

**Date: 20080527**

**Docket: T-2244-06**

**Citation: 2008 FC 671**

**Ottawa, Ontario, May 27, 2008**

**PRESENT: The Honourable Mr. Justice Blanchard**

**BETWEEN:**

**GABRIEL SAVARD**

**Applicant**

**and**

**CANADA POST CORPORATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. Introduction**

[1] This is an application for judicial review against a decision of the respondent, the Canada Post Corporation, on April 20, 2006. This decision dismissed the applicant's application for disclosure of the statement of mailing for unaddressed admail (the statement of mailing) signed by the person who asked the respondent to distribute an anonymous letter on March 8, 2006, in which the name of the applicant appeared.

[2] The applicant is seeking an order requiring the respondent to disclose the statement of mailing signed by the person who requested the respondent to distribute the anonymous letter (the signor).

## II. Factual background

[3] The applicant is the director general of the Conseil de la Nation huronne-wendat de Québec (the Nation), an Indian band within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5, with approximately 1,200 members, including about 1,000 on the Wendake reserve in Quebec.

[4] On March 8, 2006, the applicant learned of an anonymous one-page letter containing statements that were allegedly [TRANSLATION] “patently, clearly and irrevocably defamatory about him, more specifically, serious allegations affecting the management of the Nation’s affairs.”

[5] On verification by the applicant, the applicant learned that this anonymous letter was placed in the mailboxes of all of the residents of the reserve, through the unaddressed admail service offered by the respondent’s outlet at its retail counter located at 20 Chef Ovide-Siouï, Wendake, on the reserve.

[6] The applicant first directly addressed the retail counter clerk seeking the disclosure of the identity of the person who used this service to distribute the anonymous letter, as well as a copy of the statement of mailing used for this purpose by the respondent. The applicant’s request was denied at this stage.

[7] On March 24, 2006, the applicant's counsel sent a request for disclosure of the statement of mailing signed by the alleged author of the letter in question.

[8] On April 20, 2006, the respondent refused the request for disclosure on the grounds that there was no provision of the *Privacy Act*, R.S.C. 1985, c. P-21 (the PA) authorizing the disclosure of the requested information.

[9] On May 18, 2006, the applicant filed a complaint with the Privacy Commissioner of Canada (the Commissioner) seeking his recommendation that the respondent disclose the statement of mailing to the applicant.

[10] On November 15, 2006, the Commissioner's representative sent the record of his review to the applicant. He determined that the respondent's refusal to disclose was lawful and complied with the PA.

[11] This application for judicial review of the respondent's decision dated April 20, 2006, was filed on December 20, 2006.

### III. Issue

[12] The issue is whether the respondent erred in refusing to disclose the statement of mailing to the applicant. More specifically, did the respondent err in finding that the requested information was not personal information under 3(g) and (h) of the PA?

#### IV. Standard of review

[13] In *Dunsmuir v. New Brunswick*, 2008 SCC 9, the Supreme Court determined that there are two standards of review, namely the standard of correctness and the standard of reasonableness. The Court stated that the standard of correctness must be maintained in respect of jurisdictional and some other questions of law (see *Dunsmuir* at paragraph 50). A reviewing court applying the reasonableness standard will not show deference to the decision maker's reasoning process. Rather, it will undertake its own analysis of the question to decide whether or not the tribunal's decision is correct.

[14] The Supreme Court also instructs that in the context of a judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. It is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (see *Dunsmuir* at paragraph 47).

[15] Guidance with regard to the questions that will be reviewed on a reasonableness standard can be found in the existing case law (see *Dunsmuir* at paragraph 54). The appropriate deference to be given to a tribunal will be determined in consideration of the following factors: the existence of a privative clause; whether the decision-maker has special expertise in a discrete and special administrative regime; and the nature of the issue (see *Dunsmuir* at paragraph 55).

[16] In *Thurlow v. Canada (Solicitor General)*, 2003 FC 1414, Justice John O’Keefe carried out a pragmatic and functional analysis and determined at paragraph 28 that the decision with respect to whether a requested document falls within statutory exemption should be reviewed on a standard of correctness. If this decision is deemed to be valid, The respondent's discretionary decision to refuse to disclose an exempted record should be reviewed by this Court on a standard of reasonableness *simpliciter*.

