

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

[VOLUME II pages 71 - 144]

2/4/3/9/18

THEME COMMITTEE 3

20 MARCH 1995

MS HAYDON:

Chairperson, I actually spoke to them Enox about the (inaudible) ... there is a problem with the conference and that sort of and I said people would be available from the 3rd.

I also spoke to them about the shortness of time and it was because people wanted - it had to go to the MC and all this sort of thing, that's why all of this has happened.

CHAIRPERSON:

With due respect ladies and gentlemen, this is just not the way things should come to this committee. It is uncooked really. Could we ask that the administration, that's why we got an administration, just entering this question further and that they give us proposals on four or five experts - give it - bring it back to this committee or to the parties and other names which we can nominate within 48 hours.

10

DR KING:

Mr Chairman, I want to make it more constructive, voorstel. Let's take it one by one. It says here, no 1 - each party should nominate one person to appear on the panel. Let's get that sorted out. I am sure we can do that here.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

And the parties who are not here today, the administration can contact them and get a name from them. Let's get that off the table. I think we should handle that.

The second one - each party should indicate issues which could be raised. For that we need more time and that's the kind of pressure that we were talking about. The steam rolling. That we would like to go back to our party. Because also I only received mine on Friday and I actually only read it on Sunday.

10

The documentation - so if we could have that a date or time by Wednesday or early on Thursday morning, that we could bring the issues or hand in some issues with you. Possibly after Thursday, because Thursdays are the days that we again get together within the party to sort this out.

The third one, the members shall face a panel of four to five experts. Seeing that we have here four to five experts and I think that four or five parties really involved here all the time, shouldn't we, to evade the situation of where someone feels that it is loaded to this side or the other. Shouldn't we

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

not ask each of the parties here to come up with one name or a second name should the first one not be able to do it.

I suggest we do that and let's get over because really we waste so much time at these meetings. That's why a lot of our work does not get done.

CHAIRPERSON: (inaudible) ...

MR SMITH: I would second Tersia's thing and I suggest we finalise it at 10
2 o'clock on Thursday meeting. And that meanwhile, that questions you had for Gauteng, be circulated tomorrow and one other thing, which I think it is very relevant to the questions, because again it doesn't say how many issues. Is how long is the programme?

CHAIRPERSON: Half an hour.

MR SMITH: Is it 30 minutes, thank you.

20

UNKNOWN: (inaudible) ...

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR SMITH: And may I ask which channel, is this NNTV?

UNKNOWN: NTCT - (inaudible) ...

MR SMITH: Oh! because your target audience also can affect your questions thank you.

UNKNOWN: (inaudible) ...

UNKNOWN: (inaudible) ... we've only got the date (inaudible) ... 10

CHAIRPERSON: Do you want names now or shall we do it Thursday as Ken ...

CHAIRPERSON: Thursday's meeting

MIC IS SWITCHED OFF:

CHAIRPERSON: Okay Thursdays meeting?

20

MR ANDREW: Yes, but can we also tomorrow, can somebody check on finalization whether these are the actual dates and also - I

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

mean, you know it's all very well for a film company and maybe they think everybody comes to them on their knees, but to put 2/3 of April.

I mean there is a big difference to say - we want you in the afternoon of the 2nd and the morning of the 3rd or we want you on each afternoon you know. As oppose to say - are you completely free on two successive days. I mean it's a big difference.

10

CHAIRPERSON: (inaudible) ...

DR KING: Mr Chairman, can we now just find out what have we decided? We report back at 2 on Thursday?

CHAIRPERSON: Thursday morning.

UNKNOWN: Ja.

CHAIRPERSON: Thursday morning (inaudible) ...

20

MR ANDREW: Thursday 2 o'clock there is suppose to be a (inaudible) ...

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

regular meeting.

DR KING: Thursday 2 o'clock okay, so that's the time when we report back.

CHAIRPERSON: That is our decision.

UNKNOWN: (inaudible) ...

CHAIRPERSON: Ja, Sandra your hand, okay.

10

MS HAYDON: Yes and Tersia will be circulating further information, so you've - that will help you make your decision.

CHAIRPERSON: Decision ja.

MS HAYDON: Okay.

MR SMITH: Sorry (inaudible) ...

20

CHAIRPERSON: Well if we can bring up one expertise, I think it will be doing it, ja.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR ANDREW: I think let's try and bring one or two each onto Thursdays meeting and ...

CHAIRPERSON: We'll do that. I can name the ANC's one now.

MR ANDREW: Ja, to get a balanced panel could you provide the mentally disabled one.

CHAIRPERSON: Ja, we'll come to that.

10

MR ANDREW: Okay.

CHAIRPERSON: Thursday agreed.

MR MXENGE: Ja before - ja before we get off that item, can we also look into the issue of people who are going to attend you know the media briefings which are also on Thursday at 2. We had made an indication that ...

MR ANDREW: Well ja the ANC - it was agreed last time, the ANC and the NP this week will supply somebody.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

DR KING: Mr Chairman this makes it extremely difficult, because we've got to use someone who is also part of the Core Group.

CHAIRPERSON: That is a problem ja.

DR KING: And it's the same time that the Core Group meets. We can't just grab someone now from our Theme Committee who is not really up to date on ...

10

CHAIRPERSON: People outside the Core group will have difficulty in really being of use there.

MR ANDREW: But Tersia there is two of you.

CHAIRPERSON: We have got no choice. Any person from your party.

MR SMITH: Ja, or if you want to change your rotation let Inkata send somebody this week, no I am not being funny I mean I am being serious. And I actually think it is going to be a side show anyway.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

CHAIRPERSON: Could I put the work programme now?

MR MXENGE: Before you do that, we have got a invitation from the CPG here for a workshop on financial ...

CHAIRPERSON: Those matters will be treated under general I said in the beginning.

MR SMITH: Sorry, I am not, is that the document here that Constitutional Assembly dated the 13th of March?

10

CHAIRPERSON: Yes, that is frame, the ...

MR SMITH: And the actual piece of paper you looking at is page 7 - is that what you are looking at, at the bottom of the page?

CHAIRPERSON: Yes, you have got 6 ...

MR SMITH: No at the bottom of the page, what does it say? The bottom of the page that you are looking at. Oh! I see page 6, okay all right thank you.

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

CHAIRPERSON: 6 - 6 no that's the framework.

MR SMITH: Okay.

