questions. See I like it to be self standing document so that someone who wants to look at it does not have to go and trying get ventures facts and so on, OK and you see you simply then retype the appropriate questions as well as the appropriate words if so how, which, or what whatever is appropriate for that one so that you do that for each of those and question 5A then of course gets typed in as question 5A so that a person who gets that sheet of paper has got the subheading and the, well in fact at present we only doing face 1 so I would not put face 1 or whole questions 8 or 10 at all so it just down to local government in question 9 OK and under each of the headings you put covering into ? and then put in question and answers

Mr Chairman now were talking on page 27 on document ? page 23 now actually there was sins

the previous meeting there was a lot of talking about this document and Theme Committee as well and I thought the format is going to change

Chairperson what changes

and would the experts have look at it again we should have change it because now it's still in exactly the same form as the last time. I have..

Chairperson You see I am not certain for example at the end of our discussion were the allocation have ? you wanted in brackets legistrate of an executive if you do I don't have any objection of putting it in putting those words in but I am not or otherwise. Yes Peter

Peter Chairman I think that was understood I think the

Chairperson What must be understood

I think the that you include legistrate of an executive as you saw fit

Chairperson that I put the words in

No No The way it was say you must understood it was a open question you can cover as you saw fit but the question was based I thought that, I am not sure where it is but I thought we gave instruction to the experts, it is not in these papers, and gave instruction to the experts to come up with the balance of the frame work

Chairperson Yes that is correct

Well if that being the case I can not recall whether we did that in the understanding in face 1 is as is and only to ? out the rest of whether look at the whole thing

Chairperson My impression was that we were going ahead with face 1 as agreed which largely here, I mean there is a word or 2 missing, fine and that was to get the ball rolling and then we could actually get out and advert we would agree today on a list of people who are going to be mailed

and we were then starting to get the thing and so that was my understanding

? couple of minutes to ? the technical advisors were asked to look at subheadings for the balance

? all the rest for heading 2

yes. but I will redraft up so you say allocation past and local of government you want me to draft up

Chairperson sorry

I'll redo allocation of past and local government

Chairperson well and the middle one to

you did not mention that one sir

Chairperson well all in the same form. What I want is if people saying what you asking for submissions on a present you can say

I am sorry Mr Chairman perhaps I miss the understanding what happened last DC committee meeting but that I thought we had seriously criticism against the last stage it is said this is the ideologically ? that we meant what we said. Now I don't want to stand and to bother with the process at this stage but at least we have points, this, I am talking from a document which Pravin Gordon gave me in a previous meeting which prepared on this question There was this question of having rearranging the questions. The first part from A should go about allocation of powers and then the relationship must have reflected in on page 27 But should we now except that this framework the technical experts are not going to look at again and we must now except that as our program

Chairperson Well that was what both the corporate and the key people decided ? in fact he and Peter were

the main, well he started by suggesting by putting allocated on powers ahead question 1.2 and 3 underneath it. Well I mean this was

I see ? perhaps I do not know enough and I am worried that Pravin says no this was not what was decided there but you can, that was the decision at that meeting because I was absent there.

Chairperson

well if you look ? on our meeting in the morning on page 3 that was what was agreed at that meeting and in fact a lot of it was at Pravin suggestion for example 5A came into being because Peter particularly felt that 4 and 5 were to restricted themselves and they want one more open questions I mean you know various people make contributions but a lot of that kind of thing is

then I must accept it because Pravin gave me a document roughly written all over it and I could not get to this, but that was what was agreed

Peter

Chairman it is very simple, was the question that there were invited ? no answers and didn't really invite proper solutions so we thought it better to fade these as subheading and then in the course of this submission you would ? any answer this questions not as question to have been taken into account in these submissions that one made so that is a more logically way of doing things but only at the first stage the rest is open now to read.

Chairperson

OK if we can do that maybe you can let me have a look at that so that is no .. because I have just given it to you.. All right that finalises our framework. Sorry, I think that finalises anything else OK. 5 is advertising. I might just asked before we even, we've got on page 8 an advertisement draft, can you tell us how draft is it or is it water under the bridge, because I do not want to discussed something that is already in tonight's newspaper, spend time, Now has this actually been placed now

?

Ja

Chairperson

Yes

What we have is a version of what we have seen in our national Sunday newspapers there is an English and Afrikaans version, we could not get unfortunately in other translations because the other peoples wanted it on a dead line and could not commit that dead line.

