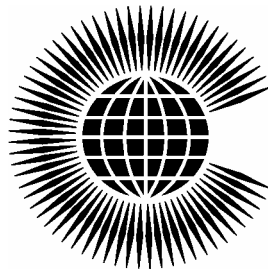


ANTIGUA AND BARBUDA GENERAL ELECTION

23 March 2004

**THE REPORT OF THE
COMMONWEALTH EXPERT TEAM**



COMMONWEALTH SECRETARIAT

**Antigua and Barbuda General Election
23 March 2004**

REPORT OF THE COMMONWEALTH EXPERT TEAM

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COMMONWEALTH EXPERT TEAM

28 March 2004

Dear Secretary-General,

We wish to express our thanks for sending us to Antigua and Barbuda to observe the 2004 General Election and are pleased to submit our report.

We have had the opportunity to assess the management of the electoral process, the overall environment in the run-up to polling day, and have conducted wide ranging consultations with election officials, political parties, NGOs, civil society, and the general populace during our deployment around the country, both in Antigua and Barbuda.

The extensive co-operation rendered to members of the Team, and the friendliness of the people of Antigua and Barbuda have been noteworthy.

It is our fervent wish and strong expectation that our conclusions and recommendations for technical assistance will be embraced in the positive spirit in which they are made.

Mr Arthur Donahoe QC
*Former Secretary-General:
Commonwealth Parliamentary
Association & former Speaker:
Nova Scotia House of Assembly,
Canada*

Ms Rita Seraphin
*Former Chief Elections
Officer, Dominica*

Mr Kwesi Jonah
*Head: Governance
Center, Institute of
Economic Affairs &
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HE Rt Hon Don McKinnon
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INTRODUCTION

INVITATION AND COMPOSITION OF THE EXPERT TEAM

This report presents the observations, conclusions and recommendations of the Commonwealth Expert Team, which was present in Antigua and Barbuda for the General Election held on 23 March 2004.

The Commonwealth had previously provided a Commonwealth Observer Group for the 1999 General Election, and Commonwealth Expert Teams to observe the Voter Registration Process in July 2003, and the subsequent Claims and Objections Phase in September 2003.

The Commonwealth Secretary-General's decision to send an Expert Team to the 2004 General Election followed an invitation from the Prime Minister of Antigua and Barbuda, Hon Lester Bryant Bird (see Annex C).

The Team consisted of:

Mr Arthur Donahoe QC (Team Leader)

Former Secretary-General of the Commonwealth Parliamentary Association and former Speaker of the Nova Scotia House of Assembly, Canada

Ms Rita Seraphin

Former Chief Elections Officer, Dominica

Mr Kwesi Jonah

Head of the Governance Center at the Institute of Economic Affairs and Senior Lecturer in Political Science at the University of Ghana, Ghana

Three Commonwealth Secretariat staff members assisted the Team: Ms Juliet Solomon (Political Affairs Division), Mr Linford Andrews (Political Affairs Division) and Mr Wayne De Four (Corporate Services Division).

Terms of Reference

The Team's Terms of Reference were as follows:

The Commonwealth expert Team for the general election in Antigua and Barbuda shall observe the

- *Preparations for the elections;*
- *Polling, counting and results process; and*
- *Overall electoral environment.*

The Expert Team will report thereafter to the Commonwealth Secretary-General, with recommendations for the future management of the electoral process and, if appropriate, Commonwealth technical assistance. The Secretary-General will in turn send the Team's report to the Government of Antigua and Barbuda, the Antigua and Barbuda Electoral Commission, the main political parties, and Commonwealth Governments. It will then be made public.

The experts were invited in their individual capacities and it was made clear by means of a Circular to Commonwealth Governments and a press release (see Annex D) that the views they expressed regarding the election would be their own and not those of either the Governments of their respective countries or of the Commonwealth Secretariat.

BACKGROUND ON ANTIGUA AND BARBUDA

Antigua and Barbuda is comprised of Antigua, the largest of the Leeward Islands, its sister island of Barbuda (thirty miles away) and uninhabited Redonda. The capital, and main commercial centre, is St. John's.

Antigua and Barbuda achieved independence from Great Britain on 1 November 1981 and became a full member of the Commonwealth.

Situated at the north of the Leeward Islands in the Eastern Caribbean, Antigua and Barbuda has a total area of 442 sq km (Antigua 281 sq km; Barbuda 161 sq km).

The population of Antigua and Barbuda is estimated at 75,000 (2001 census estimates). About ten percent of the population consists of Hispanic immigrants, mainly from the Dominican Republic. A significant percentage of the population also consists of immigrants from other Caribbean nations.

The main language spoken is English and the legal system is based on English common law as exercised by the Eastern Caribbean Supreme Court of Justice; provision is made for final appeal to the Judicial Committee of the Privy Council in London.

The Antiguan population enjoys a high level of literacy and its citizens are extremely politically aware and involved.

ACTIVITIES OF THE EXPERT TEAM

The Expert Team arrived in Antigua on 14 March 2004, and was briefed by Mrs Myrtle Palacio MBE (Chief Election Officer, Belize), on the Voter Registration Process¹ which took place in Antigua and Barbuda in July 2003. This was followed by a series of briefings held with key stakeholders at the Rex Halcyon Cove Resort (see Annex G). These meetings provided the Team with information on the electoral process, the overall electoral environment, the conduct of campaigns, and issues with respect to the current electoral arrangements. The Electoral Commission provided the Team with relevant documentation, including copies of the Representation of the People (Amendment) Act 2001.

During a period of 3 days (16 – 18 March 2004), the Team was briefed by the Antigua and Barbuda Electoral Commission, representatives of various political parties (including party leaders), the British High Commission, the media, civil society, and other groups. During this time, the Team also viewed party campaign rallies.

