

2/4/3/4/6

TC3

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

**RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT**

SUBMISSIONS BY CIVIL SOCIETY

By Prof Dion Basson

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SUBMISSIONS BY CIVIL SOCIETY RELATING TO THEME COMMITTEE III DION BASSON

INTRODUCTION : KEY TO SUMMARY OF SUBMISSIONS

This summary of all submissions up to and including VOLUME 4 contains the following: I **Submissions under Heading 1 & 2 (alone)** - which contains submissions which are applicable only to these two Headings; II **Submissions under Heading 1, 2 & 3 (Combined)** - which contains submissions which are applicable to all three of these Headings; and III **Submissions under Heading 3 (alone)** - which contains submissions which only apply to this Heading. A further distinction is made between: Submissions from A) **Organisations**; and Submissions from B) **Individuals**.

1. SUBMISSIONS UNDER HEADING 1 AND 2 : PROVINCIAL GOVERNMENT

A. ORGANISATIONS

1. **Institute for the Advancement of Human Rights, Democracy and Individual Right to Mother Tongue and own Culture and Land in South Africa**
Issue dealt with: **Provincial Government**
Summary : elections must be on a constituency basis; regional government must be implemented "fully"; the establishment of Volkstaats, European, Indian and Coloured enclaves must be contained in Constitution.
2. **National Consumer Union Pretoria**
Issue dealt with: **Provincial Government**
Summary : proposes structures at the national and provincial (and local) level to deal with consumer affairs; funded by provincial government at provincial level and a national council at national level; carries submissions which do not really relate to Constitution as such.
3. **Commission on Provincial Government (Think Tank)**
Issue dealt with : **Provincial Government**
Summary : deals with inputs by various persons and organisations; those submissions by G Barrie, the Department of Health, the Public Service Commission, B de Villiers (HSRC) and Inkatha already dealt with; **Leonardy's** input: argument of an inevitable circle when allocating concurrent powers: start at the residual power; list the concurrent powers; and address the grounds of justification for making use of these powers to the non-possessor of the residual power; exclusive powers propagated on the basis that

provinces will also have executive powers on in those functional areas where they exercise exclusive legislative powers; use the Constitutional Court and time limited steps between the Senate and the National Assembly to deal with disputes on concurrent powers; powers may be delegated (full responsibility to provinces) or by agency (full powers of supervision with national level); **Peeters'** input: discusses how Belgium transformed from a unitary to a federal state; allocation of powers first to the regions and then to the communities; laws receive same standing as those of national Parliament; exclusive powers given to regions and communities; functions of regions and communities enumerated and residual powers rest with national government; next change will be to give residual powers to regions and communities with exclusive national powers enumerated; parity-based decision-making at the national level; alarm bell procedure requiring consensus decision-making; **Boase's** input: discusses asymmetry; no system completely symmetrical; discusses various types of asymmetrical arrangements; discusses the German system; the Bundesrat is a countervailing force with strong representation of Länder at the centre and extensive administrative responsibilities for the Länder; note that the range of issues are so wide and the input by various persons so varying that it is almost impossible to summarise properly.

4. **Department of State Expenditure**

Issue dealt with : **Provincial Government**

Summary : Tender boards (see s 187 of interim Constitution) or exchequer administration should be dealt with in the new Constitution and/or a separate Act; Constitution must provide what will happen if provincial government collapses; number of legislative, executive and administrative structures must be limited in view of severely limited capacity to ensure good governance; avoid similar complexities in transfer of powers and functions between governments; checks on maladministration must be provided (eg. Auditor-General & Public Protector); and consider making provincial officials accountable to central Parliament for all transfers received from Exchequer.

