

offer should be laid before the board; and on the 13th Dec. he again wrote to the defendant, stating that the directors accepted the offer made in his letter of the 8th inst., and added that "the company's solicitors had been instructed to prepare the necessary documents." On the 13th Jan., 1887, however, the defendant wrote to the plaintiffs, alleging that he had discovered that he had been misled as to the value of certain of the plant and machinery on the premises, and added, "I therefore withdraw all offers made to you in any way." In an action by the company seeking specific performance of the alleged agreement contained in the letters of the 8th and 13th Dec., 1886, Mr. Justice Kekewich decided in their favor; and from his judgment the defendant appealed. The Court of Appeal held that these two letters constituted a complete and final contract; that the statement in the letter of Mr. Scratchley of the 13th Dec., 1886, as to the preparation of the necessary documents by the company's solicitors, did not render it a conditional acceptance; and that the letter by the defendant of the 13th Jan., 1887, withdrawing his offer was ineffective as having been made after the contract was complete; and the court confirmed the judgment of Mr. Justice Kekewich.

On the other hand it appears to be settled that the Court will not grant specific performance of an alleged agreement by letters, when looking at the whole correspondence and the conduct of the parties in continuing negotiations, not on a mere matter of form, but on some substantial question involved, after the offer and acceptance, it appears they did not consider the agreement complete and final. Thus, in *Hussey v. Horne-Payne* (*supra*), after some preliminary verbal negotiations, the defendant, on the 4th Oct., 1876, by letter offered the land in question to the plaintiff for £37,500. The plaintiff's agent on the 6th Oct. wrote in answer accepting the offer, subject to the title being approved by his solicitors. Further negotiations, however, followed by letter passing between the parties and their solicitors and by written memoranda, as to the payment of the amount of the purchase money by instalments, and as to the conveyance of the property as the purchase money was paid, wherein reference was made to the signing of a contract, but no such contract was signed. The plaintiff claimed specific performance of an alleged contract contained in the letters of the 4th and 6th Oct., with a declaration that the terms respecting payment of the purchase money and the conveyance of the property were also binding on the parties. But it was held by the House of Lords, that although the two letters, if they had stood alone, would have been sufficient evidence of a concluded contract under the Statute of Frauds they must be read in connection with the other correspondence and negotiations, whereby it appeared that there were to be other terms which at that time had not been agreed upon; that efforts were made to settle those other terms, and that such efforts did not result in a settlement thereof, and therefore there was in fact no completed agreement between the parties of which specific performance could be decreed. A recent case to the same effect is that of *The Bristol, Cardiff, and Swansea Acrated Bread Company v. Maggs*, 62 L.T. Rep. N.S. 416, decided by Kay, J. The facts are briefly these: On the 29th May, 1889, the defendant Maggs wrote to the plain-