



## Office of the Ombudsman

*We hope that this issue will challenge our readers to identify any areas of concerns and possibly provide answers to some of the questions you ask from time to time.*

*As we continue to promote the Ombudsman's Motto "To champion the rights of the people, to ensure that justice always prevails", we invite you to support our endeavours to promote Good Governance within the Public Service, to encourage among the officers and managers, a desire to work efficiently and effectively using wisely the legislative tools at their disposal to enhance the quality of service that is provided to the general public.*

*In this issue we also highlight the characteristics of an Ombudsman thereby, sharpening the Public's perception of who or what is an Ombudsman.*

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# THE OMBUDSMAN

## What the Public should look for in the Ombudsman



The Ombudsman is required by law to be independent, impartial, credible and confidential.



### Independence

An Ombudsman is expected to carry out his duties independently. The Constitution of Antigua and Barbuda 1981 states at Section 66 (10) "The Ombudsman shall, in the exercise of his functions under this Constitution not be subject to the direction or control of any other person or authority". This mandate allows the Ombudsman to function as an impartial and critical entity. Whose recommendations are based on a view of the facts and related laws and on what is reasonable and fair.

### Impartiality

The Ombudsman is expected to receive and review any complaint before him in a fair and objective way. He is expected to avoid any bias and must treat all persons in a matter with equal respect. An impartial Ombudsman will inspire confidence in his clients and should thus enable all parties in a

matter to accept his findings and recommendations.

### Confidentiality

The Ombudsman Act 1994 requires that the Ombudsman "shall regard as Secret, classified and confidential, all documents, information and things which have been disclosed to any such person in the execution of any of the provisions of this Act, except where the Ombudsman considers it necessary to make a disclosure in the discharge of his functions in accordance with provisions set out in Section 8 (2), 7 (4) and 22.

### Credibility

The Public should expect the Ombudsman to be accessible to receive all complainants and to give equal importance to such complaints as may be laid before him. Every complainant should experience respect for and confidence in the way the Ombudsman discharges his responsibility such that the work of the Ombudsman is valued.



## Issues of Inequity within the Public Service

**By Eusalyn Lewis**

The Office of the Ombudsman has sought to investigate the charge of inequity levied against the administration by Civil Servants as it relates to the matter of Pensions. To do this requires an overview of Pensions as paid to all public Sector Workers.

The Public Sector of Antigua and Barbuda comprises two distinct groups of workers (a) The Established Civil Service. As provided for in the Constitution, these fall under the direction of the Public Service Commission. Officers are generally employed for an indeterminate period. (b) The Non-Established Workers. These include employees from Senior Advisors to cleaners are employed and paid from the consolidated fund but over whom the Public Service Commission has no jurisdiction. Some are employed on term contracts but most persons in this group are regular monthly paid workers whose tenure will eventually qualify them for a pension or retiring benefits. Their terms of Employment are generally negotiated by an Industrial Labour Union and their conduct, as workers, is subject to the Labour Code and the Collective Union Agreement and administered by the Permanent Secretary or Head of Department.

The Non-established worker enjoys pension rights in accordance with **Cap 311** Revised Laws of Antigua and Barbuda 1993. The established Civil Servant on the other hand enjoys pension rights in accordance with **Cap 310** Revised Laws of Antigua and Barbuda.

### Pensionable Service

A public officer becomes pensionable after 10 years of service.

### Linkage of Service

The immediate complaint of inequity surrounds the linkage of service for pension purposes. **Cap 310** provides for a non-established officer who has been appointed to the Established Civil Service to transfer the years previously served,

over into his new appointment. The Cabinet is authorized to link those years served to later service in the Established Civil Service. There is however, no reciprocal provision made for an established Civil Servant who chooses to accept employment in a non-established capacity. Any service given in an established civil capacity is not linked to later service in a non-established capacity.

**Cap 311** provides for a non-established officer to accumulate 10 years of time served to qualify to be pensionable. This allows the inclusion of any period of time served however brief. The established civil servant's eligibility is predicated only on the current, continuous time served not withstanding the quantity of time he may have served during previous periods in the Civil Service.