CHAIRPERSON: I haven't got the blocks before me without going through all these documents on the table. My only problem which I have from the side of the ANC for the work programme, is on the, we got it from the technical experts, is that firstly, allocation of power is put and after that, the relationship between national provincial Governments in relation to the powers.

10

From our side we feel that when you do the allocation, the listing of competencies, if you want to list it, if you follow that method, you can only do that after you have decided on concurrence ...

MR ANDREW: Chair, sorry, I don't want to interrupt you, but ...

CHAIRPERSON: I am talking about that programme

20

MR ANDREW: Yes well I am - I am just - can I just make a point of order,

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

I actually, I mean the subject matter that you are now opening is as far as I am concerned agreed and closed. That in actual fact, what we are supposed to be discussing is at present we have this agreed as phase one, which has agreed. I mean it has been doubly, triply agreed.

And we have deadlines of this Friday for public submissions and the 7th of April for political parties and Provinces, okay. So those are already firm built and milestones in our programme. And I think the discussion that we are supposed to be now having, is what are the next milestones in terms of the discussion and preparing of the reports of this phase one and then the framework for phase 2.

10

CHAIRPERSON: Have you got it in front of you.

MR ANDREW: What?

CHAIRPERSON: (inaudible) ...

20

MR ANDREW: Well I have done a framework here, but I mean that - but that's - in other words, this is given it is actually here after

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

that and the various time tables.

CHAIRPERSON: Yes, thank you Ken, but previously we had the block framework. The original block framework.

MR ANDREW: Yes, well I know that.

CHAIRPERSON: Which cover the whole period.

MR ANDREW: Well I can give it to you in my own - you know we 10
abandoned that ages ago.

CHAIRPERSON: Ja but I mean, we have to work - that's the only thing we
can work from as a starting point.

MR ANDREW: The heading, all right well I am not fussed, but when you
actually get down to the details as to opposed to the kind of
wish list I think you are going to find a very different time
table.

20

CHAIRPERSON: We talk about two things, the work programme is the blocks
are the blocks, are the blocks. The framework is this first

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

part of block 2. Block 2 block. Now I had a problem with that. I just wanted to do it in another order, but that is okay, that (inaudible) ...

MR ANDREW: No, but now my - ja okay all I am saying is that is actually history.

CHAIRPERSON: The other blocks, we've got have got nothing else than the original December, January about programme.

10

MR ANDREW: Agreed.

CHAIRPERSON: To start our work from, am I right?

UNKNOWN: No well we got an end of February early March decision.

CHAIRPERSON: That is the time which I missed ja.

MR ANDREW: Okay, the that the other aspects of national and provincial legislative and executive (inaudible) ... which including on the questions, and I haven't got those minutes here, so the other headings well the other sub headings for block 2 we

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

still have to agree.

Then heading no 3 is local Government. Heading no 4 is financial and fiscal commissions. And Heading no 5 is general. Any other matters that anybody feels hasn't been adequately covered, which may for example include elements relating to the Senate that people felt haven't been covered adequately in the other process.

So that's really, that's what we have agreed as to what our headings should be.

10

CHAIRPERSON:

Fortunately, I have got a copy of the document now.

MR ANDREW:

Okay that's actually agreed. And it is really now, it is the time table for achieving all the elements such as agreeing on a framework, agreeing on deadlines, agreeing on first draft or reports, finalizing the reports etcetera.

Public submissions, party submissions, all those day - that sort of diary that's what we are now, are supposed to be doing. Putting time frames to each of the elements of each

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

of those headings and subheadings.

CHAIRPERSON:

Thank you very much Ken. Ja, I have - now I've got the document, this is the one - now this is the one I saw previously.

Tersia have you got a copy of the document, wonderful.

Block 2, now we come to 3rd column point 3, blocks 2 and 3 have been emerged and the above agenda item shall be dealt with simultaneous under block 2 and 3.

10

Ken have you got a copy of this before you at the moment?

MR ANDREW:

Yes I have.

CHAIRPERSON:

I have got - Professor Davis, Professor Davis before you go.

PROF DAVIS:

No I am not going anywhere, I've just got a quick phone call to make.

20

CHAIRPERSON:

Okay but you have got a copy of this document before you anyway? Now, no problem, dates have been decided on

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

there. We start again in block 4 - local Government.

MR ANDREW:

Sorry, I am not with you. Block 2.

CHAIRPERSON:

Let me come and sit there, I am sure not - there is two documents here, let me show you on which - I have this one before me. Is everyone with me now, Block 4 in the left hand column we have local Government in our column. 4, 5 and 6 have been merged and the above agenda item shall be dealt with simultaneously on blocks 4, 5 and 6.

10

Now, could I ask you one thing. How much local Government is going into this Constitution? A framework or a whole new national legislation and do we need 3 blocks for this? That was our problem.

DR KING:

Mr Chairman, we can't really you know we can't open that discussion here now. Can't we just sit down, because we are all running out of time and can't we just sit down and see whether we can put some time frames to what we have?

20

Within the limits that we are already finding ourselves and

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

instead of going into a discuss, because we are not going to change the situation. We are not going to be able to change the situation, when we get to local Government ...

MR ANDREW:

I - ja I have actually done time frames on -on in fact all the things up until local Government and if you want me to start a discussion from the beginning as of the 20th of March I will do that. And when you can say that is an unrealistic date or ...

CHAIRPERSON:

Sorry - sorry Ken, I thought up to block 3 the dates have been finalized.

10

MR ANDREW:

No, they haven't. The only dates that we have finalized is the dated of submissions of parties and Provinces and the public. We haven't finalized when we are going to discuss those.

CHAIRPERSON:

The report, I thought it was 7th April.

MR ANDREW:

No, that is the final date. That is a Friday. And that's the day on which party submissions have to be in. That's not the date of the Theme committee discussion.

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

CHAIRPERSON: No.

MR ANDREW: We then have to talk about when the Theme Committee is going to discuss, when the first draft with the report is going to be prepared, when that's going to be discussed, when the final draft of the report is going to be prepared and when that is going to be discussed and approved.

So we have got that one out of the way. Then we still got phase 2 of that block, which we haven't tackled yet. And we still have to agree on a framework for phase 2 of that block when that is going to happen, when it is going to come through the Core Group, when it is going to come through the Theme Committee - when the submissions have to be in for that phase.

10

Then we have to discuss when that's going to be discussed, when the first draft of that report is going to be done etcetera, etcetera. I mean you know go on (inaudible) ...

