

Private Members Motion

SAME SEX MARRIAGE COURT RULING.

Whereas the Chief Justice, the Honourable Anthony Smellie, delivered an EXECUTIVE SUMMARY OF JUDGMENT in a civil matter brought by CHANTELE DAY and VICKIE BODDEN BUSH as PETITIONERS against THE GOVERNOR OF THE CAYMAN ISLANDS, THE DEPUTY REGISTRAR OF THE CAYMAN ISLANDS GOVERNMENT REGISTRY and THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS, as RESPONDENTS, seeking redress, through a judicial review, on their rights to marry as a same sex couple;

AND Whereas the Chief Justice declared a change to the definition of "marriage" in the Marriage Law from *"marriage" means the union between a man and a woman as husband and wife* to *"marriage" means the union between two people as one another's spouses*, on grounds that *"The definition of marriage in the law as being between a man and a woman, while it is in conformity with section 14 (1) of the Bill of Rights, is not in conformity with the rights of the Petitioners under section 9 of the Bill of Rights to private and family life and under section 10, to their right to freedom of conscience and freedom of expression of their belief in the institution of marriage, by being allowed to marry"*

AND Whereas this declaration has evoked extreme consternation throughout the Cayman Islands and the legal fraternity;

AND Whereas it is believed by many that this ruling and declaration by the courts does not accord with the letter and intent of **THE CAYMAN ISLANDS CONSTITUTION ORDER 2009** wherein the Chief Justice chose to ignore section 23 of the Bill of Rights which prescribes that if a law contravenes the Bill of Rights, a judge can make a declaration of incompatibility but leave it to the legislature to amend the legislation;

AND Whereas it is widely believed that by changing the definition of marriage in the Marriage Law it effectively repealed both sections 14 (1) and 23 of the Constitution enacted by the United Kingdom of Great Britain and Northern Ireland;

AND Whereas if judges are left to arrogate unto themselves the authority to change laws based on their interpretation, this diminishes the supremacy of the Constitution and of the legislature to so do;

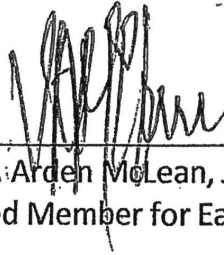
AND Whereas the Governor, himself a respondent, who enjoys unfettered responsibility for the appointment of the Attorney General, another respondent, all judges including the judges of the court of appeal, has weighed in on the decision of the Chief Justice before a public pronouncement of whether or not the respondents will appeal, interferes and possibly prejudices the right and ability of an appeal;

Be it therefore resolved that this Legislature record its support and recommendation for the Government to appeal the said ruling to the full extent of the appeal process on behalf of the people to ensure that the tenets, and the veracity of the Cayman Islands Constitution Order 2009, is upheld in accordance with the wishes of the people of the Cayman Islands;

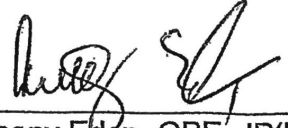
AND be it further resolved that this Legislature records its disappointment in the Chief Justice's and Governor's lack of action to recognize or respect the Doctrine of Separation of Powers that is enshrined in the Cayman Islands Constitution;

AND be it further resolved that this Legislature asserts its competence under section 59 of the Constitution of the Cayman Islands as the only institution with the power to enact legislation and that such power can only be exercised through Bills enacted by the legislature either as principal legislation or by way of amendment.

Moved By: _____


Mr. V. Arden McLean, JP, MLA
Elected Member for East End

Seconded By: _____


Mr. Anthony Eden, OBE, JP(Ret), MLA
Elected Member for Savannah