

**ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)**

B E T W E E N:

SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS

Plaintiff

- and -

**THE ATTORNEY GENERAL OF CANADA
and
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**

Defendants

**DEMAND FOR PARTICULARS AND
REQUEST TO INSPECT DOCUMENTS**

THE PLAINTIFF, Six Nations of the Grand River Band of Indians, hereby requests full particulars of the allegations, and inspection (or copies) of the documents referred to, in the Defendant, the Attorney General of Canada's statement of defence, as follows:

1. With respect to the allegations in paragraph 10, specify those provisions of the *Quebec Act, 1774* which purport to declare null and void the Royal Proclamation of 1763, and provide particulars of all of the policies

and legislation alleged to have replaced the procedural requirements of the Royal Proclamation of 1763.

2. With respect to the allegations in paragraph 11, provide particulars of the occupation of the lands around the headwaters of the Grand River by the Chippewa First Nation.

3. With respect to the allegations in paragraph 12, provide particulars of the occupation of the lands south of the headwaters of the Grand River by the Mississauga First Nation.

4. With respect to the allegations in paragraph 13, provide particulars of the actions taken by the Imperial Crown to purchase a tract of land for the Six Nations.

5. With respect to the allegations in paragraph 14, provide particulars of the negotiations of the surrender of land below the head waters of the Grand River to Lake Erie from the Mississauga First Nation, specify the dates of such negotiations, the participants in such negotiations, and how the Six Nations participated in such surrender negotiations. If any of such negotiations were reduced to writing, provide a copy of such written records.

6. With respect to the allegations in paragraph 16:
 - (a) provide particulars of the awareness by the Six Nations that the tract of land would not sustain their traditional lifestyle; and
 - (b) provide particulars of the decision of the Six Nations to sell about one-half of the tract to invest the proceeds and to convert the balance to agricultural purposes, specify the date of such decision and who made such a decision, and identify the documents describing such a decision by the Six Nations.

7. With respect to the allegations in paragraph 17:
 - (a) provide particulars that Joseph Brant was the "Principal Chief of the Six Nations", specify the date he was selected as "Chief", which clan of the Six Nations he was to represent and how he was selected "Principal Chief" by other Chiefs of the Confederacy;
 - (b) provide particulars of the several land transactions entered into by Joseph Brant referred to, specify the date, parties to and lands affected by such transactions; and
 - (c) identify the documents which contain the above information.

8. With respect to the allegations in paragraph 18, provide a copy of the Power of Attorney granted to Joseph Brant on November 2, 1796.

9. With respect to the allegations in paragraph 19:
 - (a) provide particulars of the Imperial Crown's opposition to the sale of land, specify the dates of such opposition, by and to whom such opposition was communicated, and identify the documents describing the communication of such opposition; and
 - (b) provide particulars of the meeting between the Council of Six Nations and the President of the Executive Council of Upper Canada between July 24 and 26, 1797, and, if a record of the meeting was reduced to writing, provide a copy of such written record.

10. With respect to the allegations in paragraph 20:
 - (a) provide particulars of the undertaking requested and received by Joseph Brant from the President, and identify the documents describing such an undertaking; and
 - (b) provide particulars of the confirmation of the sales by the President and identify the documents describing such confirmation; and
 - (c) provide copies of the patents, and certificates from the "Six Nations trustee".

11. With respect to the allegations in paragraph 21, provide particulars of the sale of lands (approximately blocks 1-6) by the Six Nations, specify the date and a description of the lands sold, and identify or provide copies of the patents, deeds, or conveyances of the sale of lands.

12. With respect to the allegations in paragraph 22:

- (a) provide particulars of the surrender and promise made by the Six Nations to give John Dockstader about 21,000 acres on the north side of the Grand River, specify the date of such promise, by whom such promise was made, the consideration for such promise, a more particular description of the lands promised, and, if there is a written record of such a promise, provide a copy;
- (b) provide particulars of the offer by Benjamin Canby to purchase 19,254 acres of land from Dockstader, specify the date of such offer, to whom such offer was made, a description of the lands contained in such offer, and, if the offer was reduced to writing, provide a copy of such written record;
- (c) provide particulars of the agreement between Dockstader and Canby, specify the date of such agreement and a description of the lands in the agreement, and provide a copy of the agreement and mortgage.

