

**RESPONSE TO THE REPORT ON THE ELECTORAL REFORM EFFORT BY THE
GROUP COMPRISING LEADERS OF CHURCH, BUSINESS AND CIVIL SOCIETY (THE
REPORT)**

Introduction

1. Some days ago I had a very brief meeting with the Observers via videoconference when I was asked I believe two questions. Following this meeting I was shown a copy of the report by the group comprising leaders of Church, Business and Civil Society, which I have now read.

2. This report is in effect asking the observers to ignore if not repudiate bills presented to the Parliament after consultation with the Commission, and notwithstanding the commendations of the Commonwealth expert Miss Pauline Welsh. They seek to do so with a report deeply flawed with grave misstatements of fact and law.

3. Simply put, the speculation, misinformation and falsehoods in the report is unquestionably astonishing. Simply put, the authors of this report could with any degree of honesty continue¹ to ignore and/ or in many cases misstate the facts and fundamental principles of election law simply to

¹ I gave a copy of my book to the group in which I addressed some if not most of which is contained on the report. I see no reference to any attempt to respond in the group's report. This is not surprising as the transparent intent of the earlier publications and this report reflect in large measure, the political position of the United Workers Party, which is to disenfranchise persons duly registered but who reside in the Diaspora.

deceive the public and observers². Also, there are many express misrepresentations of fact and law in several paragraphs of the report.

4. Further, this group has provided not a shred of evidence to substantiate its allegations. Undaunted it has sprayed the seed of mischief by suggesting at least implicitly there is some electoral devil hidden somewhere in the dark, and that unless its farfetched and baseless demands are met, Dominica will plunge into utter chaos. This stripped to its bare essence is naked politics.
5. Accordingly, I would have been in serious dereliction of my duty as a citizen and Counsel if I failed to respond to it.

Some of the facts misrepresented, ignored or false

6. Some of the facts ignored or misstated in the report are
 - 6.1. Every list and register of electors are in fact published at periods prescribed by law to the public with a notification of the right to object to electors;
 - 6.2. There have been, and are, very few, IF ANY, objections to electors and none on the basis that a person has been overseas for a period of more than five consecutive years;
 - 6.3. There has been and is no record or evidence of fraudulent voting at any election in Dominica;

² See paragraphs 1 to 46 of my book which you have in your possession.

6.4. The number of new electors who were duly registered every five years since 1980 is conveniently set out in the first report by Miss Pauline Welsh, a consultant from the Commonwealth dated April 2018, at Table 1 of her report³ as follows

“TABLE 1 - INCREASE IN NUMBER OF REGISTERED ELECTORS

Year Total Percent Increase over previous year

<i>1980 Number of Electors</i>	<i>38,452</i>	
<i>1985 Number of Electors</i>	<i>47,018</i>	<i>22.28%</i>
<i>1990 Number of Electors</i>	<i>50,557</i>	<i>7.53%</i>
<i>1995 Number of Electors</i>	<i>57,632</i>	<i>13.99%</i>
<i>2000 Number of Electors</i>	<i>60,266</i>	<i>4.57%</i>
<i>2005 Number of Electors</i>	<i>65,889</i>	<i>9.33%</i>
<i>2009 Number of Electors</i>	<i>67,223</i>	<i>2.02%</i>
<i>2014 Number of Electors</i>	<i>72,533</i>	<i>7.90%”</i>

6.5. Miss Welsh also set out the number of actual votes cast in Table 2 as follows

“TABLE 2 - SUMMARY OF VOTES CAST

Year Total Percentage

1980

<i>Number of Electors</i>	<i>38,452</i>	
<i>Number of Ballots Cast</i>	<i>30,842</i>	<i>80.21%</i>
<i>Number of Accepted Ballots</i>	<i>30,595</i>	<i>79.57%</i>
<i>Number of Rejected Ballots</i>	<i>247</i>	<i>0.64%</i>
<i>Number of Electors Not Voting</i>	<i>7,610</i>	<i>19.79%</i>

³ My copy is not numbered

1985

<i>Number of Electors</i>	47,018	
<i>Number of Ballots Cast</i>	33,565	71.39%
<i>Number of Accepted Ballots</i>	33,281	70.78%
<i>Number of Rejected Ballots</i>	284	0.60%
<i>Number of Electors Not Voting</i>	11,453	24.36%

