

*Leave of Absence*

*Friday, July 05, 1991*

**HOUSE OF REPRESENTATIVES**

*Friday, July 05, 1991.*

The House met at 1.35 p.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, the Hon. Prime Minister (Mr. A. N. R. Robinson) and the Member for Fyzabad (Mr. Arthur Sanderson) have been excused from today's sitting.

**LIONS CLUB OF CHAGUANAS (INC'N) BILL**

Bill for the incorporation of the Lions Club of Chaguanas of Trinidad and Tobago, and for matters incidental thereto, brought from the Senate [*The Minister of Industry, Enterprise and Tourism*]; read the first time.

*Motion made*, That the next stage be taken at a later stage of the proceedings.  
[*Hon. Dr. B. Tewarie*]

*Question put and agreed to.*

**SELECT COMMITTEE REPORTS**

**Presentation**

**Dr. Anselm St. George** (*San Fernando West*): Mr. Speaker, I beg to submit the following reports:

**Institute of Internal Auditors (Inc'n) Bill**

1. Report of the Special Select Committee of the House of Representatives appointed to consider and report on a bill for the incorporation of the Institute of Internal Auditors of Trinidad and Tobago and for matters incidental thereto.

**Confederation of African Association (Inc'n) Bill**

2. Report of the Special Select Committee of the House of Representatives appointed to consider and report on a bill for the Incorporation of the Confederation of African Association of Trinidad and Tobago.

**Caribbean Forest Conservation Association (Inc'n) Bill**

3. Report of the Special Select Committee of the House of Representatives appointed to consider and report on a bill entitled for the Incorporation of the Caribbean Forest Conservation Association.

**ORAL ANSWERS TO QUESTIONS****International Monetary Fund**

- 46. Mr. Patrick Manning** (*San Fernando East*) asked the Minister of Finance: Would the Minister kindly state whether the Government intends to approach the International Monetary Fund (IMF) for a third Stand-By Agreement?

**The Minister of Finance (Hon. Selby Wilson):** Mr. Speaker, the Trinidad and Tobago relationship with the International Monetary Fund was clearly stated in my 1991 Budget Speech and I quote:

"Mr. Speaker, on the basis of our medium-term balance of payments projections, there appear to be no external financing gaps, and therefore no need for short-term balance of payments support from the International Monetary Fund. Consequently, we will not be entering into a third Stand-by Arrangement with the IMF. Our relationship with the Fund will now resort to annual Article IV consultations, required by all Fund Members in accordance with the provisions of the Fund's Articles of Agreement."

The situation remains the same.

**Mr. Manning:** Mr. Speaker, on that very occasion, to which reference has just been made by the hon. Minister, he also indicated that the Government did not propose to draw down on the third and fourth tranches of the second stand-by facility. Subsequently, they indicated that they had drawn down on that. I am wondering, in light of that situation, whether the Minister has reviewed the statement that he has made in the budget of 1991 in respect of the third stand-by facility.

**Mr. Wilson:** Mr. Speaker, I do not know what his difficulties are.

**Mr. Karl Hudson-Phillips**  
(Legal Briefs)

- 47. Mr. Patrick Manning** (*San Fernando East*) asked the Attorney General: Could the Attorney General kindly state:

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- (a) What briefs for legal services were given by the state to Mr. Karl Hudson-Phillips, from January 1987 to date?
- (b) What is the amount of fees agreed upon in respect of each briefs?

**The Attorney General (Hon. Anthony Smart):** Mr. Speaker, the following are briefs together with fees agreed for legal services given to the state by Mr. Karl Hudson-Phillips, Senior Counsel, from 1987 to date:

Year	Briefs for Legal Services	Fees agreed upon
1987	Attorney General vs James Alva Bain—Judicial Review	\$19,656.00
	Re Extradition of Dennis Davidson from Florida	\$17,918.83
	Bolton & Others vs Tesoro Inc. of the USA.	\$76,416.08
1988	Re: Conferences held with Earnest Senior in respect of negotiations concerning the acquisition of the <i>MF Panorama</i>	\$2,500.00
1990	Lennox Phillip vs DPP and the Attorney General (This concerns the Jamaat)	\$133,000.00

A motion under section 14 of the Constitution of Trinidad and Tobago.

The State vs Lennox Phillip  
and Others (Preliminary  
Enquiry)

The matter is continuing, so one would expect that further requisitions for fees will be presented as we go along.

It is important to note, as I have said, that is the only matter for 1990—1991 in which Senior Counsel has been briefed.

During the period 1987 to date, the fees earned by Mr. Karl Hudson-Phillips, Senior Counsel, for legal services provided to the State were 9.1 per cent of the total fees paid by the state to attorneys-at-law in private practice for legal services rendered during the said period.

**1.45 p.m.**

The following are the numbers of Attorneys-at-law in private practice who received the fees from the State for legal services rendered from 1987 to date.

Year	Number of Attorneys-at-law
1987	9
1988	14
1989	8
1990	12
1991	14

**Mr. Manning:** Do these fees represent the total sums paid to the learned Attorney in respect of legal services provided to the state?

**Mr. Smart:** He is asking whether the fees represent the total sums paid—that was the question he asked. I have already given the answer. The learned attorney was briefed in certain matters for the state. He performed services and he was paid fees in accordance with his requisitions presented.

**Mr. Theodore Guerra  
(Legal Briefs)**

**48. Mr. Patrick Manning** (*San Fernando East*) asked the Attorney General:

Would the Attorney General kindly state:

- (a) What briefs for legal services were given by the State to Mr. Theodore Guerra, the Member of Parliament for Port of Spain South from January 1, 1987 to date?
- (b) What is the amount of fees agreed upon in respect of each brief?

**The Attorney General (Hon. Anthony Smart):** The following briefs, together with fees agreed for legal services were given by the Director of Public Prosecutions to Mr. Theodore Guerra from 1987 to date.