13. With respect to the allegations in paragraph 23:

- (a) provide particulars of the agreement by Joseph Brant to the transfer, specify the date of such agreement, and, if such agreement was reduced to writing, provide a copy of such written record;
- (b) provide a copy of the transfer and patent of lands to Canby;
and
- (c) provide particulars of the authority from Six Nations for Brant to enter into an agreement with Canby, and, if such authority was reduced to writing, provide a copy of such written record.

14. With respect to the allegations in paragraph 24, provide particulars of the "private mortgage", specify the date and terms of such mortgage, and provide a copy of the mortgage.

15. With respect to the allegations in paragraph 25:

- (a) provide particulars of the appointment of Colonel William Claus to receive funds as a Six Nations trustee by Joseph Brant, specify the date of such appointment, and, if the appointment was reduced to writing, provide a copy of such written record;
and

- (b) provide particulars of the "close ties" that Colonel William Claus and his ancestors allegedly had with the Six Nations.

16. With respect to the allegations in paragraph 26:

- (a) provide particulars of how 5000 acres of land was given by the Six Nations to William Dickson, specify a more precise date and provide a description of the lands given, and copies of any documents whereby 5000 acres of land were transferred to William Dickson;
- (b) provide particulars of the retainer between the Six Nations and William Dickson, specify the date of such retainer and the nature or extent of such retainer, and, if such retainer was reduced to writing, provide a copy of such written record.

17. With respect to the allegations in paragraph 27:

- (a) provide particulars of the instructions received by William Claus from the Six Nations, specify the date and content of the instructions and, if such instructions were reduced to writing, provide a copy of such instructions;
- (b) provide particulars of each of the securities received from the sale of the Six Nations' lands, the loans, the accounts, and the

- money distributed among the different tribes by William Claus, specify the dates, parties and amounts of such transactions;
- (c) provide particulars of the attendance by William Claus at Six Nations Council meetings, specify the dates of the attendances;
 - (d) provide particulars of the advice and explanations given by William Claus at Six Nations Council meetings;
 - (e) provide particulars of the occasions on which William Claus sought guidance from the Imperial Crown, specify the dates of such occasions, from whom William Claus sought such guidance, and the content of the guidance he received; and
 - (f) if any the foregoing information was reduced to writing, identify the documents describing such information.

18. With respect to the allegations in paragraph 29, provide particulars of the appointment of John Claus on August 4, 1826 by the Six Nations, and the refusal of the Imperial Crown to approve such an appointment; if such appointment or refusal were reduced to writing, provide a copy of such written records.

19. With respect to the allegations in paragraph 30 provide particulars of how John Claus became the "Six Nations trustee", specify the date of such

appointment, and who so appointed John Claus, and, if such appointment was reduced to writing, identify such written record.

20. With respect to the allegations in paragraph 32, provide a copy of the document in which the quoted statement by John Claus is contained.

21. With respect to the allegations in paragraph 33, provide particulars of the instructions given to William Dickson by the Six Nations, and, if such instructions were reduced to writing, provide copies of such written records.

22. With respect to the allegations in paragraph 34 provide particulars of the reasons why the Legislative Assembly failed to approve such legislation.

23. With respect of the allegations in paragraph 36:

- (a) provide particulars of the surrender of the accounts by John Claus, specify the date and to whom the accounts were surrendered, and provide a copy of such accounts;
- (b) provide particulars of John Claus' inability to repay the money withheld by him since his father's death.

24. With respect to the allegations in paragraph 37:
- (a) provide particulars of the direction given by William Dickson to C.A. Hagerman, specify the date and form of such direction, and, if the direction was reduced to writing, provide a copy of the document containing such direction;
 - (b) provide particulars of the examination that Hagerman had done of the accounts, specify the date of such examination, by whom they were done and the particulars of the conclusions drawn;
 - (c) identify the document(s) containing the Statement of Accounts.
25. With respect to the allegations in paragraph 38:
- (a) provide particulars of the instructions sought by officials of the Province of Upper Canada from the Six Nations on the settlement offer of John Claus, specify the date of such requests and instructions, what instructions were sought, who sought such instructions and from whom;
 - (b) provide further particulars of the offer made by John Claus;
 - (c) provide particulars, if known, of the basis on which John Claus formed the belief that he owned the lands as sole heir at law of William Claus; and

- (d) if any of the above information has been reduced to writing, provide a copy of such written records.

