

Case 1: St. Catharine’s Milling Co. v. The Queen – Answer Key

[St. Catharines Milling and Lumber Co. v. R.](#)

Collection Supreme Court Judgments

Date 1887-06-20

Report (1887) 13 SCR 577

Judges Ritchie, William Johnstone; Strong, Samuel Henry; Fournier, Téléspore; Henry, William Alexander; Taschereau, Henri-Elzéar; Gwynne, John Wellington

On appeal from Ontario

Subjects Aboriginal law

St. Catherine’s Milling Co. v. The Queen

Judicial Committee of the Privy Council – [1888] 14 A.C. 46

[Ontario Aboriginal title Jurisdiction over Indians](#)

Summary

This decision from Canada’s highest court had monumental impacts on the relation between Canada and Aboriginal peoples. It governed Canada’s policy over Indian title for almost a century, until *Calder*, in 1973. The Council recognized that the *Royal Proclamation of 1763* gave the Indians only a right of occupancy, which encroached on the Province’s title. Once this right is ceded to the Dominion, full proprietary interest reverts to the province.

[The Summary above is from: [St. Catherine’s Milling Co. v. The Queen - Indigenous Jurisprudence Autochtone \(reseaudialog.ca\)](#).] **Visit that page to answer the questions in the chart below.**

The decision is also on the CanLII website: [St. Catharines Milling and Lumber Co. v. R., 1887 CanLII 3 \(SCC\), 13 SCR 577](#)

Supreme Court of Canada

St. Catharines Milling and Lumber Co. v. R, (1887) 13 S.C.R. 577

Date: 1887-06-20

The St. Catharines Milling and Lumber Company, (*Defendants*) *Appellants*;
and

The Queen, on the Information of the Attorney General for the Province of Ontario, (*Plaintiff*) *Respondent*.
1886: November 19, 20 & 22; 1887: June 20.

Present: Sir W.J. Ritchie C.J. and Strong, Fournier, Henry Taschereau and Gwynne JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

Indian Lands—Title to—Right of Occupancy—Lands reserved for Indians—B.N.A. Act sec. 91, subsec. 24—Sec. 92, subsec. 5—Secs. 109, 117.

The lands within the boundary of Ontario in which the claims or rights of occupancy of the Indians were surrendered or became extinguished by the Dominion Treaty of 1873, known as the North West Angle Treaty, No. 3, form part of the public domain of Ontario and are public lands belonging to Ontario by virtue of the provisions of the British North America Act^[1].

Only lands specifically set apart and reserved for the use of the Indians are “lands reserved for Indians” within the meaning of

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sec. 91, item 24 of the British North America Act^[2] Supreme Court of Canada.

The judgment of Boyd C. in the Chancery Division of the High Court of Justice for Ontario^[3] and of the Court of Appeal for Ontario^[4] affirmed. Strong and Gwynne JJ. dissenting,

APPEAL from a decision of the Court of Appeal for Ontario⁴, affirming the judgment of the Chancery Division³, which restrained the defendants from cutting timber on lands in Ontario claimed to be public lands of the Province.

See also: St Catherines Milling Case excerpt from Henderson, B. "A Brief Introduction to Aboriginal Law in Canada." Bloorstreet.com. January 15, 1996. <http://www.bloorstreet.com/200block/brintro.htm>.

<p>What?</p> <ul style="list-style-type: none"> What is the issue? 	<p><i>“When a parcel of land ceased to be part of an Indian reserve, which jurisdiction owns the title: the provincial or the federal government?”</i></p>
<p>Who?</p> <ul style="list-style-type: none"> Who decided the decision? 	<p><i>Judicial Committee of the Privy Council</i></p>
<p>When?</p> <ul style="list-style-type: none"> When was the court case decided? 	<p>1888</p>
<p>Where?</p> <ul style="list-style-type: none"> Where is the land in question? 	<p>Ontario</p>
<p>Why?</p> <ul style="list-style-type: none"> Why is this considered to be a landmark case? <p>NOTE: At the time of this decision, (i.e. 1888), Canada’s highest court was the Judicial Committee of the Privy Council.</p> <p>NOTE: The term “Indians” was the accepted terminology at the time [1888].</p>	<p>Answers could vary, but the <i>Summary</i> best expresses it:</p> <p>Summary <i>“This decision from Canada’s highest court had monumental impacts on the relation between Canada and Aboriginal peoples. It governed Canada’s policy over Indian title for almost a century, until Calder, in 1973.”</i></p> <p><i>“The Council recognized that the Royal Proclamation of 1763 gave the Indians only a right of occupancy, which encroached on the Province’s title. Once this right is ceded to the Dominion, full proprietary interest reverts to the province.”</i></p>

What is one interesting fact you found out about this case?	
What further questions do you have?	

Further Reading

Canada. Supreme Court of Canada Judgments. 2022. "St. Catharines Milling and Lumber Co. v. R." *Lexum*. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/3769/index.do>.

Drake, K. 2018. "The Impact of St Catherine's Milling." Articles & Book Chapters. 2682. *Osgoode Hall Law School of York University*. https://digitalcommons.osgoode.yorku.ca/scholarly_works/2682/.

Henderson, B. 1996. "A Brief Introduction to Aboriginal Law in Canada." *Bloorstreet.com*. <http://www.bloorstreet.com/200block/brintro.htm>.

"St. Catherine's Milling Co. v. The Queen, Judicial Committee of the Privy Council – [1888] 14 A.C. 46." *DIALOG*. [n.d.]. <https://jurisprudence.reseaudialog.ca/en/case/st-catherines-milling-co-v-the-queen/>