

REPUBLIC OF SOUTH AFRICA

CONSTITUTIONAL ASSEMBLY

**ANNOUNCEMENTS, TABLINGS
AND COMMITTEE REPORTS**

FRIDAY, 12 AUGUST 1994

COMMITTEE REPORTS:

1. REPORT OF STEERING COMMITTEE: CONSTITUTIONAL ASSEMBLY

The Steering Committee of the Constitutional Assembly, having been appointed under the Resolution adopted in the Constitutional Assembly on 24 May 1994 to consider in detail matters relating to the constitutional process, begs to submit a report, as follows:

1. Proposed structure and functioning of the constitution-making process

Your committee recommends:

That the Constitutional Assembly -

- (1) *whilst not thereby in any way ceding or derogating from its right to oversee, debate in detail and direct the drafting of the new constitutional text, appoint a select committee, to be called the Constitutional Committee, as the forum to which it routinely refers matters arising out of the constitution-making process for detailed discussion and negotiation among parties, such committee to keep a verbatim record of its deliberations;*
- (2) *instruct the Constitutional Committee, as its first task, to draw up and submit to it an outline of the approach it proposes to adopt in respect of the drafting of the new constitutional text, such outline to -*
 - (a) *reflect and incorporate principles and guidelines that emerge from debate on the subject in the Constitutional Assembly; and*
 - (b) *include proposals concerning:*
 - (i) *the appointment of technical committees and the area of work assigned to each;*
 - (ii) *provision for the appointment of "theme" select committees, consisting of approximately 30 members each, to deal with specific aspects of the new constitutional text, and the area of work assigned to each;*
 - (iii) *provision for the appointment of commissions to deal with issues arising out of the work of the select committees;*
 - (iv) *procedures for regular reporting of progress to the Constitutional Assembly;*
 - (v) *procedures for reference to the Constitutional Assembly of issues on which it is unable to reach consensus; and*
 - (vi) *procedures for involving, on an orderly and structured basis, outside bodies and the broader population.*

Your committee is concerned that the bodies on whose experience it must draw in drafting the new constitutional text, will still be acquiring experience and expertise concerning the operation of the current Constitution at the time the new constitutional text must be finalised. Accordingly it has instructed the Chairperson and Deputy Chairperson to consult with, and consider inputs from, all relevant bodies, structures and persons in order to address this problem.

2. Appointment of Panel of Constitutional Experts

The public has been invited, through the medium of the press, to submit nominations for the Panel of Constitutional Experts to be appointed in terms of section 72 of the Constitution. In view of the small number of nominations received thus far, your committee proposes to extend the cut-off date for the receipt of nominations and seek further nominations.

3. Rules & proposed rule changes

Having considered the Draft Standing Rules for the Constitutional Assembly as provisionally adopted by the Rules Committee, your committee has submitted proposals for the amendment thereof to that Committee.

4. Memoranda by parties

Memoranda submitted on behalf of the Inkatha Freedom Party and the Democratic Party on the structure and functioning of the constitution-making system and possible rule changes will be referred to the Rules Committee and the Constitutional Committee for consideration.

5. Management of work programme and timetable for Constitutional Assembly

Your committee recommends that the Chairperson and Deputy Chairperson fulfil a management function in regard to the work programme and timetable for the Constitutional Assembly. The Chairperson and Deputy Chairperson may, however, evaluate the need for the appointment of a whip with responsibility for the business of the Constitutional Assembly should this prove necessary.

6. Financial administration of constitution-making procedure

Your committee recommends:

That -

- (1) provision be made for expenditure on the Constitutional Assembly under a separate programme under the Parliamentary budget;
- (2) separate records be kept of Constitutional Assembly expenditure;
- (3) the functionaries to be accountable for expenditure under this programme be identified in consultation with the Department of State Expenditure;
- (4) reports on the financial affairs of the Constitutional Assembly be made at regular intervals to the relevant committee of the Constitutional Assembly by the Parliamentary Secretariat; and
- (5) a report be made on the remuneration of staff and of non-Parliamentary members of bodies established in terms of Section 72 of the Constitution.

The main items to be defrayed from this programme include:

- (1) Recruitment of staff and members of Constitutional Assembly bodies;
- (2) Remuneration of Constitutional Assembly staff;
- (3) Remuneration of Panel of Constitutional Experts;
- (4) Remuneration of non-Parliamentary members of Technical Committees, commissions and other advisory bodies appointed under section 72;
- (5) Research projects "farmed out" to outside bodies;
- (6) Project to involve the general public in the constitution-making process, with the attendant travel expenses;
- (7) Office equipment: computer equipment, lease of photocopiers, fax machines, transcribing equipment, stationery, dictionaries, miscellaneous;
- (8) Services provided by Parliamentary establishment; and
- (9) Furniture and fittings additional to those supplied by the Department of Public Works.