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Year	Briefs given by the State for Legal Services	Fee
1987	ASP Williams vs Patrick Jagessar for corruption receiving a Toyota car. Preliminary Inquiry	\$55,000.00
	ASP Williams vs. Patrick Jagessar and Others for corruptly receiving \$456,000 Preliminary Inquiry	\$65,000.00
1988	ASP Williams vs Patrick Jagessar and Bhola Nandlal for conspiracy	\$55,000.00
	State vs Bhola Nandlal and Seechandra Ramhit for conspiracy to pervert the course of justice	\$47,500.00
	State vs. Patrick Jagessar for corruption	\$35,000.00
1989	Patrick Jagessar and Bhola Nandlal vs The State Appeal against conviction for conspiracy.	\$93,000.00
	Cpl. Campbell vs Dennis Davidson for forgery Preliminary Inquiry	\$85,000.00
	Cpl. Campbell vs Ken Beharry and Indarjeet Ramparansingh for conspiracy. Preliminary Inquiry	\$115,000.00
1990	Supt. Alleyne vs Lennox Phillip and Others Treason	\$178,750.00 (To date)
	Patrick Jagessar Application for bail pending appeal	\$3,500.00
	Criminal Appeals: Patrick Jagessar vs the State Bhola Nandlal vs. the State and Seechandra Ramhit vs the State for conspiracy to pervert the course of justice.	\$15,000.00
	Total	\$329,250.00

You will note that with the exception of the Jamaat matters involving Lennox Phillip and others the briefs related to matters involving corruption of some sort as, I have indicated, all involved criminal prosecutions.

Mr. Guerra has been practising as a criminal lawyer in the courts of Trinidad and Tobago for approximately 30 years. During the period 1987 to date, the fees earned by Mr. Guerra for legal services provided to the State were 16.85 per cent of the total fees paid by the state to attorneys-at-law in practice for legal services rendered during the said period. I have already given the figures earlier on for attorneys-at-law in private practice who were briefed by the state.

In addition, I would like it to be noted that Mr. Guerra appeared free and without charge on behalf of the state in the Port of Spain Third Assizes Court during May 1988 before Mr. Justice Anthony Lucky. In addition, he is now engaged free of charge, in the prosecution of Cpl. Campbell vs Palmer and Lewis for larceny—The Central Bank, and Sgt. David vs. Carl Hoi Pong for embezzlement Inland Revenue. The preliminary inquiries are continuing into these two matters.

**Mr. Manning:** Could the hon. Attorney General give us the date on which Mr. Guerra was retained free of charge and the latest matter to which reference has been made?

**Mr. Smart:** I do not have the exact date here. I do not know if the Member for San Fernando East—he is a little jumpy these days—would give me a chance to answer the question. My recollection is that Mr. Guerra offered his services and his services were retained free of charge approximately two years ago.

I hope that these answers would bring an end to all the unfortunate innuendos and attacks which have been made on Mr. Guerra and Mr. Hudson-Phillips in respect of matters for which they have been properly retained as lawyers in private practice. I hope I will not hear a further word either from the front benches or the back benches of the Opposition from now on. Thank you.

#### TRINTOMAR'S BLOWOUT

**The Minister of Energy (Sen. The Hon. Herbert Atwell):** Mr. Speaker, I wish to update Members of this honourable House on the status on the Pelican gas/condensate field development project of Trintomar, with specific reference to the blowout which occurred on the Pelican platform at 6.00 p.m. on April 30, 1991 and the consequences and financial implications which face us.

Hon. Members will recall that drilling commenced on the Pelican 'A' platform on August 27, 1989 and since that time seven wells have been drilled.

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Of the seven wells, five were producing prior to April 30 1991. The average production rates for the month of April, 1991 were:-

Gas	110.38 mmcf/d
Condensate	6,662 bpd

The total expenditure on the project as at March 31, 1991 was US\$149.2 million which reflected an increase in the budgeted cost of US\$19.317 million. According to Trintomar, the cost overruns in the drilling of the seven wells were due to:

1. The need to drill a replacement well for PA-1.
2. The difficulties encountered in the drilling of well PA-3 to a depth of 19,200 feet.
3. The increase in the average well depth of the first six wells from 15,000 to 17,500 feet to achieve revised geological targets.

The estimated total cost of the blowout including cost of production is as follows:

Cost to control PA-4x re-drill PA-4x and PA-7	Mn	TT \$
		38.72
Estimated deferred Income during shut-in period		29.33
Total		\$68.05

This matter is receiving the attention of the insurers.

### **1.55 p.m.**

The Minister of Energy received two reports on the incident, one from the Ministry of Energy and the other from Trintomar, as a result of which he directed the shareholder companies' Chairmen to submit their own report. All reports were received and presented to the Cabinet on June 13, 1991.

To date, Mr. Speaker, the project has not proved up the quantum of gas reserves required by the loan agreement and what is necessary for the satisfaction of the NGC sales contract to the year 2004. However, this matter of the evaluation of reserves is being pursued with the company Deloyler and MacNaughton, the financiers' engineering consultants.

The loan agreement provides for project completion by December 31, 1991. This means that a target of six wells capable of producing 158 million cubic feet per day for seven days must be achieved. The recent accident emphasizes the

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need to do everything possible to accomplish this. In addition, immediate steps must be taken to deal with our gas availability and gas demand during the next five years, at least. In the circumstances, therefore, the mandatory rescheduling clauses of the loan agreement and project completion requires specific monitoring.

Until project completion, the shareholder companies have a contingent liability with respect to Trintomar. Until both project completion and the issuance of a Reserve Certificate, both NGC and Trintoc remain exposed with respect to any shortfall in Trintomar's loan payment; NGC, through its assignment of its sales proceeds from Tringen sales, Trintopoc and Trintoc, through a U.S. \$24 million letter of credit.