Chairperson

So this is actually really for information, I mean well this is nothing, this is going be in the Sunday newspaper if we like it or not, so the procedure is that having to decided the directorate secretarial however plus the media people decide how they want to turn this into user friendly advertisements and it is actually water under the bridge whether we think it is marvellous or awful. Yes Peter

Peter

I just need clarity. All those going in English and Afrikaans in this weekends paper we'd left submissions open to the 24th so the 1st question is can we have further advertisements, 2nd is it only for the Sunday newspaper, Oh it's change OK, do we use only Sunday papers if so can we for example do paper in other languages and I think particularly in Langa which we can see as a vehicle.

There are two other news papers that you know we are looking into is Langa and ? those are two other newspapers that is to use. Which means if we give the go-ahead you know. it is go to appear in those two papers not other papers

?

What about Sowetto

Well the Sowetto I think is a weekend paper, City Press is the week paper

?

Why have choose these papers it is crazy I mean it is the Langa and Sowetto I would thought that would cover the urban rule the info

?

What about the other Zoeloe ?

? cost really it is a big circulation.

? All right, the Sowetto will be a good one

Chairperson and in the reef presumably if you want to get to the, to stop using all the youthsism that crept in to get to the black people. I suppose the disadvantage of the previously franchise whatsoever. I would think Sowetto or City Press is a must for the reef

I think that City Press is covered

Chairperson Oh they are covered, that has very big leadership I mean that is big it has a

Peter Seeing that this weekend is through but subsequent as we could have a slight input in those

As from the ? decision I remember me, be reminded that we can no longer come up with our own address now we have to come with address which is gone to be in block, that is you know when all other committee come up with an advert then we have to issue an advert as well.

Peter So to make sure there is no misunderstanding, what you said is that this particularly ad which is still run in ? and Langa this particular one which we want to change because it might be incorrect can it still be done now

I will have to find out

Chairperson I would suspect in the terms of the way they budgeting having advertise whether advertise on Telly you can't actually advertise anymore

Peter Now it's saying Mr Chairman on the assumption that you can do it because he said that you can it is going to be report in Langa ? still therefore it is going to be done it is just a question is, has to be translated anyway

What I suspect is that it could have happened as explained by Peter that it might want in Langa to covered and you know it's likely that it has been taken to ? Langa, and it has to come out there in any case. So we said just then that there won't be any changes which can be affected on the advert as it is that as it stands now unfortunately

Chairperson Is the Afrikaans going to the Rapport

I am not sure which Sunday Afrikaans report

Chairperson We will use anyone

? Ja OK

Chairperson So it is not going in The Patriot

? Is it going to translated or in English

It is going to be translated

Chairperson All right OK, CPM's while Ruth is not back yet shall we jump unto workshop on the 13th of March. It is Patricia's turn to be in the chair but I see it essentially as driven by the technically advisers I mean they are going to decide what the presentation it's workshop star and so unless somebody thinks I don't think it is preparation we need to do in that regard to notice of the meeting have gone out I do not think we were I mean we all felt that concurrence was a bit to cryptic in relation into the scrip that may be covered but I don't think we were anticipating Theme Committees doing a lot of preparations in terms of reading so it doesn't really make any deference as long as they are there

Yes Sir is it fine

?

Chairperson Oh in a minute OK All right Yes I didn't look at one at this stage

Chairperson can I formally before the time apologise for my absence because I would not be here on Monday and it looks very badly for minutes come out and my name is on it not even apologise for my absence. So I apologise I would not be there.

Chairperson Well I will ask Ruth to brief you afterwards as to what was covered that will then teach you not to come.

(Laughter)

Chairperson looking about here is the document by ? that Ruth referred to constitutional provincial on devolution and federalism was distributed in volume 3 of submissions, this is submissions as attend in February. Now I am not sure if they if the committee not the committee ja the Theme Committee or the workshop I mean this was a suggestion of Ruth but as far as I am aware maybe I am wrong this particularly workshop is not necessary in any way focus, it may not touch incidentally so ... Yes Peter

Peter Chairman my understanding is that under the word concurrence it was inproperiot but it was to discussing fundamental relationship between the powers of the various federations concurrence was a part of it now that was germane in the sense it was pertain because it becomes a certain topic but it might be useful simply to bringing that into the attention of Dennis Davis so that he can just let us know where it is because I presume he has all the sense of admissions than we have if he can brief us which article it is could perhaps make reference to it in his workshop

