Court File No. 35475

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

Her Majesty the Queen

Appellant

-and-

Clifford Kokopenance

Respondent

MEMORANDUM OF ARGUMENT OF THE PROPOSED INTERVENER, NISHNAWBE ASKI NATION

PART I – BRIEF STATEMENT OF FACTS

REASONS FOR SEEKING INTERVENER STATUS

1. Nishnawbe Aski Nation ("NAN") seeks leave to intervene in this appeal pursuant to Rule 55 of the *Rules of the Supreme Court of Canada*, SOR/2002-156 ("the *Rules*").

2. NAN seeks leave to make oral submissions of up to 30 minutes and written submissions of up to 20 pages on the nature of the state's obligation to ensure a representative jury roll and the application of that obligation in the context of remote First Nation communities.

3. NAN's member communities have a direct and substantial interest in the outcome of this appeal. NAN is a political territorial organization formed precisely to represent the interests of those communities in matters such as the present appeal that affect their fundamental rights. As such, NAN can offer submissions on the systemic issues raised by this appeal that are useful and different from the parties.

4. In particular, as set out in the affidavit of Deputy Grand Chief Alvin Fiddler, NAN has been at the forefront of the various legal proceedings that brought the issue of First Nations underrepresentation on Ontario juries to the attention of the courts and the public. It was as a result of those proceedings that this issue came to the attention of the Respondent in this appeal and led to the filing of fresh evidence on his appeal at the Court of Appeal for Ontario.[1]

DECISION UNDER APPEAL

5. The Appellant, Her Majesty the Queen, appeals a decision of the Court of Appeal for Ontario that vacated the Respondent's conviction for second-degree murder and granted him a new trial. A majority of the Court held that Ontario had failed to meet its constitutional obligations with respect to the representativeness of the 2008 Kenora District jury roll.

RULING OF LAFORME JA

6. LaForme JA held that the Crown's process for preparing the jury roll must provide a fair opportunity to include the distinctive perspectives of First Nation people who live on reserves, having regard to all the circumstances as well as the objectives served by the representativeness right. He further held that the state must make a reasonable effort at each step of the process for generating representative jury rolls, including compiling lists of potential jurors, sending jury notices, facilitating delivery and receipt, and encouraging responses. LaForme JA concluded that this is a continuing obligation, such that further state action may become reasonably necessary as time passes.[2]

7. With respect to the 2008 jury roll in Kenora, LaForme JA held that the reasonableness of the Crown's efforts to ensure representativeness could not be evaluated without regard to two specific context factors: the Crown's special relationship with Aboriginal people, and the state's knowledge of Aboriginal estrangement from the justice system.[3]

8. LaForme JA found that the honour of the Crown was engaged by the Crown's efforts in respect of jury roll preparation because section 6(8) of the *Juries Act*, RSO 1990, c J.3

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[1] Affidavit of Deputy Grand Chief Alvin Fiddler, sworn March 28, 2014 at para 36.
[2] *R v Kokopenace*, 2013 ONCA 389 at paras 49-51 [*Kokopenace*].
[3] *Ibid* at paras 121-151.

explicitly treats First Nation people living on reserves separately and differently from the rest of the population. He held that principles regarding good faith consultation efforts can thus be used to evaluate the Crown's efforts. LaForme JA further held that the Crown knew or ought to have known about problems with obtaining up-to-date lists of First Nation on-reserve residents and the deteriorating rate of return of jury questionnaires from the on-reserve residents.[4]

9. LaForme JA concluded that although the bureaucrats involved in preparing the 2008 jury roll for the Kenora District had acted in good faith, it was the Crown's efforts in a broader sense that were at issue. He therefore held that the Crown had not met its obligations pursuant to sections 11(d) and (f) of the *Canadian Charter of Rights and Freedoms* ("the *Charter*") and ordered a new trial.[5]

