

ONTARIO COURT (GENERAL DIVISION)

BETWEEN:

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

REPLY TO DEMAND FOR PARTICULARS

In response to the Demand for Particulars dated January 26, 1996 made by the Plaintiff, the Defendant, the Attorney General of Canada, states that the particulars demanded therein [a] are not necessary for the purposes of pleading, and [b] should be within the knowledge or records of, or available to, the Plaintiff.

Without prejudice to this position, the following are the particulars requested in the demand for particulars insofar as this Defendant presently has information. Further particulars should become available once the Plaintiff has made full documentary production in this action.

Respecting paragraph 10 of the Statement of Defence

1. Provision of the Quebec Act, 1774 which declares null and void the Royal Proclamation of 1763: section IV of that Act. Policies referred to and known to this Defendant at this time are as follows:

| Year | Title | Date/Citation | Source |
|-------------|--|--|--|
| 1775 | Instructions to Guy Carleton | January 3, 1775 | Adam Shortt and Arthur G. Doughty, eds., "Documents Relating to the Constitutional History of Canada 1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 594 - 620. |
| 1778 | Instructions to Frederick Haldimand | April 15, 1778 | see Jan. 3, 1775. Shortt and Doughty, "...Constitutional... 1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 696 |
| 1784 | Letter, F. Haldimand to Lt. Governor Hay | April 26, [17]84 | NAC, MFM reel C-1478, RG 10, Vol. 4 |
| 1786 | Instructions to Guy Lord Dorchester | August 23, 1786 | Shortt and Doughty, "...Constitutional... 1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 816 - 840. Additional Instructions, March 21, 1787; August 25, 1787. |
| 1791 | Commission and Instructions to Guy Lord Dorchester | Commission September 12, 1791; Instructions September 16, 1791 | Commission: Arthur G. Doughty and Duncan A. McArthur, eds., "Documents Relating to the Constitutional History of Canada 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp. 3 - 13. Instructions for Upper Canada; Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp.33-48. |
| 1791 | Commission to John Graves Simcoe | September 12, 1791 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), p. 55. |

| Year | Title | Date/Citation | Source |
|------|---|---|--|
| 1791 | Proclamation | November 18, 1791 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp. 55-7. |
| 1794 | Additional Instructions, Indian Department | December 26, 1794, enclosed in Dorchester to Simcoe, January 21, 1795 | E.A. Cruikshank, ed., <u>The Correspondence of Lieut. Governor John Graves Simcoe</u> . Five Volumes (Toronto: Ontario Historical Society, 1925), 3, pp. 241-2, 260-1. |
| 1796 | Additional Instructions, Indian Department | December 15, 1796 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), p. 189. |
| 1812 | Instructions for the Good Government of the Indian Department | May 1, 1812. | NAC, RG8 C Series, Vol. 271, pp. 28-39. |
| 1814 | "Instructions to Our Trusty and Welbeloved Gordon Drummond...." | December 29, 1814 | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 72-84. |
| 1820 | Letters Patent to George Earl of Dalhousie | April 12, 1820 | NAC, mfm reel H-959, RG 7, G 18, Vol. 4, pp. 25 - 33. |
| 1820 | "Instructions...George Earl of Dalhousie...." | April 13, 1820 | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 86. AND manuscript in NAC, mfm reel H-959, RG 7, G 18, Vol. 4, pp. 35 - 174. |
| 1820 | "A Proclamation Requiring all Persons being in Office of Authority or Government at the Decease of the late | Written January 31, 1820 / Published May 18, 1820 | A. G. Doughty and Norah Storey, eds., <u>Documents Relating to the Constitutional History of Canada 1819 - 1828</u> Public Archives Report for the Year 1934 (Ottawa: King's Printer, 1935), pp. 43 - 49. |

| Year | Title | Date/Citation | Source |
|------|---|----------------------|---|
| | King, to proceed in the Execution of their respective Offices." | | |
| 1830 | "An act to render valid acts done by the governor of any of his Majesty's plantations after the expiration of his commission by the demise of his late Majesty...." | December 23, 1830 | 1 William IV c. 4 |
| 1830 | Sir George Murray despatch to Sir James Kempt | January 25, 1830 | NAC / PRO CO 43 [sic?] / 27 copy from: U. K. Sessional Paper, Vol. 44, 1834, No. 617, pp. 87-9 [427-9]. |
| 1830 | Sir George Murray to Sir J. Colborne | March 15, 1830 [sic] | U.K. Sessional Paper, Vol. 44, 1834, No.617, pp. 128 [470]. |
| 1834 | Stanley to Sir J. Colborne | January 27, 1834 | U.K. Sessional Paper, Vol. 44, 1834, No.617, pp. 146 [488]. |
| 1837 | Commission to Sir George Arthur | December 22, 1837 | NAC, mfm reel H-929, RG 7 G 18, Vol. 4, pp. 292-5. |
| 1838 | Despatch from Lord Glenelg to Sir George Arthur. | March 28, 1838 | Great Britain. House of Commons. <u>Parliamentary Papers</u> , Vol. 34, No. 323. "Copies or Extracts of Correspondence Since 1st April 1835, Between the Secretary of State for the Colonies and the Governors of the British North American Provinces, respecting the Indians in those Provinces.", pp. 81-5/ 299-303. |
| 1838 | "Instructions...John George Earl of Durham...." | April 2, 1838 | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 92-3. |
| 1838 | Despatch from Lord Glenelg to the Earl of Durham and Sir George Arthur | August 22, 1838 | Great Britain. House of Commons. <u>Parliamentary Papers</u> , Vol. 34, No. 323. "Copies or Extracts of Correspondence Since 1st April |

| Year | Title | Date/Citation | Source |
|------|---|------------------|--|
| | | | 1835, Between the Secretary of State for the Colonies and the Governors of the British North American Provinces, respecting the Indians in those Provinces." |
| 1838 | Sir G. Arthur to Lord Glenelg | October 31, 1838 | U.K. Sessional Paper, Vol. 34, 1839, No. 323, pp. 164-5 [382-3]. |
| 1839 | "An Act for the protection of the Lands of the Crown in this Province, from trespass and injury" | May 11, 1839 | 2 Vict. c. 15 |
| 1850 | "An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury" | August 10, 1850 | 13 & 14 Vict. c. 74 |
| 1850 | Proclamation | November 8, 1850 | Secretary of State, Liber AA, folio 543. |
| 1860 | Newcastle to Head | June 16, 1860. | U. K. Sessional Paper, Vol. 44, 1860, No. 595, p. 45 [801]. |
| 1860 | "An Act respecting the Management of the Indian Lands and Property" | October 13, 1860 | 23 Vict. c. 151 |

Respecting paragraph 11 of the Statement of Defence

2. This Defendant has no particulars of the occupation by the Chippewa First Nation of the land around the headwaters of the Grand River.

Evidence of the facts alleged can be found in the following documents:

Surrender No. 6 dated September 7, 1796 (Chippewas).

Surrender No. 18 of October 17, 1818 (Chippewas).

**Report of the Commissioner of Crown Lands on the Six Nations
Land Grants dated June 27, 1883.**

Minutes of a Six Nations Council meeting dated December 5, 1818.

Respecting paragraph 12 of the Statement of Defence

**3. This Defendant has no particulars of the occupation by the
Mississauga First Nation of the land south of the headwaters of the Grand
River. Evidence of the facts alleged can be found in the following documents:**

Surrender of lands made by the Mississauga on May 22, 1784.

**Minutes of a meeting of the Mississauga Nation dated May 22,
1784.**

Respecting paragraph 13 of the Statement of Defence

**4. Particulars of the actions taken by the Imperial Crown to purchase
a tract of land for the Six Nations are as follows: Frederick Haldimand and
Joseph Brant had several discussions between March 15 and 23, 1783 further
particulars of which are not known to this Defendant at this time. King George III
approved Haldimand's plan to resettle the refugees. Frederick Haldimand wrote
to Sir John Johnson March 23 1783 advising him to effect the purchase of land
between lakes Ontario, Erie and Huron for the Six Nations. The Imperial Crown
purchased land from the Mississauga First Nation May 22 1784.**

Letter from Sir John Johnson to Haldimand dated May 19, 1783.

Letter from Lord North to Haldimand dated August 8 1783.

Letter from William Claus to Haldimand dated December 15, 1783.

Letter from Haldimand to Sir John Johnson dated March 23, 1784.

Respecting paragraph 14 of the Statement of Defence

5. Particulars of the Six Nations participation in the surrender negotiations: the Chiefs and Warriors of the Six Nations, including Joseph Brant attended at a meeting with the Mississauga First Nation and representatives of the Imperial Crown on May 22, 1784. The meeting resulted in a formal surrender of Mississauga First Nation land which surrender was reduced to writing on May 22, 1784 and witnessed by Joseph Brant.

Minutes of meeting of Mississauga First Nation dated May 22, 1784. See paragraph 3 above.

Surrender of the Mississauga First Nation dated May 22, 1784. See paragraph 3 above.

Respecting paragraph 16 of the Statement of Defence

6. [a] This Defendant has no particulars of the awareness of the Six Nations that the tract would not sustain their traditional lifestyles. Evidence of the facts alleged can be found in the following document.

Surrender No. 10 dated February 5, 1798.

[b] This Defendant has no particulars of the decision of the Six Nations to sell about one-half of the tract. Evidence of the facts alleged is as follows: by December 10, 1797 the Six Nations had decided to sell about half of

their land. Its decision to sell was expressed by Joseph Brant to Captain Green in 1797 and was reflected again in the surrender of February 5, 1798.

Letter from Joseph Brant to Captain Green, Military Secretary dated December 10, 1797.

Surrender No. 10 dated February 5, 1798.

This Defendant has no particulars of the decision of the Six Nations to convert the balance of their lands to agricultural purposes. Evidence of the facts alleged can be found in the following document:

Report of the Executive Council on Indian Land Sales, May 14, 1830. See 7[a] following.

Respecting paragraph 17 of the Statement of Defence

7. [a] This Defendant cannot provide "particulars" that Joseph Brant was "Principal Chief" of the Six Nations. Evidence of the facts alleged is found in the following documents:

Surrender No. 9 dated January 15, 1798.

Power of Attorney dated November 2, 1796.

Lease to John Huff, June 1, 1800.

Report of the Executive Council on Indian Land Sales, May 14, 1830. See paragraph 6[b] above.

[b] Particulars of the several land transactions, known at this time to this Defendant, that were entered into by Joseph Brant are set out in the

schedules attached to Surrender No. 9 dated January 15, 1798 and Surrender No. 10 dated February 5, 1798.

Surrender No. 9 dated January 15, 1798. See paragraph 7[a] above.

Surrender No. 10 dated February 5, 1798. See paragraph 6[a].

Respecting paragraph 18 of the Statement of Defence

8. A copy of the Power of Attorney is enclosed at paragraph 7[a] above.

Respecting paragraph 19 of the Statement of Defence

9. [a] Particulars of the Imperial Crown's initial opposition to the sale of land are as follows: the Imperial Crown initially opposed the concept of sale in about March 1797. The opposition was expressed by the Duke of Portland to Peter Russell.

Letter from the Duke of Portland to Peter Russell dated March 10, 1797.

[b] Particulars of the meeting between the Six Nations Council and the President of the Executive Council of Upper Canada are that such a meeting was held at Niagara on July 24, and 26, 1787. A record of the meeting was reduced to writing.

Letter from Russell to the Duke of Portland dated July 29, 1797.

Respecting paragraph 20 of the Statement of Defence

10. [a] Particulars of the undertaking requested by Brant are as follows: Brant requested an undertaking of Peter Russell in July, 1797 to confirm sales made by the Six Nations by issuing Crown patents. The Imperial Crown gave its undertaking when Russell wrote to Brant on October 4, 1797.

Russell's speech to the Six Nations dated July 24, 1797, a copy of which is enclosed in Russell to Portland July 29, 1797 at paragraph 9[b] above.

Russell's letter to Brant dated October 4, 1797.

[b] As to particulars of the sales made by the Six Nations and the confirmation documents: this is not a proper demand for particulars given what is pleaded at paragraph 20 of the Statement of Defence. In any event, this Defendant does not have full particulars.

[c] This is not a proper demand for particulars given what is pleaded at paragraph 20 of the Statement of Defence. In any event, this Defendant does not have copies of the patents for all of the lands sold. We are providing patents in our possession, all others being equally available to the Plaintiff as to this Defendant in the National Archives of Canada or Registry Office.

Patent to Benjamin Canby in respect of the Block 6 lands issued on February 5, 1798 and registered on March 17, 1798.