26. With respect to the allegations in paragraph 39:

- (a) provide particulars of the acceptance of the offer from John Claus, specify who accepted the offer and the date of such acceptance, and, if such acceptance was reduced to writing, provide a copy of such written record;
- (b) provide particulars of the advice, if any, given by William Dickson to accept such an offer, and, if such advice were reduced to writing, provide a copy of such written record; and
- (c) provide particulars of how it was arranged that Catherine Claus would give her lands in satisfaction of the debt and by whom it was arranged, and, if such an arrangement were reduced to writing, provide a copy of such written record.

27. With respect to the allegations in paragraph 40, provide particulars of the three trustees to whom John Claus transferred such land, specify the names of such trustees, the circumstances of their recommendation by the Crown, the circumstances of the alleged appointment of the trustees by the Six Nations, the dates of such recommendations and appointments, and the terms and conditions of such recommendations and appointments, if any,

and, if such recommendation or appointment were reduced to writing identify the documents containing such written records

28. With respect to the allegations in paragraph 41:

- (a) provide particulars of how the various members of the Claus family pressed the government and the Six Nations for a grant of 15,360 acres, specify the dates of such requests, the names of the members of the Claus family who made such requests, and the person(s) to whom such requests were made;
- (b) provide particulars of the promise made to William Claus, specify the date of such promise, by whom it was made and which lands were contained in the promise;
- (c) provide particulars of those members of the Six Nations who supported the demand;
- (d) provide particulars of the negotiations which ensued, specify the parties to such negotiations and the date on which such negotiations took place; and
- (e) if any of the above information has been reduced to writing, identify the documents containing such written records.

29. With respect to the allegations in paragraph 42:

- (a) provide particulars of the communication by the Six Nations to the Crown that they wanted to sell the Innisfil and East Hawksbury lands, specify the date of such communication, the members of the Six Nations who told the Crown, and which persons representing the Crown were so told by the Six Nations;
- (b) provide particulars of the sales of parcels of the land by the trustees, specify the date of such sales, the purchasers, the legal description of land sold, the consideration given for such sales, if any, and by whom such consideration was received; and
- (c) if any of the above information has been reduced to writing, identify the documents containing such written records.

30. With respect to the allegations in paragraph 44, provide particulars of the knowledge of the Six Nations and instructions of the Six Nations to the Crown to oppose the claim, specify the date of such knowledge or instructions, and, if such knowledge or instructions were reduced to writing, identify the documents containing such written records.

31. With respect to the allegations in paragraph 45:
- (a) provide particulars of the options examined by Government officials;
 - (b) provide particulars of the consultations between the Six Nations and Government officials, specify the dates and results of such consultations;
 - (c) provide particulars of the decision to negotiate with the Warren Claus heirs, specify who made the decision and the date of the decision; and
 - (d) if any of the above information was reduced to writing, provide a copy of such written records.
32. With respect to the allegations in paragraph 46, provide particulars of the demand made by the Six Nations to the Crown to pass legislation, specify the date of such demand, the persons making such demand and the persons receiving such demand, and, if the demand was reduced to writing, identify the document containing such demand.
33. With respect to the allegations in paragraph 47, provide a copy of the agreement and release referred to, and provide particulars of the payment made from Six Nations funds, specify the date Six Nations authorized the

payment and, if such authorization was reduced to writing, provide a copy of such written record.