Mr. Speaker, with the exception of one well which was put back in production after three days for reasons of safety, the platform was shut in for 19 days on the instructions of the Ministry of Energy. The platform was in effect, therefore, shut in for more than three days as reported. Production resumed on Sunday, May 19, 1991. Three wells are now producing instead of five at a total average production of 80.3 millimeter cubic feet per day and 3,448 barrels of condensate as compared with 110 million cubic feet per day and 6,662 barrels of condensate before the incident. These facts, Mr. Speaker, do not require comment, except to reemphasize the need for immediacy.

The drilling of one well, Mr. Speaker, into a producing well is an extremely serious matter which calls for careful investigation and follow-up action. We must take all the necessary steps to ensure that project completion is achieved by December while, at the same time, assessing independently all of the economic and technical matters for the operational modes of the project.

Accordingly, Mr. Speaker, the Cabinet has decided that:

1. Independent consultants be engaged to determine whether technical matters, including such matters as reprocessing of seismic data, siting of platform, existing quantum of reserves, et cetera, need to be reviewed.
2. To establish a team of officials to determine gas availability in relation to gas demands for the future, bearing in mind the long lean times required for bringing new gas fields into production. The team is expected to resubmit its report within six weeks.



3. Based on the recommendations of the shareholder companies, the Board of Trintomar is to be reconstituted as follows:
1. Mr. R.C. Dash                      Chairman
  2. Mr. L. Alexis                      Financial Manager  
(Trintopec)
  3. Mr. R. Corie                      Corporate Planning  
Manager (Trintopec)
  4. Mr. M.D. Lutchman              Exploration Manager  
(Trintopec)
  5. Mr. K. Awon                      General Manager  
Operations (Trintoc)
  6. Mr. W. Bertrand                Divisional Manager  
(Trintopec)
  7. Mr. D. Sanka                      Financial and Accounting  
Manager, (NGC)
  8. Mr. P. Hamel-Smith            Attorney-at-law,  
Director, (NGC)

Two more appointments will be made to the Board.

4. The reconstituted board, Mr. Speaker, will make the necessary management changes to effect the shift of the project to an operational mode. It has taken some time to present this report, Mr. Speaker, but hon. Members will appreciate that this matter necessitated thorough analysis and investigation before an informed public statement could be made. Inquiries and investigations are continuing, and the new shareholder company chairman will meet the new board regularly and submit reports to the Minister.

Thank you very much.

**FAITH CENTRE BILL**

*Question put and agreed to, That the Faith Centre Bill, 1989, be now read the first time.*

*Bill accordingly read the first time.*

**CHILDREN (AMDT.) BILL**

Bill to amend the Children Act, Chap. 46:01, [*The Minister of Social Development and Family Services*]; read the first time.

**EVIDENCE (AMDT.) BILL**

[SECOND DAY]

*Order read for resuming adjourned debate on question [July 01, 1991]:*

That the bill be now read a second time.

*Question again proposed.*

**Mr. Patrick Manning** (*San Fernando East*): Mr. Speaker, I just rise to make a brief comment on the bill. The Government was kind enough on the last occasion to defer continuation of the debate on the bill to permit a more careful study of the bill by those of us who did not anticipate it would come up at the last Sitting. Having done so, Mr. Speaker, I just wish to indicate that we, on this side of the House, support the provisions of the bill.

**Mr. Raymond Palackdharrysingh** (*Naparima*): Mr. Speaker, the purpose of this amendment of the Evidence Act is to exempt the spouse of the person charged with an offence from the rule that the former is not a compellable witness against the person so charged, and that is stipulated by section 12 of the Evidence Act. This exemption is presently provided for by section 13 of the Evidence Act to cover those offences specified in the First Schedule of the same Act, namely: Offences Against The Person Act, sections 31, 34, 35, 36, 37, 38, 39, 40, 45, 46, 47, 48, 49, 55 and 61, and against the Summary Offences Act, section 45(a). Mr. Speaker, these are known as the personal violence offences.

The amendment will allow for the exception to the above rule to be extended, to apply to the offence under the proposed Domestic Violence Act by adding this Act to the First Schedule. It must be noted that at common law, a spouse of a party to either civil or criminal proceedings, was incompetent to testify for or against him, whether the evidence related to matters occurring before or after the marriage. With reference to the spouse giving evidence for the party charged, the Evidence Act of Trinidad and Tobago, section 13(6), now allows such spouse to be a competent witness for the accused, provided that the person so charged made an application. However, the spouse cannot give evidence against the person so charged except if the charge was one under the First Schedule—that is, under section 13(6)—of the Evidence Act, Chap. 7:02.

Mr. Speaker, this common-law rule is based on the theoretical unity of the spouses, the interests of the spouse in the outcome of such proceedings, and the likelihood of the spouse being biased if the outcome is in favour of the accused.

In the United Kingdom, the Police Criminal Evidence Act, 1984, has removed this exception of competence and adopted the Criminal Law Revision Committee Report. This report stated that the problem should be seen as one of balancing the desirability that all available and relevant evidence should be before the court against the objection on social grounds to disturbing marital harmony, and the harshness of compelling one spouse to give evidence against another. The 1984 Act, therefore, adopted this committee's view, provided that in any proceedings the wife or husband of the accused shall be competent to give evidence, with the exception of where they are jointly charged.

In the United Kingdom, therefore, in the 1984 Act, the spouse has become a competent witness against the party charged, but the question of compellability is still confined to the case of personal violence. In Trinidad and Tobago, the spouse is not competent nor compellable to give evidence against the accused, with the exception of the personal violence offences specified under the First Schedule. The spouse, however, is a competent witness to give evidence for the accused if the latter consents. The issue is, therefore, should Trinidad and Tobago move in the direction of the United Kingdom and make the spouse a competent witness in all cases and a compellable witness in the case of personal violence?