RULING OF GOUDGE JA

10. Goudge JA concurred with LaForme JA's disposition and with his analysis of the law. Goudge JA emphasized six aspects of the law of jury representativeness:

    i. An individual's right to be tried by a representative jury is mirrored by the corresponding obligation of the state;
    ii. The "state" in question is Ontario, and not simply the Crown agents in charge;
    iii. The state's obligation extends beyond compiling lists and sending jury notices; it includes facilitating delivery and encouraging responses;
    iv. The state's obligation continues on a yearly basis;
    v. "Reasonable efforts" cannot be equated with perfection in state action;
    vi. The test for representativeness is contextual and requires consideration of all relevant circumstances. This includes recent history, the Honour of the Crown and the state's special relationship with Aboriginal people, and the fundamental estrangement of Aboriginals from the justice system. [6]

11. Goudge JA recognized three problems that the Crown had to address in regard to the representation of First Nation people on the Kenora jury roll. In addition to the problems

[4] *Ibid* at paras 86, 93, 128, 131, 161, 185.
[5] *Ibid* at paras 194, 212, 224, 232.
[6] *Ibid* at paras 236-241.

observed by LaForme JA with obtaining lists of on-reserve residents and with their response rates, Goudge JA also identified issues with the delivery of the jury questionnaires. He held that even where the Crown does not cause the problems, it must still make reasonable efforts to address them as part of its obligation to First Nations to ensure a fair opportunity for including the distinct perspectives of reserve residents.[7]

12. Goudge JA found that if current lists of reserve residents had been obtained for 2008, it would have had only a marginal impact on the representativeness of the Kenora District jury roll. He held that the Crown's efforts to obtain current band lists were sufficient under the circumstances. However, Goudge JA noted that there were many steps that could have been taken with respect to the poor delivery rates and held that inaction by the Crown cannot meet a reasonable efforts standard. Further, Goudge JA agreed with LaForme JA that the Crown had not met its obligation to address the response rate, observing that it had left that challenge with a junior employee and, in particular, failed to take the obvious step of discussing the issue with First Nation leadership.[8]

RULING OF ROULEAU JA

13. In dissent, Rouleau JA agreed with his colleagues on the law of jury representativeness, but disagreed on its application to the case.[9]

14. Rouleau JA held that in preparing the 2008 jury roll for the Kenora District, the Crown made a reasonable effort to obtain adequate lists of prospective on-reserve jurors. To the extent that those efforts were unsuccessful, he found that reasonable steps were taken to ensure that on-reserve residents still had the opportunity to be represented in the jury process. He concluded that problems with delivery were just a symptom of the inaccuracy of the lists and that increasing the number of questionnaires distributed was a reasonable step to address the issue.[10]

15. Finally, with respect to response rates, Rouleau JA emphasized the complexity of the issues at stake and held that the Crown's efforts were reasonable in light of the information it had

[7] *Ibid* at para 250, 259, 266.
[8] *Ibid* at paras 252-257, 262, 265, 275-276.
[9] *Ibid* at paras 178-179.
[10] *Ibid* at paras 282-283.

at the time. Rouleau JA also disagreed that the Crown has a constitutional obligation to encourage responses to the jury questionnaires. He held that a lower response rate alone cannot be equated to a reduced opportunity to be included on the jury roll.[11]

PART II – ISSUES

16. Does NAN have an interest in the subject matter of this appeal and the ability to provide submissions that will be both useful and different from those of the parties and other interveners?[12]

PART III – STATEMENT OF ARGUMENT

17. NAN respectfully submits, for the reasons outlined below, that it enjoys the ability to present the unique perspective of First Nations directly affected by this appeal in submissions that will be useful and different from those of the parties and other interveners.

NAN'S INTEREST IN THE APPEAL

18. NAN represents 49 First Nations throughout the province of Ontario, including 29 of the 46 First Nations in the Kenora District. NAN's mandate is to represent the socioeconomic and political interests of its First Nation communities to all levels of government on a nation-to-nation basis.