For four days prior to the General Election (19 – 22 March), members of the Team were on deployment. One group (Mr Arthur Donahoe and Ms Juliet Solomon) travelled to Barbuda on 19 March, where meetings were also held with the Barbuda Council, as well as the candidates of both the Barbuda People's Movement (BPM) and Barbuda People's Movement for Change (BPMC). A second group (Ms Rita Seraphin and Mr Wayne De Four) focused on areas in the southern part of Antigua, while a third group (Mr Kwesi Jonah and Mr Linford Andrews), focused on the northern areas of the island. During deployment, all three groups had the opportunity to assess the overall electoral environment, meeting people and observing the final preparations for the election. All seventeen constituencies² were visited on deployment. A meeting was held with the CARICOM Electoral Observer Mission on 21 March 2004.

On Election Day itself, all polling locations in the country were visited, including the dispatch of two Team members (Mr Kwesi Jonah and Mr Linford Andrews) to cover Barbuda.

The Team's report was prepared prior to departure from Antigua on 28 March 2004.

¹ Mrs Myrtle Palacio led two previous Commonwealth Expert Teams to Antigua to observe Voter Registration (July 2003) and the Claims and Objections Phase of the Voter Registration Process (September 2003).

² The 17 constituencies are: St. John's City West; St. John's City East; St. John's City South; St. John's Rural West; St. John's Rural South; St. John's Rural East; St. John's Rural North; St. Mary's North; St. Mary's South; All Saints East & St. Luke; All Saints West; St. George; St. Peter; St. Philip North; St. Philip South; St. Paul; and Barbuda

THE DEMOCRACY AND ELECTORAL FRAMEWORK

POLITICAL DEVELOPMENTS

The rise of a strong labour movement in the 1940s, under the leadership of Vere C. Bird Sr., provided the impetus for independence. In 1967, with Barbuda and the tiny island of Redonda as dependencies, Antigua became an associated state of the Commonwealth, and in 1981 it became independent as a unitary state, despite a strong campaign for independence by the inhabitants of Barbuda. V.C. Bird is deceased.

The Antigua Labour Party (ALP) won its sixth successive general election in March 1999, taking 12 seats to the opposition United Progressive Party's 4, with the Barbuda seat being held by the Barbuda People's Movement. Lester Bird succeeded his father Vere C. Bird Sr. as Prime Minister at the 1994 election. Baldwin Spencer was re-elected as leader of the opposition UPP in November 2003.

In August 2003 the government passed legislation giving voting rights to non-nationals resident for over three years.

The government approached the 2004 General Election and a tightly-fought election campaign, with public finances under severe strain, and under the shadow of a continuing series of damaging allegations against the government.

The Government faced intense criticism within Antigua in the last two years. A Commission of Inquiry was set up to investigate the misuse of the Medical Benefits Scheme (MBS) and handed over its report on 31 July 2002. Prime Minister Bird agreed to implement the majority of its 33 recommendations, except those which would have immediate severe financial implications (conversion of the MBS into a national health insurance scheme, settlement of the outstanding amount owed to the MBS with 50% paid immediately in cash). The Commission also recommended that the Director of Public Prosecutions should further investigate named individuals to establish whether criminal charges should be brought against them. This investigation is now proceeding with the assistance of Scotland Yard.

In one of the latest of a series of public controversies, the Speaker of the House, Dame Bridgette Harris, refused to allow discussion on a no-confidence motion against two government ministers, and called the

police to remove opposition supporters from the parliament building. The opposition UPP claimed that funds received by the constituency offices of the two Ministers were in exchange for negotiating a controversial government land-exchange deal. The government stated that the funds were intended for community projects.

A review of the operational arrangements between Antigua and Barbuda was conducted by a Commonwealth Review Team in July 2000. The report, published in November 2000, dismissed the possibility of a federal arrangement between the two islands but recommended the establishment of a Joint Consultative Committee (JCC) to oversee the development of Barbuda within the existing constitutional arrangements. Other recommended changes included the designation of Barbuda as a 'port of entry' and the transfer of responsibility for water and electricity on the island to the Barbuda Council. Relationships between the two islands are not always harmonious.

ELECTION MANAGEMENT

From among several recommendations proposed by the Commonwealth Observer Group to the 1999 General Election, one taken up by the Government of Antigua and Barbuda was the establishment of an Electoral Commission³. The Commission was established by the Antigua and Barbuda Representation of the People (Amendment) Act 2001, and came into being in April 2002. The Commission is comprised of a Chairman, Deputy Chairman and three other members⁴. The Act provides that the Chairman and two members be appointed by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, and that two other members, including the Deputy Chairman, be appointed by the Governor-General acting on the recommendation of the Leader of the Opposition after consultation with the Prime Minister.

³ See "Report of the Commonwealth Observer Group: The General Election in Antigua and Barbuda", March 1999, page 25

⁴ The current members of the Electoral Commission are: Mr McClin S Matthias, Chairman; Mr Bruce Goodwin, Deputy Chairman; Mr Nathaniel James, Member; Mr Winston Gomes, Member; Bishop Ewing Dorsett, Member; Mrs E. Patricia Simon-Ford, Counsel

Section 67 of the Constitution⁵ creates a post of Supervisor of Elections, who is mandated to perform the functions of Chief Executive Officer of the Commission, and also serves as Chief Registration Officer.

The Mandate of the Electoral Commission

The Antigua and Barbuda Representation of the People (Amendment) Act 2001, S6(1) provides that the Commission is responsible for “the general direction, control and supervision of the preparation of the voters’ register and the conduct of elections in every constituency and enforcing with respect to all election officers, fairness, impartiality and compliance with the electoral law.” In addition, the Commission’s functions include:

- Selecting and appointing all officers of the Commission;
- Developing and designing staff training programmes;
- Designing a non-partisan voter education programme; and
- Regulating the conduct of election officials.

THE LAW

The conduct of elections in Antigua and Barbuda is governed by the relevant articles of the 1981 Constitution and the Representation of the People (Amendment) Acts of 2001 and 2002.