5. **Human Sciences Research Council (Dr B de Villiers)**

Issue dealt with : **Provincial Government**

Summary : After 1910 SA was at best a decentralised unitary state; principles underlying federalism & regionalism discredited by apartheid homelands policy; discusses NP and ANC approaches to federalism - in view of NP support for federalism the ANC is sceptic - autonomous provincial powers seen as a block on majority rule; discusses the relevance of Constitutional Principles to federalism - vague and general though the Principles support a federal-type dispensation; sees a growing consensus on the issue of

regional government; discusses federal characteristics which will have to be addressed in new Constitution - supremacy of Constitution, shared rule by provinces in national policy matters and self-rule on provincial matters; seems to view present provincial powers as being qualified exclusive with the provision for national override; points to domination of present Senate by the National Assembly; discusses the process of provincial constitution-making in terms of the interim Constitution; discusses the territorial integrity and the possibility of altering provincial borders; points out social & economic indicators which could influence the decentralisation process; on the whole deals with so many issues and detail that it is difficult to summarise.

6. **Ministry of Safety and Security : North-West Province**

Issue dealt with : **Provincial Government**

Summary : rendering of services of primary concern to provinces; with regard to functional areas provinces must take precedence; the present s 126 of the interim Constitution should remain in final Constitution - legislative grey areas should be left to consultation between two levels and if it cannot be resolved it must be referred to the Constitutional Court such as is possible presently; provinces' concern should be national unity; Parliament should be given a supervisory role - autonomy can evolve from this system.

B. INDIVIDUALS

1. **B Fein**

Issue dealt with : **Provincial Government**

Summary : provinces must levy taxes concurrently with national government or exclusively; override of national level only if necessary and when there is no alternative; no proportional representation required in provincial constitutions - in favour of winner-takes-all system; provincial chief executives either directly elected or by legislature; provincial government must have exclusive control over local government; provincial governments must have power to establish provincial and local courts; proposes provincial autonomy over areas such as taxation (independent financial base), economic regulation, labour law and the environment; cater to heterogeneity; training ground; not a recipe for secession or strife.

2. **Prof G Barrie (RAU)**

Issue dealt with : **Provincial Government**

Summary : plea for federal government; Constitutional Principles favour federal state;

system of government should start at bottom and work to the top.

3. **O Bothma Mossel Bay**

Issue dealt with : **Provincial Government**

Summary : listed functions of central government; provinces send delegates to Second House to advise President; autonomy for provinces to govern themselves, collect own taxes to finance their functions; asymmetry - some provinces financed by central government other provinces' powers are even given by prerogative of President.

4. **CY Mkhize (University of Zululand)**

Issue dealt with : **Provincial Government**

Summary : guiding principles to establish a unitary or federal state are level of economic development of country, divisive nature of ethnicity, ability of provinces to develop into independent states, the general education of electorate; many of these factors are lacking - central government will be influencing especially some (listed) areas; must be areas of co-operation between provinces and central government - procedures to be established in delivery of services; local government remains responsibility of provinces - provinces may appeal to central government for interventionist measures and central government could also intervene at its own discretion with the Constitution providing procedures for this to happen.

5. **Dr HB Narain Richmond**

Issue dealt with : **Provincial Government**

Summary : plea for federal government; true federal units with minimal central control; reasonable Volkstaat for Afrikaners; no unscrambling of multicultural provinces; small geographical areas or cultural heartland should be given to small minorities (Afrikaners, English and Indians) wherever they form at present numerical majorities; certain cultural autonomy.

6. **TE Ngcobo Zcerust**

Issue dealt with : **Provincial Government**

Summary : do not alter the North-West - present system excellent.

7. **S Abrahams Gauteng**

Issue dealt with : **Provincial Government**

Summary : devolution of powers to such an extent that KwaZulu/Natal will be satisfied; invite this province to draft provincial constitutions and use this as starting

point.

8. **AH Taute** Johannesburg

Issue dealt with: **Provincial Government**

Summary : more power for provinces; Eastern Cape province to be divided into two new provinces; provinces divided into constituencies for elections; proposes a new electoral system; each province irrespective of size to be represented in Senate in terms of proportional provincial representation; member of legislature should not lose his or her seat upon resigning from political party.

9. **RB Croft** Hermanus

Issue dealt with: **Provincial Government**

Summary: minimalist government; devolve powers to the utmost limit practicable; subsidiarity is good; residual powers are to vest in the states (provinces); funds must be expended where they are generated.