I think Basson is looking into that document and Dennis Davis is looking into federalism

Peter Federalism issue is not conscious ? Federalism issue is the relationship between powers in other parts of the world and that as well in relation of the constitution

Chairperson

OK I think the question is that whether we need to do or can practically do anything before Monday I would suggest not I think Monday it will be useful if somebody think this a particularly good article which I quite honestly haven't read yet. If somebody wishes to say that they would like to draw people's attention that the article is in this document and they think it is a good thing for them to read. Yes

Peter

Yes if we would just bring is to Dennis Davis' attention so that he might wish to address the issues phrase at the workshop

Could I just ask Mr Chairman this article from where does it come what one is this is it the one that was in a book

?

Yes

that is very dated staff of Leonardi you see

Chairperson

I think that any member of the Theme Committee should be entitled to say at the Theme Committee I think article XOY is jolly good and I like people to read it I think it is would be entirely wrong if as a procedure either Call Group or Theme Committee members said I think that article is jolly good lets have a workshop around it unless it was anonymously agreed that is the article to have the workshop around because as I said I haven' read this one so I am speaking at a point of ignorance and as on issues of devolution of power I maybe quite close to the to some of the IFP ideas I may not hate this article. But if somebody else came up with this article that I shouldn't like or thought it didn't deserve special attention

Mr Chairman if I can just complete before I was now you see now I think it is not about article that is not what I am saying I only saying that there's far newer staff from Leonardi available He has been under the search teem which did work for the Eastern Tansvaal which would there submission into CI and those includes some more

resent matters about it I just talk to Leonardi this morning by the way so I was just thinking of the cost of if we started duplicating a thing like that, if that is the right one to duplicate or was this intention only to give it through to Dennis Davis

Peter This is the submission we have already been duplicated

? Oh that one

Peter they send through this submission he have represent

??

Chairperson OK matter close All happy good Right lets go back to 6 for which purpose Ruth is here and the questions for semi literate which have been distributed here and for literate persons

Chairman ???

Chairperson Given the facts that each of these themes is going to be 6 Theme Committee members sorry, members from 6 Theme Committee and intact if you divide up there theme group 6 Theme Committee 6 you actually going till about 8 - 10 type of people I would think we probably want to identify and not necessary I mean members may have completely different questions but I was talking about as a whole I would thinking our brief one's probably wanting to identify maximum about half a dozen questions I think in the nature of the time I haven't been to these thing but just even if you got a 3 hour meeting I would imagine that there is a severe limit before we specifically look at this, does anybody else have any written question that they have written down that they want to distribute so that OK well let's this is the only written thing we have right now

? ?? I was thinking of Gauteng that it obviously was replace by any other problem that is related to ??

Chairperson May I just say as that first question well I actually don't want to get into it

? Is it practically enough to ????

Chairperson Ja because perversely it means or by the central and not the

? Oh yes we must want to changed

Chairperson not Cape Town or Central or the Gauteng or the central OK

? what the ???? was thinking about it ??

Chairperson OK let's may I suggest that we take a 5 minute break while we read the issues because I mean otherwise we just start with number 1 and start discussing it not knowing what the next 20 are about Is that in order Peter Questions for semi literate it is just the one that Venessa fetch for us

?? we find it

Chairperson that is why we got it

I made a copy

I was just delighted because I thought you wouldn't find it ???

? we have a break

Chairperson Ja for 5 minutes just to read it and while you doing it because I really think I mean I the Call Group hasn't agreed yet I really think I we've going to have to choose a few of the questions as opposed try and agree on 25 question so try in your mind if you like some question for I like that one and

??

Peter

some action and questions so to that extent really what one wants is at least one question per category of issues I mean as a category a ? there is a category on overwrites there is a category on executive functions I suppose ? perhaps phrase a question 1 question and then in the question for example such as education health, housing or so on that way to make it slightly more specific. In connections that we in terms of 16 committees doing this exercise simultaneously probably would be able to answer, ask more than half a dozen questions so what we need a shorter list and the shorter list then should cover categories separate categories instead of repeating some of the issues