19. NAN, as representative of its member communities, is uniquely situated to provide argument regarding the relationship between the Crown's obligation to ensure jury representativeness and its constitutional and treaty obligations to First Nations. It is of fundamental importance that this Honourable Court receive submissions on this relationship from a First Nation perspective.

20. The proceedings below demonstrate that NAN territory is "ground zero" of the problem of First Nation exclusion from juries in Ontario. NAN is in a position, if permitted to participate fully in this appeal, to provide a valuable perspective on "the facts on the ground" that are critical to understanding this issue. NAN respectfully requests expanded

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[11] *Ibid* at paras 306-334.
[12] *Rules of the Supreme Court of Canada*, SOR/2002-156, Rules 55 and 57.

participation as an intervener, consistent with its expanded standing at the Court of Appeal for Ontario. This would recognize NAN's specific expertise and systemic interest in the outcome of this criminal appeal, which would complement rather than prejudice the interests of the parties.

THE CROWN'S OBLIGATION TO ENSURE JURY ROLL "REPRESENTATIVENESS"

21. NAN intends to argue that the reasonableness of the Crown's efforts to ensure jury roll representativeness cannot be assessed without regard to the reasonableness of the results achieved. NAN's approach is consistent with Canadian jurisprudence that has rejected any notion that effort alone is determinative of whether a breach of a *Charter* right has occurred. This jurisprudence recognizes the reality that serious violations of *Charter* rights can occur in the absence of intention. From its inception, the primacy of effects over purpose has been a foundational principle for the interpretation of rights guaranteed by the *Charter*.[13]

22. NAN will submit that the Crown's representativeness obligation must be interpreted in light of *Charter* values, particularly the equality and multiculturalism guarantees in sections 15 and 27.

23. In *R v Sheratt*, this Honourable Court held that provincial jury legislation ensures representativeness in the initial jury panel because of the "sources from which" it is selected.[14] This appeal challenges that assumption because the "sources" relied upon by the Crown in generating the 2008 jury roll for the Kenora District could not, in fact, have ensured the inclusion on jury rolls of First Nation members who reside on reserves.

24. Relying on jurisprudence from the United States of America, the Court of Appeal for Ontario held in *R v Church of Scientology of Toronto* that the exclusion of certain segments of society could violate section 11 of the *Charter* if the exclusion robbed the jury roll of a different perspective from a diverse group of people:

> The essential quality that the representativeness requirement brings to the jury function is the possibility of different perspectives from a diverse group of persons. The

[13] E.g. *R v Big M Drug Mart Ltd*., [1985] 1 SCR 295 at para 88; *Law Society of British Columbia v Andrews*, [1989] 1 SCR 143 at para 37; *Gosselin v Quebec (Attorney General)*, [2002] 4 SCR 429 at para 16-17, 26; *R v Golden*, [2001] 3 SCR 679 at para 95; *R v Grant*, 2009 SCC 32 at paras 68, 73, 75; *R v Harrison*, 2009 SCC 34 at paras 62, 71-74; *Vancouver (City) v Ward*, 2010 SCC 27 at para 42.

[14] *R v Sheratt*, [1991] 1 SCR 509 at 525.

> representativeness requirement seeks to avoid the risk that persons with these different perspectives, and who are otherwise available, will be systematically excluded from the jury roll.[15]

25. The American jurisprudence on the Sixth Amendment[16] provides a useful lens through which to analyze the right to representative jury under section 11 of the *Charter*. In *Duren v Missouri*, the United States Supreme Court held that a *prima facie* violation of the Sixth Amendment is made out where a distinctive group is underrepresented due to systematic exclusion from the selection process.[17] Where a *prima facie* violation is proven by the accused, the government is required to justify its practices to prove "that a significant state interest [is] manifestly and primarily advanced by those aspects of the jury-selection process…that result in the disproportionate exclusion of a distinctive group."[18]