20

CHAIRPERSON: Ken I think you should submit your report or your thing and then we listen to the National Party. Have the IFP got a

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

similar one?

DR KING: Mr Chairman, can I make a suggestion?

CHAIRPERSON: Yes.

DR KING: We don't have one as yet. I am quite honest with you. I - can we ask Mr Andrew if he has a report? Is it possible that ...

10

CHAIRPERSON: Circulate that and comment on that.

DR KING: But through the administration, we would have a copy like that on Wednesday. That we have a look at it and then we discuss it on Thursday. So that we have something on the table in front of us from which we get going.

CHAIRPERSON: Mr Andrew?

MR ANDREW: Yes, I am quite happy. I might say, Thursday is suppose and I really must request that it is a meeting of one hour. That's what it is meant to be. It is not meant to be our

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

main meeting and I must, in a sense, I mean I am missing a meeting now but as far as I am concerned, today is suppose to be Constitutional Assembly work.

If people are going to a Constitutional committee, or a Constitutional Assembly meeting, then I think it's acceptable, if not, then I think it is unacceptable.

CHAIRPERSON: Yes.

10

MR ANDREW: As I am saying, I am missing the joint standing committee of finance and a very important discussion on public service commission, which I would like to be at, as far as I am concerned, if they want arrange things on days that Constitutional stuff takes preference, then that is their problem.

And you know I do have a problem. I mean, we decided at our last meeting that this was the day that we are going to discuss these things and in fact we should all be available till 5 o'clock or half past if necessary. And if people ...

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

CHAIRPERSON: I was called up for a Constitutional committee caucus.

MR ANDREW: Well then you must tell them to jump in a lake. I mean, that is the point. Either you want the process to hit the deadlines or you don't you know I know everybody is working hard. I am not suggesting for one moment that anybody is doing anything other than that.

But it's just impossible to be jumping around. I am quite happy, there is nothing - I'll hand this in and it can be distributed. But all I am saying is, on Thursday even for that hour, which is actually Parliamentary time, I have got to look at what is going on in the joint statement, in fact, I don't think I will be here on Thursday because we are discussing with the Provincial MEC's as to their financial problems (inaudible) ... the budget and that to me is a critical element. But anyway be that as it may.

10

CHAIRPERSON: Ken the point is, could that - your proposal be circulated?

20

MR ANDREW: Ja of course - yes absolutely.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

CHAIRPERSON: And then we react to that. I think that is a better way and this time I will give you a good reaction because this was just - shall we go further now, Peter?

MR SMITH: Chairman, I am happy with the suggestion - just a word of clarity - just for clarity. The merging of the blocks as they put it here, didn't - doesn't originate with us, this is the Secretariat's version, that's right.

CHAIRPERSON: Ja.

10

MR SMITH: Secondly, just to (inaudible) ... the point, if management on Thursday morning is dealing with the whole time tabling, it might - we might, we can bring that to the Thursday meeting and it might affect it radically - so ...

CHAIRPERSON: Could I request one thing at this stage?

MR SMITH: Well still prepare for it though.

20

CHAIRPERSON: Ja it's okay, but could this also be given to Professor Davis or his technical - through him to his technical advisors that

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

he also looks at that time table.

UNKNOWN: And Mr Andrew - (inaudible) ...

CHAIRPERSON: Ja, it's vital, Mr Mxenge.

MR MXENGE: May I find out from the members, we've got two more blocks that you, you know - we need to deal with. One is of financial and fiscal relations and the other is on local Government you know.

10

And we've got this big you know challenge ahead of us, that of the time constrains, that we have. If we had to look at, or to try and hit on the financial and fiscal relations block you know now and deal with that, wouldn't it make our work much easier you know? That is the work on local Government.

CHAIRPERSON: Thank you very much Mr Mxenge, but the position is actually far more complicated than that. I have now worked out a scheme for my caucus to work on. We must do the provincial executives. We must go through those

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

transitional arrangements in section -those 235 out to 247.

Because there is a lot of administrative provincial matters regarding relations between national and provincial matters which have to be addressed there.

The provincial, the composition and the procedures etcetera of the provincial legislatures all those clauses in the Constitution - there is a lot of them, has to be addressed. We haven't got a Constitution regarding provincial system if we just go through these two blocks, three blocks and which is left over here.

10

We have to write it in my Constitutional proposals. And the analysis takes us far more than this forward. We haven't got a constitution regarding provincial system when we are finished with this.

There is far more work to this and I'll talk to the technical experts also and we must get cracking. I would suggest now really I think as Dr King has pressing us all the time rightly so - that we now start working very much more closely with our technical experts in this matter and I will present you

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

also, your reaction to Ken after - on Thursday morning, afternoon, that regard to this matter.

But this is not the whole story even as it stands here, local Government, to our mind, will be a small part of the Constitution. Just a framework, because the rest of Inkata is going to press us to do in the Province - I am just making your day.

So really there is more to this than this. We will do it, we'll do it, we must do it. Ken, okay you will give it to her directly?

10

MR ANDREW:

Ja.

CHAIRPERSON:

Ek right, finished, 'klaar, afgehandel hierdie saak'? Next point.

Report back from technical committee.

20

PROF DAVIS:

Mr Chairperson, I, on arriving back in Cape Town on Friday, there was a fax - a very lengthy document, as to

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

what we were required to do. Let me summarise what we were required to do and then I will tell you what we have done.

We were required to, in no order, of necessary importance, I suppose, we were required to give you a document setting out the issue of allocation of powers and looking it at the way of which these are done in different comparative jurisdictions.

We were required to look at the question of the role of the Senate might play, in this.

10

We were required as well to investigate Thirdly the relationship between ourselves and any other technical committees where there might be overlap.

We required fourthly to provide submissions, to summarise those submissions which we have received from civil society regarding this Theme Committee.

20

And finally if my memory serves me correctly, we were also required to provide due the documents relating to the

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

framework of local government.

And finally the - I think there was a final one, which was the Constitutional principles.

That was what was on the minutes now. There is a document from Professor Basson. I spoke with him over the weekend and he has completed and he has faxed it - I don't know whether everybody has the document...

10

CHAIRPERSON:

You know, now you must also straight tell us when we are unreasonable. I mean this packet of things, I was listening to you now, if it is just impossible just tell us and we will react to it.

And the other thing is this arms length. This is also now just pure nonsense. We have to create a practical result here. And so we must do it in the best way we can do it. I don't know how we can do this practically. Perhaps the members can help us here to get a working relationship, but you must be feel free to suggest this.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

Now I don't like this type of situation which we have this meetings like a big formal meeting for the Core Group - I can't work in this type and we not work here, we are having meetings now.