1990

<i>Number of Electors</i>	50,557	
<i>Number of Ballots Cast</i>	33,696	66.65%
<i>Number of Accepted Ballots</i>	33,442	66.15%
<i>Number of Rejected Ballots</i>	251	0.50%
<i>Number of Electors Not Voting</i>	16,864	33.36%

1995

<i>Number of Electors</i>	57,632	
<i>Number of Ballots Cast</i>	37,563	65.18%
<i>Number of Accepted Ballots</i>	37,187	64.52%
<i>Number of Rejected Ballots</i>	376	0.65%
<i>Number of Electors Not Voting</i>	20,069	34.82%

2000

<i>Number of Electors</i>	60,266	
<i>Number of Ballots Cast</i>	36,264	60.17%
<i>Number of Accepted Ballots</i>	35,804	59.41%
<i>Number of Rejected Ballots</i>	460	0.76%
<i>Number of Electors Not Voting</i>	24,002	39.83%

2005

<i>Number of Electors</i>	65,889	
<i>Number of Ballots Cast</i>	38,934	59.09%
<i>Number of Accepted Ballots</i>	37,913	57.54%
<i>Number of Rejected Ballots</i>	1,021	1.55%

Number of Electors Not Voting 26,954 40.91%

2009

Number of Electors 67,223

Number of Ballots Cast 36,883 54.87%

Number of Accepted Ballots 36,294 53.99%

Number of Rejected Ballots 589 0.88%

Number of Electors Not Voting 30,340 45.13%

2014

Number of Electors 72,533

*Number of Ballots Cast 41,567 **57.31%***

Number of Accepted Ballots 41,084 56.64%

Number of Rejected Ballots 483 0.67%

Number of Electors Not Voting 30,966 42.69%

6.6. These figures speak for themselves. They disclose considerable consistency in number of new registrations every 5 years, votes cast, and number of electors not voting.

6.7. The Commonwealth Observers at the 2014 election addressed the validity of the register at page 20 of their report where they said

*“The Mission concludes that, despite its aforementioned shortcomings, **the voters’ list did not materially affect the credibility and transparency of the election process and of the results.** The list is however widely and publicly discredited⁴ and despite, in the Mission’s view, being **accurate and appropriate in the eyes of existing***

⁴ No empirical evidence was given for this except the opinion of some persons with a specific agenda that the number of electors exceed the population, and that some electors are resident overseas

legislation, the Mission does not believe it necessarily reflects the reality or the wishes of Dominican society⁵;

- 6.8. There is no evidence to support the criticisms of the register. Nevertheless, the observers' findings that the voters' list did not materially affect the credibility and transparency of the election process and of the results, and that it was (and remains accurate) and appropriate in the eyes of existing legislation are important. They put to rest the suggestion that the register is susceptible to fraud or unfairness, and therefore needs to be "sanitized."
- 6.9. No election petition was filed after the 2014 election⁶;
- 6.10. Following the 2014 election Miss Mia Mottley was asked to assist the Commission on reform. Subsequently Miss Pauline Welsh from or recommended by the Commonwealth assisted and prepared a report and addendum to the report;
- 6.11. Public consultations were in fact held by the Chairman of the Commission and Government;
- 6.12. The Government as required by section 51 of the Constitution in fact consulted the Commission and Chief Elections Officer on the proposed bills;
- 6.13. Miss Pauline Welsh, a consultant from the Commonwealth, reviewed the respective bills and commended the provisions

⁵ A direct contradiction to the findings that **the voters' list did not materially affect the credibility and transparency of the election process and of the results** and the further finding that **the Register was accurate and appropriate in the eyes of existing legislation. This reflects a profound misunderstanding or ignorance of what constitutes the register on the part of those who questioned the register.**

⁶ Elections petitions were dismissed in 2005 and 2009.

concerning the ID cards and confirmation of electors domestically and in the Diaspora in her Addendum as reflecting recommendations of observers and international best practices;

- 6.14. The Government of Dominica has allocated sufficient funds to the Electoral Commission for the acquisition of the required machinery etc to implement the ID cards and confirmation process set in the proposed amendments in the bills;
- 6.15. The bills were presented to the Parliament but their enactment into law was prevented by violence in 2018, and threats of violence and an application for an injunction in 2018.