**2.10 p.m.**

Mr. Speaker, it is felt by many that after a long and complicated, and thoroughly unsatisfactory process of development, the modern law on the topic of competence and compellability of spouses to give evidence has been greatly simplified by the Police and Criminal Evidence Act of 1984 in the United Kingdom. Section 80(3) provides as follows:

"In any proceedings the wife or husband of the accused, subject to subsection (4) below, shall be compellable to give evidence for the prosecution on behalf of any person jointly charged with the accused if, and only if:

- (a) the offence charge involves an assault on, or injury or threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of 16;
- (b) the offence charge is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age;
- (c) the offence charge consists of attempting and conspiring to commit or of aiding, abetting, counselling, procuring, or inciting the commission of an offence falling within paragraph (a) or (b) above."

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This amendment today is merely clearing the way for spouse competency as a witness in cases of personal violence, in spite of some of the old statutory provisions. I now ask the question: What is the justification for not pursuing the course as adopted by the Police and Criminal Evidence Act 1984 of the United Kingdom? Is there an understanding in our law that competency implies compellability? If it does not imply compellability, then where is the teeth in the Evidence Act with respect to domestic violence? Are we simply allowing the spouse a choice, and for what reasons? Would this choice not be, in effect, to subvert the rule of criminal law, in that the consent of a spouse is no defence to a charge of assault upon the spouse? Because of the pervasiveness of violence in the society, for whatever reason, can we not see that where one spouse has used such violence against the other as to be charged with it, there can be little confidence that the victim's choice not to testify has been inspired by marital affection rather than by fear?

I wonder why others hold the view that it is generally unsatisfactory to compel witnesses to testify against their will, and repugnant to compel a woman or man to testify, unwillingly, against his or her spouse. If there is no compellability on the part of witnesses against spouses, then we have wasted much time in this Parliament; we would be wasting much police time; and we would be subverting the course of criminal justice by allowing the victim, as a witness, the choice of testifying against the spouse.

There may be a great number of reasons for domestic violence. Those who are perpetrators of domestic violence may be in need of counselling, psychiatric care, and even rehabilitation. It is my view that to allow the victim of criminal personal violence the choice of decided compellability, is an act of negligence and irresponsibility of this House, firstly to the perpetrators and then to the society. In cases where the victims opt not to testify against spouses, there would be a tendency towards a high incidence of recidivism and we would be back to square one.

Mr. Speaker, it is my view that witnesses, particularly victims, in the case of domestic violence must be compelled to give evidence. It would permit the would-be family court to determine the nature of the offences and the appropriate solutions or penalties. It is no use our arguing that over 30 per cent of our people are committed to the jails because of domestic violence, and yet there is no fine-tuning to the mechanism aimed at assisting the perpetrators to kick their anti-social habits.

I am advocating that the Evidence Act, Chap. 7:02, should not just be amended to include the Domestic Violence Act in the First Schedule of the said Act, but should be so amended to make the spouse of the accused charged with acts of personal violence, as set out in the First Schedule of Chap. 7:02, to be both a competent and compellable witness for the prosecution. The underlying reason includes the public interest in the scrutiny, rehabilitation or punishment of each perpetrator. Compellability would also counter intimidation by the accused on such victims as their spouses.

It will be noted that the United Kingdom Act, section 80 of the Police and Criminal Evidence Act 1984, makes the spouse compellable in cases where the specified offence was against children under the age of 16 who belonged to the same household of the accused. This was based on reasons such as:

1. Such offences are of a serious nature.
2. The wife or husband may be reluctant to testify against the accused.
3. Difficulty in proving the offence in the absence of evidence from the spouse, since such crimes are usually committed within the household.
4. The fact that in many cases of violence against children, the spouse of the accused has acquiesced in the offence.

This Government has once more revealed its spurious nature by absconding from its responsibility to give teeth to the amendment.

The First Schedule of the Evidence Act, Chap. 7:02, must not only be amended so as to allow a husband or wife of a person charged under the Domestic Violence Act, 1991 to be called as a witness, but also must be amended so that they be called as witnesses for the prosecution or defence, in terms of being compellable witnesses.

Mr. Speaker, I therefore give notice of an amendment that should be in the first column of section 13. In the second column in subsection (b), insert after the word "charged" in the fourth line, "and shall be a compellable witness".

Thank you very much.

**2.20 p.m.**

**The Minister of Social Development and Family Services (Dr. The Hon. Emanuel Hosein):** Mr. Speaker, first of all, permit me to thank all the hon. Members who spoke on this bill. I must confess, the fact that we had as many

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contributions as we did, caught me a bit by surprise. Had I recognized, early enough, some of the misunderstandings which obviously exist about this bill, I would have been at greater pains in my original presentation to be sufficiently clear so that all Members would have understood the exact objective of this bill. I think I need to deal with that a bit more explicitly.

I know the Member for Oropouche is absent, but in his very brief presentation he seemed to have taken some kind of objection to the bill on the grounds that it was a question of a three-fifths majority. Again, unfortunately, I find myself accusing the Member for Oropouche of having failed to even read the bill. Had he done so, he would have recognized that there is no question of a constitutional majority, by any means. This requires a simple majority, and it is a rather simple amendment to the Evidence Act, Chap. 7:02.

The Member for San Fernando East caught me even more by surprise when he begged for time—if that is the right way of putting it—because the Evidence (Amdt.) Bill had been on the Order Paper as long as the Domestic Violence Bill itself. So his plea for time, because he was caught unaware, as he put it, even this afternoon, in fact, really caught me by surprise. *[Interruption]* As I was saying, when I was so pleasantly interrupted, I was caught a little bit by surprise by that plea from the Member for San Fernando East.

I know we are dealing here with the competence of witnesses; I did not know that the competence of the Leader of the PNM was in question. He raised some doubts about the question of competence, on a bill that was on the Order Paper for nearly five or six weeks and a rather simple matter. However, it would appear that between the last sitting and today, he sought the simple advice that I thought he would have sought over all the weeks, he came here this afternoon and said yes, he intends to support the bill, for which I thank him. I appreciate the support. I am sure now that he has had some advice, the kind of advice that he purely did not get on the previous bill, and which the Member for Laventille obviously sought—I do not know if there is a battle for leadership on the other side. I know I have no vote in that matter, but if I had, I would vote for the Member for Laventille—purely on the basis of competence.