Chairperson

OK Why I sat having looked at it and along the lines that you talking about Peter it seem to me on the semi literate page I do not particularly like using the terminology but it is properly accurate 8,9,15,16,17 seem to me to be fairly generic kind of questions covering ? topics and then on page 2 2,5,6,1,2 seem to me to again be on fairly generic things but that's maybe may I just ask would this be a kind of procedure fairly mechanistic to for us to go down the first page and I call out the numbers of the various questions I don't know for some reasons question 2 and question 7 are not there but and if anybody thinks yes they like that one considered or that topic we are not talking now about the precise word that topic in then just to shout and then we will come back to it otherwise we can say right we are not going to bother with that one and then we come back to the ones that people thinks that might be appropriate is that suitable or is there another way of doing this

1 ... nobody

No wait a minute I do not want to be bothersome
???? read through this I can see ????
for example what I am trying to say if you take
9 now this is all exercising domination of
communication should the Central Government have
power to interfere with the problems as law

making now ANC would formulate have power to over write the promises law making interfere is a word with a negative content in it so but on the other hand the question is well into substances of the question

Chairperson OK well at the moment you suggest that change to the wording Peter may not have a problem so

It is very difficult to quickly do an editing job where you have to apply your mind unto this but I will try my best when you go through it just generally raised the problem which I have perhaps then you could put question 1 again

Chairperson All right so when I putting a question I am not saying exactly the wording I am saying that one we should look at working on because it is in terms of if we looking at half a dozen questions that is kind of one of kinds of question we should be asking OK

? Could I then come back to 1

Peter Like number 1 can't we half finalise if we go along if we agree that kind of thing is OK why not further laws the housing education health such matters you know to make it slight broader and we could probably say it is OK

Now if I take one I should say we talking there about legislation functions now 5 is about that ministry function executive implementing function at least they should be close together or in 1 question so that a person can understand that

Chairperson May I just ask generally are we going to is out preference for the formatters of 1 and which we would then change you refer the laws for things such as housing, education or whatever we want to add to that list or the page 2 there is the alternative way of doing it saying which of these two scenarios makes more sense for you kind of thing which is the 6.11 which then in fact lumps a whole lot of things talk about minimum standards and overriding

You see my question in 1 would have been the following. Would you prefer that the policy and laws for housing is the same in all the Provinces of South Africa. That is the differences between the point of view which we ask the question. You see the point

Peter

No that doesn't tease out I mean you could say for example then you say, do you believe that central government should have the right

No my point is that question 1 as it put there looks at it only from the person standing in the province Gauteng and ask him have the laws for this province is to be made be Gauteng or Cape town. While I say the question that had to put to the person was, Should the laws and policy for housing been the same in all the provinces of South Africa or not

Peter

But then you also have to say who makes those laws

because you lead the persons mind into a deferent direction

Chairperson

OK I have got a suggestion to save my good health I like to suggest that you and Peter after the meeting you have a mandate whatever you agree on can go in as questions what you don't agree on can't go into questions. As you know I

No I don't want to ???

Chairperson

I do not suggesting that you're being under doing entirely what you are entitled to do it's very very difficult to ask absolutely neutral questions because if you say I mean I agree in a sense with both of you and absolutely I have certain preferences well but I mean it's and my problem is I think this is going to be a hell of a long process if we actually have long discussions OK and the fewer people involved the better. I don't actually care because the whole thing is a charade as I told you I mean I don't

mind if you have a question saying, isn't it true that Nelson Mandella is the best president that we've ever had and he wants housing police made at the central because I couldn't care 2 bloody hoots in going saying that

Peter Second your proposal you gays leave well sort this out

No unfortunately I must leave for Upington tomorrow morning and I have got problems to ? today can you believe Upington that is they send me to the all places where all the people is talk Afrikaans there is so many places where the ANC talk Afrikaans so a lot of places now could I say this I'll except this make it easy then I just want to note to be added to this list of questions draft by Senator ? of the IFP then our people won't be because then we can use it as we wish. How about that

Chairperson OK Now can I suggest it fine

Peter Sins we don't have the time I'll to back because I haven't seen these so I'll go back and try to draw 5 or 6 maximum and I'll try and take your consider to point and make it either all sort of thing so that it is clear there are options and so on

I leave early tomorrow morning

Peter I'll just now, I will contact you tomorrow

Chairperson All right Peter has ? so a decision for the Call Group is that Peter having heard comments will draft limited number of questions and he in consul with the agreement of Prof du Toit will before tomorrow clear out what they've agreed and that the Call Group is happy is what goes ahead OK

I have big compliments ?????

