

ORAL ANSWER TO QUESTION
ELECTORAL BOUNDARIES COMMISSION ON A REVIEW OF THE
BOUNDARIES OF THE CONSTITUENCIES 2009 - REPORT

The Leader of the Opposition (Mr P. Bérenger) (*By Private Notice*) asked the Prime Minister, Minister of Defence and Home Affairs whether, in regard to the Report of the Electoral Boundaries Commission on A Review of the Boundaries of the Constituencies 2009, he will state –

- (a) when a motion will be introduced in the Assembly in regard thereto and, in case it is approved, indicate if measures will be taken to ensure that no electors be disenfranchised, and
- (b) if a motion will be introduced in the Assembly for the inclusion of the islands of the Chagos Archipelago, Tromelin and St Brandon in such one of the Constituencies, as may be determined by the Electoral Boundaries Commission and as recommended in the Report and, if so, when.

The Prime Minister, Minister of Defence and Home Affairs (Dr. N. Ramgoolam):

Mr Speaker, Sir, I wish to inform the House that immediately after the Report of the Electoral Boundaries Commission on a Review of the Boundaries of the Republic of Mauritius was tabled at the National Assembly on 10 November 2009, I initiated a series of consultations with the Electoral Commissioner and the State Law Office to discuss the implications of the Report.

As the House is aware, at paragraph 13 of the Report, the Electoral Boundaries Commission draws attention to the consequential implications of adoption of the Report.

One important point that I would like to draw the attention of the House to, is that the new constituency boundaries recommended by the Electoral Boundaries Commission will only take effect after the dissolution of the National Assembly.

Mr Speaker, Sir, at page 38 of its Report, the Electoral Boundaries Commission has outlined the implications on the right to vote of voters who will find themselves in constituencies different from those in which they presently vote if the new boundaries come into force. For example, a voter currently in Constituency A but moved to constituency B through the redefined boundaries, may be unable to vote in either of the two constituencies if the National Assembly Elections are held before 16 of August 2010, which is the date until which the current 2009 Register of Electors will remain in force and the reason is as follows -

Following the passing of a Resolution to give effect to the Electoral Boundaries Commission's recommendations as from the date of the dissolution of Parliament, the voter previously in Constituency A will no longer be eligible to vote in Constituency A because his residence will now be in Constituency B; he will also not be able to vote in Constituency B, because between now and until 16 August 2010, the voter's name will continue to be on the present electoral register in force for Constituency A and a new register including his name as a voter in Constituency B will only come into force after 16 August 2010 following the compilation of the new register. That is why the Electoral Boundaries Commission has recommended the taking of legislative measures to prevent the possible disenfranchisement of electors in the context of a pre-August 2010 general elections.

In the face of such complex legal and administrative issues arising from the recommendations, it would be unwise for Government to rush legislation and a resolution in Parliament without a thorough, dispassionate and extremely careful study of the implications and a rigorous preparation of the related legislative amendments, including any necessary, constitutional amendments.

Once this exercise is completed, a decision will be taken both on the passing of the resolution and the introduction of the related legislation.

Mr Speaker, Sir, I will now move to part (b) of the question. The House is no doubt aware that Tromelin, Cargados Carajos and the Chagos Archipelago including Diego Garcia form part of the Republic of Mauritius as stated in Section 111(1) of the Constitution. The Commission has recommended that those islands be included in such one of the constituencies as the Electoral Boundaries Commission may determine.

I will in due course introduce a motion in the Assembly in line with this recommendation of the Commission. It is considered that it would be more convenient for this motion to be moved on the same occasion as that of the passing of the resolution under part (a).

Mr Bérenger: Mr Speaker, Sir, of course, it is not my intention to get the hon. Prime Minister to rush on such matters but I am sure he is aware that the Constitution, the supreme law of the country, has it that a revision of the boundaries of the constituencies is to take place ten years, I quote the Constitution, "as near as may be after the presentation of the last report."

The last report was presented in March 1999. Therefore, we are already late and I won't go into the reasons. I am sure the hon. Prime Minister is aware also that in 1976 the then Prime Minister, Sir Seewoosagur Ramgoolam, presented a motion 11 days after the report was tabled. In 1986, the then Prime Minister, Sir, Anerood Jugnauth, presented a motion after 3 days but, in 1999, the present Prime Minister was the then Prime Minister presented a motion 9 months after the report was tabled. Today, it is the eleventh day after the report was tabled. The hon. Prime Minister can no longer do the same job as his father. But will he agree with me that without rushing it would be in the interest of the country that the motion on the report be before the National Assembly as soon as possible.