[17] In this matter, the Court is invited to review a decision made by the respondent on an issue of disclosure of personal information under the PA. It is a two-step analysis (*Kelly v. Canada (Solicitor General)*, [1992] F.C.J. No. 302 (Lexis) at paragraph 5). The first is to determine whether the statement of mailing is in fact the applicant’s “personal information” within the meaning of paragraphs 3(g) and (h) of the PA. The goal is to determine whether the information at issue falls under a legal exception (*Blank v. Canada (Minister of the Environment)*, 2006 FC 1253, [2006] F.C.J. No. 1635 (Lexis), at paragraph 26). The appropriate standard at this stage is that of correctness (*Elomari v. Canada (Space Agency)*, 2006 FC 863 at paragraph 19; and *Thurlow, supra* at paragraph 28). If this first question is answered in the affirmative, we then move on to the second step. This step involves determining whether the discretionary power exercised by the respondent in regard to the refusal to disclose the statement of mailing was reasonable. On this issue, it should be noted that the PA does not contain any privative clause, that the decision-maker does not have special expertise in the matter and that the nature of the question is essentially discretionary. Taking these factors into account, it is my opinion that the appropriate standard at this stage is that of reasonableness.

[18] For the reasons given further below, I am of the opinion that the applicant failed to meet the threshold of the first step and therefore, for the purposes of our analysis, the appropriate standard will be that of correctness.

#### V. Legislative provisions

[19] The relevant legislative provisions appear in the Appendix.

#### VI. Analysis

##### *Failure to mention the right to file a complaint*

[20] The applicant maintains that the respondent's decision dated April 20, 2006, violates paragraph 16(1)(b) of the PA because it fails to mention, first, the applicant's right to file a complaint with the Commissioner and, second, the specific provision of the PA and the reasons supporting its refusal.

[21] This argument was not pursued by the applicant at the hearing. Further, the documentary evidence indicates that the applicant did not suffer any prejudice on this basis because he nevertheless filed a complaint with the Commissioner within the prescribed time period.

##### *The requested information is the applicant's personal information*

[22] The applicant maintains that the anonymous letter is an elemental and integral part of the statement of mailing because without the letter it would not exist. Therefore, the information contained in the statement of mailing is, like the ideas and opinions expressed by the author of the letter, personal information regarding the applicant. Indeed, the applicant maintains that the fact that

the name of the person requesting the respondent's admail service is not attached to the letter is not significant because the supporting document containing the personal information is superfluous in its qualification of what is and is not personal information within the meaning of the PA.

[23] The respondent contends that the requested information cannot be qualified as the applicant's personal information because there is no evidence that the name appearing on the statement of mailing is the name of the author of the anonymous letter. Further, when it is a matter of third-party information, we must refer to section 26 of the PA which refers in turn to section 8 of the PA requiring the consent of the individual contemplated by the personal information. The applicant did not provide such authorization from the third party and, accordingly, the respondent had no choice but to analyze the request in terms of the exceptions provided at subsection 8(2) of the PA.

[24] Section 3 of the PA provides a general definition of the expression "personal information" as information about an identifiable individual that is recorded in any form. In regard to the matter before us, the applicant essentially relies on paragraphs 3(g) and (h) of the PA to contend that the requested information is the applicant's "personal information." These paragraphs provide, *inter alia*, that personal information includes ideas and opinions regarding an identifiable individual.

[25] In this case, it is not disputed that the anonymous letter contains ideas and opinions about the applicant. In fact, the applicant's name expressly appears therein and he already has a copy. Further, the documentary evidence indicates that the respondent does not have in its possession the letter distributed on March 8, 2006. The issue that this Court must decide is whether the requested

document, namely the statement of mailing, contains ideas or opinions which could be qualified as the applicant's "personal information". The applicant's argument is essentially that the anonymous letter is an elemental and integral part of the statement of mailing. However, I do not share that opinion.

