

CONSTITUTIONAL LAW

DISTRIBUTION OF POWERS

Judicial review of summary decision (2016 CIRB 843) by Canada Industrial Relations Board finding Board having jurisdiction to rule on application for certification of bargaining unit composed of teaching staff at school on Matimekush-Lac John Innu Nation territory — Applicant, teachers' employer, arguing presumption in favour of provincial jurisdiction over labour relations, respondent failing to rebut this presumption — Respondent arguing education of Aboriginal children on reserves falling under federal head of power, particularly because of *Indian Act*, R.S.C., 1985, c. I.5 — Whether Aboriginal school at issue a federal work, undertaking or business falling under scheme of *Canada Labour Code*, R.S.C., 1985, c. L-2 — School coming within category of federal work, undertaking or business, thus falling under scheme of *Canada Labour Code* — Supreme Court in *NIL/TU, O Child and Family Services Society v. B.C. Government and Service Employees' Union*, 2010 SCC 45, [2010] 2 S.C.R 696, establishing functional test calling "for an inquiry into the nature, habitual activities and daily operations of the entity in question to determine whether it constitutes a federal undertaking" — Functional test applied in present case — Establishment of on-reserve school flowing from federal jurisdiction over Indians — Not enough for applicant to argue choice of Quebec curriculum for Aboriginal students as basis of provincial jurisdiction — School in question not associated with any school board — Provisions of *Indian Act* governing obligation for Aboriginal students living on reserves to attend school — Application dismissed.

Innu Matimekush-Lac John Nation Council v. Association of Employees of Northern Quebec (CSQ) (A-333-16, 2017 FCA 212, Trudel and Pelletier JJ.A., judgment dated October 25, 2017, 18 pp.)