

Canada Company to confine the grant to surface rights, nor any intention or desire on the part of the grantee to pay for or accept such a limited title—one so entirely opposed to the spirit and genius of the prevailing system of tenure and proprietorship of land in the Province.

Throughout the correspondence with the solicitors and the principal officers of the company in London, there was no suggestion of anything but a reservation of definite rights or interests. The intention was, that the grantee should be the purchaser and holder of the fee, and that, if deemed advisable, certain defined rights should be reserved to the grantors. The defendants must rely upon the words of reservation for their rights, for only to the extent of the proper meaning to be attached to them is the absolute grant of the title to the land to be deemed to be derogated from.

Another contention is, that the words of reservation, according to their true meaning and significance, include natural gas. The reservation is to be construed according to the ordinary rules, there being nothing in the context or the circumstances to give occasion for the application of any unusual or exceptional reading. No reason appears for extending the meaning of the language used beyond its fair and ordinary sense.

It seems somewhat singular that, if there was any intention to include natural gas among the reservations, some more apt words were not employed. If, as has been suggested, natural gas was then a substance unknown, or not known or regarded as one having a commercial value, the reason for not referring to it is plain. If, on the other hand, it was known, the deliberate omission to specify it by the use of apt words, or of some words resembling those used with regard to oil, leads to the conclusion that it was not intended to include it in the reservation. It can scarcely be conceived that, if it was intended to include it in the reservation, it would have been left to be covered by the general words upon which the argument is now hung.

Giving to these words the interpretation I think they should receive in the light of the evidence, I am unable to conclude that, occurring as they do in the conveyance in question, they included or were meant to include natural gas.

I think the appeal fails and should be dismissed.

GARROW, J.A., gave reasons in writing for the same conclusion.

MACLAREN and MAGEE, JJ.A., also concurred.

MEREDITH, J.A., dissented, for reasons stated in writing.