



**OFFICE OF THE
PREMIER**
CAYMAN ISLANDS GOVERNMENT

Statement on Cayman, UK constitutional discussions

By Premier Hon. Alden McLaughlin, MBE, JP, MLA

Monday, 17 December, 2018

Legislative Assembly

Mr. Speaker, as this Honourable House will recall, last month I confirmed to members and the public that the UK had agreed to begin talks with the Cayman Islands on proposals for various safeguards to our Constitution. These talks did occur over two days in London: Friday, 7 December, 2018, and again on Monday, 10th at the Foreign and Commonwealth Office (FCO).

I am pleased to report Mr. Speaker that the two days of talks went as well as one could have hoped. Indeed, they were constructive and fairly positive, and for this I would like to thank the Cayman delegation as well as the delegation from the FCO in London.

I wish to especially thank Sir Jeffrey Jowell, QC, for the excellent preparatory work done that allowed us to not only make an excellent case for reform but also for the clearly drafted proposals provided to the FCO prior to the talks. These made it easy for the UK to readily understand our position and to take a position themselves.

I extend my gratitude as well Mr. Speaker to our own Attorney General for his excellent contribution and solid recommendations to our effort.

These were important talks Mr. Speaker that took us over six months to arrange. I acknowledge the work done by our London Office, in particular the head of that Office and our representative in the UK, Mr. Eric Bush, in assisting in getting the dates pinned down.

Mr. Speaker, as you know we sought these discussions in the aftermath of a breach of convention and possible constitutional overreach when in May this year the House of Commons

legislated for the British Overseas Territories in the area of domestic policy.

As all members of the House will know, responsibility for domestic policy has been devolved to the territories under the terms of their respective Constitution Orders made by Her Majesty in Privy Council. Contrary to longstanding convention, the UK Parliament sought to legislate for the territories in an area of devolved responsibility by attaching an amendment to the Sanctions and Anti Money Laundering Bill that was making its way through the United Kingdom Parliament. The Bill with the amendment was passed by the Commons and then later by the House of Lords. This amendment requires the British Overseas Territories, but curiously not the Crown Dependencies, to establish public registers of beneficial ownership, and to do so no later than 31 December, 2020.

Failing this, the amendment requires the UK Government to utilise an Order in Council to change local legislation to force the governments of the territories to implement public registers of beneficial ownership, effectively legislating directly on a matter that has been devolved to the local governments.

This break in longstanding convention and overreach by the UK Parliament represents a line that once crossed cannot be uncrossed. The concern is therefore not just about beneficial ownership registers, but about what other areas of devolved authority the UK Parliament may feel it should interfere in without at least consulting with the Cayman Islands Government.

And so, Mr. Speaker, the safeguards we seek will confirm that the Cayman Islands Government has autonomous capacity in respect of domestic affairs, and that the UK will not seek to legislate, directly or indirectly for the Cayman Islands without, at a minimum, consultation with the Cayman Islands Government.

Prior to the meetings in London, as I mentioned before, the Government provided the FCO with proposed constitutional changes in draft form. These proposals were discussed with the Opposition prior to the trip to London and again with the Leader and Deputy Leader of the Opposition while we were in London. I wish to thank the Leader of the Opposition and his Deputy for their able assistance during the talks in London. I also want to thank those on the Government bench who also ably assisted with the negotiations: the Minister for Commerce, Planning and Infrastructure and the Minister for Financial Services and Home Affairs.

Mr. Speaker not only did the country see before we left for London that Government and the Opposition both recognised the importance and necessity of the safeguards being sought, but in London the UK was presented with a solid Caymanian front, with the Premier and Opposition Leader, together with our delegation, sitting not on two separate sides, but united in the cause of defending our beloved Islands.

In addition to addressing the principal concern mentioned earlier, the opportunity was also taken to seek a small number of administrative changes to the current Constitution Order to improve the operations of the local government and legislature.

I am pleased to advise that by the end of the talks the majority of the proposed changes were agreed in principle whilst the remainder is still under consideration by the UK. Mr. Speaker, UK officials listened and genuinely sought to be helpful whilst asserting that the UK's interests and its ability to ultimately legislate for its territories must remain paramount. We are a British territory and so we understand this, but we argued our case hammering home the points we needed to make. And Mr. Speaker, the FCO team certainly did seek to understand our positions and provide suggestions to address the concerns where they thought they could.

Mr. Speaker, the UK has committed to formally responding to us in the coming weeks. This formal response will include a Draft Order in Council that will confirm the matters already agreed in principle and provide the UK's proposals on how to address the matters that were left to be considered. Once the UK's response and Draft Order in Council are acceptable to the Cayman Islands delegation, then the constitutional negotiations will be considered concluded and the proposed amendments, with Draft Order in Council, will be published and later debated in this Legislative Assembly.

Mr. Speaker, everyone in this House would be aware of the challenges that the UK Government is now going through with Brexit; challenges that are impacting the UK's internal politics. In recent days there was even a no confidence vote called on the Prime Minister within her party. The Prime Minister won that round but things are still poised on a knives edge politically in the UK.

These safeguards we seek on behalf of the Cayman Islands cannot be allowed to be caught up in the UK's internal Brexit cauldron as it heats and boils. So I am grateful to the UK

Government for seeking to conclude these negotiations as quickly as possible. This is also in our interest, so I - and I believe this House - commit ourselves to seeing this through as best we can within a reasonable timeframe early next year.

Following debate, and if approved by the Legislative Assembly, and subsequently by Her Majesty in Privy Council, the proposed changes are expected to come into effect in time for the 60th anniversary constitutional celebrations in July 2019.

I wish to thank the team, providing administrative support for the Cayman delegation: Samuel Rose, Cabinet Secretary; Roy Tatum, Head of the Office of the Premier; Jason Webster, Cabinet Office Policy Analyst; and Jana Pouchie-Bush, Personal Assistant to the Premier.

I thank the UK team, which included Mr. Ian Hendry, Constitutional Advisor to the FCO; Mr. Ben Merrick, Director of the Overseas Territories; and Mr. Will Gelling of the FCO; and Greg Reisman, Assistant Legal Advisor to the FCO. His Excellency Governor Martyn Roper also attended.

I would like to again thank all the members of both delegations for the hard work and constructive dialogue during the two days of talks. On the UK side I particularly wish to thank Lord Tariq Ahmad of Wimbledon, Minister for the Overseas Territories, for his approach when working with us and with all the Territories. Lord Ahmad, I believe presents a real sense of partnership and friendship to the UK's relationship with its Territories that is greatly appreciated. Indeed, despite a very hectic and uncertain week of Brexit debates in London, Lord Ahmad ensured that he was able to keep his finger on the pulse of the negotiations and made time at the start of the talks to meet with me and again at the end of the talks to ensure sufficient progress was made.

Mr. Speaker, we now await the formal response from the UK Government and I look forward to successfully concluding the negotiations and to publish them and then bringing them on the floor of the House for consideration and debate.

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