Chairperson Well I am very appreciative if this is the point she has actually do the work

that is possible because what is gone to happen is what we did today to try and circumvent having control long debate the 2 frustration issues which was raised was questions you know from work for submission and we use those as issues that are going to dealt with but now we needed questions that which is gone to be raised the by the ???? 23

Chairperson If you can have this by 10 o'clock tomorrow morning

10 will be fine

Chairperson Well thank you gentleman now we are unto feedback from technical advisors I do not know what's that about, are we expecting feed back in any case there was feedback

the only feed back that we have is that Basson is working on the document and but he won't have document on paper I mean he won't have his submission on paper that is for his presentation on Monday it's only Prof Davis who'll have something on paper and we should not expect document from Basson

Peter What document from Basson on what subject

? document on concurrently

Chairperson Sorry the next item on our agenda is important roll players listing. Now we did have a preliminary list may I ask have any other names been hand in. Yes sorry

the IFP has given us a list of people that they wished to include into the list but the list is very comprehensive

Chairperson that is a very polite word for long how many are there on that list is it there old membership of 300

Ja it is a long list actually it ...

you have talked of a membership of 300 long

Chairperson we even bought 800 candidates for them

yes it is a long list and I would suggest that we take it to the ? Committee first before we take it to ?

can it be thinned out

Peter possibly but didn't we include ? on that list

I did not go through it no

Peter the original authorities

no ? so there will be 3 sets of lists, we have got 2. We've got 1 covers mostly academics in South Africa and the other one is international players as well

Chairperson OK I would like to suggest the following lets just go through this list because I don't think we need to send it to all these people and they're all welcome to I am talking about this list. Have you got the list, no it was done on a loose sheet of paper handed out at the Theme Committee meeting it maybe is part of Theme Committee document I do not know. Well I will read it out to you and you can tell from my tone of voice whether I think they should stay on the list or not

There is one from the National Party

(Beginning of Tape 2)

? this type of talk

Chairperson now I just make a point to explains ja I think in largely except I think the Theme Committee 6 to some extent misunderstand there brief that this incidentally is sub committee 2 of Theme Committee 6 but as far as ? now they in fact do not have a brief or a mandate of whatever to look at economic relations or anything their brief is structures of government now I have forgotten the terminology or government

institutions comes into it, specialise structures of state so it is looking all when I say peripheral it does not mean it's unimportant but things that do not sort of fit into local government, so we've been doing the Reserve Bank, that sub committee is doing the Reserve Bank the the Audit General the Finance and Physical Commission, now there are some fairly under worked and over ambitious people on that sub committee who probably would like to be taking over Water Financial Relations Well that's the point you see I have doubts whether in fact we shouldn't be finishing our work first as to what the Financial Relations should be having decided that we then jointly need to talk about financial and Physical commission because impacts on follows from it, it is not actually part of it so I would not see it as part of their mandate to be deciding whether it is desirable or not for provinces not to have their own taxing powers well now because that sub committee's work load is fairly limited because it was really just on and it is also doing public enterprises but there is common agreement that they shouldn't be constitution so we shouldn't be mentioning Public Enterprising in the constitution except possibly that they should be encounterable but I mean it is a kind of half hour job we nearly finishing the other thing so the only other thing that sub committee should do is financial and physical commission so it is in that context that I think we should either we say we'll it so happens that many of the parties people with economical expertise have ended up under that sub committee standard understandably it's terms of reference I do not think in general that Theme Committee in terms of reference relate to things other than the structure and composition of the finance and the physical commission which to me comes after we have done our next thing and my inclination then which does I think differ from some people on that sub Committee would be to say we must get ahead with our work with our competencies and then get on with financial competencies and maybe put it before local government and then

have a joint thing to look at financial and physical commission that is how I would see it

Peter

I think you practically take the words out of my mouth that is exactly it we doing relationships and they structural this is that's technical essentially as regards to structural technical exercise which is also a political exercise they are not the same and certainly not hijacking from us well compromise could be that we will reach it and I think it is a good idea of reversing the local and financial compromise good idea compromise might be to completing the exercise they're have nothing shortly they're finished would be that perhaps they could join us for that block of work that might be useful so you can throw in you colonist ?? joint exercise possibly but they have not to except that

Chairperson

That's the other thing I mean with the 3 parties that there are in government actually have enough members on this Theme Committee to pinpoint those people as alternately even as members to incorporate them in your Theme Committee 3 teams isn't that so, ja so I mean except for in the case of our party I would be doing both anyway so in the case of bigger parties you have actually enough flexibility with your members in alternate to accommodate you know in your case Rob Davis and Jill if she is interested or whoever else and in your case Gavin Woods is the only one who really Henry Becker makes the odd guest appearance but it is really Gavin Woods

??? Marchelle Golding on our side who ??? would be activated that when come to that

Chairperson

Ja OK so I think it is manageable within the existing structures as a place because I think that in another set of meetings now another sub committee and

???? because if you talk about powers you must already be ???