10. **L Liebenberg** Johannesburg

Issue dealt with: **Provincial Government**

Summary : concurrent legislative competence of provinces and Parliament with regard to environment: Parliament prevails to the extent that it is necessary for the maintenance of minimum standards on a national basis and subject to international treaties.

11. **JM Strüwig** Bloubergstrand

Issue dealt with : **Provincial Government**

Summary : strong federalism must be cornerstone for future stability; the possibility of "eie state" (homelands) should not be ignored.

II. SUBMISSIONS UNDER HEADING 1, 2 AND 3 (COMBINED) : PROVINCIAL & LOCAL GOVERNMENT

A. ORGANISATIONS

1. **Public Service Commission** Cape Town

Issue dealt with : **Provincial Government & Local Government**

Summary : assignment of powers and functions to various levels - some basic considerations: functions differ - no set pattern; many functions encompass more than one level - key is to know which aspects to assign to which level; when considering alloca-

tion all three levels should be looked at simultaneously; powers and functions should be assigned as clearly as possible - grey areas should be kept to minimum; two principles apply: the subsidiarity principle (an activity should not be assigned to a higher level if it can be dealt with effectively at a lower level) and empowerment principle (when power is assigned to lower level a higher level of authority should not interfere in the exercise of that power); the allocation of financial means should be in full harmony with the deployment of powers and functions - must not be in position of financial subservience.

2. **The Transvaal Municipal Association**

Issue to be dealt with : **Provincial Government & Local Government**

Summary - provincial control impairs local government autonomy; democracy is only possible with self-determination for minority groups; proposes community councils on the lines of Belgium: communities promulgate own laws - a conflict goes to Court; powers "ratione materiae" (with regard to language, culture, education and personalised rights) and "ratione loci" (with regard to territory - majority language zone); communities have substantial financial sources to finance competences; alarm bell procedure to allow for compromise - consensus decision making is required; principle of autonomy over own affairs and joint control over general affairs is entrenched; division of competences with autonomy at level of allocation; also proposes the Swiss canton system and community councils: everything is decentralised to cantons as independent states with autonomy; minority rights protected through the promotion of consensus, conflict management and self-determination; direct democracy methods are introduced; proposes constitutional model for South Africa: autonomy granted to local government, allocation of powers at all levels entrenched in Constitution; three chambers for each level of government; exclusive and concurrent powers; Constitutional Court; on local government level also general and own affairs and protection of minority rights (eg by way of double majority in council); autonomous fiscal powers and intergovernmental transfer on the principle of fair return; the range of issues covered in terms of this model are so wide that it is impossible to summarise it properly.

3. **Department of Education Pretoria**

Issue dealt with : **Provincial Government & Local Government**

Summary : devolution of power to local government (including the area of education) is possible; local authorities at present make grants-in-aid and other financial contributions; in terms of present Constitution, local authorities need only to provide "access" to education (transport) - presently not required to provide education; can raise prop-

erty taxes on schools but provincial authorities can recompense local authorities for loss of revenue if they do not tax schools; revenue allocations of national government usually made by provincial government; not empowered to provide compulsory education; local authorities shall not transgress upon professional terrain of education; education should retain control of resources (eg buildings) - transfer of such to state is undesirable; the provision of education as a provincial function is listed.

4. City of Durban

Issue dealt with : **Provincial Government**

Summary : all functions which can be handled at provincial (and local) level such as police, agriculture and the like should be devolved downwards; any level of government must be allowed to exact any form of tax.

Issue dealt with : **Local Government**

Summary : Recommends devolution of power to lowest level, avoiding unnecessary overlaps, inducing culture of payment, lowering of cost of charges, service operating in form of company and improvement of system efficiency; as many local governments in particularly the rural areas are incapable of handling normal functions, functions such as education, fire, health, ambulances, local policing and the like should operate at "country" level; genuinely local rural government is a pipe dream; a sorting-out of education and ambulances and fires as either local or provincial powers is called for - recommends transferring these powers to metropolitan or country level of local government; any level of government must be allowed to exact any form of tax.

