Court File No. 35475

IN THE SUPREME COURT OF CANADA
(On Appeal from the Ontario Court of Appeal)

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

– and –

CLIFFORD KOKOPENACE

Respondent

– and –

ADVOCATES' SOCIETY, NISHNAWBE ASKI NATION; DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS AND WOMEN'S LEGAL EDUCATION AND ACTION FUND, INC (LEAF); NATIVE WOMEN'S ASSOCIATION OF CANADA AND CANADIAN ASSOCIATION OF ELIZABETH FRY SOCIETIES; ABORIGINAL LEGAL SERVICES OF TORONTO INC.

Interveners

FACTUM FILED BY INTERVENERS, NATIVE WOMEN'S ASSOCIATION OF CANADA AND CANADIAN ASSOCIATION OF ELIZABETH FRY SOCIETIES
(Pursuant to Rule 42 and the *Rules of the Supreme Court of Canada*)

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FACTUM OF THE INTERVENERS
NATIVE WOMEN'S ASSOCIATION OF CANADA and CANADIAN ASSOCIATION OF ELIZABETH FRY SOCIETIES

PART I – OVERVIEW OF POSITION

1. These interveners do not assert that on-reserve Aboriginal persons have a right under section 15 of the *Charter* to be placed in the jury pool. They agree with the disposition of the majority of the Court of Appeal, and also contend that to give a fair opportunity for the inclusion in the jury pool of the distinctive perspectives of on-reserve residents, the state must remedy the practical barriers to jury service for on-reserve persons. It is inappropriate that on-reserve residents should bear a disproportionate burden of making Canadian criminal law less oppressive to Aboriginal persons facing a jury trial.

2. The interveners rely on contextual factors in addition to those noted by the Court of Appeal. To fully understand the estrangement of Aboriginal peoples from the justice system referred to by Justices Laforme and Goudge JJ.A.[1], it is essential to consider as a contextual factor the impact of the justice system on Aboriginal women. It is also essential to consider as a contextual factor the circumstances of on-reserve Aboriginal people (recognized as an analogous ground by Laforme J.A. in considering the section 15 argument).[2] Their disadvantage has a critical impact on the fashioning of a remedy for breach of the right to a representative jury, as does the second contextual factor identified by the Court of Appeal, the honour of the Crown.

PART II – QUESTIONS IN ISSUE

3. The interveners address two questions: the content of the right to a representative jury and the appropriate remedy for a violation of the right.

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[1] Contextual factors are discussed at *R. v. Kokopanace*, 2013 ONCA 389 at paras. 123-124, 242 ("*Judgment Appealed From*" or "*JAF*"), Appellant's Record, Vol. I, pp. 72-73, 115
[2] *JAF* at para. 217, Appellant's Record, Vol. I, p. 106

PART III -- ARGUMENT

(i) Decision Appealed From

4. LaForme and Goudge JJ.A. require a jury roll process that provides a platform for the selection of a petit jury that serves the objectives of impartiality and enhancing public confidence in the criminal justice system; the distinctive perspectives that make up the community must be provided a *fair opportunity* to be included in the jury roll and to be brought to the jury function.[3] In the Kenora District, this includes the perspective of on-reserve Aboriginal people.[4] Under the Court's "reasonable efforts standard"[5] the state must make reasonable efforts at each step of creating the jury roll to seek to provide a fair opportunity for the distinctive perspectives of Aboriginal on-reserve residents to be included, having regard to all the circumstances and keeping in mind the objective served by the representativeness requirement.[6] The focus must be on the steps taken by the state to prepare the jury roll[7], and not on the ultimate composition of the jury roll. The onus is on the accused to establish that the state did not meet the test[8]. However, the Court also requires that the state demonstrate that it has exercised "diligence, resourcefulness, ingenuity, and persuasion" in carrying out its duties.[9] The duty on the Crown is a continuing one.[10] (emphasis supplied)

5. LaForme and Goudge JJ.A. consider that the principle of the honour of the Crown is engaged in state administration of section 6(8) of the *Juries Act*,[11] "to the extent that the historical context must be kept in mind when assessing Ontario's conduct for constitutional sufficiency".[12], In particular, Ontario should interact with Aboriginal peoples in a manner consistent with the honour of the Crown, namely, "engage… in meaningful consultation in good faith to the problem's resolution".[13]