Chairperson

Well one of the few things I have agreed with you over this few years I thought it was actually very wise was your comment you made about it was not a linear program it was a loop exercise and I agree with you entirely that it is actually the way we should be doing it clearly on this kind of issue we should get thought the first thing and competence then you going into the finance things and then maybe it loose you back and say look it's actually

you must not wait till the last moment

Chairperson

Well I off course been all along because I do considered the I mean to me the financial thing not the because I am a finance person which I'm suppose to to be but it's not because of that reason I actually think in terms of the relationships but unless you get the financial relationships right all the other gets completely undercut

Peter

just also not forget we request the FFC is it twice now? 3 times to get us an indication when they can come and give us a briefing, what we're try to do I am not sure of that meeting we try to get FFC here tell us what they were doing so they can feed us all there research they conducting and if it is internationally up front so we can in fact starts to anticipating that position no word have not arrive yet so we sooner we can get them to come the sooner we can actually do that

Chairperson

OK all right I thing we, so will you have a word to Rob I mean it is not efficient it's not a question of trying of being to be competitive but we must get, bring them

lets start a sideline project at this stage ?? with talking finance

Chairperson

I think we can go ahead the way are I think we must prepare I mean you recall actually you were that was when you were on ??? I must say working with you guys you went in ?? you went

to holiday and to forever have you all here at once is quite a thing but it is only some of us who have the stamina to keep going the whole time I actually made a firm proposal that we brief our technical advisers and request them now already this was 2 weeks ago to start like Davis said he has done it comparative thing to actually draw out from examples round the world how our physical relationships arrange in various other parties' places that have reach ??

federalism or whatever so that we actually can then have a workshop and gets say that's how the Germans do it that's how the Canadians do it that's how the Americans that is how the Australians that's how the Indians that's how the Nigerians

we should plan now already for a workshop in the next ??

Peter

Well that is what we trying to do the FFC is doing that research for 6 months we isn't just walking around ??

Chairperson

What they have done and then we take it the next step Ja anyway OK

Excuse me Mr Chairperson should I just draw it to your attention the invite to your discussion ???

Chairperson

Ja the this is an invitation to Anvar Shaar of the world bank and he has the sub committee which deals with a it's call financial institutions by the way things I see and public enterprise a recommended invitation to be extended to Prof Anvar Shaar this is of the world bank this a request from the National Party to address our members on inter government until financial and physical relations at local and provincial national levels we understand that Prof Shaar been engaged at a training seminar in Washington on the 3rd and 4th of May the date we have in mind is the 8th of May if this is at all set well with you can you inform us accordingly as soon as possible in order to

make the necessary arrangements please contact Pat ?? he is part of the secretarial

? ?? to make a copy to a joint effort ????

Chairperson Yes I see ??? it said copy to TC2 and TC3 well I think can we just request the secretariat to request to whoever Pat or Ebrahan whoever is the correct person that if in fact he is coming could we please have all TC3 invited in as much advance notice as possible OK apparently this fellow is quite an expert on the subject and as I say it was actually a request that emanated from the National Party and the people felt well because he apparently will pay for it or the world bank will pay for him to come and so on they better

Chairperson so no need to OK we've handle that

so you will record these things of ?? of TC6
????

Chairperson OK perhaps you will let me have a look at that before you tighten that minute because it OK but also just let me have 1 look at it because obviously we want to be fairly sensitive we do not want to heart anybody's feelings in terms of you know if it goes into the minutes even if it's get corrected and people have got it. OK well the agenda the next item is the agenda for Monday's Theme Committee meeting which is just a minutes and the workshop OK so I don't think it is

Peter on page 18 there is a couple of things there??

Chairperson Yes I am going to do a general all right page 18 is something from some free state

Peter there is an invitation for four of us to go to
??? workshop in Bloemfontein ??? I don't know if it is registered

Chairperson Yes it is 3rd, 4th and 5th

Peter it is R1200,50 bucks and etc. etc. is this something that the administration will pay for us as Theme Committee representatives ?????

