



TEMPORARY SERVICES

The TECHNIHIRE group of Companies (Registration No. 86/03905/06)

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CONSTITUTIONAL ASSEMBLY
THEMES COMMITTEE 3

27 FEBRUARY 1995

CONTENT OF BAG

1 PRINT OUT

2 TAPES

COMPUTER DISK TO FOLLOW

Tape 1

Chairperson: Dumelang, Good morning.

Welcome at this meeting of Theme Committee Three. There was a core group meeting just before this meeting and the experts are back I see. Is Prof Davids missing?

[?] Chairperson, he unfortunately had to leave to go and teach.

Chairperson: O, thank you.
The agenda is in the doc. called: Minutes of meeting held on 16\2 it is coded T3\14.

There is also another pink document T\13 which the minutes of the meeting of the 15\2 are in. Could I just put the agenda to you. I have welcomed you and also welcome to some guests which I gathered are speaking either Swedish or German. Something very Swedish.

Very welcome and I hope there is a nice big fight that you can enjoy this morning. Could I ask please request Mr Gordon and where is miss King? Dr King, no can't fight this morning.

We have point 2 minutes of meeting of fifteenth and then 3, minutes of the sixteenth.

A report from the coregroup on discussions with the technical experts.

5. The technical expert's report

6. The framework and word program for heading

2.

7. Advertising for heading 2 at the Public party's passion program from the 4th of March. General and closure. Are you satisfied with the agenda? In order? Okay. Then I go to point 2 the minutes of the meeting of the fifteenth of February. Have the document. There is not much in it. On the second page.

There was something about a draft report on heading 1. Does this minutes reflect the meeting?

[?] Yes.

Chairperson: Do I have a motion for adoption? Seconded? Yes. Done. Second minutes. That's in the present document on page 2. Second draft report in block 1. Is it a correct reflection? Yes. Adopted motion. Yes? Seconded. I have got a seconder. Do I reject it? Thank you, Mr [?] adopted. Thank you. Now we move to point 4 on our agenda. Report from coregroup on discussion with technical experts. Actually this would come out in the next point where the technical expert can report on the framework which was discussed earlier this morning in the coregroup and where some questions were put to them. Is it in order that we deal with this matter in this way? In order? Thank you. Then we do it 4 and 5 actually kind of

combined and could I asked the technical expert, prof Venter are you ready to report on this and take as through the document with your ignitions?

Prof Venter: Yes, thank you Mr Chairperson. I do not know if the original document was distributed. Has it been distributed? Can I refer to it?

Chairperson: Now we have a bit of a problem, that was distributed apparently only to coregroup members. I think then you must go through the document, reading it almost and treating it as a full treatment. Is that okay? Please read me? There's a hand, Mr Mani?

Mr Mani: Chairperson, I think if we are talking about a document that must be read through it's going to be very unfair for those people who do not have copies to fully follow, at a certain point you are going to loose some of the people and I think in order for all of us to be at the same point we need to find a different way. Either we have to have copies or may be we should just be allowed a short adjournment so that we can discuss our best to proceed forward on this.

Chairperson: I think, could we just ask that we make an adjournment now this is really necessary that Miss [?] seems to be able to make quickly a lot of copies for the members here. And then we adjourn for a few moments and have another cup of coffee. Do you agree to that? Don't go, please don't go away because we will just call you in. Thank you.

Seat. Have everyone got a document in his hand now? Anyone being missed? Now I suggest that prof Venter just bare in mind that the people are only reading it for the first time. So that you go through the document please for us, thank you very much.

Prof Venter: Thank you chairperson. Ladies and gentleman, the technical committee prepared this document in the past week after we had a discussion last week with the coregroup regarding the needs and requirements of the Theme Committee and the ways in which we might be able to assist the process. So, an understanding of our instruction was that we should draft a framework which will allow for a consistent and a comparable set of submissions from political parties and civil society. In order to make it possible to prepare reports to the constitutional committee in a manner that will cover the issues as best as it can be done. And therefore what we did WS to formulate a number of questions. You'll find four questions and 2 sub-questions in the document with some elicitation of the issues with reference to the constitutional principles. Now this morning we had a further discussion on the basis of this document of this framework, with the coregroup, and enhancements were suggested we had about three quarters of an hour to deal with this. And what we would like to suggest is that we produce a broad