The established practice over the years has been that Cabinet, upon application by the established Civil Servant for linkage of years of service, would in its discretion agree to the linkage of the officer's years of service for pension purposes only.

The current administration has consistently declined applications from Civil Servants in this regard and officers contend that the refusal, in the face of the policy governing non-established workers, is unfair and inequitable.

### Officers employed after age 60

A non-established worker enjoys consideration of all time served. For the Civil Servant, service before age 20 years and service in excess of 33 1/3 years are not considered. **Cap 310** requires that an established worker retires at age 60 years. Any employment in the Civil Service thereafter, is procured either on contract or on a month to month basis. Historically, except for the contract worker who may receive a gratuity, the officer receives no end of service benefits such as gratuity or severance. If however, the retired Civil Servant gained employment in a non-established capacity he became eligible for severance, gratuity or pension as the case

might be in a non-established capacity. (The civil servant receives no severance, no gratuity or any other compassionate benefit.)

### Notification to retire

The non-established officer qualifies to retire at age 55 in accordance with **Cap 310**. Unlike the Civil Servant there is no specific legal directive that the non-established officer proceed to retirement so that in some areas of the services, workers have tended to work on beyond 55 years. The Civil Servant is notified one year in advance of his pending retirement and must retire at age 60.

It is not unusual in certain areas of operation to see non-established workers aged 60 years and over, continuing to work. Additionally, it is rare to see someone recruited to the Civil Service beyond the retirement age 60. It is however not unusual to encounter non-established workers who were recruited after age 55 and who expect to receive a pension after 10 years served.

Civil Servants see this trend as inequitable particularly since civil service officers who work beyond age 60 do not enjoy any additional benefits to the pension entitlements received at age 60. A non-established worker receives a gratuity and until 2004, had the option of completing 10 years to obtaining a second pension or other retiring benefits.

### Pension Calculations

A Civil Servant's pension is calculated on his last salary if he has been serving in his last post for not less than 3 years. If however he has served for less than 3 years his pension is calculated on the average between his current salary and the salary of the last post. The non-established officer's pension is calculated on his

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last salary and includes all time served. For the Civil Servant service before age 20 and services in excess of 33 1/3 years are not included in the final computation.

These issues require that there be greater parity in how the welfare of public employees are served.

The Government has established a Pension's Commission. We await the disclosure of its mandate to treat with the issues outlined to foster greater equity in the value of services rendered and the benefits that can accrue.

#### Did you Know?

That a **female** Civil Servant can apply to be retired on account of marriage if she applies to the Chief Establishment Officer within six (6) months of the date of her marriage?

## What Makes a Dad

God took the strength of a mountain, The majesty of a tree,

The warmth of a summer sun, The calm of a quiet sea,

The generous soul of nature, The comforting arm of night,

The wisdom of the ages, The power of the eagle's flight,

The joy of a morning in spring, The faith of a mustard seed,

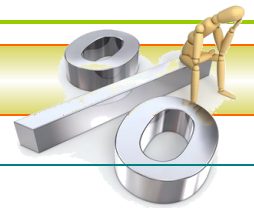
The patience of eternity, The depth of a family need,

Then God combined these qualities, When there was nothing more to add,

He knew His masterpiece was complete,

## Happy Father's Day

## ECONOMIC RECESSION



Five points on how to get through the world's economic crisis.

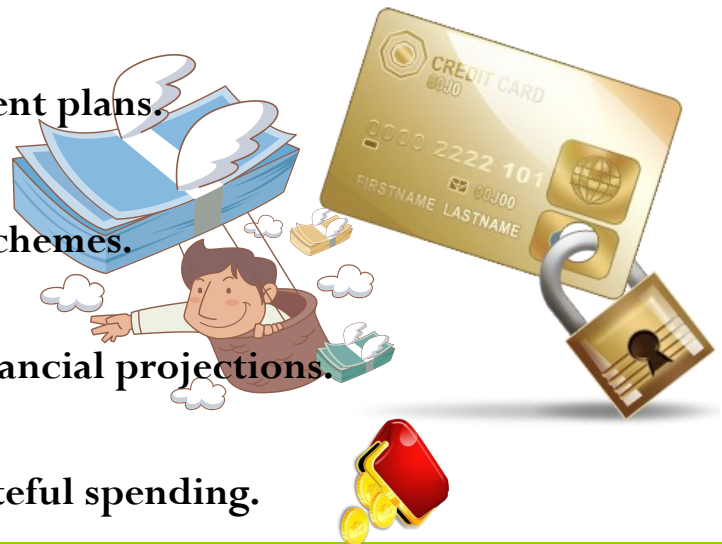
**M**onitor your current and future financial activities.

