UNIVERSITY AND ACADEMIC

Who Stands in Your Place? A Study Brief

Collective consent, individual holders, and the unborn.

Learning outcomes

By the end, a student will be able to	Level (Bloom)
Describe how a band list and the Register admit members	Understand
Explain the standard of ascertainment Simcoe set in 1796	Understand
Analyse what a collective release does to individual holders and the unborn	Analyze
Compare representation by a band, by a community and by each holder	Analyze
Evaluate the claim that only an ascertained holder can deal with the interest	Evaluate

Overview

A band list is set by statute and by the band's own code, and changes with both. The Register admits each person on a proved line to the three villages and an oath before a magistrate, the standard of 1796. The Mohawk Nation of Grand River argues that because the grant ran to persons and their posterity, no collective can release it in their place, least of all for the unborn.

Primary sources

Simcoe's Proclamation, 6 April 1796

"such registry has not been generally made; and as it is still necessary to ascertain the persons and families … to ascertain the same upon oath before the magistrates"

Lord Dorchester's Order in Council, 9 November 1789

"to the end that their posterity may be discriminated from future settlers"

LAC, RG 1 L1, vol. 18, p. 110.

The Haldimand Proclamation, 25 October 1784

"which them and their posterity are to enjoy for ever"

Indian Act, R.S.C. 1985, c. I-5, s. 10

"A band may assume control of its own membership if it establishes membership rules for itself"

Three readings

	Canada and the courts	The Six Nations of the Grand River	The Mohawk Nation of Grand River
Who holds	The band, for its members	The community	Each ascertained holder, and the unborn
Who may release	The band, by vote and surrender	The community's institutions	No one in another's place
The test	The band list	Belonging to the community	A proved line and an oath (1796)

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Historiography

Most writing on Grand River claims treats the Six Nations as the claimant and asks what the Crown owes them as a body. Writing on individual and collective rights asks whether persons can assert what belongs to a group. The Nation turns the question around: the grant was to persons and their posterity, so the question is whether a group can deal with what belongs to persons.

Discussion questions

1. What does a band list measure, and what does it not?

2. Why might Simcoe’s standard, an oath before a magistrate, matter for an interest that runs to posterity?

3. Can a collective release bind individual holders who did not consent? The unborn?

4. What would a settlement of the Haldimand claim do to the class, on each reading?

5. How should a court protect people who are unborn or unascertained?

6. **Apply.** A settlement is proposed. Draft the one clause the Nation would insist on.

Further reading

In Chicago style (17th ed.), bibliography form.

Mohawk Nation of Grand River. *The Nation and its Instruments*. National Books I. Grand River Territory, Ohsweken: Mohawk’s Printer for Grand River, 2026.

Canada. *Indian Treaties and Surrenders from 1680 to 1890*. 2 vols. Ottawa: Queen’s Printer, 1891.

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Assignment brief

Choose one prompt

A	In 1,500 words, assess whether a collective can release an interest granted to persons and their posterity. Quote at least three sources and answer the strongest objection.
B	Can a collective release bind individual holders who did not consent? The unborn? Answer in an argued essay.
C	Apply. A settlement is proposed. Draft the one clause the Nation would insist on. Write it as an argued essay that applies the readings.

Requirements

- An argument: a thesis stated in the first paragraph and defended throughout.
- At least three primary sources from the list below, quoted precisely and read in their context.
- At least two secondary sources, one of them from outside the Nation’s own books.
- The strongest objection to your thesis, stated fairly, and your answer to it.
- Footnotes and a bibliography in Chicago style (17th ed.).
- 1,500 words, 10 per cent either way, not counting notes and bibliography.

Sources you must use

- Simcoe’s Proclamation, 6 April 1796
- Lord Dorchester’s Order in Council, 9 November 1789
- The Haldimand Proclamation, 25 October 1784
- Indian Act, R.S.C. 1985, c. I-5, s. 10

A suggested structure

- Introduction: the question, why it matters, and your thesis.
- Context: the instruments and events, briefly, in order.
- Analysis: the sources, read closely, one claim at a time.
- The objection: the best case against you, and your reply.
- Conclusion: what follows, and what remains open.

Timeline

- Week 1: choose a prompt; read the primary sources; write a one-paragraph proposal.
- Week 2: research the secondary sources; draft an outline with your thesis and the objection.
- Week 3: write the full draft; exchange with a peer for written comments.
- Week 4: revise and submit.

Format and submission

Twelve-point type, double-spaced, page numbers, your name and the prompt on the first page. Submit as your instructor directs; this sheet can also be filled in online for the discussion questions.

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Integrity

Your work must be your own. Quote and cite every source. If you use an AI tool for any part of the work, say which and how, in a note at the end.

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For the instructor: standards met

Universal competencies	Identify key facts and claims; Understand perspective and point of view; Analyse and evaluate evidence; Apply: what does this mean for us?. The same everywhere, whatever the curriculum.
Learning outcomes	Five outcomes with Bloom’s verbs, each matched to an activity.
Reconciliation	TRC Calls to Action 62 and 63.
Rights in education	UNDRIP arts. 14 and 15.
Primary-source practice	Each instrument quoted and attributed; readings tested against them.
Citation	Chicago Manual of Style, 17th edition.
Balance	Three readings side by side; the brief names its own position.
Time	One seminar of about two hours; the assignment over a week.

Assessment: the assignment

	Excellent	Good	Adequate	Needs work
Use of sources	Three or more primary sources, quoted precisely and read in context	Three, quoted accurately	Fewer, or quoted loosely	Missing or misread
Analysis	Weighs the readings against the documents and shows what turns on the difference	Compares the readings clearly	Describes them	Restates one
Argument	A clear judgment that answers the strongest objection	A clear, supported judgment	Thinly supported	No clear judgment
Writing and citation	Precise; Chicago style throughout	Clear; minor slips	Some unclear passages	Hard to follow

This brief states the Mohawk Nation of Grand River’s position alongside others. It is for study, not legal advice.

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