I then heard this afternoon from the Member for Naparima, my erstwhile successor in the seat of Naparima. I do not know if, like me, he is going to seek another seat. Naparima has always been a good training ground for Members in this House. I wish him well. I did my best to ensure that he was the one who replaced me in Naparima.

The Member for Naparima, as is his wont, went on and on. I was surprised that so many Members of the House remained awake. I am not suggesting, in the least, that the Member did not have a right to go into all the principles involved in the whole question of evidence and the bill. All that he said for the first part of his contribution can be summed by saying that he was suggesting that we, in Trinidad and Tobago, should attempt to move in the direction of a more modern law relating to the whole question of competence and compellability of witnesses. He raised the entire range of issues involved in the giving of evidence in our courts.

I do not want to appear, in the least, to be disagreeing with my hon. friend from Naparima. His view is appropriate. I am not a lawyer, nor am I the Attorney General. I am in no position to give him an undertaking that we will move in the direction which he has suggested. What I will inform him and the honourable House is that the matters that he raised here this afternoon—and for a moment there while he was making his contribution, I was tempted to shout “author”. But he clearly has been advised on the whole matter. As I said, I do not want to give an undertaking that we will move in that direction, but it was in the other place where similar points were raised that I gave an undertaking to refer this entire matter, the broader issues he raised, to the hon. Attorney General for careful consideration by the Government. I want to assure the hon. Member for Naparima that those broad issues he raised about competence and compellability, of witnesses in general, will be referred to the Attorney General for careful study. He also went on to advocate compellability. He served notice of amendment.

Let me start at the beginning and remind hon. Members that the amendment to the Evidence Act that is before us today, was brought to the House purely in the context of tying up the loose ends on the Domestic Violence Bill, and no attempt has been made to conduct a general review or amendments to the Evidence Act in its entirety. So that the reason we are here this afternoon is merely to do the tidying up. Indeed, at one stage there was a suggestion that this consequential amendment to the Evidence Act could well have been included in the Domestic Violence Bill itself.

We were advised that the approach of going with two separate bills may be the better way to go. The first point I am trying to make is that this bill to amend the Evidence Act, was brought only to tie up the loose ends on the Domestic Violence Bill. The general review recommended by the Member for Naparima, we are willing to conduct, and I will undertake to raise these matters with the hon. Attorney General. I will certainly refer the contribution of the Member for

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Naparima to the Attorney General insofar as he has expressed specific views on these broad matters. I give him that undertaking freely, and I want to assure him that I will adhere to that.

What we are attempting to do here is to make a spouse competent for those acts in the Domestic Violence Bill. But I need to remind hon. Members that when we go through the list of domestic violence offences, we recognize that they are all criminal offences in the first place, and therefore, are already covered in the existing Act. The only new criminal offence created by the Domestic Violence Bill is, in fact, the breach of a protection order. So that the only reason we had to bring this bill in the first instance, was to take care of the instance of breach of a protection order, because all the other offences are already criminal acts and in those circumstances a spouse is already competent. So by putting the domestic violence offence on the First Schedule of the Evidence Act, we are, in fact, only adding to the total list by one, that is, breach of a protection order.

**2.30 p.m.**

Now, the question of compellability. I thought that the Member for Naparima, when I heard him going on and on, would have mentioned the one thing that has been raised in other places, and that is the fact that we are making spouses—and here we mean, legally married persons—competent but not compellable. But the bill covers common-law relationships and other relationships and all those parties are, in fact, compellable. So that if there is any anomaly here, it is that we are not making legally married spouses compellable, whereas everybody else, all of whom are covered in the bill; parents, grandparents, common-laws, *etc.* They are already compellable.

The Government, while considering the matter of making spouses compellable in the circumstances, felt that we ought not to go that far, at least on this occasion.

**Mr. Palackdharrysingh:** Mr. Speaker, would the hon. Minister tell me what is the position with respect to persons in this country who have more than one wife?

**Dr. Hosein:** I believe such persons are criminals.

*[Laughter]*

**Mr. Manning:** Mr. Speaker, let me advise the Minister that they may be Muslims.



**Mrs. Donawa-McDavidson:** Mr. Speaker, I would like them to know that they may also be Christians.

**Mr. Palackdharrysingh:** Mr. Speaker, this matter is not a joke because people govern their lives by serious theological considerations and this does not mean to cast aspersions on other people. They are undergirded by certain ethical values and philosophies of sacred books and it is a serious matter that has to be addressed.

**Dr. Hosein:** Mr. Speaker, I really do not want to get into a religious war going on between the Member for Laventille and the Member for Naparima, except to say that I have a background that is both Muslim and Christian and I know enough to know not to get into that battle.

**Mr. Palackdharrysingh:** You have to deal with it.

**Dr. Hosein:** First of all, let me just respond quickly by saying that, as far as I am aware, if one has more than one married wife, that makes you a bigamist and subject to the law, to begin with, and I have no comment to make on those who have, what is loosely referred to as “deputies.”

The point I want to make is that in pursuit of tying up the loose ends on the Domestic Violence Bill, the Government, in fact, considered the question of compellability and thought that it was a broader issue which ought not to be introduced through the agency of the Domestic Violence Bill. It is an issue. The Member for Naparima has already advocated that we move in a particular—what he referred to as “modern direction” on the whole question of competence and compellability of witnesses.

I am not in an argument with him on that. What we are saying is, on this occasion, where we are merely attempting to tie up the loose ends of the Domestic Violence Bill, we have—and I am prepared to say this much—shied away from that broader issue, rather than to get into it on this occasion. I agree it is an issue.