document an additional document and explanatory memorandum which will discuss some of the alternatives and options and models available regarding the distribution of powers between the different levels of government. Now this will be done as soon as possible, it will however not be available for distribution before today week. At the earliest. It simply is not possible to do that prof Dennis Davis undertook to take the initiative in formulating such a document and circulating in to us in the course of this week so that we can try to prepare a final draft of that for your consideration next week. Secondly in view of the discussion of this morning we added a number of questions and a few comments which obviously was not possible to put on paper, but using the present framework before you as a basis we added a number of questions. And also changed the sequence. We will renumber them but for present purposes I will refer to the additional questions for example, 1a b c and d. Because they deal with some of the matters. The first original question was should the constitution list the competencies only of the National government or only of the provincial governments, or should the competencies of both the national and provincial governments be listed? We went on by referring to the applicable constitutional principles and we thought that in the next refined document we'll leave out the last part from the words. A possible approach would be to use a similar recipe as that employed in the present section 126 and only retain the first, bit of discussion which I think I should read to you the requirement of principle 19 that the powers and functions of national and provincial governments must include both exclusive and concurrent powers implies that the competencies of at least one of the levels of government must be identified in the constitution, either leaving the competencies of the other level open-ended or listing such competencies also. Now, flowing from that we would suggest adding the following questions which we will prepare for distribution after the meeting. The Firestone being: should the constitution list only national competencies? It is a straight forward question and we'll just mention an implication which is that all powers not listed will then reside with the provinces. The second question being: should the constitution list only provincial competencies? Implication being that all powers not listed for the provinces will then reside with the national government. A third question: should the constitution list both national and provincial competencies? The implication of which would be that it would reduce greater clarity regarding the distribution and allocation of powers but it is notoriously, universally known to be impossible to list all competencies of different levels of government exhaustively which inevitably leads to the matter being raised of the seat of what the Canadians call: Residuary Powers or some submissions until now we calling residual powers. Constitutional principals to consider there would be again constitutional principles 19 and 21. A further question in this regard would then be should exclusive and concurrent powers as mentioned in principle 19 expressly in the

constitutional text. For each level of government. This is a matter of fundamental technical concern. Because if those terms are used, they are not used in the present constitution but if they are used in a constitution that raises an additional consideration for education, because then legal meaning means to be given to the terms exclusive and concurrent, which can possibly complicate the interpretation of the constitution. Some might say that it will not complicate but make it easier to interpret the constitution. That is a matter to consider. A next question would be: should the constitution expressly provide for overriding powers for the national level of Government in certain prescribed instances. And here constitution principle 21 as some significant. Going to question 2 on page 2 of the original document, chairperson, the question there is: should the competences of the provinces be fixed by the constitution or should the constitution allow for an evolutionary process. It was also suggested in the discussion this morning with the court group that evolutionary might have an extended meaning pointing to the possible fluency or the elasticity of the elocution of powers to provinces, meaning a possible expansion and reduction as the process evolves. But we thought that as THE questions stand it really covers that possibility should somebody want to submit suggestions regarding that the question is brought enough. The considerations as set out with question 2 on that page we didn't think needed amendment as far as we could remember the discussion this morning. But we did think that we should add a further question flowing from this reading - should the constitution provide for additional intergovernmental mechanisms to prevent or mediate possible conflicts regarding the exercise of competences. Here constitutional principle 23 is involved. It was suggested that the original question 3 should be placed at the end. So if you bear with me to come back to that or a bit later on we go to question 4: should the fields of potential activities of provincial authorities be amended? Now this is a very practical question. Whether the functional areas listed in schedule 6 to the present constitution whether it should be extended, compacted, amended, is due to the question. Now the practicality of this question lies in the fact that in the constitutional or the provincial system has been involving since the 27th of April last year or slightly a few weeks after that. And it is still in the process of evolution. It is obvious that it will be useful to learn from the experience of provincial government as they deal with this matter at this stage. And we thought of leaving the question and the comment as it is but adding just a short further comment that the Theme Committee should [?] evidence regarding this matter from the commission on provincial government themselves and any other interested parties. The last question then would be question 3 on page 2 of the original document which logically should follow the other questions. What should the nature and extent of the provinces national involvement in matters concerning provincial government B? This really deals with the question as mentioned in principles 18 par.4. Which

