

OUT/LAW IMMIGRATION NEWSLETTER ISSUE 3

Welcome to the third issue of the Out/Law Immigration Newsletter. If you do not want to continue receiving newsletters or email from us, please contact Rob Hughes at rhughes@smith-hughes.com and request to be removed from the list.

Check out our website

If you haven't looked at our website recently, check it out. There are extensive changes that has removed or archived old material and added a number of new features and information resources. These include:

- Previous issues of this newsletter are posted
- New subject headings and lots more useful links to other websites in Hotlinks
- New articles posted on Out/Law Immigration – *Same-sex Marriage and Immigration and Sponsorship of Same-Sex Partners or "Do you believe in love at first sight?"*
- A new resource of FAQs for immigration that includes sections for *Where to file a permanent residence application* and *HIV/AIDS and Immigration*
- News of Smith & Hughes partner, Ken Smith receiving a human rights award
- An update to the Canada Pension Plan Class Action lawsuit for same-sex partner benefits – we go to the Supreme Court of Canada on May 16, 2006

You can click on www.smith-hughes.com to see all of this and more.

COMMENT BY ROB HUGHES -

The big news since the last issue of this newsletter was posted is the results of the Canadian federal election on January 23, 2006. In case you were not aware, Stephen Harper, the leader of the Conservative Party, is the newly elected Prime Minister and was sworn in as Prime Minister today, February 6, 2006 to form a minority government. The overall results can be viewed at

<http://www.cbc.ca/canadavotes/electionnight/>. The Elections Canada website is at <http://enr.elections.ca/>.

Everyone has been asking me for my comments on the election results and in particular, what it means for same-sex marriage and same-sex couples immigrating to Canada.

I do not see any shift rightward by the electorate. The old adage that governments defeat themselves played out in this election. The Liberal Party has governed for 13 years and was perceived by voters to have grown

arrogant and corrupt. The so-called “Adscam scandal” around the misappropriation of \$100 million dollars, much of it going to Liberal-friendly advertising agencies with little to show for it and some of it ending up in the coffers of the Liberal Party of Quebec had an impact. The Liberals also ran a listless and ineffective campaign. Harper, on the other hand, seemed to learn from his past mistakes and muzzled Conservative candidates from speaking out on social policy issues so that they would not turn off voters by voicing redneck views on hot-button issues such as abortion and same-sex marriage. Canadians were not voting for Stephen Harper and a right-wing agenda, but voting against the Liberals because of their violations of the public trust.

The left of centre New Democratic Party made major gains in the election. They increased their share of the popular vote from 15.68% to 17.49% and went from 19 to 29 seats. In the province of British Columbia, the Conservatives lost 2 seats. What is significant is that Conservative candidates with right-wing agendas who were connected to homophobic organizations like Focus on the Family such as Cindy Silver and Darryl Reid were soundly defeated. However, the NDP fell two seats short of holding the balance of power which would have placed them in a strong position to push for progressive legislation with the minority government.

Stephen Harper was given a mandate for change, but not for change on social policies. Because he holds even less seats in the upcoming Parliament than Paul Martin held for the Liberals in the past Parliament, he cannot impose a right wing social agenda. As leader of a minority government he must show flexibility and compromise with the other parties, all of whom are to the left of the Conservatives on social policies.

Canada is not the USA and our political spectrum is more complex than the two-party system south of the border. The political centre in Canada remains decidedly further to the left than it does in the States and the Religious Right, although it has had influence in the politics in some rural and suburban communities, has never had a significant impact on provincial or federal elections except to turn off voters. Also, the Conservative Party of Canada is not the Republican Party of the US, despite similarities in some of the agenda. No right of centre Canadian party would countenance the ballooning national deficit that American Republicans have created in the US. The Conservative Party of Canada is the result of a recent merger of two right of centre parties, the Canadian Alliance Party with strength in the West and the socially moderate Progressive Conservative Party with strength in Central and Atlantic Canada. Not all of the Conservatives elected are religious zealots foaming at the mouth at the mention of “Brokeback Mountain”. Some fit the old Red Tory mold of fiscally conservative, socially progressive politicians who support same-sex marriage.

There is nothing that a Conservative government can do to eliminate same-sex partner immigration to Canada. Legal recognition of same-sex relationships was ultimately achieved in Canada because of decisions by the courts. Governments have largely been compelled to implement these court decisions by changing legislation. Harper is not going to be able to repeal the common-law partner and conjugal partner categories for immigration or restrict them to opposite-sex partners without the courts intervening.