I just want to remind hon. Members of one point which the Government had regard to when, in fact, reconsidering the entire issue of domestic violence—and which is very relevant, now that we are considering this amendment—and that is, if you make—or let me put it this way—one of the considerations in the Domestic Violence Bill is to preserve relationships and when things happen between two persons who are married and these matters go to court or get into the criminal realm, the relationship is threatened.

*Evidence (Amdt.) Bill*  
[HON. E. HOSEIN]

*Friday, July 05, 1991*

We were extra cautious to do all that we could—in both the Domestic Violence Bill and this Evidence (Amdt.) Bill—not to create a situation which, once these laws are invoked, precipitates a fracturing of the relationship. It was for this reason that we bent over backwards and introduced the concept in the Domestic Violence Bill of counselling and other mechanisms to ensure that now that a relationship is in court over whatever the issue was, that we did not bring about a situation where we almost precipitated a break-up. That also has consequences.

If you make spouses compellable—I merely draw it to the attention of the House, not necessarily as a reason to, because this was not the reason for bringing this Bill, but it is a consideration—and that is, you are saying that once the police come into it, if the spouse is now compellable, the police can proceed with the matter on their own, force the wife to come into court, even if she is now willing to have the matter dropped and laid to rest. We believe that it is an appropriate consideration that we do not attempt to force that situation because it would not now permit a legally married spouse to drop a matter which would have gone to court.

We appreciate, and I made the point myself, in my contribution on the Domestic Violence Bill, that it does create a problem with the police. We recognize that and the Member for Naparima did mention it. The point is however, on this occasion, as I said, where we were merely trying to tie some loose ends, we felt that we ought not, at this stage, to go that far and until the kind of broad review of the Evidence Act is conducted which the Member for Naparima is clearly seeking, we felt that we should not tackle that matter on this occasion.

With these few words, I commend the Bill to the House and seek the support of all Members and to assure them that the matters raised will in fact be taken up in the appropriate quarters.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clause 1 ordered to stand part of the bill.*

*Clause 2.*

*Question proposed,* That clause 2 stand part of the bill.

**Mr. Palackdharrysingh:** Mr. Speaker, I have moved that the clause be amended in the first column of section 13(b)—insert after the word “charged” in the fourth line, the words “and shall be a compellable witness.”

Again, as I said, it is my feeling that to leave the matter entirely into the hands of the spouse, having made a report or charge, is to go back to square one. It is my view that—as promised by the Government to have a family court—if the matter goes before the competent personnel, they would be able to assess exactly what are the problems of the persons and act appropriately in terms of either counselling, rehabilitation or punishment.

**Dr. Hosein:** Mr. Chairman, in light of the fact that I have undertaken to refer the broader issues raised by the Member for Naparima, to the hon. Attorney General for consideration, and, of course, the fact that the Government will be pursuing the whole question of a family court, may I appeal to the hon. Member for Naparima to withdraw his amendment?

The process has begun. I think the Leader of the Opposition [*Interruption*] Do you mean on the family court?

**2.40 p.m.**

**Mr. Panday:** You would not have time to make the full review of the legislation.

**Dr. Hosein:** You could undertake it. So maybe you can promise the Member for Naparima.

I want to appeal to the Member for Naparima to withdraw his amendment, because we cannot support it on the grounds that we will undertake the kind of broad review that is necessary and within which his proposal could be considered more appropriately.

**Mr. Panday:** Mr. Speaker, I believe it is said that some men write history, some men read history and some men make history. What the hon. Member is seeking to do is to make history. We want it to go on the record that we believe that this Act will not succeed as it ought to succeed, because this piece of legislation is missing. We do not want to be responsible for that. We want to be able to say “I told you so”, and for that reason, we will not withdraw the amendment.

**Mr. Speaker:** I will put the amendment before the House.

In Subclause (b) insert after the word "charged" in the fourth line "and shall be a compellable witness".

*Question, on amendment put and negatived.*

*Clause 2 ordered to stand part of the bill*

*Schedule ordered to stand part of the bill.*

*Question put and agreed to, That the bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

#### **MUNICIPAL CORPORATIONS (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Works, Infrastructure and Decentralization (Dr. The Hon. Carson Charles):** Mr. Speaker, I beg to move that the bill to amend the Municipal Corporations Act, 1990, be now read a second time.

The bill seeks to correct a few minor errors in the Municipal Corporations Act which was passed last year. These errors must be corrected in order to avoid confusion in some cases, and to provide clarity, so that the Municipal Corporations Act can have the desired effect when implemented. The Elections and Boundaries Commission, in particular, should not be hindered in any way in its work in the preparation for the implementation of the Municipal Corporations Act.

I will say at the outset, that one expects with the passage of any large bill as the Municipal Corporations Bill, there would be minor errors discovered over time. Since last year, we had put in train an exercise to identify minor errors of one kind or another, whether typographical or whatever, as well as additional consequential amendments which will be necessary. That process is still in train.

However, the corrections which I have brought to the House this afternoon are such that they must be attended to at this stage in the process, in order, as I have said, to avoid confusion and not to have any lack of clarity, especially because we do not want any obstacles in the way of the EBC in completing their work. I would just like to indicate which errors we are dealing with and the nature of the errors we are seeking to correct.

The Explanatory Note to the bill gives the impression that we are seeking to adjust the number of electoral districts in Point Fortin from eight to six. May I point out, that that is to some extent misleading because this in fact is an error which we are seeking to correct. The first correction refers to the reference to the "Boundaries Commissions (Local Government) Act" and it should be the "Elections and Boundaries Commission (Local Government) Act". It is a straightforward error.

The second one, by deleting the word "thirty-one" and introducing the word "thirteen" as a substitution, is an obvious typographical error but which can cause some confusion.