Patent to William Jarvis in respect of the Block 5 lands issued on February 5, 1798 and registered on March 17, 1798.

Patent to Earl of Selkirk in respect of the Block 5 lands issued on December 13, 1808.

Respecting paragraph 21 of the Statement of Defence

11. Particulars of the lands sold (approximately blocks 1-6): this Defendant has particulars of the sale of Blocks 5 and 6, but no particulars of the sale of Blocks 1-4. Particulars of the sale of Block 5 are: sold the lands as described in the patent on February 5, 1798. Particulars of the sale of Block 6 are: the lands were sold as described in the patent on February 5, 1798 (provided at 10[c] above). Evidence of the fact that Blocks 1-4 were sold can be found in the following document:

Report of the Committee of the Executive Council on Indian Land Sales, May 14, 1830. See paragraph 6[b] above.

Respecting paragraph 22 of the Statement of Defence

12. [a] Particulars of the promise made by the Six Nations to give Dockstader land: this Defendant has no such particulars. However evidence of the fact that a promise was made to give approximately 19,000 acres of land to Dockstader is found in a declaration signed by Joseph Brant dated June 9, 1802.

Declaration of Joseph Brant dated June 9, 1802.

Surrender No. 10 dated February 5, 1798. See paragraph 6[a] above.

Minutes of Six Nations Council , November 9, 1806.

[b] Particulars of the offer by Canby to purchase land from Dockstader: this Defendant has no such particulars.

Respecting paragraph 23 of the Statement of Defence

13. [a] Particulars of the agreement by Joseph Brant to transfer the Dockstader lands to Canby: this Defendant has no particulars.

[b] A copy of the patent to Canby is given at 10[c] above.

[c] Particulars of the authority of Brant to enter into an agreement with Canby: this is not a proper demand for particulars given what is pleaded at paragraph 23 of the Statement of Defence. In any event this Defendant has no particulars.

Respecting paragraph 24 of the Statement of Defence

14. [a] Particulars of the terms of the mortgage between Canby and Dockstader: this Defendant has no such particulars. Evidence of the fact that there was a mortgage can be found in a letter from Joseph Brant to Henry Allcock dated June 17 1803.

Letter from Joseph Brant to Henry Allcock, Chief Justice of Upper Canada dated June 17, 1803.

Respecting paragraph 25 of the Statement of Defence

15. [a] Particulars of the appointment of Colonel William Claus as trustee are as follows: William Claus was appointed as trustee for the Six

Nations by Joseph Brant about December, 1796. This Defendant has no knowledge of the further particulars of the appointment.

Letter from Joseph Brant to Peter Russell, President of Executive Council of Upper Canada dated December 15, 1797.

Letter from Brant to D.W. Smith dated December 28, 1798.

[b] This Defendant has no particulars of the relationship between Claus and his ancestors and the Six Nations. Evidence of the fact of such a relationship can be found in the following documents:

See Surrender No. 99 dated August 3, 1826.

Minutes of the Executive Council of Upper Canada dated August 10, 1843.

Respecting paragraph 26 of the Statement of Defence

16. [a] This Defendant has no particulars of the Six Nations giving of land to its lawyer, William Dickson. Evidence of the fact can be found in the following document:

Letter from Z. Mudge to the Attorney General dated July 14, 1830.

[b] This Defendant has no particulars of the retainer between the Six Nations and Dickson, full particulars of which would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact of such retainer can be found in the following documents:

See document 16[a] above.

Resolution of the Six Nations Council dated March 1, 1809.

Respecting paragraph 27 of the Statement of Defence

17. [a] This Defendant has no particulars of the instructions given to Claus by the Six Nations. Such information would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact that instructions were given can be found in the following documents:

Petition of Catherine Lyons, to Sir Francis Bond Head, Lieutenant Governor of Upper Canada dated November 15, 1837.

Letter from John Claus, Trustee, to D.C. Napier dated April 25, 1829.

[b] As to securities, loans and money distributed amongst the Six Nations: this Defendant has no such particulars. Such information would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact that such instructions were given can be found in the documents at 17(a) above.

[c] As to attendance of Claus at Six Nations Council meetings: this Defendant has no such particulars. Such information would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact that such meetings were held can be found in the following documents:

See documents at 17[a] above.

[d] This Defendant has no particulars of the advice and explanations given by Claus to the Six Nations. Such information would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact that such advice was given can be found in the following documents:

See documents at 17[a] and [b] above.

[e] As to the occasions on which Claus sought guidance from the Imperial Crown: this Defendant does not have full particulars. Evidence that such guidance was sought from time to time can be found in the following documents:

Order in Council dated June 24, 1803.

Report of the Committee of the Executive Council dated May 18, 1804.

Minutes of Executive Council meeting dated August 13, 1806.

Respecting paragraph 29 of the Statement of Defence

18. As to the appointment of John Claus; he was appointed on August 4, 1826 by the Six Nations Council.

Minutes of a Six Nations Council meeting dated August 4, 1826.

As to particulars of the Crown's refusal to approve the appointment of John Claus: there was no refusal, to the knowledge of this Defendant, the Crown was never asked.

Respecting paragraph 30 of the Statement of Defence

19. This Defendant has no further particulars respecting John Claus' appointment by the Six Nations excepts as described in 18 above. In any event, further particulars would be within the knowledge of the ancestors of the Plaintiff who were members of the Six Nations Council which made the appointment.

Respecting paragraph 32 of the Statement of Defence

20. The document in which the statement made by John Claus appears was:

Letter from Brant, Superintendent of the Six Nations to Z. Mudge dated September 3, 1829.

Respecting paragraph 33 of the Statement of Defence

21. As to the instructions given by the Six Nations to its lawyer, William Dickson: this Defendant has no particulars. Full particulars would be in the knowledge of the ancestors of the Six Nations. Evidence of the fact that instructions were given can be found in the following documents:

Minutes of a Six Nations Council meeting dated June 29, 1830.

Letter from Z. Mudge to the Attorney General of Upper Canada dated July 14, 1830.

Respecting paragraph 34 of the Statement of Defence

22. This Defendant has no particulars respecting the reason for the rejection by the Legislative Assembly of the proposed legislation. Evidence suggests it was rejected as a result of a Six Nations lobby.

Letter from Z. Mudge to Brant dated March 9, 1830.

Respecting paragraph 36 of the Statement of Defence

23. [a] Particulars of the date on which the accounts were surrendered by John Claus is not known to this Defendant. Historical evidence suggests that it was sometime immediately before December 31, 1830. This

Defendant does not know to whom the accounts were surrendered; they were either given to the Lieutenant Governor or to William Dickson as lawyer for the Six Nations, apparently by John Claus.

Letter from J. Givens to Brant dated December 31, 1830.

This Defendant does not have a copy of the accounts that Claus surrendered; however a Statement of Accounts was prepared by B. Turquand based on information received. This Statement of Accounts was submitted to the Six Nations.

Statement of Account prepared by B. Turquand dated September 23, 1831.

[b] This Defendant has no "particulars" of John Claus' inability to pay, but evidence of the fact that he could not can be found in the following documents:

Letter from Givins to Brant dated December 31, 1830. See paragraph 23[a] above.

Minutes of a Six Nations Council meeting dated October 3, 1832.

Minutes of the Executive Council of Upper Canada dated August 10, 1843. See paragraph 15[b] above.

Respecting paragraph 37 of the Statement of Defence

24. [a] As to the directions given by William Dickson to C.A. Hagerman, this Defendant has no particulars. Evidence of the fact that such directions were given can be found in the following document:

Letter from Givins to Brant dated December 31, 1830. See paragraph 23[a] above.

[b] Particulars of the accounts being examined by Hagerman:

Hagerman examined the accounts on or about August 10, 1831.

Letter from Turquand to Baby, Dunn and Markland August 10, 1831.

Statement of Account by Turquand dated September 23, 1831.
See paragraph 23[a] above.

Respecting paragraph 38 of the Statement of Defence

25. [a] Particulars of the instructions sought by Crown officials from the Six Nations with respect to the Claus offer to settle are as follows; the Six Nations was consulted respecting the settlement offer made by John Claus, likely around December 31, 1830. John Brant sought instructions from the Chiefs to accept all of John Claus estates to liquidate his debt.

Letter from Givins to John Brant dated December 31, 1830. See paragraphs 23[a] above.

Minutes of a Six Nations Council Meeting dated October 3, 1832.
See paragraph 23[b] above.

[b] This Defendant does not have further particulars of the offer made by John Claus.

[c] Particulars of the basis of which John Claus formed the belief he owned the land at East Hawkesbury and Innisfil are not known to this

Defendant. Evidence of the fact that he did form such belief can be found in the following documents:

Doe Dem Dickson et ux. v. Gross, 9 UCQB 580.

Indenture of Claus Heirs Quit Claim (recitals) dated December 3, 1852.

Respecting paragraph 39 of the Statement of Defence

26. [a] Particulars of the acceptance by the Six Nations of John Claus' offer are not known to the Defendant. Evidence of the fact of the acceptance is found in the following document:

Minutes of a Six Nations Council meeting dated October 3, 1832.
See paragraph 23[b] above.

[b] Particulars of the advice given by William Dickson to the Six Nations: this Defendant has no particulars of the advice given by William Dickson to the Six Nations. Such information would be in the knowledge of the Plaintiff's ancestors.

[c] This Defendant has no particulars of how it was arranged that Catherine Claus would give her land in satisfaction of the debts. Evidence of the fact that she did so can be found in the following document:

Indenture of June 6, 1831 between the Claus executors and the Six Nations trustees.

Respecting paragraph 40 of the Statement of Defence

27. Particulars of the three trustees to whom John Claus transferred his land are as follows: J.H. Dunn, G.H. Markland and J. Baby. They were appointed by the Six Nations on June 24, 1830, pursuant to a Power of Attorney executed by 36 Chiefs and Sachems.

Six Nations appointment, June 24, 1830

J. Givins to John Brant, Superintendent of the Six Nations, April 7, 1830

The Crown recommended these trustees after the failure of the Claus trust, immediately following defeat of the proposed legislation referred to at paragraph 22 above. The recommendation was made by the Governor.

The terms and conditions are set out in the appointment document see the following:

Letter from Mudge to Brant dated March 9, 1830. See paragraph 22.

Two indentures from John Claus to Dunn, Markland and Baby dated June 6, 1831. See paragraph 26[c]

Letter from Mudge to Dunn, Markland and Baby dated April 2, 1830.

Respecting paragraph 41 of the Statement of Defence

28. [a] Particulars of the members of the Claus family who pressed the government for a grant of the land promised to William Claus are as follows: John Claus in 1829, Catherine Lyons in 1837, John Claus in 1838, John Claus'

children in 1843 and Warren Claus in 1846. The persons to whom each of these persons wrote is set out in the following documents:

Letter from D.C. Napier to Sir John Colborne dated May 23, 1829.

Petition of Catherine Lyons to Sir Francis Bond Head dated November 15, 1837. See paragraph 17[a] above.

Petition from John Claus to Sir George Arthur, dated September ²4, 1838.

Minutes of the Executive Council of Upper Canada dated August 10, 1843, referring to a Petition of the Six Nations on behalf of the children of John Claus to the Executive Council. See paragraph 15[b] above.

Letter from Warren Claus on behalf of Claus heirs to T.G. Anderson dated December 10, 1846.

[b] The Six Nations Council promised the land to William Claus just before his death in 1826. A description of the land is contained in Surrender No. 99.

Surrender No. 99 dated August 23, 1826. See paragraph 15[b] above.

Minutes of the Executive Council of Upper Canada dated August 10, 1843. See paragraph 15[b] above.

[c] This Defendant has no particulars of the names of the members of the Six Nations who supported the demand. Evidence of the fact that some members of the Six Nations supported the Claus family's claim for the

land is reflected in the following documents. Further particulars as to who these individuals were would be in the knowledge of the Plaintiff's ancestors.

Letter from Mudge to Brant dated March 9, 1830 See paragraph 22 above.

Minutes of the Executive Council of Upper Canada dated August 10, 1843. See paragraph 15[b] above.

[d] This Defendant has no particulars of the dates upon which negotiations ensued, but evidence of the fact that there were negotiations is reflected in the following document:

Minutes of a decision of the Executive Council dated August 10, 1843. See paragraph 15[b] above.

Respecting paragraph 42 of the Statement of Defence

29 [a] The Six Nations in Council communicated to Lieutenant Governor Sir George Arthur on September 15, 1838 that it wished to have the Innisfil and East Hawkesbury lands sold.

Minutes of a Six Nations Council meeting of September 15, 1838.