The existing law ignored or misstated

7. The indisputable questions or principles of election law ignored or misstated are
 - 7.1. The Independence Constitution of 1978 vests the authority in the Parliament to make, amend or repeal any law concerning the registration of electors and elections. The sole fetter imposed by section 51 is the obligation to consult the Chief Elections Officer and Commission. It is therefore for the Parliament, subject to the duty to consult, and there was consultation, to decide on the appropriate law required in the public interest for registration and elections;

- 7.2. It is therefore nothing short of constitutional heresy for the group to suggest, even implicitly, that the Parliament has no rights or say in these matters;
- 7.3. A duly registered elector has the constitutional right to vote. This right may not be interfered with or repudiated except for significant cause and due process. [See the judgment of the Court of Appeal in **Parry v Mark Brantley** HCVAP 2012/00 the Court of Appeal especially at paragraph 73];
- 7.4. This right to vote of persons duly registered, especially in the Diaspora, was expressly recognized by the Commonwealth Observers on their 2014 report. At page 13 of their Report they said:
- “The contentious debate seems to rest on the interpretation the law ascribes to the concept of “absence” as used in the legislation referred. As the law refers to absence and not residence, the criteria of five years absence may be casually satisfied by returning to the island once every 4 years, 364 days. **The Mission believes therefore that under existing legislation the majority of Dominicans residing overseas would be entitled to receive a national ID card, therein allowing them to vote.**”*
- 7.5. The law places the obligation on political parties to ensure the accuracy of the lists by invoking and complying with the law including notices and the right to object to any person who ought not to be on the list or register. [See **Frampton v Pinard**⁷ Rawlins

⁷ See paragraph 11.8 iv and v below.

J at paragraph 40⁸ and Lindsay Fitzpatrick Grant v Rupert Herbert and Others, Belle, J delivered on the 12th July 2006 at paragraph [61]⁹

- 7.6. The right to object¹⁰ have not been exercised in accordance with the law;
- 7.7. The political parties, persons and groups who now complain have wholly failed to exercise the rights and obligations mentioned in 7.5 and 7.6 above;
- 7.8. There is no such thing under our law as automatic disqualification. This argument was expressly rejected by Justice Errol Thomas in John Abraham v Kelvar Darroux CLAIM NO. DOMHCV2010/0003 Justice Thomas, an election petition matter from Dominica at paragraph 78;¹¹
- 7.9. It is now settled law that no name may be deleted or removed from the lists or register without the strictest compliance with due process, and any reckless or intentional removal without due

⁸ *“Candidates and political parties are expected to be ever vigilant. By acting in accordance with the procedures which the regime provides, they would assist elections officials to provide an accurate register”*

⁹ *“However the scheme of the legislation places the onus on all voters and the supporters of political parties to object to any apparent false, erroneous, or illegal listings Register of the persons who are entitled to vote according to law.”*

¹⁰ *The parties in Dominica have wholly failed to act in accordance with the law.*

¹¹ *“...The point is that the Petition is impugning the alleged practice of processing persons to vote knowing that some of them are prohibited from voting. The alleged illegality is absence from Dominica. But this fact in and of itself is not an illegality. It requires the successful objection to and deletion of such a person’s name from the Register of Electors pursuant to section 11 (6) of the Registration of Electors Act having regard to section 7 and 11 (4) and (5) of the said Act. It is not automatic. Indeed, section 7 is clear in its purpose in saying that: “A person registered ... shall remain registered unless and until his name is deleted from the register because ... he has been absent from Dominica for a period exceeding five years.”*

process has, as the appellants in **Parry v Mark Brantley** HCVAP 2012/00 discovered, serious civil and financial consequences. [See the judgment of the Court of Appeal in **Parry v Mark Brantley** HCVAP 2012/00¹² the Court of Appeal especially at paragraph 73¹³];

- 7.10. There ought therefore to be no question that the allegation in paragraph by a simple process of notification, and without due process, is inaccurate. It flies in the face of basic fairness and the rulings of our High Court and Court of Appeal which make it clear that strict compliance with due process is required

The misrepresentations on ID Cards¹⁴

8. The group argues that the existing law provides for ID card. This is 1% accurate in that section 19 of the **Registration of Electors Act** mentions ID card. But the argument is 99% misleading for the following among other reasons

¹² An election petition case concerning the removal of electors.