5. Department of Health

Issue dealt with : **Provincial Government**

Summary : Laws which deal with health services should be harmonised by provincial legislatures and laws which deal with health matters other than this should be harmonised by Parliament; spells out exactly how such harmonisation should take place; until federalism is adopted SA is a unitary state where national government has final say on national matters and provincial government on matters specifically affecting a province; provincial governments should be represented in Senate through nomination; furthermore, 50% of senators nominated by metropolises (Gauteng), rural areas, traditional leaders & metropole (KwaZulu/Natal), and rural areas (Northern Tvl) - collectively represented not for a specific group (Volkstaat will have to be one of these); elections to take place in electoral districts; possibilities of taxation mentioned; sub-regions in provinces to bring government closer to the people.

Issue dealt with : **Local Government**

Summary : local government system must promote a unified health service delivery system; local government structures must render a comprehensive health service, have expertise available; do so in a sustainable manner and in such a way that it is financially and physically practicable; until rural local government is established or urban local government has expanded their borders to have contiguous borders (in interim phase) the health sector have to debate alternatives to ensure equity, accessibility, acceptability and affordability; people must pay for services; health services should not be given to traditional authorities but these should form part of district health system.

6. **African Muslim Party**

Issue dealt with : **Provincial Government & Local Government**

Summary : minority group participation at all levels of government on their own platform and not through parties - minimum of 5% seats at all levels in areas where Muslim populations are a reasonable number.

7. **African National Council of Churches**

Issue dealt with : **Provincial Government & Local Government**

Summary : Provincial and local government should provide churches and associations with church sites and pre-school, creches and youth sport recreation sites free of charge.

8. **Standard Bank Johannesburg**

Issue dealt with: **Provincial Government & Local Government**

Summary : where uniformity is required, a function (such as consumer protection) should be allocated predominantly if not wholly to the national government; support the principle of asymmetry with regard to provincial and local government powers; a balance must be created between too much power in the centre and too much to the second and third tiers of government - critical to economic development; tasks and responsibilities with regard to regional finance should be divided carefully between central and provincial government (lists these tasks and responsibilities); only central government should have power to levy VAT and income tax; provinces must have necessary fiscal capacity - if a province relies on national allocations it undermines principle of accountability; Constitution should provide mechanisms whereby the recommendations by the Fiscal and Financial Commission can be expedited; provinces' power to borrow - financial community needs certainty as to whether the central government has the power to issue guarantees of re-payment; Constitution must des-

cribe the design of the fiscal system.

9. **South African Anglican Theological Commission of the Church of the Province of South Africa** University of Natal : School of Theology
Issue dealt with: **Provincial Government & Local Government**
Summary : calls for a "unitary" South Africa not specifying exact form state will take; local government not to be constituted on racial or ethnic lines; local rights and needs to be safeguarded in the law; fair state funding with a view to development and so that poorer rural communities are not disadvantaged.

B. INDIVIDUALS

1. **BJ Mnisi** Balfour
Issue dealt with : **Provincial Government & Local Government**
Summary : Provincial and local governments must represent all organisations.
2. **KR Maughan-Brown** Fish Hoek
Issue dealt with : **Provincial Government & Local Government**
Summary : governance has to be rebuilt from the grassroots level again; non-racial government successfully practiced in Cape for many years; no nomination (of representatives) and independents must be able to stand for elections; simple electorate-driven amendments to local government legislation; greater autonomy for smaller local government units; review or repeal existing legislation on local government.
3. **M S Dimba** Pietermaritzburg
Issue dealt with : **Provincial Government**
Summary : government must serve people; traditional leaders above politics; if provincial government fails to perform central government must take over.
Issue dealt with : **Local Government**
Summary : complete involvement in transport matters.
4. **P & N Stratten** Plettenberg Bay
Issue dealt with : **Provincial Government & Local Government**
Summary : maximum of local government with the provinces setting the guidelines and giving support where necessary; contracting-out as much work as possible.
5. **D Black** Johannesburg

Issue dealt with : **Provincial Government & Local Government**

Summary : proposes far looser form of federation with more freedom devolved to local authorities; proposes small as possible government with homogeneous community composition as far as possible; devolve as much as possible to this level; this level may come under an umbrella level of local government (city level); makes government accountable; give greater say to those who pay the bills.

