

2/2/11/10/9

Stacey,

Please return for correction.
This transcriber does not
have a good understanding
of English.

Mona. ✓
—

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CONFERENCE AND LANGUAGE SERVICES		

THEME COMMITTEE	CC-SUB
DATE OF MEETING	28/02/96
NUMBER OF TAPES	2 TAPES
	1 SIDE + 3 EMPTY
CONTENT OF ENVELOPE	
1) PRINT OUT	✓
2) NOTES	/
3) TAPES	✓
4) COMPUTER DISK	✓

CC SUBCOMMITTEE
28 FEBRUARY 1996
TAPE 1 - SIDE A

I think we should wait to hear what they have to say.

CHAIRPERSON Do you think they will ever come back?

I do

CHAIRPERSON They have gone overseas. So we wait for that and we should be able to finalize it. OK. Then that leaves the question of the pre-amble. I am told that parties have not yet made their submissions. Can we ask and remind parties to put in their submissions? Which party has made a submission?

UNKNOWN ACDP

CHAIRPERSON O, ACDP. It is only the ACDP that has made a submission. The NP has not made a submission. The ANC has not made a submission.

UNKNOWN We have had discussions yesterday - they also had discussions with the and I have been in touch with them and they have been in touch with me. I asked them

CHAIRPERSON Right. The ANC, what explanation can you give us for not making a submission?

UNKNOWN Chairperson, we have not made a submission if there is any deadline we should

CHAIRPERSON Welcome.

INAUDIBLE

CHAIRPERSON Somebody is saying that your submission under pre-amble is the most important that you will ever make. But it is not true - is it? ... I know that.

INAUDIBLE

CHAIRPERSON Pre-amble - we are asking parties, Mr Sizani, the PAC and other parties must make submissions. It will be here by lunch time? Thank you very much. We then go to arrangements. The draft document is before us. I think we are going to ask Adv. Gerrit Grove from the Law Advisors to lead us through this.

ADV. GROVE Thank you Chairperson. Chairperson, this is now the first ... at a very complicated issue. To deal with this from the new interim constitution to the new constitution and I think this is a document that has to be developed as and when agreements are reached. I don't think we can even think of a final document at this stage. Or to finalize this matter right This is a document that one will have to take clause by clause to get the full understanding of this provisions. There are a number of general matters that can perhaps be discussed in a general way without preference to any particular clauses.

UNKNOWN Can I just make a suggestion. I think parties do not have a clear view of what this entails. So, I would be pleased if we could ask you to let us have the benefit of your thinking.

Then I will ask parties to maybe pose questions on your general introduction clause by clause and then we really need to get parties to focus on this particular chapter and the importance there of.

GERHARD

Chairperson, may I ask whether it will be possible for Mr Grove as he goes through this with us, as he says - clause by clause - to point out where it is exactly the same as in the present constitution. Or whether - or where there are differences as far as the position on similar issues are dealt with in the present constitution. That can be very helpful.

UNKNOWN

Gerhard, doen dit soos jy gemaklik is. (Gerhard, you can do it the way you feel comfortable with).

ADV GROVE

Chairperson, on the other hand - that may prove to be a bit difficult because the transition from the old order to the interim constitution and from the interim constitution to the new constitution is quite different - it is a quite different matter. In any case, I will try. Of particular importance here Chairperson, is the constitutional principles Nr 32 and 33. 32 provides for the continuation of the Government of National Unity. It states quite clearly that the new constitution must make provision for its system which is substantially the same as that in the interim constitution. That reflects chapter 6. The other one is constitutional principle nr 33. Which disallows elections until the 30th of April 1999 for the National Assembly unless the National Assembly is dissolved by half the vote of no confidence. So, we have to take those two very important principles into account when dealing with this document. The document also provides for several other matters - the

