



# Parliament of Sint Maarten

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## Staten van Sint Maarten

To the Honorable Members of Parliament  
p/a Wilhelminastraat 1  
**Philipsburg**

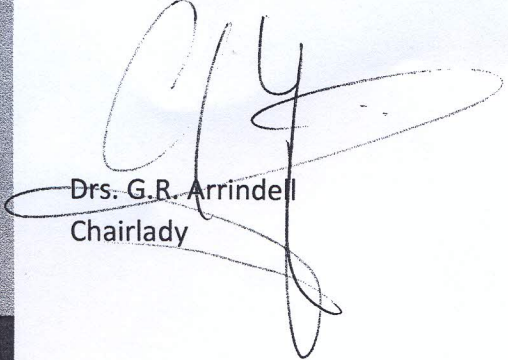
UV/063/2011-2012

Philipsburg, 9 december 2011

Re: Request new voting on the motion NA faction  
dd. November 17, 2011

Honorable Members of Parliament,

I herewith would like submit to you the advise on the request for a new voting on the motion of the National Alliance faction of dd. November 17, 2011. This request was made by MP William V. Marlin during the continuation of the Public Meeting no. 8, on Tuesday, December 6, 2011.



Drs. G.R. Arrindell  
Chairlady



An urgent public meeting (no. 7) of the Parliament of Sint Maarten, was convened on Thursday, November 17, 2011, at 14:00 hours, with as agenda:

Developments surrounding the dismissal of over 100 employees at one of the Resorts in Sint Maarten and the effects on the individuals in question and their families.

This urgent meeting was requested by the National Alliance faction, IS/084/2011-2012, d.d. 10 november 2011.

At the end of this meeting a motion was tabled (see attachment)

The motion was signed by:

William V. Marlin

Louie E. Laveist

George C. Pantophlet

Lloyd J. Richardson

Hyacinth L. Richardson

Frans G. Richardson

During the continuation of the Public Meeting no. 8, on Tuesday, December 6, 2011, after the Prime Minister gave the answers to questions as posed by the Members of Parliament in the first round, MP W.V. Marlin, requested a point of order and stated that during the voting on the above-mentioned motion, MP Jules C. James should not have been allowed to vote because of the stipulation of Article 53, paragraph 1, of the Constitution, which states:

The members of the Parliament shall refrain from voting on issues or appointments, including suspensions and dismissals, that personally affect them, their spouses, and their relations by blood or marriage up to and including the second degree, or in which they are involved as proxies.

(De leden van de Staten onthouden zich van medestemmen over zaken, benoemingen, schorsingen en ontslagen inbegrepen, die hen, hun echtgenoten of hun bloed- ook aanverwanten tot de tweede graad ingesloten, persoonlijk aangaan, of waarin zij als gelastigden zijn betrokken.)

The result of the voting on the motion was 6 votes For and 7 votes Against. So the motion was rejected.

According to MP W.V. Marlin, with the application of paragraph 1, of article 53, of the Constitution, the result of the voting would have been 6 votes For – 6 votes Against, therefore Parliament has to vote again on the motion in the next public meeting.

In the Rules of Order of this Parliament there are no provisions for situations like this. The question is whether there is a legal basis for the position taken by MP W.V. Marlin.

During the meeting no objections were made against MP J.C. James voting on the motion.

Article 51 nor elsewhere in the Rules of Order provide any basis for the procedure suggested by MP W.V. Marlin. Article 51, paragraph 5, regulates procedural matters in the event that a member errs during the voting process and allows the member to make a correction to his vote as long as such is done prior to another member having cast his vote. If the error is noted thereafter he can request that note is taken that he has erred. This however does not change the outcome of the vote.

### **Conclusion**

In the case of the motion of the NA faction and the vote of MP J.C. James there is no issue of a member having erred during the vote. However, where regulation by law is lacking and in as far as this situation can be considered analogous (naar analogie) to that of a member having erred in his vote, the result would be that the outcome of the vote does not change. According to article 51, paragraph 1, of the Rules of Order, note is then taken that MP J.C. James was allowed to vote in contradiction to the stipulation of the Constitution (article 53, paragraph 1).

After having discussed this matter in the Seniorenonvent of Thursday, December 8, 2011, it is concluded that the advise as formulated by the Secretaries/Griffiers concludes that there is no tie in the result of the voting, therefore the result of the vote remains the same.