6. **AJ Carser Pietermaritzburg**

Issue dealt with : **Provincial Government & Local Government**

Summary : provincial government should help finance local government and should act as watchdog over local government as well as being the link between local and national government; local governments must be open & accountable and inform their constituents on decisions made; must seek mandate from community and councillors' salaries must be determined by ratepayer associations; local government ombudsman is required.

7. **J Roux Kenilworth**

Issue dealt with : **Provincial Government & Local Government**

Summary : basis proposals on the theory of the threefold functional nature of society; proposes, inter alia, a free spiritual life, a minimal government rights state and a free market economy; proposes decentralisation and federalism as a way to ensure strong local government; federalism checks over-centralisation and leads to strong regional & local government; meaningful local & regional government brings government close to the people through intensive democratic participation; direct participation via referendums and popular initiatives is required; powers and functions must be defined, separate and limited; difficult to summarize as the range of issues covered are very wide and based upon a specific theory.

8. **S Schainberg Northcliff**

Issue dealt with : **Provincial Government & Local Government**

Summary : popular participation is required; locally-based grassroots organisations or territorial base organisations (which is empowered to decide how money from the central, provincial and local government will be spent in their communities) should be the primary recipients of the transfer of authority.

9. **SG Snowden Bryanston**

Issue dealt with : **Provincial Government & Local Government**

Summary : communities to be governed by bodies to which they can relate on issues such as education, transport & police; higher levels of central & provincial government should play an audit and inspectorate function but not over-rule lower bodies.

10. **J Thuynsma Mitchells Plain**

Issue dealt with : **Provincial Government & Local Government**

Summary : provincial government must be elected by the metropolitan councils & local councils in the rural areas; the provincial council should be a co-ordinating body with no statutory powers; local government is elected by constituencies in a ward system and in accordance with national election criteria.

11. **SF Tomkins Merrivale**

Issue dealt with : **Provincial Government & Local Government**

Summary : the Local Authorities Ordinances are voluminous documents which differ from province to province and should be standardised; all companies and aliens should vote provided they own or rent property in the local government area; persons who pay the taxes should vote on the basis of one authorised person per property; politics should not enter disputes on local government level; assessment rates should be payable monthly and not yearly.

12. **WM Magura Postmasburg**

Issue dealt with: **Provincial Government & Local Government**

Summary : government must recognise God's institutions.

13. **TJ van Esch Johannesburg**

Issue dealt with: **Provincial Government & Local Government**

Summary : provinces, districts and towns must have the widest possible power; central government to act only in matters concerning the country as a whole and guard the other levels of government.

14. **GC Webster Kensington**

Issue dealt with: **Provincial Government & Local Government**

Summary : devolution of power should be pursued to its maximum to ensure that interests of as many individuals as possible are represented and to avoid the concentration of power.

III. SUBMISSIONS UNDER HEADING 3 : LOCAL GOVERNMENT

A. ORGANISATIONS

1. **Centre for Rural Legal Studies :**

Issue dealt with : **Local Government :**

Summary : Access of farm workers to local government; the establishment of Rural Primary Local Authorities (RPLA's) is called for accompanied by serious support mechanisms and programmes; home-grown structures which have minimum potential for conflict must be established; there should be a phasing-in from direct to indirect representation; in the transitional period direct representation occurs in the Rural District Council (RDC) as there are few rural structures; once RPLA's are established, they can nominate representatives to the RDC.

2. **City of Cape Town :**

Issue dealt with : **Local Government**

Summary : Planning powers and duties should only be carried out by the higher levels of government if they are widely and generally applicable or cannot be dealt with a lower level (which is concentrating on detail and local-specific matters); the delegation of town-planning decision-making to municipal officials should be possible; recommends that the powers and autonomy of local government as set out in the interim Constitution be retained and strengthened and the relationship between powers and functions of local and provincial government be stated clearly.