What we could do is to address the matter to the administration want I wanted to do now was to make the Call Group aware of this and Call Group to designed and how what was entrusted in them

Peter ??? who is paying for it first if the secretary would paying for it, it is an official call ??? as Theme Committee productively as four members probably going to a meeting ???

Chairperson Who is paying ja OK I think just quickly group your names add on the list to the people we invite to make submissions

?? actually Christen ?? he is really completely a non racial ??? he is one of the most knowledgeable chaps I ???

Chairperson all right anything under general ja

Peter Management Committee has come up a couple of times there is the Penguin films doing a series of 16 Television programs on all the constitutional work that is taken place here and apparently they've started work on the first program and party been requested to make inquest but nobody has done so including ourselves oh no we have sorry but they start to work already I am rather upset by the Theme Committee point of view this Theme Committee point of view because the 16 programs OK now program 1 and only 45 minutes each Program 1 deals with character estates singles summer estates premises constitutional represented of government then nature of peninsula system of local government provincial executive authorities so this whole hour Theme Committee work is they sort of thrown into part of one program and the rest is tons of stuff from deliver rights and appoints to ?? religion believe opinion there is tons of stuff here now I think as a Theme Committee are being hard done

by and we should request that since this is a key constitution issue that we need more attention abated to it

???? there are wonderful stuff

Chairperson Well you are the Management Committee what is the kind of mechanism process with this

Peter Well I was wondering well they send around months ago but nobody really did much about it or we send in, I send in something I to say I was not happy with that but nothing has change and I was wandering as a Theme Group we could mention it briefly in our next meeting and 2 seconds say if people believe they should rather have more exposure in some matters greater exposure if so the Theme Committee could write management and say hey guys do a better job

Chairperson ??? for the agenda on Monday ???

Can I raise a few issues on general I wish I do not know could you make it that we ask Mrs Smith to prefer some minutes on the committee decisions is which pretend to come in to the train immediately the day after this why I meet her the first day you could do that and also OK

the documentation has been coming out I think at our previous meeting they haven't been saying that it is contractual decision form the MC or the CC which I actually asked the director to do because they do realise that I should be getting feed back they just think it is something coming up from the directorate you see what I am saying

? what would you like to rapport this morning

Peter it was from the CC when do we have CC was it Monday I must be in a vacant state of time or left before it finished but I seem to recall that we was agreement first block of ??? we were going to send away for drafting did you all understand that

?

Well I was not there ??

Peter

you understood that, I understood that right

I understood but I did not understand

Peter

OK I understood so anyway in management today I said look I do not see how we can draft from that text anyway because only 1 of us is enrolled the rest is just skulls ?? but none of us is going for drafting because we agreed at that meeting with the CC the whole report will be send back yes and in fact nothing will be persuade further That is not at all what I remembered but what was said today I thought as confusion so I wanted the meeting to clarify

Sandra

Well I thought non tempting ????

Peter

Then the point is that there was an understanding that 10 issues that were going of the drafting now I have no problems with those

Ja

??? come back

Peter

Yes that's what I understood that Ramaposa said he said well the whole reports come back to you none of it's going for drafting so I was redrew my rejection but I hadn't understood that was the decision on the at CC

I understood say maybe ?????

Can I try and put this into convex the major reason why the issues are not to be taken back for drafting was that so that it could be taken back to the CA and then the CA will then have to debate on the issue that have been raised but what was laid out

Chairperson

Say that again sorry ???

that the matters I mean the issues that the 10 points were going to be taken back to the other experts for drafting so that it could be

presented you know to the CA and then that will enlightened the debater to say 11 but then what was also realise was that you know it was only gone to be the 10 points which was going to be taken because you know the the other issues needed to be taken back to the Theme Committee it was fair that because you know the other I mean there was issues that left over needed to be revenued by the Theme Committee then a good idea to take only 10 as it were you know and then not know when the rest will be coming in you know because originally they were of the impression that you know the 10 will come in and then maybe a week later the rest will come in but now when it was said the 10 issues was taken back to the Theme Committee nobody could say for sure that you know there will be a 7 days difference

