How do we solve the crisis?

Dear Editor,

After the constitutional crisis in Curacao last year towards the end of the Schotte cabinet, St. Maarten runs the risk of entering a crisis of similar dimensions. Two weeks ago eight of the fifteen Members of the St. Maarten Parliament terminated their support of the Wescoat cabinet. Since then there is insecurity about the status of the cabinet and the question is being asked whether the crisis of confidence would result in new elections.

Last week Thursday the Governor gave an overview of the developments in a public statement, which he also called on state holders “to do all that is necessary to maintain and protect the integrity of our constitutional democracy and to fight for it.” He was keeping with our constitution based on the rule of law.

Based on this statement, the Governor has been accused in the media and on the Internet of assuming a weak position, but that criticism is unjust. The Governor doesn’t have the authority to create a ministry independently. His role is only a facilitating nature. To start, the ball is in the court of the Ministers and Parliament. They have to solve the impasse themselves. The logical next question would be: What should they do?

St. Maarten has been an autonomous entity within the Kingdom of The Netherlands since October 10, 2010. The constitutional legislator of St. Maarten at that time was the Council of Ministers, which is a parliamentary system. Basis of the parliamentary system is that the government and the individual ministers must have the confidence of the majority in Parliament.

When a Minister or an entire Council of Ministers loses the confidence of the majority, they have to make their position available and resign. This rule is anchored in Article 22(2) of the Constitution. There can be absolutely no discussion about the nature of this rule which dictates the primacy of Parliament.

Members of Parliament, contrary to the Members of Government, have a direct mandate of the voters. They represent the people. That is why the view of the Parliament is decisive and that is why we can expect one or more Ministers home or the entire cabinet for that matter.

The current crisis needs to be solved also based on this key rule. This rule is clear on the direction. But the rule does provide some leeway. In my opinion, there is an ideal way that would be given preference for reasons of democratic hygiene, but it is by no means compelling.

To start with the beginning of the ideal way based on the May 6, 2013, letter in which three Members of Parliament withdraw their support from the current governing coalition and that will necessarily together with five other Members of Parliament, to form a new coalition, it is a fact that the four Ministers no longer enjoy the confidence of a majority in Parliament.

The lack of confidence can be determined in any form. A specific motion of no-confidence by Parliament is not mandatory. A letter like the one of May 6 is more than sufficient. Following this letter the four Ministers should have immediately made their positions available. Basically it wasn’t only about the lack of confidence in a number of individual Ministers: factually the current government coalition was eliminated.

Under those circumstances it is logical for the entire cabinet to resign in order to give Parliament the opportunity to look for an alternative from a zero-situation. The lame duck cabinet does have the right to dissolve the current Parliament and to call new elections. This way the electorate can express its opinion on the disagreement with Parliament. And so the dissolve is also a useful weapon to prevent Parliament from being quick to pull its support from a cabinet. It can resort in the weakening or even the non-returning of a party or an individual Parliamentarian. The confidence rule and the right to dissolve are two sides of one coin. Ultimately this will benefit the stability of the system.

The right to dissolve is a one-sided and un restrained right of the government. A lame duck cabinet isn’t compelled to dissolve the Parliament, but it can also refrain from doing so. The parties in Parliament are free to try forming a new coalition and govern until the completion of the entire four-year term of the Parliament. The cabinet has every right to give Parliament that space and to refrain from dissolving Parliament.

However, in my opinion, there is by now sufficient reason to bounce the ball back to the voter and to indeed dissolve the Parliament. For the second time in more than a year, the Members of Parliament are faced with the question whether the voters have to look on. The question is whether they, the voters, in 2010 intended to give Parliament a mandate for three successive cabinets of changing colour with mind, you, the same Prime Minister. That is not very credible and doesn’t strengthen confidence in the future. If the Parliament is so capricious, then it is time to go back to the voters.

The problem is that apparently different opinions reign in the cabinet. That is possible. But the question is where this should lead to. How can this impasse be broken? In my opinion, not by forcing through the dissolving decree against the wishes of the Prime Minister. The Prime Minister is not just anybody, but the “primum inter pares,” the figurehead, the leader of government.