The Prime Minister: Let me say one thing, Mr Speaker, Sir, before I come to the second question that the hon. Leader of the Opposition is saying, that the report was laid, I think, in March 1999, and the motion was approved in December 1999, but the crux of the matter, what is important, Mr Speaker, Sir, is that the new register reflected the new boundaries, no one was disenfranchised, the report was approved and when the election was held in September 2000, no one was disenfranchised. So, even if there was a gap, it was approved.

(Interruptions)

I am talking about 1999. In any event the resolution will only take effect after the dissolution of Parliament, not before, and we have taken that on board.

Mr Bérenger: I am sure the hon. Prime Minister will agree with me that in case the motion to be presented by the hon. Prime Minister moves that the report be rejected, I am sure, he will agree with me that this would amount to a *motion de blâme* against the Electoral Boundaries Commission and will he agree, if that takes place, it brings us back to the present situation where it is three to one which is not at all in line with the Constitution? The biggest Constituency has three times more electors than the smallest. It would bring us back to that situation and we would have to wait another ten years...

Mr Speaker: The hon. Leader of the Opposition will have an opportunity to debate the motion when it is presented in Parliament.

Mr Bérenger: I am not pre-empting. That is the only place - since we do not meet secretly anywhere - where I can bring to the attention of the hon. Prime Minister, points which, I think, should be kept in mind. So, that is why I have put that question. Will he agree to keep that in mind when considering his stand on the motion to come?

The Prime Minister: I would tend to agree, Mr Speaker, Sir, that the hon. Leader of the Opposition is trying to pre-empt what we will decide and in any case, Parliament is supreme and sovereign, we will decide what to do. I said, I think, quite clearly, Mr Speaker, Sir, and, as the report says at page 38, when they talk about the consequential implications of the adoption of the report, they do say, and I did say, Mr Speaker, Sir, that there are complex legal and administrative issues that are being looked at, that are being worked out. I have talked to both the Electoral Commissioner and the State Law Office and they are actively looking into that. It is more complex than it appears at first hand. Once this is done, then we will come to the resolution.

Mr Bérenger: One last question, Mr Speaker, Sir. I am sure the hon. Prime Minister is aware that in 1976 when the first review report was presented to the Assembly, the then Prime Minister argued that some 100,000 electors will be disenfranchised. This time, the Electoral Commissioner, I am sure, after taking due legal advice, has added the comment which the hon. Prime Minister has referred to, whereas the report was rejected in 1976. Will the hon. Prime Minister agree with me that the situation is totally different this time?

The Prime Minister: I don't quite understand what the Leader of the Opposition means by 'the situation is different this time'. I am not quite following what he is saying.

Mr Bérenger: Insofar as in 1976, the Electoral Commission then didn't indicate a way out of disenfranchising a number of electors; this time, we are in a different situation because the Electoral Boundaries Commission has been one step ahead and made the recommendation.

The Prime Minister: That is true. I understand the point which has been raised. That is why I am saying, Mr Speaker, Sir, that as soon as the report was made available, I had meetings with both the Electoral Commissioner and the State Law Office and they are working precisely on this, because this is precisely our concern, that people should not lose their right to vote and we have to ensure that this is so.

Mr Dulloo: I have two questions, Mr Speaker, Sir, if you would allow. First, we know that Parliament would stand dissolved in July next year, that is, in just over seven months. Therefore, should not this Assembly be called upon to take a decision forthwith to ensure that those people who could be affected directly, if ever these recommendations would be put in place, be not kept in a state of confusion, uncertainty and ambivalence too long in order to ensure a free and fair election?

The Prime Minister: Mr Speaker, Sir, the hon. Member, I know, has never been Prime Minister ever, but he is a barrister, he knows very well – first of all, I think, up to July it is eight months, not seven months – that the lifetime of this Parliament, at least, has eight months, but the general election may be held within a period which may well stretch in 2011. The lifetime of the Parliament may well stretch because there is plenty of time.

(Interruptions)

There are eight months, not seven months; the hon. Member said seven months.

(Interruptions)

He is not listening to himself. On the contrary, if I do the election now, does he know what will happen to him?

(Interruptions)

Mr Speaker: Order now!

Mr Ganoo: Can I ask the hon. Minister since he has himself said that he has already had discussions with the Electoral Commissioner and the State Law Office, whether it is envisaged to amend the Constitution to render the new Boundaries Report effective?