continuation of existing law and also of all, legislative, executive, judicial, administrative and other structures. Now, very important thing that is proposed here, chairperson, is that the transitional provisions are contained as you have seen now in a separate document. It is not contained or proposed as part of the new constitution. So physically it will be quite, it will be separate from the constitution - it is contained in what we call here a constitution complimentary act. At this stage a constitution complimentary bill. To all intents and purposes it will be part of the new constitution. It will regarded as such and it will also enjoy supreme status as the constitution and it will also be entrenched against amendments in the same way that the new constitution will be entrenched. The reason for this, Mr Chairman, is that it is unnecessary, because of the nature of these provisions, they are temporary and the idea is that it is unnecessary to burden the new constitution with temporary baggage. They will be phased out over the next few years and so on. If we contain it in a separate document - then there is no need to amend the constitutions specifically but only to, in the end, simply to repeal(?) This act, this separate act. Another matter, Mr Chairperson, is that the implementation of the New constitution, there are two ways to do that. The one is - we can wait until the 30th of April 1999 for the implementation - the other route would be to implement the new constitution as soon as possible after its adoption. So that is technically possible. We can do that and this draft now is based on the second option or the route that - where the new constitution will take effect, as soon as that can be done. Not to wait, unnecessary to wait then for the 30th of April 1999. But then we will have to make provision for

provision similar to chapter 6 in the interim constitution dealing with the executive structures and so on. You will see that those provisions are contained in a schedule 1 to this document. We will come to that, but in this stage, simply take note of that. It is dealt with in a schedule. So it is drafted then on the basis that the whole of the interim constitution will be repealed as the new constitution comes into affect after its adoption. Also the other matter to that is - of importance, is the continuation of the National Assembly, because no elections can be held. So it will continue until the 30th of April 1999 with its present 400 membership. A third matter here that is also of importance chairperson is that its been drafted on assumption that the Senate will be replaced by a new structure whether it will still be called Senate or National Council of Provinces or whatever name - but the assumption is - that the Nature will change and that this new structure will serve provincial interest specifically. Chairperson, those are the general remarks on what I don't know whether there is any questions at this stage. But otherwise we could continue and go through the document.

CHAIRPERSON

I guess it will be appropriate that rather to go through the document in one grand sweep and then allow parties to ask questions.

ADV GROVE

Chairperson, you will see that this is our - I have mentioned it just now - this is now the bill in the Parliamentary tradition - they have a long title there - to regulate the transition to the new constitutional order - established by the 1996 constitution. Firstly we have some definitions there - words that are used in this bill. Some key phrases

which we thought are perhaps better to have them ... here. We use the word or term "homeland" here. To indicate those parts of the Republic that were, before the previous constitution, regarded in our legislation as separate from the rest of the RSA. Then the new constitution - that will refer to the 1996 one - the old order legislation means legislation being active before the previous constitution. Now the previous constitution you will see is also defined as referring to the 1993 constitution. Section 2 deals with application. This act must be regarded and applied as if it forms part of the new constitution. I have explain that, the reason for that, but what one would need here is a specific provision in the new constitution. There is a draft in footnote 4 - which says that this act now, the constitution complimentary act is for all purposes deemed to be part of the substance of the constitution. This whole act will then be, at least specific sections of this act may not be amended or repealed (?) Otherwise than accordance of section 53 of the constitution. The perception 53 is the provision dealing with amendments of the new constitution and unless in consistent with the context or clearly inappropriate - any reference in this constitution, to itself, or any reference in any legislation to the constitution must be then construed as a reference also to this act. The one we are dealing with. To make it sure that it forms legally part of the constitution, physically and separate. Section 3 deals with the continuation of existing law - I don't know whether we should go through all these specifics here. I think that is necessary. We have also done that in the interim constitution. Section 4 deals with the of law. The only laws that are here are the interim constitution with its amendments. Continuation of international