Voter Registration Qualifications

A person is qualified to register as an elector in a constituency if he/she:

- Is a citizen of Antigua and Barbuda;
- Is a Commonwealth citizen who has resided in Antigua and Barbuda for at least three years immediately before the qualifying date;
- Is 18 years of age and over;
- Has resided in the constituency for at least one month immediately preceding the qualifying date.

Employed on a US\$500,000 contract, the Electoral Office of Jamaica carried out a full voter registration exercise for Antigua, including the production of fingerprint and photograph identity cards. A new

⁵ Chapter IV, Part 6, Constitution of Antigua and Barbuda (1981), Section 67. Ms Lorna Simon currently serves as Supervisor of Elections

electoral list was completed on 13 November 2003; 42,461 voters were registered, down from 54,000 on the 1999 list which included large numbers of former voters who had died or emigrated.

The Commonwealth sent two Expert Teams to Antigua and Barbuda in 2003. The first went to observe voter registration in July 2003 and the second went in September 2003 to observe the claims and objections phase of the voter registration process⁶.

Three matters remained uncompleted at the time of presentation of the report of the Commonwealth Expert Team on the Claims and Objections Phase of the Voter Registration Process. These were:

- Dealing with objections made with respect to situations where notices were not properly served;
- The holding of hearings to conclude objections in one constituency; and,
- The completion of appeals in several constituencies.

Regulations made pursuant to provisions of the Representation of the People (Amendment) Act 2001 provide for a process of continuing registration of voters, and registration conducted in accordance with this process between 15 and 31 December 2003 resulted in the addition of 1056 names to the list which had been completed at the time the Commonwealth Expert Team on the Claims and Objections Phase reported.

Strong objections were made by some to the addition of these names to the list, the main thrust of them being that opportunity was not provided for a proper claims and objections procedure. The opposition United Progressive Party applied to the High Court of Justice seeking, *inter alia*, an Order of Prohibition prohibiting the inclusion of the additional names on the voters list. On 19 March 2004, a judge of the High Court set June 2004 for hearing the UPP's application. The 1056 names were included on the list, and a total of 43,459 voters were eligible to cast ballots.

Despite widespread concerns about imperfections in the preparation of the list, particularly the addition of those registered between 15 – 31 December 2003, the predominant view expressed to the Team was

⁶ See "Report of the Commonwealth Expert Team: Voter Registration in Antigua and Barbuda" (July 2003) & "Report of the Commonwealth Expert Team to the Claims and Objections Phase of the Voter Registration Process in Antigua and Barbuda" (September 2003)

that the process produced a much more accurate list than was the case in previous elections.

Qualifications for election to the House of Representatives

A person is qualified to be elected a Member of the House of Representatives if he/she:

- Is a citizen of the age of 21 years or above;
- Has resided in Antigua and Barbuda for a period of twelve months immediately preceding the date of his election; and
- Is able to speak and unless incapacitated by blindness or other physical cause, to read the English language with sufficient proficiency to enable him to take an active part in the proceedings of the House.

NOMINATION OF CANDIDATES

Each candidate shall be nominated as specified by law⁷, and the nomination papers delivered by the candidates himself, or his proposer or seconder, to the returning officer at the place fixed for that purpose.

A total of forty candidates, including six independents were duly nominated to vie for seventeen parliamentary seats. The Antigua Labour Party (ALP) nominated sixteen candidates; the Opposition United Progressive Party (UPP) sixteen. In Barbuda, the candidate of the Barbuda People's Movement for Change is formally aligned with the ALP, while the UPP campaigned in support of the candidate of the Barbuda People's Movement.

THE ELECTORAL SYSTEM

Antigua and Barbuda employs a first-past-the-post (FPP) electoral system, with a single MP representing each of the 17 constituencies in the House of Representatives. The party that wins the largest number of the 17 seats becomes the governing party, with the party leader becoming Prime Minister.

The boundary delimitation of constituencies has not been revised since 1975, leading to a wide disparity in the number of voters in each constituency, but this was not raised as an issue by anybody with whom we spoke.

⁷The Representation of the People (Amendment) Act, No. 11 of 2002, Section 9

Ballot papers for each constituency would display the candidates' names, their occupation, political party (if not an independent candidate) and the party symbol.

CAMPAIGN

The Team was able to witness campaigns of all major parties⁸. The campaigns were conducted in a peaceful manner, and it was noteworthy that, logistically, some campaigns were very well organized, e.g. the use of audio-visual equipment with large screen broadcasts of speeches to supporters gathered at a rally. While rallies were organized on a regular basis at strategic locations, they were complemented by motorcades through various parts of the country, with supporters prominently displaying the party colours on T-shirts, peak caps, posters, etc. In Antigua, the Antigua Labour Party (ALP) and the United Progressive Party (UPP) had an extensive poster advertisement campaign. We witnessed several large billboards in various locations around the country, actively promoting the relevant ALP or UPP candidate for that particular constituency. However, though independent candidates contested some constituencies, no billboards promoting independent candidates were visible.

UNFAIR ELECTION ADVERTISEMENT

Shortly before Polling Day, some advertisements did appear in the print media, outlining voting procedures in the polling booths. However, only a few advertisements were placed on the electronic media (TV and Radio) a few days prior to the Election Day itself. The advertisements utilized in the print media, for example, to illustrate the actual ballot paper should have been designed with more sensitivity - the Team observed one newspaper advertisement where a mock ballot paper displayed fictitious candidates' names for each party. The occupation of the candidate for the Opposition UPP was listed as 'unemployed' on the ballot, while the candidate for the governing ALP was described as a 'merchant'. This could have been construed by opposition supporters as a lack of impartiality on the part of the Electoral Commission.

⁸ Antigua Labour Party (ALP); United Progressive Party (UPP); Barbuda People's Movement (BPM) and Barbuda People's Movement for Change (BPMC)

MEDIA

The following media operate in Antigua and Barbuda:

Television

ABS TV – the State-owned television station

CTV – Part owned by the Bird family. Basically the station broadcasts foreign stations such as CNN, NBC, HBO, etc.

