

CHAPTER 15.

An Act for the settlement of certain questions
between the Governments of Canada and
Ontario respecting Indian Reserve
Lands.

Assented to 17th April, 1924.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:-

Short title.

1. This Act may be cited as *The Indian Lands Act, 1924.*

Agreement
with Dom-
inion as to
minerals in
Indian lands

2. The agreement between the Dominion of Canada and the
Province of Ontario, in the terms set out in Schedule "A"
hereto, shall be as binding on the Province of Ontario as if the
provisions thereof had been set forth in an Act of this
Legislature, and the Lieutenant-Governor in Council is hereby
authorized to carry out the provisions of the said agreement.

SCHEDULE "A".

Memorandum of Agreement made in triplicate this 24th day
of March, 1924.

Between:

THE GOVERNMENT OF THE DOMINION OF CANADA,
acting herein by the Honourable Charles Stewart,
Superintendent General of Indian Affairs,

of the first part, - -

- a n d -

THE GOVERNMENT OF THE PROVINCE OF ONTARIO,
acting herein by the Honourable James Lyons, Minister of
Lands and Forests, and the Honourable Charles McCrea,
Minister of Mines,

of the second part.

Whereas from time to time treaties have been made with the Indians for the
surrender for various considerations of their personal and usufructuary rights to
territories now included in the Province of Ontario, such considerations
including the setting apart for the exclusive use of the Indians of certain defined
areas of land known as Indian Reserves;

And whereas, except as to such Reserves, the said territories were by the said
treaties freed, for the ultimate benefit of the Province of Ontario, of the burden
of the Indian rights, and became subject to be administered by the Government
of the said Province for the sole benefit thereof;

And whereas the surrender of the whole or some portion of a Reserve by the
band of Indians to whom the same was allotted has, in respect of certain
Reserves in the Provinces of Ontario and Quebec, been under consideration in
certain appeals to the Judicial Committee of the Privy Council, and the
respective rights of the Dominion of Canada and the Province of Ontario, upon
such surrenders being made, depend upon the law as declared by the Judicial
Committee of the Privy Council and otherwise affecting the Reserve in
question, and upon the circumstances under which it was set off;

S.O. 1924, c. 15, cont'd.

And whereas on the 7th day of July, 1902, before the determination of the last two of the said appeals, it had been agreed between counsel for the Governments of the Dominion of Canada and the Province of Ontario, respectively, that, as a matter of policy and convenience, and without thereby affecting the constitutional or legal rights of either of the said Governments, the Government of the Dominion of Canada should have full power and authority to sell, lease and convey title in fee simple or for any less estate to any lands forming part of any Reserve thereafter surrendered by the Indians, and that any such sales, leases or other conveyances as had theretofore been made by the said Government should be confirmed by the Province of Ontario, the Dominion of Canada, how-ever, holding the proceeds of any lands so sold, leased or conveyed subject, upon the extinction of the Indian interest therein and so far as such proceeds had been converted into money, to such rights of the Province of Ontario as might exist by law;

And whereas by the said agreement it was further provided that, as to the Reserves set aside for the Indians under a certain treaty made in 1873 and recited in the Schedule to the Dominion Statute, 54-55 Victoria, chapter 5, and the Statute of the Province of Ontario, 54 Victoria, chapter 3, the precious metals should be considered to form part thereof and might be disposed of by the Dominion of Canada in the same way and subject to the same conditions as the land in which they existed, and that the question whether the precious metals in the lands included in Reserves set aside under other treaties were to be considered as forming part thereof or not, should be expressly left for decision in accordance with the circumstances and the law governing each.

Now this agreement witnesseth that the parties hereto, in order to settle all outstanding questions relating to Indian Reserves in the Province of Ontario, have mutually agreed, subject to the approval of the Parliament of Canada and the Legislature of the Province of Ontario, as follows:--

1. All Indian Reserves in the Province of Ontario heretofore or here-after set aside, shall be administered by the Dominion of Canada for the benefit of the band or bands of Indians to which each may have been or may be allotted; portions thereof may, upon their surrender for the purpose by the said band or bands, be sold, leased or otherwise disposed of by letters patent under the Great Seal of Canada, or otherwise under the direction of the Government of Canada, and the proceeds of such sale, lease or other disposition applied for the benefit of such band or bands, provided, however, that in the event of the band or bands to which any such Reserve has been allotted becoming extinct, or if, for any other reason, such Reserve, or any portion thereof, is declared by the Superintendent General of Indian Affairs to be no longer required for the benefit of the said band or bands, the same shall thereafter be administered by, and for the benefit of, the Province of Ontario, and any balance of the proceeds of the sale or other disposition of any portion thereof then remaining under the control of the Dominion of Canada shall, so far as the same is not still required to be applied for the benefit of the said band or bands of Indians, be paid to the Province of Ontario, together with accrued unexpended simple interest thereon.

