

into two equal parts and making no reference to the Gimli road. The fact being that there was more land in the east side of that road than on the west side, the plaintiff brought this action to recover possession of such excess being part of the land on the east side.

*Held*, 1. The proper conclusion to be drawn from the wording of the description in the deed to B. is that the parties intended by the latter part of it either to make definite what they conceived to be vague in the first part or that the grantee should have the right of election as to which of the two parcels she would take under the deed: *Elphinstone on Deeds*, 105; *Vin. Ab. Grant H.* 5; *Shep. Tovels*, 106, 251; and, if the latter was the intention, B. had exercised such election to take all the land lying east of the road.

2. As applied to the land in question, the words "east half" were not sufficient to describe with clearness and certainty the land intended to be conveyed and, consequently, the words which followed could not be rejected as *falsa demonstratio*.

3. This was a proper case for the application of the rule that, when there is a general description followed by a specific description, the specific and not the general description must be taken to govern: *Murray v. Smith*, 5 U.C.R. 225, and *Smith v. Galloway*, 5 B. & Ad. 57, followed.

The expression "east half" as applied to the fractional quarter section is a general description that must yield to the specific description which follows.

4. The ambiguity in the description in question was a latent one, only becoming patent when evidence was given of the irregular shape of the land, and therefore extrinsic evidence was admissible to shew the intention of the parties. That evidence shewed without contradiction that A. and B. intended that the road should be the dividing line and had always acted in accordance with such intention.

*Minty*, for plaintiff. *Heap*, for defendant.

Full Court.]

[May 7.

SAVAGE v. CANADIAN PACIFIC RY. CO.

*Practice—Particulars—Order for particulars after close of pleadings.*

Appeal from the order of the Chief Justice dismissing an appeal from the referee who had refused an order for particulars