Peter Sorry was that the decision of the CC or management

CC

Peter CC decided it

Peter A good point is was raised today and there seem to be favour with it in fact it's Colin's suggestion hasn't been taken further but is looks like it isn't going to be taken further is the idea that the experts if you take that contentious point particularly not only with formulate the text of a non-contentious point but in terms of contentious points the idea that would be to formulate experts our experts would formulate alternative positions in text that would be carried through to the debate which is a issue which we've been fighting for a year and everyone tells us no

? Where

Peter to the CA

Chairperson you mean the drafting or carrying through to the CA

Peter Alternative you need alternative text to do that

Chairperson Well I mean anyway I think the one thing you don't want to do is to take it into the Right all our meetings is open and including this one but if you want to take it into high profile public forum so anybody hardens there position and then when you actually have to now find the compromise more and more people have actually you know kind of you know I having to so to speak back down before you to able to reach a compromise but anyway

? ???

Chairperson Yes no so is mine Right nothing else Yes one more ??

I wish you could raise this on Monday when the committee meets that we need the person who is going to be a regular every Thursday at 2PM to attend a ?? at Regis House Ja it was on a document or piece of paper which was green

Chairperson Yes I have seen it

could we put it on the agenda for Monday's meeting please

Chairperson All right does this space come up for the Call Group or Theme Committee

We could decide you know

Chairperson OK because I mean we half I mean that time actually comes inside the time we talk about having our Call Group Meeting like this time you know 2 o'clock on Tuesday

Then I could enter that there was no presenters I've done on it was cancelled so we did not loose out

? for us or for everybody

no for everybody so we didn't lose out

Chairperson

Is that all

Ja and I hope you got the ??? for the weekend
I believe that you are going

Cyril Ramaposa has given me instructions to go
to Uppington on Saturday for a workshop of the
ANC go on go with me I'll vote for it but you
must be able to talk Afrikaans there so that is
the only way to do it

?

(bietjie praat) talk a bit

(bietjie praat) talk a bit I've been that was
just before lunch time it will take me a day ??

Chairperson

?? Well we will keep it out of this and go back
into the dessert OK is there anything

Getting my roots back

Chairperson

Back to your roots Ja Hope you not coming to
listen to the Queen here hey

No I am coming back to ??? Mrs Windsor

Chairperson

Are you, Good. Gentleman ladies Monday morning
9 o'clock we have Theme Committee meeting

Chairperson:

I must say defense, that I have been busy a bit the past two weeks and I am not on top of everything and you must please help me. We could also be glad to welcome the Director General of the Eastern Province. I presume he has fled from the Eastern Province this morning. Come down here to us. Very welcome to you all. Now, if I could just put an agenda to you, the first document of our documentation, open that and also welcome to our expo's. Thank you very much for attenuating. We have minutes, thirdly as matters arising, it is taken up in agenda at items. We have fourthly a frame-work of heading too, a time table for heading too, and then a report on submission from Civil Society. We have a point in general, and hopefully we can close quickly.

Now, shall we first go to the minutes of the previous meeting? I believe there are two sets of minutes. The Meeting on 16/2 and the meeting of 15 February. Shall we first go through 15 February? Sorry I am deurmekaar. Here I have it. Call group meeting of 20 February. The minutes, I don't think there is anything there. Point 4 of these minutes, review of the report - is everything OK there? We just ring the correctness at this stage - Dr King, it is a document called CG 3/12, CG 4/12 on the top. We have extra copies here. Are you OK Dr?

I don't know if you are confused or I am confused, what about the other call group meeting minutes of 6th of February and the other documents that we received, 23/13 for instance

Chairperson:

Could we ask the Secretary to help us here?

Chairperson, the other documents of the other call group Minutes, that are on the Theme Committee, once out .. The information of the theme committee, that actually been approved.

Chairperson:

Thank you. We are on page 3 of this minutes. Looking for correctness, point 5 of it, frame work for heading 2. Next page - point 6, that is amongst others the Technical experts. What they have to deal with. Next page 7, the visit of Mr Jock Clarke. Then the general point going over to the last page and then the agenda for today.

Mr Curry

In fact, I was also present at the meeting. I came in a bit late. I certainly joined the meeting for the 6 o'clock part of it.

Can I ask that could be rectified please. Any other comments or corrections. Do I have an apposal that it is adapted? Got it and second it, thank you.

Mr Chairman, I want to know something that is probably not the usual thing. On page four 5.4 - The Call Group requested the Technical experts drafted

CG 3

27/2/95

No 1 + 2.

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