Please make suggestions, also, and feel free - you would like to have as work in that direction. We won't be taken on any rides if - we will fight it out, but please make the suggestions. Are there any suggestions and reactions to the report of Professor Davis please, Ken?

10

DR KING:

I'd like to congratulate them on what they've achieved and as far as I am concerned, I think that what we should do, is that really become part of this discussion.

Every time and that we do work together and that we stop thinking in terms of people who present parties and people who are technical advisors. And if we could have your document where you do your comparisons and study, I think that will help us a lot also. Towards what we are moving too.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

I am not quite sure whether Mr Chairman, through you Professor Davis was here when I asked that we do our report in future try to do it in the same way - block wise as some - one or two of the other Theme Committees have done.

CHAIRPERSON: I think he was here at that stage.

DR KING: You know actually help us.

10

PROF DAVIS: No I wasn't here, you better tell me I am so sorry.

CHAIRPERSON: Oh! that, could I just explain, it was simple technical, we do a new format in which Theme Committee 6 has reported.

PROF DAVIS: I'll get a copy of that.

CHAIRPERSON: We will get a copy, and the administration will be able to help you along. Because they have also given guidelines for the reports, the type of way they want to do it. Please continue.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

DR KING:

Mr Chairman, can I just add because it and I am really now taking over from you and I am sorry that I do - but I think that we can possibly move a little quicker then.

That my suggestion was also and that was part of the it was a joint two suggestions which we made a joint suggestion. That was that the first report that was made - that have actually been returned to us in a very decent proper way, sort of.

10

That we actually try, that we refer that to the Theme Committee. We have asked that ...

PROF DAVIS:

To the technical committee.

DR KING:

Ag sorry to the technical committee, sorry. We have actually asked that the administration, just put it in writing you know that this has been returned to us, because we have not officially been notified.

And that hopefully they will give some indications as to what is expected. But could we - the idea is, that it will be given to the Technical committee to see whether you can put it

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

into a form similar to the form which we've suggested. So that you know these things are block wise, then we know what we talking about.

We were - 'ons het nou by mekaar verby gepraat al die tyd met die vorige verslag'. And - so that is another thing which should be brought up there. You know I think that once we get going on these, I think we will sort out our personal relationships and I think that we will find it becomes a working relationship - because that is what it is all about.

10

CHAIRPERSON:

Thank you for that contribution. Ken, let's move.

MR ANDREW:

There two points, one is that I think there has been a slight communication hitch and that one of the frameworks, I mean it's not causing us any delay at this stage, one of the frameworks that we are still needing are the balance of heading 2 other than what is in phase 1.

Okay there are - there are other matters that are outstanding and that's actually the next framework before we even do the local Government one. That we wanting, so

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

I think that should be sort of quite high if not the top of the list as present of what we should request.

And the second thing is, I just wonder, in terms of - you know I don't know what the kind of protocols in these things are. Professor Davis spends a great deal of time in Johannesburg, but he is actually theoretically located in Cape Town. And I think it would be very useful that whenever we are having Core Group meetings, if he were able to be present. Well I mean I don't think we should not invite the others, where ever, but I think the thing is ...

10

CHAIRPERSON: Standing invitation, agreed?

UNKNOWN: Ja.

CHAIRPERSON: Standing invitation all technical advisors.

MR ANDREW: And then - then we would some more direct liaison although one accepts it quite often when our meetings are called at short notice, he may not be able to make it. But I think it will be extremely valuable to have an ongoing ...

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

CHAIRPERSON:

But I think what is needed for this Core Group also, if I may say, I don't want to point like Peter already pointed - it's Afrikaner tradition of course.

Now, what is needed, that we have other non-meeting meetings. That we sit as a Core Group, as a work group. No - no minutes, that we just really work a bit. What do you think about that? If we sit here having meetings, we are not working really.

10

MR ANDREW:

But I don't know what you mean by we not working I mean I don't think our things are unduly formalised. I mean it's not as if we all stand and make long speeches. We get on with the work. I mean the problem is again I mean what we are suppose to be doing today, is the time table for the work programme.

You tell us how hard we are going to have to work - how many hours a week.

20

CHAIRPERSON:

Ja.

THEME COMMITTEE 3

20 MARCH 1995

MR ANDREW: We come here and we are not ready to discuss what we are supposed to be discussing, so I mean that's the problem. It's not because it is too formal. It's because we are actually not ready to discuss what we are suppose to be discussing. I mean that's the problem.

I don't think that we have over formalised our Core Group meetings and we don't - you know we've already said ...

CHAIRPERSON: Okay Ken point taken.

10

MS HAYDON: Can I make a point chairperson.

CHAIRPERSON: Yes.

MS HAYDON: To issue a standing invitation (inaudible) ... the technical advisors (inaudible) ... but for the people up north it is difficult for them to come down more than once a month.

CHAIRPERSON: Understood, Professor Davis.

20

PROF DAVIS: We'll we have got an agreement. That was why in fact I was

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

appointed as the convener of this group. Because I happened to be in Cape Town as Mr Andrew said rightly not all the time, but a lot more perhaps than the other people.

But what we do, is I use our secretary to report back as I shall now on the contents of this meeting to the rest of my colleagues. If I could just apply to two things here.

Yes you are quite right, there is a second part of this block and I shall track that down and discuss it with my colleagues and certainly if we haven't got it by Monday, we will activate so you will have it shortly there after.

10

Yes with pleasure I am sorry about that. In relation to the point made by Dr King ja in the amplification of the issues relating to the Senate and the - all the rest. I think our approach, if I can put it this way, causes to - you know one does work close as time goes on.

20

The point is, I have also got to assume that many political parties if not all, have their own advisors. On the other

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

hand we are happy, I think I can speak for my colleagues to provide any information or advise to any or all political parties in relation to those matters and we all regard ourselves to the measure of kind of academic professionalism here.

That this is what the country says and we are happy to provide you with that information, research or anything which might be useful for your own submissions. Then you have to facilitate the process, not to in a sense score points for one party ...

10

CHAIRPERSON:

Thank you, we note the offer. The commission on provincial Governments, workshops 7 to 8 April, requesting representatives, as well as Secretariat members. Is this going to be a process meeting, that the secretariat meeting - members will also be invited? Or is this on political substance?

