

Bill No. 14 of 1946.

A BILL TO RATIFY CERTAIN AGREEMENTS  
BETWEEN THE GOVERNMENT OF THE DOMINION  
OF CANADA AND THE GOVERNMENT OF THE  
PROVINCE OF ALBERTA.

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NOTE.

The purpose of this Bill is to confirm the two agreements made between the Government of Canada and the Government of Alberta set out in Schedules I and II. A corresponding Bill has already been enacted by the Parliament of Canada.

SCHEDULE I.

The agreement in Schedule I of the Bill provides for the settlement of differences which have arisen between the Dominion and the Province as to the effect of the Natural Resources Transfer Agreement on the ownership and control of three developed power sites on the Bow River lying within or adjacent to the Stony Indian Reserve. The three sites known as the Horseshoe, Kananaskis and Ghost sites were developed by the Calgary Power Company Limited and are being operated under authorizations issued by the Dominion Government in the years 1909, 1912 and 1929 respectively, when they were under exclusive Dominion jurisdiction prior to the transfer of natural resources in 1930. These differences arose out of the fact that under the agreement of 1929 which became effective on October 1st, 1930, transferring the Natural Resources to the Province, it was provided that all lands included in Indian Reserves within the Province should continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada. The agreement preserves all the rights of the Indians in these power sites which they obtained from the Government of Canada prior to the transfer of the Natural Resources to the Province.

The agreement in Schedule I provides that the land and water power at the two sites in which the Indian interest predominates, namely Horseshoe and Kananaskis, are to remain under Dominion jurisdiction while the Ghost site where the Provincial interest is substantial shall be deemed to have passed to the Province at the time of the transfer of the Natural Resources. The Minister of Mines and Resources will issue all three licenses which are to replace the existing authorizations and will continue to administer the Horseshoe and Kananaskis developments, while the Province will be responsible for administration of the Ghost development as soon as the final license is issued.

SCHEDULE II.

Under *The Alberta Natural Resources Transfer Act, 1930*, certain public shooting grounds and bird sanctuaries were preserved. Many of them have now dried up or are otherwise unsuitable for the purposes for which they were originally set aside. The agreement in Schedule II provides that these reservations may be cancelled by agreement between the two responsible Ministers concerned with the approval of the Governor in Council and the Lieutenant Governor in Council.

W. S. GRAY,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 14 of 1946.

An Act to Ratify Certain Agreements Between the  
Government of the Dominion of Canada and the  
Government of the Province of Alberta.

(Assented to \_\_\_\_\_, 1946.)

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

**1.** This Act may be cited as "*The Alberta Natural Resources Act Amendment Act, 1946.*"

**2.** An agreement dated the twenty-fifth day of September, 1945, and made between the Government of the Dominion of Canada represented therein by the Honourable James Allison Glen, Minister of Mines and Resources, of the first part, and the Government of the Province of Alberta, represented therein by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, of the second part, and set forth in Schedule I to this Act, is hereby approved, ratified and confirmed.

**3.** An agreement dated the 26th day of September, 1945, and made between the Government of the Dominion of Canada represented therein by the Honourable James Allison Glen, Minister of Mines and Resources, of the first part, and the Government of the Province of Alberta, represented therein by the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, of the second part, and set forth in Schedule II to this Act, is hereby approved, ratified and confirmed.

**4.** This Act shall come into force on the day upon which it is assented to.

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## SCHEDULE I

MEMORANDUM OF AGREEMENT made this 25th day of September, A.D. 1945.

BETWEEN:

The Government of the Dominion of Canada,  
represented herein by the Honourable James Allison Glen, Minister of  
Mines and Resources

Of the First Part

— and —

The Government of the Province of  
Alberta, represented herein by the Hon-  
ourable Duncan Bruce MacMillan, Min-  
ister of Agriculture and in charge of  
Water Resources

Of the Second Part:

Whereas in giving effect to the provisions of the Agree-  
ment entered into between the Government of the Dominion  
of Canada and the Government of the Province of Alberta  
on the 14th day of December, A.D. 1929, and the Supple-  
mentary Agreement entered into between them on the 5th  
day of March, A.D. 1938 (together hereinafter referred to  
as the Natural Resources Transfer Agreement), differences  
have arisen between the parties hereto in connection with  
certain water powers on the Bow River lying within or  
adjacent to the Stony Indian Reserve developed by the  
Calgary Power Company Limited and its predecessor in  
interest prior to the 1st day of October, A.D. 1930;

And whereas differences have also arisen between the  
parties hereto as to whether the Dominion or the Province  
is entitled to the benefits and subject to the obligations of  
the Licences and Water Power Agree-  
ments heretofore granted in respect of the said water  
powers;

And whereas it is desirable that these differences should  
be resolved so as to carry out the true intent and purpose of  
the Natural Resources Transfer Agreement;

And whereas by Paragraph 24 of the Natural Resources  
Transfer Agreement it was agreed that the provisions of  
the said Agreement might be varied by agreement confirmed  
by concurrent statutes of the Parliament of Canada and the  
Legislature of the Province.