Radio

ABS Radio – the State-owned radio station

ZDK Radio – owned by the family of Prime Minister Lester Bird

Observer Radio – set up after a 2001 Privy Council decision⁹ allowed it to operate. Perceived by the ALP as hostile to the government but by opposition supporters as independent and even-handed in its coverage

Crusader Radio – part owned by the Opposition UPP

Print

The Antigua Sun – A daily newspaper without political affiliations

Daily Observer – Part of the Observer Group

The Crusader – UPP owned

The Informer – published weekly by Friends of the ALP

The Outlet – published weekly by the Antigua-Caribbean Liberation Movement

From our observations, the print and electronic media provided substantial coverage of the election campaigns and polling day itself. However, it is noted that the government-owned electronic media (e.g. ABS TV and ABS Radio) have not been impartial. ABS TV did not grant coverage to the opposition UPP's campaign activities and also granted disproportionate air time to the campaign activities of the ruling ALP. We were also informed during the course of our briefing sessions that the main cable TV station cut into broadcasts of foreign news channels such as CNN, to broadcast commercials of the governing party (ALP).

The Electoral Commission informed the Team that it was not able to produce a set of Media Guidelines in a timely fashion to establish clear rules ensuring that media coverage of the General Election was balanced.

⁹ Observer Publications Limited v. (1) Campbell "Mickey" Matthew (2) The Commissioner of Police and (3) The Attorney General (Appeal No. 3 of 2000)

ISSUES

A number of issues have affected the run-up to and conduct of the elections in Antigua and Barbuda. These include:

COMPOSITION AND FUNCTIONING OF THE ELECTORAL COMMISSION

The members of the Electoral Commission seem unable to transcend their party/political affiliations to function in an impartial and united manner. Indeed, while the Commission was constituted in April 2002, the Team was told that it was unable to function until April 2003 due, in part, to disagreements among the members. Public opinion of the Commission is low due to public airing of these disagreements. Additionally, considerable resentment was expressed by members of the public and civil society groups at the Commission's failure to engage with the public and to provide information on its activities.

Given the small size of the Antigua and Barbuda population and the intensity with which political affiliations are held, it is unlikely that a Commission constituted as it is at present will be able to function successfully. It would be advisable to broaden the Commission to include members of civil society. The Barbuda Council has also questioned the lack of a Council representative on the Commission given that the Commission is responsible for elections to the Council, held every two years.

The funding of the Commission has also been a concern. Though supposedly an independent body, the Commission appears to operate as a department of the government when it comes to the allocation of money to it. We were told that requests for funds had to be approved by cabinet and applied for through the ministry of finance. On several occasions the late release of funds hampered its work in the run-up to elections. We were told by one member of the Commission that such funding problems were a result of the general financial crisis facing the government. Reports received by the Team indicate that funds for the Electoral Commission to conduct the elections were not released until a few weeks prior to the elections. This affected every stage of the electoral process, e.g. voter education could not be conducted; voter IDs could not be issued on time; guidelines for the media could not be finalized.

As the result of attendance by the Chairman and the Vice-Chairman of the Electoral Commission at a conference of election officials from

Caribbean countries, the Antigua and Barbuda Electoral Commission entered into a contractual arrangement with the Electoral Office of Jamaica (EOJ) under the terms of which the EOJ provided technical assistance during the time leading up to the election. We commend the Electoral Commission for this initiative as the input from the EOJ contributed in large measure to the successful conduct of proceedings on Election Day. The provision of timely funding, which would have allowed the EOJ's involvement to begin earlier, would have further improved the election process.

ROLE OF SUPERVISOR OF ELECTIONS

While the position of Supervisor of Elections is a constitutional one,¹⁰ the Election Commission is established by statute.¹¹ This has led to uncertainty – particularly in the minds of the members of the Commission, which includes a Chairman and a Deputy Chairman – as to who is actually in charge of the Commission. There is insufficient clarity on the role of the respective officers. This issue is exacerbated by the fact that the current Supervisor of Elections is viewed by many as biased in favour of the ALP government as she is well known as a strong supporter of the party.

VOTER ID CARDS

As late as 20 March 2004, many eligible voters had not received their cards. The Team observed many people queuing to collect their IDs, at the offices of the Electoral Commission, as late as the day before polling day. Allegations received from many voters were that opposition supporters were the ones whose cards were delayed. Additionally, there were suspicions voiced that fake ID cards were being prepared for distribution to non-qualified persons (possibly imported from abroad) or that cards were being bought at \$1000 Eastern Caribbean Dollars apiece and photos being replaced. Whilst such allegations are difficult to substantiate (certainly the Team inspected the ID cards and concluded that it would be very difficult to replace a photo) and no evidence was presented to us to support them, the delay in the issuance of cards tended to foment anxiety and suspicion in the minds of many voters.

¹⁰ Part 6, Section 67 of the Constitution of Antigua and Barbuda, 1981 establishes the position of Supervisor of Elections appointed by the Governor-General based on a nomination from both Houses of Parliament. The Representation of the People (Amendment) Act 2001, Section 9 (1) states that the Supervisor of Elections shall be the Chief Executive Officer of the Commission.

¹¹ Representation of the People (Amendment) Act, No. 17 of 2001, Section 3.

GRANTING THE VOTING FRANCHISE TO INELIGIBLE FOREIGNERS

Concerns were expressed to the Team about deliberate attempts to give voting rights to ineligible foreigners. Many Antiguans are not concerned about eligible foreigner-born persons (a significant percentage of the electorate) holding IDs, but at the same time think that allowing foreigners who do not qualify to vote could be a way of influencing the outcome of the election in favour of a particular party. Due to the small size of the population, a few votes either way could significantly affect the final outcome of the election.