expects the constitution to provide for the approval either by the provincial [?] or by [?] second chairperson of parliament of further constitutional amendments. Changing powers boundaries, functions or institutions of Provenca. This really deals with the question whether then should be what we call today, a senate and if there should be a senate or second chamber how it should be composed. What the function should be and if not what other mechanisms there should be to deal with the national involvement of provincial government. Therefore we have the two sub-questions - should there be a second parliamentary chamber to representing the provinces and if so how it will be composed and (b) what would the voting mechanisms be for the siding questions of this nature - both where the 2nd parliamentary chairperson is instituted and alternatively in the event of a uni-cameral parliamentary [?] We thought after this morning's discussion, we should just add for purposes of clarity a short comment here, saying that for the purpose of all these questions legislated of competence should be seen and need to include executive competences. There is in principle (what's it, 21 I think) mention of a second element. The possibility of further administered functions being dedicated upwards or downwards, but we think that is a separate issue, and for the present purposes one should see provincial competences to refer to both [?] and executive competences. Thank you chairperson.

Chairperson: Thank you prof Venter for that discussion. I think we should open it or discussion for the parties. Any comments, discussions, proposals. Do I see any hand? Or shall we leave it that the technical experts first go on and finish this work of.

Mr Cronje: There is these questions agents somehow sit on top and they don't say way. In other words they say - should it be- but you don't ask them for way and we sit here and don't actually know for instance what the Department of Agriculture as a [?] that must administer. If they say well in our department you can't call it exclusive because for instance drought relief and agriculture research must be a national [?]
I mean if we could get for every single department of state what is their experience in terms of administering what should be and what should not be and in fact I should ask a direct question. Can a whole function be totally devolved or written up fully. And I look at your question, you additional question 2 for instance. You said, should the constitution create other intergovernmental structures and you then carry on to say to resolve conflict. Now by the same token

Should the constitution integrate other intergovernmental structures, and do then carry on to to say to result conflict, by the same token, should one that is always posed in a way as if there is a conflict if you start dividing powers. But by the same token you should say, should there be intergovernmental structures to ensure good co-ordinization, harmonization, and words like that and not just to resolve conflict. So, I would suggest that we include that also as a question. Even though you may say road traffic is a Provincial competency, you would still need some other structure to co-ordinate and co-operate and to harmonize.

Chairperson:

Thank you. I don't know if Prof Venter want to react on that. Perhaps in this regard, in portent ... Mr Cronje has not to fall. The most extensive analysis of functions to be allocated to Provincial or National level available is the one done by the Public Service Commission. I have a copy of that document available and I think it will really inform the members if we could make a copy of that analysis of all the functions in detail. It is functions like say, naming of place names by province. Should it be a Provincial matter or National matter. In detail with the different type of functions within broad categories. I think, no 1 that is a document which we must have available. Do you agree? The second point is now, which Mr Cronje has brought to for, I would like to suggest to broaden this programme a bit more. Number one, we need the information from the people who really work with these functions. That is on National level, departments, as well as Provincial level, the Administratives and the Civil servants. That I think we really need and I think we should note that down to take and to get that information and get a chance for them to react. I think it is imperative for our work. At the same time we need another very important input and reaction at this stage of our work. That is from the Provincial Governments themselves. Don't you think, if I may put it as a suggestion to you, that we should call as a Theme Committee now, and request all Provincial Governments to form Parliamentary standing Constitutional Committees. That they can concentrate their work around either a Parliamentary committee or a Cabinet committee in the provinces or at least that there are some people that take the responsibility. You know the Provincial Governments are very busy. They have a lot of daily work to attend to. We need some place some where where we can say, all the Provincial Governments as a legislative standing committee on Constitutional affairs. Which can swing in action quickly and start informing us. Could we have discussion on these matters?