UNKNOWN:

Mr Chair (inaudible) ...

20

CHAIRPERSON:

Invitation to participate in a workshop. Supported by Development Bank, you feel to address that - do you know

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

the document, sorry, I came down suddenly on you.

UNKNOWN: (inaudible) ...

CHAIRPERSON: Oh! I see, perhaps we should give Mr Mxenge a chance to talk on the matter.

MR MXENGE: Ja, the idea of having one Secretariat member as support staff you know is the idea of the administration. The Secretariat member you know, will not, in any way participate or act as a delegate at that meeting.

10

You know is just that we need you know in case you know there is a need for support staff, there should be a member from the Secretariat to do so. But the members from Theme committees - that is they are the people that will be involved you know as delegates or participants, thank you.

CHAIRPERSON: We have a request for four Theme Committee 3 members, Peter Smith.

20

MR SMITH: Chair, I am not quite sure I understood the need for a

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

Secretariat staff for support purposes - unless that's clear, I suggest we delete that and make it five committee members for each, unless there is an over need for Secretariat staff.

CHAIRPERSON: Professor?

PROF ?:
Chair just on a matter (inaudible) ... on page 2 of the (inaudible) ... invitation, you will see that half way down the page in bold, the substance of the invitation is, is an invitation to this Chairperson of the Constitutional Assembly (inaudible) ... to arrange for ten days (inaudible) ... the Constitutional Assembly to participate in the workshop.

10

We request that these persons should be drawn from the Constitutional committee and (inaudible) ... So that is the way in which the invitation is directed.

CHAIRPERSON: By (inaudible) ... Botha ja, discussion? Do I have a motion, shall we go there and nominate four members at this stage, are you ready for nominations?

20

MR ANDREW: No sorry - Chair sorry, I think the point that has been

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

made, perhaps and parties substantiate the request I am making.

That I don't see the need for Secretariat members unless there is a unless they can demonstrate why it's necessary.

CHAIRPERSON: Your motioning?

MR ANDREW: Well, in which case we opt to five from each committee instead of four.

10

CHAIRPERSON: You propose five Theme Committee members?

MR ANDREW: Unless the Secretariat are needed.

CHAIRPERSON: Unless needed, Mr Mxenge do you want to ask - answer we give the Professor a chance?

PROF ?: (inaudible) ... **MIC IS NOT SWITCHED ON**

20

CHAIRPERSON: No political party speakers.

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

PROF ? : No political (inaudible) ...

CHAIRPERSON: Thank you, Mr Andrews.

MR ANDREW: May I just, because we will get to it very quickly otherwise, on the second page it says participants will be responsible for their own accommodation transport, although transport will be arranged to and from Jan Smuts Airport as required.

Has the CA taken any view on this? I mean, are these 10
people, they are suggesting we send, are they saying that
they will in fact pay the requisite amounts or not?

CHAIRPERSON: Mr Mxenge?

MR MXENGE: Ja that has been considered and we are looking to
sponsoring you know the members that is paying for
accommodation and transport.

CHAIRPERSON: Nothing decided yet? 20

MR MXENGE: No we don't have a decision yet, but you know, there is a

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

big likelihood that you know - we are going to go that direction.

CHAIRPERSON: All right I think we should - we have taken note now of it, the 27th of March they want the names. And decision - it gives us until Friday next week. Shall we take it to our Theme Committee as such, the document?

MR SMITH: Monday next week as a matter of interest.

10

CHAIRPERSON: Oh! on that Monday?

MR SMITH: Well Monday is the 27th if you want the correct day.

CHAIRPERSON: On Monday.

MR SMITH: Today is the 20th, you add 7 you get 27 and that is next Monday.

UNKNOWN: Our Thursday Core Group (inaudible) ...

20

CHAIRPERSON: Thursday, Core Group - names, agreed, noted.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

DR KING: Is there any way in which we share it with one's parties or (inaudible) ...

CHAIRPERSON: Are we now asking five Theme Committee members as Mr Smith has suggested, ja. How many parties are we?

MR SMITH: Seven (inaudible) ... six and (inaudible) ...

MR MXENGE: And we still have in mind that it will be appreciated that if more could come from the CC - if that is - the people are going to participate. I think we should keep that in mind.

10

CHAIRPERSON: This will be circulated to all the parties represented in our Theme Committee.

MR MXENGE: The invitation?

CHAIRPERSON: Ja, please with the request to nominate to the Core Group before Thursday, it won't work.

20

It is a bit late to arrange this things so quickly on us - this is a big organization this please remind it next time.

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

UNKNOWN: Mr Chair, why don't we MIC IS SWITCHED OFF.

CHAIRPERSON: There is never enough time for anyone. The other document I think which we just take not of - at this stage, is this wonderful, lot of work, which Deon Basson has done. Just on our documentation and then the other one is Professor Majola's framework on local Government - same treatment our members must - it must reach our members for treatment.

10

Everything okay so far?

MR MXENGE: Ja can I ...

CHAIRPERSON: Mr Mxenge?

MR MXENGE: Can I commit members to coming up with the date on which they will submit you know the final report you know to - to the CC especially on submissions from civil society.

20

Because what I think we need to do is, is to go through this document and then decide how it should be tabled before

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

the CC. You know to remind members who had - who had said earlier and we said we will submit the first report that there will be a supplementary report and I think this is what we are talking about.

And now we need to coach it in a manner which you know it is going to be you know acceptable to members and then I wish I could commit members on a date you know that for the afternoon.

10

DR KING:

Mr Chairman, sorry, just on that point - shouldn't we just, because we have to redo the first report in any case. Can't we just now make it as appended to that?

CHAIRPERSON:

It does seem the best way out if I may say. We have now this wonderful - it's a hell of a lot of work, (inaudible) ... and I, I tried to go through those four volumes myself, it is a unbelievable work which has done here. And we must use it now, but I think our whole Theme Committee must be able to go through it and then with that block 1 report, revision, we can put this in as well.

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

UNKNOWN: (inaudible) ...

CHAIRPERSON: And you can get feedback from our members on this. Mr Mxenge?

MR MXENGE: In our last Core Group meeting I believe - correct me if I am wrong, I believe it was agreed that we should look into you know appointing a committee, an ad hoc committee to look into you know report writing.

10

And that committee would you know to some extent you know be made of members of the Core Group and members from our advisors and I don't know whether you know we are still on those lines.

CHAIRPERSON: Ja, I am sorry, it was not recorded on our -in our minutes. We did take a decision like that, Tersia.

