

date, for one-half the amount you pay for the land in question, plus 5 per cent. per annum."

This proposition was accepted by Mr. Wainwright, but no formal agreement was ever entered into by either of the companies.

The blue print plan referred to in Mr. McNichol's proposition shewed the whole property to be triangular in shape, and "the half of such land surrounded green." . . . to be the northerly half adjoining plaintiffs' railway.

The government withdrew from sale a portion of the land situate at the north-west angle, which I should estimate . . . at about 2 acres, thus reducing to that extent the area of the portion proposed to be acquired by plaintiffs.

Plaintiffs contend that under the agreement they are entitled to a conveyance of the northerly half of the land actually acquired by defendants, and are not limited to the remainder of the northerly half of the original triangle with an abatement from the purchase price, and in this action claim judgment for an equal division of the land acquired by defendants and specific performance by a conveyance of the northerly half.

In order to obtain this equal division it is necessary to throw the dividing line indicated on the blue print further south, in order to take in sufficient extra land to compensate for the loss occasioned by the withdrawn portion. The parties neglected to make provision for any such contingency.

In the conveyance tendered for execution and in the statement of claim there is included a portion of land in respect of which no agreement was made giving plaintiffs any right or interest therein, nor is there any agreement entitling plaintiffs to a declaration that they are jointly interested with defendants in the whole property. The agreement was limited in its terms to specific property, and of course cannot be enlarged by the Court.