Patricia de Lille:

Chairperson, I don't want to comment on what you have asked us to comment on, but merely to say that the last statement made by Prof Venter, for the purpose of this exercise that we should be looking at the Executive and Legastive competence as one. I

except that but on condition that later in the process we have to identify what is Executive and what is Legislative. I think on the purpose of the exercise would be helpful.

Chairperson: Thank you, I attend to also inform that some analysis available in the ANC, for example, at the moment tend to regard that question as a big problem in the present of the Interim Constitution. That for the development for the Provincial system the division of Legislative and Executive functions should be addressed. So you will start on a somewhat position where you want to address all the problems. You just bear it in mind. Any further discussions? Shall we take those other points? Mr Andrews?

Mr Andrews: Yes, somebody say I think the other point you made are valid and should be persuade.

Chairperson: Do I have a decision from this Theme Committee that we call on all Provincial Governments or shall we call on the Legislators to create a Constitutional Committee. Mr Gordon, help us.

Mr Gordon: Chair, I think the Constitutional Committee has been discussing this matter, so I think we must be careful not to decide here. Perhaps we should make some enquiry as to what is the modus of the relationship between the CA and the Provincial Governments. Pursuant on that, once we have that feedback we could perhaps make recommendations.

Chairperson: We will have it worded in the Minutes like that Mr Andrews.

Mr Andrews: Chairperson, I think we already have certain directions and I think as our Theme Committee has the most directly focussed responsibility in this area. We should actually make recommendations to the Constitutional Committee and at least in which we say that we consider it desirable. That for us to be able to informed input from the Provinces, that a mechanism, and I am not sure that we should be too prescriptive in terms of telling the Province exactly what the meganism should be. But they should be a formalized group within the Provinces that we can interact with. And request submissions from and possibly oral evidence and so on . But I think we should make that as a firm recommendation. I think anything weaker than that is going to cause us problems and leave us with inadequate information.

Chairperson: Recommendation asked, Mr Gordon. Is it OK that we ask and just recommend to the CC?

Mr Gordon: No problem. All I see is that Mr Andrew's point is already discussed and the CC some weeks ago and I am saying the rest is to refresh our memories about what was finally done in that regard. The Chairperson of the CA has been in contact with the

premiers as well, so something is going on there. I think the principle of what Mr Andrews said, it acceptable. Saying that we need to establish what is the CA doing in that regard.

Chairperson: I think we will have it like that

Mr Chairman, we would like to support that in principle as well. In fact, I would just like to remind our ... that we also at one stage in fact considered asking them to directly come to us with their submissions. In the form of a workshop or simply give evidence etc. I think that should be done very soon now, before we really get going on lot 2.

Chairperson: Thank you very much. I think it is reasonable that we table or take it up in our Minutes like that but that we also first talk to the CA administration, especially the Chairperson and deputy Chairperson before we go on. There is also the Commission for Provincial Government which had quite complex dealings with the Provinces and I think we should talk to them as well. So, it is a combined thing that we take this matter up with our bosses in the CA. Is that OK?

We will press it. We will press it.

I am coming back also the situation of having them here personally, because I think in a question and answer situation we probably get much closer to really discovering what are the problems as far as what are the competencies of the Provincial Legislative are concerned.

Chairperson: Could we take that as a suggestion also to be put into our Minutes

We made that decision previously. I am quite sure that we did. We haven't followed it up at all

Chairperson: Now we must follow it up and we will. Everyone - now we have departed a bit from Mr ...

Mr Chairman, I am a little bit concerned about something. I don't know what structures would exist at Provincial level, but the Parties in the minority, there are a number of Provinces where the parties are in the minority. If it is going to be a Provincial position, it may not necessary, it is going to be a majority position in that Province. Are there parties that are in the minorities not being prejudice as a result of that? I am just asking.

Chairperson: A very important question. A big strong majority party like the ANC must look after the interest of the small people as well. Thank you. I think all these suggestions will be taken up. I think we follow the root of discussion as Mr Gordon has said and, but bearing in mind that what we actually want is in that direction. We will have to report back on next meeting next Monday. Is that in order? Mr Manie and then Mr Cronje.

Mr Manie: Chairperson, I think, I am not quite sure whether you are saying that all the suggestions that came up now will be Minuted as what we have decided upon or whether you are going to look at all of those things and perhaps let us determine which is the best root at the follow up session.