[26] A careful review of the two documents indicates that only the letter contains ideas or opinions regarding the applicant. Whether or not we qualify the comments as defamatory has no bearing in this proceeding. A copy of a blank statement of mailing indicates that apart from the sender's name and contact information, it contains information about the number of items, the weight of the item, the net weight, the rate per item, the rate by weight, the volume to transport, the transport costs per item, etc. The statement of mailing does not contain any cross-reference or specific reference to the letter dated March 8, 2006; there is no indication regarding the nature of the information contained in the letter and the name of the applicant does not appear anywhere therein. In fact, it is a document that does not in any way contain ideas or opinions about the applicant as defined in paragraphs 3(*g*) and (*h*) of the PA. I cannot identify provisions in the PA allowing for the communication of the statement of mailing to the applicant under the circumstances. I am essentially in agreement with the finding of the Commissioner to the effect that:

[TRANSLATION]

Examining the information which was the subject of the refusal of the CPC [Canada Post Corporation], I observed that the information does not contain any personal information regarding your client [the applicant] to which he is entitled under subsection 12(1) of the PA. Besides, since the CPC decided the issue of using its discretionary power under subparagraph 8(2)(*m*)(i) of the PA to disclose the requested documents to you and since it decided to maintain its refusal to disclose, I consider that this power was exercised in good faith.



[27] I cannot accept the argument that the anonymous letter is an elemental and integral part of the statement of mailing. There is no connection between the statement of mailing and the content of the letter at issue which would allow its disclosure to the applicant. These are two distinct documents where only the letter may be qualified as the applicant's personal information. As I am of the opinion that the finding to the effect that the statement of mailing is not the applicant's "personal information" is determinative in this matter, it is not necessary to continue the analysis to see whether the respondent reasonably exercised its discretion pursuant to the exceptions provided under subsection 8(2) of the PA.

[28] In order to address the applicant's argument that the decision would enable government institutions to use a medium to facilitate distributing defamatory statements, it should be noted that paragraph 8(2)(e) of the PA authorizes a government institution to disclose personal information without the involved individual's consent when so requested by an investigative body.

## VII. Conclusion

[29] Taking into account all of the evidence and for the reasons discussed above, I am of the opinion that in finding as it did, the respondent did not make any error that would justify the intervention of the Court. The application for judicial review will be dismissed with costs.

**JUDGMENT**

**THE COURT ORDERS AND DIRECTS that**

1. The application for judicial review is dismissed with costs.

“Edmond P. Blanchard”

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Judge

Certified true translation

Kelley A. Harvey, BCL, LLB

## Appendix

The following provisions of the *Privacy Act*, R.S.C. 1985, c. P-21.

3. In this Act,

"personal information"

«*renseignements personnels* »

"personal information" means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing,

(a) information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual,

(b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(c) any identifying number, symbol or other particular assigned to the individual,

(d) the address, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual by a government institution or a part of a government institution specified in the regulations,

(f) correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to such correspondence that would reveal the

3. Les définitions qui suivent s'appliquent à la présente loi.

«*renseignements personnels* »

"*personal information*"

«*renseignements personnels* » Les renseignements, quels que soient leur forme et leur support, concernant un individu identifiable, notamment :

a) les renseignements relatifs à sa race, à son origine nationale ou ethnique, à sa couleur, à sa religion, à son âge ou à sa situation de famille;

b) les renseignements relatifs à son éducation, à son dossier médical, à son casier judiciaire, à ses antécédents professionnels ou à des opérations financières auxquelles il a participé;

c) tout numéro ou symbole, ou toute autre indication identificatrice, qui lui est propre;

d) son adresse, ses empreintes digitales ou son groupe sanguin;

e) ses opinions ou ses idées personnelles, à l'exclusion de celles qui portent sur un autre individu ou sur une proposition de subvention, de récompense ou de prix à octroyer à un autre individu par une institution fédérale, ou subdivision de celle-ci visée par règlement;

f) toute correspondance de nature, implicitement ou explicitement, privée ou confidentielle envoyée par lui à une institution fédérale, ainsi que les réponses

contents of the original correspondence,

(g) the views or opinions of another individual about the individual,

(h) the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual by an institution or a part of an institution referred to in paragraph (e), but excluding the name of the other individual where it appears with the views or opinions of the other individual, and

(i) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual,

but, for the purposes of sections 7, 8 and 26 and section 19 of the *Access to Information Act*, does not include

(j) information about an individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual including,

(i) the fact that the individual is or was an officer or employee of the government institution,