34. With respect to the allegations in paragraph 48:

- (a) provide particulars of the sale of the Innisfil and East Hawksbury lands, specify the date of such sales, the descriptions of all portions of the lands sold to purchasers, the consideration given for such lands, and the recipient of such consideration and identify the documents containing the above information;
- (b) provide particulars of the Claus trust debt, specify the dates such debt was incurred, and how and when such debt was reduced and provide a copy of written records containing such information; and
- (c) provide particulars of the costs incurred in clearing the title, specify the dates the costs were incurred, and how and when there was a partial elimination of the costs, and, if the information was reduced to writing, provide a copy of such written records.

35. With respect to the allegations in paragraph 50:

- (a) provide particulars of how the Six Nations arranged, "likely" through William Dickson, for security to be given for the sale, specify the date of such arrangements, the members of the Six Nations who made such arrangements and the involvement of William Dickson; and
- (b) identify the "historical evidence" that the mortgage was payable in full in one year.

36. With respect to the allegations contained in paragraph 51:

- (a) provide particulars of the date Selkirk defaulted on the mortgage;
- (b) provide particulars of the date the land was taken by the creditor, the name of the creditor, the purchasers of the land, the date of such sales, subdivisions and conveyances, the consideration for such sales, subdivisions and conveyances, and to whom such consideration was paid; and
- (c) identify the documents describing such sales, subdivisions or conveyances.

37. With respect to the allegations in paragraph 52:
- (a) provide particulars respecting the assumption of the management of the mortgage by the Crown recommended trustees, specify the date of such assumption, the names of the Crown recommended trustees and the dates of the appointment of such trustees;
 - (b) provide particulars of the steps the Crown took to enforce the mortgage and the results of such steps;
 - (c) provide particulars of the Province of Canada's assumption of the mortgage; and
 - (d) identify the "historical documents" which characterize the mortgage as being a doubtful asset.
38. With respect to the allegations in paragraph 53:
- (a) provide particulars of John Colborne's belief that the Grand River Navigation Company ("GRNC") would greatly increase the value of Six Nations' lands, specify the date such a belief was formed and the basis for such a belief;
 - (b) provide particulars of the expectation by private investors that the stocks of the GRNC would be profitable, specify the names of such private investors and the basis of such expectation; and

- (c) if any of the foregoing information was reduced to writing, provide a copy of such written record.

39. With respect to the allegations in paragraph 54:

- (a) provide particulars of the advice given by John Colborne to the Six Nations Council, specify the date of such advice and, if such advice was reduced to writing, identify such written record; and
- (b) provide particulars of the consent of the Six Nations Council, specify the date of such consent and, if such consent were reduced to writing, identify such written record.

40. With respect to the allegations in paragraph 55, provide particulars of the investments made by the Six Nations in the GRNC, specify the nature and date of such investments, the amounts of such investments, by whom such investments were made, and, if written records of such investments were made, identify such written records.

41. With respect to the allegations in paragraph 56:

- (a) provide particulars of the petitions by the Six Nations to the Crown for redress referred to, specify the date of such petition,

by whom and to whom such petition was made, and identify the petitions referred to;

- (b) provide particulars of the occasions the Federal Crown denied liability for the loss, and, if such denials were reduced to writing, provide a copy of such written records; and
- (c) provide particulars of the meeting between the Federal Crown and the Six Nations in January, 1925, specify the date of such meeting, the parties to that meeting, and, if the discussions at the meeting were reduced to writing, provide a copy of such written record.

42. With respect to the allegations in paragraph 57, provide particulars of the offer(s) made by the federal Crown to make annual grants for roads and other public purposes, specify the dates of such offer(s) and to whom such offer(s) were made, and, if such offer(s) was reduced to writing, provide a copy of such written record.

43. With respect to the allegations in paragraph 58:

- (a) provide particulars of the acceptance by the Six Nations of the offer referred to in paragraph 57, specify the date of such acceptance, the persons accepting the offer for the Six Nations,

and, if such acceptance were reduced to writing, provide a copy of such written record;

- (b) provide particulars of the funds referred to appropriated by Parliament for public purposes between 1925 and 1932, specify the amounts and dates of such appropriations; and
- (c) provide particulars of the public purposes and improvements on the Six Nations reserve which were paid for by the Federal Crown from such appropriations.

