

# The Virgin Islands Consortium

## Gittens Claims New Majority Is Illegal, Calls For Session; Majority Responds With Stinging Rebuke

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Ernice Gilbert **May 16, 2019**



Before the two-day Senate session closed on Wednesday, Senator Marvin Blyden motioned for a resolution to reorganize the Majority caucus. Senator Kenneth Gittens, then-Senate president, immediately recessed the session, reappeared 45 minutes later and adjourned for the day. He also dismissed central staff, including media and transportation, leaving lawmakers stranded at the Earl B. Ottley Legislature.

That's according to new Senate President Novelle Francis, who on Wednesday afternoon spoke to The Consortium about what happened.

Now, in a letter sent to Mr. Blyden, the Majority leader, Mr. Gittens is calling for a Senate session to "do it the right way," and told The Consortium this afternoon that the account given to this publication by Mr. Francis was false.

"I didn't send home nobody for the day. They were dismissed from the floor because session was adjourned and they were to go back to their respective offices. They did not go home," Mr. Gittens said. He did not address how senators were left stranded if the drivers were not sent home.

Asked why the action to reform the Senate was not broadcast live if media personnel were still on the job, Mr. Gittens said, "It wasn't broadcast because session was adjourned. After session is adjourned, they can't reconvene a session just like that. That's it. If a new session is coming, we have to give the public a week's notice with an agenda and new session date. It's against the rules."

Mr. Gittens said when the motion for the resolution to reorganize was made by Mr. Blyden, he immediately recessed the session to do some research on the action to determine if it was allowed under Senate rules. Mr. Gittens reconvened the session 45 minutes later and immediately adjourned it, stating that his research led him to believe that the action was not part of the Legislature's rules.

Explaining his reasoning for the adjournment, Mr. Gittens said, "It was not on the agenda, first of all, and we had already met as a caucus to decide what's on the agenda. Me as a president solely don't decide what goes on the agenda. We agreed on what would be special-ordered according to the rules, which tells you a measure can be special-ordered on the floor once it has been discussed at least once in the committee of jurisdiction." Mr. Gittens said only items agreed upon prior to a session can be placed on the agenda, therefore, he contended, the action on Wednesday was illegal.

Asked whether the Majority couldn't change the rules, Mr. Gittens concurred, but he added, "There was no motion to wave the rules, which is another reason" why the move was illegal, he said.

The senator also confirmed that he terminated the Legislature's legal counsel, Earnest Morris, on Wednesday, but refused to say why. "Earnest Morris was terminated. I will leave it as such. It was a termination; he serves at the pleasure of the president."

Mr. Gittens said he's not attempting to stymie any change the Majority is trying to make. He said his only duty is to ascertain that the change is done properly. "If the majority wants to reorganize, then simply, professionally come to me and say we want to reorganize and I will relinquish the chair. The people of the Virgin Islands elected us to make policies to guide us and we should do things the right way," he said.

Mr. Gittens also expressed regret with the current state of affairs. "I'm tired and really disappointed that we have to put the people through this. We say we want progress, we talk about transparency and unity and what not, and this is just a setback for the people. I will rest assured that as long as I remain a part of the body -- president or no president -- I will do my part," he said.

Asked about remarks made by senators painting him as operating like a dictatorship, Mr. Gittens responded, "They need to justify what they're talking about with dictatorship,

because that's never been my style."

Mr. Blyden has responded to Mr. Gittens with a stinging rebuke, stating in a letter from the Majority that nothing done during the session was in violation of Senate rules. Below, the full response:

"I am in receipt of your correspondence, dated May 16, 2019, in which you state your desire, if I understand you correctly, to schedule a session to repeat the actions that were legally taken in Legislative Session on May 15, 2019 to reorganize the 33rd Legislature. Because your letter contains so many mis-statements that must be corrected for the record, I am compelled to do so point-by-point as follows prior to addressing your request:

1. Nothing that was done in re-organizing the Legislature violated the laws of the Virgin Islands, as interpreted time and time again by our courts, and I challenge you to provide a single provision of the V.I. Code or the Revised Organic Act of the Virgin Islands in the process. Additionally, the courts have made clear that the rules of the body are separate and distinct from the law, and that when it comes to the internal operations of the Legislature, no act of a majority of members will be scrutinized or interfered with by the courts except if a violation of law, not the rules, has occurred. I refer you to *Brown v. Hansen*, *Mapp v. Lawaetz*, and *Bryan v. Liburd* as the local cases which have firmly established this principle in the territory.
2. No rule or law was violated when Legislative Secretary Alicia Barnes reconvened the Second Session of the Legislature. Senator Barnes, as Secretary, was empowered by the Rules, as stated in Section 304, to act in the absence of the President and Vice-President, and she was clearly within her power to reconvene a Legislative Session that you had improperly adjourned.
3. The actions taken by the Legislature were entirely legal, and were properly documented and recorded by the Legislative Reporter on the floor. The only reason that the public was unable to view the proceedings of the reconvened session was because of your actions in ordering all central staff to absent themselves from the Legislative Chambers. I ask: What could the purpose of such an action have been other than to thwart the will of a majority of the members of the Senate and to prevent the Virgin Islands public from viewing the proceedings? In any case, there is no requirement—in our rules, the V.I. Code or the Revised Organic Act—that Legislative Sessions must be televised. Further, pains were taken to not only have a Legislative Reporter present and recording. We also took video recordings of the proceedings, which will soon be made available to the public.
4. You state in your correspondence that you ordered employees back to their workstations yesterday afternoon. However, the facts contradict your statement. I, along with all other members and staff of the Legislature, received a copy of the email (copy enclosed), sent by the Executive Director's Office on May 15, 2019 at 2:07 p.m., containing your directive that ordered, "ALL Central Staff to *remain* (emphasis added) off of the Legislative Floor." These employees included the Public Affairs Division staff who broadcast and record the sessions. We have no record of you rescinding this directive.

"Having corrected the record as it relates to the mis-statements in your correspondence, I now move to address your request for another session to effect the reorganization of the Legislature. First, there is no need to repeat an action that has already been legally

taken. Second, as of yesterday afternoon, you ceased to be the Senate President and as such have no authority to use the title in your correspondence or to convene and preside over a Legislative Session unless, of course, you are able to generate a petition signed by a majority of Senators. As such, there is no scenario, other than your garnering such a petition, for the convening of a Session under your direction to carry out your request. As such, your request cannot be granted."

See the response letter from the Majority below:

[Read the original document](#)

See letter from Gittens below:

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