(ii) the title, business address and telephone number of the individual,

(iii) the classification, salary range and responsibilities of the position held by the individual,

(iv) the name of the individual on a document prepared by the individual in the course of employment, and

de l'institution dans la mesure où elles révèlent le contenu de la correspondance de l'expéditeur;

g) les idées ou opinions d'autrui sur lui;

h) les idées ou opinions d'un autre individu qui portent sur une proposition de subvention, de récompense ou de prix à lui octroyer par une institution, ou subdivision de celle-ci, visée à l'alinéa e), à l'exclusion du nom de cet autre individu si ce nom est mentionné avec les idées ou opinions;

i) son nom lorsque celui-ci est mentionné avec d'autres renseignements personnels le concernant ou lorsque la seule divulgation du nom révélerait des renseignements à son sujet;

toutefois, il demeure entendu que, pour l'application des articles 7, 8 et 26, et de l'article 19 de la *Loi sur l'accès à l'information*, les renseignements personnels ne comprennent pas les renseignements concernant :

j) un cadre ou employé, actuel ou ancien, d'une institution fédérale et portant sur son poste ou ses fonctions, notamment :

(i) le fait même qu'il est ou a été employé par l'institution,

(ii) son titre et les adresse et numéro de téléphone de son lieu de travail,

(iii) la classification, l'éventail des salaires et les attributions de son poste,

(iv) son nom lorsque celui-ci figure sur un document qu'il a établi au cours de son emploi,

(v) the personal opinions or views of the individual given in the course of employment,

(v) les idées et opinions personnelles qu'il a exprimées au cours de son emploi;

(k) information about an individual who is or was performing services under contract for a government institution that relates to the services performed, including the terms of the contract, the name of the individual and the opinions or views of the individual given in the course of the performance of those services,

k) un individu qui, au titre d'un contrat, assure ou a assuré la prestation de services à une institution fédérale et portant sur la nature de la prestation, notamment les conditions du contrat, le nom de l'individu ainsi que les idées et opinions personnelles qu'il a exprimées au cours de la prestation;

(l) information relating to any discretionary benefit of a financial nature, including the granting of a licence or permit, conferred on an individual, including the name of the individual and the exact nature of the benefit, and

l) des avantages financiers facultatifs, notamment la délivrance d'un permis ou d'une licence accordés à un individu, y compris le nom de celui-ci et la nature précise de ces avantages;

(m) information about an individual who has been dead for more than twenty years;

m) un individu décédé depuis plus de vingt ans.

8. (1) Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.

8. (1) Les renseignements personnels qui relèvent d'une institution fédérale ne peuvent être communiqués, à défaut du consentement de l'individu qu'ils concernent, que conformément au présent article.

(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed

(2) Sous réserve d'autres lois fédérales, la communication des renseignements personnels qui relèvent d'une institution fédérale est autorisée dans les cas suivants :

(a) for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose;

a) communication aux fins auxquelles ils ont été recueillis ou préparés par l'institution ou pour les usages qui sont compatibles avec ces fins;

(b) for any purpose in accordance with any Act of Parliament or any regulation made thereunder that authorizes its disclosure;

b) communication aux fins qui sont conformes avec les lois fédérales ou ceux de leurs règlements qui autorisent cette communication;

(c) for the purpose of complying with a subpoena or warrant issued or order made

c) communication exigée par *subpoena*,

by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information;

(d) to the Attorney General of Canada for use in legal proceedings involving the Crown in right of Canada or the Government of Canada;

(e) to an investigative body specified in the regulations, on the written request of the body, for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation, if the request specifies the purpose and describes the information to be disclosed;

(f) under an agreement or arrangement between the Government of Canada or an institution thereof and the government of a province, the council of the Westbank First Nation, the council of a participating First Nation — as defined in subsection 2(1) of the *First Nations Jurisdiction over Education in British Columbia Act* —, the government of a foreign state, an international organization of states or an international organization established by the governments of states, or any institution of any such government or organization, for the purpose of administering or enforcing any law or carrying out a lawful investigation;

(g) to a member of Parliament for the purpose of assisting the individual to whom the information relates in resolving a problem;

