UNIVERSITY AND ACADEMIC

Acquired Territory: a Study Brief

Four words: surrender, dedication, occupation and enjoyment.

Learning outcomes

By the end, a student will be able to	Level (Bloom)
Define surrender, dedication, occupation and enjoyment	Remember
Explain why the Tract is called acquired territory	Understand
Contrast the occupation test (Delgamuukw, Tsilhqot'in) with a claim from the Crown's own grant	Analyze
Analyse whether a dedication of roads can bind an interest only a surrender can give up	Analyze
Evaluate the claim that titles above lie over, not instead of, the interest beneath	Evaluate

Overview

The Crown purchased the land from the Mississaugas in 1784 and set it apart by its own Proclamation, a deed of gift to a class it had named in 1779. The Nation holds that what the Crown set apart by its own instrument it holds bound by that instrument: Crown-derived, not a s. 35 right, preserved by s. 109, protected by s. 52, never surrendered. Roads, parks and titles lie above; the interest lies beneath.

Primary sources

The Haldimand Proclamation, 25 October 1784

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

Constitution Act, 1867, s. 109

"subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same"

Constitution Act, 1982, s. 35(1)

"The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed"

Three readings

	The courts, generally	Ontario and municipalities	The Mohawk Nation of Grand River
The test	Occupation at sovereignty (Delgamuukw)	Title and registration	The Crown's own grant, and descent
The roads	Not a title question	Dedicated highways	Dedicated by the class: none
The result	Rights under s. 35, infringeable	Titles secure	An interest beneath, never surrendered

Historiography

Canadian law on Indigenous land since Calder has been the law of occupation. Acquired territory is a different category: land the Crown itself obtained and then granted, so the question is not what a people did before the Crown came, but what the Crown promised, and to whom. A court could find a people never held land exclusively and still be bound by the Crown's promise.

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Discussion questions

1. Why does the Nation insist the Tract was acquired, not held from time immemorial?
2. What is the difference between a surrender and a dedication? Which can give up the class's interest?
3. Can the occupation test fairly be applied to land the Crown granted?
4. What is a latent defect in a title, and how might s. 109 create one?
5. What does "over, not instead of" mean for a homeowner on the Tract?
6. **Apply.** A city widens a road across the Tract. Which of the four words applies, and why?

Further reading

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

Mohawk Nation of Grand River. *The Acquired Territory Doctrine*. National Books II. Grand River Territory, Ohsweken: Mohawk's Printer for Grand River, 2026.

Mohawk Nation of Grand River. *Lands and the Tract*. National Books IV. 2026.

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Assignment brief

Choose one prompt

A	In 1,500 words, assess whether the Grand River lands are better analysed as acquired territory than as land held by occupation. Quote at least three sources.
B	Can the occupation test fairly be applied to land the Crown granted? Answer in an argued essay.
C	Apply. A city widens a road across the Tract. Which of the four words applies, and why? 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

- The Haldimand Proclamation, 25 October 1784
- Constitution Act, 1867, s. 109
- Constitution Act, 1982, s. 35(1)

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; art. 26 on lands “otherwise used or acquired”.
Primary-source practice	Each instrument and statute 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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