Chairperson: The last pension was the intention

Thank you.

Chairperson: Is that clear for our Secretary? That is how I try to compromise between the ... Is that OK. You just helped me to word it very nicely. Thank you. Should we stop this discussion and could we get back to the framework documents of the experts. Shall we give them a chance to re-draft the document, the two documents. We are talking about two documents now. Because then it won't help to make a long discussion now. Except if you want to give them tips.

Mr Gordon: Chair, this morning the issue of Local Government was raised. I think Prof Venter correctly reminded us that the details of local Government need to be discussed on a separate block. But I think in this overall framework it would be useful to just have mention of Local Government - these are the Installation ship to National and Provincial in broad terms so that it is part of the overall framework. On the understanding that the details will be discussed later in a separate block. Can we recommend that please.

Chairperson: Have the word. Do you want to react to that now or leave it like that? Anything else? Mr Cronje, in a previous round I didn't give you a chance again.

Mr Cronje: I think the question results that because I thought that my suggestion of talking to bureaucrats and what this Public Service document, what was that the result of such a request, anyway? Let us leave it till it comes up for discussion, if it is not a decision.

Chairperson: Administration must just get that document from me and have it copied. It is a bit thick document, but you have money. Have you? Shall we proceed? Are we finish with this point? That is 4 and 5 of our Agenda. Finished. Thank you. Now we are talking about 6. In the framework and work programme for heading two. Could

you just look. It is a different document we are talking about. This is this document. 6 is finished as well? Now we come to the point of advertising for heading two. Mr Andrew could you just repeat the point, would you mind in the Call Group Meeting about the three steps regarding advertisement for this Theme Committee. Please if you mind.

Mr Andrew:

Yes, it is just to suggest that the most logical way seems to me for handling this heading, with the block that we are dealing now, is first of all to agree with the framework. Once having agreed on that, to then agree on the work programme and the time table. Once you have agreed to those two things, then advertise accordingly. So we are then able to tell people under what headings we would like submissions to come in which makes them know what precisely are the subject matters being dealt with in this section as well as when the deadline should be. Which then have to fit in with our work programme. I would see that is a logical and efficient way of doing it and so I would suggest that the, in principle, one should call for submission from the society as a whole, but to know exactly what you are calling for, we need to wait until we have our framework agreed. So that this advertising we should make that decision after, the precise decision after we have made the decision on the framework.

Chairperson:

Thank you Mr Andrews. A discussion about this? How do the members feel about this? It seems to be logical. The Call Group has recommended like that to tell you the truth. If I remember rightly. Thank you. Miss Coetzee.

Miss Coetzee:

On that point of advertisement, with this PP I would also suggest that the Call Group or the Management Committee should look into it. To advertise when ever there is a PP taken place somewhere in the country because why, the coming of the people are not so successful as we wish to and even the inputs from the people.

Chairperson:

In general, I think the parties must everyone help in this participation programme. IT is also a Nation building exercise, You could forgive me in making a bit of politics about it. Shall we step off this matter then? Advertising. Point 8 is actually the Public participation from the 4th of March. Do Mr (?) want to talk to us about it?

Mr (?)

In the Call Group Meeting earlier this morning, information was requested. One, for early ... for the members as to what the programme is going to look like. That is where the was required to attend this Constitutional Public Meetings. You should note that this coming weekend there shall be no Constitutional Public Meeting. The only meeting we will have is the week after the So far, two places have been secured. Gauteng and the Western Cape and right now the actual venues have not yet, as yet been

confirmed, but one in Gauteng and one of this small towns in the Western Cape. They are still investigating two other areas in a way, two other provinces where the CPM's could be held. The report on the last CPM meeting, that is the 25th of February, will be made available by ... as soon as they can get a transcript on that. So it will be circulated amongst members soon after that. Another suggestion which has been raised, which I think ... when we have CPM's in different provinces, members, Theme Committee Members who comes from those areas, to the ... first, for those CPM's, they usually help, the person knows the area, he knows the Constituency and the like and it is easy for that person to represent the Theme Committee more fully in the region way. That person knows the ... of the region. We have that to take on bond. Members should know from now on, two weeks and 14 days, shall be given as a notice, not 7 days as it was the last time. Thank you.