DR KING: Mr Chairman, I think that we have already made the decision that we are going to use the technical people to write the report and then come back - then it comes back to this Core Group meeting and then we thrash it out with

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

them out when we are happy with it or not.

I don't think we need to form a sub committee of this sub committee already.

CHAIRPERSON:

I - I can only agree to that after I have looked at this report itself. To see in what way it is evaluative of the real issues which we are interested in. For example, I can tell you that 6 on page 3, is not satisfactory for me.

10

So we have to look at it in another way as well. I do need to make an input on this from my parties side as well. I think all of you would like to do that. Not just sending this through to the Constitutional committee.

MR SMITH:

I pass that.

DR KING:

Mr Chairman I think we - 'nou praat ons nie op dieselfde vlak nou nie'.

20

CHAIRPERSON:

'Kom nou weer'.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

DR KING: 'U het gepraat - ons het daar - ons het Mnr Mxenge het gesê dat ons 'n sub kommittee moet vorm'.

CHAIRPERSON: 'U het gesê dis onnodig die tegniese' ...

DR KING: 'Ek het gesê die tegniese kommittee dink ek, moet ons verslae hanteer. Ek - ons bedoel ons praat van algemene verslae'. We are talking about our general reports in other words - on every block or are you talking specifically on those coming from civil society.

10

CHAIRPERSON: No we are talking about Professor Basson's thing on civil society. It was I that was putting the matter here. But make your proposal again.

DR KING: Well I - I misunderstood then. I thought Mr Mxenge was talking about our, that we have to form a sub committee to draw up reports.

CHAIRPERSON: Ja that's right.

20

DR KING: I feel that we must ask the technical committee to do it and

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

then it comes back to all of us, why should, how can we form a sub committee of this almost sub committee as well.

I mean the Core Group is the group.

CHAIRPERSON: Then you didn't catch the original point. Which was before this committee. That was that a specialised committee go through the submissions, now by - on account of the work which is being done so quickly, by Professor Basson - I do agree that, that point has fallen away.

10

But the point which I was making, is that we can't just send this through as our report after we have reacted or not reacted to it. Agreed, understood, thank you.

UNKNOWN: (inaudible) ... I take it that your ...

CHAIRPERSON: It falls away that we won't have a sub committee.

UNKNOWN: But I take it that you will come back to us shortly, I mean so that we know how to amend the report?

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

CHAIRPERSON: Yes

UNKNOWN: Because you might feel that we have misrepresented a particular position or we haven't put it on not deliberately, but I mean ...

CHAIRPERSON: No not deliberately.

UNKNOWN: But I mean we haven't teased out the implications properly.

10

CHAIRPERSON: Yes.

UNKNOWN: And we would like that as soon as possible.

CHAIRPERSON: You see, if we now really talk about this, I don't say this not a proper piece of work, but it's apparently very short summaries.

If you take for example, let me give you an example - I haven't even now read, because I just received it. The report given by the Department of Health, on the nature of provincial and national relations. And all the legislation

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

which has stake in that relationship.

It is an extremely valuable document. And I don't know even what this one says. I have got a specific mind on what that input of the Department of Health means for the task of this committee. And it is extremely valuable. Because the type of relationship in which they look, at health questions, as a national provincial question, I think can be built into our submissions as such.

10

Now I can't comment after - before I have seen on this obviously.

MR SMITH:

No I am not asking for it now - no-no.

CHAIRPERSON:

Yes.

MR ANDREW:

Just a word of caution Chairperson, when we come to our main reports and I am including one we have done, presumably for example if you feel the Department of Health have got a lot of useful things to say, you will in fact read their full submission. You are not going to be relying

20

20 MARCH 1995

on the summary.

And I think we've got to be very careful, because I can tell you the problem that will arise, is that obviously we all have to read this before we agree to it, I am not suggesting we shouldn't have the opportunity to read it.

But I think we should be terribly careful I mean, this is actually quite long as it is. As you say it is a mammoth piece of work. If each of us go through submissions and say - hell that aspect of that submission - I like that - particularly as it endorses the point of view I hold. Therefore I want to make sure it is in the summary.

10

In other words, if we start try to bolster the summary, to make sure that from our own perspective it is reflecting something that we are consider important, as if that is going to be the determining feature of our end recommendations. I think we are going to get into a nightmare situation, because in many of the reports, you know we then start, like for example there is the one of the North West which you may reference to paragraph 6.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

Okay, you know we can then honestly we can end up having a twenty minute discussion in this committee on how we should be summarising that thing. So just a word of caution - I think we will have to be very careful - I see this primarily - these summaries, not the documents, these summaries as being giving due public recognition to submissions made by people other than political parties. And it's ...

CHAIRPERSON:

I buy your point, you can (inaudible) ...

MR ANDREW:

It is actually not meant to be setting out guidelines for us or our Theme Committee as to what we should be making in our main reports.

10

CHAIRPERSON:

I buy your point immediately - it's a valid point made and I would detract my point. I think then, this could then, if we agree to that this could just be sent through as a technical report. And giving recognition to public submission that we have received.

Now I am only worried about one thing. No one is really going to read this summary. I'll be surprised, and all this wonderful work is wasted, except if we get our members into

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

some action on this.

But it is okay, that's our problem. I would agree that this could be sent through as a technical report. Is that in order, agreed? Do you think that is a wise way now to go Professor Davis?

PROF DAVIS:

Yes, otherwise I think Mr Andrew is right, you are going to ask us to write a 100 page report which is in other words going to basically - you know, all I think this should be Mr Chairperson, is a guide - I mean if anybody can do any work, has got to (inaudible) ... look at this thing and say 'ghee' the Department of Health has got some interesting things to say - I better go and read what they have to say, it points in a direction. It cannot be a substitute possibly, for the reports themselves.

10

It is merely a guide line so somebody wants to flick through it, to see what the hell there is, find it in here. So I would think it is a sensible a course of action that you would adopt.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR ANDREW:

And may I just say, I mean in fact, that has already happened with me flipping through here. Having looked at most of the submissions when they came in.

You know after a while you actually forget what was in some or a particular good idea and having even just flip through here and -I see that covered the question of contracting out by local Government. I must go and look at that one again. It may have something you know that I'd like to use. So I see that is, from our works point of view, the role that this play saying - hey, they covered that topic. I am interested in that topic, let's me see what they said about it.