3. **IDASA National Office**

Issue dealt with : **Local Government**

Summary : interim phase of new local government has serious problems in rural areas; traditional authorities are concerned that money is spent in urban areas - district council model suggests this could be dealt with through the creation of a coherent district in which local councils of rural and municipal areas will pool funds - some prefer rural areas as wards with representation directly on town or city council; unclear what status of traditional leaders as ex officio councillors are; confirm list of actual local government functions at present for all forms of local government and strengthen

clauses of Constitution which require the existence of autonomous and elected local government; give financial independence to local government through additional guaranteed sources of funds obtained from higher government levels; similar arrangements as between national and provincial levels to apply to local government; a land tax similar to urban rates system is proposed; ensuring training and development priorities should go to the most needy; elections on the basis of mixed proportional and ward system needs careful monitoring; public access to local government proposed to encourage citizen participation.

4. **Kroonstad Municipality**

Issue dealt with : **Local Government**

Summary : When competencies are devolved upon local government the necessary fiscal competencies must at the same time be devolved.

5. **Directorate : Local Government Administration : KwaZulu/Natal**

Issue dealt with : **Local Government**

Summary : Proposed (provincial) Local Government Act which foresees whole of province falling under one or other local government structure; apart from conventional local authorities there must be district councils in respect of those areas which do not at present fall under any form of local government; a regional council as an over-arching structure at secondary level in non-metropolitan areas with same powers & functions as a metropolitan council; regional & metropolitan councils to have same powers as present Joint Services Boards; proposes different powers to different local government structures in schedules attached to proposal; powers & functions should be at least those listed; Demarcation Board to investigate numbers.

6. **Local Government Affairs Council**

Issue dealt with : **Local Government**

Summary : the establishment and demarcation of district councils (in especially the Gauteng area) according to recognised criteria is discussed; district councils should be in a position to create revenue from local sources and apply it where necessary; compensation must be made for redistributing funds from formal urban structures (fiscal transfers) because these areas are directly or indirectly contributing to these urban structures; to address the problem that certain people outside the areas of local councils are disenfranchised a single district council (the local government affairs council in Gauteng must become such single unified district council) can function in the rural areas and organise elections; such council may function as a development body and

ensure that inhabitants have access to essential services; such council could claim the regional services levy as well as having other sources of income such as rates including land tax, fines of court, all license moneys etc; the local government affairs council has the departments and infrastructure to become such single district council.

7. **Association of Regional Services Councils of South Africa**

Issue dealt with : **Local Government**

Summary : possible alternatives for a rural local government system that complies with the basic principles adopted on which local government should be built; word "region" should indicate a subdivision of a province and "sub-region" indicate a subdivision of a region; the Regional Services Councils (RSC's) and Joint Services Boards (JSB's) must be regional institutions to render services outside primary local authority areas and can play a key role in the development of rural areas but a new name for such Regional Councils must be found for these institutions; present levy system of RSC's and JSB's retained and additional funds to be made available from higher levels of government; this does not preclude the extension of primary local authority area to include rural areas; Regional Council to be comprise of primary local authorities (including district councils); based upon the concept of indirect representation on the basis of proportionality; some functions added (housing) to the known list of local government functions for the Regional Council; redemarcation required of RSC's and JSB's to cover whole provincial area; rural development policy to be compiled by province; traditional authorities to be regarded as part of local government in rural areas.

8. **Cape Hope Alliance**

Issue dealt with : **Local Government**

Summary : move government closer to the people through decentralisation; autonomy must be earned by each primary local authority (PLA); large enough to command skill and resources with sufficient fiscal, legislative & administrative powers not too large so that managerial problems arise; could be a metropolitan authority with constituent PLA's; PLA must have direct access to Provincial government (not subservient to metropolitan local authority); must be equipped to provide services effectively and must make decisions intelligible to local community.