**O**verlook your economic investment plans.

**N**ever get caught in pie in the sky schemes.

**E**valuate critically your personal financial projections.

**Y**ield not to the temptations of wasteful spending.





## CODE OF ETHICS IN CIVIL SERVICE

By Konata Lee

Ever since man has lived in a community with other human beings he has had in one form or another, consciously or subconsciously, to regulate his relationship and interaction with other members of society. The society, as a medium in which man evolves and progresses is composed of a complexity of relationships that can be studied according to the different social groups which include various sectors such as professionals, women's group, religious organizations, associations etc.

With social progression and the division of labour it became necessary for man to specialize in different areas of production which in turn required a high level of organisation and responsibility before the rest of society. It was from that moment that rules of conduct or codes of ethics became relevant to producers as well as consumers of goods and services. The same level of accountability and responsibility is expected of the Public Service as it fulfil its mandate.

The focus of this article will specifically target the principles that should form the basics for a code of conduct for public servants in the performance of their duties. A public service code of conduct should be based on three fundamental principles:-

1. Public servants should fulfil their obligations to the Government with professionalism and integrity;
2. Public servants should perform their official duties honestly, faithfully and efficiently, respecting the rights of the public and their colleagues;
3. Public servants should not bring the Public Service into dispute through private activities.

For now we will concentrate on the first principle and reserve treatment of the others for our subsequent newsletter.

Firstly, Public servants have a legal obligation to serve the government. They are obligated to carry out Government policy and do so in such a manner that it will stand up to

the test of public scrutiny. Public servants should ensure that their personal interests, belief or activities do not in anyway interfere with or appear to interfere with this obligation.

According to one very prominent Antiguan career public servant "the job of the Public Servant is to make the Minister look good." In other words the Minister's job is made easy when the Public Servant does his job well.

The Antigua and Barbuda Constitution Order 1981, Section 78 (1) states *"Where any Minister has been assigned responsibility for any department of government, he shall exercise direction and control over the department; and, subject to such direction and control, the department shall be under the supervision of a Permanent Secretary whose office shall be a public officer."* This in principle along with other complementary legislation clearly places the Minister at the top of the overall hierarchical structural within the ministry or department and the officers thereto attached under his direction. The public servant, therefore, is obliged to serve his Minister with integrity and above all within the confines of the law. This does not mean that the job of the public servant is done blindly in a mechanical, intuitive and unintellectual manner. Neither does it mean that the public servant is barred from having an independent and completely divergent view from that of the minister's but at the same time it is presumed and understood that the Minister acts on behalf of and in the interest of a majority and therefore cannot allow the implementation of general policies to be determined by individual subjective persuasions.

In the political system that we have inherited from English colonialists (Westminster or democratic parliamentary system) the public servant is expected to serve the government of the day unlike in the United States where it is common for the tenure of top serving officials to come to an end with each administration. The public servant in his actions must seek to ensure that he maintains the confidence of the Minister by establishing a professional and impartial relationship. In other words during the execution of his functions there should be no absence of political neutrality and professionalism. In order to build upon and maintain a strong support for good governance it is vitally important that political

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neutrality is a cornerstone in the structure of acceptable conduct within the Public Service.

Although there may be occasions when a public servant may feel or even express conflicting views regarding policies to be implemented, inaction is not a discretionary power to be exercised by him. The public servant has, on many levels, the responsibility for policy implementation and is in fact a part of the executive arm of government in so far as the Cabinet is responsible for policy making and the public servant for implementation. At the same time there is an obligation on the part of the public servant (using correct protocol) to provide honest, impartial and comprehensive advice to the Minister on matters within their competence that could have profound consequences. Even if the advice is not accepted at that moment it does not relieve the public servant of his duty to demonstrate good will and drive in the performance of his duties.

