

## **NORTHWEST CIRCLE COUNCIL SUPERIOR COURTS BILL**

### **1. INTRODUCTION**

Thank you for the opportunity to appear before your committee.

The North West Circle Council, like the Circle Councils of the Northern Province, Gauteng and Mpumalanga, was delegated by the Law Society of Transvaal to perform certain of its functions and in general to represent the organised attorney's profession in the North West Province (excluding those practising in the former Bophuthatswana). The North West Circle Council consists of nine members who are practising in Potchefstroom, Klerksdorp, Lichtenburg, Rustenburg and in Brits.

### **2. BACKGROUND AND BRIEF HISTORY**

Various representations have been made to the Commission of Inquiry into the rationalisation of the Provincial and Local Divisions of the Supreme Court, whereafter the Commission inter alia made the following recommendations:

- JUDGE R N LEON- That the North West should be made a Local Division of the Johannesburg High Court; that its seat should be POTCHEFSTROOM and that it should be housed in the BARNARD HOUSE, provided by the Potchefstroom University and that the Bophuthatswana High Court should be closed down.

- ADV. A N JAPPIE- That North West should be made a Provincial Division of the High Court and that its seat should be POTCHEFSTROOM.

- MR G S S MALULEKE- That the North West should be made a Provincial Division of the High Court and that its seat should be in Mmabatho.

Contrary to the above-mentioned recommendations, the draft Superior Courts Bill was published containing inter alia section 4(1)(h) providing that the North West High Court be seated in Mmabatho.

A call for submissions on the Superior Courts bill was made in a press statement which was responded to by the North West Circle Council in a letter dated 19 February 1999. The North West Circle Council held a meeting on 2 March and at this meeting it was resolved that all the council members was in favour that a Provincial Division of the Supreme Court is established in North West, with its seat at Potchefstroom. In response to the aforementioned letter, our council was invited on 4 March 1999 to appear before a public hearing on 8 March 1999.

### **3. REASONS THAT MMABATHO IS NOT SUITABLE AS THE SEAT OF THE NORTH WEST HIGH COURT**

3.1. Although 65% of the population in North West reside in rural areas, most economic activity is concentrated in the Southern (Potchefstroom-Klerksdorp) and North-Eastern (Rustenburg, Brits) regions, where more than 66% of the GGP (Gross Geographic Product) of the province is produced. Although Mmabatho could be a choice for reason of possible job creation in that area, it is obvious that the semi and high skilled labour that will be required for the North West High Court, will be available in Potchefstroom due to its education facilities. Any development strategy for the province should take into account the underdevelopment and especially the lack of economic opportunities in rural areas (Naude, W. 1998. Africa Insight, 28(3/4):136).

3.2. It has been argued in favour of Mmabatho that the infra structure for a High Court was already in place, that it was already served by a Master's Office, Deeds Office and Company Registration Office. However, the function of the registration of companies has in the meantime been taken over by the Registrar of Companies in Pretoria, the Deeds Office was moved to Vryburg and this Council is made to believe that the Master's Office is about to be closed down or moved.

3.3. Most routes leading to Mmabatho are of inferior quality and notorious for the high rate of accidents.

### **4. REASONS FOR THE ESTABLISHMENT OF A NORTH WEST HIGH COURT WITH ITS SEAT AT POTCHEFSTROOM.**

#### **4.1 Potchefstroom in General**

-The city of expertise: Potchefstroom is a city that is to a large extent the principal centre of a variety of functions and activities in the North West Province. Potchefstroom is unquestionably the educational centre of the North

West Province.

-Locality and distance from other centres in North West- see annexure "B" attached hereto.

-Accessibility and infrastructure: Potchefstroom is situated on the Eastern Border of the Province and close to the Gauteng area. The city is situated on the national road and main railway line between Gauteng and Cape Town. A tarred landing strip on approximately 1,5km is available.

#### 4.2 Trade and industry

-Industrial sector: The percentage contribution of Potchefstroom's industrial sector to the GGP of the industrial sector of the province is 23,5%.

-Multi sectoral economic base: The growth and development capacity of Potchefstroom is illustrated by a well differentiated economic base. The sustained economic growth is not dependant on a single fluctuating subsistence factor such as mining or the agricultural sector.

#### 5. ASSISTANCE AND INFRASTRUCTURE OFFERED BY THE POTCHEFSTROOM UNIVERSITY

-Comprehensive library which is fully computerised: see annexure "C" attached hereto.

-Providing of Court Building and Legal Aid Centre in Potchefstroom.

#### **6. CONCLUSION AND RECOMMENDATION.**

Section 4(1)(h) of the draft Superior Court Bill is inconsistent with the abovementioned facts and recommendations by the Commission of Enquiry into the rationalisation of the Provincial and Local Divisions of the Supreme Court. For reasons already indicated, it will not serve the community at large as well as the litigating community, which is largely situated in Potchefstroom, Klerksdorp, Stilfontein, Orkney and Rustenburg, if Mmabatho is chosen as seat for the North West High Court. We are therefore of the respectful opinion that the public interest and the interest of justice will be better served if section 4(1)(h) is reconsidered and that a North West High Court is established, with it seat in Potchefstroom.

Yours faithfully

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COUNCIL MEMBER  
NORTH WEST CIRCLE COUNCIL