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**Thursday, November 25, 2004**



THE HONOURABLE DAN HAYS  
SPEAKER

## CONTENTS

(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Thursday, November 25, 2004

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### THE LATE ROBERT MCCLEAVE

**Hon. J. Michael Forrestall:** Honourable senators, how does one sum up a tribute to the life of one of one's oldest and dearest friends? I speak of the Honourable Robert Jardine McCleave, a man so special that, not only in my eyes but also in the eyes of many, he epitomized the line from the poem by Kipling: "If you can walk with crowds and keep your virtue, or walk with kings nor lose the common touch...yours is the earth and everything that is in it and which is more you'll be a man, my son."

Robert McCleave, a retired judge, long-serving member of Parliament, former editor of the *Chronicle-Herald*, died in early September in a Moncton hospital after a brief illness. In fact, he died in Moncton, where he was born in 1922.

Bob graduated from Dalhousie University law school, but chose journalism and started as a copy editor. He went on to become the City Editor of the *Chronicle-Herald* newspaper. He was later the News Director at CJCH radio.

By 1950, Bob was practising law, but he returned to journalism from 1954 to 1957. In 1957, Bob won one of the seats in Halifax that was, in those days, a dual constituency. In the elections from 1957 to 1962, the other successful Progressive Conservative member for that riding was the Honourable Edmund Morris. Bob lost the seat in 1963, but regained the seat in 1965 when I ran with him. How he accomplished that, I do not know, but he carried me through all the way. In the elections from 1968 to 1974, the other successful Progressive Conservative candidate for Halifax was the Right Honourable Robert Stanfield. Both Morris and Stanfield are familiar names to all Nova Scotians.

Bob was proud of the fact that he was — and the record still stands in his name — the longest-serving member of Parliament for Halifax. I have always had Halifax in my constituency name; but the designation always included a region such as Halifax-Eastern Shore, Dartmouth-Halifax-East, and so on.

Bob was appointed Deputy Speaker of the House of Commons in 1972, by then Prime Minister Pierre Trudeau, a rare honour given to a member of an opposition party in those days. In fact, he was the second opposition parliamentarian accorded that honour since Confederation. In 1974, Bob was co-chair of the Joint Parliamentary Committee on Statutory Instruments.

After his political career, he was appointed a provincial court judge in 1977, and he served for 10 years on the bench in Nova Scotia. He also served as Chairman of the Nova Scotia Labour Relations Board from 1980 to 1990, and chaired controversial hearings into opening Nova Scotia to uranium mining in 1984.

Bob also taught journalism at Kings College during the 1970s and 1980s. He was a great Nova Scotian and a great Canadian. He was to me, and to many, an even greater friend.

To his wife, Sylvia, to his children and grandchildren, I send my best wishes. My good friend, who came here to Parliament Hill after retirement to be with his dear retired colleagues, year in and year out, regardless of his health, will be deeply missed by all who knew him and especially by me.

May God bless you, Robert.

[Translation]

#### INTERNATIONAL DAY OF VIOLENCE AGAINST WOMEN

**Hon. Rose-Marie Losier-Cool:** Honourable senators, November 25 is the International Day for the Elimination of Violence Against Women. I would have preferred to talk of something else, but even today, in the year 2004, women and girls continue to be subjected to violence by the opposite sex.

Women are too often perceived as the weaker sex — passive, submissive and dependent. There are still far too many men who think that the primary role in society, which they have arbitrarily assigned to themselves, gives them every right over women, including the right to use violence against them. This aggression can range from slaps to murder, and all the way in between, from punches to genital mutilation, rape, and permanent disfigurement with acid.

Violence is not always physical, however. It can also be economic, familial, intellectual, psychological, political or religious. One quarter of the women on this planet will suffer some form of sexual violence at least once during their lifetime. In the United Kingdom, violence toward women generates one call a minute to the police. In North America, a woman is attacked every 15 seconds. Every 72 hours, a woman is killed by her partner somewhere in the world. Why? No one can explain or justify such statistics.

There are more women than men on this planet, so why this universal and unending violence toward them? Why should their quality of life, perhaps life itself, be endangered every day, perhaps even every hour?

Honourable senators, I implore you to do everything in your power to ensure that, in Canada at least, women can fully enjoy the lives they have been given without being the object of violence. Let us think of our mothers, aunts, wives, sisters, daughters, nieces and granddaughters.

• (1340)

Today the New Brunswick Advisory Council on the Status of Women launched an awareness campaign to prevent violence against women. Joining in the campaign are the young blues musician JP LeBlanc and Aboriginal rap singer Ray Suga, showing that it is not just women who are protesting. The theme of the campaign is: "When we see violence, we say that's not right. Take a stand."

The campaign ends on December 10. We must do our utmost to finally get this message across to men and to boys who one day will be men themselves.

[English]

### AIDS AWARENESS WEEK

**Hon. Donald H. Oliver:** Honourable senators, this is AIDS Awareness Week. In November 2003, the Prime Minister showed leadership in the fight against HIV/AIDS when he introduced Bill C-9, which allows inexpensive medication to reach millions of Africans suffering from AIDS.

After the bill received Royal Assent, the Prime Minister announced a \$100-million contribution to the World Health Organization that will help bring health services to more than three million people with AIDS by 2055.

Since then, the Prime Minister has been silent. A lead editorial in the *Globe and Mail* on November 9 of this year stated, "Canada has had nothing of substance to offer in the fight against HIV/AIDS." Honourable senators, we must do better.

After the Prime Minister's decision to introduce legislation last November, AIDS activist Bono famously stated that Canada "...will show the world the way forward" when it comes to assisting African nations in the fight against HIV/AIDS.

Stephen Lewis, the United Nations Special Envoy for HIV/AIDS in Africa, called the Prime Minister's decision last November "a historic precedent." He urged Canada to continue its strong leadership in the fight against HIV/AIDS, but the *Globe and Mail* said that, since then, everything has been silent.

