LAW SCHOOL

The Royal Chapel: a Case Brief

The prerogative, heritage law and a free chapel of the Crown.

The issue

What is the legal character of His Majesty's Royal Chapel of the Mohawks: a church held by a denomination, a heritage property regulated by statute, or a chapel under the Crown's prerogative in which the Mohawk relationship with the Crown runs; and who may decide its use and its silver?

The instruments

Instrument	Date	What it does
Queen Anne's gifts	1712	Silver and Bible "For Her Majesty's Church of the Mohawks"
The chapel built	1785	By the Crown, on the Grand
Chapel Royal	1904	Designated by Edward VII
National Historic Site	1981	Recognized by Canada
Arms granted	2023	The chapel's own arms

The statutes

Historic Sites and Monuments Act, RSC 1985, c H-4.

Ontario Heritage Act, RSO 1990, c O.18.

The cases

Black v Chrétien, (2001), 54 OR (3d) 215 (CA)
The conferring of honours is an exercise of the Crown's prerogative, and largely not reviewable by the courts.

R v Marshall, [1999] 3 SCR 456
Historical relations with the Crown are read in their context.

The arguments

	For the denomination	For the Nation
Character	A parish church, held and governed by the church	A royal foundation and Chapel Royal under the prerogative
The silver	Church property	The Crown's gift to the Mohawk, not to a denomination
Heritage law	Governs alterations and use	Applies to the building; cannot displace the prerogative
Justiciability	A matter for the church	A prerogative matter (Black v Chrétien): for the Crown and the Mohawk, not a denomination

Weak points to test

For the Nation: proof of a royal foundation as a matter of law, not of honour; long use by the church. For the denomination: the Chapel Royal designation and the Crown marks; the inscription on the silver.

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Briefing note

A heritage officer is asked to approve an alteration to the chapel requested by its keepers. In 150 to 200 words, advise the officer: who else may have a say, given the chapel’s royal character, and what to record. Write it as a briefing note: purpose, background, considerations, recommendation.

Moot problem

The chapel’s keepers propose to lend Queen Anne’s silver to a museum abroad. Members of the Nation seek a declaration that the silver is the Crown’s gift to the Mohawk, and that no loan may be made without the Nation’s consent.

For the applicants: the inscription, the chapel’s royal character, Black v Chrétien on the prerogative. **For the keepers:** possession, long practice, and church property. **For both:** whether a court can decide this at all.

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A worked outline: IRAC

Step	For the applicants
Issue	May the silver be lent without the Nation’s consent?
Rule	The gift’s terms; the prerogative; heritage law.
Application	The silver was given “For Her Majesty’s Church of the Mohawks”; its keepers hold it for that purpose, not as owners.
Conclusion	A declaration, and an order that no loan be made without consent.

The keepers’ outline runs the same four steps the other way. Students draft it themselves.

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Written assignment: memorandum of argument

The task

Write the memorandum of argument for one side of the moot on this sheet: the applicants or the keepers, as your instructor assigns. Then argue it.

Requirements

- 2,500 words, not counting the list of authorities.
- Every authority cited in McGill Guide form, with pinpoints.
- At least six authorities, including at least two not on this sheet.
- Meet the other side’s best argument in Part III, not just your own case.
- Only facts set out in the moot problem; no new facts.

Structure

- Part I, the facts: a neutral statement, no more than two pages.
- Part II, the issues: each as a single question.
- Part III, the law and argument: issue by issue, the rule, its application, and the other side’s answer met.
- Part IV, the order sought: precisely worded.
- Part V, the list of authorities: statutes, then cases, then secondary sources.

Timeline

- Week 1: research; a one-page outline of your issues and authorities.
- Week 2: the full memorandum, exchanged with the other side.
- Week 3: oral argument.

Oral argument

Fifteen minutes a side, two minutes’ reply for the applicant. Expect questions from the bench from the first minute; the marking guide on the instructor’s page applies.

Integrity

Your memorandum must be your own. If you use an AI tool for research or drafting, verify every authority against the reports and say so in a note; an invented citation fails the assignment.

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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.
TRC Call to Action 28	The history of Aboriginal–Crown relations, the prerogative, and heritage law.
National Requirement	Problem-solving, legal research, and oral and written communication.
Citation	The McGill Guide; pinpoints left for students to supply.
Method	IRAC; a briefing note to a heritage officer; a moot on a declaration.
Balance	The arguments both ways and their weak points; the brief names its own position.
Time	One class of 90 minutes; the moot as a separate session.

Marking guide: the moot

	Outstanding	Strong	Competent	Weak
Law	Every authority on point, accurately stated and pinpointed	Main authorities correct	Some missed or loose	Wrong or absent
Analysis	Applies the law to the facts and meets the other side’s best point	Applies the law clearly	Applies it in part	States law without applying it
Structure	A clear road map, followed throughout	Clear and mostly followed	Some drift	Hard to follow
Advocacy	Answers the bench directly and returns to the theory	Answers well	Answers with difficulty	Avoids the questions

This brief sets out the Mohawk Nation of Grand River’s position beside others, for study and argument. The case summaries are for teaching: read the reports. It is not legal advice.

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