

Commentary

The Crest Affair: Judicial Independence and Yukon's Supreme Court

The Hon. Ronald Veale*

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Introduction

The Yukon's 1986 "Crest Affair" has entered into local legal lore as a contest about judicial independence. It was that and more. In addition to galvanizing the general public to take note of the Yukon courts as an independent institution, the resulting proceedings before the Law Society of Yukon resolved a live question about the professional obligations of the Yukon minister of justice as a member of the bar. As well, the Crest Affair is simply a good story, given that it took place at a time of conflict between the Yukon's Minister of Justice, the Senior Judge of the Yukon Supreme Court, and the president of the Law Society. In the context of a small jurisdiction with outspoken personalities and robust local media, the Crest Affair led to lively public debate and generated a significant amount of news coverage, some of which is recounted here.

The Crest Affair took place shortly after the unveiling of the newly built Whitehorse courthouse, which featured a locally-carved¹ Yukon coat of arms² mounted behind the judge in each of the five courtrooms. Although striking pieces of art with a vivid rendering of the Yukon malamute and the blue, red, and gold shapes representing Yukon's mountains, rivers, and resources,³ Senior Judge Harry Maddison ordered that the coat of arms be removed from the Supreme Court courtrooms. The Minister of Justice, Roger Kimmerly,⁴ refused to do so and, in the face of his refusal, Judge Maddison acted on his own motion,

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The Northern Review 50 (2020): 219–234 <https://doi.org/10.22584/nr50.2020.011>

compelling their removal by court order. Although the immediate presence of the coat of arms in the courtrooms was resolved in this manner relatively quickly, the disagreement between the Senior Judge and the Minister continued to play out for much of the next two years.

Indeed, the broader context for the Crest Affair is replete with clashes between the Minister of Justice, the Court, and the Law Society of Yukon, and many of these clashes were seized on by local commentators and media. There were disagreements about courtroom carpets, clothes hangers, and rosewood furniture; a fight over a “bridge to nowhere”; a fairly unconventional use of court robes; an informal boycott of the government building’s opening; and, pushing the dispute into a different forum, a lawyer’s complaint to the law society alleging the Minister called the Senior Judge of the Supreme Court “silly,” thereby insulting the public and demonstrating disrespect for the administration of justice, contrary to his professional obligations as a lawyer.

Beyond these colourful facts, however, the Crest Affair started an important conversation and educated many in the Yukon about the independence of the courts and the role of the judiciary. Although the story may be unfamiliar to many of today’s Yukon lawyers, the Crest Affair marks an important chapter in the territory’s legal history.

A New Courthouse

By the mid-1980s, there was consensus about the need for a new courthouse in Whitehorse. The old courthouse was located above the post office in the federal building on Main Street. There were no public bathrooms, few chairs, and people in custody were escorted to court in handcuffs through the single public hallway.

While the preference of the bar and the judiciary was for a stand-alone courthouse, for practical reasons the Yukon government wanted to house both the courts and government offices in one building. Ultimately, a compromise was reached whereby courts and government would coexist in one building, but with clear physical delineation between their facilities.⁵

The design and planning of the shared building were carried out by a committee, which included both the Senior Judge and the Minister of Justice. During the unveiling of the plans, however, the Minister publicly introduced the facility as a new “Territorial Government Building” in which “a wing … has been set aside for court rooms and associated activities and is known as the Law Courts.”

Given the explicit discussions about how to structure a shared facility, it may be suspected that the Senior Judge and the Minister of Justice had differing views about whether the courthouse was in fact “a wing” of the government building.

But, in any event, at least everyone could agree that the new space was a marked improvement from the “two territorial courtrooms and one supreme courtroom stuffed into the aging, stale-aired Main Street federal building.”⁶

The striking new building, which is substantially unchanged today, was ultimately built with two separate sides, divided by an airy atrium that houses a variety of maintained plants and a popular koi pool. The north side, the Law Centre, holds government offices; and the south side, the Yukon Courts, includes the Supreme and Territorial Court courtrooms, the shared court registry, judges’ chambers, and the law library. In a nod to the fact that the building houses two branches of government, the north and south sides each have a distinct street address.

