

For Immediate release

Thursday, 17 March 2022

**Statement by the Attorney General Hon. Samuel Bulgin QC
On the Privy Council Ruling in the
Chantelle Day and Vicki Bodden-Bush Appeal**

As Attorney General, I understandably welcome the extremely important confirmation by the Privy Council of the definition of Section 14 of the Constitution, previously provided by the Court of Appeal in its 2019 ruling.

I am also mindful of the observations of all three courts, that is, the Grand Court, the Court of Appeal and the Privy Council, about the obligation of the State to ensure the existence of some form of legal framework to give legal protection to same-sex relationships. This lacuna has now been addressed by the Civil Partnership Act 2020.

The Cayman Islands Constitution Order, 2009 is in its relative infancy. However, we have seen a number of very important litigations relating to various provisions. Indeed, in recent times, we have seen efforts by our citizenry to seek clarification from the courts on sections dealing with

referendum as well as same-sex relationships. It is to be expected that there will be similar challenges going forward.

Such challenges are to be welcomed as they will enhance the jurisprudence of the jurisdiction as well as the region. This, in turn, will be of interest not only to constitutional scholars and lawyers but will also result in a more informed populace.

Chantelle Day and Vicki Bodden-Bush are to be commended for their determination to litigate the issues in their case.

In addition to the significance of the clarity around the scope of section 14 of the Constitution, there is also the observation made by the Privy Council and Court of Appeal as well as the Grand Court the general thrust of which is that the Constitution is not static, but instead is a “living tree” capable of growth and expansion but within its limits.

It follows that while a Constitution may be interpreted by the courts from time to time to reflect the ever – evolving norms within contemporary society, such an approach is not free-standing. As the Privy Council observed, it is only capable of extending meaning in line with changing practices and understanding so far as the language used in the Constitution can reasonably be said to bear a particular meaning. It has been demonstrated in the instant case this approach is constrained by the highly specific terms

in which Section 14 has been crafted, and hence the concept could not be resorted to in order to trump the plain meaning of Section 14(1) of the Constitution which talks about to whom the right to marry is available.

Finally, the various rulings by the courts over the years about the 2009 Constitution serve as confirmation that the Constitution and the support systems are working exactly the way they were designed to work and consistent with the rule of law in a thriving democracy.

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Attorney General

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