Stephen Harper promised that he would have a free vote in the House of Commons on whether to reopen the same-sex marriage debate so as to placate those in his party for whom this is an emotional and deeply felt concern. He also guaranteed that he would never introduce legislation that would revoke existing same-sex marriages. The articles that I have posted below indicate that the anti-same-sex marriage forces would lose this vote. Even if they won a majority in Parliament, that would not end the matter. Every Court of Appeal that has dealt with this issue has ruled that the denial of marriage to same-sex couples is a violation of the equality rights guaranteed in the Charter of Rights and Freedoms. The only way that Parliament can suspend Charter equality rights is to invoke the notwithstanding provision in our Constitution. The federal government has never done so since the Charter came into force. Harper pledged he would not invoke the notwithstanding provision to change the definition of marriage to “one man and one woman”.

The LGBT communities in Canada should not our equality rights for granted. Same-sex marriage was achieved through years of struggle in the courts and considerable lobbying with the public and in Parliament. However, while we should not be complacent, we also should also not be alarmist. Stephen Harper has shown himself to

be a pragmatic politician. Unlike some in his party, he is an incrementalist and is prepared to patiently hold out until the time is ripe for implementing the major changes he wants and in the interim go step by step with small changes to policy and regulations that the government can implement without going to Parliament for approval. Death by a thousand cuts can still be lethal. We need to vigilantly stand on guard to defend our rights during this government's term of office and ensure that we are not facing a Conservative majority in the next election.

Cdns far too 'hedonistic' for political change, U.S. commentator

Published: Friday, January 27, 2006

TORONTO -- Canadians are far too "liberal and hedonistic" to change their politics overnight despite their election of Stephen Harper's Tory government, says a far-right-wing American commentator.

Paul Weyrich examines the result of Monday's election in an essay posted to the website of the Free Congress Foundation, the Washington-based think tank that he heads.

"The people of Canada have become so liberal and hedonistic that the public ethic in the country immediately could not be reversed," Weyrich writes.

But shift is possible.

"It will take time. But with leadership it well may be possible to change the public ethic."

Weyrich popped up in Canadian media reports last week for supporting an e-mail to U.S. conservatives advising them not to talk to journalists for fear of scaring Canadian voters and hurting Harper's chances.

Weyrich's essay quotes someone he calls a Canadian Conservative who had worked hard to win.

"My pessimistic friend said that inasmuch as Harper's is a minority government, Harper could do almost nothing to encourage the country to adopt a more reasonable view of the United States and to correct some premises of cultural Marxism, which Canadians have espoused, such as same-sex marriage and abortion-on-demand," Weyrich writes.

He says Harper may have a chance of repealing legal same-sex marriage in Canada's current political climate, but he would have to bide his time to build support to ban abortion.

Weyrich says one route to a small-c conservative victory on such issues would be to slowly appoint more conservative members to Canada's courts.

"As has been the case in the United States, cultural Marxism largely has been foisted upon Canada by the courts," he writes. "If judges who respect the Constitution were to be appointed, they would confirm that such rights are not to be found in that document."

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Canadian politics for dummies

Colby Cosh, National Post

Published: Tuesday, January 31, 2006

Last week, the Los Angeles Times asked National Post contributor Colby Cosh to explain our Jan. 23 election result to American readers. Mr. Cosh's column, which appeared in the Times last Friday, is reproduced below.

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EDMONTON - Dear U.S. neighbours: On Monday, Canada held its second national election in 18 months. Americans -- or perhaps just the zillion or so crypto-Canadians living in California -- may well be wondering: Is Canada still the progressive, socially liberal neighbour of Democratic dreams and Republican nightmares? Can our mythic reputation as a cleaner, politer Europe survive Stephen Harper's Conservative regime?

Here's a thumbnail breakdown:

THE A-WORD

Canada currently has no laws in force concerning abortion; you could lawfully perform one in a shop window, though it's hell on lunchtime pedestrian traffic. When asked whether he intends to challenge the status quo, the new prime minister has often been quoted as saying "Whoa! Look at the time! Hair appointment! Later!" Eventually, when pinned to an airport tarmac by a gang of reporters and tickled, he declared that he would introduce no new government-backed bills on abortion in his first term. And now, with a minority in the House of Commons, he couldn't get one through if he wanted to.

