planted six acres with cucumbers and delivered several loads to the company, who paid for them, but it is clear, upon the evidence, that they were not received by the company as under the alleged contract or any contract with the plaintiff, but were received and paid for as cucumbers offered for sale to the company's agent at Stouffville, and purchased by him on their account.

I do not think that the post card amounted to a proposal to purchase the crop, which, according to plaintiff's letter, she intended to grow that year, on the terms mentioned in the post card, and that the delivery of the cucumbers amounted to an acceptance of that proposal, which then remained open for acceptance by plaintiff.

Carlile v. Carbolic Smoke Ball Co., [1893] 1 Q. B. 256, is, I think, plainly not applicable: see remarks of Bowen, L.J., on pp. 269 and 270.

It is plain that the company required further notification by the plaintiff, and the post card was not an offer open to acceptance by a mere affirmative answer.

Brogden v. Metropolitan R. W. Co., 2 App. Cas. 666, and Clarke v. Gardiner, 12 Ir. C. L. R. 472, do not help the plaintiff. The principle of the latter case is wholly inapplicable to this case.

FERGUSON, J., concurred.

Appeal dismissed with costs.

T. H. Lennox, Aurora, solicitor for plaintiff.

St. John & Ross, Toronto, solicitors for defendants.

APRIL 10TH, 1902.

C. A.

WHITE v. MALCOLM.

Specific Performance—Contract for Sale of Land—Correspondence—Statute of Frauds—Agent.

Appeal by plaintiff from judgment of FALCONBRIDGE, C.J., in action to enforce specific performance of an alleged agreement by defendant to sell to plaintiff five acres of land in the town of Owen Sound. The Chief Justice held that there was not a binding contract to satisfy the Statute of Frauds, and, also, that the subject matter of the purchase was unascertained, the offer being for park lot 6, which contains 18 acres and for which there had been no negotiation.

H. G. Tucker, Owen Sound, for appellant.

A. G. Mackay, Owen Sound, for defendant.