26. NAN intends to argue that an unrepresentative jury roll that results from systemic exclusion is a violation of section 11 of the *Charter* that must be justified under section 1, even if the Crown made reasonable efforts to ensure First Nation inclusion. It is NAN's position that mere good faith or due diligence cannot cure an unrepresentative jury because jury representativeness is a fundamental feature of trial fairness.[19]

27. In the alternative, NAN agrees with the Court of Appeal's statement of the law of jury representativeness under sections 11(d) and (f) of the *Charter* with respect to the Crown efforts that are necessary to meet its representativeness obligation.[20] However, NAN takes the position that results matter, in addition to effort. NAN intends to argue that Crown efforts cannot be considered reasonable unless they ultimately ensure meaningful results in all the circumstances. In that regard, there are several contextual factors that are particularly relevant to First Nations.

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[15] *R v Church of Scientology of Toronto* (1997), 33 OR (3d) 65, 116 CCC (3d) 1 at 119.
[16] The Sixth Amendment reads as follows: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.
[17] *Duren v Missouri*, 439 US 357.
[18] *Ibid* at 367-368.
[19] A fair trial includes the right to a representative jury, see *R v Williams*, [1998] 1 SCR 1128 at para 47; *NAN* v *Eden*, 2011 ONCA 187 at para 28; see also *R v Stillman* [1997] 1 SCR 607 at para 72.
[20] *Kokopenace*, *supra* at paras 49-51.

ENGAGEMENT OF THE HONOUR OF THE CROWN

28. NAN intends to augment the position taken by the majority of the Court of Appeal that in the context of First Nation representativeness, consideration must be given to the honour of the Crown, the Crown's special relationship with First Nations, and the fundamental estrangement of First Nations from the justice system.

29. The majority of the Court of Appeal held that the honour of the Crown was engaged because the statutory scheme chosen by Ontario to ensure jury representativeness requires the government to interact differently with First Nations than with all other people.[21] NAN intends to support this position. Indeed, under the circumstances NAN does not believe the Crown would have any choice but to interact differently with First Nations than with all other people. NAN intends to make submissions, *inter alia*, on the scope and implications of this special relationship.

30. NAN intends to argue that where laws of general application have disproportionate effects on First Nation individuals, especially those living on-reserve, due to geographic, cultural, socioeconomic, and historical factors, *Charter* values and the special nation-to-nation relationship between First Nations and the Crown dictate that the Crown may have no alternative but to treat First Nations people differently than others in order to satisfy its constitutional obligations. Contrary to what the Appellant has argued, this constitutional imperative exists regardless of the statutory mechanism chosen to implement it. Crown policy decisions must be compliant with the *Charter*.[22] If section 6(8) of the *Juries Act* were not enacted, Ontario would have to satisfy its obligation in another manner and the honour of the Crown would attach in any event.

31. Necessarily differential treatment occurs in relation to other aspects of the justice system, as well. With respect to sentencing, this Honourable Court noted in *R v Ipeelee* that:

> courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples.[23]

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[21] *Kokopenace*, *supra* at paras 128, 241.
[22] *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44 (CanLII) at para 104.
[23] *R v Ipeelee*, 2012 SCC 13 at para 60.

32. Writing for the majority in *Ipeelee*, LeBel J held that such underlying conditions did not, on their own, justify different sentences for Aboriginal offenders, but rather formed the context for understanding case-specific information. NAN intends to argue that these kinds of factors must also inform the context of the Crown's obligations with respect to jury roll representativeness. In particular, they must be considered in any causation analysis with respect to unrepresentative jury rolls. As noted by LaForme JA, "the honour of the Crown is engaged to the extent that this historical context must be kept in mind when assessing Ontario's conduct for constitutional sufficiency."[24]

33. The Crown has played a causal role in the historical events that created the present circumstances of First Nation communities. Given the complex and multifaceted nature of the problems that have arisen, it would be overly simplistic to suggest that the most proximate incident in the historical chain of causation, such as failure to respond to correspondence, is the sole and self-inflicted cause of the underrepresentation of First Nations on Ontario jury rolls. In this historical context, NAN will submit that it is only natural that extraordinary obligations may arise on the part of the Crown.