A dissolving decree is an infringement on the regular term of Parliament and that should not be thought of lightly. There should be consensus on this within the cabinet. At least the Prime Minister should stand behind this. This is not a hard rule, but a matter of hygiene and decency.

To summarise: the ideal way, in my opinion, should be the resignation of the entire cabinet of Wescoat-Williams and preferably in a joint decision dissolve the Parliament and call new elections.

There is an alternative route if there is no support for this move, because the four Ministers who explicitly no longer enjoy the confidence of Parliament and the other members of the cabinet, including the Prime Minister, can by no means pass through one door. This alternative route looks like this: in any case the four Ministers who no longer have the confidence have to resign. If they re-take, they act in contravention of the Constitution and I consider the Prime Minister authorised, based on her special position and general responsibility, and on the exception of 40(2) of the Constitution, by all means to dismiss the Ministers in question.

In my opinion, the Prime Minister has this room, because it hasn’t become evident that she wouldn’t have the confidence of the majority of Parliament. So she still has a mandate. Clearly it is a mandate of a different majority, but it does provide sufficient ground to restart the system. The Prime Minister will have to give account to the Parliament for the functioning of her cabinet.

A rudimentary cabinet remains after the dismissal, consisting of the remaining Ministers. It is customary that the Ministers will also have to vacate their position and jointly decide whether they will proceed to dissolve the Parliament. As I stated before: there is a good reason to convoke new elections. But it is also the full right of the cabinet to refrain from dissolving the Parliament and to give Parliament the opportunity to install another coalition for the remaining part of their term. Ultimately it is again the turn of the voters late 2014. They can voice their opinion at the polls about this interim political performance. Either way, it is high time to straighten out the system.

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Opinion

Saturday’s Puzzle Solved

ACROSS

1. Ladder rung
5. Forme: urge on
10. Messy fellow
14. Congresmen’s-aged son
15. Claror
16. Skater Lipinsky
17. “Once in a while”
18. Disheartened and fed up
20. Nov’s follower
21. Ski lift
22. Way too big
24. Data thieves
25. Four qts.
26. Fancy bed’s choice: evening
27. Author of the book of poetry
28. Actor James of “Gunsmoke”
33. Extreme
34. Heroic tales
36. Feminine pronoun
37. Milk
38. Uncovered
39. Uncovered
40. Tornado and Hamun
41. Immature insect stage
42. Very cold management period
44. Leaked
45. Soft, symbol of affection
46. Mirage
47. Diminish
48. Lounge about
50. Wallaby
54. In; without excessiveness
55. Down; become quieter
56. Laboratory
58. Room
60. Make a tiny cut
61. City near Provo
62. Day and others
67. “By the time ...
71. Down to Phoenix”
73. Three kings of biblical fame
73. Anchor Joan
74. Crawler
75. Page of a book
76. 93rd Royal
77. 44th King
78. A doer’s waiter’s job
79. As a boil
80. 33rd Inquire
81. 35th Peruse

DOW N
1. Tater
2. Sticky strip
3. Concealed
4. Animal cage
5. Live in... be remembered for wickedness
6. Dams
7. Name for 12 poles
8. Suffix for host or count
9. Permit
10. Unchanging
11. Not punctual
12. Raw minerals
13. Commanded
14. 19th Red Dragon
15. Campus home
16. 25; what... lobo
17. Shift part that covers the wrist
18. Excuse
19. Grows older
20. 93rd Royal
21. 44th King
22. Give a helpful lift to
23. 73rd Kings of biblical fame
24. Anchor Joan
25. Crawler
27. 93rd Royal
28. 44th King
29. A doer’s waiter’s job
30. As a boil
31. 33rd Inquire
32. 35th Peruse
33. Three kings of biblical fame
34. Anchor Joan
35. Crawler
36. Page of a book
37. 93rd Royal
38. 44th King
39. A doer’s waiter’s job
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42. 35th Peruse
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Complete the grid so every row, column and 3 x 3 box contains every digit from 1 to 9 once usually.

Previous puzzle solution

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