44. With respect to the allegation in paragraph 59 provide particulars of the disposal of Six Nations lands by the Crown in the period 1830-1840, specify the dates of such disposals, a description of lands disposed of, to whom the lands were disposed, the consideration, if any, for such lands, by whom such consideration was received, and identify all documents pertaining to such disposals.

45. With respect to the allegations in paragraph 60:

- (a) provide particulars of the dispositions made by members of the Six Nations without approval of the government in the period 1830 to 1840, specify the date of such dispositions, the lands disposed of by such dispositions, the parties to such

dispositions, and the consideration, if any, for such dispositions and identify all documents pertaining to such dispositions;

- (b) provide particulars of the advice given to the Six Nations by the government, specify the date of such advice, and identify the document(s) where such advice was given; and
- (c) provide particulars respecting the problem of squatter encroachment, specify the dates of squatter encroachment, the identity of such squatters and a description of the lands affected by squatter encroachment.

46. With respect to the allegations in paragraph 61:

- (a) provide particulars of the factions which developed within the Six Nations; and
- (b) provide particulars of the attempts by the Six Nations to seek action by the government to remove the squatters, specify the dates of such attempts, and by whom and to whom such attempts were made.

47. With respect to the allegations in paragraph 62:

- (a) provide particulars of the action the government took to deal with squatter encroachment;

- (b) provide particulars of the "suggestion" made by the government for the surrender of the lands, and identify the document(s) where such suggestion was made;
- (c) provide particulars of the agreement by the Six Nations to such a surrender, and identify the document(s) containing such agreement; and
- (d) provide particulars of the "Brant Leases", and provide a copy of such "Brant Leases".

48. With respect to the allegations in paragraph 63:

- (a) provide particulars of the "suggestion" by the government that the Six Nations consider taking a certain quantity of land for cultivation and disposing of the remainder, specify the date of such "suggestion", and identify the document(s) where such a suggestion was made; and
- (b) provide particulars of the requests by the Six Nations for legislation to protect their land from squatters, and identify the document(s) where such request were made.

49. With respect to the allegations in paragraph 64:

- (a) provide particulars of the instructions by the government to John Gwynne, and identify the document(s) where such instructions were given; and
- (b) provide particulars of the prosecutions by John Gwynne of squatters.

50. With respect to the allegations in paragraph 65:

- (a) provide particulars of the action that was taken by John Gwynne;
- (b) provide particulars of the continued sale of land by members of the Six Nations to squatters, specify the date of such sales, the parties to such sales, and the lands disposed of by such sales, and identify the document(s) pertaining to such sales of lands; and
- (c) provide particulars of the recommendations made by John Gwynne, and identify the document(s) where such recommendation was made.

51. With respect to the allegations in paragraph 66, provide a copy of the Executive Council's recommendation on November 27, 1840.

52. With respect to the allegations in paragraph 67, provide particulars of the agreement by the Six Nations in Council to the "surrender" of all their lands, with certain exceptions, and identify the document(s) pertaining to such agreement (for example, whether it is the document identified at paragraph 63 of the statement of claim), and provide a copy of the "surrender" and the minutes of the meeting of January 18, 1841.

53. With respect to the allegations in paragraph 68:

- (a) provide particulars of the communications between the factions of the Six Nations and the government, specify the dates of such communications and by whom and to whom such communications were made, and, if such communications were reduced to writing, identify such written records; and
- (b) provide particulars of the identity of the factions of the Six Nations which supported the surrender.

54. With respect to the allegations in paragraph 69:

- (a) provide particulars of the agreement by all factions of the Six Nations to dispose of lands that they did not occupy, specify the date of such agreement and the parties to such agreement, and identify the document(s) containing such communication; and

- (b) provide particulars of the negotiations with the Six Nations by the government, specify the dates of such negotiations, the parties to such negotiations and the results of such negotiations, and identify all documents relating to such negotiations.

55. With respect to the allegations in paragraph 70:

- (a) provide particulars of the appointment of the Bagot Commission by the government, and identify the documents concerning such appointment; and
- (b) provide particulars of the representations made by the Six Nations to the Commission, specify the date of such representations, by and to whom such recommendations were made, and identify all documents containing representations made by Six Nations.