agreements is the following one and then interpretation of existing legislation - we have references to historical institutions in our legislation and this provision would be necessary to clarify that references to public, to Parliament, to the National Assembly, to the President, the Deputy President, etc. Then it takes us to section 7 - this is rather a complicated one. I don't think one can, at this stage, have any answers but we've tried to anticipate (?) Certain matters here. The transition of Parliament. Now, Mr Chairman, you will see that - as I mentioned just now, this provision specially is based on an assumption that the Senate will be replaced. That we will have a new structure. It is not going to be the same as the existing one. Now you will see there in section, in footnote 15, page 5, we have 3 options there. The first option is a continuation of the present to Chamber Parliament until 30th April 1999. If we follow that option, it would require the suspension of at least chapters 3 and 4 of the new constitution. The chapters dealing with the National Assembly and the Second House. This option may be better, because that is the heart of the new constitution. If we suspend those two chapters, then we might just as well leave the whole new constitution for implementation at 30th April 1999. The second option is immediate implementation of chapters 3 and 4. Those dealing with Parliament. With the incumbent Senators becoming members of their respective provincial legislatures - its to provide now for the Second House and its composition which is not clarified at this stage. Now this would result in a temporary increase in the membership of these Provincial legislatures. But would on a positive side open the way for Senators to represent their provinces in the National council of Provinces. The third option,

Chairperson, also the immediate implementation of chapters 3 and 4, with the incumbent Senators becoming members of the National Assembly, in which case then the membership of the National Assembly will temporary, until 30th April 1999 being increased to 490 persons. Then also, there is a 4th option, depending what is going happen to the Senate, but if the present Senate is retained then it is a simple matter of providing for its continuation.

INAUDIBLE

Section 9 deals with transition of the National Executive. The idea here is then to suspend chapter 5 of the new constitution. Dealing with the National Executive until the 30th April 1999. Then during its suspension, schedule one will operate in its place. Now schedule one as I explained just now, is substantially the same as chapter 6 in the interim constitution which provide for the Government of National Then section 9 deals with the transition of the Provincial legislatures. There is no real problem there. I just point out that in footnote 23, the schedule 2 there, its - there is an error there. It should be schedule 1. Section 10 - Transition of the Provincial Executives, no problem there. It is merely a technical thing. Provincial constitutions, we don't know whether there is going to be provincial constitutions before the adoption of the new constitution. If that is the case, then we will also need transitional provisions there. For instance making it clear that the provincial constitution must comply with the new constitution. Section 12 - deals with the assignment of old order legislation to the provinces. Now, you will see in section 235 and onwards, there are extensive provisions

dealing with this matter. It was a very complicated process to assign laws to the provinces or either designate them to the provinces or to National Government, but that exercise is continuing as I understand. It is not completed yet. So we do need a provision similar to section 235, but we have completed the very complicated provisions of the interim constitution. We don't them at this.... I think it will be possible to do it the way that it is drafted there in section 12. Then section 13 deals with the courts. There is still the - I understand the Hoexter Commission is still busy. The rationalization of the courts is not been completed yet. Here we also need provisions dealing with that. An important matter is contained in sub section 2. Dealing with the constitutional court. The interim constitution provide for the appointment of the constitutional court Judges for a period of 7 years. In the new constitution the proposal is that they can be appointed for up to 9 years. You will have to provide - the suggestion here is that the 4 youngest Judges continue in office after the expiring - after the 7 year term for another 2 years. To bring it in line with the 9 years. The other judges will this is not a proposal, it is simply an idea. Then section 14 - deals with the rationalization of the Public Administration. This is a very very complicated matter and I can't see that we can repeat everything in section 237 of the interim constitution here. I think the easiest way to deal with this is simply to retain section 237 of the interim constitution as far as that section relates to rationalization. That would technically be the easiest way to do that. That will be the only section of the interim constitution that will continue. In subsection 2 and also subsection 3 - there is a reference to the Public Service commission. Which initially we thought there is