The Prime Minister: Yes, in fact, when I had consultations, they are working on the legislative amendment, including the amendments to the Constitution, that needs to be brought.

Mr Dulloo: Mr Speaker, Sir, the hon. Prime Minister referred just now to my capacity as barrister, but may I just, as a Member of Parliament...

(*Interruptions*)

Mr Speaker: Yes, carry on! Order, please!

Mr Dulloo: May I just, as a Member of Parliament, refer him to section 39 of the Constitution defining Constituencies. Section 39 subsection 4 provides that if those recommendations were approved, the recommendations would have effect as from the next dissolution of Parliament, that is, all the delimitations or alterations of the Constituencies will come into effect as from the dissolution of Parliament, meaning that those people who are living in one particular Constituency and who would move to another Constituency, notwithstanding the Representation of the People Act section 4 which says that the date to be taken into account is 01 of January, automatically, by virtue of the Constitution which predominates over the Representation of the People Act, immediately those people who have already been registered as an elector would move to the relevant Constituency as per the Constitution and as per the law. To make sure and for certainty, if ever any amendment would be required, it would be the Representation of the People Act. Thank you.

The Prime Minister: This is precisely why I think hon. Ganoo asked the question whether it will include constitutional amendments.

Mr Bérenger: Just to clarify that point, I am not asking for the opinion, the legal opinion or opinion *tout court* of the hon. Prime Minister, but is he telling us that he is already advised by the State Law Office that there is a need for a constitutional amendment.

The Prime Minister: Yes, there would be need for constitutional amendment, that is my understanding, Mr Speaker, Sir.

Mr Ganoo: May I ask another question to the Prime Minister? We know the complexity of the issues. May I ask him whether he took cognizance of what SSR said during the debates in 1976 when SSR, at that time, just like the Prime Minister today, had highlighted all the

complexities and the intricacies of the problem. If you would bear with me, SSR said, at that time: 'matters would have been in order either if it was possible for the resolution to give retroactive effect to the recommendations with effect from 01 January, but this is not constitutionally possible'.

The Prime Minister: That is why precisely I said and I thought that is why the hon. Member asked the question and why hon. Dulloo also mentioned it that if that is the case we will bring constitutional amendments as well.

Mr Dulloo: May I, therefore, suggest to the Prime Minister that he immediately seeks...

Mr Speaker: The hon. Member should not suggest, he should ask questions.

Mr Dulloo: May I suggest and therefore ask him...

Mr Speaker: Put it in a question form!

Mr Dulloo: ... whether he would go by the suggestion that he should immediately seek constitutional expert advice before seeking to amend the Constitution?

The Prime Minister: Mr Speaker, Sir, let me just say to the House that I am a firm believer that the right of vote is sacrosanct, so does the Party I lead, Mr Speaker, Sir. May I remind the House that it is the Labour Party under the leadership of Sir Seewoosagur Ramgoolam, who was just mentioned, who gave the right to vote to adults including women, that is, the right to vote was given - they would not have been here if there was no right to vote – also to women through universal suffrage. And it is the same Labour Party, Mr Speaker, Sir, under the same Prime Minister, who gave the right of vote to the young people of this country at the age of 18. It is the same Labour Party, under my leadership, that enfranchised the inhabitants of Agaléga in 1998, I think, and who voted for the first time in the general election of 2000. The hon. Member should feel reassured that I take this very seriously and I don't want anybody to be disenfranchised.

Mr Dulloo: Mr Speaker, Sir, may I, therefore, in the light of this last reply given by the Prime Minister, ask him whether it was the same Labour Party that postponed the general election...

Mr Speaker: No, the question is not allowed.

Mr Dulloo: ... and abolished by-elections and it was the MMM which restored these elections.

(Interruptions)

Mr Speaker: I am sorry, I am on my feet.

(Interruptions)

The Prime Minister: I don't know where ...

Mr Speaker: I have not allowed the question.

The Prime Minister: You have not allowed the question, otherwise I would very gladly answer him the question because he is sitting there, he does not know the history of the MMM.

(Interruptions)

Go and learn the history of the MMM!

Mr Speaker: Order! Order! Order!

(Interruptions)

Mr Speaker: Order, order now! Enough!

MOTION

SUSPENSION OF S.O 10 (2)

The Prime Minister: Sir, I beg to move that all the business on today's Order Paper be exempted from the provisions of paragraph 2 of Standing Order 10.

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

(Interruptions)

Mr Speaker: Order! Order! Order! Leave it! Don't do that!