56. With respect to the allegations in paragraph 73, provide particulars of the appointment of David Thorburn, and, specify the date of such appointment, the instructions given to David Thorburn and identify all documents relating to such appointment.

57. With respect to the allegations in paragraph 74:

- (a) provide particulars of the relevant Six Nations Council meetings between 1844 and 1848, specify the dates of such meetings referred to, and identify any written records of such meetings referred to;
- (b) provide particulars of the representations made by the Six Nations to the Governor General from 1844 to 1848, specify the date of such representations, and, identify any documents containing such representations;
- (c) provide a copy of the Proclamation passed by the Crown in 1850 with respect to the Six Nations' reserve lands; and
- (d) provide particulars of the decisions made by the Six Nations Council, specify the dates of such decisions and identify all documents wherein such decisions were recorded.

58. With respect to the allegations in paragraph 75, provide particulars of the occupation of the lands of southwestern Ontario by the Mississauga and Chippewa First Nations and of the circumstances under which the Six Nations were "driven out" of the area in the latter part of the 1600's by the Ottawa, Huron, Mississauga and Chippewa First Nations, and identify the documents containing such information.

59. With respect to the allegations in paragraph 80, provide particulars of those relevant aspects of the fiduciary relationship between the Crown and the aboriginal people that are alleged not to give rise to a fiduciary duty.

60. With respect to the allegation in paragraph 82, confirm that the reference to the "Robinson Commission of 1830" is the Report dated May 14, 1830 submitted to the Executive Council of Upper Canada and, if not, provide particulars of the Robinson Commission.

61. With respect to the allegations in paragraph 83:

- (a) provide particulars of the appointments and instructions given by the Six Nations to William Claus and John Claus, specify the date of such appointments and instructions, and identify the documents containing such appointments and instructions; and
- (b) provide particulars of the occasions the officials of the Province of Upper Canada were acting upon the request of the Six Nations to assist in the matter of recovering its records, specify the date of such occasions, the identity of such officials, and identify the documents describing the actions of the officials.

62. With respect to the allegations in paragraph 84, provide a copy of the records which were provided by John Claus to the Six Nations' lawyer and a

copy of the record of the Six Nations Council meeting on September 28, 1831.

63. With respect to the allegations in paragraph 86, provide particulars of the requests by the lawyer of the Six Nations to officials of the Province of Upper Canada to act with respect to the accounts and the consultation with the Six Nations as to the settlement of the accounts, specify the dates of and parties to such requests and consultations, and identify the documents containing such requests or consultations.

64. With respect to the allegations in paragraph 87:

- (a) provide particulars of the reasonable efforts used by the officials of the Province of Upper Canada, specify the dates and nature of such efforts and the person(s) who made such efforts;
- (b) provide particulars of the negotiations by the officials of the Province of Upper Canada, specify the dates of, the parties to and the result of such negotiations;
- (c) provide particulars of the "difficult circumstances"; and
- (d) provide particulars of the debt and the "substantial if not complete" retirement of such debt, specify the dates such debts were incurred, the amount of the debt and the dates and amounts of payment of such debt.

65. With respect to the allegations in paragraph 89, provide particulars of the negotiation and arrangements of the Selkirk mortgage by William Dickson, specify the name of Selkirk's agent, state who gave responsibility to the Claus trustees for collecting payments under the mortgage, state the identity of the Claus trustees; identify all documents pertaining to the negotiation of the Selkirk mortgage and identify those documents assigning responsibility for collecting payments of such mortgage to the Claus trustees.

66. With respect to the allegations in paragraph 90:

- (a) provide particulars of the attempts made by Crown recommended trustees to collect on the mortgage and their partial success;
- (b) identify the "historical documents" relating to the collection of the mortgage.

67. With respect to the allegation in paragraph 92, provide particulars of the Canby mortgage, specify the parties to the mortgage, and identify all documents pertaining to the mortgage.