APPLICATION OF DUTY TO CONSULT PRINCIPLES

34. As noted by Justice LaForme, the honour of the Crown is the source of different duties under different circumstances.[25] The duty to consult arises where Crown action may affect a claimed Aboriginal right.[26] NAN agrees with Justice LaForme that the concept of the duty to consult is informative with respect to the reasonableness of Crown efforts to ensure jury roll representativeness: "it can hardly be denied that the Crown ought to have engaged in meaningful consultation in good faith in the problem's resolution."[27]

35. It is not sufficient for the Crown to unilaterally determine its preferred policy with respect to First Nation interests and execute it without consultation. Many federal and provincial government policies that were animated by "good intentions" have nevertheless

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[24] *Kokopenace, supra* at para 127.
[25] *Ibid* at para 129.
[26] *Manitoba Metis Federation Inc. v Canada (Attorney General),* 2013 SCC 14 (CanLII) at para 73 [*Manitoba Metis*].
[27] *Kokopenace, supra* at paras 131, 133; see also the reasons of Justice Goudge at paras 265, 275.

contributed to the disadvantages faced by First Nations today.[28] Reasonable efforts to overcome those obstacles in the context of jury representativeness must at minimum include engagement in significant nation-to-nation dialogue, and success must be measured by more than mere effort.

PRINCIPLES FOR FUTURE PROGRESS

36. The honour of the Crown requires it to act diligently in pursuit of its solemn obligations and the honourable reconciliation of Crown and Aboriginal interests.[29] With respect to fundamental justice issues that uniquely affect First Nations, such as the composition of jury rolls, NAN intends to argue that this requires good faith consultation and accommodation to get to the root of the issues with the relevant communities.

37. As the political territorial organization dedicated to the interests of the people most affected by the issues at stake in this appeal, NAN is uniquely situated to identify and represent those interests in nation-to-nation dialogue, including through legal submissions in this Honourable Court.

PART IV – SUBMISSIONS CONCERNING COSTS

38. NAN seeks no costs and asks that no costs be awarded against it.

PART V – ORDER REQUESTED

39. NAN respectfully requests that this Honourable Court grant an order:

    a. allowing NAN to intervene in this appeal, on a without costs basis;
    b. allowing NAN to file a factum in this appeal of up to 20 pages in length;
    c. allowing NAN to present oral arguments for up to 30 minutes; and
    d. such further or other order as this Honourable Court may deem appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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[28] Royal Commission on Aboriginal Peoples (1996), *Looking Forward, Looking Back* (Ministry of Supply and Services Canada) at 271-273.
[29] *Manitoba Metis, supra* at para 78.

March 31, 2014

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PART VI – TABLE OF AUTHORITIES

Cases

1. *R v Kokopenace*, 2013 ONCA 389
2. *R v Big M Drug Mart Ltd*., [1985] 1 SCR 295
3. *Law Society of British Columbia v Andrews*, [1989] 1 SCR 143
4. *Gosselin v Quebec (Attorney General)*, [2002] 4 SCR 429
5. *R v Golden*, [2001] 3 SCR 679
6. *R v Grant*, 2009 SCC 32
7. *R v Harrison*, 2009 SCC 34
8. *Vancouver (City) v Ward*, 2010 SCC 27
9. *R v Sheratt*, [1991] 1 SCR 509
10. *R v Church of Scientology of Toronto* (1997), 33 OR (3d) 65, 116 CCC (3d) 1
11. *Duren v Missouri*, 439 US 357
12. *R v Williams*, [1998] 1 SCR 1128
13. *NAN* v *Eden*, 2011 ONCA 187
14. *R v Stillman* [1997] 1 SCR 607
15. *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44
16. *R v Ipeelee*, 2012 SCC 13
17. *Manitoba Metis Federation Inc. v Canada (Attorney General)*, 2013 SCC 14

Secondary Material

18. Royal Commission on Aboriginal Peoples (1996), *Looking Forward, Looking Back* (Ministry of Supply and Services Canada)

PART VII – STATUTES, REGULATIONS, AND RULES RELIED UPON

Rules of the Supreme Court of Canada, **SOR/2002-156**

55. Any person interested in an application for leave to appeal, an appeal or a reference may make a motion for intervention to a judge.