(h) to officers or employees of the institution for internal audit purposes, or to the office of the Comptroller General or any other person or body specified in the

mandat ou ordonnance d'un tribunal, d'une personne ou d'un organisme ayant le pouvoir de contraindre à la production de renseignements ou exigée par des règles de procédure se rapportant à la production de renseignements;

d) communication au procureur général du Canada pour usage dans des poursuites judiciaires intéressant la Couronne du chef du Canada ou le gouvernement fédéral;

e) communication à un organisme d'enquête déterminé par règlement et qui en fait la demande par écrit, en vue de faire respecter des lois fédérales ou provinciales ou pour la tenue d'enquêtes licites, pourvu que la demande précise les fins auxquelles les renseignements sont destinés et la nature des renseignements demandés;

f) communication aux termes d'accords ou d'ententes conclus d'une part entre le gouvernement du Canada ou l'un de ses organismes et, d'autre part, le gouvernement d'une province ou d'un État étranger, une organisation internationale d'États ou de gouvernements, le conseil de la première nation de Westbank, le conseil de la première nation participante — au sens du paragraphe 2(1) de la *Loi sur la compétence des premières nations en matière d'éducation en Colombie-Britannique* — ou l'un de leurs organismes, en vue de l'application des lois ou pour la tenue d'enquêtes licites;

g) communication à un parlementaire fédéral en vue d'aider l'individu concerné par les renseignements à résoudre un problème;

h) communication pour vérification interne au personnel de l'institution ou pour vérification comptable au bureau du

regulations for audit purposes;

(i) to the Library and Archives of Canada for archival purposes;

(j) to any person or body for research or statistical purposes if the head of the government institution

(i) is satisfied that the purpose for which the information is disclosed cannot reasonably be accomplished unless the information is provided in a form that would identify the individual to whom it relates, and

(ii) obtains from the person or body a written undertaking that no subsequent disclosure of the information will be made in a form that could reasonably be expected to identify the individual to whom it relates;

(k) to any aboriginal government, association of aboriginal people, Indian band, government institution or part thereof, or to any person acting on behalf of such government, association, band, institution or part thereof, for the purpose of researching or validating the claims, disputes or grievances of any of the aboriginal peoples of Canada;

(l) to any government institution for the purpose of locating an individual in order to collect a debt owing to Her Majesty in right of Canada by that individual or make a payment owing to that individual by Her Majesty in right of Canada; and

(m) for any purpose where, in the opinion of the head of the institution,

(i) the public interest in disclosure clearly outweighs any invasion of privacy that

contrôleur général ou à toute personne ou tout organisme déterminé par règlement;

i) communication à Bibliothèque et Archives du Canada pour dépôt;

j) communication à toute personne ou à tout organisme, pour des travaux de recherche ou de statistique, pourvu que soient réalisées les deux conditions suivantes :

(i) le responsable de l'institution est convaincu que les fins auxquelles les renseignements sont communiqués ne peuvent être normalement atteintes que si les renseignements sont donnés sous une forme qui permette d'identifier l'individu qu'ils concernent,

(ii) la personne ou l'organisme s'engage par écrit auprès du responsable de l'institution à s'abstenir de toute communication ultérieure des renseignements tant que leur forme risque vraisemblablement de permettre l'identification de l'individu qu'ils concernent;

k) communication à tout gouvernement autochtone, association d'autochtones, bande d'Indiens, institution fédérale ou subdivision de celle-ci, ou à leur représentant, en vue de l'établissement des droits des peuples autochtones ou du règlement de leurs griefs;

l) communication à toute institution fédérale en vue de joindre un débiteur ou un créancier de Sa Majesté du chef du Canada et de recouvrer ou d'acquitter la créance;

m) communication à toute autre fin dans les cas où, de l'avis du responsable de l'institution :

could result from the disclosure, or

(ii) disclosure would clearly benefit the individual to whom the information relates.

(i) des raisons d'intérêt public justifieraient nettement une éventuelle violation de la vie privée,

(ii) l'individu concerné en tirerait un avantage certain.

(3) Subject to any other Act of Parliament, personal information under the custody or control of the Library and Archives of Canada that has been transferred there by a government institution for historical or archival purposes may be disclosed in accordance with the regulations to any person or body for research or statistical purposes.