10

CHAIRPERSON:

No it is okay, I was just trying, because I really feel strong about these submissions. I have got three member committee in my caucus who is trying to wade through these things and okay, it's in order, finished?

Those are the extra documents. Did we miss any other inputs?

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR MXENGE: Ja may I - I don't know whether this is the right time to ask for this report, but members are, you know aware of the fact that there was a joint Core Group meeting you know which was held last week. And I think maybe it's advisable that they should get a report on that.

CHAIRPERSON: Sure, I am sorry I haven't got the minutes of that meeting available yet. Is it finished, the minutes.

MR MXENGE: No we will circulate it minutes of that ...

10

CHAIRPERSON: Ja, after the minutes is received at our next meeting, I think we can report then on minutes. It just doesn't help if we just report in the end. In order, agenda for the TC meeting of Monday.

Basically we've asked for this workshop which I think Professor Venter is preparing on the Constitutional principles and there is also been something which I saw somewhere.

20

Professor Davis do you care to report - if everything is okay

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

for that to go ahead?

PROF DAVIS: Professor Venter would have prepared his document I am hoping it will be circulated beforehand, if not handed out on that day. He is ready and available - I understand it is on Monday morning. And the workshop will take place as per arrangement.

CHAIRPERSON: Some of our other experts also be present, it will be very ...

10

PROF DAVIS: All our technical people will be down and it is not just him, we will all be participating with you in a debate and discussion about those matters. Yes, we will all be there.

CHAIRPERSON: Thank you ever so much, Peter Smith.

MR SMITH: Chair, through you and Professor you mentioned the document will be circulated beforehand or on the day.

PROF DAVIS: Yes.

20

MR SMITH: If it is at all possible it could it be beforehand rather on the

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

day, because it was something we wanted to - I think we stressed, if possible, that we could refer to it before hand.

PROF DAVIS: I appreciate that. If it was mine I would give it to you, it's not mine I am just you know - I am trying to get Venter to do the necessary.

CHAIRPERSON: Ken?

MR ANDREW: Just a thing arising from the last workshop. I think 10
Professor Basson indicated he would be distributing a paper on the basis of the outline of his talk on concurrency. Is that correct or not?

CHAIRPERSON: That has been received.

MR ANDREW: Has he, oh! okay sorry, well I'll have to check whether I've have got it. I mean you know, we get so much, I may have got it and I - okay thank you.

20

MS HAYDON: (inaudible) ...

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

MR ANDREW: I beg your pardon.

CHAIRPERSON: Very nice, I do appreciate - I think all of us, these papers coming out. All our members in our party also thank you very much for that. And in general we must thank you.

Anything else, now have we got anything else on that agenda for that meeting, Mr Mxenge?

MR MXENGE: This is not on the 27th but what I wanted to raise was I 10
tried to raise this earlier on in the meeting about inviting
(inaudible) ... the chairperson of the financial and fiscal
commission for a hearing on the 3rd of April.

I was doing also the, from the private sector, the Standard
Bank have made an indication you know to the fact that you
know they would like to come and you make or present a
paper you know to the Theme Committee as well.

UNKNOWN: Who? 20

MR MXENGE: The Standard Bank, and I was wondering whether maybe we

THEME COMMITTEE 3

20 MARCH 1995

would want to invite them as well for a hearing on that day.

CHAIRPERSON: If we talk public hearings, I think we must receive those requests in writing so that we can order it and then we must have an item to discuss it also with our Theme Committee as such, first Peter.

MR ANDREW: Now Chairman on the FFC side, I thought didn't we agree on it earlier that we have a meeting only with the Core Group rather than the whole, because it is only going to inform us as to what research they have done and perhaps give us material to start with.

10

So it's not a - it's not Theme Committee meeting per se. In which case we don't need them at all.

CHAIRPERSON: They asked to give evidence formally.

MR MXENGE: What we need to do is, while it was suggested you know they - they address the Core Group, but I don't know whether there is in agreement from the house.

20

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

CHAIRPERSON: First Ken then (inaudible) ...

MR ANDREW: Chairperson, my understanding at this stage is - our immediate concern with the FFC - is simply so that when we ask our technical committee to give us a comparative study, of how the fiscal relationships in other countries between central Government and regional or provincial or State Governments and local Governments are arranged - both in terms of allocation of functions and the structures and how it all works.

10

That we decided yes, we will ask our technical committee to do that. We then correctly in my view, decided that hold on, the FFC might already have done a lot of work in this area and at least let's find out including with our technical committee, what they've actually done so our technical committee can maybe just go and pick up what they have done - if they have done the whole job, just pass it on to us, if they haven't done the whole job, to do some more.

20

Now, in my meeting with Mr Marobe, I got the impression that he, and they got quite - he had another gentleman with

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

him, I just - the name escaped me for the moment - but any way he had another member of his commission there as well.

They actually got quite excited that they thought maybe they could use the work of our technical committee as well if you know to add. They have got some stuff but if they could get some more, that could be very useful to them.

So, my feeling is at this stage, we are not in the mode of discussing financial relations between Provinces, that to ask Mr Marobe or anyone of his colleagues to give evidence, I mean it may be of interesting kind of academic interest, but we aren't actually getting our teeth into that at present.

10

I would see in this first phase all we really want to know, is what kind of research have you done so far - what kind of data bank - data base have you got on this comparative issue.

20

Further down the track, when we are dealing substantively with it, we would then say - please could you come and give

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

some oral evidence to the whole Theme Committee on what your experiences have been in trying to do your work.

What are the challenges you faced you know etcetera as we talked about earlier. So I would see that as a completely different phase. I think at this stage, it would be premature in terms of it's ethicist because we are not in the process of applying our minds to that aspect of our work at present.

And so I would suggest that at whatever date, whether it would be April the 3rd or earlier, we try to arrange for Mr Marobe or one of his colleagues and I think Lieb Loots was mentioned to me as the person who was based here in Cape Town, as the person who specifically charge with some of us gathering their comparative information - simply get one or more of that commission into a meeting with ourselves and our technical advisors and say okay - what have you guys done so far.

10

All right and then we speak to our technical advisors and say grab what they have done but we want you to add on more countries or greater depth or what ever.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

CHAIRPERSON: I think that's most valuable - let's listen to Dennis, Professor Davis here.

PROF DAVIS: All I want to say was that Mr Chairperson, that I - in a way, isn't that precisely what this workshop on the 7th and the 8th is all about?