The third one is in the Eleventh Schedule to the amendments to the Elections and Boundaries Commission (Local Government) Act. This is the one to which I referred a while ago in which for Point Fortin, the number of electoral districts is at the present time six and we seek to make no change to that number. "Eight" is an error and should be corrected to "six". In the Second Schedule as an amendment to the Elections and Boundaries Commission (Local Government) Act, we seek to substitute for the word "seven" the word "five". In this case this is an omission. What has happened is that there is a formula which provides in the old law for determining the number of electoral districts based on the electorate.

### **2.50 p.m.**

The formula said that you start with the basic number of "six" and then, to that basic number, shall be added the number obtained by dividing the electorate of the electoral area by 15,000 and treating any part thereof as an integral number. That was amended by changing the number "six" to "four" in the Municipal Corporations Act because there were more electoral areas, and we were seeking to have the overall number of local representatives in the country more or less the same number. This was amended by changing "six" to "four", but we did not proceed with the other amendment in the event that the electorate is less than 15,000, in the first instance.

Originally, there would be seven districts and that should have been adjusted to five, in keeping with the adjustment of the basic number from six to four. That had not been done, so we are now seeking to change that number "seven" to the number "five". So that is really an omission. Having changed the number "six" to "four" in the formula, the basic number where the electorate is less than 15,000 should have been changed from seven to five and that we are now seeking to do. Those are the errors and omissions which we are seeking to correct.

*Municipal Corporations (Amdt.) Bill*  
[HON. C. CHARLES]

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As I said, Mr. Speaker, it is necessary to correct these in order to provide clarity to avoid confusion and, in particular, to ensure that there are no obstacles in the way of the EBC, because they must carry out their work and provide the report and so forth. With this explanation, I hope I satisfy the information needs of Members of the House. I beg to move.

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in Committee*

*Clauses 1 and 2 ordered to stand part of the bill.*

*Question put and agreed to, That the bill be reported to the House.*

*House resumed.*

Bill reported, without amendment; read the third time and passed.

**JAMES AND ZAMORE (COMPENSATION FOR LOSS OF OFFICE  
AND PAYMENT OF PENSIONS) BILL**

*Order for second reading read.*

**The Attorney General (Hon. Anthony Smart):** Mr. Speaker, I beg to move that the bill to provide for the payment of pension and compensation for loss of office to Richard James and Preston Zamore, former members of the defence force, be read a second time.

This is a bill that seeks to allow for payment to these gentlemen, Messrs. James and Zamore, for compensation for loss of office, gratuity and pension on a continuing basis. Both Messrs. James and Zamore, were formerly members of the Trinidad and Tobago Police Service, and in 1962, they joined the Coast Guard arm of the Defence force with effect from August 15, 1962. They resigned voluntarily from this unit: Mr. James on October 11, 1968, and Mr. Zamore on January 31, 1970.

Mr. Speaker, the computation by the Ministry of Justice and National Security of Messrs. James' and Zamore's terminal benefits were queried by the Auditor General, and this was in the early 1970s. The advice of the Legal Secretary to the Attorney General, as he then was, was sought in the matter. The Attorney

General's office advised them, Mr. Speaker, that both Messrs. James and Zamore should be treated as if their cases fell within the provisions of Regulations 9 and 10 of the Defence Transferred Officers 1967 made under the Defence (Amdt.) Act No. 19 of 1967. These regulations provide for the payment to seconded officers, compensation for loss of office, and a refund to personal representatives of the contributions with interest made towards the superannuation scheme established under the Defence Act or the Widows' and Orphans Pension Scheme, whichever is the greater.

The Attorney General further advised then, Mr. Speaker, that special legislation would be necessary to meet the payment of the necessary compensation, as far back as 1979. Cabinet agreed on the recommendation of the Minister of Finance that the gentlemen should be treated as if their cases fell within the provisions of Regulations 9 and 10 of the Defence Transferred Officers Regulations 1967 and made under the Defence (Amdt.) Act, No. 10 of 1967, for the purpose of paying compensation to them and that special legislation be enacted to allow for payment of that compensation. The special legislation, was drafted by the Chief Parliamentary Counsel as far back as 1979, and the advice of the Comptroller of Accounts was sought. That advice was given, and the Comptroller recommended payments of gratuity and pension in accordance with the Police Service Act of the laws of Trinidad and Tobago, and compensation of office in accordance with Regulation 9 of the Defence Force (Amdt.) Act, No. 19 of 1967.

Mr. Speaker, the computations of compensation for loss of office, gratuity and pension to Messrs. James and Zamore have been computed up to December 31, 1989 at \$101,580.40 for Mr. James, and \$141,782.64 for Mr. Zamore, and of course, the matter of pension, the gratuity and pension that would have to be paid subsequent to December 31, 1989 will be taken care of once this bill is passed. As I said, the intention is to bring this special legislation to allow Messrs. James and Zamore to benefit from compensation for loss of office, gratuity and pension.

I now beg to move that this bill be read a second time.

*Question proposed.*

**Mr. Patrick Manning** (*San Fernando East*): Mr. Speaker, I am very pleased that the Government chose to pursue this matter eventually today, because it is a bill that has been on the Order Paper for some considerable time. In a sense, it is quite unfortunate that there has been a delay in consideration of this matter by the Parliament, a matter that, really, is not very complex and, since it is a matter that

*James and Zamore Bill*  
[MR. MANNING]

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has a bearing on the benefits to be paid to persons who have served, it ought to have been considered expeditiously. Be that as it may, it is before us this afternoon and we hope that very shortly the Government will take the appropriate steps to ensure that Mr. James and Mr. Zamore are appropriately compensated in accordance with the laws of the country, which are now applicable to them.

We take note of the fact that Mr. James and Mr. Zamore are former members of the defence force. It was yesterday or the day before, that there was a report in one of the newspapers that the Government has decided to pay certain outstanding liabilities to members of the defence force. I talk specifically of outstanding merit increases, cost of living allowance, and retroactive salary increases. In fact, I am very pleased, as I am sure all of us are, that at long last some benefit is being given to members of the defence forces. We are very glad that somebody at least is getting something out of the Government.