Last week, Tony Blair demonstrated Great Britain's commitment to fighting the AIDS pandemic. He announced that AIDS in Africa will be his top priority when the United Kingdom chairs the G8's general meetings in 2005. He also established a Commission for Africa. In 2005 the commission will table a comprehensive plan on how to address the AIDS epidemic. It will also give specific steps that the international community can follow to support Africa's development.

In response to these measures, Stephen Lewis stated in the *Globe and Mail* on Monday, November 20 that "...the future of the world's response to AIDS now rests financially with the United Kingdom."

I would call honourable senators' attention to this issue because AIDS Awareness Week is the perfect opportunity to address Canada's vital role in fighting the AIDS pandemic. AIDS Awareness Week is the main public awareness campaign for HIV, which is held around the world each year from November 24 to December 1.

Honourable senators, today 9,500 Africans will come into contact with the AIDS virus and 6,500 will die of it. Canada must not remain silent. African nations desperately need our help. The Prime Minister must reaffirm Canada's role in fighting the spread of HIV/AIDS in Africa.

[ Senator Losier-Cool ]

### THE LATE DAN IANNUZZI, O.C.

**Hon. Jeremiah S. Grafstein:** Honourable senators, this week we learned that Mr. Trudeau is climbing up the charts to become Canada's Greatest Canadian. Why? For the simple idea of Canada as a distinct society: a bilingual and multicultural society. This week, we learned as well of the sudden passing of Daniel Iannuzzi, the visionary dreamer and co-founder of Canada's, and the world's, first multilingual television station in Toronto, who tried to breathe life into Mr. Trudeau's idea.

Dan was also a founder of the Canadian Italian daily, *Corriere Canadese*, which he started in 1954 at the tender age of 20. Over the years he acquired and published a number of other third-language newspapers.

Dan shared the intellectual direction of his enterprises with his wife, Elena Caprile, and the business direction with his long-time partner and brother, Paul.

Dan, a Montreal-born Canadian of Italian descent, dedicated his life and work to eradicating systemic discrimination in our society against third languages and third language groups, especially those of Italian descent.

If Dan had problems, it should be said that his heart was larger than his body. He could not bring himself to say no to a writer, producer or artist with a problem and, in his business dealings, he was the eternal optimist. He was probably too optimistic.

For years he fought for a national multilingual, multicultural television service across Canada. He could not persuade the regulators to make it a part of the basic service. As I said, Dan wanted to breathe life into the idea of a bilingual, multicultural Canada.

I first met Dan over 30 years ago. I was a co-founder of CityTV that changed television to reflect the face and voices of the streets of Toronto. We enlisted Dan as the producer of our weekend segment on multilingual programming.

This segment quickly outgrew its allocated weekend time slot, so Dan and I set off to co-found the first full-fledged multilingual television service, the first fully independent multilingual television service broadcast in over 20 languages weekly in Toronto, the very first of its kind in the world.

Beneath the radar of these new programming services were fierce battles with regulators, media buyers, advertisers and competitive broadcasters who first opposed, then sought to augment, these services by carrying their own third-language service.

Dan has suddenly left us. Who will take up the leadership to fight for the equality of multiculturalism and third-language treatment on the public airwaves?

Our deep condolences to his wife, Elena, his family and brother Paul, who stood and fought these battles beside him with grace and ferocity.

Dan was a pioneer. Perhaps he dreamed too greatly, but those dreams came to be shared by millions of Canadians from coast to coast.

**Hon. Consiglio Di Nino:** Honourable senators, I too would like to add a few words in paying homage to my friend, Dan Iannuzzi.

This past weekend, Canada lost a great son. Dan Iannuzzi, a highly respected broadcaster, publisher and community activist passed away while on a visit to Italy.

Dan, a third generation Canadian of Italian background, was a friend of mine for more than 40 years. He was a visionary and a trail blazer. He was a man who became the standard to copy in third-language media, and many did. He led the way for fair and equal treatment of new Canadians. While he was proud of his ancestry, he was one of the fiercest and most passionate Canadians I have ever met.

Dan was a determined man who would not easily be derailed in his quest for justice and equality. Those who stood in his way eventually came to admire and support him. Among the many awards and recognitions bestowed upon him, he was a recipient of the Order of Canada, whose insignia he always wore with great pride.

Honourable senators, please join with me in expressing to Elena and Paul and the rest of his family our sympathy and condolences, and to you, Dan, *grazie*, thank you for all you did for Canadians.

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[Translation]

## ROUTINE PROCEEDINGS

### RENEWAL OF DECLARATION OF PROPERTY QUALIFICATION

#### LIST OF SENATORS TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to rule 135, I have the honour to table the list of senators who have filed a renewed Declaration of Property Qualification.

### FEDERAL LAW- CIVIL LAW HARMONIZATION BILL, NO. 2

#### REPORT OF COMMITTEE

**Hon. Lise Bacon,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, November 25, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

## SECOND REPORT

Your Committee, to which was referred Bill S-10, A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law, in obedience to the Order of Reference of Tuesday, October 26, 2004, has examined the said bill and now reports the same without amendment, but with observations in an appendix to this report.

Respectfully submitted,

LISE BACON  
*Chair*

(For text of the observations, see today's Journals of the Senate, p. 228.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Bacon, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1350)

[English]

## TAX CONVENTIONS IMPLEMENTATION BILL, 2004

### REPORT OF COMMITTEE

**Hon. Jeremiah S. Grafstein,** Chair of Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, November 25, 2004

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

## SECOND REPORT

Your Committee, to which was referred Bill S-17, an Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion, has, in obedience to the Order of Reference of Wednesday, November 17, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Grafstein, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## DECENTRALIZATION OF FEDERAL DEPARTMENTS, AGENCIES AND CROWN CORPORATIONS

### NOTICE OF INQUIRY

**Hon. Percy Downe:** Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:

I will call the attention of the Senate to the benefits to the decentralization of federal departments, agencies and Crown corporations from the National Capital to the regions of Canada.