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[3] *JAF* at paras. 31 and 241, Appellant's Record, Vol. I, pp. 41, 114-115
[4] *JAF* at paras. 40 and 243, Appellant's Record, Vol. I, pp. 43-44, 115-116
[5] *JAF* at paras. 51, 240, Appellant's Record, Vol. I, pp. 47, 113
[6] *JAF* at paras. 49-50 and 234, Appellant's Record, Vol. I, pp. 46-47, 112
[7] *JAF* at paras 45 and 234, Appellant's Record, Vol. I, pp. 45, 112
[8] *JAF* at para. 78, Appellant's Record, Vol. I, pp. 56-57
[9] *JAF* at para. 160, Appellant's Record, Vol. I, p.87
[10] *JAF* at paras. 51, 234, 239, Appellant's Record, Vol. I, pp. 47, 112, 113
[11] RSO 1990, c. J.3
[12] *JAF* at paras. 127, 241, Appellant's Record, Vol. I, pp. 74, 114-115
[13] *JAF* at paras. 128, 133, Appellant's Record, Vol. I, pp. 74, 76

6. The majority also considers the contextual factor of the fundamental estrangement of Aboriginal peoples from the justice system,[14] which Canadian courts have attributed to "the attitude of discrimination that pervades the administration of justice".[15] LaForme J.A. characterizes the relationship of Aboriginal peoples to the justice system as one "marked by tensions originating in the colonial era".[16] He states that the Ministry of the Attorney General, in its prosecutorial role has been on the front lines of this crisis, and could not have escaped knowing about the alienation of Aboriginal people from the criminal justice system."[17]

7. The contextual factors of Aboriginal women and the criminal law, and the circumstances of on-reserve residents, have an important bearing on the content of the right, as well as on the remedy in this appeal.

(ii) Aboriginal Women and the Criminal Law

8. It has been determined that "native women as a class remain doubly disadvantaged in Canadian society by reason of both race and sex ….[and] are also seriously disadvantaged by reason of sex within the segment of aboriginal society residing on or claiming the right to reside on Indian reservations."[18]

9. Aboriginal women are shockingly over-represented in Canadian prisons. As observed by LaForme J.A., although Aboriginal people constitute less than 4% of the general population of Canada, in 2010-2011 Aboriginal women accounted for 41% of all women in sentenced custody at the provincial and federal levels.[19] While disproportionately subject to incarceration, Aboriginal women are also disproportionately deprived of the protection of the law. The 2014 National Operational Overview by the RCMP[20] provides the most up-to-date and comprehensive

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[14] *JAF*, at paras. 135-147 , 241, Appellant's Record, Vol. I, pp. 77-81, 114-115
[15] *JAF*, at para. 137, Appellant's Record, Vol. I, p. 77
[16] *JAF* at para. 144, Appellant's Record, Vol. I, p. 80
[17] *JAF* at paras. 146-7; 150-1; 158, Appellant's Record, Vol. I, pp. 80-81, 82, 86
[18] *Native Women's Assn. of Canada v. Canada*, [1992] 3 F.C. 192 (Mahoney J.A. at para.2), reversed but not as to this finding by [1994] 3 SCR 627, NWAC and CAEFS Book of Authorities, Tab 2
[19] *JAF* at para. 136 and fn 16, Appellant's Record, Vol. I, p. 77
[20] Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview,* RCMP 2014 (*"RCMP"*) , NWAC and CAEFS Book of Authorities, Tab 9

statistics on the number of murdered and missing Aboriginal women[21]. From 1980 to 2012, the RCMP identifies 1,017 Aboriginal female homicide victims and 164 Aboriginal women currently considered missing.[22] Aboriginal women homicides accounted for 16% of total female homicides in this period, "far greater"[23] than the 4.3% Aboriginal women in the nation's overall female population.[24] In the experience of these interveners, Aboriginal women are going to jail due to high rates of what are deemed "poverty-related" offences, and often face discrimination at every point of contact with the justice system. For example, when non-Aboriginal youth first come in to contact with police for committing a crime they are often given a warning or a fine, whereas, when Aboriginal youth are caught, they are usually charged immediately. When we see how both parties are treated in court, we see that at the point of sentencing Aboriginal women and men receive stiffer sentences compared to non-Aboriginal Peoples. Then once incarcerated Aboriginal women have, or are more apt to be triggered by, incidents that non-Aboriginal people serving time might not react to in the same way, because they don't have the same history of poverty, racism, violence and abuse, thereby often causing them to have more time added to their original sentence, or having to serve a higher penalty while inside.