¹³ “.....**The law is now well established that an administrative decision which is adverse to an individual must be communicated to him or her before it could have the character of a determination with legal effect, thereby enabling him or her to challenge it in the courts if he or she so wished: Regina (Anufrijeva) v Secretary of State for the Home Department and Another.**¹³ As Lord Steyn said, this is not a technical rule. **It is simply an application of the right of access to justice. That is a fundamental and constitutional principle of our legal system. Where decisions are published and notified to those concerned accountability of public authorities is achieved. He described the suggestion that an uncommunicated administrative decision can bind an individual as an astonishingly unjust proposition. In our system of law surprise is regarded as the enemy of justice. Fairness is the guiding principle of our public law. Elementary fairness therefore supports a principle that a decision takes effect only upon communication....”**

¹⁴ The Jamaican Constitutional Court in **Julian J Robinson v The Attorney General of Jamaica** [2019] JMFC Full 04 recently declared the National Identification and Registration Act unconstitutional.

8.1. Section 19 of the **Registration of Electors Act** provides

“The Chief Registering Officer may cause identification cards containing prescribed information to be issued in accordance with the Regulations, or may employ other suitable methods of preventing electors from voting more than once.”

8.2. There is no provision in the existing law making an ID card a mandatory¹⁵ requirement for registration or voting;

8.3. There is no provision in the existing law whether under the existing section 25 of the **Registration of Electors Act** or otherwise requiring the Chief to ask for or an applicant or elector to provide photographs, biometrics data, or for a person to apply for an ID card on registration or at any other time;

8.4. Section 12 of the proposed **Registration of Electors (Amendment) Act** seeks to amend the existing section 25 by adding the following important sub-paragraphs after the existing sub-paragraph (d)

“(e) national identification cards including the procedure to be followed in the issuing of national identification cards;

(f) the issuance of national identification cards in place of those which are lost or destroyed whether free of charge or on payment of the prescribed fee in respect of the replacement;

(g) the manner in which any person seeking registration or confirmation of registration under this Act may be identified, including the taking of photographs and finger impressions or scans;

¹⁵ The Chief Elections Officer may devise other means for identifying electors. [See Section 19 of the **Registration of Electors Act** and Regulation 15 of the **Registration of Electors Regulations.**]

(h) the manner in which any person seeking to vote may be identified, including the taking of finger impressions or scans;

(i) the form and manner of the keeping and maintenance of registration records.”

8.5. These amendments seek to extend the authority and powers of the Commission, and provide the “*prescribed information*” mentioned in section 19 and more.

8.6. The absence of any existing provision providing for the “*prescribed information*” including a mandatory process, photographs and biometrics was recognized by the group when they suggested, at paragraph 2.1/3, bottom of pages 6 and 26 of the report, that the expression “*prescribed particulars*” in section 19 may be construed to include “*biometric data.*” This is startling for the following reasons;

i. The first is that the word “*prescribed*” requires that the details be provided for in a law;

ii. Second, one cannot by mere construction add words to laws which were not provided for by Parliament. This is wholly unsupported by law; and

iii. In any event, the bill provides not only for biometrics but other matters as well including photographs, and making such information and ID card parts of the process for registration and voting;

- 8.7. There is no provision in the existing law requiring an elector to produce an ID card as the means of identification on election day;
- 8.8. There are no relevant or applicable constitutional fetters which prevent Parliament from exercising its constitutional power to amend the existing law to provide expressly for the Electoral Commission to issue ID Cards. [See sections 41 and 51¹⁶ of the Constitution];
9. The aforementioned matters set out in 8 above suggests, loudly, that
- 9.1. The group’s allegation in paragraph 2 of page 7 misses the point as the Parliament intends to amend section 25 in terms of section 12 of the proposed **Registration of Electors (Amendment) Act** 2018 to provide the required process and prescribed information, and therefore enhance the authority of the Commission;
- 9.2. The group’s statements in paragraph 3 of page 7 of the report exposes a clear failure to truly appreciate if not understand what the proposed amendments provide for or mean. For example
- i. Miss Welsh after reviewing the proposed amendment to introduce the National ID cards said at page 6