## QUESTION PERIOD

### TRANSPORT

#### AIRPORT RENTS

**Hon. Ethel Cochrane:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

Industry stakeholders and watchdogs such as Transport 2000 have raised concerns about the governance model that is in place for local airports. Some say, for example, that there is no accountability to users and that the authorities have become “unregulated and largely uncontrollable monopolies.” That comes from the *National Post* of November 12, 2004.

The Minister of Transport has publicly acknowledged these concerns and has said that his government needs to move forward with legislation to enhance governance, accountability and transparency, at least insofar as airports are concerned.

Can the leader indicate if the Minister of Transport has any plans to freeze or to reduce the burden of airport rents? Also, I should like to know if he has had discussions with the Minister of Finance or representatives from that department on the issue of airport rents.

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I answered a similar question in the last few days. The answer is that the Minister of Transport is studying the entire question of airport rents and has announced that a study is underway. He recognizes that the structure of airport rents is not an equitable one and is looking to make proposals shortly.

With respect to the Minister of Finance, he is well aware of these issues.

**Senator Cochrane:** Honourable senators, I should like the minister to be even more specific on this matter.

I am reading from the *Financial Post* the minister’s statement about acting on this thorny issue of airport rent. Does the minister know or can he tell me specifically what he has in mind? Does he plan to freeze rents? Does he plan to reduce these rents?

**Senator Austin:** Honourable senators, I would like to be helpful in answering the honourable senator’s specific question, but, as I have said, the minister has initiated a study, and the nature of a study is that there is no way of determining how those issues will be dealt with at this stage. The facts come first, then the analysis, and then a decision. At the moment, we are at the process of assembling the factual data on the airport rent situation.

### AIRPORT INDUSTRY— REDUCTION IN COSTS TO TRAVELLERS

**Hon. Ethel Cochrane:** Honourable senators, each year the airport industry gives a great deal to the Government of Canada, particularly in the form of security fees, fuel excise taxes and airport rents. The much-maligned air traveller security charge, for instance, was created as a revenue-neutral tool. However, by the end of the 2003 fiscal year, it had already brought in \$234 million over and above what was required. Add to that airport rents. This year, the nine listed airports paid around \$235 million. By 2007, this cost will have risen to \$349 million. We should also remember that the airlines pay an estimated \$100 million every single year in the form of an excise aviation fuel tax, above and beyond everything else.

Honourable senators, as regular travellers, we can all attest that these fees are passed on to the Canadian air traveller. The minister has acknowledged that there are inequities in the system. What does the government intend to do to give the Canadian traveller a break? Is there any relief in sight?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I believe Senator Angus asked a similar question a few days ago, and I responded to it at that time. I am sure that Senator Cochrane and other senators are quite aware that when I advise that the minister is conducting a study, I am not in a position to pre-empt the conclusions of that study. The mere fact that a study has been launched indicates that the minister is concerned about the questions raised and intends to take action if the analysis indicates that action is required.

Finally, I would say to Senator Cochrane that of course we understand that the air traveller is paying some of the cost — indeed, much of the cost today — of air travel. However, the issue is this: What is the appropriate cost for the air traveller?

## CITIZENSHIP AND IMMIGRATION

### RULES AND PROCESSES FOR REFUGEE CLAIMANTS

**Hon. David Tkachuk:** Honourable senators, today it was reported in *The Globe and Mail* that Toronto Holocaust denier Ernst Zundel filed a lawsuit against the federal government alleging that the nearly two years he has spent behind bars were a violation of his constitutional rights.

• (1400)

Earlier this year, Minister of Citizenship and Immigration Judy Sgro offered a secret deal to churches that would have them cease providing sanctuary for refugees. In exchange, each year, the churches would put forward a small number of cases to receive a special 10-day ministerial review.

In the case of Mr. Zundel's slow removal from Canada, this government has long given the explanation that the system and its process must be allowed to run their course. However, in this instance, it appears the federal government is quite willing to fast-track the review of a select number of cases that will come from outside the regular immigration system. Why is there the appearance of a double standard? Why are rules and processes important for some refugee claimants and not others?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, it is obvious on the face of it that the two issues raised by Senator Tkachuk are unrelated. The Zundel case is before the courts, and that judicial process must be allowed to continue. There is to be no ministerial or political interference while the courts have that issue in front of them.

With respect to persons who have taken refuge in churches, a custom — not a law — has been adhered to from time to time that people who are in church sanctuary will not be physically removed by the government. The government is seeking an accommodation with churches — and it is not a secret accommodation — so that the process can be regularized, not encouraged, so that people will not believe that the way to circumnavigate Canadian immigration law is to head for religious sanctuary and appeal to the constituents of that sanctuary for protection.

#### REFUGEE CLAIM BY MR. ERNST ZUNDEL— COST TO GOVERNMENT

**Hon. David Tkachuk:** There are two avenues: either run to a church or the local campaign office of Minister Judy Sgro. I am not sure which is quicker; nonetheless, it seems both systems work well.

Regarding secret processes, on March 10 and May 5 of this year, I asked the Leader of the Government in the Senate what the cost has been to the Canadian taxpayer of Mr. Zundel's continued presence in our country. I have never received an answer to that question. I am sure Canadians would like to know the answer, so I will ask again: What has been the cost to the taxpayers of Mr. Zundel's stay in Canada?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, with respect to the request relating to the cost, not, I presume, of Mr. Zundel's stay but of his incarceration during the judicial proceedings, I will make inquiries. I am sorry that the answer to that question escaped my attention. I think on this side we have been diligent about answering questions of which notice has been taken.