Importantly, if the public servant finds himself in a situation where subjectivity prevents him from lawfully complying with instructions he must never act in a manner that will undermine the policy of the Government and further, he should advise his superiors of these difficulties so that appropriate measures be put in place to address the matter.

Another very serious aspect of the public servants' duties that must be accorded some attention relates to pronouncements and public discourse on government policy. As with any other member of society the public servant enjoys all the rights and privileges established under the Constitution. However, one must recognise that their rights cannot be allowed to infringe on those of others. The rights of the public servant should not be perceived as the antithesis to the rights of the individual, rather there should be some degree of coexistence and balance between them. There should not appear to be any compromise of ethics. The public servant should never try to manipulate, distort or without authorization publicize information accessible to him due to the nature of his work.

Information should be kept confidential and commentary, especially on sensitive and classified matters, should always be left to specifically designated officers who have direct responsibility for such matters.

Public servants must, therefore, be mindful at all times of the significance of their responsibilities and duties and of their legal obligations to serve professionally and impartially as they carry out the policies of Government.

## INFORMATION FOR COMPLAINANTS

**O**mbudsmen provide a remedy of "last resort". This usually means that before they will consider investigating a complaint, they will want to see some evidence that you have taken your complaint as far as possible with the organisation concerned. Normally this would include putting your complaint to the administrative head of the organisation, such as the Permanent Secretary or General Manager.

The reason for this is that the Permanent Secretary who is ultimately responsible for the actions of his or her staff, upon receiving a complaint, may either take some action which resolves the problem or provide an explanation which is satisfactory from the complainant's point of view. Even if this is not possible, the Permanent Secretary's response can be helpful in deciding whether there appear to be grounds for an Ombudsman to investigate the complaint.

Write a letter to:

**Permanent Secretary or The General Manager**

**Ministry of**

**Street**

**Parish**

**Country**

In your letter, say -

- what you think has been done wrongly.
- what has happened to you as a result.
- what you think the organisation should do about it.

If the reply does not resolve your complaint, you can write to the Ombudsman and ask him to investigate it. Please enclose copies of your letter to the Permanent Secretary, and the reply, and any other letters, photographs or documents which you think might assist the Ombudsman with your complaint.

# CARIBBEAN OMBUDSMAN ASSOCIATION (CAROA)

The endeavours and hard work of the Ombudsman have not been limited to the shores of Antigua and Barbuda. In fact Antigua and Barbuda played a pivotal role in the establishment of the Caribbean Ombudsman Association (CAROA) during a regional meeting here in Antigua in 1998.

The Caribbean Ombudsman Association (CAROA) comprises Antigua and Barbuda, Barbados, Belize, Guyana, Haiti, Jamaica, Saint Lucia, Trinidad and Tobago, the British overseas territories of Cayman Islands and Bermuda, the Associate State of Puerto Rico, the Islands of Turks and Caicos and Curacao.

The principal objectives of CAROA are:-

1. To strengthen offices of the Ombudsman in the Caribbean so far as to foster cooperative work, to harness resources of, to network and provide continued enrichment with other Regional, Hemispheric and International offices of the Ombudsman and other similar institutions;
2. To support the promotion and protection of Human Rights Agencies in the Caribbean and the development of Governmental and non-governmental institutions relating to human rights;
3. To maintain and promote the Institution of the Ombudsman and to encourage its development throughout the Caribbean by ensuring that the people are served by independent and effective Ombudsman and other similar human rights institutions.

In order to further promote the important role played by the Ombudsman Institutions in the region, CAROA holds a meeting biennially to discuss and advance issues of interest to their work..

## **St Kitts-Nevis appoints first Ombudsman**

St Kitts and Nevis has appointed its first Ombudsman in the twin island Federation.