Despite the clear spatial separation provided by the atrium, a specific element of the design provoked a small political skirmish that foreshadowed the dispute over the crests in the courthouse. The atrium had been constructed with a broad walkway connecting the government side of the building with the second-floor courtrooms on the court side. Prior to the building’s opening, Judge Maddison ensured that a wall closed the walkway on the government side of the building so that there could be no perception of preferred court access by the Minister of Justice or government lawyers. The intended bridge, since dubbed “the bridge to nowhere” and now filled with plants, still raises questions (and eyebrows) when it is seen for the first time.

Tensions between the executive and judicial branches of government also erupted over judicial furnishings. The legislature’s concerns about the costs of the building, coupled with a government position about using Yukon-built furniture in government offices, had led to very deliberate choices for Yukon public servants. However, pursuant to federal guidelines for judges, Yukon’s Supreme Court judge could order up to \$20,000 worth of new furniture, to be paid for by the territory.⁷ Known to be a man of refined taste, Judge Maddison ordered a \$20,000 rosewood ensemble from Edmonton, which included a desk, coffee table, credenza, and bookcase. Although Minister Kimmerly complained about this being “exorbitant”⁸ in the media, it was out of his hands. An August 1 *Whitehorse Star*⁹ article also reported that Judge Maddison had “expressed dissatisfaction with the type of green carpet chosen for his new office” and that, further, there was “some contention between Judge Maddison and the government over a special type of garment hanger system installed in his new office.” Possibly in retaliation for these perceived excesses, Minister Kimmerly cut the budget for chairs in the courtrooms from \$400 apiece to \$200.¹⁰

Although the \$13 million building was opened for business on July 4, 1986, it was in a state of partial completion at the time, and its formal opening did not take place until October 1. A decision had been made in March 1986 to name the

building the Andrew Philipsen Law Centre, in honour of a Conservative Justice Minister who had died in a motor vehicle accident while in office, and whom Premier Tony Penikett referred to as “the principal author” in the construction of the new building. This did not sit well with the Law Society of Yukon, which publicly objected to the courthouse being associated with a politician. While the government took steps to address this legitimate concern through clear labelling of “The Law Courts” on the wall on the south side of the atrium, the opening ceremony was nonetheless reportedly the subject of an informal boycott by lawyers and judges.¹¹

The various conflicts surrounding the new building did not arise in a vacuum. Indeed, for reasons unrelated to the courthouse, tensions were at a high point between the government and the bar and courts. These included chronic underfunding of the law library and a dispute about the cost of the territory’s “out of control” legal aid system, then administered through the law society, and over which Minister Kimmerly threatened to impose legislated caps.¹² Indeed, in mid-1986, it appears that the Law Society was at the point of threatening to sue the government.¹³ As well, in March 1986, in response to pressure in the legislative assembly, Minister Kimmerly announced a \$100,000 review into the territory’s justice system at large, inviting the public to tell a two-member panel what they felt was “wrong with the justice system.”¹⁴ Given his promise not to involve any lawyers or judges, one can readily infer his views about where the problems originated.

The Crest Affair became part of this volatile mix in October 1986.

The Crest is In the Courtrooms!

Presumably in the earlier spirit of cooperation that dissipated after the building’s planning phase, the Minister of Justice and the Senior Judge had agreed that a Yukon coat of arms would be placed on the wall behind the judge in the two Supreme Court courtrooms and three Territorial Court courtrooms.

The coats of arms were on display without public controversy from the time of the building’s opening in July. Then, on September 24, Judge Maddison abruptly ordered that they be removed and refused to preside over matters until they were. Waiting for this to happen, Maddison J. adjourned his ongoing proceedings, and Justice Perry Meyer, a visiting Supreme Court deputy judge who was sitting on a lengthy and significant constitutional case, took the unusual step of “shrouding” the crest in his courtroom with a lawyer’s black robe.¹⁵

Minister Kimmerly wasted no time in responding to this state of affairs. That same day, he was quoted in the *Whitehorse Star* as saying “the entire matter is silly” and that “the cloaking over of the coat of arms is insulting to the public.” He went on to observe that “[i]t is this kind of thing that brings the court and the judiciary into public ridicule and contempt.”

