when challenged on constitutional grounds. Even if it is constitutionally valid, the police had no business in the Mercer Union. When the Cincinnati Contemporary Arts Centre was charged in the Mapplethorpe obscenity case, jurors found that the prosecution had failed to establish the third element of the test for obscenity set down by the U.S. Supreme Court in *Miller* (1973) — namely, the absence of serious artistic merit. Similarly, material with artistic merit is expressly exempted from the terms of Bill C-128. Like Mapplethorpe’s photographs, Langer’s paintings should never have been charged. It will be up to the trial court to defend artistic freedom from the zeal of local prosecutors.

Bruce Ryder is an Associate Professor at Osgoode Hall Law School, York University. Legal Report is a regular feature of Canada Watch.

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**CW UPDATE**

**THE MONTH IN REVIEW**

*by Michael Rutherford*

**HOUSE RESUMES SITTING**

The House of Commons resumed sitting on January 17 and MPs elected Gilbert Parent, a little-known Liberal MP from Ontario, as the new speaker of the house.

**AIR CANADA, PWA END DISPUTE**

Air Canada announced on January 26 that it was abandoning attempts to block a proposed deal between PWA Corp. and AMR Corp. of Fort Worth, Tex. AMR has agreed to buy one-third of PWA’s subsidiary, Canadian Airlines International Ltd.

**BHADURIA QUITS LIBERAL CAUCUS**

Member of Parliament Jag Bhaduria resigned from the Liberal caucus on January 27. Bhaduria’s decision came after questions were raised regarding the law degree claimed on his résumé. Bhaduria had already apologized in the House of Commons for writing a threatening letter to Toronto school board officials.

**LIBERALS APPROVE CRUISE TESTS**

Defence Minister David Collenette announced that the federal government would allow a new set of tests of U.S. Air Force cruise missiles in the Canadian north. The decision on February 3 divided the Liberal cabinet and reversed the anti-testing position held by the Liberals in opposition.

**ALBERTA NDP Chooses New Leader**

Delegates to a provincial NDP convention in Calgary chose Ross Harvey as their new leader on February 6. Harvey takes over a party that lost all 16 of its seats in the Alberta election last June.

**OTTAWA CUTS TOBACCO TAXES**

In a bid to stem the contraband tobacco trade, the federal government announced tax cuts and stepped-up enforcement measures on February 8. The Quebec government immediately followed suit with tax cuts of its own. The Ontario government reluctantly reversed its opposition to tax cuts on February 21, lowering retail prices to Quebec levels.

**B.C. REPORT URGES LOGGING CUTS**

The Commission on Resources and Development released a three-volume report on February 9 that recommends a 6 percent cut in logging on Vancouver Island. The report, requested by the British Columbia NDP government, aims to achieve a balance between logging interests and environmental concerns.

**DEATH OF RODRIGUEZ SPARKS DEBATE**

Sue Rodriguez, the woman who fought unsuccessfully for the right of the terminally ill to end their lives, died as the result of a doctor-assisted suicide. With New Democrat MP Svend Robinson at her side, Rodriguez died at her home in Victoria on February 12. Prime Minister Jean Chrétien promised a free vote in the House of Commons on the possible legalization of doctor-assisted suicides.

Continued, see “The Month in Review” on page 100.
**Hearings into Blood System**
The Commission of Inquiry on the Blood System in Canada began public hearings on February 14 in Toronto. Mr. Justice Horace Krever leads the investigation into how more than 1,000 hemophiliacs and transfusion patients contracted the AIDS virus in the early 1980s.

**McCarthy Loses B.C. By-Election**
British Columbia Social Credit Leader Grace McCarthy was narrowly defeated by Liberal Mike de Jong in a February 17 provincial by-election in the riding of Matsqui. Meanwhile, B.C. Liberal Leader Gordon Campbell won a resounding by-election victory in Vancouver-Quilchena.

**PQ, Liberals Swap By-Election Victories**
Parti québécois candidate Marcel Landry won a February 21 Quebec by-election in Bonaventura, a riding the governing Liberals had held for 37 years. One week later, Liberal candidate Bernard Brodeur won an upset victory in the riding of Shefford, considered a PQ stronghold.

**Bourgon To Head Privy Council**
Prime Minister Jean Chrétien announced on February 24 that Jocelyne Bourgon, a career civil servant, would replace Glen Shortliffe as Clerk of the Privy Council. Bourgon becomes the first woman appointed to the top bureaucratic job in Canada.

**Rogers Swallows Maclean Hunter**
After a month of wrangling, Rogers Communication Inc. amended its $3 billion takeover bid for Maclean Hunter Ltd. and won the support of Maclean Hunter’s board of directors on March 8. Rogers, already Canada’s largest cable operator, sweetened its three-week-old offer by 50 cents a share, to $17.50.

**Peacekeepers To Stay On**
Foreign Affairs Minister André Ouellet told the House of Commons on March 10 that Canadian peacekeepers will stay in the former Yugoslavia for six more months. Canada turned down a United Nations request for additional troops.

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**Parliamentary Update**

**Bill C-10: West Coast Ports Operations Act**
This Act required striking West Coast longshoremen to go back to work on February 9 following a 12-day strike. The contract dispute between the International Longshoremen’s and Warehousemen’s Union and the B.C. Maritime Employers Association was referred to an arbitrator.

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**Supreme Court Watch**

**Grand Council of the Crees v. A.-G. Canada**
February 24, 1994
The Supreme Court of Canada unanimously overturned a 1992 Federal Court of Appeal ruling allowing Hydro Quebec to proceed with its export projects without an environmental review. The Supreme Court upheld the review conditions that the National Energy Board placed on the utility when granting it licences to export power to the United States in 1990.

**R.J.R. Macdonald Inc. v. A.-G. Canada**
March 3, 1994
The Supreme Court of Canada dismissed an application by tobacco companies, who have been granted leave to appeal a decision by the Quebec Court of Appeal upholding a ban on tobacco advertising, for a release from compliance with mandatory packaging requirements.