(3) Sous réserve des autres lois fédérales, les renseignements personnels qui relèvent de Bibliothèque et Archives du Canada et qui y ont été versés pour dépôt ou à des fins historiques par une institution fédérale peuvent être communiqués conformément aux règlements pour des travaux de recherche ou de statistique.

(4) The head of a government institution shall retain a copy of every request received by the government institution under paragraph (2)(e) for such period of time as may be prescribed by regulation, shall keep a record of any information disclosed pursuant to the request for such period of time as may be prescribed by regulation and shall, on the request of the Privacy Commissioner, make those copies and records available to the Privacy Commissioner.

(4) Le responsable d'une institution fédérale conserve, pendant la période prévue par les règlements, une copie des demandes reçues par l'institution en vertu de l'alinéa (2)e) ainsi qu'une mention des renseignements communiqués et, sur demande, met cette copie et cette mention à la disposition du Commissaire à la protection de la vie privée.

(5) The head of a government institution shall notify the Privacy Commissioner in writing of any disclosure of personal information under paragraph (2)(m) prior to the disclosure where reasonably practicable or in any other case forthwith on the disclosure, and the Privacy Commissioner may, if the Commissioner deems it appropriate, notify the individual to whom the information relates of the disclosure.

(5) Dans le cas prévu à l'alinéa (2)m), le responsable de l'institution fédérale concernée donne un préavis écrit de la communication des renseignements personnels au Commissaire à la protection de la vie privée si les circonstances le justifient; sinon, il en avise par écrit le Commissaire immédiatement après la communication. La décision de mettre au courant l'individu concerné est laissée à l'appréciation du Commissaire.

(6) In paragraph (2)(k), "Indian band" means

(6) L'expression « bande d'Indiens » à l'alinéa (2)k) désigne :

(a) a band, as defined in the *Indian Act*;

a) soit une bande au sens de la *Loi sur les Indiens*;

(b) a band, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes

b) soit une bande au sens de la *Loi sur les Cris et les Naskapis du Québec*, chapitre 18



- |   |  |
|---|--|
| <p>of Canada, 1984;</p>   | <p>des Statuts du Canada de 1984;</p>  |
| <p>(c) the Band, as defined in the <i>Sechelt Indian Band Self-Government Act</i>, chapter 27 of the Statutes of Canada, 1986; or</p>   | <p>c) soit la bande au sens de la <i>Loi sur l'autonomie gouvernementale de la bande indienne sechelte</i>, chapitre 27 des Statuts du Canada de 1986;</p>   |
| <p>(d) a first nation named in Schedule II to the <i>Yukon First Nations Self-Government Act</i>.</p>   | <p>d) la première nation dont le nom figure à l'annexe II de la <i>Loi sur l'autonomie gouvernementale des premières nations du Yukon</i>.</p>   |
| <p>(7) The expression “aboriginal government” in paragraph (2)(k) means</p>   | <p>(7) L'expression « gouvernement autochtone » à l'alinéa (2) k s'entend :</p>  |
| <p>(a) Nisga'a Government, as defined in the Nisga'a Final Agreement given effect by the <i>Nisga'a Final Agreement Act</i>;</p>  | <p>a) du gouvernement nisga'a, au sens de l'Accord définitif nisga'a mis en vigueur par la <i>Loi sur l'Accord définitif nisga'a</i>;</p>  |
| <p>(b) the council of the Westbank First Nation;</p>  | <p>b) du conseil de la première nation de Westbank;</p>  |
| <p>(c) the Tlicho Government, as defined in section 2 of the <i>Tlicho Land Claims and Self-Government Act</i>;</p>   | <p>c) du gouvernement tlicho, au sens de l'article 2 de la <i>Loi sur les revendications territoriales et l'autonomie gouvernementale du peuple tlicho</i>;</p>  |
| <p>(d) the Nunatsiavut Government, as defined in section 2 of the <i>Labrador Inuit Land Claims Agreement Act</i>; or</p>   | <p>d) du gouvernement nunatsiavut, au sens de l'article 2 de la <i>Loi sur l'Accord sur les revendications territoriales des Inuit du Labrador</i>;</p>  |
| <p>(e) the council of a participating First Nation as defined in subsection 2(1) of the <i>First Nations Jurisdiction over Education in British Columbia Act</i>.</p>   | <p>e) du conseil de la première nation participante, au sens du paragraphe 2(1) de la <i>Loi sur la compétence des premières nations en matière d'éducation en Colombie-Britannique</i>.</p>   |
| <p>(8) The expression “council of the Westbank First Nation” in paragraphs (2)(f) and (7)(b) means the council, as defined in the Westbank First Nation Self-Government Agreement given effect by the <i>Westbank First Nation Self-Government Act</i>.</p> | <p>(8) L'expression « conseil de la première nation de Westbank » aux alinéas (2)f) et (7)b) s'entend du conseil au sens de l'Accord d'autonomie gouvernementale de la première nation de Westbank mis en vigueur par la <i>Loi sur l'autonomie gouvernementale de la première nation de Westbank</i>.</p> |

