

It is plain that it was not intended, and the certificate does not operate, to convey any title to the soil. Neither does it, by implication or otherwise, assure a right of way of 15 feet in width or any other right of way, save such as is necessary and proper for the purpose of making use of the plot for the purposes for which it has been procured.

It is argued for the plaintiffs that the reference in the certificate to the map which indicates the wide space, amounts to a warranty or undertaking that there was a way of that width, and that it would be maintained.

As a fact, the space in question was never laid out as a roadway. It is a part of the churchyard surrounding the church, and is covered with grass in the summer. But it is well settled that the exhibition of a map or plan or a reference to one, even on a sale and purchase of freeholds, does not create a contract to maintain ways or roads shewn on it, or even to a representation that they will be made or retained. For this it is only necessary to refer to *Feoffees of Heriot's Hospital*, 2 Dow. 301, where Lord Eldon remarked (p. 307) that "it was perfectly wild to say that the mere exhibition of a plan was sufficient to form a building contract;" and the language of Lord Cottenham in *Squire v. Campbell*, 1 My. & Cr. 459, at pp. 478, 479. Reference may also be made to *Fry on Specific Performance*, 4th ed., p. 407, and to *Carey v. City of Toronto*, 11 A. R. 416 (affirmed in the Supreme Court, 14 S. C. R. 172), where a number of the cases bearing on the question are referred to.

As pointed out by the trial Judge, the evidence makes it plain that in regard to this particular churchyard there are many of the plots without any means of access save by going over plots.

The right or privilege given is subject to the rules and regulations made or to be made by the trustees, and it is plain that it was never intended to assure to the purchasers of the plots in question the continuance for all time of the space between the church wall, as then existing, and the ends of these plots. Nothing more was intended to be given, or was in fact given, than an easement granted and taken, subject to such changes as the altered circumstances of the congregation or the neighbourhood might render necessary. The power of the trustees to make rules and regulations would not, of course, extend to preventing access to the