Now Therefore This Agreement Witnesseth that:

1. With respect to the water power at Horseshoe Falls,—

(a) The interest of the Crown in the bed and banks of the  
Bow River and in all waters and water power rights appur-  
tenant thereto within the limits of the tract of land described  
in Schedule "A" hereto shall continue as and from October  
1, 1930, to be vested in the Crown in the right of Canada.  
All rights and obligations of the Crown under the Letters  
Patent dated April 23, 1909, granted to Calgary Power and  
Transmission Company, Limited, and under the Water  
Power Agreement dated October 14, 1909, between the  
Minister of the Interior and Calgary Power and Transmis-  
sion Company, Limited, and the Regulations applicable  
thereto shall continue to be exercisable by and binding upon  
the Crown in the right of Canada. The Dominion Minister  
shall issue the Horseshoe Falls Licence for the second term  
of twenty-one years from October 14, 1935, provided for in  
the said Water Power Agreement and shall issue any

renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of *The Arbitration Act* of the province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Horseshoe Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

(b) The annual sum of \$1,500 payable under the said Letters patent dated April 23rd, 1909, together with all sums of money payable under the terms of any water power agreement or licence covering the said water power, shall continue to be payable to Canada for the benefit of the Indians of the Stony Band.

2. With respect to the water power at Kananaskis Falls,—

(a) The interest of the Crown in the bed and banks of the Bow and Kananaskis rivers and in all waters and water power rights appurtenant thereto within the limits described in Schedule "B" hereto, shall continue as and from October 1, 1930, to be vested in the Crown in the right of Canada. All rights and obligations of the Crown under the Water Power Agreement dated October 14, 1912, between the Minister of the Interior and Calgary Power Company, Limited (excepting those contained in the provisions of Paragraph 27 thereof relative to the leasing of former Park lands which have passed to the Province), and the Regulations applicable thereto shall continue to be exercisable by and binding upon the Crown in the right of Canada. The Dominion Minister shall issue the Kananaskis Falls licence for the second term of twenty-one years from October 14, 1936, provided for in the said Water Power Agreement and shall issue any renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed

by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of *The Arbitration Act* of the Province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Kananaskis Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

(b) As the administrative authority since October 1, 1930, for the former Park lands lying outside the Stony Indian Reserve, the Province will carry out the provisions of Paragraph 27 of the said Water Power Agreement dated October 14, 1912. In the event of Canada acquiring the Kananaskis Falls Power development pursuant to the terms of the said Licence and Regulations, the Province will renew the lease referred to in the said Paragraph 27 to Canada or its nominee on terms to be agreed upon between Canada and the Province, or in default of agreement to be settled by a judge of the Supreme Court of Alberta nominated by the Chief Justice of Alberta.

(c) All sums payable under the terms of the Agreement dated May 20, 1914, between the Calgary Power Company, Limited, and certain Indians of the Stony Band for land and water power rights at Kananaskis Falls, shall continue to be payable to Canada for the benefit of the Indians.

(d) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Water Power Agreement of October 14, 1912, other than Paragraph 27 thereof, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely; in the proportion of 45/72 to Canada and 27/72 to the Province.

(e) All sums which have been paid or are payable to Canada by the Licensee under the terms of any Water Power Licence granted by Canada pursuant to the said Agreement of October 14, 1912, including as such the annual sum of \$1,500 payable to the Superintendent General of Indian Affairs under the said Agreement of May 20th, 1914, or any Patent or other grant of land confirming or replacing the said Agreement, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and

the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely, in the proportion of 45/72 to Canada and 27/72 to the Province provided that Canada's share of such division shall never be less than \$1,500 per annum.

(f) All sums which become payable under the terms of the lease to be granted by the Province for the former Park land lying outside the said Reserve in pursuance of the terms of the said Agreement of October 14, 1912, shall belong to and be payable to the Province.

(g) In the event of Canada acquiring the Kananaskis Falls Power Development pursuant to the terms of the said Licence and Regulations, Canada shall thereafter during the operation of the plant at the Kananaskis Falls site pay to the Province an annual sum in respect of water rentals equal to the amount payable to the Province for water rentals in the year preceding such acquisition.