With respect to the honourable senator's remark regarding the Minister of Citizenship and Immigration, political commentary is expected, I suppose. My honourable friend may be aware that the minister has referred the matter to the Ethics Commissioner, who is responsible for the behaviour of public office-holders, including ministers, under the Prime Minister's code of conduct. The minister has said that she wants the report of the Ethics Commissioner to be made public.

I would urge that remarks relating to the event, which is now before the Ethics Commissioner, be reserved until the facts are

known. I am sure Senator Tkachuk would not want his remarks to run ahead of the facts.

**Senator Tkachuk:** I would never want to do that.

## FOREIGN AFFAIRS

### RWANDA AND SUDAN—AID AND ASSISTANCE

**Hon. A. Raynell Andreychuk:** Honourable senators, rumours and indications have been in the media that Rwanda is threatening to launch, in the near future, a cross-border attack on the Congo against Rwandan Hutu rebels who have been harboured there for some time. The Great Lakes region of Africa has been in great turmoil, most notably with the Rwandan genocide, which this Senate passed a resolution to commemorate and indicate that it should never happen again.

The Prime Minister has also been on record as supporting the duty to protect, including citizens against their own government. In this case, since the Prime Minister is on record that preventative action to save lives is the way that he wishes to go, what actions is the Prime Minister taking, particularly when he is in Africa at this time, to ensure that no more lives are lost in Rwanda?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I very much appreciate the question that Senator Andreychuk asked, and I will seek further information with respect to the Rwandan situation and the response of the Canadian government.

**Senator Andreychuk:** Sudan is also of concern on a duty-to-protect basis, if that is the new initiative of the government. While we have taken humanitarian action, we have not, in my opinion, taken strong political action to ensure that the Sudanese government does not further exacerbate the Darfur region. Parliamentarians from both the government and the opposition side have repeatedly stated that more must be done in Darfur. When the Prime Minister meets with Sudanese authorities, aside from engaging in dialogue, will he be taking further steps?

**Senator Austin:** Honourable senators, I know Senator Andreychuk does not mean to be unfair, but I believe that the Government of Canada has been in the vanguard in dealing with the Darfur situation. The Prime Minister himself is in Sudan holding talks and making representations concerning the behaviour of the Sudanese government, the first leader of a G8 government to do so.

The government has made a larger contribution to the refugee situation in Sudan than any other, and the Prime Minister has taken the lead in urging the international community to act collectively on the doctrine of the duty to protect, which he put before the United Nations recently.

This doctrine is not one on which Canada can act unilaterally. Canada is the lead advocate in changing the international norm with respect to state sovereignty, so when Senator Andreychuk asked the question the way she did, it had the implication that Canada should do something in the nature of a unilateral intervention in Sudan. Senator Oliver has made those representations in questions as well.

I am saying again, and I want to be clear, that Canada must be a leader in changing the behavioural system of the world community in terms of endangered minorities, and we are doing that in every way possible. The Prime Minister has made those statements this week in Chile, Brazil, Sudan, and at the Francophonie Summit, and he will take every opportunity, including the forthcoming meeting with President Bush, to discuss the point. I believe that it is in the interests of all Canadians to support this effort and not to create impossible expectations of instant results.

• (1410)

**Senator Andreychuk:** I do not think my comments were unfair at all, honourable senators. In August, Mr. David Kilgour sent an open letter to the Prime Minister indicating that political steps, not just humanitarian steps, should have been taken. Canada has intervened, and I think admirably, in the humanitarian area. However, it is too late when Sudan has taken so many actions that have cost lives and continue to do so. While it is commendable that the Prime Minister is in that country now and speaking to the Sudanese, it would have been preferable to have had political discussions with the Sudanese government and then taken initiatives in the United Nations. Canada can take all kinds of initiatives beyond indicating that it cannot act unilaterally. Canada can exert leadership by initiating steps within the United Nations.

The minister indicates that the Prime Minister will be taking further steps. What steps? The Canadian people need to know that it will not be just a dialogue, that, as the history of Sudan for the last 20 years has proven, is ignored. What concrete steps is the Canadian government putting forward to the Sudanese?

**Senator Austin:** Honourable senators, I would repeat that the Canadian government is a critical advocate for action by the international community to deal with these humanitarian situations. The steps taken by the Prime Minister will stake Canada, internationally, to a strong stand. In the humanitarian area, Canada is contributing aid at a level that is in excess of that of any other party in Sudan. Canada is also a leader in this regard in Haiti and Afghanistan. We are proposing to assist the electoral process in Iraq. We are also proposing to assist the electoral process with the Palestine Liberation Organization. We are taking specific steps. We have Canadians in vast numbers abroad working on all of these issues.

The Prime Minister has taken members of the opposition on this particular visit to Sudan, and it will be interesting to receive the reports and judgment of those members of the opposition. I am referring here to Senator Lynch-Staunton and Senator Comeau, whose views will be most interesting to hear.

I would urge senators opposite to be non-partisan and highly supportive of a bipartisan policy with respect to Canada's role in trying to ameliorate these disastrous situations in the world.

**Senator Andreychuk:** Honourable senators, I personally cannot subscribe to ameliorating the conditions. It is Canada's role and, internationally, it is essential that we play a preventative role, not a remedial one. International aid after a crisis occurs comes too late. Rwanda cannot afford to lose another life. That community

is devastated. We said, "Never again," so now is the time to intervene in Rwanda. Now is the time to take preventative action. I plead for preventative action, not remedial action, and I would ask the minister to take this matter up with the government.

**Senator Austin:** I hope the honourable senator will take yes for an answer, but the question of preventative steps is one of incredible complexity. I do not know whether Senator Andreychuk is advocating unilateral military intervention by Canada, or whether she is advocating that Canada contract for mercenaries. I am curious indeed to know more about what she considers to be preventative action.