NOUVELLE DOMESTICITY

The late Liberal government legalized same-sex marriage, but the new PM opposes it, perhaps because of all the unbearable American gay-marriage tourists now flooding our cities. (Gay Americans, recognized here as an oppressed class, can expect to be greeted with filial embraces. But you're still Americans, so we'll also be fumbling around for the volume knob.) Harper is committed to holding an unwhipped Commons vote on the issue; if his side wins, "civil unions" will replace future "same-sex marriages," but existing gay marriages and legal privileges for homosexual couples will be respected. Harper's minority position should spare us such a stupefying semantic debate, and make gay marriage permanent. Or as permanent as the other kind, anyway.

OTHER INTIMATE MATTERS

Sexual mores are largely the purview of the courts -- dominated by buck-wild, freaky, porn-loving Liberal appointees -- in modern Canada. Even as the late parliamentary campaign raged, our Supreme Court was ruling that private swingers' clubs pose no appreciable harm to society ("although," the justices added, "fatties in latex are a real buzzkill").

In the United States, one often hears that Bill of Rights guarantees cannot logically apply to later inventions or matters that the Founders never imagined. But our Charter of Rights was passed in 1982, when no House of Commons desk was complete without a well-thumbed copy of *Oui or Screw*.

GUNS

Fun fact: In Canada, 58% of uses of this word are preceded by "What is it with you Americans and your."

Americans are familiar with the strange harmonic phenomenon that makes electorates scream for strict minimum sentences in criminal law and then scream equally loudly about the occasional injustices that result. (Lather, rinse, repeat.) When it comes to gun crime, Canada is currently in Stage One, though it should be remembered that the average actual penalty for armed robbery here is six hours of lawn-mowing.

Harper will hike minimum jail stretches for gun crimes, and he has also vowed to eliminate the controversial Liberal gun registry, an inaccurate and largely useless database of legally-owned Canadian firearms that cost \$2-billion to compile. Given the loathing of this program within his Western base, Harper probably cannot break this promise without being riddled with squirrel-shot, salted, jerked, and devoured.

CHEAP HEALTH CARE

The Conservatives have raised painful moral questions about a medicare system in which all Canadian politicians profess unbounded pride until the day they get lymphoma and haul ass to the Mayo Clinic. Nonetheless, health care is within the jurisdiction of the provinces under our Constitution.

Harper may use his control of tax flows to relax Liberal suppression of private medicine, but he has pledged to protect the social contract under which sick Canadians have a right to be stonewalled, misdiagnosed, and exposed to hospital infections in any part of our great land.

ABUNDANT POT

The new regime is likely to end the drift toward decriminalization of soft drugs, so visitors will still have to consume marijuana with discretion. On the other hand, Liberal proposals to apply special taxes on junk food are also dead. For frequent pot users, this is a wash.

SUMMARY

Rest assured: Canada remains in 2006 largely what it was in 2005 -- a country where cigarettes are taxed 300%, but heroin is free to addicts; where gay widowers have an easier time obtaining pension entitlements than Second World War veterans; and where a women can go topless in public unless she has hate literature tattooed across her breasts.

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Same-sex marriage battle may be one Harper is better off losing

Sue Bailey, Canadian Press
Published: January 27, 2006

OTTAWA -- Stephen Harper says he wants to move quickly as leader of a fractious new Parliament to reopen the same-sex marriage debate.

The makeup of the new House of Commons suggests the prime minister-designate knows there's a good chance such a motion will be rejected.

It would not be a total loss, however. In fact, an honourable defeat on equal marriage would satisfy obligations to Harper's most right-wing supporters while defusing a politically explosive issue.

Winning a vote to wade back through that political quagmire would lead the Conservatives straight into a legal morass, most experts say.

It would also be a costly and perhaps fruitless attempt to redefine marriage as the sole domain of one man, one woman - a fight that would only shine a spotlight on the party's most extreme social conservatives.

Still, Harper has promises to keep to the most traditional members of his team.

He has said he'll put a free-vote motion before Parliament on whether the heterosexual definition of matrimony should be restored.

"I would prefer to do it sooner rather than later - but not immediately," he told a news conference Thursday.

The Conservatives would then craft legislation to that effect should the motion pass in a sharply divided House of Commons.

There are 124 Tory MPs compared to 103 Liberals, 51 Bloc Quebecois, 29 New Democrats and one Independent. Any vote could be close.

But at least one Conservative insider who spoke on condition of anonymity said social moderates in the party would welcome the issue's demise.

