

- [HOME](#)
- [ABOUT](#)
- [CONTACT US](#)
- [PHOTO GALLERIES](#)

SEARCH:

 Go

- [EDITORIAL](#)
- [ENTERTAINMENT](#)
- [FRENCH ST. MARTIN NEWS](#)
- [OPINION](#)
- [ST. MAARTEN NEWS](#)
- [ST. MAARTEN SPORTS](#)
- [UNCATEGORIZED](#)

Letter: Open letter to Roy Marlin

POSTED: 02/16/12 1:17 PM

Dear Mr. Marlin,

During the deliberations in a public plenary session last Monday you suggested based on Governor Holiday's letter that article 53 paragraph 1 of the Constitution of St. Maarten requires legal observance and review. While I still think that you misread the sentence and that our governor meant to say that the behavior of MP Jules James required your attention, I have decided to do you a favor and obtain an expert opinion on this issue for you.

I got in touch with Arjen van Rijn, who is a professor in Constitutional Law and Constitutional Reform at the University of Curacao. Prof. Van Rijn was so kind to explain in detail what the article is about and how Members of Parliament ought to deal with it.

Since you also indicated that there are sometimes discrepancies between Dutch legislation and its English translation, I offer you hereby Prof. Van Rijn's opinion in the Dutch language as well as my translation in English.

This is Prof. Van Rijn's take on the issue:

"De tekst van art. 53 lid 1 Staatsregeling Sint Maarten zegt dat leden van de Staten zich onthouden 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.

De tekst van het artikel is mijns inziens volstrekt duidelijk en zegt een aantal dingen.

In de eerste plaats is het woord "zaken" heel ruim. Dat betekent dat alle aangelegenheden die een

Statenlid persoonlijk aangaan hieronder vallen. Hier gaat het om het Statenlid Jules James, die meestemde over twee moties waarover ik in de pers lees: "The motions condemned James actions as general manager of the former Pelican Resort in Simpson Bay, the current Simpson Bay Resort and Marina, after he fired dozens of employees.". Mij lijkt buiten twijfel dat de moties daarmee een zaak betroffen die de heer James persoonlijk aangingen.

In de tweede plaats spreekt art. 53 lid 1 van "medestemmen". Daaronder valt alles wat in stemming gebracht wordt, dus zowel het stemmen over landsverordeningen als over moties. Hier ging het om twee moties.

Art. 53 lid 1 Staatsregeling is overgenomen uit de Eilandenregeling Nederlandse Antillen en heeft tot doel belangenverstremgeling tegen te gaan. In zijn algemeenheid geldt in dit soort gevallen dat zelfs de schijn van belangenverstremgeling behoort te worden vermeden. Het gaat tenslotte om de geloofwaardigheid van het parlement als vertegenwoordiging van alle burgers. Dat is een hoog goed. Individuele belangen van Statenleden mogen die geloofwaardigheid niet vertroebelen. Ze zitten er immers niet voor zichzelf maar voor hun kiezers. Een strikte naleving is dus op zijn plaats. In de parlementaire geschiedenis vind ik geen enkele aanwijzing dat op dit uitgangspunt onder bepaalde omstandigheden uitzonderingen zouden mogen gelden.

Dit alles betekent dat onder art. 53 lid 1 bij voorbaat elke situatie valt die ook maar in de buurt komt van het persoonlijk raken van een Statenlid. Naar mijn mening had de heer James zich in dit geval dus van stemmen behoren te onthouden."

For your convenience, this is my translation:

"The text of article 53 paragraph 1 Constitution Sint Maarten says that Members of the Parliament refrain from voting on issues, appointments, suspensions and dismissals included, that concern them, their spouses or their relatives by blood or marriage up to and including the second degree, or in which they are involved as proxies.

The text of the article is according to me absolutely clear and says a number of things.

In the first place the word "issues" is very broad. It means that all matters that concern a Member of Parliament personally fall under it. In this case it is about the Member of Parliament Jules James, who voted along on two motions about which I read in the media: "The motions condemned James actions as general manager of the former Pelican Resort in Simpson Bay, the current Simpson Bay Resort and Marina, after he fired dozens of employees." It seems to me without doubt that the motions were about an issue that concerned Mr. James personally.

In the second place article 53 paragraph 1 mentions "co-voting." Everything that is brought to a vote falls under this term, therefore voting on national ordinances as well as voting on motions. In this case it was about two motions.

Article 53 paragraph 1 Constitution has been taken over from the Islands Regulation Netherlands Antilles and its purpose is to combat conflicts of interest. In general even the semblance of conflicts of interest ought to be avoided. It is after all about the parliament's credibility as the representative of all citizens. This is a precious asset. Individual interests of Members of Parliament

are not allowed to darken this credibility. After all they are not sitting there for themselves but for their voters. A strict adherence is therefore called for. I do not find a single indication in the parliamentary history that on this point under certain circumstances exceptions should be permitted.

All this means in advance that every situation that even comes in the vicinity of personally affecting a Member of Parliament falls under article 53 paragraph 1. In my opinion Mr. James should have refrained from voting in this case.”

Mr. Marlin, I am happy that I was able to be of assistance. I trust you will take notice of this piece of unbiased expert advice, that you will share it with your colleagues, and that Members of Parliament will act accordingly in the future.

Regards,

Hilbert Haar,
Editor-in-Chief @ Today.