3. With respect to the water power at the Ghost site,—

(a) The Dominion Minister shall issue the Final Licence provided for in the Interim Licence granted by the Minister of the Interior of Canada on the 17th day of January, 1929, subject to and in accordance with the Water Power Regulations established under The Dominion Water Power Act by Order in Council dated October 31, 1921, published in the Canada Gazette of November 12, 1921, and as amended as to Sections 48 (13) and 83A by Order in Council of September 10, 1928, published in the Canada Gazette of September 15, 1928. The said Final Licence shall provide that as from the 1st day of January, 1930, the date upon which the Licensee completed the initial development and became entitled to a Final Licence, all transmission lines and distribution systems then or thereafter forming part of the Licensee's interconnected electrical power system within the limits of the Province of Alberta shall form part of the undertaking established under the said Final Licence in accordance with Section 44 (e) of the said Regulations and the fixation of cost of the Ghost Power Development shall include all costs of such undertaking to and including 31st December, 1944. The said Final Licence shall also provide that for the purposes of Section 49 of the said Regulations the said undertaking shall also include as from 1st January, 1930, the Horseshoe Falls Power Development, the Kananaskis Falls Power Development and all other power and storage developments of the Licensee within the limits of the Province of Alberta constituting for the time being with the Ghost undertaking one interconnected power system of the Licensee. The Dominion Minister, or his Deputy, may do and perform all such acts and things for the issuing of the said Final Licence as are provided herein and in the said Regulations. The Dominion Minister shall also fix the "actual cost" as defined in and in the manner provided in the Water Power Regulations established under the Dominion Water Power Act by Order in Council dated October 31,

1921, of the Horseshoe Falls and Kananaskis Falls Power Developments as at 31st December, 1944.

(b) The interest of the Crown in the bed and banks of the Bow River at the Ghost site from the eastern boundary of the Stony Indian Reserve to the upstream limit of floodage as shown upon Record Plan numbered 2884 on file in the Office of the Controller of Water Power at Ottawa, and in all waters and water power rights appurtenant thereto shall be deemed to belong and to have belonged to the Province as and from October 1, 1930, subject to the Final Licence for the use of all the waters of the Bow River at the said site to be issued as provided in Paragraph 3 (a) hereof and the provisions of Paragraphs 1, 2 and 3 of the Natural Resources Transfer Agreement of December 14, 1929, shall apply to the said Final Licence when issued with the same effect as if the said Licence had been issued prior to October 1, 1930, and as if all the rights and obligations of the Crown thereunder and under the Regulations had been transferred to and assumed by the Province by the Natural Resources Transfer Agreement. After such transfer and assumption as aforesaid in the application of the said Regulations amended as aforesaid to the said Licence the "Provincial Minister" shall be substituted for "the Minister of the Interior", the "Department" shall be substituted for "the Department of the Interior" and "the Supreme Court of Alberta" shall be substituted for "the Exchequer Court of Canada", and "the Crown" shall mean the Crown in the right of the Province.

(c) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Interim Licence of January 17, 1929, and the Final Licence referred to in paragraph 3 (a) above for water power rights, since that date shall be divided between Canada and the Province in the proportions of one-half to Canada for the benefit of the said Indians of the Stony Band and one-half to the Province, and shall be paid to Canada and the Province respectively in the proportions stated.

(d) In the event of the said Final Licence, referred to in paragraph 3 (a) above, expiring or being terminated, the Province shall thereafter during the operation of the generating plant at the Ghost site, pay to Canada for the benefit of the Stony Band of Indians an annual sum equal to one-half of the average annual water power rental payable in the last five years preceding such expiry or termination or such lesser sum as the Superintendent General of Indian Affairs may fix as just and reasonable in the circumstances, provided that if the said plant be closed down the annual sum payable by the Province to Canada for the benefit of the Stony Band of Indians shall so long as the dam contributes to storage or river control be \$3,500.

(e) As and from October 1st, 1930, all sums payable for the use or occupation of land under the terms of the Interim Licence of January 17th, 1929, and the Final Licence referred to in paragraph 3 (a) above, shall belong to and be payable to the Province.



4. The licences to be issued as herein provided shall be in the form and terms of the drafts thereof initialled for indentionification by the Dominion Minister and the Provincial Minister, respectively, and shall be valid and effective according to such terms, but nothing herein contained shall be deemed to be a waiver of any other rights, interests or obligations of either Canada or the Province arising out of the Natural Resources Transfer Agreement or otherwise and in particular neither Canada nor the Province waives any claim it may have or assert or admits any claim which the other party may have or assert to the title and control of the bed and banks of the Bow River or in the waters and water power rights appertaining thereto except as herein provided.