perhaps, there is a reason for that commission to continue until the Nationalization process in the Public Service has been completed. Since then, it was a decision to abolish the commission. So I think subsections 2 and 3 can simply be deleted. Because there is already a decision to do away with Public Service Commission. If I understand the Government's point. In section 15 - deals with other constitutional institutions. Republic protector and any others. Then we have the sort title in section 16. Schedule 1 - continuation of the Government of National Unity. As I said just now, this is substantially the same as chapter 6 of the interim constitution. I have tried to follow the wording of the new constitution where this was possible. It also provides for matters not dealt with in chapter 6 of the interim constitution. Such as the, this new idea that the President will be able to refer legislation or a bill before he signs, sense to it and signs it. To the new constitutional court.(?) I thought those matters will not affect the concept of Government of National Units. They all do new things in the new constitutional - included For the rest it is substantially the same as chapter 6. Try to simplify the language. Thank you.

CHAIRPERSON Thank you very much Adv. Grove. Any questions? Mr Green.

MR GREEN Thank you Chairperson. The question is, what is the legal status of a Provincial constitution that was drafted in terms of act 200 of 1994. That is the first question. You have mentioned that that constitution will have to be looked at in terms of the new constitution - once the new constitution has been passed. But the technical question and I have this

- it has been drawn up in terms of the old constitution, which actually legitimizes the new - the Provincial constitution. Because of the old constitution. That is the one question. I think I will come back later with another one.

GERRIT

Chairperson, I think that is a political issue. It is a political decision and it requires political decision, as I see it clearly from a technical, legal point of view - I think your provincial constitution will have to comply with a new constitution. As I say, this is a political issue. Otherwise you are going to have an instrument.

CHAIRPERSON

Thank you. Mr Ebrahim.

MR EBRAHIM

Chairperson, in the founding provisions of our new text we have a clause for supremacy(?) Of this constitution which then ensures that the new constitution will be the basic law and the most supreme law in this country which will make it then obligatory that all laws must be consistent with it.

CHAIRPERSON

Mr Green your second question?

MR GREEN

The second question relates to option 2. If option 2 - it is actually said that option 2 or in terms or if I look at the 3 options, it seems to be the best option, option 2 - but the question I want to ask is - what happened during the negotiations of the interim constitution? Did the parties who were at those negotiations, did they decide in terms of any obvious options or were they not available then? Did they not say they will draw up this constitution and it will last for a period of time before a new constitution will be

implemented?

GERRIT

Chairperson, I think the answer lies in the principles which are ... to read the two relevant principles here - it says that the new constitution shall provide until the 30th April 1999 - the National Executives shall be composed etc. It also says that the constitution - the new constitution shall provide that unless Parliament is disarmed - no election may be held. So it anticipates the implementation of the new constitution before the 30th of April.

CHAIRPERSON

Thank you. Mr Nortjé?

MR NORTJE

Chairperson, on page 15 - 39 it says ... commission on remuneration of representatives that that will not be provided for the new Do you know what reason is for that?

CHAIRPERSON

Gerrit, wil julle oor die geld praat (Do you want to talk about money?)

MR EBRAHIM

Chairperson, that is a political decision. In terms of what parties agree upon. Thus far there has been no decision that the commission on Provincial Government should be continued. There has been no proposal and submission - in the present text of the draft formulation, there is no mention of that institution. Neither with the other institutions. There has been no submissions to the fact that those institutions ought to be continuous, hence they obviously form

CHAIRPERSON

Thank you Mr Ebrahim. I wonder - Mr I will give you an

opportunity. It would appear to me that parties believe that they can just deal with this specific bowl. This specific transitional arrangements on the trod and it has major implications. I would really urge those present to get their colleagues to focus on this section of our work and those parties who are not present - maybe to draw their attention specifically to this. Mr Chabane?