Not willing to ignore such commentary, Judge Maddison took the unusual step of delivering public comments from the bench on September 26, explaining his opposition to the coat of arms in his courtroom. As reported in the *Whitehorse Star*,¹⁶ the Judge said that he intended no disrespect, but that he believed the crest is a symbol of the government and, as a judge, he must not be seen as a servant of the Yukon government. This was especially important to emphasize in the new facility, because, as Maddison J. pointedly said, the courtrooms were located in a “government administration building and not a courthouse.”

The president of the law society also took the opportunity to make public comment about the matter.¹⁷ Bruce Willis cited the bar’s ongoing concerns about law library funding and the naming of the building, and described the coats of arms in the courtrooms as “another example [of] interference with the courts’ ability to control themselves.”

In the meantime, and virtually immediately after hearing Minister Kimmerly’s comments, Elizabeth Thomas, a former Yukon Crown prosecutor visiting from Ontario, filed a formal complaint with the law society. Her concerns were based on a CBC Radio news clip that included Minister Kimmerly’s response to the “shrouding” of the coats of arms, and specifically reporting that:

When the Justice Minister heard about all of this ... he was upset.
He called it silly ...

It brings the repute of the courts and the judiciary into disrespect in the Yukon, and I’m extremely saddened by the whole thing. The provincial crests appear in all provincial courtrooms, and the territories shouldn’t be any different at all. There’s no independence issue here at all in my view. The position of the government is that the Yukon crest will appear in Yukon courtrooms, including the Supreme Court Room, and a, ah that justice will be done in the presence of a symbol of the Yukon territory.

Ms. Thomas complained that, as a member of the law society, Minister Kimmerly’s comments amounted to conduct deserving of censure.

The Crest is Out of the Courtrooms!

As noted, Judge Maddison had provided oral reasons for the removal order on September 26:

The reason that Court business is conducted in specially designed rooms is not only for the purpose of providing an appropriate forum for dispute resolution between citizens, and between citizens and various branches of government, but is also to symbolize that what is going on is quite independent of any other branch of government.

...

... it is essential to the perceived fairness of the judicial process and the independence of the judiciary that this symbolic presence of the Territorial Government, a frequent litigant, is eliminated.

...

I have concluded that, in the interest of the due and impartial administration of justice, that the tradition of the past continue; that there be no insignia in the courtroom. Accordingly, Mr. Clerk has been instructed to cover the Crest.

The coats of arms were accordingly removed over the weekend. However, anxious to appeal Judge Maddison's decision, the following week the Justice Minister directed government lawyers to file a draft order that rendered the Court's direction into writing. Minister Kimmerly is quoted as saying the order would become appealable once signed by the Judge, and "if [he] refuses to sign it, the coats of arms will simply be put back up."¹⁸

Judge Maddison issued his written order on October 3, 1986, stating that the Government of Yukon had unilaterally installed the crest in each courtroom and refused to remove the "decoration" when requested to do so. He noted the refusal of the Government of Yukon to remove the Yukon coats of arms and ordered the Clerk of the Court to remove them.

Maddison J. provided further written reasons for his Order on October 6, again clearly situating his objections to the coats of arms as countering a threat to the independence of the courts and judiciary:

Where the crest is understood to be and is asserted by the government as a symbol of government, it cannot but leave the impression with the citizen that the court is part of, not independent of that government. This is particularly significant when that Government is a party to proceedings taking place in these courtrooms, as it frequently is. The importance of the

symbolism is heightened when the court rooms are housed in a government administration building, not a separate court facility. It is critical to the public's understanding that the judicial process is impartial that the independence of the judiciary be preserved and the symbolic predominance of the Yukon Government be removed. This fundamental principle of independent and impartial justice is reflected, for example, in s. 11(d) of the *Charter of Rights and Freedoms* which accords an accused person a fair and public hearing by an independent and impartial tribunal. No one must think that this court is in any way an agency or arm of the legislative or executive arms of government.