Remuneration of staff and members of the various bodies will be based on the remuneration paid to equivalent personnel at the Transitional Executive Council.

7. Venue for sittings of the Constitutional Committee

It is proposed that the customary venue for sittings of the Constitutional Committee be Room M46 in the Marks Building, but that other venues may be considered if and when necessary. It is proposed that provision for sitting in such other venues will be made in the Rules.

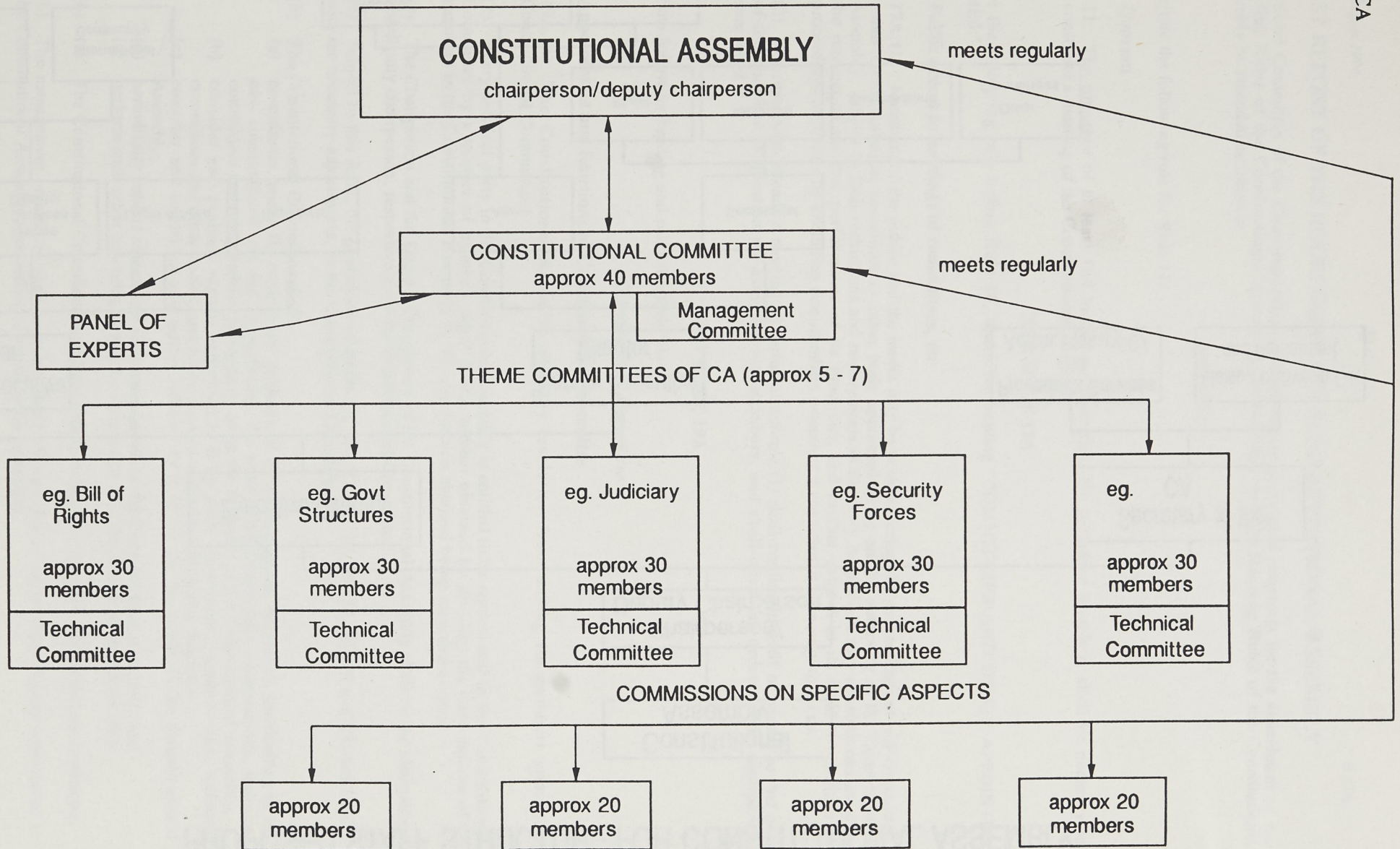
8. Proposed staff to support constitution-making process

It is estimated that a staff of 25-40 persons - who may be appointed on contract or seconded from the Public Service or Parliament - will be required to support the constitution-making process, headed by an Executive Director with a background in constitutional law and two Deputy Directors (see "*Proposed staff structure*"). The latter 3 posts have been advertised. Further posts are to be filled shortly. Typing and secretarial staff can initially be provided from the Parliamentary establishment. Accommodation for Constitutional Assembly staff adjacent to the Parliamentary precincts has been arranged. Office accommodation will also be provided for the Panel of Constitutional Experts and the Technical Committees.