MR CHABANE

Chairperson, it is a question related to option 2, section 7. The question of the Senators. Subsection 7 seems to indicate that the Senators then become the members of the Provincial Legislature. The first question which I have there is - what is the implication - ... that Senators are not necessarily then you put that together with elected between onewhat is The second element of it relates to the question of filling of workers(?) The ANC suggest now what is the reason for

UNKNOWN

Chairperson, perhaps the second question first. This is merely a matter of providing for the present Senators to accommodate them somewhere because after all, they have been elected for or appointed for 5 years. So in all fairness to all the Senators - they should be accommodated somewhere - so this merely suggest that they are linked to the provincial legislature - there is no reason to vacancies among the The first question, chairperson, we thought about that - if you look at footnote 21 - there you will see as the Senators for nominated on the basis of voting patterns in the province, the inclusion of the Senators in the provincial legislatures will not upset proportionality on those instances. There are more members in the legislatures but the political proportions are not affected.

CHAIRPERSON I think it recalls for some major political decisions in this regard. would you like another question?

UNKNOWN Chairperson, just a my question was not for cursing on the floor(?) Which I have problems with. It was more for cursing on the / the

CHAIRPERSON I think Mr Grove and his colleagues just tried to draw our attention to the problem here and they are not suggesting a solution and therefore the political consequences of what ever option we take, we will have to carry the political responsibility for those steps and they fill fit those political decisions into a specific model or mode but I guess all three these options has tremendous ramifications, political ramifications.

UNKNOWN Mr Chairman, and obviously its not necessarily "beperk" to these three options as negotiations develop and the structure of the Senate has been decided upon - various other options could arise in the process - so this is very preliminary depending on what the negotiations

UNKNOWN And still provoking.

CHAIRPERSON Is that the questions for the moment? Mr Green?

MR GREEN Chairperson, thank you, would option 2 provide political parties with an option - of asking the Senators which they have now to be working at the Provincial legislature and then to decide whether they want to put new Senators or new persons who are working as that particular legislature in the position of a Senator. Would it just be a transfer

from the one to the other?

INAUDIBLE

GERRIT

Chairperson, I think it is difficult to deal with all the recommendations now. At this stage I think one must concentrate on the principles. I think, right at the beginning - this is the first attempt and a very difficult and complicated matter. It must be judged that way.

CHAIRPERSON

I think we are really indebted to Mr Grove and those who assisted him. In drawing this and bringing this to our notice. We are not giving clear political instruction on this but obviously this will have to be translated into legal terms and therefore could we refer it to the technical refinement team and maybe urge parties to get them to think clear on these issues. Can we hold it in the A suggestion from this? Mr Ebrahim?

MR EBRAHIM

Chairperson, if I can just propose - that in fact, the purpose of producing this document was to at least start parties thinking about the crucial issues. Also to prepare the preliminary drafts. I would suggest that the instruction, that should be given, should be that the refinement team should continue to consider this matter as political parties are finalizing their agreements. On the part of political parties, they can use this document as a basis on which to consider their issues relative or relevant to the question of transition and finality on this draft - can only take place once all the other institutions have been resolved and agreed in the major text of the constitution and this would be really one of the last matters to be agreed to. So the

proposal is that that the refinement team be given the ongoing instruction to - on an ongoing basis to consider the political agreements that are being finalized and to update this document in that regard. That political parties, in due course, give their instructions accordingly with regard to the relevant areas.

CHAIRPERSON Right, that seems to me concludes our business for the day. Except Mr Ramaphosa, ...

MR RAMAPHOSA I think Mr Chairman, I would like to raise an appeal maybe to all of us - some of the provisions and this are very sensitive - and I am just raising this so that we just don't over sensationalize them. For instance, one of the options, that the Senators could be members of the Provincial Legislature. Could be over sensationalized. Similarly, one of the other options that the Assembly could be increased to 490. Could also be over sensationalized. Start raising a whole lot of emotions. Nationally - about what we are up to. So I am appealing to all of us to take great care in dealing with this in terms of how we report it - whether we report it to our own parties - whether we report it to the media or as the media - it is something that could be terribly miss interpreted - I say this Mr Chairman because and this is without casting an aspersion on anyone - that some of us have tended to misinterpret things that have been dealt with here. They have created quite a number of problems for the process here and so forth. So, it is just an appeal. I can't specifically say who I am appealing to. It is a general appeal that that if we want a report on this let us be clear that this is a very sensitive matter and we must treat it with the care that it requires. That is all.