The Public Response and a Resolution in the Courthouse

The *Whitehorse Star* published a perceptive editorial on September 26, the day after Judge Maddison made his order. After noting that, as a symbol of government, the coat of arms is as appropriately used by the judiciary as by the executive,¹⁹ the newspaper observed that the debate was “a reaction to a perception that the executive is making the judiciary’s job difficult on a number of points,” but that, nevertheless, “Justice Minister Roger Kimmerly should not be making orders about the interior of a judge’s courtroom.” The editorial continued on:

... If a superior judge is to have control of his or her own courtroom on the important legal and procedural issues, as our laws require, then surely there must be similar independence on the minor issues – minor issues that go to the dignity of the court.

Simply by maintaining the crests will stay where they are, Kimmerly is showing he, as a politician and cabinet minister, feels he has some control over what goes on in the courtrooms.

It may only be control over a decoration on a wall, but that is important symbolically. An independent judiciary is more than independence in fact or point of law – it is independence in public perception.

If Justice Maddison’s view, even if it is wrong, is that the crest is a symbol of the executive, then he should have the right to have it removed.

The *Whitehorse Star* also published a Letter to the Editor by Lynn Gaudet, a lawyer who was then the program manager with the Yukon Public Legal Education Association.²⁰ In a half-page piece, she explained why an independent judiciary is important to our system of law and why it is that the legal system gives judges the right to control their courtrooms.²¹

In the face of public response that was clearly running against him, the Justice Minister retreated and advised that he would not be appealing the order of Maddison J. after all. He is quoted in the *Whitehorse Star* as saying that the controversy was “not doing anybody any good … I sincerely hope that the issue dissolves and is forgotten about.”²² He also alluded to a “solution” that he had discussed with Nathan Nemetz, the then-Chief Justice of the Yukon Court of Appeal. While not explicitly stated, the proposed solution seems likely to have been to install the Royal Coat of Arms of the United Kingdom in the Supreme Court courtrooms; a display that follows the practice in British Columbia.²³

In a second editorial, the *Whitehorse Star* expressed relief that the matter had been resolved, calling the argument “rather silly, but nevertheless serious.” It also noted that the government’s “hard-nosed attitude … showed to many that the government was prepared to interfere with the courts,” but that the longer the debate continued the more “ludicrous the matter looked to the vast majority of people.”

While a truce was thus reached in the forum of public opinion, Minister Kimmerly’s accounting before the law society was just getting underway (Figure 1).

The Law Society Complaint

On October 10, 1986, Minister Kimmerly wrote the Law Society of Yukon in response to Ms. Thomas’s discipline complaint. He stated, among other things, that the comments were justified given his role in the government:

It is of course my constitutional responsibility to maintain and defend the role of the Executive in our form of Government and it is my firm belief that I was discharging that duty under these circumstances. I am cognizant of my role with respect to the judiciary and my responsibilities in that regard, and my comments on this particular issue were, in my view, responsible to both of my aforesaid duties.

Having reviewed the complaint and Minister Kimmerly’s response, Grant Macdonald, the chair of the discipline committee, found that Mr. Kimmerly’s conduct was not deserving of censure, in part due to the role he played in his political office.



Figure 1. Editorial cartoon depicting Minister Kimmerly with a tube of Crest toothpaste.
Rick Peterson, Whitehorse Star, October 7, 1986.

Ms. Thomas appealed that finding to the full executive of the law society, and while not unanimous, on January 20, 1987, the executive advised:

A consensus was reached, subject to Mr. Kilpatrick's dissent, that Mr. Kimmerly, during the interview in question, acted in his capacity as Minister of Justice and while his remarks may have been impolite and impolitic, he could not be found to be deserving of censure or disciplinary action by the Executive and furthermore that Mr. Macdonald had acted properly as Discipline Chairman in this case.

Dissatisfied, Ms. Thomas applied to the Supreme Court of Yukon for an order quashing the decision of the executive.

She was successful. In its review, the law society did not have access to the September 25 CBC interview with the Minister, which was the basis of Thomas' complaint. Deputy Judge Wachowich, to whom tape recordings were made available, agreed that this omission provided a sufficient basis on which to quash the law society's decision. Accordingly, on May 12, 1987, Justice Wachowich returned the matter to the law society, ordering the executive to consider the additional evidence filed, including the tape recordings provided by the CBC, in its reconsideration.

The executive of the law society met on May 15, 1987, to review all of the evidence relating to the discipline complaint. On May 25, it publicly announced that it was referring the matter to a Committee of Inquiry for a full hearing.