"There would be a quiet hurrah."

Sujit Choudhry, a law professor at University of Toronto, was one of 134 academics who signed an open letter challenging Harper's position that the traditional definition of marriage can be restored.

Parliament last summer passed a law allowing gay weddings across Canada after two years of intense debate.

More than 3,000 same-sex couples had already wed after courts in eight provinces and the Yukon cleared the way. Moreover, the highest provincial courts in Quebec, B.C. and Ontario ruled that an exclusively heterosexual definition of marriage violates equality rights.

Harper has stressed that existing gay marriages will be allowed to stand.

But Choudhry and a long list of other experts say new legislation would be a recipe for confusion and fresh legal action.

"It could be a mess," he said in an interview.

"I have to say, I think it's a little bit reckless."

What would happen, Choudhry asked, if some provinces recognized a new law reversing same-sex marriage but others decided to await the outcome of inevitable constitutional challenges?

He also pointed out that the Department of Justice Act will oblige the new Conservative attorney general to assess all government bills for any clash with the Charter of Rights and Freedoms. Such inconsistencies are to be reported to the House "at the first convenient opportunity," it says.

Martha Jackman, a constitutional law professor at University of Ottawa, says the best outcome would be for a majority of MPs to "resoundingly reject" any bid to reverse gay marriage.

"That would reflect an understanding on their parts that they're obliged to comply with the Constitution - and not just because they've gone back and back to the courts" and lost.

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Same-sex law unlikely to change, Cotler says: Most MPs do not want to revisit issue of gay marriage, Justice Minister believes

By BILL CURRY

Thursday, February 2, 2006 Posted at 5:43 AM EST

From Thursday's Globe and Mail

OTTAWA — Same-sex marriage will remain legal in Canada because some MPs who opposed it in the last Parliament may vote against any attempt to reopen the highly divisive issue, outgoing Justice Minister Irwin Cotler predicted yesterday.

"I think we may get some who maybe didn't vote for it last time to maybe change their vote this time," he said. "I'm sure there'll be a discussion on this. I believe Canadians will probably want to put the issue behind them."

However, Mr. Cotler said his party does not intend to directly encourage opponents of same-sex marriage within the Liberal caucus to change their votes.

Speaking with reporters as he left the final cabinet meeting of Paul Martin's Liberal government, Mr. Cotler noted that several surveys have shown that gay-marriage opponents lack the numbers to win a vote in the House of Commons.

"The estimates are that the vote outcome will be similar to what it was the last time," he said. "So, as I say, it will be a full free vote but I don't anticipate it will be much different than what you saw the last time."

A survey conducted this week by The Globe and Mail found 152 incoming MPs likely will vote to retain same-sex marriage, while 137 MPs say they oppose it. The survey found that an additional 19 MPs who had not made up their minds said they would vote according to their constituents' wishes or would abstain.

NDP MP Joe Comartin agreed yesterday with Mr. Cotler's assessment, saying he has spoken with Liberal MPs who voted against same-sex marriage but do not want to revisit the issue.

"It's over. It's been decided both by the House and by the courts," he said, paraphrasing the sentiments he said he's heard from them.

Prime-minister-designate Stephen Harper has promised to introduce a resolution "sooner than later" asking MPs to vote according to their conscience rather than party line whether they want to reopen the debate.

If the resolution is passed, the government is then committed to introducing legislation "to restore the traditional definition of marriage while respecting existing same-sex marriages."

Pat O'Brien, a former Independent MP who quit the Liberal caucus to protest against the government's handling of the issue, is in the process of registering as a lobbyist to persuade MPs to reverse the new Liberal law.

Speaking on behalf of an organization called Vote Marriage Canada, Mr. O'Brien agreed that the vote would be close but said there are many "moveable votes."

"I know there's a group of Liberal MPs who voted for Bill C-38 last time under duress of one form or another, and I'm hoping that now they will have an opportunity to rethink that and maybe their own personal true feelings will affect their vote more this time."

Mr. O'Brien said it is possible, though regrettable, that some opponents of same-sex marriage may not want to reopen the debate.

"I think the minister [Cotler] might be overstating the case there," he said. "But I don't discount the fact that I know there are some that just want it to go away because it's been so divisive. But the fact it's gone on so long and been so divisive is all the more reason to stand firm as far as I'm concerned."

In addition to same-sex marriage, the outgoing Justice Minister also urged the new Conservative government to quickly fill the Supreme Court vacancy. He noted that without the ninth judge, the Court often hears cases with seven judges to avoid a tie.

