

2/21/3/1/8

CONSTITUTIONAL ASSEMBLY

SUB-COMMITTEE ONE

**MONDAY
7TH OCTOBER 1996**

MINUTES

CONSTITUTIONAL ASSEMBLY SUB-COMMITTEE ONE

MINUTES OF MEETING HELD ON 7TH OCTOBER, 1996
AT 10H00 IN ROOM V16

Chairperson: Myakayaka-Manzini, M

PRESENT:

CITY HALL

✓ Camerer, S no reply
✓ De Beer, S left mess on cell ✓ [REDACTED]
✓ Dexter, Ppd
X Ebrahim, AG
Eglin, CW MC
X ✓ Graaff, D ✓
Green, L
Hofmeyr, W Eunice
✓ Love, J paged
Pandor, N not home . [REDACTED] X = no
✓ Radue, R

LEFT MSG
LEFT MSG
CONFIRMED
NOT AT HOME
MC
CONFIRMED
LEFT MESSAGE
PAGED
PAGED

Panel of Experts

Kruger, Prof J
Van der Westhuizen, J
Yacoob, Adv Z

1. OPENING

- 1.1 The meeting was opened by the Chairperson at 10h10.
- 1.2 Mr Eglin gave notice that under A.O.B. he would propose an amendment to Clauses 193 & 194.
- 1.3 The Chairperson referred to the document entitled "Amended Text Including Refinement" and suggested dealing with the issues as they appeared on the agenda. The meeting continued as follows:

2. PUBLIC SERVICE COMMISSION

- 2.1 The ANC called for the inclusion of norms and standards in s 197 (4), but needed legal opinion as to whether its inclusion would cause a

[REDACTED]

[REDACTED]

CONSTITUTIONAL ASSEMBLY SUB-COMMITTEE ONE

MINUTES OF MEETING HELD ON 7TH OCTOBER, 1996
AT 10H00 IN ROOM V16

Chairperson: Myakayaka-Manzini, M

PRESENT:

CITY HALL

✓ Camerer, S no reply
✓ De Beer, S left mess on cell ✓ 082 44 77 6 44
✓ Dexter, P pd
X Ebrahim, AG
Eglin, CW MC
X ✓ Graaff, D ✓
Green, L
Hofmeyr, W Eunice
✓ Love, J paged
Pandor, N not home . 7979076 X = no
✓ Radue, R

LEFT MSG

LEFT MSG
CONFIRMED
NOT AT HOME

MC
CONFIRMED
LEFT MESSAGE
PAGED
PAGED

✓

Panel of Experts

Kruger, Prof J
Van der Westhuizen, J
Yacoob, Adv Z

1. OPENING

- 1.1 The meeting was opened by the Chairperson at 10h10.
- 1.2 Mr Eglin gave notice that under A.O.B. he would propose an amendment to Clauses 193 & 194.
- 1.3 The Chairperson referred to the document entitled "Amended Text Including Refinement" and suggested dealing with the issues as they appeared on the agenda. The meeting continued as follows:

2. PUBLIC SERVICE COMMISSION

- 2.1 The ANC called for the inclusion of norms and standards in s 197 (4), but needed legal opinion as to whether its inclusion would cause a

certification problem.

Both the National Party and Democratic Party felt that this inclusion would lead to confusion and might change the meaning of this clause. Mr Eglin also expressed the fear that its inclusion could jeopardise certification and he would therefore prefer to leave the clause as it stood.

Prof van der Westhuizen echoed these concerns and also expressed the view that the inclusion of norms and standards could widen the reference of this clause and could beg the question as to who would set these norms and standards.

- 2.2 It was agreed to refer this matter to the Panel and to obtain outside legal opinion. This matter would then be referred to the Constitutional Committee for their consideration.

3. LABOUR RELATIONS

- 3.1 It was agreed to remove the words "the right to". The clause would therefore read as follows:

"23.(5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining."

4. TRUTH & RECONCILIATION

- 4.1 s 22 (2) - it was agreed to the remove the brackets in this clause; it would now read as follows:-

"For the purposes of the Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995), as amended including for purposes of its validity, all the provisions of the previous Constitution under the heading "National Unity and Reconciliation" are deemed to be part of the new Constitution, notwithstanding any other provision of the new Constitution and despite the repeal of the previous Constitution."

- 4.2 Prof Van der Westhuizen assured the sub-committee that removing the brackets would not pose any problem.

5. AUDITOR GENERAL & PUBLIC PROTECTOR

- 5.1 Although there was agreement on these reformulations, Mr De Beer questioned the use of the words "supporting vote" in clauses 194(2)(a) & (b). Prof Van der Westhuizen explained that these words

were included for the sake of consistency.

6. ANY OTHER BUSINESS

- 6.1 Mr Eglin gave notice of the DP's proposed amendment to S 193 & 194 and apologised for the late submission. He explained that the reason for this proposed amendment was to ensure that the independence and impartiality of the members of the Electoral Commission are provided for and safeguarded in the Constitution.

Both the National Party and the ACDP agreed with the wisdom of the inclusion of the Electoral Commission in this clause.

The ANC felt that it was too late to put forward this proposal and that the court had also not adjudicated on the independence of the Electoral Commission.

- 6.2 The Chair ruled that the matter would be tabled at the Constitutional Committee meeting and reminded members of the Management Committee agreement not to open up new issues in the sub-committee.

7. CLOSURE

The meeting closed at 10h55.