[b] The dates of the sales, and the purchasers and sale price of the land at Innisfil and East Hawkesbury is within the knowledge of the Six Nations and was provided to the Specific Claims office of the Department of Indian Affairs and Northern Development on October 4, 1993. That submission contains at present all of this Defendant's knowledge with respect to the sales of these lands.

Six Nations Submission to Specific Claims Branch, DIAND dated October 4, 1993.

Respecting paragraph 44 of the Statement of Defence

30. The fact that the Six Nations knew about the claim being made by the Claus heirs at the time of the litigation is reflected in the documents. Particulars of such knowledge would be matters known to the Plaintiff's ancestors.

Letter from A.J. Stewart to Col. Bruce on behalf of the Chiefs of the Six Nations dated January 20, 1853.

Respecting paragraph 45 of the Statement of Defence

31. [a] The options available to settle the claim of the Claus heirs were considered by the Crown in 1852. They can be found in the following documents:

Letter from Attorney General B. Richards to R. Bruce dated September 18, 1852.

"Opinions on the Claus Matter", Mr. Baldwin dated September 24, 1852.

Russell, Statement and Estimate of Value dated September 1, 1852.

[b] As to the consultations between the Six Nations and officials of the Province of Canada: this Defendant has no particulars apart from the facts referred to in paragraph 30 above. If further particulars are available they would be equally available to the Plaintiff as to this Defendant in archives.

[c] As to the decision to negotiate with the Warren Claus heirs: it was apparently made by the officials of the Province of Canada and the Claus

heirs, at some date after the Court of Appeal decision and before December 3, 1852. Further particulars are not known to this Defendant, but evidence of the fact that an agreement was reached can be found in the following documents:

Letter dated July 10, 1852 [author uncertain - probably Col. Bruce, to person unknown].

Letter from W. S. Robinson to Col. Bruce dated June 18, 1852.

Order in Council dated February 7, 1853.

Letter from Col. Bruce to Col. Clench dated February 22, 1853.

Indenture of Claus Heirs Quit Claim December 3, 1852. See paragraph 25[c].

Respecting paragraph 46 of the Statement of Defence

32. This Defendant has no knowledge of which of the Plaintiff's ancestors demanded a legislated solution after the success of the Claus heirs lawsuit, or of the date the demand was made,. A demand was made on behalf of the Chiefs to Col. Bruce on January 20, 1853.

Letter from Alex Stewart to Col. Bruce dated January 20, 1853.
See paragraph 30 above.

Respecting paragraph 47 of the Statement of Defence

33. The release executed by the Claus heirs is the Indenture of Claus Heirs Quit Claim dated December 3, 1852 noted at paragraph 31[c] above. The payment was made from the Six Nations account on February 23, 1853; this information is available to the Plaintiff and was pleaded at paragraph 42 of the Statement of Claim.

This Defendant has not pleaded that the payment was authorized by the Six Nations and particulars are therefore not appropriately demanded of this event.

Respecting paragraph 48 of the Statement of Defence

34. [a] Particulars of the sales of the Innisfil and East Hawkesbury land are: See reply at paragraph 29[b] above.

[b] As to particulars of the Claus debt: see reply at paragraph 23[a] above.

This Defendant has, at this time, some knowledge of how and when the Claus debt was reduced, namely, with respect to the portion of the debt which included the Selkirk mortgage, (paragraph 37 following), with respect to the amounts received from the sale of the Innisfil and Hawkesbury lands (as given by the Plaintiff to Specific Claims on October 4, 1993), and with respect to the receipts shown on Turquand's Statement of Account of June 28, 1832. Further particulars are not known at this time by this Defendant.

Turquand's Statement of Account dated June 28, 1832.

As to the particulars of costs incurred in clearing the title: this is the information pleaded in the Statement of Claim, that is £5,000.

Particulars of the partial elimination of the costs of clearing the title: this is a mathematical exercise using the information provided above as to

the original amount of the debt, plus the amount of the cost of clearing the title, less the amount collected from all sources. The particulars sought in the demand are more appropriately a matter for Discovery but such particulars as are now available are given.

Respecting paragraph 50 of the Statement of Defence

35. [a] The particulars of the arrangements made by the Six Nations for the security of the sale of the Block 5 lands: this Defendant has no particulars. Full particulars of such arrangements would be in the knowledge of the Plaintiff's ancestors. Evidence of the fact alleged is that William Dickson executed the Memorial of Deed of the Mortgage with Selkirk's agent in January, 1808. In March, 1809 the Six Nations Council asked that Dickson render an account for his services.

Letter from Claus to A. Grant dated August 13, 1806.

Memorial of Deed of Mortgage dated January 15, 1808.

Six Nations Council Resolution dated March 1, 1809. See paragraph 16[b].

[b] The plea that there is some historical evidence that the mortgage was payable in one year relies on that assertion in the Plaintiff's Statement of Claim at paragraph 27.

Respecting paragraph 51 of the Statement of Defence

36. [a] As to the date Selkirk defaulted on the mortgage: Selkirk defaulted in 1818.

Letter from T. Clark to Maitland Garden and Aulgie dated November 14, 1819.

[b] The land was taken on November 30, 1820 by Smith on behalf of the Northwest Company.

Letter from Jas. McBean to representatives of Selkirk dated April 12, 1823.

As to the purchasers of land, dates of sales, consideration for the sales, to whom paid: full particulars are not known to this Defendant but presumably can be found in the Land Registry Office and are equally available to the Plaintiff as to the Defendant. We have in our possession (and assume the Plaintiff does also) an abstract of the title to the property which contains the information upon which the at paragraph was pleaded.

Copy of Abstract of Title of Township of Moulton enclosed.

Respecting paragraph 52 of the Statement of Defence

37. [a] Particulars of the date the Crown recommended trustees assumed management of the mortgage and the names of the trustees: the mortgage was assumed by Dunn, Markland and Baby on behalf of the Six Nations on May 18, 1831 by assignment from John Claus.

Indenture dated May 18, 1831 from the Claus executors to Dunn Markland and Baby.

As to the date of appointment of the trustees: the trustees were appointed by the Six Nations on June 24, 1830. See paragraph 27 above.

[b] As to the steps the Crown took to collect the mortgage:

- (i) Six Nations trustee J.H. Dunn requested payment of the outstanding interest from Boulton in September 1831. It was established through an exchange of correspondence and receipts that H.J. Boulton owed £668.18.9 of outstanding interest on the Selkirk mortgage.**

J.H. Dunn to H.J. Boulton, September 9, 1831

Memorandum, J.H. Dunn, November 25, 1831

- (ii) A payment on the outstanding interest was made on November 25, 1831.**

Receipt signed by J.H. Dunn, November 25, 1831

- (iii) A circular dated June 1, 1833 gave notice of outstanding interest on the Selkirk mortgage which Boulton paid on September 17, 1833.**

Circular, B. Turquand, June 1, 1833

Six Nations Account no. 5

- (iv) Further payments were made on June 22, 1835, August 5, 1835 and February 9, 1837.**

Six Nations Account no. 6

Six Nations Account no. 8

- (v) Attempts by three successive Receiver Generals to collect interest payments on the mortgage occurred in November 1846, March 1849, and April 1850. R. Bruce attempted to collect in November 1851.**

R. Bruce Superintendent General,
Indian Department, to H.J. Boulton,
November 18, 1851

also see marginalia in R.T. Pennefather,
Superintendent General to H.J. Boulton,
November 21, 1856

- (vi) R. Bruce and H.J. Boulton continued to exchange correspondence on the subject of the Selkirk mortgage in 1852.

R. Bruce was advised that H.J. Boulton's son, H.J. Boulton Jr., would soon be making payments on the accrued interest. Bruce continued to press Boulton.

R. Bruce to H.J. Boulton, March 10, 1852

- (vii) A payment on the interest was made on April 2, 1852.

R. Bruce to H.J. Boulton, February 17, 1853

- (viii) R. Bruce requested to know "more precisely at what rate and within what period the payment is likely to be completed,". He kept Boulton informed of the outstanding balance.

R. Bruce to H.J. Boulton, April 8, 1852, November 21, 1852, and February 17, 1853. See paragraph 37(b)(vii)

- (ix) Another payment was made on February 16, 1853.

R. Bruce Superintendent General,
Indian Department, to H.J. Boulton Jr.,
February 17, 1853. See 37 paragraph
(b)(vii)

- (x) R.T. Pennefather, Superintendent General of the Indian Department, attempted to collect on the mortgage in November 1856.

R.T. Pennefather, Superintendent General to H.J. Boulton, November 21, 1856. See paragraph 37(b)(v)

- (xi) H.J. Boulton assigned the mortgage to H.J. Boulton Jr. Due to Boulton Jr.'s inability to pay the accrued interest, the Governor General accepted this offer to provide security, in the form of a 10-year mortgage (the Boulton mortgage) on 90 acres in Etobicoke Township, for the outstanding accrued interest.

R.T. Pennefather to H.J. Boulton Jr., December 23, 1856

Memorial of a deed poll 69270 Etobicoke, September 3, 1857

- (xii) Pennefather attempted to collect interest payments on the Selkirk mortgage in December 1858 and January 1859. He also attempted to collect interest on a late payment of the interest due on the Boulton mortgage in January 1859, without success.

R.T. Pennefather to H.J. Boulton Jr, December 2, 1848

Pennefather to Boulton Jr., January 3, 1859

- (xiii) Twice, in 1859 and around 1862, the Indian Department referred the Selkirk and Boulton mortgages to solicitors for the purpose of pursuing collection through the courts, but later put the matter in abeyance.

Wm. Mortimer Clark, Paterson & Harrison, to H. Bernard, Solicitor to the Indian Department, December 20, 1859

P.W.F., Paterson & Harrison, to H. Bernard, January 27, 1860

P.W.F. to Bernard, January 30, 1860

P.W.F. to Bernard, February 7, 1860

R.T.P. to Boulton Jr., February 16, 1860

Telegram, William Spragge to R.A. Harrison, May 5, 1862

- (xiv) The last payment on the Selkirk mortgage, in the records located to date, was made on March 2, 1863.

William Spragge, Deputy Superintendent Indian Affairs, to the Commissioner of Crown Lands, May 6, 1863

- (xv) In 1877, the Crown foreclosed on the Boulton mortgage.

Memorandum, L. Vankoughnet, October 2, 1877

J.A. Lash, Solicitor, Indian Affairs, October 25, 1877

William Plummer, Indian Superintendent to Minister of the Interior, November 24, 1877

John Colhoun to William Plummer, December 10, 1877

Unknown to the Receiver General of Canada, March 29, 1878

Memorandum, Department of the Interior, February 3, 1880

Deputy Minister of Finance to Deputy Superintendent General, October 8, 1881

Indian Office Memorandum, March 27, 1882

Unknown to William Plummer, April 28, 1882

- (xvi) In 1882, the Select Standing Committee on Public Accounts discussed the outstanding mortgages. R. Sinclair, accountant for the Indian Department was requested to bring information before the Committee. The Etobicoke property sold for \$4,068.00 less than the amount it was intended to secure. The loss was pronounced irrecoverable.

Report of the Select Standing Committee on Public Accounts on the Revision of the Balance Sheet. Ottawa, 1882, p. 4 and 14. National Library of Canada

- (xvii) The Selkirk mortgage was considered by the Sub-Committee on Balance Sheet of Public Accounts in 1909. During their discussions, Mr. Boville, Deputy Minister of Finance said that the mortgage was irredeemable. On May 11, 1909, the Sub-Committee recommended that the Selkirk Mortgage be referred to the Finance and Justice Departments for determination of the status and to "arrive at a satisfactory solution."

Report of the Select Standing Committee on Public Accounts comprising report of Sub-Committee on Revision of Balance Sheet of 21st March, 1908, Ottawa, 1909, p. 11, 185-187, 197, 213. National Library of Canada.

No record of the outcome of the referral to the Departments of Finance and Justice have been located to date.

[c] The Province of Canada assumed the mortgage by Order in Council dated January 17, 1861.

Order in Council January 17, 1861.

[d] Particulars of the historical documents which characterise the mortgage as a doubtful asset: the documents are:

Order in Council dated January 17, 1861

Report of the Standing Committee on Public Accounts, March 31, 1908. See paragraph 37[b] (xvii) above.

Respecting paragraph 53 of the Statement of Defence

38. [a] This Defendant has no particulars of the basis of John Colbourne's belief that the Grand River Navigation Company would be profitable. Evidence of the facts alleged can be found in the following document:

Letter from Rowan to Merritt and Thompson dated November 14, 1834.

