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PRESS RELEASE

For Immediate Release

From: Hon. Roy McTaggart, Leader of the Opposition & Political Leader of the Progressives

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Statement on The Privy Council Ruling on Same-Sex Marriage

The Privy Council's ruling regarding same-sex marriage in the Cayman Islands has settled several significant constitutional issues. That is:

- The Privy Council agreed with the 2019 Court of Appeal decision that the Constitution, supported by the Marriage Law, denotes marriage as being between opposite-sex persons. As such, there is no right to marriage for same-sex couples. This follows what has also been determined by international case law.
- The Privy Council further agreed with the Court of Appeal that same-sex couples are entitled to legal protection, which is functionally equivalent to marriage, under the Constitution and international law.
- The ruling of the Privy Council confirmed the Civil Partnership Act passed into law by the Governor in 2020 did provide the necessary legal protections to same-sex couples.



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- And by extension, the ruling has again clarified the interpretation and ability of the court to amend laws and put itself in the place of the Parliament. If a law is determined by the Courts to contravene the Constitution, then it should be for Parliament to have the opportunity to fix it.

In July 2020, the Progressives-led Government brought the Domestic Partnership Bill to the Parliament to provide the necessary legal protections to same-sex couples and satisfy the Government's legal obligation. It should be noted that the Court of Appeal, in its 2019 ruling in favour of the Government, also stated that *“This court is an arm of Government. Any constitutional settlement requires the executive and the legislature to obey the law and to respect decisions of the court. It would be wholly unacceptable for this declaration to be ignored.”*

The events unfolded as they did, and the Domestic Partnership Bill failed passage in Parliament by one vote. Regrettably several members of the present PACT Government vehemently opposed the Domestic Partnership Bill and voted against it. However, all members of the current Progressives Opposition voted for the Bill. The introduction of the Domestic Partnership Bill was the right thing to do as a society that values each and every person within it, regardless of race, creed, gender or sexual orientation.

It was our view then and is still our view, that in voting down the Bill, Parliament, in full knowledge of what would likely follow, abdicated its responsibility under the law and did so in contravention of an explicit declaration of the Court of Appeal to provide same-sex couples with necessary protections. Failing which the Court of Appeal said that the UK Government should act.



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With the Parliament abdicating its responsibility, the Governor, with the instruction of the UK, was then obligated to bring into law the Civil Partnership Act 2020, using the power provided under Section 81 of the Constitution. As did the Domestic Partnership Bill, the Civil Partnership Act provided the required legal protections for same-sex couples that are functionally equivalent to marriage.

The other unfortunate result of Parliament's failure to carry out its legal obligations was to give the UK Government reason to not proceed with the agreed change to our Constitution to remove the ability of an unelected Governor, under section 81 of the Constitution, to make laws. That provision was hard-won during our Constitution negotiations with the UK, and regrettably it was lost.

With this ruling, I pray that the Civil Partnership Law will be accepted by the entire community as the law of the land and will end the harmful rhetoric that has unfortunately characterised some of the public debate.

I suspect that, as has happened in the UK and elsewhere, over time most Caymanians may come to accept same-sex marriage. Should this be the case then it would be right for the Parliament to bring this about and not a court of law.

~ END ~