

FEDERAL COURT JURISDICTION

Motion by respondents to strike without leave to amend, dismiss applications for judicial review of decisions by respondent Board of Internal Economy (Board) finding that members or former members of Parliament for New Democratic Party of Canada used parliamentary resources, services in contravention of Board's by-laws for expenses related to, *inter alia*, employment, telecommunications, travel — Issues whether: Board decisions subject to judicial review by Federal Court (F.C.) pursuant to *Federal Courts Act*, R.S.C., 1985, c. F-7 (Act), Board decisions relating to use of resources by members proceedings in Parliament, immunized by parliamentary privilege or whether they fall within House of Commons' exclusive right to manage its internal affairs — When enacting Act, ss. 2, 18, 18.1 legislator intending to remove judicial review jurisdiction over decisions of all federal boards, commissions or other tribunals from superior courts to F.C. — Board not excluded from F.C.'s jurisdiction pursuant to Act, ss. 2(1),(2) — Board's jurisdiction, powers clearly stated in *Parliament of Canada Act*, R.S.C., 1985, c. P-1, s. 52.3 — It cannot be said that any power found in *Parliament of Canada Act* is an expression of privileges set out in *Constitution Act, 1867*, s. 18 — It is only the legislative conferral of privileges, immunities, powers found in *Parliament of Canada Act*, s. 4 that derives from s. 18 — Majority of provisions in *Parliament of Canada Act* not concerning constitutional parliamentary privileges — Board not as fundamental as Senate or House of Commons to notion of free democracy that it attracts same protections afforded thereto — Board not a "committee" of the House of Commons — Not examining policy, engaging in law-making — Board's capacity to enter into contracts, memoranda of understanding, other arrangements inconsistent with immunity from judicial scrutiny on grounds of parliamentary privilege — Respondents failing to demonstrate that decisions at stake falling within established category of parliamentary privilege — United Kingdom Supreme Court concluding in *R. v. Chaytor and others*, [2010] UKSC 52 (*Chaytor*) that submitting expense claim forms not qualifying as "Proceedings in Parliament" — Analysis, findings in *Chaytor* applying equally in context of judicial review — Matters herein concerning alleged use of parliamentary resources, services for political purposes, not parliamentary functions — Respondents citing no authority to support their position that matters at issue at core of parliamentary functions — Respondents' reliance on production order in *R. v. Duffy*, 2015 ONCJ 694 (CanLII) misplaced — F.C. unconvinced herein that House of Commons' activities interfered with or House prevented from fulfilling constitutional functions since filing of applications for judicial review by applicants — Motion to strike dismissed.

BOULERICE V. CANADA (ATTORNEY GENERAL) (T-1526-14, T-304-15, T-1539-14, T-1935-14, 2017 FC 942, Gagné J., order dated October 24, 2017, 20 pp.)