Seizing his opportunity while the inquiry was being convened, on July 10, 1987, the Minister of Justice applied to the Supreme Court of Yukon for an order prohibiting the law society from proceeding with the discipline complaint, on the grounds that he was at all times acting in his capacity as Minister of Justice and not as a member of the Law Society of Yukon. The petition characterized the discipline citation as an unlawful attempt to interfere with the Government of Yukon.

On July 17, 1987, Deputy Judge Bracco dismissed Minister Kimmerly's petition, finding that the Law Society of Yukon had proper and reasonable grounds for issuing the citation. He concluded that the principle of ministerial immunity asserted by Minister Kimmerly had not been established. The matter was therefore remitted to the Law Society's Committee of Inquiry for a full and fair inquiry into the Minister's conduct, and to test an important proposition about the extent to which a minister is accountable to the law society, despite their role in government.

Minister versus Courts and Law Society, Round 2

Concurrent with the developments in the complaint before the law society was a judicial council issue that was also attracting media attention and being linked to more fundamental tensions between the branches of government, and indeed between the same individual actors. As noted somewhat noirishly by the *Whitehorse Star*, “[b]eneath the surface debate … brew petty politics and cool personal relationships between Kimmerly and other main players—Supreme Court Justice Harry Maddison and key members of the law society.”²⁴

In a nutshell, Minister Kimmerly was unhappy with the judicial candidates he was being presented with for appointments, and the implication was that it was because there were too many lawyers on the judicial council that then, as now, vetted judicial applicants. As with other aspects of the legal system, the Minister believed that a majority of lay people should sit on the council because lawyers and the law society necessarily favoured the “professional elite.” The Minister proposed either presenting his own list of candidates to the council or having the Public Service Commission department of the Yukon Territorial Government prepare a list. In a gambit that ultimately failed, the Minister did present twelve names selected by the Department of Justice to the council in July 1988, only to have it decline to consider them.

At the same time that the law society executive was considering the Kimmerly complaint, it was also separately considering the broader issue of judicial independence. On May 21, 1987, David Gates, the newly-elected law society president, advised the media that the society was striking a committee to study the issue of the Court’s independence from government.²⁵ This step had been decided on at the society’s recent annual general meeting and was prompted by the clashes between the courts and the executive branch, including the naming of the law centre, the removal of the coats of arms, the public dispute about the cost of Judge Maddison’s furnishings, as well as more-recent comments by Minister Kimmerly about the high salaries of federal judges and his advocacy with respect to changing the process for judicial appointments by altering the composition of judicial council.

The Committee of Inquiry

Although the dust-ups between the courts and the Minister continued throughout 1987 and into 1988 and beyond, the Crest Affair did receive its final resolution in July 1988, with formal hearings before the law society’s Committee of Inquiry over two days, and written reasons released by the panel on July 25.

The law society was represented by counsel before the Committee of Inquiry,²⁶ and the issue was framed as whether the specific comments made to

CBC Radio amounted to conduct deserving of censure. This term is defined in the *Legal Profession Act* as conduct that “is contrary to the public interest or that harms the standing of the legal profession generally, or that is contrary to the code of legal conduct.”

In particular, the Committee of Inquiry focused on the Minister’s assertion that “Yukoners have been insulted,” “It is silly,” and “It brings the repute of the courts and judiciary into disrespect in the Yukon and I am extremely saddened by the whole thing.”

The Committee of Inquiry found that what Minister Kimmerly had called “silly” was the shrouding of the coats of arms. It was neither a reference to the courts, nor to Judge Maddison personally. Although Ms. Thomas suggested that there was some “ulterior motive” to the Minister’s comments, this point was not pressed by the law society and the committee declined to further describe or make a finding about it.²⁷

Both the law society and Minister Kimmerly presented expert opinion evidence in support of their arguments. The expert lawyer called by the law society testified that the Minister had breached the code of professional conduct with respect to his role in public office and with respect to the administration of justice. Ron Veale, who was acting as counsel for the law society, argued that while a lawyer can properly state a view that a Court is wrong, they cannot publicly state that a Court’s actions are “silly.” Additionally, rather than making a public statement to various media outlets, the Minister should have pursued his grievance through the Canadian Judicial Council. Here, the Minister’s comments, which he alliteratively described as the “petulant pique of a politician,” lowered public confidence in the justice system and were deserving of censure.