"I am pleased to announce the appointment of His Excellency Ambassador Walford Gumbs to the position of Ombudsman of the Federation of St. Kitts and Nevis by His Excellency the Governor General Dr Sir Cuthbert Sebastian with effect from August 1st 2008," Prime Minister Dr. Denzil Douglas announced at his monthly Press Conference on Wednesday. He said the Office of the Ombudsman "will ensure that all of our citizens are given an opportunity to have their grievances with the Government's services heard and resolved."

"It will ensure the protection and enforcement of the rights of citizens of St. Kitts and Nevis, maintain a high degree of independence and objectivity, and will be staffed by a respected and competent professional people," said Douglas.

Gumbs is a former Speaker of the National Assembly and former President of the St. Kitts-Nevis Trades and Labour Union.

<http://www.caribbeannetnews.com/stkitts/stkitts>



**St. Kitts and Nevis Prime Minister Dr. Denzil L. Douglas (left) congratulates Ambassador Walford Gumbs on his recent appointment as Ombudsman.**

(Photo by Erasmus Williams)



## RETIREMENT OF A GEM



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Mrs. Gloria Louise Tracelyn Samuel neé Irish entered the Civil Service in 1973 as a Substitute Clerical Assistant attached to the Deep Water Harbour but after a short stint she was again unemployed. Later that same year (1973) she was recalled to the Service and was sent to the Treasury Department where she worked until 1974 when she was rendered temporarily incapable of working due to medical reasons.

After recovering, she returned to work in November, 1975 and was posted at the Establishment Department where she was appointed as Clerical Assistant on 1st January, 1976 and continued to work in that capacity until November of that same year when she was seconded to the Government Printery and worked there for ten (10) years.



The upward mobility at Printery was limited so she had to move on and was appointed Senior Clerk in 1987 at the Chemistry and Food Technology Division in the Ministry of Agriculture. After seven (7) years in that Ministry, she was appointed acting Executive Officer and worked in the Ministry of Health, Ministry of Finance Headquarters and the Property valuation Division respectively in the same capacity.

In 1995, while on vacation in the USA, she received a call from Dr. Hayden Thomas asking her if she would be willing to work with him in the newly established Office of the Ombudsman. It was a very tragic and difficult time for

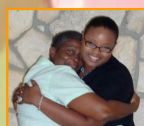


her because she had just buried her son. After returning home, she gladly accepted the invitation to work at the Office of the Ombudsman and was appointed Executive Officer. In the year 2000, she was appointed Senior Executive Officer (Assistant Investigations Officer) and in 2005 the post was upgraded to the level of Assistant Secretary (Assistant Investigations Officer).



Mrs. Samuel spent more than a third of her working life at the Office of the Ombudsman (14 years). It was at times a tedious learning exercise but in the end, very rewarding. Upward mobility was slow but nevertheless she enjoyed her years of working as a Civil Servant. She retires from the Service in December 2009.

When asked how she found the Civil Service, she simply replied “very educational and rewarding”. She further explained, it was a learning process and anywhere you are called to serve, you learn something new. It’s like going to school and working hard during the term and anxiously await the rewards of your terms work—whether you will be promoted or you will have to repeat the process all over again; sometimes even repetition can prove to be useful. It allows you to be more efficient and can develop self confidence. I would encourage any one who is willing to work hard and make a worthwhile contribution to the Civil Service to pursue that career path. The rewards are great.





# OMBUDSMAN INVESTIGATIVE ISSUES

Examples of typical complaints investigated by the Ombudsman and the Investigative Team in respect of services extended by public officers, statutory Boards and other public entities.

Complaints against bureaucratic delays, impoliteness, non-response.

Complaints made by complainant in regards to health hazards, poor drainage and roads, pollutions and utility services.

Complaints concerning contracts and registration procedures.

Complaints from persons not receiving their correct pension.

Complaints from persons needing assistance in the receipt of their Certificate of Title for lands purchased from the Government.

Complaints made by persons not receiving mails from the Post Office.

Complaints made against the Police.

Complaints by service providers in respect of outstanding arrears.

Complaints made by Prisoners and Prison Officers in relation to inhumane treatment and working conditions at H.M.P.