[b] As to the private investor's expectation that the stocks would be profitable, evidence of the facts alleged can be found in the following documents:

Letter from Winniett to Jarvis dated August 26, 1840.

Memorandum written by T.W.C. Murdock dated July 31, 1841.

Respecting paragraph 54 of the Statement of Defence

39. This Defendant has no particulars at this time respecting the advice given by John Colborne to the Six Nations and the consent of the Six

Nations to the investment. Evidence of the facts alleged can be found in a Six Nations Petition dated February 27, 1836.

Petition of the Six Nations dated February 27, 1836.

Respecting paragraph 55 of the Statement of Defence

40. The plea at paragraph 55 of the Statement of Defence is based on the figure given by the Six Nations as being the amount of the investment made from its money in the GRNC venture in the Petition of Right filed by the Plaintiff in 1943 in the Miller case. Full particulars of the amounts and dates of the investment are not known to this Defendant at this time. Such information, if available, would be found in the National Archives of Canada which are equally available to the Plaintiff as to this Defendant.

For some information as to the amounts and dates of the investment; refer to the following document, the reliability of which is not known:

See: "The Grand River Navigation Company Investment", pp. 22-24, being part of a brief by A.G. Chisholm (Plaintiff's counsel in the Miller case) dated June 7, 1922.

Respecting paragraph 56 of the Statement of Defence

41. [a] Particulars of the petitions of the Six Nations for redress for their Grand River Navigation Company losses: there were two such petitions:

March 1, 1894 and January 21 1909. The documents cited following give this Defendant's present knowledge of the persons involved.

Letter from the Deputy Superintendent Indian Affairs to the Indian Superintendent at Brantford dated April 23, 1894.

Letter from F. Pedley to an unidentified person dated January 21, 1909.

[b] Particulars of the denial of liability to the Six Nations: the Federal Crown denied liability in 1895 and in 1909.

Memorandum from the Acting Deputy Superintendent General to Mr. Buskard dated October 17, 1932.

[c] Particulars respecting the parties involved, the dates of the discussions, and the written records of the meetings, between the Federal Crown and the Six Nations, as known to this Defendant at this time: there was a meeting in Ottawa in 1925 attended by John Lickers, Six Nations councilor, Charles Stewart, Minister of Indian Affairs and D.C. Scott, Deputy Superintendent General of Indian Affairs at which it was agreed that \$165,000.00 would be paid towards improvement of the Six Nations reserve.

Memo, Superintendent General of Indian Affairs to Governor General in Council, February 3, 1928.

Six Nation Council minutes, July 11, 1925.

Letter, C. E. Morgan to D. C. Scott, July 9, 1925.

Letter, D. C. Scott to C. E. Morgan, July 14, 1925.

Extract of Letter, C. E. Morgan to Secretary, Department of Indian Affairs, May 7, 1926.

Letter, Deputy Superintendent General to C. E.

Morgan, enclosing lists of "Amount expended....",
May 14, 1926.

Memo to Thomas G. Murphy, February 22, 1932.

Letter, C. E. Morgan to Deputy Superintendent
General, Indian Affairs, February 18, 1932.

Letter to C. E. Morgan, February 23, 1932.

Memo, Acting Deputy Superintendent General to
Mr. Buskard, October 17, 1932.

Respecting paragraph 57 of the Statement of Defence

42. Particulars of the offers, the persons to whom such offers were made, the person who made the offers, and the dates of the offers, as known at this time by this Defendant, are all provided in the documents set out at paragraph 41[c] above.

Respecting paragraph 58 of the Statement of Defence

43. Particulars of the acceptance of the offers, the persons who accepted the offers, and the dates of the acceptance, as known at this time by this Defendant, are all provided in the documents set out at paragraph 41[c] above.

Respecting paragraph 59 of the Statement of Defence

44. This is not a proper demand for particulars given what is pleaded at paragraph 59 of the Statement of Defence. Evidence of the

facts alleged can be found in the minutes of an Executive Council meeting dated November 27, 1840 in which the political and economic climate of Upper Canada in the 1830s and 1840s is described.

Minutes of an Executive Council meeting dated November 27, 1840.

Respecting paragraph 60 of the Statement of Defence

45. [a] Particulars of the dispositions made by members of the Six Nations without government approval: this Defendant has no such particulars, but particulars, if available, would be equally available to the Plaintiff as to the Defendant in the National Archives of Canada. Evidence of the facts alleged can be found in the following documents, which indicate that members of the Six Nations were alienating land without government approval:

Letter from William Kerr to Samuel Jarvis dated November 5, 1839.

Petition from a number of the chiefs of the Six Nations to the government dated January 9, 1844.

Minutes of a Six Nations Council meeting dated September 17 and 18, 1845.

[b] Particulars of the advice given by the Government to the Six Nations: in 1834 Major Winniett gave such advice and in January, 1840 Gwynne gave such advice to "several Indians (Chiefs and others)".

Six Nations Council meeting, June 15, 1846.

Report from Gwynne to Jarvis dated February 4, 1840.

[c] Particulars of the squatter problem: this Defendant does not have the names of the squatters, the dates on which they came onto Six Nations land, nor the description of the lands they occupied. Such particulars, if available, would be equally available to the Plaintiff as to this Defendant in the National Archives of Canada. Evidence of the fact that there was a squatter problem can be found in the following documents:

Report of John Gwynne referred to paragraph 45[b] above.

Bagot Commission referred to in at paragraph 46[a] below.

Report on the Indian Department dated April 22, 1839.

Respecting paragraph 61 of the Statement of Defence

46. [a] Particulars of the factions that developed within the Six Nations: to the knowledge of this Defendant at this time, particulars of the factions are:

- (i) prior to 1818 there was the Upper Mohawk group which favoured individual's rights to lease land and those who opposed,
- (ii) prior to 1832 there was a Brant faction and another opposed faction,
- (iii) prior to 1838 there were those who favoured surrender and those who opposed,
- (iv) in 1842 there were those who made submissions to the Bagot Commission on behalf of the First Nation, and those who would not be bound by these submissions.

Despatch by Sir John Colborne, Lieutenant Governor to Lord Goderich, Colonial Secretary dated November 30, 1832.

Minutes of a Six Nations Council meeting of September 15, 1838.

Petition of some of the chiefs of the Six Nations to the Governor General dated February 4, 1841.

Petition of the chiefs of the Six Nations to Governor General Bagot dated May 25, 1842.

Minutes of a Six Nations Council meeting dated December 5, 1818.

[b] Particulars of the Six Nations attempts to seek action by the government against squatters and Band members; submissions were made by unknown members of the Six Nations possibly to Chief Justice John Macaulay before April 22, 1839, in which members of the Six Nations "pray for a law to punish both buyer and seller in cases of the latter kind".

Report on the Indian Department prepared by Chief Justice John Macaulay dated April 22, 1839. See paragraph 45[c] above at p. 218.

Respecting paragraph 62 of the Statement of Defence

47. [a] Particulars of the actions taken to deal with the squatter problem: the government

- (i) suggested to the Six Nations and obtained their consent in 1835 to surrender lands held under "Brant Leases", more particulars of which are noted at paragraph [d] below,
- (ii) passed an Act on May 11, 1839 entitled An Act for the protection of the Lands of the Crown in this Province from trespass and injury (2 Vic. chap. 15); the Act provided for prosecution of both

sellers and buyers of Indian lands sold
outside the government scheme,

Act, 2 Vic., Chap. 15.

- (iii) instructed a lawyer, John Gwynne to
prosecute under that Act.

See: paragraph 49[a] below

- (iv) asked Gwynne to also provide
recommendations on how to deal with
the squatter issue,
- (v) appointed the Bagot Commission in
1842,
- (vi) appointed Thorburn in 1844 as a
special Commissioner to deal with the
affairs of the Six Nations on the Grand
River, particularly, to ascertain the "real
inclination of the Indians" on the subject
of their reserve, to oversee the sale of
lands beyond the reserve, and to
investigate claims by squatters.

Letter from J.M. Higginson to Thorburn
dated September 19, 1844.

[b] Particulars of the suggestion by government to
surrender lands occupied under "Brant leases": the suggestion was made
at a Six Nations Council meeting dated January 29, 1835.

Surrender No. 39 dated March 26, 1835:

[c] As to the agreement by the Six Nations to surrender: see
Surrender No. 39 referred to in paragraph 47[b] above.

[d] Particulars of the "Brant leases": this Defendant has no such particulars. The ancestors of the Plaintiff should have copies of these leases in its possession. Evidence of the facts alleged can be found in Surrender No. 39, wherein the Six Nations agreed to surrender lands covered by these leases so that the government could confirm them as free grants.

Respecting paragraph 63 of the Statement of Defence

48. [a] Particulars of the suggestion made by government to the Six Nations to take a certain quantity of land: see the speech of Sir George Arthur, Lieutenant Governor, to the Six Nations at a Six Nations Council meeting held on September 15, 1838. He said:

It appears to me impossible for you to continue the Management of Your Lands under the system which now prevails. You will always be liable to encroachments; and misunderstandings, both among yourselves, and those who obtain possession of your Lands will be continually arising.

I propose for your consideration, whether it would not be to Your Interest, that each family should take a certain quantity of Land for Cultivation and let the remainder of the tract either be sold or leased and the proceeds invested for the general benefit of the Six Nations. My reasons for offering this to Your consideration is that by the adoption of this Measure - all your unoccupied Lands as well as those Lands occupied by unauthorized persons would then be made profitable - At present You derive no advantage from the greater part of Your tract.

I merely mention this for Your consideration - I do not ask Your concurrence unless you are fully satisfied that it would be advantageous.

Minutes of a Six Nations Council meeting, September 15, 1838.
See paragraph 46[a] above.

[b] Particulars of the requests made by the Six Nations for legislation: the Six Nations sought to ensure that any legislation dealing with the

squatter issue also included provisions to act against those members of the Six Nations that sold Six Nations lands to squatters. Representations were made by a Chief of the Six Nations some time prior to April 22, 1839.

Report on the Indian Department prepared by Chief Justice John Macaulay dated April 22, 1839. See paragraph 45[c] above.

Report of the Legislative Committee No. 4 on the Indian Department submitted to the Governor General on February 1, 1840.

Respecting paragraph 64 of the Statement of Defence

49. [a] Particulars of the instructions to John Gwynne: the instructions were issued by Samuel P. Jarvis to Gwynne on January 8, 1840 to proceed to the Grand River to prosecute persons for intrusion upon the Indian Lands and for cutting down and removing Timber under Prov Stat: 2nd Victoria Ch:15 and for other purposes mentioned in the instructions.

Two letters from S.P. Jarvis, January 8, 1840.

[b] As to the prosecutions of squatters by Gwynne: see his report to Jarvis dated February 4, 1840.

See: Paragraph 45[b] above

Respecting paragraph 65 of the Statement of Defence

50. [a] Particulars of the action taken by Gwynne: the actions taken were;

(i) the prosecutions referred to at paragraph 49[b] above,

- (ii) the submission of a report on February 4, 1840 (see 45[b] above) and September 7, 1840.

Report of Jarvis to T.W.C. Murdock dated April 17, 1841.

[b] As to particulars of the continued sales by members of the Six Nations: this Defendant has no particulars. Evidence of the facts alleged are found in the documents referred to at paragraph 45[a][iii] above.

[c] As to the recommendations made by Gwynne: see his reports dated February 4, 1840 provided at paragraph 45[b] above and September 7, 1840 provided at paragraph 50[a] above.

Respecting paragraph 66 of the Statement of Defence

51. A copy of the Executive Council's recommendation dated November 27, 1840 is enclosed. See paragraph 44 above.

Respecting paragraph 67 of the Statement of Defence

52. Particulars of the agreement of the Six Nations to surrender all of their lands with certain exceptions: the Six Nations surrendered its lands on January 18, 1841. The surrender document is the same document referred to paragraph 63 of the Statement of Claim.

A copy of the surrender is enclosed. This defendant does not have a copy of the minutes of the meeting of the Six Nations Council dated January 18, 1841.

Surrender No. 50 dated January 18, 1841

Letter from Winniett to Jarvis dated June 29, 1841

Memorandum from T.W.C. Murdock, Civil Secretary, dated July 31, 1841

Respecting paragraph 68 of the Statement of Defence

53. [a] Particulars of the petition of the faction which objected to the 1841 surrender: on February 4, 1841, Chiefs and Warriors in Council petitioned the Governor General and questioned the decision of the Chiefs and Warriors who signed the surrender document in 1841.

Petition from 52 Chiefs and Warriors of the Six Nations to the Governor General Lord Sydeham dated February 4, 1841, provided at paragraph 46[a] above.