“General Comments and Observations

¹⁶ *“Every proposed bill and every proposed regulation or other instrument having the force of law relating to the registration of electors for the purpose of electing Representatives or to the election of Representatives and Senators shall be referred to the Electoral Commission and to the Chief Elections Officer at such time as shall give them sufficient opportunity to make comments thereon before the bill is introduced in the House or, as the case may be, the regulation or other instrument is made.*

With respect to the proposed amendment to section 19 of the Registration of Electors Act this would clearly satisfy the requirement for the Chief Registering Officer to cause identification card to be issued to electors. The clear benefit is that the use of an identification card will allow the Presiding Officer to identify with some degree of certainty, the person(s) applying for ballot paper as against the entry on the Register of Voters. This will enhance the integrity of the electoral process and minimise instances of Personation. This report wishes to note that a recommendation to amend section 19 was put forward in the earlier version. 3 It is further noted that this amendment fulfils that earlier recommendation.

This report wishes to further state that:

2 *Dissatisfaction was expressed (at some stakeholder's meetings with the Consultant) about the introduction of a multi-purpose card, instead of a card dedicated solely for use as a voter identification card. This report holds the belief that the card system as is proposed seems sufficient for voter identification purposes¹⁷.*

- ii. Miss Welsh also said at page 19

“Comments and Observations

The introduction of a new section 19 aligns with the recommendation made in the Legal Consultant's main report.

It also fulfils the recommendation of the several Election Observation Reports which respectively called for the need to introduce proper identification cards for the identification of voters. The effort in this regard is commendable.”

- 9.3. The group's allegation's collide frontally with the comments of Miss Welsh and her comments.

The confirmation process

¹⁷ Our emphasis

10. Miss Pauline Welsh dealt exhaustively with the confirmation process in her Addendum. Nevertheless, I must again point out the group's mischief making at paragraph 2.2, page 29 of its report. The group alleges, wrongly and falsely, that there is no provision for the removal of names during the confirmation process. This is false and dishonest for the following among other reasons
 - 10.1. The Parliament seeks to introduce the confirmation of an elector's registration by PART III and sections 30 and 31 of **Registration of Electors (Amendment)** Act ;
 - 10.2. The confirmation process is dealt with in the draft **Registration of Electors (Amendment) Regulations**;
 - 10.3. This process requires a person to confirm his registration. [Section 5 of the draft **Registration of Electors (Amendment) Regulations**];
 - 10.4. The proposed Regulation 10 A (6) of the draft **Registration of Electors (Amendment) Regulations** shows that an enrolment officer may refuse to grant an application to confirm once the proposed Regulation 10 () (a) to (c) is triggered. Once he or she has so decided, he or she must inform, the elector of his right to appeal.
 - 10.5. Section 5 of the draft **Registration of Electors (Amendment) Regulations** seeks to insert a new regulation 10 A. Sub-regulation 10A (10) of the proposed amendment provides

“(10) The enrolment officer shall not refuse to confirm the registration of the elector unless he is

satisfied that:

- (a) the person is not the elector whose name is mentioned in the register;*
- (b) the details required to be provided in Form 3A have not been provided or are inadequate; or*
- (c) the applicant is not entitled to remain registered by virtue of his having been absent from Dominica for a continuous period exceeding five years.”*

10.6. There ought to be no doubt that an enrolment officer is required to refuse to confirm the registration of the elector if he or she is not satisfied the applicant is entitled to remain registered because he has been absent from Dominica for a continuous period exceeding five years. This process is infused with fairness because there is a right of appeal, and the right of access to the High Court remains unfettered. Consequently, the allegation in the last paragraph on page 29 and top paragraph on page 30 of the report that there is no power to remove is misleading because if a person is not able to satisfy the enrolment officer that he or she in fact returned at least once in the preceding five years, that person will not be confirmed. Consequently, that person’s name will not appear in the new Register;

10.7. The Commonwealth consultant Miss Pauline Welsh reviewed sections 30 and 31 of **Registration of Electors (Amendment)** Act and at page 22 and 23 of her Addendum wrote

“Comments and Observations

The insertion of this new section 30 is critical to the achievement of a voter’s register which reflects the voting

population with some degree of accuracy and correctness. Coupled with proper administrative and other guidelines from the Commission, the achievement of the creation of an acceptable voter's register can become a short to medium term objective of the Commission. This amendment fulfils one of the important recommendations made in the earlier report for a full reverification/reconfirmation exercise.