Chairperson: Thank you Mr (?) Discussion?

Senator: Mr Chairman, I just like to share experience, I think we should take .. I was on one of these programmes on Saturday. If members of the Theme Committee are going to attend, whatever we do, let us simplify the definitions for people to understand. When we start talking about original powers, it misses the public. So whenever we go there, let us find some simplyfine definition to explain to people what it really means rather than throwing definitions explain what the definition means. That is just a little experience I thought I'd share with members and take heat of that.

Chairperson: Thank you Senator (?). Any other discussion on this matter. Can we close it? Then we come to the point General, Number One document is given out on from the Provincial, what do you call it, Commission on a proposed workshop. Now, what the Commission ask is, that we must consider this and give advice. What it is about, if you look at the third page, they actually want a reply by the end of February, on the Conference they want to hold on the Institutionalization of Intergovernmental relations. Now, usually the term Intergovernmental relations is used for executive relations but of course it can also be applied to legislative into relations. Shall we leave this for the parties to or do they want a quicker answer. Do the parties consider this and give us an answer or shall we leave it to the Call Group? Shall we take a decision next week? They want an answer before the end of February.

Mr Andrews: Chairperson, as I understand this, the first and key element is suitable dates. Lets assume this is not particularly a party political issue. There may be other things in terms of Agenda on which they want some comment. I think the issue, as I say is dates.

Chairperson: On the last page, Friday the 2nd of June. The 1st of June is a Thursday for Party Caucuses. If the workshop is to be held in

Cape Town, then that afternoon perhaps could be started. It runs through Saturday the 3rd of June. Could I just say, that this type of subject, especially the commission bring us a group of experts also there. This could be very important for this. Theme

~~almost finalized.~~

Mr Cronje:

That is exactly the point I want to make. Because I think it is exactly about these things that people should know before we can really start talking about vision of competence, etc. So I'd say that one is for the next constitution which, but not for this one.

Chairperson:

The eventual Constitution, not for the final Constitution. Mr (?)

I am not dealing specifically with the date, but I just want to appose a question about Dr Bertus de Villiers being quite keen to organizing it. Why is he been opted for? What would his responsibilities be? Cause obviously he has identified with a particular strain in thinking in respect of Federalism and Unitrism and he has convened a lot of Conferences where people of a particular complexion have been chosen and I just wonder if you want to respond on that or take that up?

Chairperson:

So we raise a query about giving it in the hands of the HSRC from that side.

Mr Andrews:

Chairperson, if one could be frank, perhaps one could say you could provide some balance with the ... Secretariat of the Constitutional Assembly and probably lots of the Commissions going around. I really don't think it is our province to query the Commission on Provincial Government. I have no extra ground for Dr De Villiers who I know, I know who he is. I hardly know him. I mean it is rather extra-ordinary, in the end almost anybody is going to be perceived to have some leadings one way or the other. And presumably if it is under the the Provincial Government, and under the Chairperson ship of Mr Botha, when Dr De Villiers, if he does this, presents an Agenda programme and a programme and suggested speakers. They are going to look, if they think it is an inappropriate mix, then and an unbalanced mix, then they will take the matter up with him. We are not being asked to organize this particular event. I think it would be compital out of place for us to go back to the Commission of Provincial Government and say we think you have got the wrong person.

Chairperson:

Thank you Mr Andrews. That is a view point. They do ask our guidance in that letter.

On what subject? Where? Can you indicate?

Chairperson:

Suitable ... In the other letter, where is this one?

On the suitable dates, not the birth dates of the convener, we are talking about the dates of the Conference.

Chairperson: That is true Mr Manie. You must look at our time. Everyone is getting hungry.

Chairperson, I think what Mr Andrews is saying, I would attend to agree with what Mr (?) said here. If you read the 3rd paragraph of the letter, it says that the reason why they in fact giving it to the HSRC, is because they don't want to be too directly involved, the Commission. Which means that in a sense it is going to be left to the HSRC to determine and I think that is going to be problematic. As far as I am concerned and I would tend to agree with what Mr (?) Has said and if we feel that that is going to be problematic, we should note it. Even if all of us don't agree, then those of us who do disagree, should be allowed at least have it on record.