"I spoke with the Chief Justice about this last November and the Chief Justice was concerned," he said. "I think they'd like to have the next justice appointed as soon as possible."

Mr. Cotler also said the Tories should choose someone from the Liberal government's short list of three candidates.

"We did a very comprehensive consultation to arrive at the initial group of nominees," he said.

Nova Scotia Conservative MP Gerald Keddy, who was one of only four Tories to support gay marriage in the last Parliament, said he was glad there are now several new Tory MPs who have the same view.

"Just on the numbers that were there before, I would think we'll end up with status quo," he said.

Same-sex vote likely to be tight

Narrow majority of MPs would agree to retain current legislation, survey shows

By MICHAEL VALPY and CAROLINE ALPHONSO AND RHÉAL SÉGUIN

Wednesday, February 1, 2006 Posted at 5:43 AM EST

From Wednesday's Globe and Mail

An expected vote in the next House of Commons to re-establish the traditional definition of marriage would be close, but a narrow majority of MPs would likely agree to retain same-sex marriage, a Globe and Mail survey has found.

According to the tabulation, 153 incoming MPs either voted for same-sex legislation in June or indicated they would if the matter came before the House again. Another 136 either voted against the legislation or said they oppose same-sex marriage.

Nineteen members either would not comment or said variously they would abstain, follow their constituents' wishes or had not yet made up their minds. But their comments suggest that at least some of them do support same-sex unions.

Prime-minister-designate Stephen Harper has pledged to introduce a resolution asking MPs whether they want to reopen the controversial debate, and promised it would be a free vote in which MPs can choose a side according to their conscience rather than their party.

Asked at his first post-election news conference last week whether he intended to move forward on the matter in the new Parliament, Mr. Harper replied: "I would prefer to do it sooner than later, but not immediately."

The Globe arrived at its numbers by contacting new MPs or people connected with their campaigns, tabulating how re-elected MPs voted on the previous legislation, Bill C-38, and checking with cabinet ministers who followed prime ministerial orders to vote in favour of C-38 but were thought to be susceptible to changing their minds in a free vote.

A substantial chunk of the 67 new MPs elected 10 days ago supports retaining same-sex marriage. That number includes at least three of the 10 new Conservative MPs elected in Quebec and two new Ontario Tories, as well as all 12 newly elected New Democrats and probably the 10 fresh faces from the Bloc Québécois.

Queen's University law professor Kathleen Lahey, an advocate for the legal recognition of same-sex relationships, said she strongly doubted the new government would be in a hurry to move on Mr. Harper's pledge.

Prof. Lahey noted that voters rejected some of the party's candidates most closely allied with the Christian right and most vehemently opposed to same-sex marriage as their connections became more apparent.

In particular, she cited Cindy Silver, considered likely to win election for the Tories in North Vancouver until reports surfaced that she was an anti-same-sex marriage activist.

Laurie Arron, director of advocacy for the homosexual rights organization Egale, identified 34 first-time Conservative candidates as being closely identified with the Christian right and said only 10 of them were elected -- mostly in Ontario.

McGill University political scientist Christopher Manfredi, an academic specialist on the Conservative Party, pointed out, as others have, that Mr. Harper is a libertarian economic conservative rather than a social conservative.

Prof. Manfredi said he did not think it would be Mr. Harper's personal inclination to vigorously promote a social conservative agenda, especially in a minority-government Parliament. He said Mr. Harper has the political capital to withstand pressure from the social conservative constituency that backs him because he has succeeded so manifestly in bringing the party from disarray to power in five years.

The previous House of Commons passed Bill C-38 in June by a vote of 158 to 133. Thirteen MPs were absent and four were paired -- a parliamentary tradition in which MPs who favour the legislation but cannot be present are matched with an equal number opposed.

About 30 Liberals who voted in favour of C-38 were defeated, leading opponents of same-sex marriage such as Charles McVety, president of Canada Family Action Coalition, to declare the Jan. 23 election a "tremendous victory for families nationwide . . . and a great victory for marriage."

But replacing the defeated Liberals were an equal number of first-time MPs from other parties who favour same-sex marriage.

The Globe survey suggests that 153 MPs -- just one shy of a majority -- would vote in favour of marriage including homosexual couples and 136 would be opposed.

That leaves 19 MPs unaccounted for. Five, all Conservatives, said they would vote as their constituents wanted. Three MPs wouldn't say how they would vote: a Liberal and a Conservative in B.C. and a Conservative in Quebec.