9. **Association of Regional Local Government of South Africa**

Issue dealt with : **Local Government**

Summary : this association includes all Regional Services Councils (RSC's) and Joint Services Boards (JSB's) as well as District Councils, Services Councils and Subregional

Councils known as Regional Councils; proposes that appropriate categories of local government (metropolitan and non-metropolitan) must receive its autonomy from the Constitution and not from another level of government; this autonomy should be intrinsically coupled to its powers and functions; allocation of powers on the basis of conduciveness to the financial viability at each level of government; its sources of revenue must be protected from exploitation from other levels; local government's share in revenue collected nationally must be properly defined and protected; identifies Constitutional Principles which are most relevant to local government; reads Principle I as not providing for national or provincial government to create local government; reads Principles II & XVIII as requiring local government throughout the country; reads Principle IV that Constitution itself shall regulate the relationship between levels of government; framework mentioned in Principle XXIV to actually structure local government; reads Principles XIX & XX as requiring autonomy for each level of government; Principle XXVI entrenches local government's rights to provide for basic services even if it is financially unable to perform these basic services; primary local government for all areas including rural areas; its right of representation on regional level must be protected; even where it is unable to perform functions it exists for expression of political rights of inhabitants; elections include both ward and proportional representation; indirect representation of primary on the regional level; at least two votes for every voter; the range of issues in this submission is so wide that they are difficult to summarise.

10. **City of Pietermaritzburg (Institute for Municipal Treasurers & Accountants)**

Issue dealt with : **Local Government**

Summary : asks for majority to approve budget not two-thirds but a majority of two-thirds of those present; to be financed effectively, local government to be allocated equitable amount by provincial governments, either directly or by devolution of financial resources; names criteria for doing so; entrench also the competence to raise loans by local governments; represent local governments on the Financial and Fiscal Commission.

11. **Johannesburg Metropolitan Action Group**

Issue dealt with: **Local Government**

Summary : members are 50 ratepayers' and residents' organisations; traditional role of local government should not be weakened by additional umbrella tier of metropolitan government; rather have accountable, elected councils whose members are directly answerable to neighbourhood constituents; should be highly motivated autonomous

entities; the track record of Regional Services Councils is dismal; could have been done more efficiently by independent local governments, equitably financed but fiscally discrete; representative government (of race and wealth) should be balanced against loss of quality that comes with size; no quasi-tier of government between local government and regional government and local government should have maximum autonomy or delegated powers.

12. **Free State Municipal Association Bloemfontein**

Issue dealt with : **Local Government**

Summary : a representative and non-racial association of local governments; local government should be empowered to perform functions for other governments on an agency or delegation basis; criterium of "level at which decisions can be taken most effectively" should also apply to allocation of powers to local government; local government should have a guaranteed and entrenched position; the core ideals of democratic governance and progressive local government autonomy must be strived for; local government should be entitled to equitable representation in the Financial and Fiscal Commission and provincial financial and fiscal commissions need to be established in which local governments enjoy equitable representation; formal intergovernmental fora need to be established at higher levels to discuss, negotiate and consult on matters pertaining to policy; attitude is as important: the three levels are to treat one another as partners and not as principal and agent; adequate powers and functions, including concurrent and exclusive powers and functions, are assigned to each level; there must be a commitment towards local government; the principle of a separation of powers (Constitutional Principle VI) is not an absolute separation but such which is compatible with democracy; legislative and executive authority should be unified in the local government council; local government councils must be authorised to establish one advisory committee and must be authorised to delegate specific executive powers to such committee; there must be a developmental approach to local government instead of a pre-occupation with control; the range of issues covered is so wide that it is difficult to summarise this submission (consisting of three parts).

B. INDIVIDUALS

1. **ETM Tshigeng Phokeng**

Issue dealt with : **Local Government**

Summary : create local budget for grave diggers.

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2. **J McMorran Gauteng**
Issue dealt with : **Local Government**
Summary : direct contact with representatives is required; elected members of wards should fulfill administrative and management tasks under the guidance of central & provincial level with regard to matters such as education, police etc.
3. **D Boyd Cascades**
Issue dealt with: **Local Government**
Summary : local government should be run by private enterprise with only a core of elected officials.

IV. OTHERS

1. **TP Shange** - interpretation needed.
2. **E Stones** - illegible.