Règles de la Cour suprême du Canada, **SOR/2002-156**

55 - Toute personne ayant un intérêt dans une demande d'autorisation d'appel, un appel ou un renvoi peut, par requête à un juge, demander l'autorisation d'intervenir.

57. (1) The affidavit in support of a motion for intervention shall identify the person interested in the proceeding and describe that person's interest in the proceeding, including any prejudice that the person interested in the proceeding would suffer if the intervention were denied.

57. (1) L'affidavit à l'appui de la requête en intervention doit préciser l'identité de la personne ayant un intérêt dans la procédure et cet intérêt, y compris tout préjudice que subirait cette personne en cas de refus de l'autorisation d'intervenir.

(2) A motion for intervention shall
(*a*) identify the position the person interested in the proceeding intends to take with respect to the questions on which they propose to intervene; and
(*b*) set out the submissions to be advanced by the person interested in the proceeding with respect to the questions on which they propose to intervene, their relevance to the proceeding and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

(2) La requête expose ce qui suit:
***a*)** la position que cette personne compte prendre relativement aux questions visées par son intervention;

***b*)** ses arguments relativement aux questions visées par son intervention, leur pertinence par rapport à la procédure et les raisons qu'elle a de croire qu'ils seront utiles à la Cour et différents de ceux des autres parties.

Canadian Charter Of Rights And Freedoms, **Being Part I of the *Constitution Act, 1982***

Charte canadienne des droits et libertés, constituant la partie I de la loi constitutionnelle de 1982

Legal Rights
LIFE, LIBERTY AND SECURITY OF PERSON.
7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Garanties juridiques
VIE, LIBERTÉ ET SÉCURITÉ

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

PROCEEDINGS IN CRIMINAL AND PENAL MATTERS.

11. Any person charged with an offence has the right

…

(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

…

(f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;

AFFAIRES CRIMINELLES ET PÉNALES

11. Tout inculpé a le droit:

…

(d) d'être présumé innocent tant qu'il n'est pas déclaré coupable, conformément à la loi, par un tribunal indépendant et impartial à l'issue d'un procès public et équitable;

…

(f) sauf s'il s'agit d'une infraction relevant de la justice militaire, de bénéficier d'un procès avec jury lorsque la peine maximale prévue pour l'infraction dont il est accusé est un emprisonnement de cinq ans ou une peine plus grave;

Equality rights

EQUALITY BEFORE AND UNDER LAW AND EQUAL PROTECTION AND BENEFIT OF LAW

15. (1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Droits a l'égalité

EGALITE DEVANT LA LOI, EGALITE BENEFICE ET PROTECTION EGALE DE LA LOI

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

AFFIRMATIVE ACTION PROGRAMS

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

PROGRAMMES DE PROMOTION SOCIALE

(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

***Juries Act*, RSO 1990, c J.3**

Jury service notices

6. …

Indian reserves

(8) In the selecting of persons for entry in the jury roll in a county or district in which an Indian reserve is situate, the sheriff shall select names of eligible persons inhabiting the reserve in the same manner as if the reserve were a municipality and, for the purpose, the sheriff may obtain the names of inhabitants of the reserve from any record available.

***Loi sur les jurys*, RSO 1990, c J.3**

Avis de sélection de juré

6. …

Réserve indienne

(8) Pour dresser une liste de jurés pour un comté ou un district où se trouve une réserve indienne, le shérif sélectionne le nom des habitants de la réserve habiles à être membres d'un jury comme si la réserve était une municipalité et, à cette fin, il peut obtenir le nom des habitants de la réserve en consultant tout registre disponible.