ACCUSATIONS OF CORRUPTION

There were frequent allegations of corruption against the government during the course of the campaign. An illustration of the way in which such allegations affected the atmosphere in the run-up to the elections took place approximately 48 hours before polling day. On Saturday 20 March shortly before midnight a caller to an Observer Radio call-in programme said that he had observed several large vehicles loaded with boxes and documents leaving the compound of the Office of the Prime Minister with their licence plates covered. The radio station responded by encouraging citizens to go to the scene to see what was happening and a crowd gathered rapidly. Members of the Commonwealth Observer Team went to the scene in keeping with their mandate to observe the electoral environment. The general feeling among those present was that the Prime Minister, fearing that he would lose the elections, was removing from his office documentary evidence of corruption which could be used against him in any future investigation. During the night the Prime Minister, being interviewed on ZDK radio, stated that it was normal practice to remove personal effects prior to an election and denied any sinister intent. This did not satisfy the crowd and a 24-hour vigil was maintained by the opposition outside the gates of the compound up to Election Day.

The day after elections the former leader of the Opposition, having been sworn in as the new Prime Minister, made a broadcast on TV and radio to the effect that he had gone to the PM's office to find it "completely denuded" of files and records and has launched an official investigation into the matter and to ascertain whether this had taken place in other ministries as well.

ROLE OF THE MEDIA

Prior to 2001, broadcast media in Antigua and Barbuda was dominated by the ALP government and its supporters/family members. Following a ruling by the Judicial Committee of the Privy Council in 2001, an independently owned radio station was set up. A radio station part owned by the UPP was also subsequently established. This has allowed opposition opinions to be broadcast widely for the first time and has greatly affected the course of the campaigns, creating a high level of political awareness and involvement among all Antiguan and Barbudans. However, in the course of the Team's observation, it became evident that state-owned media, especially ABS Television, had not been impartial. This is of concern particularly because both of the country's TV stations are controlled by the ALP, giving the opposition no access to visual media.

ABS TV did not cover opposition UPP campaign activities while devoting large quantities of air time to the campaign activities of the governing ALP, particularly during nightly news broadcasts. ABS TV has been used as an instrument of attack against the UPP and has in some cases broadcast stories which were patently false. For example, subsequent to the gathering outside the office of the Prime Minister referred to above, ABS TV ran a news report quoting "International Observers present at the scene" as having praised the Prime Minister's response to the situation, supporting his explanation and condemning the opposition and the Observer Radio as having "gone overboard" and for promoting unrest in the country. Though not mentioned by name, the Commonwealth Expert Team were the only international observers present at the scene (there were only two such groups present in Antigua and Barbuda in the run up to the elections) and the implication was clearly damaging to the Team's stated impartiality during the process. The Team had at no time given statements to the press and issued a press release to that effect in response to the ABS broadcast (see Annex E). Our release was carried by some media outlets but never carried by the state-owned media. The story was quietly dropped and some of the quotes later attributed to local ALP supporters.

Some attempt had been made by the Electoral Commission to set out guidelines for coverage of the campaigns but a first draft was released only a few days before the elections and has not yet, to the Team's knowledge, been finalized. Such guidelines will be essential in any future electoral process.

PERCEPTIONS OF BIAS ON THE PART OF THE POLICE FORCE

Many of the Antiguan the Team spoke to complained of instances of threats made by the governing party to civil servants and other attempts to intimidate voters (one UPP supporter claimed that her home had been burned down because she switched allegiance from the ALP to the UPP. The media carried the story but admitted that they had no concrete evidence to support the theory that the cause of the fire was politically motivated). When asked by the Team why such reports were not put in the hands of the police, the consistent response was that the upper echelons of the police force were perceived as being under the control of the ALP administration and people feared reprisals if complaints were made. This perception of bias on the part of the police also affected public confidence in the security of the ballot since, by law, each ballot box being moved from polling stations to counting stations at the close of polls must be accompanied by at least two policemen. The announcement by the Electoral Commission on the eve of elections that police guards would be mounted at the houses of Returning Officers holding ballot papers overnight did nothing to still the voices of doubt.

POSSIBILITY OF VIOLENCE

During the course of our consultations the Team concluded that while most people felt that the possibility of violence before the polls was minimal, there was a real possibility of violence if the incumbents won again because opposition supporters would conclude that the victory would have been based on fraud. In the event, this did not arise since the opposition emerged victorious. During our observation of the process, while a few clashes between individuals were reported, both campaigns were peaceful and, with the exception of political invective on the platforms, largely free of hostility. The atmosphere on polling day was also peaceful and the vast majority of officials within the polling stations – including party representatives – worked together in a good-humored and friendly fashion.

VOTER EDUCATION

The performance of the Electoral Commission in providing voter education prior to polling day was poor. This is of particular concern given that the entire voting process was new, including the introduction for the first time of party symbols on the ballot, the use of

photo ID cards, and a newly amended Representation of the People Act detailing procedures for polling day. Additionally, there is a long-standing and widespread conviction among Antiguan and Barbudans that in the past the secrecy of one's vote was not guaranteed.

No voter education media spots (either print or broadcast) appeared until a few days before the election. While the Team understood that this was partly due to the late release of funds from the treasury, members of the media advised us that media houses had assured the Commission that they would run voter education spots for free or with deferred payment. This offer was not taken up. The lack of voter education was evident on Election Day with many voters being confused as to the procedure. The lack of voter education also increased the public fear of the possibility of fraud during the election. For example, the Team had been informed by the Commission that PricewaterhouseCoopers had been engaged to audit the printing and issuing of the ballot papers and, after also meeting with representatives of PricewaterhouseCoopers, we were satisfied that the printing and custody of the ballots prior to their delivery to Returning Officers was secure. However, the involvement of PricewaterhouseCoopers was not made public – an announcement which would have gone a long way to calming public fears and quelling the many rumours about schemes in place to produce alternative ballots.

Despite these shortcomings in voter education, every person we met was aware that a General Election was taking place.

