UNIVERSITY AND ACADEMIC

The Posterity: a Study Brief

An unascertained class, a duty never performed, and the cure.

Learning outcomes

By the end, a student will be able to	Level (Bloom)
State the duties set by the Orders of 1789 and 1796	Remember
Explain why a grant to a class needs its members ascertained	Understand
Analyse what follows when the Crown never ascertains them	Analyze
Compare the Old U.E. List with the Register	Analyze
Evaluate the case for compelling the duty now	Evaluate

Overview

An instrument to a class without named persons needs its persons ascertained. The Crown supplied the means itself, the mark of 1789 and the oath of 1796, then never performed them for the class of the three villages. The Nation calls that the root of a latent defect in later titles, and the reason the posterity is unknown in number. Its Register now ascertains each line, and it has asked for mandamus.

Primary sources

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.

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"

The Gazette of the Nation, No. 63, 2026

"mandamus, that a magistrate perform the duty the 1796 Proclamation designates"

Three readings

	Canada and the courts	Historians	The Mohawk Nation of Grand River
The registry	Lapsed; of historical interest	Kept for settlers, rarely for Indigenous Loyalists	Never kept for the class; the duty survives
The posterity	Not a legal category	Hard to trace	Unknown in number because never ascertained
The cure	None required	Archival research	The oath, the Register and mandamus

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Historiography

The Old U.E. List has been studied as the settlers' roll; Indigenous Loyalists appear in it rarely. Historians of Indigenous Loyalists have relied on military and Indian Department records instead. The Nation reads the absence as a legal fact, a duty unperformed, not merely an archival gap.

Discussion questions

1. Why does a grant to "posterity" require its members to be ascertained?
2. Why might the oath have been administered to settlers but not to the villages' Mohawks?
3. What is a "latent defect", and how could an unperformed duty create one in later titles?
4. Is the Register a fair substitute for the Crown's registry?
5. What would mandamus achieve that the Register cannot?
6. **Apply.** Draft the entry a clerk should have written in 1796 for one family.

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.

Mohawk Nation of Grand River. *The Indian Act and the Loyalist Mohawk Posterity*. National Books III. 2026.

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Assignment brief

Choose one prompt

A	In 1,500 words, assess the claim that the Crown’s failure to ascertain the class is a continuing breach rather than a historical gap. Use at least three sources.
B	What is a “latent defect”, and how could an unperformed duty create one in later titles? Answer in an argued essay.
C	Apply. Draft the entry a clerk should have written in 1796 for one family. 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

- Lord Dorchester’s Order in Council, 9 November 1789
- Simcoe’s Proclamation, 6 April 1796
- The Gazette of the Nation, No. 63, 2026

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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