**Senator Andreychuk:** Honourable senators, I have to respond on a point of integrity. I do not believe I have ever asked for military intervention of any kind, and that implication is a disservice to my question.

We have many preventative instruments. We have the United Nations. We now have the new Organization of African States. We have a myriad of preventative techniques that are not military. Precisely, I am asking that Canada intervene earlier, urging and leading the international community in non-military action. Rwanda cannot afford further military action.

**Senator Austin:** Honourable senators, Senator Andreychuk and I are talking about the same thing, and the word "preventative" is obviously not capable of being understood without further definition. Now we have a further definition from Senator Andreychuk. I want to assure honourable senators that Canada is working through every pertinent international organization to deal with the issue.

## CITIZENSHIP AND IMMIGRATION

### ALLEGATIONS OF POLITICAL INTERFERENCE BY MINISTER—INVESTIGATION BY ETHICS COMMISSIONER

**Hon. Marjory LeBreton:** Honourable senators, a moment ago the Leader of the Government in the Senate referred to Minister Sgro's case before the Ethics Commissioner. I have a specific question with regard to that issue.

There has been some confusion as to when the Minister of Citizenship and Immigration asked the Ethics Commissioner to investigate charges of political interference that have been brought against her and her staff. While the minister may have informally spoken with the Ethics Commissioner on November 4 on this matter, a formal request for a review was made last Monday. However, there have since been reports from the Ethics Commissioner's office that it did not receive the minister's information for several days after Ms. Sgro said the review had begun.

Could the Leader of the Government in the Senate find out and report back to us as to when the minister made all of her information relevant to this file available to the Ethics Commissioner?

**Hon. Jack Austin (Leader of the Government):** I will make inquiries, honourable senators.

[ Senator Austin ]

**Senator LeBreton:** Honourable senators, it is not clear that the Ethics Commissioner has been asked to conduct a full investigation, one that would include interviews with immigration department officials, former staff members and campaign workers, among others. Currently the Ethics Commissioner has only been asked to conduct a review based solely, so we are told, on information given to him by the minister.

Could the Leader of the Government in the Senate assure us that the Ethics Commissioner will carry out a thorough investigation based on all pertinent information and interview all of the people who are involved in this matter, going back to campaign workers in the June election?

**Senator Austin:** Honourable senators, I am not in a position to assure you what the Ethics Commissioner will do. He has been given charge of this issue and he will proceed in whatever manner he deems appropriate. His report will be made public, and if the report is not satisfactory to members of the other House, they may be persuaded to take other steps.

**Senator LeBreton:** Quite rightly, the honourable senator does not speak for the Ethics Commissioner. Would the Leader of the Government then impress upon his colleague — who is still in the cabinet but maybe not for long — that she turn over to the Ethics Commissioner all relevant documentation, and that the government suggest to the Ethics Commissioner that the people I mentioned in my previous supplementary be investigated and included in this file?

**Senator Austin:** I believe the best course of action is to let the current course of action unfold.

## OFFICERS OF PARLIAMENT

### APPLICATION OF PRINCIPLE OF *SUB JUDICE*— PROCESS OF RESPONDING TO QUERIES ON MATTERS UNDER REVIEW

**Hon. Noël A. Kinsella (Leader of the Opposition):** Honourable senators, does the Leader of the Government in the Senate believe that there is a distinction to be made in the application of the principle of *sub judice* whereby the legislative branch of Parliament does not interfere in a matter that is before a judge or before the courts? In instances when a matter has been referred to an officer of Parliament, is it the government's view that the *sub judice* principle applies to these officers and, if so, upon what basis?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, a process has been set in place by Parliament and by the other House to deal with issues of this kind, and that process is the one that should be honoured by the current proceedings.

**Senator Kinsella:** The question, honourable senators, is that, although the legislative branch restrains itself if a matter is before the courts, a matter before some officer of Parliament ought not to restrain Parliament. The matter can be totally under the investigation of the Ethics Commissioner, or any other officer of Parliament dealing with another issue, but that ought not, in my judgment, impede questions and answers from parliamentarians or, in this case, the minister.

• (1420)

I do not know the principle that allows the minister to refuse to answer questions in Parliament because a matter is under inquiry by some officer. If it were a matter before the courts, I understand the application of the principle of *sub judice*, but I do not know where the *sub judice* principle is to be applied. Where does this come from?

**Senator Austin:** Honourable senators, I know Senator Kinsella is a devotee of human rights and, basically speaking, any inquiry of this nature, whether it is the Gomery commission or the Ethics Commissioner, is an inquiry of a quasi-judicial nature.

The objective of these inquiries is to do no harm to an individual but to seek the truth on the basis of an objective finding of fact through a process similar to that which deals with the rights of any citizen in this country. By a parity of reasoning, as my old philosophy professor used to say, a minister of the Crown has the rights of any other citizen in this respect.

It is always perfectly understandable in a process like Parliament that there will be political advocacy when people believe political advantage can be gained. The right to ask those questions is undeniable, but the paramount right of justice here is to determine first, by an impartial process of a quasi-judicial nature, what actually took place and then to let the consequences follow.

I admired Senator Kinsella's colleague John Reynolds for his statements with respect to the Gomery commission and the absolute importance of no parliamentary interference with its processes.

## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS—CONTRACTS WITH SIKORSKY— KNOWLEDGE OF LEADER OF THE GOVERNMENT

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate. The minister is a member of two important cabinet committees, the cabinet Operations Committee responsible for the day-to-day operations of government and the cabinet Global Affairs Committee responsible for foreign affairs. If the government list is correct, why did the Leader of the Government, a member of these two committees, not know about the signing of contracts worth over \$5 billion in one of the most controversial and politically charged defence capital acquisitions in Canadian history?