In contrast, one of the lawyers called by the Minister, John D. McAlpine, QC, from Vancouver, opined that the Supreme Court had itself “thrown down the gauntlet” in a public way requiring a response from the Minister of Justice, and that, in the context, the Minister’s comments were “sensible,” “understandable,” and a valid exercise of his freedom of speech. Minister Kimmerly’s counsel, Richard Peck QC, argued that to censure the Minister’s comments would be to curtail a lawyer’s fundamental right to speak out on matters of principle. Quoting from Justice Dubin of the Ontario Court of Appeal, he protested that “the Courts are not fragile flowers that will wither in the heat of controversy.” Comments made in good faith without malice and without attempting to impair the administration of justice are fair game.

In a relatively sparsely-reasoned decision, the Committee of Inquiry accepted that a member holding public office is bound by the same standards of professional conduct required of a practising lawyer, and in some instances held to an even higher duty. However, here, Minister Kimmerly, as Minister of Justice, had found himself in circumstances where he was obliged to respond to the Court's actions. While his words may not have been well-chosen, the committee was mindful "of the realities of political life and the position of the member as Minister of Justice at the end of a telephone in Haines Junction when told of the shrouding of the Coat of Arms." After balancing the Minister's obligations to the profession against his freedom to make a fair and reasonable comment, the committee concluded that the comments of the Minister of Justice were not deserving of censure and dismissed the complaint.

Thus ended this chapter of Yukon history.²⁸

Conclusion

Despite the fraught background and interpersonal conflict, and the perception by some that the matter was a "tempest in a teapot," or "silly" as the Minister of Justice described it, the independence of the Yukon's judiciary and the broader relationships between the Court, executive, and the bar were nevertheless at the heart of the Crest Affair, and the incident raised public awareness of how these important institutions intersect.

For one thing, the law society complaint clarified that the Minister was still subject to its disciplinary process, despite his role in public life. Thirty years later, this precedent remains one of the few considerations of the potentially conflicting duties of a lawyer-politician in Canadian law.²⁹

As well, particularly from the perspective of Ron Veale who, after playing a minor role in the controversy, later assumed Judge Maddison's role at the helm of Yukon's Supreme Court, the Crest Affair was not a mere idiosyncrasy of the bench but a necessary intervention that advanced public understanding of the independence of the judiciary from the Government of Yukon and the Department of Justice.

While the Crest Affair arose on the heels of the seminal case of *Valente v The Queen*,³⁰ in the years since, various appellate courts, including the Supreme Court of Canada, have continued to refine our understanding of the important role that court and judicial independence play in Canadian society. Indeed, this principle lies at the heart of our system of government. An independent judiciary is not the right of a judge—it is a right of the public to the confidence that a case will be adjudicated fairly, on its merits, and without the exercise of political or other pressure.

As noted above, Yukon's Supreme Court and Territorial Court continue to share a building with offices of the Yukon Department of Justice. The second floor walkway between the two institutions is still a bridge to nowhere. Now, however, the relationship between the branches of government is one of mutual respect and shared responsibility for delivering a standard of justice that is rightly the envy of many Canadians.