Letter from Charles Bain to Major Winniett dated February 16, 1841

[b] As to the identity of the factions which supported the surrender: the surrender was supported by Chief J. Smoke Johnson on behalf of the Upper and Lower Mohawks, the Oneidas, the Upper Cayugas, the Tuscaroras and the Onendagas. On March 22, 1842, 86 individuals (three of whom again wrote on May 23, 1842) petitioned the Governor General in support of the surrender.

Letter from John Smoke Johnson to J. Martin dated February 20, 1841.

Petition of 86 individuals to the Governor General dated March 10, 1842.

Letter from three members of the Six Nations to Murdoch dated May 23, 1842

Respecting paragraph 69 of the Statement of Defence

54. [a] Particulars of the agreement of all factions to dispose of lands: the various petitions referred to in paragraph 53[a] and [b] above show the agreement of all factions of the Six Nations to settle on a reserve, the size and location yet to be determined through further negotiations, and to dispose of the remainder of their lands.

[b] Particulars of the negotiations between the government and the Six Nations which ensured the interests of all factions were considered: this Defendant does not have full particulars of all of the negotiations and discussions which took place following the various petitions and letters from the Six Nations. Several Six Nations Council meetings were held between 1844 and 1848, attended by representatives of the government. The dates are as set out at paragraph 57 following. The negotiations resulted in the designation of the lands that were to be reserved to the Six Nations in the Proclamation of 1850 (provided at paragraph 57[c] following).

Respecting paragraph 70 of the Statement of Defence

55. [a] Particulars of the appointment of the Bagot Commission: the Commission was appointed by the Governor General of British North America, Sir Charles Bagot, on October 10, 1842. Three Commissioners were appointed: Rawson William Rawson, John Davidson and William Hepburn.

Report on the Affairs of the Indians in Canada [the Bagot Commission], App. EEE Journals of the Legislative Assembly of Canada, 1844-45

[b] Particulars of the representations made by the Six Nations to the Bagot Commission: a deputation consisting of six Chiefs of the Six Nations made representations on January 28, 1843. A copy of these are provided at paragraph 53[a] above.

Respecting paragraph 71 of the Statement of Defence

56. Particulars of the appointment of David Thorburn: Thorburn was appointed before September 19, 1844 by the Governor General, as a Special Commissioner to deal with the affairs of the Six Nations on the Grand River; specifically, to ascertain the "real inclination of the Indians" on the subject of their reserve, to oversee the sale of lands beyond the reserve, and to investigate claims by squatters.

Letter from J.M. Higginson to Thorburn dated September 19, 1844.

Respecting paragraph 74 of the Statement of Defence

57. [a] Particulars of the Six Nations Council meetings between 1844 and 1848: the dates are as set out in the following documents:

- (i) Council meetings dated October 17, 24 and 31, 1844 referred to in a letter from Thorburn to Higginson dated November 9, 1844.**
- (ii) Council meetings dated December 13 and 18, 1844 referred to in a letter from Thorburn to Higginson dated December 24, 1844.**
- (iii) Council meetings dated January 20 and 31, 1845 referred to in a letter from Thorburn to Higginson dated February 3, 1845.**
- (iv) Council meeting dated March 23, 1845.**
- (v) Council meeting dated April 8, 1845.**
- (vi) Council meeting dated June 18, 1845 referred to in a letter from Thorburn to Higginson dated June 26, 1845**
- (vii) Council meetings dated September 6, 17 and 18, 1845.**
- (viii) Council meetings dated October 30 and 31, 1845.**
- (ix) Council meetings dated June 15 and 18, 1846.**
- (x) Council meeting dated June 4, 1847.**
- (xi) Council meetings dated September 28 and November 18 to 23, 1847.**
- (xii) Council meetings dated March 7 to 27, 1848.**

[b] Particulars of the representations made by the Six Nations to the Governor General from 1844 to 1848: the representations are contained in the following petitions:

Petition of the Chiefs in Council of the Six Nations dated August 2, 1845.

Petition of the Chiefs in Council of the Six Nations dated February 18, 1846.

[c] A copy of the Proclamation passed in 1850 is enclosed.

[d] Particulars of the decisions made by the Six Nations respecting the extent of the lands to be reserved : the decisions referred to in the pleading are those referred to at paragraph 57[a] above.

Respecting paragraph 75 of the Statement of Defence

58. Particulars of the occupation of the lands of southwestern Ontario by the Mississauga and Chippewa First Nations: see paragraph 2 and 3 above.

Petition of 25 Chiefs of the Six Nations dated February 27, 1836

As to the circumstances under which the Six Nations were driven out of the area in the 1600s: the Iroquois were driven from the North Shore of Lake Ontario by the Mississauga and their allies, by 1687.

Helen Hornbeck Tanner, ed., Atlas of Great Lakes Indian History
The Civilization of the American Indian series, vol. 174 (Norman:
University of Oklahoma Press, 1987), p. 31.

Respecting paragraph 80 of the Statement of Defence

59. As to the fiduciary relationship between the Crown and the aboriginal people, this is a plea of law. For factual allegations against which the legal principle enunciated should be applied, see this Defendant's Statement of Defence.

Respecting paragraph 82 of the Statement of Defence

60. It is the same commission of inquiry.

Respecting paragraph 83 of the Statement of Defence

61. [a] For particulars of the appointments and instructions given by the Six Nations to William Claus and John Claus, see the particulars given at paragraphs 15 and 19 above.

[b] For particulars of the occasions that officials of the Province of Upper Canada acted to assist the Six Nations recover its records, see the particulars given at paragraph 24 above.

Respecting paragraph 84 of the Statement of Defence

62. For particulars of the records given by John Claus to the Six Nations' lawyer, this Defendant does not have a copy. A copy of the records that were given to the Six Nations Council on September 28, 1831 has been provided at paragraph 23 above.

Respecting paragraph 86 of the Statement of Defence

63. For particulars of the involvement of William Dickson in the recovery of the accounts from Claus; the facts and information describing such involvement that are available to this Defendant have been given at paragraph 24 above.

Respecting paragraph 87 of the Statement of Defence

64. For particulars of the involvement of the officials of the Province of Upper Canada in efforts to recover the Claus debt, the facts and information describing such involvement that are available to this Defendant have been given at paragraphs 24, 25, 26, 28, 29 and 37 above.

Respecting paragraph 89 of the Statement of Defence

65. As to particulars of the negotiations and arrangements of the Selkirk mortgage between Claus and Selkirk, this was a matter between the Six Nations and its trustee, and Selkirk and his agent. Particulars would be known to the Six Nations, if they can be known at all.

The name of Selkirk's agent, to the best of the knowledge of this Defendant, was A. Cameron.

Indenture of Mortgage dated January 15, 1808. See paragraph 10[c] above.

Respecting paragraph 90 of the Statement of Defence

66. Particulars of the efforts and results of the efforts to collect the Selkirk mortgage; such have been given at paragraph 37 above.

Respecting paragraph 92 of the Statement of Defence

67. Particulars of the Canby mortgage, this Defendant has no such particulars. Evidence of the facts alleged are referred to at paragraph 14 above.

Respecting paragraph 96 of the Statement of Defence

68. [a] Particulars of the dates of the belief, who believed, and the basis of the belief that the stocks in the GRNC would be profitable and that the project would enhance the value of Six Nations land: Such particulars have been given at paragraph 38 above.

[b] As to the date of the knowledge and consent of the Six Nations to the investment: such particulars have been given at paragraph 39 above.

Respecting paragraph 97 of the Statement of Defence

69. Particulars of the payments made between 1925 and 1934 to satisfy the Grand River Navigation Company claim are as follows:

**Expended from Parliamentary Appropriation on Roads,
Six Nations Reserve**

| | | |
|----------------------------------|-----------------|-------------|
| 1925-26 | \$3,714.57 | |
| 1926-27 | 10,049.72 | |
| 1927-28 | 10,000.00 | |
| 1928-29 | 14,091.25 | |
| 1929-30 | 10,700.00 | |
| 1930-31 | 12,000.00 | |
| 1931-32 (up to February 1, 1932) | <u>1,587.62</u> | \$67,143.04 |

**Expended from Parliamentary Appropriation
on Lady Willingdon Hospital**

| | | |
|---------|------------------|--------------------|
| 1927-28 | \$24,810.18 | |
| 1928-29 | 11,908.84 | |
| 1929-30 | 16,468.38 | |
| 1930-31 | 32,010.40 | |
| 1931-32 | <u>12,400.75</u> | <u>\$97,798.55</u> |
| | | \$164,758.61 |

As to the documents that show that the payments were in full and complete satisfaction of the claim; see reply at paragraph 41 above.

Respecting paragraph 100 of the Statement of Defence

70. A copy of the written record crediting the Six Nations account for such subscribed shares: we do not have these documents, and they would be equally available to the Plaintiff, as to this Defendant, in the National Archives of Canada.

Respecting paragraph 103 of the Statement of Defence

71. The process of consultation and consent mentioned in paragraph 103 of the Statement of Defence has been particularized, to the extent possible, at paragraph 54 above.

Respecting paragraph 104 of the Statement of Defence

72. Particulars of all relevant Governor's Instructions and other policies respecting consensual alienation of Six Nations' lands:

| Year | Title | Date/Citation | Source |
|------|--|---|---|
| 1775 | Instructions to Guy Carleton | Jan. 3, 1775 | Adam Shortt and Arthur G. Doughty, eds., "Documents Relating to the Constitutional History of Canada 1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 594 - 620. |
| 1778 | Instructions to Frederick Haldimand | April 15, 1778 | see Jan. 3, 1775. Shortt and Doughty, "...Constitutional...1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 696-7, 704-7, 730-5. |
| 1784 | Letter, F. Haldimand to Lt. Governor Hay | April 26, [17]84 | NAC, MFM reel C-1478, RG 10, Vol. 4 |
| 1786 | Instructions to Guy Lord Dorchester | August 23, 1786 | Shortt and Doughty, "...Constitutional...1759 - 1791" (6-7 Ed. VII, 1907, Sessional Paper 18), pp. 816-840. Additional Instructions, March 21, 1787; August 25, 1787. |
| 1791 | Commission and Instructions to Guy Lord Dorchester | Commission September 12, 1791; Instructions September 16, | Commission: Arthur G. Doughty and Duncan A. McArthur, eds., "Documents Relating to the Constitutional History of Canada 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp. 3 - 13. |

| Year | Title | Date/Citation | Source |
|------|---|---|--|
| | | 1791 | Instructions for Upper Canada, s: Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp.33-48. |
| 1791 | Commission to John Graves Simcoe | September 12, 1791 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), p. 55. |
| 1791 | Proclamation | November 18, 1791 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), pp. 55-7. |
| 1794 | Additional Instructions, Indian Department | December 26, 1794, enclosed in Dorchester to Simcoe, January 21, 1795 | E.A. Cruikshank, ed., <u>The Correspondence of Lieut. Governor John Graves Simcoe</u> Five Volumes (Toronto: Ontario Historical Society, 1925), 3, pp. 241-2, 260-1. |
| 1796 | Additional Instructions, Indian Department | December 15, 1796 | Doughty and McArthur, "...Constitutional... 1791-1818" (4 Geo. V, 1914, Sessional Paper 29c), p. 189. |
| 1812 | Instructions for the Good Government of the Indian Department | May 1, 1812 | NAC, RG8 C Series, Vol. 271, pp. 28-39 |
| 1814 | "Instructions to Our Trusty and Welbeloved Gordon Drummond...." | December 29, 1814 | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 72-84. |
| 1820 | Letters Patent to George Earl of Dalhousie | April 12, 1820. | NAC, mfm reel H-959, RG 7, G 18, Vol. 4, pp. 25 - 33. |
| 1820 | "Instructions...George Earl of Dalhousie...." | April 13, 1820. | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 86. AND manuscript in NAC, mfm reel H-959, RG 7, G 18, Vol. 4, pp. 35 - 174. |
| 1820 | "A Proclamation Requiring all Persons being in Office of Authority or Government at the Decease of the late King, | Written January 31, 1820 / Published May 18, 1820 | A. G. Doughty and Norah Storey, eds., <u>Documents Relating to the Constitutional History of Canada 1819 - 1828</u> Public Archives Report for the Year 1934 (Ottawa: King's Printer, 1935), pp. 43 - 49. |

