The Simcoe Patent, 1793

The deed everyone uses. Refused by those it was offered to.

On 14 January 1793 Lieutenant Governor Simcoe issued a patent for the Grand River lands under the great seal. It named the "Six Nations" rather than the Mohawk, confirmed Jones's survey lines (stopping at the Falls near Elora, about 675,000 acres, against the Proclamation's six miles from each bank, mouth to source), and gave possession and use rather than ownership. Joseph Brant and the Grand River chiefs rejected it and declared it not binding on them. Ontario's treaty map labels it "Treaty 4"; Ontario's own list of treaties has no No. 4.

Haldimand Proclamation, 1784 · kept	Simcoe Patent, 1793 · refused
To the Mohawk, with such others as wished to settle, and their posterity	To the "Six Nations" as one body
Exclusive use and enjoyment, for ever: an interest in the land	Possession and use under protection: occupation
A hereditary class; only it could release the interest, and its unborn cannot	A collective holding a band can surrender or settle
Never surrendered; carried past 1867 by s. 109	Rejected by Brant and the Grand River chiefs

Who stands on it today

The claim. Six Nations v. Canada and Ontario (filed 7 March 1995) describes the tract of "the 1784 Haldimand Proclamation and 1793 Simcoe Patent"; Canada pleads that the Patent "officially confirmed the land grant." **The standing.** Canada admits the plaintiff is a band under the Indian Act. **The council.** The elected council, imposed by P.C. 1629 (1924), was upheld in Isaac v. Davey, where the Court of Appeal read the Patent as a personal and usufructuary right; the Supreme Court dismissed the further appeal on another ground (1977). Logan v. Styres (1959) held that settlers under the Haldimand and Simcoe deeds became the Crown's subjects.

The council's own words. In October 1995, seven months after filing, the council signed a Memorandum of Agreement with the Mohawk People of the Americas describing itself as "an agency enacted through Indian Act section 74 (1)" and the Mohawk as a separate party. On 19 August 2026 its Lands and Resources director said the Proclamation's two classes were read as "one body together."

Why it matters: the latent defect

Ontario took its lands in 1867 "subject to any Interest other than that of the Province" (s. 109). The Haldimand interest was such an interest. It was never surrendered and never entered on title, so it runs unseen with every title in the Tract. The only cure is a release by the class that holds it. The Patent's road supplies a substitute: fold the Mohawk into "Six Nations," recognise the band as the only government, and treat its settlements as the release. The 1844 council relied on as a surrender produced no Order in Council and no deed (Holmes report, 2009), and no council can release what a hereditary posterity, including its unborn, holds. Under s. 52 any statute, registration or vote inconsistent with the interest is of no force or effect to that extent.

The class the Patent erases

The posterity grows and spreads each generation, through daughters and sons, marriage and adoption. The band list follows the Indian Act; the clan follows the mother. Neither accounts for the posterity in total, and every generation the gap widens. A release signed by either would bind a class it cannot count.

Sources: LAC, RG 10, vol. 8, p. 8209 (minute of 24 Dec. 1791); The Canadian Encyclopedia, "The Haldimand Grant, 1784"; J.S. Hagopian, Histoire sociale/Social History (1997); W.L. Stone, Life of Joseph Brant (1838), vol. II, p. 415; Canada's Statement of Defence (2023), paras. 1.2, 2; sngrlitigation.com; Isaac v. Davey (1975), 5 O.R. (2d) 610; Davey v. Isaac, [1977] 2 S.C.R. 897; Logan v. Styres (1959), 20 D.L.R. (2d) 416; MOA of 12 Oct. 1995 and BCR No. 17; J. Holmes, reports of 19 Jan. and 2 Feb. 2009; Constitution Act, 1867, s. 109; Constitution Act, 1982, s. 52.