The one that Professor Ebrahim was referring to. Because - because if you look at the framework of that - the back of the document, the draft programme, I don't know you can correct me if I am wrong. But it looks to me as if we are going to get a whole batch of information on exactly those points.

10

I have no problem about Mr Marobe coming down, but I think this is clearly where people are ...

CHAIRPERSON: You see I - I was only wondering one thing, whether - you see the problem is in Pretoria. We get four members from our Theme Committee there or five hey. It is completely for a such a thing which belongs to the heart of this Theme Committee which have to make the Constitutional proposals

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

- can't it have it here. Those other people are over there then we can have our whole Theme Committee.

You know on the ANC's side we have got seventeen full time members plus twenty four alternate members. It is a Parliament.

PROF DAVIS: I would really urge that this be here I mean it absolutely goes to so much of a heart of our entire debate.

10

CHAIRPERSON: They are the people who have to decide.

PROF DAVIS: That I don't see how you can prepare your submissions on all sorts of things without everybody having the benefit of this and whether that means replicating I don't know whether that is possible, how it should work, but I do think quite honestly, we do need a proper workshop on this here for the entire Theme Committee, Mr Chairperson.

CHAIRPERSON: Seriously oh! then we must start talking, repeating the whole workshop in Cape Town, Ken.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR ANDREWS:

Yes, I would concur, I think it would be very useful if they could have it in Cape Town. May I say also, that and you know what you have just been saying and what we have been discussing, a penny is dropped for me.

And that is, I think that we should very specifically request the CPG or whatever, whether it is in Cape Town or not, that at least one of our technical advisors if not all of them, be invited to this workshop.

10

And if not all of them, then at least once they have decided who is going to take the sort of primary lead in doing this task on fiscal and financial relations. That, that individual at least be at this workshop.

Because otherwise you know you getting four members of the committee picking up certain information and perspectives and a technical advisor who in a sense will know most of it, 80% they'll know already. But at least you know it helps them get the full picture.

20

CHAIRPERSON:

Okay I think we ad idem on that. Professor Ebrahim is here

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

he has heard us and he could react and it will be noted in our minutes, and you can carry it over. Please sir.

MR ANDREW: Chair my I draw your attention that is against Parliamentary and Constitutional rules to smoke during committee meetings.

CHAIRPERSON: (inaudible) ...

MR SMITH: Chair, can I just ask a question through you as you disappear. 10

CHAIRPERSON: Sorry.

MR SMITH: Professor the CPG has a whole programme of workshops.

PROF ?: There are about four workshops.

MR SMITH: Now is this one of those and the same format will be repeated with each of the four - we will be invited as well. 20
Or is this a one off special?

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

PROF ?:

No the - the four workshops you know they (inaudible) ... but they also four major workshops. And financial and fiscal matters (inaudible) ... local Governments and inter Governmental relations.

Inter Governmental relations (inaudible) ... that will be held in (inaudible) ... and that will be on the 8th and the 9th. The others - (inaudible) ... **MIC NOT ON**

CHAIRPERSON:

Ja could I just also say, we have ten members requested. Is this meeting, I feel that the commission is under estimating what the role of the CA really is in this matter. This Theme Committee has to draw my proposals for a Constitution on the relationships - ten members from the whole CC. Five from this committee we are not even getting a decent party political representation.

10

The result I can tell you, in our caucus, if I bring this to our caucus, will not be nice against the commission on provincial Government. They will just try and follow their own minds then. I really must tell you, I've had a previous experience on this. I must tell you and the Parliamentarians are starting

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

to feel that these two processes are going two ways I think.

I don't know how many people do you have in total at this conference. I must talk about this. How many people are there in total?

PROF ?:

(inaudible) ... I men believe that in fact, there is this - a problem. My personal view was that the invitation of ten was too few. But, we do have the problem of numbers at the workshop - not least, because there are nine provinces.

10

And when you invite members from provinces you end up very rapidly with forty five people for instance. The workshop at present is envisaged for a hundred and forty people. We can't get the numbers well below that in fact.

Beyond - to increase those numbers would mean some logistical problems. But certainly what I can say is - I will take back to the management committee of the commission the suggestion that the numbers ...

20

CHAIRPERSON:

We can house four hundred members here.

CONSTITUTIONAL ASSEMBLY

20 MARCH 1995

PROF ? : The numbers for the CA should be increased.

CHAIRPERSON: Ja we can house a conference of four hundred members here over a weekend, Mr Peter Smith.

MR SMITH: Chair, I don't in fact endorse your views in this (inaudible) ... at all, because let's bear in mind that the CPG is following a parallel process to ourselves. It is a separate process distinctly separate, we have our own process, they've got their process.

10

What's happened is, that we have already requested that they determine their own agenda for their inputs to try and overlap with ours. I mean that is already a major task on their behalf, they have done for us. And the workshops they are holding, I don't see this as being a joint CPG/CA task that we end up agreeing on something.

I mean, we are in the fortunate position of being invited to something which is essentially CPG event. And we are perfectly within our own rights to have our own workshops and to do our own thing.

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

There is a danger if we start sending the whole Theme Committee to these things, then we start saying, in that case we don't have to do any of our own - we have a joint CPG/CA workshops and that's killed the subject matter.

Now that's going a little bit beyond I think what is envisaged in terms of the two processes. So I am happy with the number. I think the number is fine. It is there - we sent enough people there just to be able to participate. But we come back and we do our own thing as a CA.

10

We receive inputs from there, they are going to send us the inputs anyway. Their written inputs, we get them already. And we must advise our own work programme to take cognisance of that.

CHAIRPERSON:

I have heard you and you are right. Thank you, I withdraw my opinions but I must tell you, that's how my caucus members react on these type of things. They feel left out. Thank you, any other matters for the meeting of 27th March, Mr Mxenge? Any other thing you want to put on?

20

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995

MR SMITH: Chair, maybe it will just be useful whoever is chairing that meeting, would simply give a report back of what is being happening the last couple of weeks in terms of Core Groups and so on. But I mean, keep it as brief as possible perhaps.

CHAIRPERSON: Thank you for your presence, I missed my other meeting by two hours almost.

MR MXENGE: Thank you.

10

CHAIRPERSON: Thank you.

[END OF VOLUME II]

CONSTITUTIONAL ASSEMBLY

TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that in so far as it is audible, the foregoing is a true and correct transcription of the proceedings recorded by means of a mechanical recording of the:

THE CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

20 MARCH 1995



.....
TRANSCRIPTIONIST: L WOOD



.....
EDITOR: H POTGIETER