

# **Administrative Law Blast: Independence**

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# What We Know

- ▶ Independence applies to administrative tribunals as a common law protection for those affected by tribunal decisions: *Canadian Pacific v. Matsqui* (SCC 1995)
- ▶ Independence must be interpreted in a manner consistent with the tribunal's empowering statute - to the extent independence limits how government may influence the decision-making of tribunals, this constraint may be displaced by a clearly worded statute: *Ocean Port v. B.C.* (SCC 2001)
- ▶ It is inappropriate for government to terminate tribunal members on political grounds: *Hewat v. Ontario* (OCA 1998)

# What We Don't Know

- ▶ Implications of *Dunsmuir* (SCC 2008) – from public law to contractual oversight?
- ▶ Implications of *McKenzie* (BCCA 2007) – from the rule of law to unwritten constitutional principle of judicial independence?
- ▶ Implications of recent controversies: Linda Keen and the CNSC; Elections Canada and the Conservative Party, etc. From political interference to political leadership?