The amendment requires verification of the electors living overseas at embassies, missions and at other places as designated by the Commission. In order to achieve this overseas verification, wide scale logistic planning will be required. There are several countries that have successfully implemented similar programmes from which the Commission may seek to adopt best practices and lessons learned. Case in point the Dominican Republic employed Voting Coordinators to operate overseas to effect registration. Mexico adopted a similar approach as is being suggested. It means therefore that there are several international cases best practices that the Commission may rely on in order to inform itself how best to give effect to section.. Such an exercise if not managed and administered properly can become a logistic nightmare. There are examples of jurisdiction where overseas registration was poorly managed and the exercise had to be eventually abandoned.

The Electoral Commission may wish to seek further assistance in this regard from the breadth of existing Commonwealth expertise.'

- 10.8. Miss Welsh after her review of the new section 30 (Clause 13 of the Bill) to allow for confirmation, also said in her Addendum

"This amendment fulfils one of the important recommendations made in the earlier report for a full reverification/reconfirmation exercise."

10.9. The third paragraph on page 30 beginning with the words “ *Clause 13 of the 2018 Bill...*” is false and/ or misleading because the procedure under the proposed regulation 10 places the burden on the elector. This is reflected in regulation 10A (7) which provides

“The enrolment officer shall prior to allowing or refusing the elector’s claim to be confirmed as an elector, further consider and take into account all written representations, grounds and additional information provided by the elector.”

10.10. Frankly, the penultimate paragraph on page 30 beginning with the words “ *In summary..,*” and last paragraph on page 30, which concludes on page 31 make absolutely no sense to me;

10.11. The second paragraph on page 31 beginning with the words “ *The Group has been advised...*” is calculated mischief making motivated by the group’s common position with the United Workers Party that persons in the Diaspora ought to be stripped of their right to vote which is unacceptable.

Some other specific paragraphs of the report: false and deceptive

11. The following are some of the several paragraphs of the report which contain false, deceptive and misleading statements

11.1. Page 7, 3rd and 4th paragraph from the top. These allegations are pure malice. As shown above, the draft bill, which was vetted by the Commonwealth expert and discussed in her Addendum, makes express provision for the enrolment officers to refuse to confirm, a

person's registration if they fail to show they had not visited Dominica it least once on the last five years;

11.2. Page 8 , 2nd to 5th paragraphs. The allegations therein are baseless and premised on self-serving speculation, and are misleading and false. For example

i. As accepted by Miss Welsh in her Addendum, the proposed amendments are in keeping with recommendations and best international practices; and

ii. As set out above, the Constitution vests the power to make laws in the Parliament and not the Commission. The only obligation of the Government is to consult which it did. The Commission simply cannot make regulations on its own initiative in any post constitutional context;

11.3. Page 9, 1st paragraph. The vague and blanket assertion repeated elsewhere in the report that indelible ink is not fool proof is silly. Nothing is fool proof. But what is incontrovertible, is that there has been no evidence presented either in the past, or by this report, of voters voting twice in elections in Dominica. There has been no fraudulent voting or personation;

11.4. Page 15. The allegation that most of the recommendations in the elections observer reports have been left untouched is patently false. The key and essential recommendations have been comprehensively addressed in the draft amendments, as accepted Miss Pauline Walsh;

11.5. Page 18. Paragraph 1.3. The group's conclusion that the stakeholders are in agreement with the group's conclusions is completely false. Kindly see my response to the group's interim report in my book;

11.6. Page 23. The references to the National Panel Discussion are significantly false and represents an alternate universe version of what in fact transpired at the function;

11.7. Page 25. Third paragraph from the bottom. The "legal conclusions" made in this paragraph are not premised on fact or the correct interpretation of our legislation or principles of election law;