| Year | Title | Date/Citation | Source |
|------|---|----------------------|---|
| | to proceed in the Execution of their respective Offices." | | |
| 1830 | "An act to render valid acts done by the governor of any of his Majesty's plantations after the expiration of his commission by the demise of his late Majesty...." | December 23, 1830 | 1 William IV c. 4 |
| 1830 | Sir George Murray despatch to Sir James Kempt | January 25, 1830 | NAC / PRO CO 43 [sic?] / 27 copy from: U. K. Sessional Paper, Vol. 44, 1834, No. 617, pp. 87-9 [427-9]. |
| 1830 | Sir George Murray to Sir J. Colborne | March 15, 1830 [sic] | U.K. Sessional Paper, Vol. 44, 1834, No.617, pp. 128 [470]. |
| 1834 | Stanley to Sir J. Colborne | January 27, 1834 | U.K. Sessional Paper, Vol. 44, 1834, No.617, pp. 146 [488]. |
| 1837 | Commission to Sir George Arthur | December 22, 1837 | NAC, mfm reel H-929, RG 7 G 18, Vol. 4, pp. 292-5. |
| 1838 | Despatch from Lord Glenelg to Sir George Arthur. | March 28, 1838 | Great Britain. House of Commons. <u>Parliamentary Papers</u> , Vol. 34, No. 323. "Copies or Extracts of Correspondence Since 1st April 1835, Between the Secretary of State for the Colonies and the Governors of the British North American Provinces, respecting the Indians in those Provinces.", pp. 81-5/ 299-303. |
| 1838 | "Instructions...John George Earl of Durham...." | April 2, 1838. | <u>Report concerning Canadian Archives for the Year 1905</u> (Three Volumes: Canada. Parliament. <u>Sessional Papers</u> , 1906, No. 18) Vol. 1, pp. 92-3. |
| 1838 | Despatch from Lord Glenelg to the Earl of Durham and Sir George Arthur | August 22, 1838 | Great Britain. House of Commons. <u>Parliamentary Papers</u> , Vol. 34, No. 323. "Copies or Extracts of Correspondence Since 1st April 1835, Between the Secretary of State for the Colonies and the Governors of the British North American Provinces, respecting the Indians in those Provinces." |

| Year | Title | Date/Citation | Source |
|------|---|------------------|--|
| 1838 | Sir G. Arthur to Lord Glenelg | October 31, 1838 | U.K. Sessional Paper, Vol. 34, 1839, No. 323, pp. 164-5 [382-3]. |
| 1839 | "An Act for the protection of the Lands of the Crown in this Province, from trespass and injury" | May 11, 1839 | 2 Vict. c. 15 |
| 1850 | "An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury" | August 10, 1850 | 13 & 14 Vict. c. 74 |
| 1850 | Proclamation | November 8, 1850 | Secretary of State, Libe AA, folio 543. |
| 1860 | Newcastle to Head | June 16, 1860 | U. K. Sessional Paper, Vol. 44, 1860, No. 595, p. 45 [801]. |
| 1860 | "An Act respecting the Management of the Indian Lands and Property" | October 13, 1860 | 23 Vict. c. 151 |

With respect to compliance, it is the defendant's position that these instructions and policies have been complied with in all of the "examples" set out in the statement of claim.

Respecting paragraph 106 of the Statement of Defence

73. Particulars of the acts of officials which established a regime for the sale of lots are as follows: the pleading is based on the following particulars:

Prior to July 20, 1830, Peter Robinson, Commissioner of Crown Lands, conducted an assessment of the land to be sold. On July 20, 1830 Robinson wrote to the Civil Secretary Z. Mudge, recommending a flexible regime be established, responsive to market conditions.

Letter, Peter Robinson to Mudge, July 20, 1830.

Respecting paragraph 107 of the Statement of Defence

74. As to the demand for particulars "of the implication": this is not a proper demand for particulars, and the information is more appropriately sought at Examination for Discovery.

Respecting paragraph 108 of the Statement of Defence

75. Particulars of the Six Nations being aware that the lands were to be sub-divided into 200 acres lots are as follows: on April 19, 1831 the Chiefs in Council met with Lewis Burwell, the surveyor. On that date they discussed the size of the lots.

Letter from W. Chewett, Acting Surveyor General to Mudge, the Lieutenant Governor's Private Secretary dated March 18, 1831.

Petition circa 1831.

Respecting paragraph 109 of the Statement of Defence

76. Particulars of the requests by the Six Nations for a reservation within the surrendered lands: the Six Nations requested such reservation at a

Council meeting on April 20, 1831. The Crown complied with this request about November 1831.

Minutes of a Six Nations Council meeting dated April 20, 1831.

Letter from E. McMahon, Civil Secretary to P. Robinson dated November 25, 1831.

Respecting paragraph 111 of the Statement of Defence

77. [a] Particulars as to the consent of the Six Nations to lease the subject lands: see the following document:

Minutes of the Six Nations Council Meetings on January 15, 1835 and January 29, 1835.

[b] Particulars of the decision of the Lieutenant Governor not to accept the surrender: the refusal to accept the surrender was a decision of Sir J. Bond Head, likely during his term as Lieutenant Governor between 1835 and 1837. Evidence of the fact alleged can be found in the following document:

Letter from William Hepburn to J.M. Higginson dated March 18, 1845.

Respecting paragraph 112 of the Statement of Defence

78. Copies of the requested documents have been provided as follows:

- (i) the Six Nations' surrender of January 18, 1841 provided at paragraph 52 above,
- (ii) the Six Nations' petition dated June 24, 1843 provided at paragraph 53[a][v] above,

- (iii) the Order in Council dated October 4, 1843, and
- (iv) the record of the Six Nations Council meeting of December 18, 1844 provided at paragraph 57[a][ii] above.

Respecting paragraphs 113 & 114 of the Statement of Defence

79. Particulars as to when the subject lands were taken, the circumstances surrounding the taking, and when compensation was made for the taking: this is not an appropriate demand for particulars given what was pleaded at paragraph 113 of the statement of defence; in any event this Defendant does not at this time know when the subject lands were taken. As to the demand for particulars of consultations with the Ordnance Department: this Defendant did not plead at paragraph 114 or elsewhere, that there were any such consultations, nor does it know at this time if consultations occurred.

Minutes of a meeting of the Executive Council of Upper Canada dated December 8, 1840.

Respecting paragraph 115 of the Statement of Defence

80. With respect to the demand for particulars to provide a copy of the surrenders executed by the Six Nations following December 18, 1844; this is not a proper demand for particulars given what was pleaded at paragraph 115. With

respect to the demand for a list of Council meetings between 1840 and 1844,
see the following documents:

Minutes of Six Nations Council meetings of October 17 - 31, 1844.

Minutes of Six Nations Council meetings of December 13 & 18,
1844.

Respecting paragraph 116 of the Statement of Defence

81. The reference is to Samuel P. Jarvis.

Respecting paragraph 117 of the Statement of Defence

82. Particulars of the accounting that was demanded and conducted by Jarvis and Crown accountants are as follows: On July 20, 1847, D. Daly, Secretary, placed before the Legislative Assembly at Montreal the several accounts relative to the investigation of Samuel P. Jarvis, Chief Superintendent of Indian Affairs.

Appendix VV of the Journals of the Legislative Assembly, 1847.

Respecting paragraph 119 of the Statement of Defence

83. [a] Particulars of the management by the plaintiff of its funds through its own trustees prior to 1831: such particulars as are available to this Defendant have been given at paragraph 17 above.

[b] Particulars of the accounting done by the officials of the Province of Canada of the Claus trust in 1831: this information has been given at paragraph 23 above.

[c] The documents containing the published accounts of the Six Nations trustees for the period 1831 to 1847: although these documents are as available to the Plaintiff as to this Defendant, the documents are in any event provided as follows:

- (i) Account No. 1, The Six Nations Indians of Upper Canada with the Trustees, between the 10th and 27th July 1830, July 27, 1830.
- (ii) Account no. 2, The Six Nations Indians of Upper Canada with the Trustees, between the 28th July 1830, and 19th August 1831, inclusive, August 19, 1831.
- (iii) Account no. 3, The Six Nations Indians of Upper Canada with the Trustees, between the 20th of August, 1831, and the 22nd June, 1832, inclusively, June 22, 1832.
- (iv) Account no. 5, The Six Nations Indians of Upper Canada, in Account with the Trustees, between the 24th July 1833, and 29th July 1834, inclusive, July 29, 1834.
- (v) Account no. 6, The Six Nations Indians of Upper Canada, with the Trustees, between the 30th July 1834, to 9th November, 1835, inclusive, November 9, 1835.
- (vi) Account no. 7, The Six Nations Indians of Upper Canada, with the Trustees,

between the 10th November, 1835, and 27th July 1836, inclusive, July 27, 1836.

- (vii) Account no. 8, The Six Nation Indians of Upper Canada, with the Trustees, between 28th July, 1836, and the 12th February, 1840, inclusive, February 12, 1840.
- (viii) Account no. 9, The Six Nation Indians of Grand River, with the Trustees, between the 25th February, 1839 [sic—should be 1840], and the 12th August, 1841, inclusive, August 12, 1841.
- (ix) Account no. 10, The Six Nation Indians, of the Grand River, with the Trustees, between the 13th August, 1841, and the 31st May, 1843, inclusive, May 31, 1843.
- (x) Account no. 11, The Six Nation Indians, of the Grand River, with the Trustees, between the 1st June, 1843, and the 25th April, 1844, inclusive, April 25, 1844.
- (xi) Account no. 12, The Six Nations Indians of the Grand River, From 25th April 1844 to 30th September 1845, September 30, 1845.
- (xii) Account no. 15, Six Nation Indians of the Grand River in a/c, from 1 April 1846, to 31 March 1847, March 31, 1847.
- (xiii) See J.H. Dunn to G. Grey Secretary of State, July 4, 1837 and J.H. Dunn to S.B. Harrison, Private Secretary to Lieut. Governor, March 12, 1840 for J.H. Dunn's statements that the accounts were published annually and distributed among the Six Nations, which gave them great satisfaction.

[d] Particulars of the accounts for 1848: There is a document entitled "Abstract Statement of Amount Received and Paid out by the Indian Department for account of the Six Nations from 1st January 1847 to 1st July 1856" which includes 1848. A copy was provided to this Defendant by the Six Nations on October 4, 1993.

[e] These documents are equally available and accessible to the Plaintiff as to this Defendant and can be found in the National Archives of Canada. The Six Nations were notified of such availability by a letter from Tom Siddon to Burton Kellock counsel for the Six Nations on February 1, 1993.

Letter, Tom Siddon to Burton Kellock, February 1, 1993.

[f] This Defendant says that the Plaintiff already has these monthly financial reports in its possession.

See paragraph 83[e] above.

Respecting paragraph 123 of the Statement of Defence

84. [a] Particulars of the knowledge and explicit consent given by the Six Nations to the extraction of natural resources; the Band Council passed a resolution on March 5, 1925 stating that the Council having thoroughly considered the application and offer of Edward Michener to bore for oil on the Six Nations Reserve, accept his offer.

Further, the Band Council passed a resolution on April 16, 1926 stating that subject to certain agreed upon changes, the Council considered the oil lease satisfactory.

- (i) Band Council Resolution dated March 5, 1925
- (ii) Band Council Resolution dated April 16, 1926.

Evidence showing that the Council fully consulted with Michener can be found in a letter from Col. Morgan, Superintendent of the Six Nations to the Secretary, Department of Indian Affairs dated April 17, 1926 wherein he stated that Michener fully discussed the lease with the Six Nations Council.

- (iii) Letter dated April 17, 1926 from Col. Morgan to the Secretary, Indian Affairs.

Further particulars of the knowledge and explicit consent of the Six Nations to the extraction of natural resources; the Band Council passed a resolution on January 12, 1972 approving the oil and gas agreement between the Crown and George Hyslop Construction Ltd.

- (iv) Band Council Resolution dated January 12, 1972.

[b] Particulars of compensation paid by the Petrol Oil and Gas Company during the period from July 15, 1945 to November 18, 1970 are contained in the following documents:

- (i) Letter dated April 30, 1946, from the Secretary-Treasurer from the Petrol Oil and Gas Company, Limited to Col.

Randle, Superintendent of Six Nations
enclosing a cheque for \$127.54
covering royalties.