CHAIRPERSON Thank you. The meeting is adjourned. Sorry, I am too keen. Sorry. I am sorry Mr Sizani, we still have to deal with the schedule, with the definition of the National boundaries from the General Surveyor. Surveyor General. Who is leading us Mr Ebrahim?

MR EBRAHIM Chairperson, this report comes from the Management Committee where we were instructed to ensure that the necessary experts be consulted with regard to the definition with both the National territory as well as the Provincial boundaries. This was presented to the Management committee and broadly a political consideration could be given to it. The status of this documents are such that the present report is a report of the Surveyor General. I have referred these matters to both the Ministry of Justice to consider as well as the Department of Foreign Affairs - to consider in so far as international boundaries are concerned. Chairperson, the one issue that has arisen, with regard to Provincial boundaries - is the question with regard to whether we would be entitled to use Magisterial districts in terms of the definition for provincial boundaries. If we were able to do this, it will greatly reduce the length of the definition for the provincial boundaries. However, we are informed that the Hookster commission is presently considering the question of Magisterial districts and it may very well be that provincial or the Magisterial districts may be changed. Therefore, if we rely on this particular type of definition, we would be obliged to amend the constitution later only because the definition of the Magisterial districts have been changed. The one possible proposal and route that we can adopt is to accept the type of definitions provided presently. The other proposal is that in view of

the on going changes that are taking place with regard to Magisterial districts and for purposes of obtaining absolute technical certainty, that the only mention in the constitution should be that the provincial boundaries and the National territory remain the same as it is. Therefore, should there be changes, you'd not be obliged to amend the constitution, but at a later stage - one would be able to draft proper legislation with the necessary technical clarity and certainty on this matter. If we would to draft at this point in time, we would be drafting without that certainty simply because the Magisterial districts are possibly being changed. The alternative of course, is to go for a point to point definition and as shown in the Western Cape provincial boundary, which is an example - it is an extremely lengthy thing and I am sure there would be very few of us that would actually be able to interpret or understand this particular type of definition.

CHAIRPERSON Thank you. Any questions? Is it a feasible proposal and legitimate proposal to suggest that the meeting now adjourn? The meeting is adjourned. Thank you.

END OF THIS SIDE.

CC SUBCOMMITTEE
28 FEBRUARY 1996

TAPE 2 - SIDE A

ON THIS SIDE YOU COULD HEAR PEOPLE TALKING AND LAUGHING IN THE
BACKGROUND AND THEN THE MIKE WENT OFF.

CC SUBCOMMITTEE

28 FEBRUARY 1996

TAPES 3 & 4

THERE IS NOTHING ON THESE TAPES

CC SUBCOMMITTEE
28 FEBRUARY 1996

TAPE 1 - SIDE A

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SADP *ACDP*

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ADV GROVE

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that that constitution will have to be looked at in terms of the new constitution - once the new constitution has been passed. But the technical question and I have this - it has been drawn up in terms of the old constitution, which actually legitimizes the new - the Provincial constitution. Because of the old constitution. That is the one question. I think I will come back later with another one.

GERRIT

Chairperson, I think that is a political issue. It is a political decision and it requires political decision, as I see it clearly from a technical, legal point of view - I think your provincial constitution will have to comply with a new constitution. As I say, this is a political issue. Otherwise you are going to have an instrument.

CHAIRPERSON

Thank you. Mr Ebrahim.