INVOLVEMENT OF 'EXTERNAL' PERSONALITIES IN ELECTORAL CAMPAIGNS

The incumbent ALP's campaign included endorsements, TV spots and platform appearances by regional politicians (and TV endorsements by foreign celebrities such as Johnny Cochran, who is said to have financial interest in Antigua) including the Chief Minister of Montserrat and the Mayor of Roseau, the capital of Dominica. There are a significant numbers of Montserratians and Dominicans living in Antigua. Many persons with whom the Team spoke expressed displeasure at the perceived interference of regional politicians in the internal affairs of Antigua and Barbuda.

CAMPAIGN FINANCING

The Commonwealth Observer Group for the 1999 general elections noted in its report:

“We understood that there were no regulations governing the limits on the amount that could be spent on campaigning by parties at either the constituency or national levels, nor any method for ensuring the transparency or probity of political donations. We heard many allegations that the governing party had at its disposal considerable resources due to the active support of foreign investors. We observed lavish spending by both main parties on sophisticated campaign materials and events, which made the disparities in the resources available between candidates all the more marked.”¹²

Similar observations were made by the Team during the course of the 2004 election campaigns. However, in addition to the unregulated nature of campaign financing, questions were also raised as to the uses to which such funds were put. Many allegations were made of undue influence being applied to voters through lavish spending in certain constituencies and of votes being ‘bought’ with offers of jobs, cash, home improvements, etc. and of laptops, PCs and mobile phones being distributed on a large scale.

Indeed, during a press conference held the day after the election, the Deputy Chairman of the Electoral Commission called for an investigation into the campaign finances of one successful ALP candidate and into whether the way in which he spent money in his constituency amounted to ‘undue influence’. He highlighted the need for specific legislation on campaign financing.

GENDER BALANCE IN ANTIGUAN POLITICS

Antiguan politics seems to contain an inherent discriminatory mechanism against women. While women have been appointed to the Senate, prior to the 2004 elections no woman had ever been elected to the House of Representatives. There is no female representation on the Electoral Commission (however, the Supervisor of Elections is a woman). There was only one woman in the outgoing government’s

¹² “Report of the Commonwealth Observer Group: The General Election in Antigua and Barbuda”, March 1999, page 15

Cabinet (the Attorney-General) and only one female Junior Minister¹³. There were only three women candidates in the current election (two for the UPP – one of whom was elected - and one for the ALP). The involvement of Antiguan and Barbudan women in politics in terms of campaigning and participations is, however, extremely high.

¹³ The newly elected UPP government has named a woman as Speaker of the House but, despite two women running on its ticket – one of whom won her seat, no woman has been assigned a cabinet-level portfolio. The successful woman candidate was sworn in as a Minister of State.

THE POLL, COUNT AND RESULTS PROCESS

The Team observed the polls in all seventeen constituencies on 23 March 2004. Overall, the environment was calm and peaceful. No violent incidents were recorded by any member of the Team. The atmosphere prevailing throughout the country on Election Day was conducive to the conduct of a successful election.

ARRANGEMENTS AND VOTING PROCEDURE

The poll at each station was conducted as follows:

In each constituency, there were several polling stations¹⁴. Most polling stations were located at schools, though a few were placed in churches or other public buildings. A Presiding Officer and two polling clerks manned each station, with the polling stations in each constituency falling collectively under the responsibility of a Returning Officer. The agents of parties or candidates were present at each polling station. At least two police officers were located at the entrance to each polling station. The stations within each constituency were divided according to the surnames of the voters registered in that particular constituency, e.g. in Barbuda, voters had to vote at one of three polling stations (surnames beginning with A – F; G – M; N – Z).

A voter arriving at a polling station was first required to announce his/her name and occupation to the Presiding Officer. The voter would then hand over his/her ID card to the Presiding Officer, who would then repeat the name and occupation. A polling clerk official would then verify the voter ID against the voters list. Once a voter was found to be duly registered, the Presiding Officer would apply an official seal to a ballot paper and the voter was then issued with the ballot paper and given instructions on the correct voting procedure. The voter was then advised to go into a room or behind a screen to mark an 'X' against the preferred candidate. The secrecy of the ballot was thereby assured. The voter would then fold the ballot, ensuring that the seal was visible. The seal having been verified by the Presiding Officer, the voter would then place the ballot paper in the ballot box. Before placing the ballot paper in the ballot box the voter would be made to dip his/her right index finger into indelible ink. The ID card was returned to the voter who then left the polling station.

¹⁴ A total of 148 polling stations were located in seventeen constituencies

On the whole the voting was transparent and peaceful. The ballot boxes were opened for the inspection of polling agents before voting commenced. Election officials, security personnel and polling agents as well as election materials arrived well before the commencement of polling. At most polling stations there was no shortage of election materials.

OBSERVATIONS ON POLLING DAY

OPENING AND CLOSING TIMES

As per legal requirements, the polls officially opened at 6am, and closed at 6pm. In general, all stations opened and closed on time, with few exceptions¹⁵. At 6pm, some polling stations still had lengthy queues of people waiting to vote. By law, those in the queue by 6pm must be allowed to cast their vote; therefore those stations remained open until all those persons had voted. In some instances this went on until after 8pm.

VOTER TURNOUT

Turnout was particularly high in the morning and late afternoon. An average voter turnout of 91.19 percent was recorded on polling day¹⁶, with Barbuda recording a turnout as high as 95 percent (see Annex H).

PLACEMENT AND SECURITY OF POLLING BOOTHS

In some polling stations¹⁷ the polling booths – consisting of two-sided wood and cloth screens – were placed in such a way that the elector could be seen from a nearby window. While the team did not observe anyone in the vicinity of the windows in question during their time in these polling stations, the placement of polling booths must be more carefully done in the future. In other instances booths were placed at an angle which allowed persons in the vicinity to see a voter writing depending on how the individual place him/her self within the booth.