68. With respect to the allegations in paragraph 96:

- (a) provide particulars of the belief that the stocks in the GRNC would be profitable and that the project would greatly enhance the value of the Six Nations land, specify the dates of such belief, who believed it and the basis for such belief;
- (b) provide particulars of the knowledge and consent of the Six Nations to the investment, specify the date of such alleged knowledge and consent and the person(s) to whom such knowledge and consent was given; and
- (c) identify all documents pertaining to such belief, knowledge or consent.

69. With respect to the allegations in paragraph 97, provide particulars of the payment of sums between 1925 and 1934 and the improvements to the Six Nations Reserve and identify those documents that allegedly show that the payments were "in full and complete satisfaction of its claim".

70. With respect to the allegations in paragraph 100, provide a copy of the written record crediting the Six Nations account for such subscribed shares.

71. With respect to the allegations in paragraph 103, provide particulars of the "process of consultation and consent" with the Six Nations, specify the date of, parties to, and results of such consultations and consents, and identify all documents relating to such consultations and consents.

72. With respect to the allegations in paragraph 104, provide particulars of and identify all documents showing the compliance by the Crown with all relevant Governor's instructions and other "policies" respecting consensual alienation of the Six Nations' interest in the land.

73. With respect to the allegations in paragraph 106, provide particulars of the acts by officials of the Province of Canada which established a regime for the sale of lots of land.

74. With respect to the allegation in paragraph 107, provide particulars of the implication that the sale price of any land sold took into account the value of the lands "otherwise transferred" and identify the documents, if any, which so implied that.

75. With respect to the allegations in paragraph 108, provide particulars of the awareness by the Six Nations that the lands were to be sub-divided into

200 acre lots, specify the dates of such awareness, and identify all documents, if any, which described such an awareness by the Six Nations.

76. With respect to the allegations in paragraph 109, provide particulars of the requests by the Six Nations for a reservation within the surrendered lands and the compliance with this request by the Crown, and identify all documents containing such requests and describing such compliance by the Crown.

77. With respect to the allegations in paragraph 111:

- (a) provide particulars of the consent of the Six Nations to the lease of the subject lands, and provide a copy of the minutes of the Six Nations Council Meetings on January 15 and 29, 1835; and
- (b) provide particulars of the decision by the Lieutenant Governor not to accept the surrender, specify the date of such decision, and, if such a decision were reduced to writing, provide a copy of such written record.

78. With respect to the allegations in paragraph 112, provide a copy of each of the Six Nations' surrender of January 18, 1841, the Six Nations' affirmation of a decision to sell the land by petition dated June 24, 1843,

the Order in Council dated October 4, 1843, and the record of the Six Nations Council meeting of December 18, 1844.

79. With respect to the allegations in paragraph 113 and 114, provide particulars of when the subject lands were taken, the circumstances of such a taking, when compensation was made for the taking of such lands, the postponement of any decision by the Executive Council, and any consultations with the Ordnance Department, specify any dates and parties to such consultations, and, if the foregoing information was reduced to writing, provide a copy of such written records.

80. With respect to the allegations in paragraph 115, provide a copy of any surrender executed by the Six Nations following December 18, 1844 and provide a list of the Council meetings between 1840 and 1844 which are referred to.

81. With respect to the allegation in paragraph 116, provide particulars of the role of William Jarvis, specify his position in the government, his duties and dates of employment (or confirm that the reference to "William" Jarvis should read "Samuel P." Jarvis).

82. With respect to the allegations in paragraph 117, provide particulars of the accounting that was demanded and conducted by Jarvis (and by which Jarvis) and Crown accountants, specify the dates of such demand and accounting and by whom, and identify the documents containing such demand and accounting.

83. With respect to the allegations in paragraph 119:

- (a) provide particulars of the management by the plaintiff of its funds through its own trustees prior to 1831 and identify all documents pertaining to such management, particularly for the periods prior to 1804 and from 1809-1830 inclusive;
- (b) provide particulars of the accounting by officials of the Province of Upper Canada of the Claus Trust in 1831, and, if such accounting has been reduced to writing, identify such written record;
- (c) identify the documents containing the published accounts by J.H. Dunn, trustee for the Six Nations and Receiver General of Canada for the period 1831 to 1847 and provide particulars of when and how those were distributed to the Six Nations;
- (d) provide particulars of and a copy of the accounts for 1848;
- (e) provide particulars of and identify the trust fund records for the period 1849 to 1952 inclusive and provide a copy of the trust

accounting records allegedly given to Six Nations between 1952 and 1982 inclusive; and

- (f) provide particulars of and identify each monthly financial report given to Six Nations since 1981.