Philipsburg, December 9, 2011

## DRAFT MOTION

The Parliament of St. Maarten, in its meeting of today, November 17, 2011

### CONSIDERING:

- The ongoing debate on issues surrounding developments at the Simpson Bay Resorts and Marina, whereby, following a recent court ruling, the general manager of the Simpson Bay Resorts Management Company, Mr. Jules James, has decided to immediately dismiss about 100 unionized workers;
- That the workers in question have been told verbally by the general manager, Mr. Jules James, that they were immediately dismissed, without giving them a valid reason and due notice in writing;
- That this action on the part of the general manager, Mr. Jules James, is a clear violation of the labour laws of St. Maarten;
- That the workers in question, some of whom have worked for the former Pelican Resorts for over 10 years, in permanent service, have been told, that in order to remain employed, they had to immediately sign a six months contract before they leave the premises;
- That these actions of the general manager of the Simpson Bay Resorts Management Company, Mr. Jules James, are clear examples of excessive abuse of power;
- That Simpson Bay Resorts and Marina and the Simpson Bay Resorts Management Company have been replacing the permanent workers with casual employees via so-called employment agencies, and that these new employees are offered work for often just 2 or 3 days a week;
- That this practice is aimed at eradicating permanent workers at the resort and circumventing the labour and social laws of St. Maarten and thus infringing on the job security of the workers;
- That the WIFOL labour union, representing the workers of the Simpson Bay Resorts Marina, has filed a court injunction against the decision of the appeals court, seeking for the dismissed employees to remain in their positions until the final ruling of the Supreme Court has been rendered on the dispute between Simpson Bay Resorts and Marina and their employees represented by WIFOL;
- That if the general manager of the Simpson Bay Resorts Management Company, Mr. Jules James, sticks to his decision to dismiss about 100 unionized workers, at the start of the 2011 – 2012 tourist season, this can lead to social and labour unrest in the country, which in turn can have a negative impact on the overall economy;

**RESOLVES:**

- To declare that the Parliament of St. Maarten is in solidarity with the dismissed employees of the Simpson Bay Resorts and Marina, and their struggle to secure continued permanent employment with the Resort;
- To denounce the actions of the general manager of the Simpson Bay Resorts Management Company, particularly the verbal dismissal of about 100 unionized workers and the replacement of these permanent employees with casual workers via so-called employment agencies;
- To call on the Simpson Bay Resorts and Marina and the Simpson Bay Resorts Management Company, to maintain all of its employees in their respective positions, pending the final ruling of the Supreme Court on the case between the Simpson Bay Resorts and Marina and the WIFOL union, representing the employees.
- To call on the government of St. Maarten to use whatever influence, powers and authority it might have to intervene on behalf of the dismissed workers at the Simpson Bay Resorts and Marina, and in the general interest of proactively maintaining peace, law and order in St. Maarten.

And goes over to the order of the day.

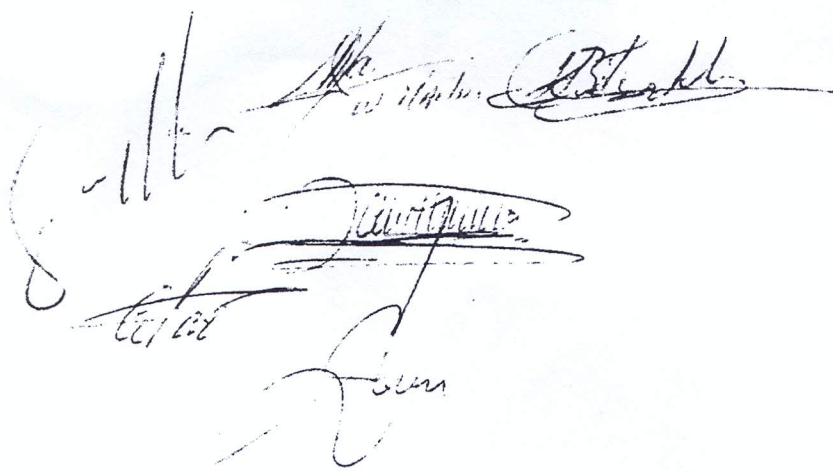
Copies of this motion to be sent to:

The Governor of St. Maarten

The Government of St. Maarten

The general manager of the Simpson Bay Resorts Management Company, Mr. Jules James

The President of the WIFOL, Mr. Theophilus Thompson

The block contains several handwritten signatures and initials. At the top right, there is a signature that appears to be 'J. James' and another signature that appears to be 'T. Thompson'. Below these, there are several other signatures, some of which are more stylized and difficult to read. There are also some initials, possibly 'G.M.' and 'T.P.', scattered throughout the block.