¹⁵ Polling Station 'A – C' at Parham Primary School Polling Station in St. Peter Constituency opened at 06h30am, due to the late arrival of the Presiding Officer

¹⁶ The Deputy Chairman of the Electoral Commission, Mr Bruce Goodwin, announced this figure during a media briefing by the Commission, 24 March 2004

¹⁷ Two stations in Princess Margaret School in the St. John's City East constituency, one in Villa Primary School in the St John's City West constituency, and one at St Anthony's Church in the St John's Rural West constituency.

In another polling station¹⁸ the booth itself collapsed outward with the voter still in it, due to inadequate construction. In another¹⁹, the table behind the screen on which the voter would mark his/her ballot consisted of a small child's desk, the top of which was clearly visible below the screen, also compromising the privacy of the polling booth.

ACCESS TO POLLING STATIONS

We noted during deployment that some polling stations were located in buildings and areas which made access difficult for the elderly or disabled²⁰. However, these were very few.

INADEQUATE DEFINITION OF 'INCAPACITY'

Prior to Election Day the issue of what constituted 'incapacity' for the purpose of an individual who has the right to receive assistance in casting his/her vote was hotly discussed. The Team heard accusations of corruption in the past where voters were offered monetary rewards for voting for a specific party. It was said that the voter would prove for whom he had voted by claiming incapacity (usually on the basis of 'nervousness' or poor eyesight), upon which he/she would be allowed to indicate publicly to the presiding officer, in the company of the candidates' representatives, which candidate he/she would like to vote for. Having had the ballot publicly marked the voter could then collect the promised financial reward. There was an attempt to cut down on such incidents through the Representation of the People (Amendment) Act 2002²¹ in which incapacity is defined as blindness or other physical cause. However, one member of the Commission told the Team that presiding officers, during the course of the pre-election training, had been told to put as wide an interpretation as possible on this definition and, indeed, on polling day there was considerable variation in the way in which Presiding Officers were interpreting the meaning of

¹⁸ The Technical Centre in St John's Rural South constituency.

¹⁹ St John's Catholic Primary School in the St John's Rural East constituency.

²⁰ For example, Liberta Primary School in the St Paul's constituency could be accessed only by a series of steps with no apparent wheelchair or ramp access.

²¹ The First Schedule of the Act, dealing with election rules, states at Part III, 49(1):
"The presiding officer, on the application of a voter who is incapacitated by blindness or other physical cause from voting in the manner directed by these rules shall, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and, the voter having complied with the other provisions of these rules, the ballot paper to be placed in the ballot box."

'incapacity'. In one case²² a gentleman requesting assistance from his companion to cast his vote because he suffered from short-term memory loss related to Alzheimer's disease, was told that he would have to cast his vote unassisted (though the Presiding Officer was extremely helpful and patient in repeating instructions to him until he was able to do so). In another polling station²³ we witnessed a Presiding Officer volunteering, unasked, to assist an apparently perfectly healthy voter to cast his vote. The voter agreed immediately and he indicated, in the presence of both candidates' representatives, for whom he wished to vote and the Presiding Officer duly marked the ballot. At no point did the Presiding Officer inquire as to what constituted the voter's incapacity. The Team spoke to the Presiding Officer and was shown a list of five previous voters who had been assisted in the same way, all of whom were listed as having been incapacitated by 'nervousness'.

ELECTORAL INK

The election rules set out under the Representation of the People (Amendment) Act 2001 refer to the use of red electoral ink for voting. On Election Day black ink was used, into which voters were required to dip their right index finger after marking their ballot. The ink is supposed to take at least 24 hours to wear off in order to guard against individuals voting more than once. From early morning on Election Day the Observer radio station was inundated by calls from members of the public who claimed that, after casting their votes, they had succeeded in removing all traces of the ink within a very short time. The Team did note that the ink was quite easy to remove and what traces were left were not as easy to see as red ink would have been. It should be pointed out however that several other safeguards were in place to prevent multiple voting so that it is most unlikely that the non-permanence of the ink significantly affected the outcome of the election.

INADEQUATE TRAINING OF PRESIDING OFFICERS AND POLL CLERKS

Presiding officers and poll clerks were recruited and trained only a short time before the election (in some cases the Team was told that training was done a few days before polling day and had consisted of as few as four sessions). As a result there was some confusion as to

²² At the Feinnes Institute polling station in the St John's City South constituency.

²³ Potter's Primary School, Station R-Z in the St George's constituency.

procedures to be followed in polling stations. This was particularly true in terms of how to handle ballot papers (no one was quite sure prior to Election Day what the ballot papers were going to look like). The ballot papers consisted of A4 sized pages stapled together in blocks of 100-150 with a perforated line separating the ballot itself from a counterfoil with a corresponding number on each. In some polling stations Presiding Officers were tearing off the ballots from the counterfoils along the perforation. In others, Presiding Officers were giving voters the entire paper with the counterfoil still attached. Similarly, each ballot was supposed to have been marked with a seal in the presence of the voter before they cast their vote. In some stations, in order to deal with long lines and to save time, Presiding Officers were applying the seal in advance to several ballot papers at a time. Finally, in some stations ballots were being distributed to voters in the order in which they had been printed²⁴ (i.e. in numerical sequence) but in others they were being shuffled and distributed at random. Again, these variations in practice did not appear to influence the results.

BALLOT PAPER

The ballot paper seemed to be too large. Many voters struggled to fold the paper in such a way that it fitted into the narrow slot of the ballot box. This served to waste time and delayed the process of voting in many instances.

PRESENCE OF PARTY AGENTS

In all polling stations, we found that party or candidates' agents were present. They were generally cooperative, assisting in the efficient processing of voters by identifying voters' ID numbers on the list.

DOMESTIC AND INTERNATIONAL OBSERVERS

In addition to the Commonwealth Expert Team, observers from CARICOM and domestic observers from the Antigua Christian Council (ACC) and the Antigua and Barbuda Justice Movement were present at several polling stations.