**12.** (1) Subject to this Act, every individual who is a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act* has a right to and shall, on request, be given access to

(a) any personal information about the individual contained in a personal information bank; and

(b) any other personal information about the individual under the control of a government institution with respect to which the individual is able to provide sufficiently specific information on the location of the information as to render it reasonably retrievable by the government institution.

(2) Every individual who is given access under paragraph (1)(a) to personal information that has been used, is being used or is available for use for an administrative purpose is entitled to

(a) request correction of the personal information where the individual believes there is an error or omission therein;

(b) require that a notation be attached to the information reflecting any correction requested but not made; and

(c) require that any person or body to whom that information has been disclosed for use for an administrative purpose within two years prior to the time a correction is requested or a notation is required under this subsection in respect of that information

(i) be notified of the correction or notation, and

(ii) where the disclosure is to a government institution, the institution make the correction or notation on any

**12.** (1) Sous réserve des autres dispositions de la présente loi, tout citoyen canadien et tout résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* ont le droit de se faire communiquer sur demande :

a) les renseignements personnels le concernant et versés dans un fichier de renseignements personnels;

b) les autres renseignements personnels le concernant et relevant d'une institution fédérale, dans la mesure où il peut fournir sur leur localisation des indications suffisamment précises pour que l'institution fédérale puisse les retrouver sans problèmes sérieux.

(2) Tout individu qui reçoit communication, en vertu de l'alinéa (1)a), de renseignements personnels qui ont été, sont ou peuvent être utilisés à des fins administratives, a le droit :

a) de demander la correction des renseignements personnels le concernant qui, selon lui, sont erronés ou incomplets;

b) d'exiger, s'il y a lieu, qu'il soit fait mention des corrections qui ont été demandées mais non effectuées;

c) d'exiger :

(i) que toute personne ou tout organisme à qui ces renseignements ont été communiqués pour servir à des fins administratives dans les deux ans précédant la demande de correction ou de mention des corrections non effectuées soient avisés de la correction ou de la mention,

(ii) que l'organisme, s'il s'agit d'une institution fédérale, effectue la correction

copy of the information under its control.

(3) The Governor in Council may, by order, extend the right to be given access to personal information under subsection (1) to include individuals not referred to in that subsection and may set such conditions as the Governor in Council deems appropriate.

26. The head of a government institution may refuse to disclose any personal information requested under subsection 12(1) about an individual other than the individual who made the request, and shall refuse to disclose such information where the disclosure is prohibited under section 8.

ou porte la mention sur toute copie de document contenant les renseignements qui relèvent de lui.

(3) Le gouverneur en conseil peut, par décret, étendre, conditionnellement ou non, le droit d'accès visé au paragraphe (1) à des individus autres que ceux qui y sont mentionnés.

26. Le responsable d'une institution fédérale peut refuser la communication des renseignements personnels demandés en vertu du paragraphe 12(1) qui portent sur un autre individu que celui qui fait la demande et il est tenu de refuser cette communication dans les cas où elle est interdite en vertu de l'article 8.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-2244-06

**STYLE OF CAUSE:** GABRIEL SAVARD v. CANADA POST CORPORATION

**PLACE OF HEARING:** Québec, Quebec

**DATE OF HEARING:** April 21, 2008

**REASONS FOR JUDGMENT AND JUDGMENT:** Blanchard J.

**DATE OF REASONS:** May 27, 2008

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