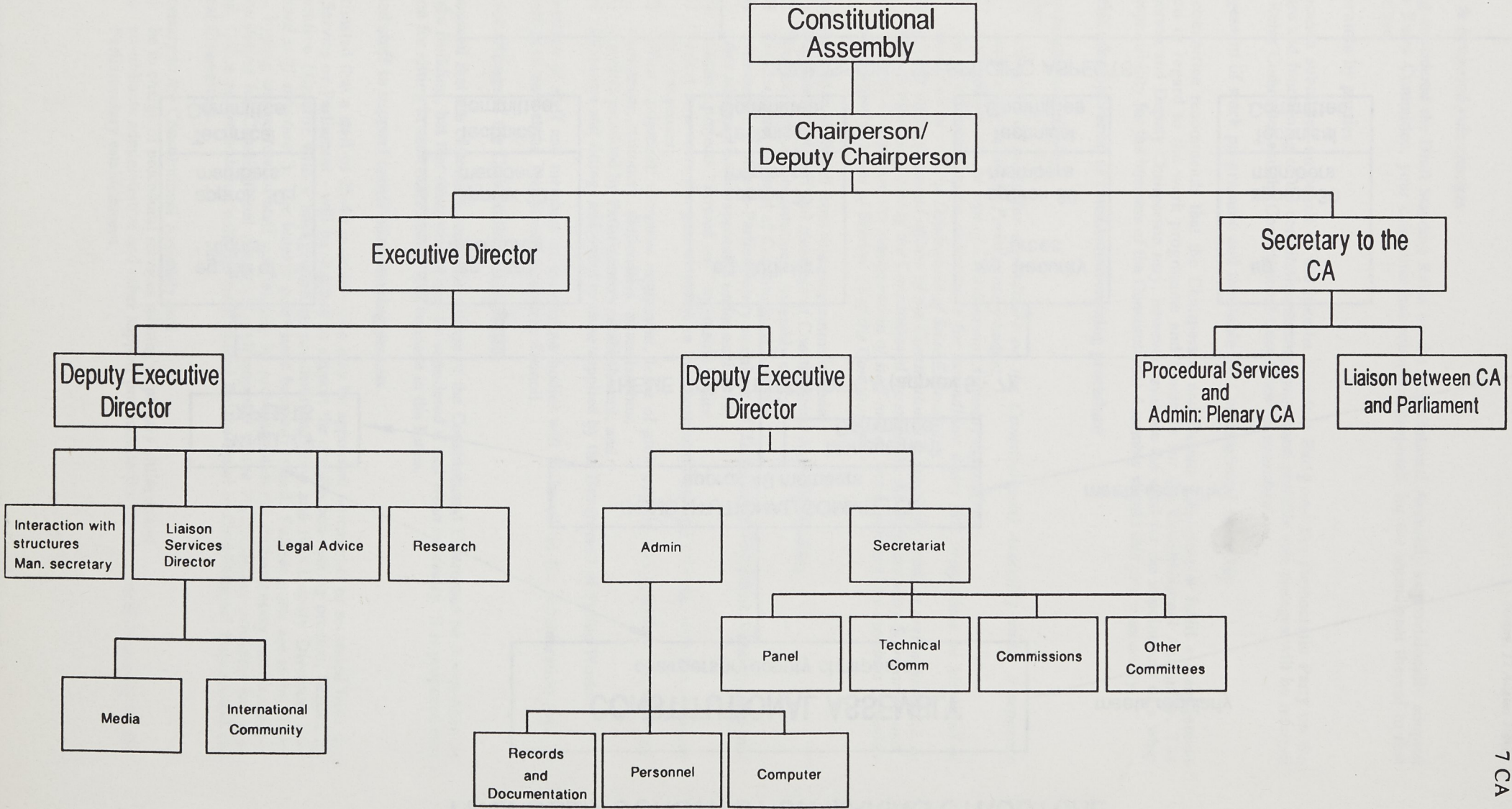
The Secretary to the Constitutional Assembly will -

- (a) be in charge of procedural services relating to plenary sittings; and
- (b) co-ordinate administrative and other support provided to the Constitutional Assembly by the Parliamentary establishment.