2. Any sale, lease or other disposition made pursuant to the provisions of the last preceding paragraph may include or may be limited to the minerals (including the precious metals) contained in or under the lands sold, leased or otherwise disposed of, but every grant shall be subject to the provisions of the Statute of the Province of Ontario entitled, "The Bed of Navigable Waters Act," Revised Statutes of Ontario, 1914, Chapter 31.

3. Any person authorized under the laws of the Province of Ontario to enter upon land for the purpose of prospecting for minerals thereupon shall be permitted to prospect for minerals in any Indian Reserve upon obtaining permission so to do from the Indian Agent for such Reserve and upon complying with such conditions as may be attached to such permission, and may stake out a mining claim or claims on such Reserve.

4. No person not so authorized under the laws of the Province of Ontario shall be given permission to prospect for minerals upon any Indian Reserve.

5. The rules governing the mode of staking and the size and number of mining claims in force from time to time in the Province of Ontario or in the part thereof within which any Indian Reserve lies shall apply to the staking of mining claims on any such Reserve, but the staking of a mining claim upon any Indian Reserve shall confer no rights upon the person by whom such claim is staked except such as may be attached to such staking by The Indian Act or other law relating to the disposition of Indian Lands.

6. Except as provided in the next following paragraph, one-half of the consideration payable, whether by way of purchase money, rent, royalty or otherwise, in respect of any salt, lease or other disposition of a mining claim staked as aforesaid, and, if in any other sale, lease or other disposition hereafter made of Indian Reserve lands in the Province of Ontario, any minerals are included, and the consideration for such sale, lease or other disposition was to the knowledge of the Department of Indian Affairs affected by the existence or supposed existence in the said lands of such minerals, one-half of the consideration payable in respect of any such other sale, lease or other disposition, shall forthwith upon its receipt from time to time, be paid to the Province of Ontario; the other half only shall be dealt with by the Dominion of Canada as provided in the paragraph of this agreement numbered 1.

7. The last preceding paragraph shall not apply to the sale, lease or other disposition of any mining claim or minerals on or in any of the lands set apart as Indian Reserves pursuant to the hereinbefore recited treaty made in 1873, and nothing in this agreement shall be deemed to detract from the rights of the Dominion of Canada touching any lands or minerals granted or conveyed by His Majesty for the use and benefit of Indians by letters patent under the Great Seal of the Province of Upper Canada, of the Province of Canada or of the Province of Ontario, or in any minerals vested for such use and benefit by the operation upon any such letters patent of any statute of the Province of Ontario.

8. No water power included in any Indian Reserve, which in its natural condition at the average low stage of water has a greater capacity than 500 horse-power, shall be disposed of by the Dominion of Canada except with the consent of the Government of the Province of Ontario and in accordance with such special agreement, if any, as may be made with regard thereto and to the division of the purchase money, rental or other consideration given therefor.

9. Every sale, lease or other disposition heretofore made under the Great Seal of Canada or otherwise under the directions of the Government of Canada of lands which were at the time of such sale, lease or other disposition included in any Indian Reserve in the Province of Ontario, is hereby confirmed, whether or not such sale, lease or other disposition included the precious metals, but subject to the provisions of the aforesaid statute of the Province of Ontario entitled "The Bed of Navigable Waters Act," and the consideration received in respect of any such sale, lease or other disposition shall be and continue to be dealt with by the Dominion of Canada in accordance with the provisions of the paragraph of this agreement numbered 1, and the consideration received in respect of any sale, lease or other disposition heretofore made under the Great Seal of the Province of Ontario, or under the direction of the Government of the said Province of any lands which at any time formed part of any Indian Reserve, shall remain under the exclusive control and at the disposition of the Province of Ontario.

10. Nothing herein contained, except the provision for the application of The Bed of Navigable Waters Act aforesaid, shall affect the interpretation which would apart from this agreement, be put upon the words of any letters patent heretofore or hereafter issued under the Great Seal of Canada or the Great Seal of the Province of Ontario, or of any lease or other conveyance, or of any contract heretofore or hereafter made under the direction of the Government of Canada or of the Province of Ontario.

In witness whereof these presents have been signed by the parties thereto the day and year above written.

Signed on behalf of the Government of
Canada by the Honourable Charles
Stewart, Superintendent General of
Indian Affairs, in the presence of:

CHAS. STEWART.

DUNCAN C. SCOTT.

Signed on behalf of the Government of the
Province of Ontario by the Honourable
James Lyons, Minister of Lands and
Forests, and by the Honourable Charles
McCrea, Minister of Mines, in the
presence of:

JAMES LYONS (L.S.)

C. MCCREA (L.S.)

W. C. CAIN.