Complaints made by mothers for non-payment of child maintenance by delinquent fathers.

Complaints of concern in reference to poor infrastructure making access to property near impossible.

Complaints from Public Servant regarding poor working conditions and unfair treatment.

Complaints against profiling and discrimination.

Complaints against bias shown by public officers in dealing with clients.

Beloved, I wish above all things that thou mayest prosper and be in health, even as thy soul prospereth.

3 John 1:2

## The Flu

### The Flu or Influenza:

The flu virus may be classified as either Influenza A, B or C.

### Causes:

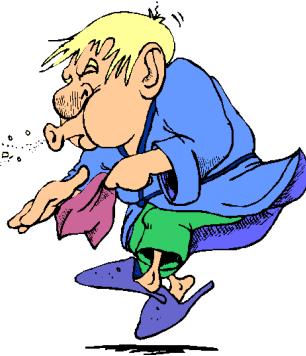
The flu is caused by the influenza virus. There are many different strains of the virus and they mutate frequently. That is why people continue to come down with the flu year after year.

### Who is affected by the Flu Virus:

People of all ages can get the flu. Children, the elderly and people with weakened immune systems are most susceptible and more likely to have serious complications.

### How the Flu spread:

Influenza is spread by droplets from the mouth and nose. If a person with the flu sneezes or coughs, the virus is then released into the air, and whatever the person touches, and can then be passed on to others.



The flu can be spread from 1 day **before** symptoms appear to 5 days **after** becoming sick. It is possible to spread the flu before you even know you have it. Flu is a serious contagious disease.

### Influenza 'Flu' Symptoms

Influenza (also known as the flu) is a contagious respiratory illness caused by flu viruses. It can cause

mild to severe illness, and at times can lead to death. The flu is different from a cold. The flu usually comes on suddenly and may include these symptoms:

- Fever (usually high)
- Headache
- Extreme tiredness
- Dry cough
- Sore throat
- Runny or stuffy nose
- Muscle aches
- Stomach symptoms, such as nausea, vomiting, and diarrhea, also can occur but are more common in children than adults



These symptoms are usually referred to as "flu-like symptoms".

### How To Know if You Have the Flu

Your respiratory illness might be the flu if you have sudden onset of body aches, high fever, and respiratory symptoms, and your illness occurs during the usual flu season in the Northern Hemisphere. However, during this time, other respiratory illnesses can cause similar symptoms to the flu. In addition, influenza can also occur outside of the typical flu season. It is impossible to tell for sure if you have the flu based on symptoms alone. Doctors can perform tests to see if you have the flu if you are in the first few days of your illness.

### Steps to Fight the Flu

1. Get Vaccinated
2. Take prevention actions :
  - A) Cover your nose when coughing or sneezing.
  - B) Wash hands in soapy water and use your sanitizer.
  - C) Avoid close contact with infected persons.

[www.cdc.gov](http://www.cdc.gov) Centers for Disease Control and Prevention

## WHAT'S IN A NAME ?

Is it Antigua / Barbuda **OR** Antigua and Barbuda?

Is it Antigua / Barbuda OR Antigua and Barbuda?

*Antigua and Barbuda*

Have you been listening lately to the radio or television? How often have you heard nationals and visitors, prominent people and ordinary ones, young and old refer to our country as Antigua / Barbuda?

For the Benefit of those who do not know, the Antigua Constitution Order brought into being the Associated State of Antigua in 1967 by Statutory Instrument No. 225 of 1967. One vital change which took place when Antigua gained its independence in 1981 was its name. The legal name of the newly independent nation was and still is Antigua and Barbuda.

This can be found in Statutory Instrument No 1106 of 1981 - The Antigua and Barbuda Constitution Order 1981.

Chapter 1.1 Antigua and Barbuda shall be a Unitary State.

1.2 The territory of Antigua and Barbuda shall comprise the islands of Antigua and Barbuda and Redonda and all other areas were comprised in Antigua and Barbuda on 31st October 1981.

So what's in a name? Don't call this nation Antigua. Don't call us Antigua /Barbuda.