The Team was very pleased to learn that the Antiguan Christian Council had been accredited as official observers and we were happy

²⁴ In one of these stations (St John's Catholic Primary School in the St John's Rural East constituency) a voter requested a ballot paper at random but was told that this was not possible. The fears expressed by voters on this matter had to do with allegations of past elections where ballot papers were marked with the voter's ID number.

to comply when they requested us to brief them prior to Election Day on requirements for impartial observation.

THE COUNT

Generally, the counting of ballots commenced at 7pm, an hour after closing. In some instances, counting commenced late due to the lengthy queues still outside some polling stations at 6pm. Counting was transparent, well conducted and procedures were followed closely. The Returning Officers did the counting in the presence of party agents and, in some cases, candidates, observers and voters, under strict security by police.

THE RESULT

Official results announced by the Electoral Commission gave the United Progressive Party twelve seats and the Antigua Labour Party four seats (see Annex H). In Barbuda, the count gave each candidate 400 votes and the Commission has declared that new elections will be held in that constituency in the near future. The Hon. Baldwin Spencer was sworn in as Prime Minister the day after the election.

CONCLUSIONS AND RECOMMENDATIONS

Although we were a small team we were able to meet with representatives of a broad cross-section of the Antigua and Barbuda population. Prior to the election, we visited all areas of the country and, on Election Day, we attended at every polling location. We were impressed by the determination of the people to cast their ballots and noted that some voters stood in line for up to five hours and, despite several heavy rain showers, remained until they voted. A turnout of 91.19 percent is most impressive.

Despite concerns expressed to us before polling day, we found no evidence that, on polling day itself, there was any activity which would have inhibited people from exercising their franchise peacefully and freely.

We believe that adjustments can easily be made to voting procedures which will allow long delays experienced by some voters to be ameliorated in future elections.

Our overall judgement is that, despite the shortcomings we have noted, the election was credible and the result truly reflects the will of the people.

RECOMMENDATIONS

- In our view the situation in Antigua and Barbuda would be much improved if a system of appointment was devised and implemented which would create a truly independent Electoral Commission. We are aware of Commonwealth countries in which appointment mechanisms, some of which include nominations by Parliament and a requirement that the Chairperson be a retired judge, result in commissions which are independent and are perceived as such. We do not advocate the total removal of party representatives but believe that appointments by political party leaders should be reduced to one each, with other appointments being made from civil society of persons who are, and are seen to be, wholly independent of government and party influence.
- For its part, the Commonwealth should be ready, if requested, to assist the new government to devise an appointment system

which can be enacted and will put in place an independent and impartial Electoral Commission.

- If an impartial Electoral Commission is achieved, consideration could be given to a constitutional amendment assigning the duties of the Constituencies Boundaries Commission to it.
- In the future, a constitutional amendment may be required to resolve the problem of the relationship between the Supervisor of Elections and the Electoral Commission. If the position is to be maintained as part of the Constitution, an absolutely impartial citizen has to be selected for appointment.
- The Government must also make funding the Commission adequately and in a timely way a top priority so that it can deliver an ongoing programme of voter education and conduct preparations for elections well in advance.
- In future elections, the Electoral Commission should do everything it can to ensure that voters receive their cards in a timely manner. The Commonwealth and organizations like CARICOM can assist Antigua and Barbuda to resolve this difficulty. The Electoral Office of Jamaica (EOJ) has already assisted the Electoral Commission in this way. In the time between now and the next election many voters will undoubtedly lose their voter ID cards. A system of replacement containing appropriate safeguards should be implemented long before the next election approaches.
- The Electoral Commission has to issue clear guidelines on balanced and impartial election coverage by the state-owned media. The Commonwealth Secretariat and Commonwealth NGOs such as the Commonwealth Press Union, the Commonwealth Broadcasting Association and the Commonwealth Journalists Association could be of assistance in this regard.
- We recommend that the government put in place a regulatory framework for campaign financing and we request the Commonwealth Secretariat to provide technical assistance in this area.
- Senior law enforcement and security officials must take a professional approach and these services should be structured so

as to avoid circumstances which contribute to a perception of bias.

- The Commonwealth should assist in enhancing participation of women in Antiguan politics. Best practices in other Commonwealth countries could be utilized as a reference point.

POST-ELECTION SEMINAR FOR MPs

Many new members were elected on 23 March 2004 and will take their seats for the first time. The task facing a newly-elected MP is a daunting one and requires a period of adjustment to new and unfamiliar circumstances. We are aware that the Commonwealth Parliamentary Association (CPA) has a programme of post-election seminars designed to assist new members (and those who have been serving for some time) to become more aware of the duties involved in being an elected representative.

We call on the Speaker of the House of Representatives, the President of the Senate and the members of both Houses to consider the advisability of requesting the CPA to organize a post-election seminar for members of the Parliament of Antigua and Barbuda as we are firmly convinced that such a seminar would be of great benefit. We request the CPA to respond favourably, should such a request be forthcoming.

ACKNOWLEDGEMENTS

We are grateful to the Commonwealth Secretary-General, Rt Hon Don McKinnon, for inviting us to form this Commonwealth Expert Team and thereby allowing us to make a contribution to the ongoing development of democratic processes and institutions in Antigua and Barbuda.

We wish to express our thanks and sincere appreciation to all those who have assisted us during our time in Antigua and Barbuda. We acknowledge with gratitude the input of the broad cross-section of Antiguan and Barbudan society whose contributions enabled us to achieve an understanding of the background to the election and the process by which it was conducted.

Our drivers, Mr Maxwell Richmond and Mr Reginald Lake in Antigua, and Mr McArthur Nedd in Barbuda, enabled us to traverse the entire country and were available to us for long hours each day, especially Election Day, when they transported us from 5am late into the night.

We extend special thanks and deep appreciation to Ms Juliet Solomon, Mr Linford Andrews and Mr Wayne De Four, whose administrative and technical support and total dedication made the successful completion of our work possible.

Above all, we wish to express our appreciation to the people of Antigua and Barbuda, whose warmth and friendliness made us feel most welcome. We hope our presence and our work will be of benefit to them.