- (ii) Letter dated July 31, 1946 from the
Secretary-Treasurer from the Petrol Oil
and Gas Company, Limited to Col.
Randle, Superintendent of Six Nations
enclosing a cheque for \$50 for initial
payment of well no.121.
- (iii) Letter dated August 26, 1946, from the
Secretary-Treasurer of the Petrol Oil
and Gas Company, Limited to Col.
Randle, Superintendent of the Six
Nations enclosing a cheque for \$50.00
for initial payment regarding well no.
122.
- (iv) Letter dated October 7, 1946, from the
Secretary-Treasurer of the Petrol Oil
and Gas Company, Limited to Col.
Randle, Superintendent of the Six
Nations enclosing a cheque for \$50.00
for initial payment regarding well
no.123.
- (v) Letter dated November 5, 1946, from
the Secretary-Treasurer of the Petrol Oil
and Gas Company, Limited to Col.
Randle, Superintendent of the Six
Nations enclosing a cheque for \$50.00
for initial payment regarding well
no.124,
- (vi) Letter dated November 8, 1946, from
the Secretary-Treasurer of the Petrol Oil
and Gas Company, Limited to Col.

Randle, Superintendent of the Six Nations enclosing a cheque for \$25.00 for additional royalty on well no.123.

- (vii) Letter dated December 5, 1946, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.125.
- (viii) Letter dated April 30, 1947, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$169.26 for royalties on gas well on the Six Nations Reserve.
- (ix) Letter dated May 19, 1947, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.126.
- (x) Letter dated June 19, 1947, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.127.
- (xi) Letter dated July 17, 1947, from the Secretary-Treasurer of the Petrol Oil

and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.128.

- (xii) Letter dated August 25, 1947, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.129.
- (xiii) Letter dated September 22, 1947, from the Secretary-Treasurer of the Petrol Oil and Gas Company, Limited to Col. Randle, Superintendent of the Six Nations enclosing a cheque for \$50.00 for initial payment regarding well no.130.

Further particulars will be provided as found.

Respecting paragraph 124 of the Statement of Defence

85. See documents requested.

- (i) Proposal by Senator Edward Michener, dated March 4, 1925
- (ii) Band Council Resolution, dated March 5, 1925. See paragraph 84[a] above.

Respecting paragraph 125 of the Statement of Defence

86. The surrender, erroneously set out in the Statement of Defence as March 20, 1925, was actually dated May 20, 1925.

Surrender May 20, 1925.

Respecting paragraph 126 of the Statement of Defence

87. With respect to particulars of the knowledge of the Six Nations of the terms of the lease given to Michener on January 11, 1926, and the royalties paid by the Petroleum Oil and Gas Company, see the documents referred to in paragraph 84 [a] above.

Respecting paragraph 128 of the Statement of Defence

88. [a] With respect to the particulars regarding the decision to continue the leasing arrangement, the decision was made by the Council of the Six Nations, by Band Council Resolution dated February 5, 1948.

Band Council Resolution dated February 5, 1948

Report by Stewart and Caley dated January 8, 1948.

Respecting paragraph 129 of the Statement of Defence

89. [a] With respect to particulars of the receipt of royalty payments from the Petroleum Oil and Gas Company, Limited to the Six Nations between July 15, 1948 and November 18, 1970 see the documents listed under paragraph 84[b] above.

89. [b] This Defendant does not at this time have particulars of the expression by the Six Nations that any ambiguity in the surrender not delay the assignment of the lease to George Hyslop Construction Ltd. Evidence of such expression can be found in the letter dated January 30, 1970, from A.B. Irwin, Head, Indian Minerals Section to H. T. Vergette, A/Chief, Indian Lands Division.

Letter dated January 30, 1970, from A.B. Irwin, Head, Indian Minerals Section to H. T. Vergette, A/Chief, Indian Lands Division.

Letter dated February 25, 1970 from H.T. Vergette to C.T.W. Hyslop.

Respecting paragraph 131 of the Statement of Defence

90. Particulars of the excessive delay of the Plaintiff and the acquiescence and waiver of the Plaintiff are as follows: see the Statements of Defence filed in this action.

Respecting paragraph 135 of the Statement of Defence

91. Particulars of the takings of land which were not consensual takings: these are the takings referred to in paragraph 23 [e] of the Statement of Claim.

Date: March 14, 1996

TO:

Blake, Cassels & Graydon
Barristers and Solicitors
Commerce Court West
P.O. Box 25
Toronto, Ontario
M5L 1A9

Per: Burton H. Kellock, Q.C.
Tel: (416) 863-2961

Per: Ben A. Jetten
Tel: (416) 863-2938
Fax: (416) 863-2653

Solicitors for the Plaintiff

Roslyn J. Levine, Q.C.
Department of Justice
Suite 3400, Box 36
The Exchange Tower
2 First Canadian Place
Toronto, Ontario
M5X 1K6

Per: Charlotte A. Bell, Q.C.

Tel: (416) 973-6901
Fax: (416) 973-5004

Solicitors for the Defendant,
The Attorney General of Canada

AND TO:

Ministry of the Attorney General
Crown Law Office - Civil
720 Bay Street
8th Floor
Toronto, Ontario
M5G 2K1