CALL US BY THE NAME WE PROUDLY OWN!

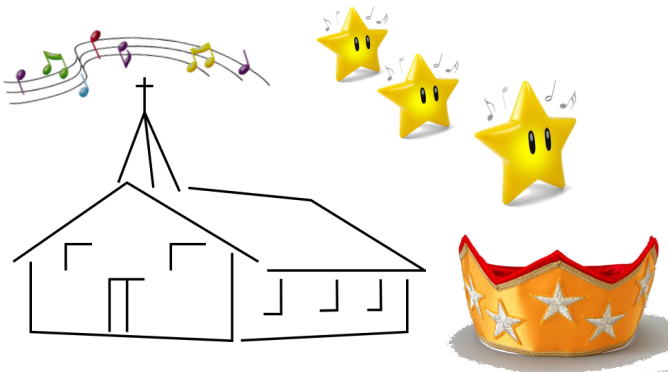
CALL US ANTIGUA AND BARBUDA!

## FUNNY REFLECTION

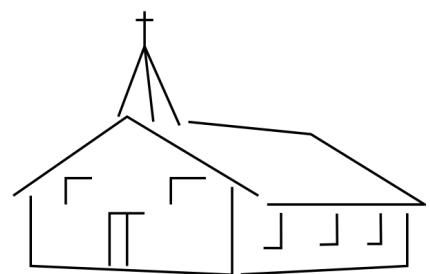
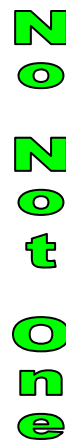
Two denominations located in the same vicinity were having Praise and Worship at the same time. Surprisingly, the songs that were sung were:-

## Church A

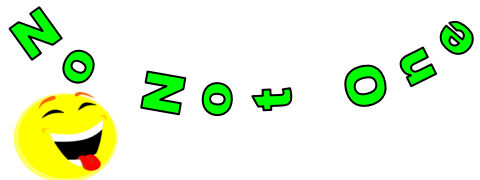
## Will there be any Stars, any Stars in my Crown

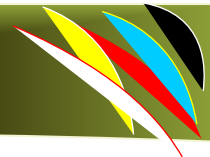


### Church B



Hey! Guess Church A got the answer to the number of Stars in their Crown.





### Brain Tease

1. Not B Mobile
2. ACB Scholarship
3. Secretary to Caricom
4. Yes we can
5. Antigua and Barbuda Ombudsman
6. Microsoft founder
7. The Manhattan Project
8. Crime against Humanity years
9. Japanese delicacy

c	a	r	r	i	n	g	t	o	n	x	z	f
a	g	a	v	e	n	x	h	b	i	l	q	y
f	a	z	t	r	c	v	n	a	t	k	h	o
a	t	o	m	i	c	b	o	m	b	a	s	u
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h	s	c	a	r	t	x	e	m	i	l	e	s
t	o	m	a	t	o	a	t	w	y	u	p	g
l	e	u	s	a	l	y	n	l	e	w	i	s

10. Won 8 gold medals in 2008 Olympics
11. The Muse of Comedy
12. A Fruit
13. The best selling book ever
14. Thick as \_\_\_\_\_
15. Lion King villain
16. Watch professional and amateur videos on internet
17. Historical plant has a life span of 10-20
18. First Woman

### Our Motto

To champion the rights of the people to ensure that justice always prevails.

### Our Mission Statement

The Office of the Ombudsman pledges with God's guidance to faithfully serve this nation of Antigua and Barbuda by impartially and efficiently investigating complaints of members of the public against unjust administrative decisions of officers of Government or Statutory Bodies with the view to righting wrongs and so contribute to good governance and the further development of the democratic process in the country.

### **Give us your feedback at:**

#3 Prime Minister's Drive

P.O. Box 2049

St. John's, Antigua, W. I.

Telephone Number: 1-268-462-9364

Fax Number: 1-268-462-9355

Email Address: [ombudsman@antigua.gov.ag](mailto:ombudsman@antigua.gov.ag)

or

[ombudsman29@hotmail.com](mailto:ombudsman29@hotmail.com)