Chairperson: The order of Speakers is Koornhoff, De Lille, Karriem

(End of tape 1)

The Cambodian of the Government

(Beginning of tape 2)

Prof. Venter: That's organizing this workshop, I think they should have the liberty to continue with that and the freedom. Secondly, I think we look at the dates it must just tie in with the court groups rapport recommendation about the time-table that we just fit in with the workshop. The timetable of the Theme Committee Three under heading nr 2 to take insolation when we get to the workshop.

Chairman: Thank you.
Then I like you to do two cushions●. The one is on the dates and the other one is on the involvement of the HARC. Could us ask the meeting will they be satisfied the meeting that the ANC query is just recorded as a query. We don't take it a discussion on this.

Mrs Lille: Mr Chairperson, if you look at the last paragraph the objectors of this workshop. It is planning such a way. It is really a workshop of the CPG. And our departicipation is optional. They would like us to participate. But they don't say that it is being arrange for us. And I think we need to take a decision on that. Because its there workshop. They are going to plan it. But they said it will be good and we hope to secure the participation of at lease a sustention number of persons of this constitution committee. I think we should bare that in mind and decide. I personally feel it is a good workshop.

But if it must influence our deliberations we know the time of when we are going to have this. Then it need to move a bite forward and then leave the arrangements to the CPG to finalize. We will just come in as participants also in there workshop. Let as put it that way.

Chairman:

Thank you.

It seems to be sound a view point also. Could I just said the question is adapt. Lets not make to mush about this HSRC thing please.

I allow another speaker on that but we must talk about the dates, that's the information they want. They asked us to give an idea about dates.

Chairperson:

We should write the CPG something to the effect that says look that we won't dissipate because Mr de Villiers is there. There's many [?] as a question. It's a reasonable question in the circumstances. But I also refer to the last paragraph that says that we appreciate your views on these matters. Presume these matters that are raised in this letter as a whole no debt that the main concern the [?] not the date but also very much [?] The fact that the exercise Dr de Villiers particular in mind the personal reservation is not on the HSRC parcel but Dr de Villiers remain so. I actually don't [?]

Chairman:

Thank you.

The Chairperson of the commission is present in the hall and I believe he is already heard.

Senator [?]

Mr Chairman I going even further. I am going to object and I will keep my objection pending to one thing. I want to know how the meeting will be structured or the workshop will be structured. It is then only I would be satisfied of what Dr de Villiers know in this would be.

Chairman:

Could we stop the conversation and could I just restrict the conversation now to the dates. Mr Lille has said a bite later, is there a request - earlier- end of March - was the word I heard here - command.

Mr Lille:

Latest question ahead Mr Chairman. Concerning the technical aspects that we are located to our Theme Committee Three. Like what extend can they get involved in

fda

[?] of workshops. I understand here that is seems like a totally different structure they consider for these peoples. And yet we have an unlocating of technical aspects probably we expected to be working with. I see here that Basson Davids and Prof Venter and [?] will be allocated to our Theme Committee Three.

Chairman: I am sorry, I am not be able to answer that background problem Mr Andrews can you help us.

Mr Andrews: No it doesn't matter.

Mr Chairman: I was not really on the appointment of the technical experts at that stayed. Could we perhaps discussed it with the administration and I am sure that they will be able to answer that or shall we give you a change now?

Mr [?]: If that means also you know looking into [?] paper or opinions or certain issues then the request will come from the Theme Committee to the external express. If it also suggest that the workshop you should look into that is organizing papers. That could also be made. But what was reasonable in the court room committee was that it could be very difficult for a Theme committee to expect tural experts to present papers in a workshop situation because by presenting a paper you are anyway going to showing your buyers as it were. And we don't want to push you into a corner or push you into a satisuation where they have to sort out buyers. So that this was the limit that was raised.

Chairman: Thank you.
So far okay?

[?]: Where there is any strong motivation for the HRCV to be build.

Chairperson: We want to close now, the HRCV will come up, Mr Andrews have you got an important matter still to raised? Your hand was up.