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

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

**REPLY TO PLAINTIFF'S DEMAND FOR PARTICULARS
LIST OF DOCUMENTS**

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| 2 | Surrender No. 6, September 7, 1796 |
| | Surrender No. 18, October 17, 1818 |
| | Report of the Commissioner of Crown Lands, June 27, 1883 |
| | Minutes of SNC Meeting, December 5, 1818 |
| 3 | SN Surrender, May 22, 1784 |
| | Minutes of Mississauga Nation Meeting, May 22, 1784 |
| 4 | Letter from Johnson to Haldimand, May 19, 1783 |
| | Letter from North to Haldimand, August 8, 1783 |
| | Letter from Claus to Haldimand, December 15, 1783 |
| | Letter from Haldimand to Johnson, March 23, 1784 |
| 5 | Minutes of Mississauga Nation Meeting, May 22, 1784 - <i>See tab 3</i> |
| | SN Surrender, May 22, 1784 - <i>See tab 3</i> |
| 6(a) & (b) | SN Surrender No. 10, February 5, 1798 |
| 6(b) | Letter from Brant to Green, December 10, 1797 |
| | EC Report on Indian Land Sales, May 14, 1830 |
| 7(a) | Surrender No. 9, January 15, 1798 |
| | Brant Power of Attorney, November 2, 1796 |
| | Lease to Huff, June 1, 1800 |
| | EC on Indian Land Sales Report, May 14, 1830 - <i>See tab 6(b)</i> |
| 7(b) | Surrender No. 9, January 15, 1798 - <i>See tab 7(a)</i> |
| | Surrender No. 10, February 5, 1798 - <i>See tab 6(a) and (b)</i> |
| 8 | Brant Power of Attorney, November 2, 1796 - <i>See tab 7(a)</i> |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| 9(a) | Letter from Duke of Portland to Russell, March 10, 1797 |
| 9(b) | Letter from Russell to Duke of Portland, July 29, 1797, enclosing speech |
| 10(a) | Russell's speech to the Six Nations, July 24, 1797 - <i>See tab 9(b) enclosure</i> |
| 10(a) | Letter from Russell to Brant, October 4, 1797 |
| 10(c) | Canby Patent, February 5, 1798 |
| | Jarvis Patent, February 5, 1798 |
| | Selkirk Patent, November 18, 1807 |
| 11 | EC Report on Indian Land Sales, May 14, 1830 - <i>See tab 6(b)</i> |
| 12(a) | Brant Declaration, June 9, 1802 |
| | SN Surrender No. 10, February 5, 1798 - <i>See Tab 6(a)</i> |
| | SNC Minutes, November 9, 1806 |
| 13(b) | Canby Patent, February 5, 1798 - <i>See 10(c)</i> |
| 14(a) | Letter from Brant to Allcock, June 17, 1803 |
| 15(a) | Letter from Brant to Russell, December 15, 1797 |
| | Letter from Brant to Smith, December 28, 1798 |
| 15(b) | SN Surrender No. 99, August 23, 1826 |
| 15(b) | EC Minutes, August 10, 1843 |
| 16(a) & (b) | Letter from Mudge to AG, July 14, 1830 |
| 16(b) | SNC Resolution, March 1, 1809 |
| 17(a) | Lyons Petition to Bond Head, November 15, 1837 |
| | Letter from John Claus to Napier, April 25, 1829 |
| 17(e) | Order In Council, June 24, 1803 |
| | EC Report, May 18, 1804 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|---|
| | EC Minutes, August 13, 1806 |
| 18 | SNC Minutes, August 4, 1826 |
| 20 | Letter from Brant to Mudge, September 3, 1829 |
| 21 | SNC Minutes, June 29, 1830 |
| | Letter from Mudge to AG of Upper Canada, July 14, 1830 |
| 22 | Letter from Mudge to Brant, March 9, 1830 |
| 23(a) & (b) | Letter from Givins to Brant, December 31, 1830 |
| 23(a) | Statement of Account by Turquand, September 23, 1831 |
| 23(b) | SNC Minutes, October 3, 1832 |
| 23(b) | EC Minutes, August 10, 1843, <i>See tab 15(b)</i> |
| 24(a) | Letter from Givins to Brant, December 31, 1830 - <i>See tab 23(a)</i> |
| 24(b) & (c) | Letter from Turquand to Baby et al., August 10, 1831 |
| 24(b) & (c) | Statement of Account by Turquand, September 23, 1831 - <i>See tab 23(a)</i> |
| 25(a) | Letter from Givins to Brant, December 31, 1830 - <i>See tab 23(a)</i> |
| | SNC Minutes, October 3, 1832 - <i>See tab 23(b)</i> |
| 25(c) | <i>Doe dem Dickson v. Gross</i> |
| | Claus Heirs Indenture, December 3, 1852 |
| 26(a) | SNC Minutes, October 3, 1832 - <i>See tab 23(b)</i> |
| 26(c) | Claus Indentures to Dunn et al., June 6, 1831 |
| 27 | Six Nations appointment, June 24, 1830 |
| | Letter from Givins to Brant, April 7, 1830 |
| | Letter from Mudge to Brant, March 9, 1830 |
| | Letter from Mudge to Dunn et al., April 2, 1830 |
| | 2 Indentures from Claus to Dunn et al., June 6, 1831 - <i>See tab 26(c)</i> |
| 28(a) | Letter from Napier to Colborne, May 23, 1829 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| | Petition from Lyons to Bond Head, November 15, 1837 - <i>See tab 17(a)</i> |
| | Petition from Claus to Arthur, September 4, 1838 |
| | EC Minutes, August 10, 1843 - <i>See tab 15(b)</i> |
| | Letter from Claus to Anderson, December 10, 1846 |
| 28(b) | SN Surrender No. 99, August 23, 1826 - <i>See tab 15(b)</i> |
| 28(b)-(d) | EC Minutes, August 10, 1843 - <i>See tab 15(b)</i> |
| 28(c) | Letter from Mudge to Brant, March 9, 1830 - <i>See tab 22</i> |
| 29(a) | SNC Minutes, September 15, 1838 |
| 29(b) | SN Submission to SC, DIAND, October 4, 1993 |
| 30 | Letter from Stewart to Bruce, January 20, 1853 |
| 31(a) | Letter from Richards to Bruce, September 18, 1852 |
| | Letter from Baldwin to Bruce, September 24, 1852 |
| | Russell's statement and estimate of value, September 1, 1852 |
| 31(c) | Letter author uncertain, July 10, 1852 |
| | Letter from Robinson to Bruce, June 18, 1852 |
| | Order in Council, February 7, 1853 |
| | Letter from Bruce to Clench, February 22, 1853 |
| | Claus Heirs Indenture, December 3, 1852 - <i>See tab 25</i> |
| 32 | Letter from Stewart to Bruce, January 20, 1853 - <i>See tab 30</i> |
| 33 | Claus Heirs Indenture, December 3, 1852 - <i>See tab 31(c)</i> |
| 34(a) | SN Submissions, October 4, 1993 - <i>See 29(b)</i> |
| 34(b) | Letter from Givins to Brant, December 31, 1830 - <i>See 23(a)</i> |
| | Statement of Account by Turquand, June 28, 1832 |
| 35(a) | SNC Resolution, March 1, 1809 - <i>See tab 16(b)</i> |
| | Letter from Claus to Grant, August 13, 1806 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|---|
| | Memorial Deed of Mortgage, January 15, 1808 - <i>See tab 10(c)</i> |
| 36(a) | Letter from Clark to Garden, November 14, 1819 |
| 36(b) | Letter from McBean to Selkirk reps., April 12, 1823 |
| | Abstract of title to Smith for NW Co. |
| 37(a) | Claus Heirs Indenture, May 18, 1831 |
| 37(b)(i) | Letter from Dunn to Boulton, September 9, 1831 |
| | Memorandum from Dunn, November 25, 1831 |
| 37(b)(ii) | Receipt signed by Dunn, November 25, 1831 |
| 37(b)(iii) | Circular, B. Turquand, June 1, 1833 |
| | SN Account No. 5 |
| 37(b)(iv) | SN Account No. 6 |
| | SN Account No. 8 |
| 37(b)(v) | Letter from Bruce to Boulton, November 18, 1851 |
| | Letter from Pennefather to Boulton, November 21, 1856 |
| 37(b)(vi) | Letter from Bruce to Boulton, March 10, 1852 |
| 37(b)(vii) | Letter from Bruce to Boulton, February 17, 1853 |
| 37(b)(viii) | Letter from Bruce to Boulton, April 8, 1852 |
| | Letter from Bruce to Boulton, November 21, 1852 |
| | Letter from Bruce to Boulton, February 17, 1853 - <i>See Tab 37(b)(vii)</i> |
| 37(b)(ix) | Letter from Bruce to Boulton, February 17, 1853 - <i>See Tab 37(b)(vii)</i> |
| 37(b)(x) | Letter from Pennefather to Boulton, November 21, 1856 - <i>See tab 37(b)(v)</i> |
| 37(b)(xi) | Letter from Pennefather to Boulton, December 23, 1856 |
| | Memorial of a deed poll 69270 Etobicoke, September 3, 1857 |
| 37(b)(xii) | Letter from Pennefather to Boulton, December 2, 1848 |
| | Letter from Pennefather to Boulton, January 3, 1859 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| 37(b)(xiii) | Letter from Clark et al. to Bernard, December 20, 1859 |
| | Letter from Paterson et al. to Bernard, January 27, 1860 |
| | Letter from PWF to Bernard, January 30, 1860 |
| | Letter from PWF to Bernard, February 7, 1860 |
| | Letter from Pennefather to Boulton, February 16, 1860 |
| | Telegram from Spragge to Harrison, May 5, 1862 |
| 37(b)(xiv) | Letter from Spragge to Comm. Crown Lands, May 6, 1863 |
| 37(b)(xv) | Memorandum from Vankoughnet, October 2, 1877 |
| | Letter from Lash Solicitor, Indian Affairs, October 25, 1877 |
| | Letter from Plummer to Minister of Interior, November 24, 1877 |
| | Letter from Calhoun to Plummer, December 10, 1877 |
| | Letter to Receiver General of Canada, March 29, 1878 |
| | Memorandum to Dept. of Interior, February 3, 1880 |
| | Letter from DM Finance to DSG Indian Affairs, October 8, 1881 |
| | Memorandum from Indian Office, March 27, 1882 |
| | Memorandum from unknown source to Plummer, April 28, 1882 |
| 37(b)(xvi) | Select Standing Committee Report on Public Accounts, 1882, pp. 4, 14 |
| 37(b)(xvii) | Select Standing Committee Report on Public Accounts, 1909, pp. 11, 185-187, 197, 213 |
| 37(c) | Order in Council, January 17, 1861 |
| 37(d) | Order in Council, January 17, 1861 |
| | Select Standing Committee Report on Public Accounts, 1909 - <i>See tab 37(b)(xvii)</i> |
| 38(a) | Letter from Rowan to Merritt et al., November 14, 1834 |
| 38(b) | Letter from Winniett to Jarvis, August 26, 1840 |
| | Memorandum from Murdock, July 31, 1841 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|---|
| 39 | SN Petition, February 27, 1836 |
| 40 | <i>The Grand River Navigation Company Investment</i> , pp. 22-24, being part of a brief by A.G. Chisholm dated June 7, 1922 |
| 41(a) | Letter from DS Indian Affairs to IS, Brantford, April 23, 1894 |
| | Letter from Pedley, January 21, 1909 |
| 41(b) | Memorandum from AD SG to Buskard, October 17, 1932 |
| 41(c) | Memorandum from Supt. IA to Governor General in Council, February 3, 1928 |
| | SNC Minutes, July 11, 1925 |
| | Letter from Morgan to Scott, July 9, 1925 |
| | Letter from Scott to Morgan, July 14, 1925 |
| | Extract of letter from Morgan to Secretary IA, May 7, 1926 |
| | Letter from Deputy Supt. General to Morgan with enclosure, May 14, 1926 |
| | Memorandum to Murphy, February 22, 1932 |
| | Letter from Morgan to Deputy Supt. IA, February 18, 1932 |
| | Letter to Morgan, February 23, 1932 |
| | Memorandum from Acting Deputy Supt. General to Buskard, October 17, 1932 |
| 42 | <i>See documents at tab 41(c)</i> |
| 43 | <i>See documents at tab 41(c)</i> |
| 44 | EC Minutes, November 27, 1840 |
| 45(a) | Letter from Kerr to Jarvis, November 5, 1839 |
| | SN Petition, January 9, 1944 |
| | SNC Minutes, September 17-18, 1845 |
| 45(b) | SNC Minutes, June 15, 1846 with reference to letter from Winniett, 1834 |
| | Report from Gwynne to Jarvis, February 4, 1840 |
| 45(c) | Report from Gwynne to Jarvis, February 4, 1840 - <i>See tab 45(b)</i> |
| | Macaulay Report on the Indian Department, April 22, 1839 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|---|
| 46(a) | Colborne Despatch to Goderich, November 30, 1832 |
| | SNC Minutes, September 15, 1838 |
| | SN Petition, February 4, 1841 |
| | SN Petition, May 25, 1842 - Bagot Report |
| | SNC Minutes, December 5, 1818 |
| 46(b) | Macaulay Report on Indian Department, April 22, 1839 - <i>See tab 45(c)</i> |
| 47(a) | Act, 2 Vic., Chap. XV, May 11, 1839 |
| 47(a) | Letter from Higginson to Thorburn, September 19, 1844 |
| 47(b)-(d) | SN Surrender No. 39, March 26, 1835 |
| 48(a) | SNC Minutes, September 15, 1838 - <i>See tab 46(a)</i> |
| 48(b) | Macaulay Report on Indian Department, April 22, 1839 - <i>See tab 45(c)</i> |
| | Appendix T - Report No. 4 of Legislative Committee, February 1, 1840 |
| 49(a) | Letter from Jarvis to Gwynne, January 8, 1840, |
| | Letter from Jarvis to Nellis et al., January 8, 1840 |
| 49(b) & 50(a) | Report from Gwynne to Jarvis, February 4, 1840 - <i>See tab 45(b)</i> |
| | Report to Jarvis from Gwynne, September 7, 1840 - <i>See tab 45(b)</i> |
| 50(a) | Report from Jarvis to Murdoch, April 17, 1841 |
| 50(b) | SNC Minutes, September 17-18, 1845 - <i>See 45(a)(iii)</i> |
| 50(c) | <i>See documents at 45(b) and 50(a)</i> |
| 51 | EC Recommendation, November 27, 1840 - <i>See tab 44</i> |
| 52 | SN Surrender No. 50, January 18, 1841 |
| | Letter from Winniett to Jarvis, June 29, 1841 |
| | Memorandum from Murdoch, July 31, 1841 |
| 53(a) | SN Petition, February 4, 1841 - <i>See tab 46(a)</i> |
| | Letter from Bain to Winniett, February 16, 1841 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| 53(b) | Letter from Johnson to Martin, February 20, 1841 |
| | Petition from 86 SN members to Governor General, March 10, 1842 |
| | Letter from 3 SN members to Murdoch, May 23, 1842 |
| 54(a) | <i>See tabs 53(a) and (b)</i> |
| 54(b) | <i>See tab 57(c)</i> |
| 55(a) | Bagot Commission Report, 1844-1845, App. EEE Journals of Legislative Assembly of Canada |
| 55(b) | <i>See tab 53(a)</i> |
| 56 | Letter from Higginson to Thorburn, September 19, 1844 |
| 57(a)(i) | Letter from Thorburn to Higginson, November 9, 1844 |
| 57(a)(ii) | Letter from Thorburn to Higginson, December 24, 1844 |
| 57(a)(iii) | Letter from Thorburn to Higginson, February 3, 1845 |
| 57(a)(iv) | SNC Minutes, March 23, 1845 |
| 57(a)(v) | SNC Minutes, April 8, 1845 |
| 57(a)(vi) | Letter from Thorburn to Higginson, June 26, 1845 |
| 57(a)(vii) | SNC Minutes, September 6, 17 and 18, 1845 |
| 57(a)(viii) | SNC Minutes, October 30 & 31, 1845 |
| 57(a)(ix) | SNC Minutes, June 15 & 18, 1846 |
| 57(a)(x) | SNC Minutes, June 4, 1847 |
| 57(a)(xi) | SNC Minutes, September 28, November 18-23, 1847 |
| 57(a)(xii) | SNC Minutes, March 7-27, 1848 |
| 57(b) | SN Petition, August 2, 1845 |
| | SN Petition, February 18, 1846 |
| 57(c) | Proclamation of 1850 |
| 57(d) | <i>See documents at tab 57(a)</i> |
| 58 | SN Petition, February 27, 1836 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|--|
| | Atlas of Great Lakes Indian History |
| 61(a) | <i>See tabs 15 & 19</i> |
| 61(b) | <i>See tab 24</i> |
| 62 | <i>See tab 23</i> |
| 63 | <i>See tab 24</i> |
| 64 | <i>See tabs 24, 25, 26, 28, 29, 37</i> |
| 65 | Indenture of Mortgage, January 15, 1808 - <i>See tab 35(a)</i> |
| 66 | <i>See tab 37</i> |
| 67 | <i>See tab 14</i> |
| 68(a) | <i>See tab 38</i> |
| 68(b) | <i>See tab 39</i> |
| 69 | <i>See tab 41</i> |
| 71 | <i>See tab 54</i> |
| 73 | Letter from Robinson to Mudge, July 20, 1830 |
| 75 | Letter from Chewett to Mudge, March 18, 1831 |
| | SN Petition, <i>circa</i> 1831 |
| 76 | SNC Minutes, April 20, 1831 |
| | Letter from McMahon to Robinson, November 25, 1831 |
| 77(a) | SNC Minutes, January 15, 1835 and January 27-30, 1835 |
| 77(b) | Letter from Hepburn to Higginson, March 18, 1845 |
| 78(i) | SN Surrender, January 18, 1841 - <i>See tab 52</i> |
| 78(ii) | SNC Petition, June 24, 1843 - <i>See tab 53(a)(v)</i> |
| 78(iii) | Order in Council, October 4, 1843 |
| 78(iv) | SNC Minutes, December 18, 1844 - <i>See tab 57(a)(ii)</i> |
| 79 | EC Minutes, December 8, 1840 |

| <u>Para. No.</u> | <u>Document</u> |
|------------------|---|
| 80 | SNC Minutes, October 17-31, 1844 |
| | SNC Minutes, December 13 & 18, 1844 - <i>See tab 57(a)(ii)</i> |
| 82 | Appendix VV, Legislative Assembly Journals |
| 83(c) | SN Trustee Accounts 1831-1847 |
| | Letter from Dunn to Gray, July 4, 1837 |
| | Letter from Dunn to Harrison, March 12, 1840 |
| 83(d) | Statement of Account, 1847-1856 - enclosed in Monture letter to Glover, October 4, 1993 |
| 83(e) | Letter from Siddon to Kellock, February 1, 1993 |
| 84 | SNC Resolution, March 5, 1925 |
| | SNC Resolution, April 16, 1926 |
| | Letter from Morgan to Secretary IA, April 17, 1926 |
| | SNC Resolution, January 12, 1972 |
| 84(b) | 13 Letters from Petrol to Randle - <i>See Reply for particulars</i> |
| 85 | Michener Proposal, March 4, 1925 |
| | SNC Resolution, March 5, 1925 - <i>See tab 84(a)</i> |
| 86 | SNC Surrender, May 20, 1925 |
| 88(a) | SNC Resolution, February 5, 1948 |
| | Report by Stewart and Caley, January 8, 1948 |
| 89 | Letter from Irwin to Vergette, January 30, 1970 |
| | Letter from Vergette to Hyslop, February 25, 1970 |

SIX NATIONS

and
Plaintiff

THE A.G. OF CANADA, ET AL.

Defendants

(Short title of proceeding)

Court file no. 406/95

ONTARIO COURT (GENERAL DIVISION)
Proceeding commenced at Brantford

**REPLY TO DEMAND
FOR PARTICULARS**

Roslyn J. Levine, Q.C.
Department of Justice
Suite 3400, Box 36
The Exchange Tower
2 First Canadian Place
Toronto, Ontario
M5X 1K6

Per: Charlotte A. Bell, Q.C.

Tel: (416) 973-6901
Fax: (416) 973-5004
Our File: TO. 216788

Solicitors for the Defendant,
The A.G. of Canada