MR EBRAHIM

Chairperson, in the ^{founding} ~~farming~~ provisions of our new ~~text~~ text (?) we have a clause for supremacy(?) Of this constitution which then ensures that the new constitution will be the basic law and the most supreme law in this country which will make it then obligative that all laws must be consistent with it.

CHAIRPERSON

Mr Green your second question?

MR GREEN

The second question relates to option 2. If option 2 - it is actually said that option 2 or in terms or if I look at the 3 options, it seems to be the best option, option 2 - but the question I want to ask is - what happened during the negotiations of the interim constitution? Did the parties who were at those negotiations,

did they decide in terms of any obvious options or were they not available then? Did they not say they will draw up this constitution and it will last for a period of time before a new constitution will be implemented?

GERRIT
GROVE

Chairperson, I think the answer lies in the principles which are ... to read the two relevant principles here - it says that the new constitution shall provide until the 30th April 1999 - the National Executives shall be composed etc. It also says that the constitution - the new constitution shall provide that unless Parliament is disarmed - no election may be held. So it anticipates the implementation of the new constitution before the 30th of April.

CHAIRPERSON

Thank you. Mr Nortje *GROVE* Nortje

MR NORTJE

Chairperson, on page 15 - 39 it says ... commission on remuneration of representatives that that will not be provided for the new Do you know what reason is for that?

CHAIRPERSON

Gerrit, wil julle oor die geld praat (Do you want to talk about money?)

MR EBRAHIM

Chairperson, that is a political decision. In terms of what parties agree upon. Thus far there has been no decision that the commission on Provincial Government should be continued. There has been no proposal and submission - in the present text of the draft formulation, there is no mention of that institution. Neither with the other institutions. There has been

no submissions to the fact that those institutions ought to be continuous, hence they obviously form

CHAIRPERSON

Thank you Mr Ebrahim. I wonder - Mr I will give you an opportunity. It would appear to me that parties believe that they can just deal with this specific bowl. This specific transitional arrangements on the trod and it has major implications. I would really urge those present to get their colleagues to focus on this section of our work and those parties who are not present - maybe to draw their attention specifically to this. Mr Sijibane(?)

CHABANE
MR SJIBANE(?)

SIZONI
CHABANE

Chairperson, it is a question related to option 2, section 7. The question of the Senators / ~~simulators~~ (?) Subsection 7 seems to indicate that the Senators then become the members of the Provincial Legislation. The first question which I have there is - what is the implication - ... that Senators are not necessarily then you put that together with elected between one what is The second element of it relates to the question of filling of workers(?) The ANC suggest now what is the reason for

Legislature

UNKNOWN

Chairperson, perhaps the second question first. This is merely a matter of providing for the present Senators to accommodate them somewhere because after all, they have been elected for or appointed for 5 years. So in all fairness to all the Senators - they should be accommodated somewhere - so this merely suggest that they are linked to the provincial legislature - there is no reason to vacancies among the The first question, chairperson, we thought about that - if you look at footnote 21 - there you will see as the Senators for proport nominated on the

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basis of voting patterns in the province, the inclusion of the Senators in the provincial legislatures will not upset proportionality on those instances. There are more members in the legislatures but the political proportions are not affected.

CHAIRPERSON

I think it recalls for some major political decisions in this regard.
..... would you like another question?

UNKNOWN

Chairperson, just a my question was not for cursing on the floor(?) Which I have problems with. It was more for cursing on the / the

CHAIRPERSON

I think Mr Grove and his colleagues just tried to draw our attention to the problem here and they are not suggesting a solution and therefore the political consequences of what ever option we take, we will have to carry the political responsibility for those steps and they fill fit those political decisions into a specific model or mode but I guess all three these options has tremendous ramifications, political ramifications.

UNKNOWN

Mr Chairman, and obviously its not necessarily "beperk" to *these* ~~this~~ three options as negotiations develop and the structure of the Senate has been decided upon - various other options could arise in the process - so this is very preliminary depending on what the negotiations

UNKNOWN

And still provoking.