Quebec independent MP André Arthur said he would abstain unless his constituents wanted him to do otherwise. New Brunswick Liberal Brian Murphy and Newfoundland Conservative Fabian Manning said they were unsure how they'd vote.

Eight newly elected MPs -- an Ontario Muslim Liberal, two aboriginal Liberals, two Alberta Conservatives, two Quebec Conservatives and an Ontario Conservative -- couldn't be contacted.

Last year's vote, in which Canada became only the third country in the world to legalize same-sex marriage, capped an intense and divisive two-year Commons battle that maintained its political drama to the end, as Liberal minister Joe Comuzzi resigned from cabinet the day beforehand because he could not support his government's move.

Mr. Harper reopened the issue on the first day of the election campaign, promising the free vote. He said the Tories would not invalidate the marriages of gays and lesbians who had already wed.

With report from Joe Friesen

Ontario courting gay U.S. doctors

Ontario, which in 2003 was the first North American jurisdiction to allow same-sex marriages, is now trying to woo gay U.S. doctors.

Ontario wants to capitalize on Canada's image of being more accepting of the gay community -- highlighted by national legislation permitting same-sex marriages, passed this summer -- as part of its overall effort to sell the merits of Ontario to the rest of the world, David Spencer, a spokesman for the provincial Ministry of Health, said on Tuesday.

George Smitherman, Ontario's first openly gay cabinet minister and its health minister, spent the past weekend at a conference for the Gay and Lesbian Medical Association, making a bid to attract its mostly American members.

The province is short nearly 2,200 physicians, leaving almost 1.2 million people without access to a family doctor, the Ontario Medical Association said earlier this month.

<http://64.233.179.104/search?q=cache:pY2He5yG7K4J:www.swervemedia.org/issues/swerve-122-online.pdf+Ontario+goes+courting+gay+U.S.+doctors+++&hl=en&gl=ca&ct=clnk&cd=5>

A recent Federal Court of Appeal decision has implications for persons immigrating to Canada who do not disclose they have a same-sex common-law partner on their immigration application.

An appeal from a decision dismissing an application for judicial review of the decision of the Immigration Appeal Division of the Immigration and Refugee Board was dismissed. The Board dismissed applicant's appeal from the decision of the visa officer refusing to issue visas to her two sons as members of the family class. Applicant had been granted permanent residence status. She only claimed daughter as dependent. Eight years later she applied to sponsor admission of sons. The visa officer refused application on the basis that the sons had not been examined when applicant applied for permanent residence. The Board held that the sons were not members of the family class and therefore could not be sponsored by applicant. Applicant alleged that s. 117(9)(d) of the *Immigration and Refugee Protection Regulations* was invalid or that it infringed her rights under s. 7 of the *Charter* by preventing the reunification of parent and child. She argued that a person removed for misrepresentation was only inadmissible for two years, which made it unreasonable to hold that Parliament implicitly made a lifetime ban on sponsorship for the same conduct.

HELD: Appeal dismissed. The right to sponsor members of the family class created by section 13(1) of the Act was expressly made subject to the Regulations. Section 117(9)(d) was within the powers delegated by Parliament to the Governor in Council. Applicant provided no evidence of any special hardship or psychological stress that she was suffering as a result of the separation. She was not a refugee or a person in need of protection. She could reunite with her sons in the Philippines if she wished to. Applicant's sons could be admitted under other provisions of the Act. Removal of an individual for misrepresentation was a more serious sanction than an inability so sponsor a person as a member of the family class.

De Guzman v. Canada (Minster of Citizenship and Immigration), [2005] F.C.J. No. 2119, F.C.A.
For the full text of this decision go to <http://www.canlii.org/ca/cas/fca/2005/2005fca436.html>

All permanent resident applications require an applicant to list all of their family members, even if they are not accompanying them for immigration to Canada. Spouses, common-law partners and dependent children must meet criminal and medical admissibility requirements. Even if a common-law relationship is not legally recognized in the country the applicant is residing in, the applicant must list common-law partners on their application. If the applicant and their partner do not meet the definition of common-law partner because they have not cohabited for one year at the date the applicant files an application, the applicant is still obligated to inform the visa office of the common-law partner relationship if one year of cohabitation is completed before the application is finalized.

If you have a question that you would like answered in a future issue of the Newsletter, email Rob at rhughes@smith-hughes.com