I ask the question, Mr. Speaker: Is it the members of the defence force who are the only persons in the particular position that will qualify them? You see, we are referring to two specific gentlemen. All I am saying is that in the same way the benefits are being paid to these two gentlemen and benefits are being paid to other members of the defence force, there are also other arms of the protective services, specifically the hard-working police service in Trinidad and Tobago, the fire service and the prison service. Mr. Speaker, who also qualify for these benefits and who can be considered to be discriminated against where the benefits are paid to some and not paid to others. I think it is a pretty dangerous situation.

**Mr. Ramnath:** Would the Member give way to a question? While he is making this plea, would he put in a plug for sugar workers who have been denied payments as well?

**Mr. Manning:** I was not complete yet, Mr. Speaker.

**Mr. Speaker:** I think we moved from two gentlemen by the names of Messrs. James and Zamore. Where are we heading? The member is out of order.

**Mr. Manning:** I am about to take my seat, Mr. Speaker. I just wanted to place on record the fact that it is not just the defence force, but there are other arms of the protective services, particularly the police service, the fire service and the prison service who also qualify for these benefits and who have not been given the consideration that is now accorded to members of the defence force.



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**The Attorney General (Hon. Anthony Smart):** Mr. Speaker, I will restrict my comments to Messrs. James and Zamore. The Member for San Fernando East gave the impression that this Government has been tardy in dealing with these matters. I just want to bring it to his attention that these gentlemen resigned from the defence force in 1968 and 1970, respectively, and that in 1979 a decision was taken by the Cabinet then—it was not the NAR Cabinet; it was the PNM Cabinet—that these moneys should be paid. It took from 1979 to this time for this matter to be brought before the Cabinet. So I wonder who has delayed in the circumstances. It is clear, Mr. Speaker, who has delayed.

I beg to move, Mr. Speaker.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 and 2 ordered to stand part of the bill.*

*Question put and agreed to, That the bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

**3.05 p.m.**

#### **BUSINESS OF THE HOUSE**

**The Minister of Industry, Enterprise and Tourism (Dr. The Hon. Bhoendradatt Tewarie):** Mr. Speaker, I seek leave of the House to deal with matters under Private Business.

**Mr. Ramnath:** Private Members' motion.

**Mr. Speaker:** No, there is Private Motion and there is Private Business.

**Dr. Tewarie:** All of these matters can be dealt with quite expeditiously. The promoters are anxious to have us complete these matters.

*Assent indicated.*

*Internal Auditors (Inc'n) Bill*

*Friday, July 05, 1991*

**INTERNAL AUDITORS (INC'N) BILL  
Adoption**

**Dr. Anselm St. George** (*San Fernando West*): Mr. Speaker, I beg to move,

That this House adopt the report of the Special Select Committee of the House of Representatives, appointed to consider and report on a bill entitled, "An Act for the incorporation of the Institute of Internal Auditors of Trinidad and Tobago and for matters incidental thereto.

*Question proposed.*

*Question put and agreed to.*

*Report adopted.*

*Question put and agreed to, That the bill be now read the third time.*

*Bill accordingly read the third time and passed.*

**CONFEDERATION OF AFRICAN ASSOCIATION (INC'N) BILL  
Adoption**

**Dr. Anselm St. George** (*San Fernando West*): Mr. Speaker, I beg to move,

That this House adopt the report of the Special Select Committee of the House of Representatives, appointed to consider and report on a bill for the incorporation of the Confederation of African Association.

*Question proposed.*

*Question put and agreed to.*

*Report adopted.*

*Question put and agreed to, That the bill be now read the third time.*

*Bill accordingly read the third time and passed.*

**CARIBBEAN FOREST CONSERVATION ASSOCIATION (INC'N) BILL  
Adoption**

**Dr. Anselm St. George** (*San Fernando West*): Mr. Speaker, I beg to move,

That this House adopt the report of the Special Select Committee of the House of Representatives, appointed to consider and report on a bill for the incorporation of the Caribbean Forest Conservation Association.

*Question proposed.*

*Question put and agreed to.*

*Caribbean Forest Conservation Association (Inc'n) Bill*      *Friday, July 05, 1991*

*Report adopted.*

*Question put and agreed to, That the bill be now read the third time.*

*Bill accordingly read the third time and passed.*

**SPECIAL OLYMPICS CORPORATION (INC'N) BILL**

**The Minister of Youth, Sport, Culture and Creative Arts (Hon. Jennifer Johnson):** I beg to move,

That a bill to provide for the incorporation of the Trinidad and Tobago Special Olympics Corporation and matters incidental thereto, be now read a second time.

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 to 9 ordered to stand part of the bill.*

*Question put and agreed to, That the bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

**3.15 p.m.**

**MOUNT ZION INDEPENDENT SPIRITUAL BAPTIST CHURCH (INC'N) BILL**

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I beg to move,

That a bill to provide for the incorporation of a body to be known as the Mount Zion Independent Spiritual Baptist Church, be now read a second time.

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Mount Zion Independent Spiritual Baptist Church Bill*      *Friday, July 05, 1991*

*Clauses 1 to 9 ordered to stand part of the bill.*

*House resumed.*

*Question put and agreed to, That the bill be reported to the House.*

*Bill reported, without amendmen; read the third time and passed.*

**LIONS CLUB OF CHAGUANAS (INC'N) BILL**

**The Minister of Industry, Enterprise and Tourism (Dr. The Hon. Bhoendradatt Terwarie):** Mr. Speaker, I beg to move,

That a bill for the incorporation of the Lions Club of Chaguanas of Trinidad and Tobago, and for matters incidental thereto, be now read a second time.

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 to 9 ordered to stand part of the bill.*

*Question put and agreed to, That the bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

*Motion made and question proposed, That the House do now adjourn to Friday, July 12, 1991 at 1.30 p.m. [Dr. B. Tewarie]*

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 3.22 p.m.*