10. Haudenosaunee scholar Dr. Patricia Monture has pointed out that the relationship of the criminal justice system to Aboriginal peoples must be understood to be one of violence: "The criminal justice system, the police and other authorities by their omissions have perpetrated and perhaps even encouraged the violence that First Nations and particularly First Nations women have endured."[25] She cites the murder of Helen Betty Osborne as "but one example".[26]

11. The Aboriginal Justice Inquiry of Manitoba concluded that prior to the murder of Helen Betty Osborne in 1971, the RCMP was made aware of a local practice of white youths picking up Aboriginal girls for drinking and sex, but had never investigated to see if the girls were of

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[21] *RCMP*, at 6. The RCMP numbers are higher than those found by the NWAC Sisters in Spirit research and the doctoral research of Maryanne Pierce because, among other reasons, the RCMP was able to draw on non-public sources for their data, NWAC and CAEFS Book of Authorities, Tab 9
[22] *RCMP*, at 7, NWAC and CAEFS Book of Authorities, Tab 9
[23] *RCMP*, at 9, NWAC and CAEFS Book of Authorities, Tab 9
[24] *RCMP*, at 7, NWAC and CAEFS Book of Authorities, Tab 9
[25] Patricia Monture-Angus, *Thunder in My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995) at 237 ("*Monture*"), NWAC and CAEFS Book of Authorities, Tab 8
[26] *Monture* at 237, NWAC and CAEFS Book of Authorities, Tab 8

age, and in the cars voluntarily. The Inquiry states that "Police should not just investigate crime, they should prevent it. That the allegations were not investigated lends credence to suggestions that the RCMP were less than diligent when Aboriginal interests were involved." The RCMP were convinced in 1972 that they knew who had committed the murder, but it was not until 1987 that any arrest was made.[27]

12. The Missing Women Commission of Inquiry in British Columbia investigated the decision to stay charges against William Pickton for assault on a woman in the Downtown East Side of Vancouver, which was followed by several more murders ultimately attributed to Pickton. Commissioner Wally Oppal QC concluded that "the missing and murdered women investigations were a blatant failure" with "gross systemic inadequacies and repeated patterns of error." [28] The women, reports Mr. Oppal, were treated as "nobodies", often "not as persons at all but as 'sub-humans' ".[29] Although the Oppal report suggests that Aboriginal women's vulnerability to violence is attributable to them being disproportionately involved in street prostitution"[30] , the 2014 RCMP study states "it would be inappropriate to suggest any significant difference in the prevalence of sex trade workers among Aboriginal female homicide victims as compared to non-Aboriginal female homicide victims."[31] NWAC and CAEFS state that Aboriginal women are targeted and killed - quite violently too – because they are Aboriginal women - mothers, daughters, sisters and scholars just living their life. They are sought out by predators for the likely reason that the predators believed the women were disposable and that police would not thoroughly or promptly investigate - which is exactly what happened in many cases.

13. By contrast, Dr. Monture observes that "many historical accounts of the ways of our people note that violence and abuse against women or children was not tolerated in our societies"

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[27] *Report of the Aboriginal Justice Inquiry of Manitoba*, Vol.2: *The Deaths of Helen Betty Osborne and John Joseph Harper*, (Province of Manitoba 1991) at 5-8; 23-42. Quoted passage is from page 8, NWAC and CAEFS Book of Authorities, Tab 6

[28] Missing Women Commission of Inquiry Report , *Forsaken* (British Columbia, November 19, 2012), Vol. IIA, at 1,3 ("*Forsaken*"), NWAC and CAEFS Book of Authorities, Tab 7

[29] *Forsaken*, at 2, NWAC and CAEFS Book of Authorities, Tab 7

[30] *Forsaken*, at 1, NWAC and CAEFS Book of Authorities, Tab 7

[31] *RCMP,* at 17, NWAC and CAEFS Book of Authorities, Tab 9

but rather subject to strong cultural taboos.[32] Historical records also indicate that "women had many different responsibilities in First Nations societies", including their role in her own Haudenosaunee society of selecting and even deposing chiefs, the care of the treasury and the settlement of disputes.[33]