**Hon. Jack Austin (Leader of the Government):** Honourable senators, I thank the Honourable Senator Forrestall for his question.

The process of cabinet committee determination is to set policy and to delegate decision-making under that particular policy. The cabinet and its committees determined that the acquisition of helicopters was necessary for the purpose of the Government of Canada, and it delegated that actual determination to the Department of National Defence, Department of Public Works and other agencies.

Another committee of which I am not a member, called the Treasury Board, may have had a role to play as well.

The honourable senator is right: I am on those two committees and also on the cabinet Committee on Aboriginal Affairs.

### ANSWER TO ORDER PAPER QUESTION TABLED

#### HEALTH CANADA—EXPENDITURES UNDER TOBACCO CONTROL PROGRAM

**Hon. Bill Rompkey (Deputy Leader of the Government)** tabled the answer to Question No. 3 on the Order Paper—by Senator Spivak.

[Translation]

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, I have the honour to table responses to two questions raised in the Senate. The first delayed answer is in response to a question raised by Senator Murray in the Senate on October 27, 2004, regarding the matter of equalization payments and British Columbia.

[English]

The second delayed answer is in response to a question raised by Senator Murray on November 2, 2004, regarding Newfoundland and Labrador and offshore oil resources.

### PRIME MINISTER

#### EQUALIZATION PAYMENTS—OIL REVENUES

*(Response to question raised by Hon. Lowell Murray on October 27, 2004)*

The Government of Canada has introduced changes to Canada's Equalization program and Territorial Formula Financing (TFF) arrangements. The intent of these changes is to bring stability, predictability and growth to the overall level of funding for these programs and to have third-party expert advice on the best way for the Government of Canada to allocate payments among provinces and territories.

In order to provide greater stability to provinces and territories in 2004-05, the Government of Canada will ensure that Equalization payments total a minimum of \$10 billion for 2004-05 and that TFF payments total a minimum of \$1.9 billion for 2004-05. In addition, each province and territory will be guaranteed that its Equalization or TFF payments for 2004-05 will not be lower than the amount announced in official estimates for 2004-05 included in Budget 2004. For British Columbia, this will mean \$248 million in additional payments in 2004-05, for a total of \$682 million.

Starting in 2005, the Government will establish a legislated financial framework for both Equalization and TFF. The new framework will establish fixed payment

levels, which will provide predictable and growing funding for provinces and territories. Funding levels for 2005-06 will be set at \$10.9 billion for Equalization and \$2 billion for TFF. For British Columbia, this will mean an additional \$156 million in 2005-06, for a total of \$590 million.

Under the old system, a province's entitlement was set based on the fiscal capacity of that province relative to the five-province standard. In addition, if B.C.'s fiscal capacity from its own revenues increased, its Equalization entitlements changed accordingly. The new system will sever — at least temporarily — the direct link between own-source fiscal capacity and overall level of Equalization. In the short term, that is, for 2004-05 and 2005-06, allocations have been based on levels agreed to by the provinces. In the longer term, for 2006-07 and beyond, the Government will determine the allocations based on advice from the Expert Panel that will report by the end of 2005.

### FINANCE

#### EQUALIZATION PROGRAM— OFFSHORE OIL RESOURCES—NEGOTIATIONS WITH NEWFOUNDLAND AND LABRADOR

*(Response to question raised by Hon. Lowell Murray on November 2, 2004)*

The Government of Canada is conducting discussions with Nova Scotia and Newfoundland and Labrador as expeditiously as possible. Following several meetings with provincial ministers (Energy Minister Cecil Clarke of Nova Scotia and Finance Minister Loyola Sullivan of Newfoundland and Labrador), and discussions between officials, Minister Goodale wrote to these ministers on October 24 to convey an offer from the Government of Canada.

The main elements of this offer are well known — the Government of Canada is prepared to provide additional annual payments that will ensure each province effectively retains 100 per cent of its offshore revenues for an eight year period covering 2004-05 through 2011-12, subject to the provision that no such additional payments results in the fiscal capacity of the province exceeding that of the province of Ontario in any given year.

As an alternative, if the provinces so choose, the Government proposed providing predetermined annual amounts over the same time period that would not be subject to annual volatility, thereby providing the governments of Newfoundland and Labrador and Nova Scotia more stability and predictability for budgetary planning.

Offshore resource revenues are today owned and collected 100 per cent by the Governments of Newfoundland and Labrador and Nova Scotia, with Equalization payments coming on top of those revenues. The potential payments that would be provided as a result of these arrangements would come in addition to the

offshore resource revenues, Equalization entitlements and benefits under the existing offshore accords. This is a more favourable treatment than other provinces enjoy.

In general, as a province becomes more prosperous, its Equalization entitlements decline. In other words, Equalization transfers fill in the gap to ensure that less prosperous provinces do not have to resort to economically damaging levels of taxation to fund the public services in the province. For Equalization to work, provincial revenues should be assessed, including natural resource revenues, in order to determine each province's fiscal capacity.

Under the proposed arrangement, Newfoundland and Labrador and Nova Scotia would benefit from special treatment on revenues for natural resources. That is why the Government of Canada's proposal provides significant increases in funding, but would limit the special treatment of offshore revenues to the point at which Nova Scotia and Newfoundland and Labrador's per capita wealth reaches that of Ontario.

Fairness dictates that, for the purposes of such a comparison, all the revenue sources need to be included:

- Own source revenues, including 100 per cent of the offshore — of course
- Equalization payments — because these are paid to the province by the federal government to bring its fiscal capacity up to the Equalization standard
- Accord payment or Generic Solution — because these are the existing special offsets that already raise Newfoundland and Labrador's fiscal capacity above that of other provinces.

To fail to recognize any or all of these sources would be unfair to the people of the provinces that are paying these benefits to Newfoundland and Labrador.

