

follow as of course, unless there are other circumstances exonerating them from the duty. The defendants insist that, inasmuch as the complainants have to some extent cultivated these lands since the condemnation, their responsibility for interest is removed. It would be unreasonable, certainly, that the complainants should hold and cultivate the lands, and at the same time make the defendants pay interest upon the sum awarded them by the jury, as the measure of compensation for their loss. But in view of the evidence upon this subject, and looking to the very partial and imperfect enjoyment of the property, by the complainants since the defendants commenced their operations upon the land, I cannot bring myself to consider that sufficient answer has been given to the demand of interest. If, however, the court had any doubt upon this subject, it would be removed by the conduct of the parties themselves. On the 1st of April, 1840, we have seen, the defendants accepted drafts for this money with interest from the 8th of October, 1838, upon which in October, 1842, they confessed judgments. Here then we have the solemn acknowledgment of the company, that it was liable to pay interest upon this money, twice repeated. How can this court, in the face of these acknowledgments of the company, say they are not liable to pay interest? The court must assume, and does assume, that these acceptances were given in good faith, and when the company had a reasonable expectation of paying them as they matured, and not that they were given for the purpose of taking from the complainants the right to resort to the courts for the protection of their property, if subsequent events should render it necessary, or as has been suggested, to get rid of the specification, which it is supposed the complainants may have had upon this land for the sum awarded them by the jury. The acceptances were given, as I must presume, with the expectation of paying them, and because the defendants considered themselves liable to pay the money, with interest. This was their then understanding of their obligation, and I can see nothing in the case to relieve them from the performance of it.

I shall, therefore, sign a decree perpetuating the injunction,