CHAIRPERSON

Is that the questions for the moment? Mr Green?

MR GREEN

legislature

Chairperson, thank you, would option 2 provide political parties with an option - of asking the Senators which they have now to be working at the Provincial legislature and then to decide whether they want to put new Senators or new persons who are working as that particular legislator in the position of a Senator. Would it just be a transfer from the one to the other?

INAUDIBLE

GERRIT

re^wcommendations

Chairperson, I think it is difficult to deal with all the ~~remediations~~ now. At this stage I think one must concentrate on the principles. I think, right at the beginning - this is the first attempt and a very difficult and complicated matter. It must be judged that way.

CHAIRPERSON

I think we are really indebted to Mr Grove and those who assisted him. In drawing this and bringing this to our notice. We are not giving clear political instruction on this but obviously this will have to be translated into legal terms and therefore could we refer it to the technical refinement team and maybe urge parties to get them to think clear on these issues. Can we hold it in the A suggestion from this? Mr Ebrahim?

MR EBRAHIM

Chairperson, if I can just propose - that in fact, the purpose of producing this document was to at least start parties thinking about the crucial issues. Also to prepare the preliminary drafts. I would suggest that the instruction, that should be given, should be that the refinement team should continue to consider this matter as political parties are finalizing their agreements. On the part of political parties, they can use this document as a

basis on which to consider their issues relative or relevant to the question of transition and finality on this draft - can only take place once all the other institutions have been resolved and agreed in the major text of the constitution and this would be really one of the last matters to be agreed to. So the proposal is that that the refinement team be given the ongoing instruction to - on an ongoing basis to consider the political agreements that are being finalized and to update this document in that regard. That political parties, in due course, give their instructions accordingly with regard to the relevant areas.

CHAIRPERSON

Right, that seems to me concludes our business for the day. Except Mr Rhamaphosa, ...

MR RHAMAPHOSA

I think Mr Chairman, I would like to raise an appeal maybe to all of us - some of the provisions and this are very sensitive - and I am just raising this so that we just don't over sensationalize them. For instance, one of the options, that the Senators could be members of the Provincial Legislature. Could be over sensationalized. Similarly, one of the other options that the Assembly could be increased to 490. Could also be over sensationalized. Start raising a whole lot of emotions. Nationally - about what we are up to. So I am appealing to all of us to take great care in dealing with this in terms of how we report it - whether we report it to our own parties - whether we report it to the media or as the media - it is something that could be terribly miss interpreted - I say this Mr Chairman because and this is without casting an aspersion on anyone - that some of us have tended to misinterpret things that have been dealt with here. They have created quite a number of problems for

the process here and so forth. So, it is just an appeal. I can't specifically say who I am appealing to. It is a general appeal that that if we want a report on this let us be clear that this is a very sensitive matter and we must treat it with the care that it requires. That is all.

CHAIRPERSON

Thank you. The meeting is adjourned. Sorry, I am too keen. Sorry. I am sorry Mr Sizani, we still have to deal with the schedule, with the definition of the National boundaries from the General Surveyor. Surveyor General. Who is leading us Mr Ebrahim?

MR EBRAHIM

Chairperson, this report comes from the Management Committee where we were instructed to ensure that the necessary experts be consulted with regard to the definition with both the National territory as well as the Provincial boundaries. This was presented to the Management committee and broadly a political consideration could be given to it. The status of this documents are such that the present report is a report of the Surveyor General. I have referred these matters to both the Ministry of Justice to consider as well as the Department of Foreign Affairs - to consider in so far as international boundaries are concerned. Chairperson, the one issue that has arisen, with regard to Provincial boundaries - is the question with regard to whether we would be entitled to use Magisterial districts in terms of the definition for provincial boundaries. If we were ~~unable~~ able to do this, it will greatly reduce the length of the definition for the provincial boundaries. However, we are informed that the Hookster commission is presently considering the question of Magisterial districts and it may very well be that