PROPOSED CONSTITUTION-MAKING STRUCTURE



PROPOSED STAFF STRUCTURE FOR CONSTITUTIONAL ASSEMBLY



2. FIRST REPORT OF THE RULES COMMITTEE: CONSTITUTIONAL ASSEMBLY

The Rules Committee of the Constitutional Assembly, having considered proposals for the amendment of the Standing Rules of the Constitutional Assembly, recommends that the Standing Rules of the Constitutional Assembly be amended as follows:

RULE 11

Substitute the following rule for Rule 11:

Quorum

11. The presence of at least 164 members, other than the presiding member, shall be necessary to constitute a meeting of the Constitutional Assembly.

NEW RULE 17A

Insert the following rule before Rule 18, under the heading "COMMITTEES AND OTHER APPOINTED BODIES:"

Public access to meetings of committees, etc

17A.(1) Members of the public and the media may be present during the proceedings of any committee, commission, technical committee or other body appointed by or on the authority of the Constitutional Assembly, subject to such restrictions and requirements as the body in question may consider necessary in the interest of the due performance of its functions, and further subject to its right to conduct its proceedings in private by excluding non-members whenever it considers it necessary to do so.

(2) A person who attends a meeting by virtue of Subrule (1) shall confine himself or herself to that part of the chamber in question set aside for non-members, and shall obey the orders of the chairperson concerned.

NEW RULE 19A

Insert the following heading and rule after Rule 19:

Constitutional Committee

Appointment and functions of Constitutional Committee

19A.(1) The Constitutional Assembly shall by resolution from among its members appoint a Constitutional Committee.

(2) Every political party in the Constitutional Assembly is entitled to be represented in the Constitutional Committee by a number of members equal to the number obtained by dividing the total number of its members in the Constitutional Assembly by 12, any fraction obtained being regarded as one.

(3) The Chairperson and the Deputy Chairperson of the Constitutional Assembly shall be the chairperson and deputy chairperson, respectively, of the Constitutional Committee.

(4) Subject to this Rule, the provisions of Rules 22, 24, 27, 28, 29, 30, 31, 32, 33 and 34 shall apply, with the necessary adjustments, to the Constitutional Committee.

(5) The Constitutional Committee shall -

- (a) co-ordinate, under the control and guidance of the Constitutional Assembly, the drafting of the new constitutional text and, in particular, the work of all committees, commissions, technical committees and other bodies appointed by or on the authority of the Constitutional Assembly;
- (b) consider and evaluate reports submitted to it by such committees, commissions, technical committees and other bodies, and report thereon to the Constitutional Assembly;
- (c) consider and report on any matter referred to it by or on the order of the Constitutional Assembly;
- (d) periodically submit reports and recommendations to the Constitutional Assembly; and
- (e) perform such other functions as may be assigned to it by the Constitutional Assembly.

(6) (a) The Constitutional Committee may from among its members appoint a management committee.

(b) The management committee shall include at least one member of each political party represented in the Constitutional Assembly and willing to serve on the committee.

(c) The Chairperson of the Constitutional Assembly shall be the chairperson of the management committee.

(d) The management committee shall, subject to these Rules, perform such functions as may be assigned to it by the Constitutional Committee.

RULE 20

Substitute the following rule for Rule 20:

Definition

20. Committees, other than the Constitutional Committee, consisting of members of the Constitutional Assembly only are in these Rules referred to as select committees.

RULE 23

Substitute the following rule for Rule 23:

Representation of parties

23. Every political party in the Constitutional Assembly is entitled to be represented in a select committee by a number of members equal to the number obtained by dividing the total number of its members in the Constitutional Assembly by 16, or such other number as may be determined by the Constitutional Committee in respect of a particular select committee, any fraction obtained being regarded as one.

RULE 25

Substitute the following rule for Rule 25:

Chairperson of select committee

25. (1) A select committee shall elect one of its members as the chairperson of the committee.

(2) The chairperson shall be elected at the first meeting of the committee and, thereafter, whenever there is a vacancy in the office of chairperson.

(3) The Secretary or an officer of Parliament designated by the Secretary shall preside at the election of a chairperson.

RULE 26

Substitute the following rule for Rule 26:

Deputy Chairperson

26. (1) The appointment of a deputy chairperson may be authorised by or under a resolution of the Constitutional Assembly in the case of a particular select committee or of select committees falling within a specified category or in respect of select committees generally.

(2) A deputy chairperson of a select committee shall be elected in the same manner as that in which the chairperson of such a committee is elected, except that the chairperson shall preside at the election.

RULE 29

Add the following paragraph to Rule 29:

(c) at a venue it considers to be the most suitable, and which may be a venue beyond the seat of Parliament.

RULE 35

Substitute the following rule for Rule 35:

Report of select committee

35. A report of a select committee shall be presented to the Constitutional Committee.

RULE 44

Substitute the following paragraph for paragraph (c) of Rule 44:

(c) to consider and report on any matter referred to it by or on the order of the Constitutional Assembly, the Constitutional Committee or any select committee.

RULE 64

Delete Rule 64.