84. With respect to the allegations in paragraph 123:

- (a) provide particulars of the knowledge and explicit consent given by the Six Nations to the extraction of natural resources, and identify all documents showing such knowledge and explicit consent; and
- (b) provide particulars of the compensation received by the Six Nations for the removal of natural resources, and provide a copy of the accounts of the relevant compensation made to the Six Nations.

85. With respect to the allegations in paragraph 124:

- (a) provide a copy of the proposal by Senator Edward Michener dated March 4, 1925;
- (b) provide a copy of the Band Council Resolution dated March 5, 1925.

86. With respect to the allegations in paragraph 125, provide a copy of the surrender dated March 20, 1925.

87. With respect to the allegations in paragraph 126, provide particulars of the knowledge by the Six Nations of the terms of the lease and particulars of the receipt of royalties by the plaintiff from Petroleum Oil and Gas Company, and, if such information was reduced to writing, provide a copy of such written records.

88. With respect to paragraph 128:

- (a) provide particulars of the decision that it would be in the interest of the Six Nations to continue the leasing arrangement, specify the date of such decision, by whom it was made, and, if such decision was reduced to writing, provide a copy of such written record; and
- (b) provide a copy of the Band Council Resolution dated February 5, 1948.

89. With respect to the allegations in paragraph 129:

- (a) provide particulars of the receipt of royalty payments from Petroleum Oil and Gas Company by the Six Nations between July 15, 1948 and November 18, 1970;

- (b) provide particulars of the expression of the desire by the Six Nations that any ambiguity in the surrender not delay the assignment of the lease, and, if such desire was reduced to writing, provide a copy of such written record.

90. With respect to the allegations in paragraph 131, provide particulars of the excessive delay of the Plaintiff and the acquiescence and waiver of the Plaintiff of its claim and provide particulars of the alleged resulting circumstances that make the prosecution of the action unreasonable.

91. With respect to the allegations in paragraph 135, provide particulars of all takings of land which were not consensual takings, specify the party taking the land, the date of such taking, the descriptions of the lands taken, and compensation for such taking, if any, and identify the valid legislation pursuant to which such non-consensual takings were made.

Dated: January 26, 1996

BLAKE, CASSELS & GRAYDON
Box 25, Commerce Court West
Toronto, Ontario
M5L 1A9

Burton H. Kellock, Q.C.
(416) 863-2691

Ben A. Jetten
(416) 863-2938

Fax: (416) 863-2653

Solicitors for the Plaintiff, Six Nations
of the Grand River Band of Indians

TO: Roslyn J. Levine, Q.C.
Department of Justice
P.O. Box 36
3400 Exchange Tower
First Canadian Place
Toronto, ON M5X 1K6

Charlotte A. Bell, Q.C.
(416) 973-6901
Fax: (416) 973-5004

Solicitor for the Defendant,
The Attorney General of Canada

AND TO: Attorney-General of Ontario
Crown Law Office - Civil
720 Bay Street, 8th Floor
Toronto, ON M5G 2K1

J.T.S. McCabe, Q.C.
(416) 326-4127
Fax: (416) 326-4181

Solicitors for the Defendant,
Her Majesty the Queen in Right of Ontario

SIX NATIONS OF THE GRAND RIVER

- AND -

THE ATTORNEY GENERAL OF CANADA ET AL

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

Proceeding Commenced at Brantford

**DEMAND FOR PARTICULARS AND
REQUEST TO INSPECT DOCUMENTS**

BLAKE, CASSELS & GRAYDON
Barristers and Solicitors
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9
Fax No. (416) 863-2653

Burton H. Kellock, Q.C.
(416) 863-2691

Ben A. Jetten
(416) 863-2938

Fax: (416) 863-2653

Solicitors for the Plaintiff