The Government's offer to each province is based on the same key elements. Any subsequent arrangement will be required to meet the same test that the essential elements of the arrangement be alike for each province.

## ORDERS OF THE DAY

### LIBRARY OF PARLIAMENT

#### FIRST REPORT OF JOINT COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the first report of the Standing Joint Committee on the Library of Parliament (mandate and quorum) presented in the Senate on November 24, 2004.  
—(*Honourable Senator Trenholme Counsell*)

**Hon. Marilyn Trenholme Counsell:** Honourable senators, I move the adoption of the report.

**The Hon. the Speaker:** It is moved by the Honourable Senator Trenholme Counsell, seconded by the Honourable Senator Adams, that this report be adopted now.

Do you wish to speak, senator?

**Senator Trenholme Counsell:** I do not think it is necessary. I think this is a routine motion and we will be discussing it later.

**Hon. Eymard G. Corbin:** I have a question or two for the honourable senator. I believe she is the joint chair of that committee.

I see that she is seeking to have a quorum of four members to do the work of the committee. That is not necessarily a quorum of four senators; it is four members total from both Houses; is that correct?

**Senator Trenholme Counsell:** Yes, honourable senators, this is a joint committee of the two Houses, so it is a quorum of the total committee.

**Senator Corbin:** I wish to know how many members are on that committee in total, from both Houses.

**Senator Trenholme Counsell:** I regret to say that I do not have that figure at present. I believe there are six or seven, but I am not sure.

• (1430)

**Senator Corbin:** Rule 86(1), which sets up committees, states:

The standing committees shall be as follows:

(a) The Joint Committee on the Library of Parliament to which shall be appointed seventeen Senators.

I thought that was a misprint, so I looked at the French version and it does say "dix-sept." That implies that there would probably be at least double that number from the other House.

**Senator Trenholme Counsell:** Honourable senators, I believe that six or seven members attended the other day. I should like to check this for honourable senators and return with the answer, unless someone here has the complete reference.

**Senator Corbin:** I do not mean to catch the honourable senator off guard. I am sure that what she is saying is correct. Seven senators were present, but I find it rather unusual that the number of members to be appointed is 17.

**Hon. Terry Stratton (Deputy Leader of the Opposition):** For clarification, I would mention that we have six members.

**Senator Corbin:** The rule says that there “shall be appointed seventeen Senators.” This is what I am trying to clear up.

I do not believe that there was a change to the rules that was not included in the new edition of this rule book, which is dated October 2004.

When you suggest a quorum of seven members in one instance and four in the other, that is not conducive to good attendance on the part of anyone. I am trying to figure this out.

This is a consultative committee to both the Speaker of the Senate and the Speaker of the Commons. I understand that the members act in an advisory capacity. Many members from both Houses are members of this committee, while we are encountering difficulties in having a sufficient number of senators attend the more important work of this house, if I may humbly put it that way.

It is probably not the fault of Senator Trenholme Counsell. It certainly is provided for in the rules. It appears to be a built-in anachronism. It creates an imbalance in the workload among senators.

In asking the honourable senator these questions my intent is to bring this to the attention of the full house.

Furthermore, the motion seeks to obtain permission to sit while the Senate is sitting. Many committees of this house deal with most important issues, and it takes a lot of negotiation to obtain permission for some of those committees to sit while the Senate is sitting.

I do not think we should treat this lightly. I raise it for what it is worth. In the rules that establish the various committees, there is a great deal of imbalance, which results in certain kinds of injustices with respect to other committees.

This is one of the lucky committees that would be allowed to sit while the Senate is sitting. I suppose that is being imposed on the honourable senator by the other side, otherwise they will not sit.

The members of the Standing Senate Committee on Official Languages, of which I am currently the chair, were told that we could hold meetings, but with the condition that we could sit only on Mondays, when this house is generally not sitting.

**Senator Forrestall:** We sit every Monday.

**Senator Corbin:** The rules provide for Monday sittings.

**Senator Forrestall:** Sometimes we sit on Sundays.

**Senator Corbin:** Senator Forrestall must be working under the shadow of Senator Kenny.

**Some Hon. Senators:** Hear, hear!

**Senator Corbin:** I am not personalizing this issue, honourable senators, but I believe that there are built-in injustices in the way Senate committees are treated and I think there should be a level playing field.

I would like the Standing Senate Committee on Official Languages to be able to sit during regular working days of the Senate — Tuesday to Thursday. Why should my committee be obliged to sit only on Monday afternoons? Two members of our committee have to travel to Ottawa from British Columbia and two other members come from the East Coast. An onus is put on them that is not put on other senators who sit on glorious advisory committees such as this one.

I do not want to belittle the committee’s task of advising the Speakers, but I will ask the honourable senator this: Does the committee ever report to this house or does it keep its advice strictly private to Their Honours, the Speakers of both Houses? Do we ever see a report from the Library of Parliament?

**Senator Trenholme Counsell:** Honourable senators, I am delighted that Senator Corbin has brought this issue to life. I was told that nothing much ever happens in this committee and that there is not much interest in its work. However, I can see that there is a good deal of interest. In fact, when we had our first meeting, I was a little taken aback by the fact that everything seemed to be so routine, that there was no discussion or debate and that there was no business to do. As I have had a passionate interest in libraries over many years, I suggested that we should do more.

As to the honourable senator’s question about reporting, the answer is yes. We will report and we will make things happen.

Senator Corbin is quite right that, as the rule book says, 17 senators are to be appointed to the Joint Committee on the Library of Parliament. There is permission to meet while the Senate is sitting because this is a joint committee. This allows greater freedom in coordinating meetings between the House of Commons and the Senate.

I would assure the Honourable Senator Corbin that this committee will be active. We will report. I welcome this intervention today. It is a wake-up call to me. We should be active and accomplish something. We appreciate the honourable senator’s advice and, most certainly, his intervention today.