11.8. Pages 28 to 29, paragraph 2.1.3 are infiltrated with numerous inaccuracies. For example

- i. The group is being deceptive. The law requires the publication of all lists with notifications for objections. No objections have been filed on the basis that a person has been overseas without at least one visit for more than five years.;
- ii. The Commission is not empowered to initiate the process of removal for whatever reason as it acts in such matters as a tribunal of appeal;

iii. As established by the High Court the laws of the Commonwealth of Dominica places the burden on parties and others to object to names of the voters list;

iv. In **Frampton v Pinard** Rawlins J at paragraph 40 said

*“With respect, I shall follow **Radix v Gairy**. In the first place, it is a Judgment of our Court of Appeal. Any statements of principle that it contains must be treated by this Court with the deference which the doctrine of precedent requires. In any case, it is my view that the statement is sound in principle. Where there is a legislative regime, which provides a detailed procedure for registration and for the hearing of claims and objections in relation to the electoral Register, the procedures set out in the legislation must mean something. Candidates and political parties are expected to be ever vigilant. By acting in accordance with the procedures which the regime provides, they would assist elections officials to provide an accurate Register of the persons who are entitled to vote according to law. The **Registration of Voters Act, Cap.2:03** and the **Registration of Voters Regulations** made there under provide such a procedure in Dominica...”*

v. In **Lindsay Fitzpatrick Grant v Rupert Herbert and Others**, Belle, J delivered on the 12th July 2006 said at paragraph [61]

“He Supervisor of Elections being the Chief Enrolment officer can be blamed for certain problems relating to the list. However the scheme of the legislation places the onus on all voters and the supporters of political parties to object to any apparent false, erroneous, or illegal listings. If they fail to discharge this duty they cannot be heard to complain thereafter as to the consequences and indeed the

*Supervisor's hands would be tied with regard to any cleaning up of the Register of Voters in the circumstances. See the Rawlins J statement on this issue in **Ferdinand Frampton v Ian Pinard.**"*

- vi. Persons duly registered are entitled to remain on the register except if dead or removed in accordance with an objection and due process. Since 1984/85 there have been minimal if not zero objections in accordance with the **Registration of Electors Regulations**. On the other hand, there have been and continue to be, a number of new registered electors every year since 1984/85. The result is that the number of electors on the Register has continuously increased over the last few decades with little or no removals except by way of death. For example, in 1995 the number of registered electors was 57,632, in 2000 the number of registered electors was 60,266, in 2005 the number was 65,889, in 2009, the number was 66,923, and 72,277 in 2014. These figures show over 5000 additions to the Register between 2000 and 2005, and some 5,354 additions between 2009 and 2014. That is over 10,000 additions in 14 years. Consequently, if one adds the new registrants since 1995 with little or no objections, it will be obvious that the Register will increase by an average of 3000 to 5000 every year; and

- vii. As shown above, the Commonwealth Observers at the 2014 election believed the Register was accurate and in accordance with the law; this notwithstanding selective criticisms that the register included Dominicans overseas,

and at page 20 concluded that the voters' list "did not materially affect the credibility and transparency of the election process or the results".

11.9. The suggestion in the report, page 28, that "it is reasonable to believe that a relevant register of electors is likely to become inaccurate due to unintentional administrative errors", reflects deep rooted ignorance of the law or malice;

11.10. Page 29, 1st paragraph. I am not aware of any of the discussions between the group and Commission. However, I have heard the Chairman and previous Chief Elections Officer explain publicly the manner in which the Electoral Office goes about removing the names of deceased persons from the registers, including the fact that the information from the Civil Registry has been greatly increased;

11.11. Page 31, 2nd paragraph from the top. The allegation relating to the profiling of registered voters and facilitating electronic surveillance is ridiculous, another of their conspiracy theories;

11.12. Page 33. References to verification exercise conducted in 2014 is a clear reference to the exercise conducted by the Commission during the attempt to introduce MPID, when an attempt was made to enroll persons in process of testing the system. This process has long been abandoned.

Conclusion

- 12.** For the reasons set out above, it is my respectful view that any reliance on this report would be manifestly unfair, contrary to genuine reform based of fact and the law, and the public interest.

Dated the 20th Day of August 2019

Anthony W Astaphan, SC