Mr Andrews: Well it was just suggestion by myself if we think it should be earlier. Surely we should look at that week after we come back of the razes. Which would be the second half of April. Because the dates were separate now. Apparently they are under discussion again. During that week there isn't parliamentary business, there is only constitutional assembly business and if it were possible to have this workshop during the course of that week. Its far more lightly that members would be free to attend. If one has it at a time when there is parliamentary business as well then its always more lightly to course classes with other responsibilities.

Chairperson: The Commission has heard. Another hand is up:

Prof Venter: Mr Chairperson, I think just back to the commission. This is an invitation that we receive from the CPG. I think we

respect the way they have gone into this. The Chairperson of the CPG in his letter they have already ask a certain person from the SHRC. Can I just made a general remark. For future references that we reframe to put a question mark on the integrity of certain organisations or certain technical experts and or people that have a high standing in academic circles. Otherwise we re going to grind each other here on issues that are surly not in the spirit of the thing.

Chairperson:

Thank you for the contribution. I am sure the commission has heard, and everyone here has listen now to each other. I close the conversation now on that matter. I come to a point general and prof Venter wanted to raise a point on the general firstly. Please I can afford him now.

Prof Venter:

Thank you very mush Mr Chairperson. It actually flows directly form the discussion. Although I attended raising it in any case. It concerns my own involvement in submissions to the constitutional assembly from the society. I am the convenor of the constitutional committee of the Afrikaner Bond. And we have submitted a number of memoranda and intend going on doing so. Some of these memoranda might be directed to your Theme Committee and I want to discussed this also with the director of the administration. And also suggested that I should mentioned it to the Theme Committee. In order to terrify the question whether this will raise any objections. The issue is not a political one because it's not a matter of the submissions being presented from a political point of view but from the point of view of that specific section of the society. It is also obvious that if some of those proposals and memoranda should be dealt with by this Theme Committee and refer to the technical committee that I will obviously not be involve in any commends made on those things. I have also discuss it with my colleges in the technical committee and mentioned that they can speaks for themselves. But they did tell me that they did not have any objections. Just to add one further point that actually also come up form the previous discussion, to my view the technical committee must be objective, must be technical committees and must do there work as objective manner as possible. But on the other hand it is impossible, humanly impossible, for anyone of us to be robotic about these things. You must except that each of us also have our own involvements elsewhere, and also our views, but from my point of view at least, will strive to present what ever we do on a statific basis and nothing else. Thank you.

Chairperson:

Thank you prof Venter for open an approach to this matter.

Mr Manie:

Could I hear from the members, do you except it or do you want a discussion on this matter? Mr Manie?

Mr Chairperson, I mean the way it is stated it sounds to me and I am not sure there saftioned time to coccous a position on this. But my own view would be that if the individually submitting something to a particular Theme Committee is also a technical adviser, its not good enough to say when that particular area is to be adult with that, person will request him or her selves at that point. It depends on how much of what that person is submitting as relevant to the Theme Committee in which that person is in fact a technical person. Because then you getting the service of a technical expert precisely to work through the submittance excepted from outside. So I think it's going to depend on the volume that's going to be coming from individuals and how much that has relevant to this particular Theme Committee, because it is pointless having technical expert and that person is [?]. That services are now not available to the Theme Committee. So in the end I am just raising a concern based on the volume and how that impacts on the work of the technical experts as well.

Chairperson:

Thank you Mr Manie. I do believe the parties must have a change to consider this restfully. You are actually making a point if I understand you right that it is not just a question of objectivity as such but the appearance of objectivity or did I understand you wrong there?

Chairperson:

The new volumn in the tape of work in the specific Theme Committee.

Prof Venter:

Well that is incompasitated as a technical experts so frequently because the volume as submittance. That will be a problem. I think that was the point.

Chairperson:

Shall we to reflect on this until next time? or do you want to decide on this.

Prof Venter:

I might suggest that you as one of the co-chairs has a further discussion with prof Venter particularly the point raised by Mr Manie.

Chairperson:

Ja.

Prof Venter:

And we can look then at it next time Possibly first of court [?] and then the recommendation to the Theme Committee.

Chairperson:

Thank you.
Any other points on general? Can we close? What else is there on the book? Thank you very much for your attendance.

Good afternoon.