**Senator Corbin:** Would the honourable senator support a motion by me to allow the Official Languages Committee to sit while the Senate is sitting in the same way as we are prepared to grant the Library of Parliament Committee that licence?

**Senator Trenholme Counsell:** Honourable senators, it is not within my power to make such a decision.

**Hon. Bill Rompkey (Deputy Leader of the Government):** In view of the great interest in this issue and the questions that have been raised, would Senator Trenholme Counsell agree to stand the item until the next sitting of the Senate?

On motion of Senator Trenholme Counsell, debate adjourned.

• (1440)

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Bill Rompkey (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 30, 2004, at 2 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 30, 2004, at 2 p.m.

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# THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been **completed**)

**(1st Session, 38th Parliament)**

**Thursday, November 25, 2004**

(\*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

### GOVERNMENT BILLS (SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-10	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19	04/10/26	Legal and Constitutional Affairs	04/11/25	0 observations			
S-17	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	04/10/28	04/11/17	Banking, Trade and Commerce	04/11/25	0			
S-18	An Act to amend the Statistics Act	04/11/02							

### GOVERNMENT BILLS (HOUSE OF COMMONS)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
C-4	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	04/11/16							
C-6	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	04/11/18							

### COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.

## SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02		
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		
S-4	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06							
S-5	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
S-6	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07							
S-8	An Act to amend the Judges Act (Sen. Cools)	04/10/07							
S-9	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology					
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs					
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19							
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs					
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology					
S-15	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20							
S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27							
S-19	An Act to amend the Criminal Code (criminal interest rate) (Sen. Plamondon)	04/11/04							

PRIVATE BILLS

No.	Title	1 <sup>st</sup>	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

## CONTENTS

Thursday, November 25, 2004

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		<b>Foreign Affairs</b>	
<b>The Late Robert McCleave</b>		Rwanda and Sudan—Aid and Assistance.	
Hon. J. Michael Forrestall . . . . .	349	Hon. A. Raynell Andreychuk . . . . .	353
<b>International Day of Violence Against Women</b>		Hon. Jack Austin . . . . .	353
Hon. Rose-Marie Losier-Cool . . . . .	349	<b>Citizenship and Immigration</b>	
<b>AIDS Awareness Week</b>		Allegations of Political Interference by Minister—	
Hon. Donald H. Oliver . . . . .	350	Investigation by Ethics Commissioner.	
<b>The Late Dan Iannuzzi, O.C.</b>		Hon. Marjory LeBreton . . . . .	354
Hon. Jerahmiel S. Grafstein . . . . .	350	Hon. Jack Austin . . . . .	354
Hon. Consiglio Di Nino . . . . .	351	<b>Officers of Parliament</b>	
<hr/>		Application of Principle of <i>Sub Judice</i> —Process of Responding	
<b>ROUTINE PROCEEDINGS</b>		to Queries on Matters under Review.	
<b>Renewal of Declaration of Property Qualification</b>		Hon. Noël A. Kinsella . . . . .	355
List of Senators Tabled. . . . .	351	Hon. Jack Austin . . . . .	355
<b>Federal Law—Civil Law Harmonization Bill, No. 2 (Bill S-10)</b>		<b>National Defence</b>	
Report of Committee.		Replacement of Sea King Helicopters—Contracts with Sikorsky—	
Hon. Lise Bacon . . . . .	351	Knowledge of Leader of the Government.	
<b>Tax Conventions Implementation Bill, 2004 (Bill S-17)</b>		Hon. J. Michael Forrestall . . . . .	355
Report of Committee.		Hon. Jack Austin . . . . .	355
Hon. Jerahmiel S. Grafstein . . . . .	351	<b>Answer to Order Paper Question Tabled</b>	
<b>Decentralization of Federal Departments,</b>		Health Canada—Expenditures Under Tobacco Control Program.	
<b>Agencies and Crown Corporations</b>		Hon. Bill Rompkey . . . . .	356
Notice of Inquiry.		<b>Delayed Answers to Oral Questions</b>	
Hon. Percy Downe . . . . .	352	Hon. Bill Rompkey . . . . .	356
<hr/>		<b>Prime Minister</b>	
<b>QUESTION PERIOD</b>		Equalization Payments—Oil Revenues.	
<b>Transport</b>		Question by Senator Murray.	
Airport Rents.		Hon. Bill Rompkey (Delayed Answers) . . . . .	356
Hon. Ethel Cochrane . . . . .	352	<b>Finance</b>	
Hon. Jack Austin . . . . .	352	Equalization Program—Offshore Oil Resources—Negotiations	
Airport Industry—Reduction in Costs to Travellers.		with Newfoundland and Labrador.	
Hon. Ethel Cochrane . . . . .	352	Question by Senator Murray.	
Hon. Jack Austin . . . . .	352	Hon. Bill Rompkey (Delayed Answers) . . . . .	356
<b>Citizenship and Immigration</b>		<hr/>	
Rules and Processes for Refugee Claimants.		<b>ORDERS OF THE DAY</b>	
Hon. David Tkachuk . . . . .	352	<b>Library of Parliament</b>	
Hon. Jack Austin . . . . .	353	First Report of Joint Committee—Debate Adjourned.	
Refugee Claim by Mr. Ernst Zundel—Cost to Government.		Hon. Marilyn Trenholme Counsell. . . . .	357
Hon. David Tkachuk . . . . .	353	Hon. Eymard G. Corbin . . . . .	357
Hon. Jack Austin . . . . .	353	Hon. Terry Stratton . . . . .	357
		Hon. Bill Rompkey . . . . .	358
		<b>Adjournment</b>	
		Hon. Bill Rompkey . . . . .	359
		<b>Progress of Legislation</b> . . . . .	i







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