



# CANADA WATCH

Practical and Authoritative Analysis of Key National Issues

## CAMPBELL FACES UPHILL BATTLE IN FALL ELECTION

**Chrétien's Liberals in driver's seat as Campbell struggles to shed Mulroney legacy**

by Patrick J. Monahan

With Kim Campbell defeating Jean Charest by a surprisingly narrow margin on the second ballot on June 13, the new PM's electoral prospects in the looming electoral contest this fall appear uncertain at best.

The fact that the 34-year-old Charest was able to force a second ballot after the Defence minister had built an overwhelming lead early in the campaign spoke volumes about the Conservative party's ambivalence over its choice as leader. Clearly, Ms Campbell's much publicized descriptions of political opponents as "enemies of Canadians" or as "condescending s.o.b.'s" very nearly cost her the leadership. Indeed, had potential

candidates such as Perrin Beatty or Michael Wilson entered the race, thus further dividing delegate support and forcing the convention to three or more ballots, Charest might well have emerged the winner.

### CHALLENGES FOR CAMPBELL

The new prime minister faces two formidable challenges in the next four months.

First, she has to quell the uneasiness that her controversial remarks during the campaign engendered in many Canadians. What was disturbing about Campbell's campaign com-

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## WELCOME TO THE NEW-LOOK CANADA WATCH

As we begin our second year of publication, we have added a number of new features that will ensure that *Canada Watch* continues to provide our subscribers with up-to-date, practical analysis of the latest developments in the country's national affairs.

Our new features include:

- **Economic Report** — prepared by our new economics editor, Professor Fred Lazar of York University. For the past 20 years, Professor Lazar has been teaching at York and consulting to governments at both the federal and provincial levels. Professor Lazar is the author of five books on the economic aspects of public policy. His regular "Economic Report" will analyze the changing Canadian economic agenda, with an

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*Canada Watch* is a publication of the York University Centre for Public Law and Public Policy and the Robarts Centre for Canadian Studies of York University.

# SUPREME COURT WATCH

## A digest of recent significant decisions of the Supreme Court of Canada

by Jonathan Batty

### *Canada (Attorney General) v. Public Service Alliance of Canada* (March 25)

A grievance was filed with the Public Service Staff Relations Board when a government department hired contract workers, despite a formal policy calling for limits on contract workers and greater utilization of surplus public service employees. The board ruled in favour of PSAC, finding that the decision to hire contract workers violated the government policy. The government unsuccessfully appealed the board's jurisdiction and findings at the Federal Court of Appeal and the further appeal to the Supreme Court of Canada was dismissed.

### *Finlay v. Canada (Minister of Finance)* (March 25)

After a social assistance recipient in Manitoba was overpaid, the Manitoba government attempted to recover the overpayment through reductions in his current benefits. The recipient, Finlay, challenged Manitoba's scheme as a violation of the Canada assistance plan because allowing deductions would reduce his benefits below his basic requirements. At trial and appeal at the Federal Court, the Manitoba scheme was found to violate the CAP agreement. The Supreme Court, in a 5 to 4 decision, held that the CAP agreement was not violated and the benefits reduction was lawful.


### *Dayco (Canada) Ltd. v. National Automobile, Aerospace and Agricultural Implement Workers' Union of Canada (CAW Canada)* (May 6)

After shutting a Canadian plant, Dayco ended a benefits scheme for retired workers that had been provided for in an expired collective agreement. The union filed a grievance that went before an arbitrator. The company objected to the arbitrator's assuming jurisdiction over an expired agreement. At Divisional Court, the arbitrator's award was set aside. At the Ontario Court of Appeal, and later at the Supreme Court, it was found that retirement rights may survive the expiration of a collective agreement.

### *R. v. Thorton* (June 4)

Thorton was convicted on a charge of nuisance for donating blood to the Red Cross when he knew that he was HIV positive. Although his crime was not included in the *Criminal Code*, the Trial Court found that he had breached the common law duty he owed toward other citizens not to endanger them. The Supreme Court of Canada dismissed the appeal by the accused and upheld his conviction.

### *Reference re Education Act (Que.)* (June 17)

The Quebec government submitted a reference to the courts about the validity of legislation that reorganized the school board structure in the province. Specifically, the legislation divides denominational schools along linguistic lines. The Supreme Court held that such divisions do not infringe upon the rights found in section 93 of the *Constitution Act, 1867*. 

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emphasis on the deficit and debt challenges facing all governments in Canada;

- **Parliamentary Update** — providing up-to-date information on the status of major pieces of legislation before Parliament. Unlike other services and publications, our focus is selective — we identify for our readers those pieces of legislation that are of major significance and track their progress through the House of Commons and the Senate.
- **Supreme Court Watch** — a digest of major decisions handed down by the Supreme Court of Canada, including the latest rulings on the *Charter of Rights*.

Again, our focus is selective — we tell you only what you need to know about developments from the highest court.

We will also be continuing the regular features that we introduced in Volume 1 — Western Report, Quebec Report, Legal Report, the Month In Review, and the Canada Watch Calendar.

We are also pleased to announce that our Legal Editor, Osgoode Professor Jamie Cameron, has been appointed as Co-editor for Volume 2 of *Canada Watch*. Professor Ken McRoberts, Director of the Robarts Centre for Canadian Studies, will

continue as Co-Editor for Volume 2. Professor Patrick Monahan, who will be on sabbatical leave for the 1993-94 academic year, will begin writing a regular column on National Affairs beginning with the September issue.

The response from our subscribers in government, business, and the media to the first year of *Canada Watch* has been uniformly enthusiastic. With these changes and added features, we expect to provide our readers with coverage of national affairs that is even more comprehensive and useful. 