Notes

1. The artist was Colin Sawrenko. One of his pieces is on display on the government side of the building, near the elevators. A second coat of arms is outside the building on the courthouse side.
2. The "crest" forms part of the Yukon coat of arms; specifically, it is the part on top of the shield, which consists of the Yukon malamute (or husky) on a mound of snow.
3. The technical description, as registered with the Canadian Heraldic Authority, is "Arms: Azure two pallets wavy Argent between two piles reversed Gules fimbriated Argent, each charged with two bezants, on a chief Argent a cross Gules surmounted by a roundel Vair; Crest: A husky statant on a mount of snow proper."
4. Roger Kimmerly was a lawyer and had been a magistrate in the Yukon before making a move into politics.
5. Evidence of Timothy Preston before the Law Society Commission of Inquiry, reflected in *Law Society of Yukon v Kimmerly*, [1988] LSDD No. 1.
6. Becky Streigler, "New comfort and security", *Whitehorse Star* (August 26, 1986).
7. Jim Butler, "Judges order new furniture outside: Costs taxpayers \$50,000", *Whitehorse Star* (August 1, 1986). The additional \$30,000 reflects that the legislature and/or executive approved \$10,000 to furnish each of the offices used by the three resident Territorial Court judges.
8. While considered "exorbitant" at the time, all of these items have been in consistent use by resident Supreme Court judges, and Judge Maddison's furniture may well have ultimately cost taxpayers less in the long run.
9. Butler, *supra* note 7.
10. *Ibid*
11. Becky Streigler, "Courts dedicated: Many lawyers, judges boycott", *Whitehorse Star* (October 10, 1986). According to the article, the only lawyers attending were two federal Crown attorneys, lawyers from the Yukon Department of Justice, and one lawyer who was also an MLA. One of the Yukon's three resident judges attended.
12. This was ultimately resolved when a tariff schedule was agreed on in September 1986.

13. Becky Streigler, “Minister interfering with justice, law society says”, *Whitehorse Star* (September 25, 1986).
14. Jim Butler, “Justice inquiry team appointed”, *Whitehorse Star* (April 9, 1986).
15. Becky Streigler, “Crest called symbol of government; judge refuses to hear case in decorated courtroom”, *Whitehorse Star* (September 25, 1986).
16. Becky Streigler, “Judge explains why he wants crest out”, *Whitehorse Star* (September 26, 1986), citing comments made by then Law Society of Yukon President Bruce Willis.
17. Streigler, *supra* note 13.
18. Becky Streigler, “Gov’t may appeal court’s crest order”, *Whitehorse Star* (October 1, 1986).
19. Indeed, the commissioner has granted the Territorial Court, as a branch of government, the right to use the Yukon coat of arms, and it does so today in its courtrooms and on its letterhead.
20. And also, it appears, a former law partner of Roger Kimmerly.
21. “Courts rely on public confidence: Letter to the Editor”, *Whitehorse Star* (October 1, 1986).
22. Becky Streigler, “Gov’t gives up coat of arms battle”, *Whitehorse Star* (October 6, 1986).
23. On December 18, 2009, Ron Veale, now Chief Justice of Yukon, discovered the Royal Crest in the court’s basement storage and placed it behind the bench in Courtroom #1.
24. Jim Butler, “Kimmerly plans changes to method of picking judges,” *Whitehorse Star* (May 15, 1987).
25. “Law Society studying judicial independence,” *Whitehorse Star* (May 22, 1987).
26. Ron Veale, as a lawyer, represented the Law Society of Yukon.
27. The decision of the Committee of Inquiry is available online through Quicklaw at *Law Society of Yukon v Kimmerly*, [1988] LSDD No. 1.
28. As a postscript, it is worth noting that, in an editorial published on July 4, 1988 (“Silly evidence”), the *Whitehorse Star* quoted earlier CBC reporting that Judge Maddison had in fact called the coats of arms “tacky.” It also cited evidence presented at the law society hearing about letters authored by Maddison J., in which he had agreed to their presence in the courtrooms, provided they “were smaller and of better quality.” This evidence was not mentioned in the committee’s decision, but the *Whitehorse Star* opined that, in light of it, the protracted proceedings were themselves bringing the administration of justice into disrepute.
29. This subject has since been considered in an article by Andrew Flavelle Martin, “Legal Ethics Versus Political Practices: The Application of the Rules of Professional Conduct to Lawyer-Politicians” (2012) 91:1 Canadian Bar Review 1, 2013 CanLIIDocs 182, online: <<http://www.canlii.org/t/28h2>>.

30. [1985] 2 SCR 673. In Valente, the Supreme Court of Canada considered whether an Ontario provincial court judge was sufficiently independent to meet the requirement of s. 11(d) of the Charter. In answering the question affirmatively, Le Dain J. articulated the nature and content of judicial independence, including a recognition of its individual and institutional aspects. Broadly speaking, judicial independence requires security of tenure, financial security, and institutional independence over matters of administration bearing directly on the exercise of a court's judicial function.

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