14. The system of criminal law which disproportionately targets Aboriginal women for punishment, yet abandons them disproportionately to violence, is an aspect of the colonization by Europeans of what is now Canada. As observed by the Chief Justice and Karakatsanis J., Aboriginal peoples "were here first and they were never conquered", "yet they became subject to a legal system that they did not share. Historical treaties were framed in that unfamiliar legal system and negotiated and drafted in a foreign language."[34] They state that the honour of the Crown thus recognizes the impact of the superimposition of European laws and customs on pre-pre-existing Aboriginal societies.[35]

15. The experience of Aboriginal women in the criminal justice system highlights and emphasizes the violence against all Aboriginal persons done, or permitted, by Canadian criminal law, and thus the difficulty of achieving greater confidence in the criminal justice system on the part of Aboriginal peoples through anything short of substantial structural change.

(iii) Circumstances of On-Reserve Band Residents

16. The Iacobucci Review observes that the perceived "burden and inconvenience" of serving on juries has contributed "to an increase in the number of individuals who do not attend at court after being summoned."[36] A review of the circumstances of on-reserve residents in northern Ontario suggests that they face particular or disproportionate burdens from jury service, arising from their isolation and disadvantage.

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[32] *Monture* at 237, NWAC and CAEFS Book of Authorities, Tab 8
[33] *Monture* at 241, NWAC and CAEFS Book of Authorities, Tab 8
[34] *Manitoba Metis Federation Inc. v. Canada (Attorney General*), 2013 SCC 14, at para. 67 ("*MMF*") , NWAC and CAEFS Book of Authorities, Tab 1
[35] *MMF* at para. 67, NWAC and CAEFS Book of Authorities, Tab 1
[36] The Honourable Frank Iacobucci, *First Nations Representation on Ontario Juries, Report of the Independent Review Conducted by The Honourable Frank Iacobucci* (February 2013) at para. 97, p.26 ("*Iacobucci Review*") , Appellant's Record, Vol. XLII, p. 60.

17. The District of Kenora occupies one-third of Ontario's land mass but its population is only about 65,000, of whom roughly one-third live on reserve. There are 46 Indian reserves in the District, many of them remote from its judicial center, the City of Kenora, and many accessible only by air.[37] Transportation from reserve communities to urban centers often requires multiple modes of transport and can take up to several days.[38]

18. The Provincial Advocate for Children and Youth is quoted in the report of the Iacobucci Review, describing the circumstances of Aboriginal youth in the province: "gang involvement, high rates of suicide, contact with the youth justice system, unemployment and underemployment, lack of education, history of physical and sexual abuse and over-policing."[39]

19. The Office of the Chief Coroner of Ontario has observed with alarm the rising toll of death among northern Ontario youth living on reserve, and notes that the number of Aboriginal children across the north that are in the care of children's aid societies is much higher than the provincial average.[40] Similar concerns were expressed to the Iacobucci Review in its meetings with First Nation communities: "Many First Nations people are dying while in state care, and a fear was expressed that the number of deaths will rise, simply by the excessive number of First Nations people in penal institutions and the child welfare system."[41]

20. In its submission to the Iacobucci Review, the Union of Ontario Indians said that "socio-economic conditions of most First Nations reserves"[42] should be taken into account. Reserve life in northwestern Ontario can feature overcrowded substandard housing, lack of potable water and indoor plumbing, lack of safe affordable food sources, being off the hydro grid, inadequate numbers of jobs, poor education by provincial standards, lack of an integrated health care

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[37] *JAF* at para. 11, Appellant's Record, Vol. I, p. 34; the number of Indian Reserves in the District is from *Iacobucci Review*, para. 263, p. 64, Appellant's Record, Vol. XLII, p. 97
[38] *Iacobucci Review* at para. 242, p. 60, Appellant's Record, Vol. XLII, p. 93
[39] *Iacobucci Review*, at para. 333, p. 81, Appellant's Record, Vol. XLII, p. 114
[40] *The Office of the Chief Coroner's Death Review of the Youth Suicides at the Pikangikum First Nation 2006-2008* (June 2011), at pages 7, 18 ("*OCC*") This First Nation is in the Kenora District. NWAC and CAEFS Book of Authorities, Tab 10
[41] *Iacobucci Review*, at para. 245, p. 60, Appellant's Record, Vol. XLII, p. 93
[42] *Iacobucci Review*, at para. 302, p. 71, Appellant's Record, Vol. XLII, p. 104

system, and largely absent community infrastructure.[43] Residents of northern reserves are among the most disadvantaged Aboriginal persons in Ontario.