5. As used herein the expression "Dominion Minister" means The Minister of Mines and Resources of Canada and his successor in office for the time being, and the expression "Provincial Minister" means the Minister for the time being charged with the administration of *The Water Resources Act* of the Province of Alberta.

6. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In Witness Whereof the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Government of the Dominion of Canada; and the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, has hereunto set his hand on behalf of the Government of the Province of Alberta.

Signed on behalf of the Government of Canada, by the Honourable James Allison Glen, Minister of Mines and Resources, in the presence of:

(Sgd.) C. W. JACKSON.

(Sgd.) J. ALLISON GLEN.

Signed on behalf of the Government of Alberta, by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, in the presence of:

(Sgd.) KATHLEEN L. CONNORS.

(Sgd.) D. B. MACMILLAN.

## SCHEDULE "A"

All that tract of land situated partly on the right bank and partly on the left bank of the Bow River in the Stony Indian Reserve, described as follows: Commencing at a point in the northerly side of the Right-of-Way of the Canadian Pacific Railway, distant twenty-four chains easterly from the fifty-first mile post of the said Railway; thence North  $65^{\circ} 37'$  West twenty-two chains: thence North  $39^{\circ} 37'$  West forty-two chains: thence North  $50^{\circ} 23'$  East, one hundred and forty-six chains and thirty links: thence South  $49^{\circ} 37'$  East, thirty-six chains and thirty-six links: thence South  $39^{\circ} 37'$ , East thirty chains and sixty-eight links to the northerly limit of the Right-of-Way of the Canadian Pacific Railway: thence westerly along the said northerly limit to the point of commencement, all as shown on a plan of record in the Department of Indian Affairs, dated 5th April, 1909, as 821A, together with the bed and banks of the Bow River from the easterly boundary of the tract of land above described up to the tail-water level of the Kananaskis Power plant.

## SCHEDULE "B"

All those portions of the beds and banks of the Bow and Kananaskis Rivers from the tail-water level of the Kananaskis Plant to the south-western boundary of the Stony Indian Reserve, and from thence to the limits of floodage of the Kananaskis Falls Power Development as shown on Record Plan numbered 2894 on file in the office of the Controller of Water Power at Ottawa, and to such further limits on the said rivers to which the floodage may be from time to time extended with the consent of the Minister for the time being charged with the administration of *The Water Resources Act* of the Province of Alberta.

## SCHEDULE II

MEMORANDUM OF AGREEMENT made this 26th day of September, 1945.

## BETWEEN:

The Government of the Dominion of Canada, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources,

Of the First Part,

— and —

The Government of the Province of Alberta, represented herein by the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

Of the Second Part.

Whereas, the Agreement entered into between the parties hereto on the fourteenth day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930", being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas by paragraph 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas, the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties thereto, dated the twenty-ninth day of July, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province, on the first day of October, A.D. 1930;

And whereas, it was provided by paragraph 19 of the said Agreement as follows: "The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof."

And whereas, it has been agreed between Canada and the Province of Alberta that certain public shooting grounds and bird sanctuaries which were established at the time of the making of the said Natural Resources Transfer Agreement and since maintained by the Province should be discontinued and that authority should also be given under certain conditions to discontinue any public shooting grounds and bird sanctuaries established pursuant to the said Agreement;

Now Therefore, this Agreement witnesseth as follows:

1. The said Natural Resources Transfer Agreement is hereby amended by adding after the above mentioned paragraph 19 the following new paragraph:

"19a. The Province may discontinue any bird sanctuary or public shooting ground which was transferred to the Province by virtue of this Agreement or which has since been established by the Province or which may hereafter be

established by the Province pursuant to this Agreement in any case in which an agreement is entered into between the Minister of Mines and Resources of Canada and the Minister of Lands and Mines of Alberta approved by the Governor in Council and the Lieutenant Governor in Council respectively, providing for the discontinuance of any such bird sanctuary or public shooting ground.”

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In Witness Whereof, the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, has hereunto set his hand on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable James Allison Glen, Minister of Mines and Resources, in the presence of :  (Sgd.) C. W. JACKSON.	}	(Sgd.) J. ALLISON GLEN.
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Signed on behalf of the Government of Alberta, by the Honourable Na- than Eldon Tanner, Min- ister of Lands and Mines, in the presence of :  (Sgd.) GRACE A. M. MATHESON.	}	(Sgd.) N. E. TANNER.
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THIRD SESSION  
**TENTH LEGISLATURE**

10 GEORGE VI  
1946

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**BILL**

An Act to Ratify Certain Agreements  
Between the Government of the Do-  
minion of Canada and the Government  
of the Province of Alberta.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MACMILLAN.

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EDMONTON:  
A. Shnitka, King's Printer  
1946