


PRACTICE NOTE

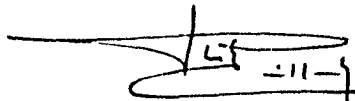
We appreciate the difficulties faced by the Disputes Committee in its determination of the electoral disputes the subject of the present appeals. However, the Committee's failure to keep any record of the oral evidence given to it, together with the fact that the documentary evidence received by the Committee was far from comprehensive and that the Committee's final report was in the form of a series of short recitals leading to brief conclusions, left the Joint Court in the position where the only course open to it, had it proved necessary to consider the conclusions of the Committee in relation to the evidence (which in the event it was not) would have been to rehear witnesses already called before the Committee and, possibly, to call new witnesses.


In our view it is not desirable that the Joint Court in its capacity as an appeal court from decisions of the Electoral Disputes Committee should proceed by way of re-hearing. In its determination of an appeal from the Disputes Committee the Joint Court has of course a discretion to hear evidence in the cases where it considers this necessary, but it will normally decide an appeal on the appeal papers lodged with the Court, where necessary, after hearing addresses from counsel on points of law. The Joint Court (Representative Assembly Elections Appeals) Rules 1975 provide to this effect.

Accordingly we consider it desirable to make the following observations for the future guidance of the Electoral Disputes Committee.

1. The Disputes Committee should investigate thoroughly all the allegations made in the petition addressed to it challenging the regularity of an election.
 - (a) In so doing, a record, such as that kept in a court of law, of all the evidence given to the Committee, should be kept by the Co-Chairmen or the Secretary of the Committee.
 - (b) To this should be attached all documentary evidence supplied to the Committee.
 - (c) The record of evidence, together with all documentary exhibits, should be attached to the Committee's report and will comprise the record of the Committee's proceedings.
2. In a long inquiry extending over weeks or months, copies of the evidence and documentary exhibits should as soon as possible, be made available to all the members of the Committee so that they may refer to them whenever they wish during the course of the inquiry.
3. The Committee's final report should be in the narrative form of a reasoned judgment explaining, with reference to the evidence adduced before it, how it came to its conclusions.


L. CAZENDRES
French Judge


P. de GAILLANDE
acting Registrar


D. R. DAVIS
British Judge

23rd July, 1976