21. Pay for jury service begins only after ten days, and is quite low.[44] There is no allowance for lost income, or child or elder care, and no provision for care-givers to take with them to Kenora those for whom they are responsible. Accommodations and meal allowances are inadequate for those travelling off-reserve for jury service and meal stipends do not allow for healthy meal options. Translation services are not provided in the judicial center for those whose first language is not English.[45] The burden of jury service on the disadvantaged residents of northern reserves, including the women who have been found to be at an even greater disadvantage than other reserve residents, can fairly be said to be very high.

(iv) Legal Submissions

a) The unforgiving context of the jury representativeness problem

22. Efforts are made to accommodate Aboriginal persons, and interests within the existing system of justice, to create what Dr. Monture calls a "safe corner".[46] Experience has shown that these attempts to create "safe corners" may falter in the face of the inertia or resistance of the system onto which they are grafted. This has so far been the fate of the sentencing initiatives considered in *Gladue*[47] and *Ipeelee*.[48]

23. Section 6(8) of the Ontario *Juries Act*[49] is another attempt to make a safe corner, addressing as it does the reality that "For a century the legal system made it clear that it did not want or need Aboriginal jurors. It is a message Aboriginal people have not forgotten."[50]

24. The task for the Court in this case is to fashion a remedy that will vindicate the right of the accused to a representative jury, within a broader framework of persisting and substantial

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[43] *OCC*, at pages 13-14, 16 NWAC and CAEFS Book of Authorities, Tab 10
[44] *Iacobucci Review*, at para. 97, p. 26, Appellant's Record, Vol. XLII, p. 60
[45] *Iacobucci Review*, at para. 243, p. 61, Appellant's Record, Vol. XLII, p. 94
[46] *Monture* at 222, NWAC and CAEFS Book of Authorities, Tab 8
[47] *R. v Gladue*, [1999] 1 S.C.R. 688 NWAC and CAEFS Book of Authorities, Tab 3
[48] *R. v. Ipeelee*, [2012] 1 S.C.R. 433 NWAC and CAEFS Book of Authorities, Tab 4
[49] R.S.O. 1990 c. J.3
[50] Aboriginal Justice Inquiry of Manitoba, *Report Vol.I: The Justice System and Aboriginal People*, chapter 9: Juries found at http://www.ajic.mb.ca/volume.html NWAC and CAEFS Book of Authorities, Tab 5

injustice in the criminal law that is not directly before the Court and will not, realistically speaking, be relieved by jury representativeness. The jury representativeness issue is only one symptom of the crisis in "the justice system, as it relates to First Nations peoples, and particularly in northern Ontario."[51] The Iacobucci Review states that the "broader and systemic issues that are at the heart of the current dysfunctional relationship between Ontario's justice system and Aboriginal peoples… must be tackled if we are to make any significant progress in dealing with the underrepresentation of First Nations individuals on juries."[52]

25. The Iacobucci Review notes that "many First Nations people are plainly reluctant to participate in the jury system," for reasons relating to the conflict between First Nations values and philosophies and the punitive ethos of the criminal law, mistrust of the system generated by its history of systemic discrimination against them, a lack of knowledge of the system and the desire to resume control of community justice matters pursuant to the inherent right of self-government [53] Ontarians who do not participate when required face penalties.[54]

26. The same reluctance does not inhibit participation in coroners' inquest juries. First Nations see it essential that they participate in such juries to bring their understanding of long-standing systemic issues to the investigation of the tragedies arising from the excessive numbers of First Nations in penal institutions and the child welfare system.[55]

b) What is possible by means of a judicial solution?

27. NWAC and CAEFS agree with the approach of the Court of Appeal to the particular issue of jury representativeness: mandating a process-based solution that is driven by principles of equality and the honour of the Crown. NWAC and CAEFS also argue that it is possible within the framework established by the Court of Appeal to require the state to go further in promoting a more representative jury pool, by removing the burdens imposed on on-reserve Aboriginal peoples by jury participation.

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[51] Iacobucci Review, at para. 14, p.2, Appellant's Record, Vol. XLII, p. 36
[52] Loc. cit., footnote 51
[53] *Iacobucci Review*, paras. 25-29, p.4, Appellant's Record, Vol. XLII, p. 38
[54] Section 2 of the *Juries Act* makes every resident of Ontario liable to serve as a juror and section 38(3) imposes penalties for failing to complete a return to a jury service notice
[55] *Iacobucci Review*, para. 245, p.61, Appellant's Record, Vol. XLII, p. 94

28. This Court has held that the honour of the Crown requires that it act in a way that accomplishes the intended purpose of treaty and statutory grants to Aboriginal peoples;[56] the Court of Appeal considered section 6(8) of the *Juries Act* to be a form of statutory grant,[57] a position with which these interveners agree. NWAC and CAEFS contend that the honour of the Crown requires that in addition to using diligent and reasonable steps to prepare each particular jury pool, as ordered by the Court of Appeal, Ontario must remove the practical burdens of jury service for on-reserve residents, thus reducing at least one barrier to the willingness of on-reserve Aboriginal persons to serve on juries, and the cost to them of safeguarding the individual rights under the *Charter* of other Aboriginal persons.

PART IV – SUBMISSIONS IN SUPPORT OF COSTS

29. These interveners seek no costs on the intervention and ask that none be awarded against them.

PART V – ORDER REQUESTED

30. NWAC and CAEFS submit that a declaration of the appropriate approach to the issue of jury representativeness, coupled with an order for a new trial, should be granted.

31. NWAC and CAEFS also ask for an order permitting them to make oral argument at the hearing of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, JULY 30, 2014

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MARY EBERTS

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NWAC AND CAEFS

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[56] *MMF*, at para 73(4), NWAC and CAEFS Book of Authorities, Tab 1
[57] *JAF*, at paras. 127-128, Appellant's Record, Vol. I, p. 74

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The Office of the Chief Coroner's Death Review of the Youth Suicides at the Pikangikum First Nation 2006-2008 (June 2011), pp. 7, 13-14, 16,18	19, 20

PART VII – LEGISLATION

English

Juries Act
R.S.O. 1990, CHAPTER J.3

ELIGIBILITY

Eligible jurors

2. Subject to sections 3 and 4, every person who,

(a) resides in Ontario;

(b) is a Canadian citizen; and

(c) in the year preceding the year for which the jury is selected had attained the age of eighteen years or more,

is eligible and liable to serve as a juror on juries in the Superior Court of Justice in the county in which he or she resides. R.S.O. 1990, c. J.3, s. 2; 2006, c. 19, Sched. C, s. 1 (1).

Indian reserves

6.(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. R.S.O. 1990, c. J.3, s. 6 (8).

Offences

38.(3) Every person who is required to complete a return to a jury service

French

Loi sur les jurys
L.R.O. 1990, CHAPITRE J.3

QUALITES REQUISES

Personnes habiles à être jurés

2. Sous réserve des articles 3 et 4, toute personne est habile à être membre d'un jury de la Cour supérieure de justice dans le comté où elle réside et peut être tenue de l'être si elle remplit les conditions suivantes :

a) elle réside en Ontario;

b) elle a la citoyenneté canadienne;

c) elle était âgée d'au moins dix-huit ans ou a atteint cet âge au cours de l'année précédant celle pour laquelle le jury est choisi. L.R.O. 1990, chap. J.3, art. 2; 2006, chap. 19, annexe C, par. 1 (1).

Réserve indienne

6.(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. L.R.O. 1990, chap. J.3, par. 6 (8).

Infraction

38.(3) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 $ et d'un

notice and who,

(a) without reasonable excuse fails to complete the return or mail it to the sheriff as required by subsection 6(5); or

(b) knowingly gives false or misleading information in the return,

is guilty of an offence and on conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1990, c. J.3, s. 38 (3).

emprisonnement d'au plus six mois, ou d'une seule de ces peines, toute personne qui est tenue de remplir la formule de rapport qui accompagne l'avis de sélection de juré et qui :

a) soit omet sans excuse raisonnable de remplir la formule de rapport ou de la renvoyer au shérif conformément au paragraphe 6 (5);

b) soit fournit sciemment des renseignements faux ou trompeurs sur la formule. L.R.O. 1990, chap. J.3, par. 38 (3).