repayable $100 half yearly, with the privilege of paying more at any time without notice or bonus, and with interest at six per cent. per annum."

This lease is not under seal, although it purports so to be.

On the 9th May, 1912, the plaintiff's solicitors wrote the defendant stating that their client (the plaintiff)—"intends to exercise the option of purchasing the premises at $4,500 given him in your lease to him dated the 29th of May, 1911, and we would be glad if you would kindly accept this as notice of his exercising the option."

This was followed by a request to have a deed prepared and submitted, and some requisitions upon the title, and the statement: "Subject to the above the title appears satisfactory, and we think our client will be ready to close as soon as the papers are in shape."

No reply was made to this letter; and on the 23rd of May the solicitors wrote to the defendant that—

"Failing to hear from you or your solicitor by Monday with a draft deed we shall take it as an intimation that you do not intend to carry out the transaction, and shall be obliged to issue a writ for specific performance."

The writ was issued on the 31st of May.

Up to this time the purchaser had made no tender of either deed, mortgage, or money; and he was in point of fact in default in payment of the rent, the last rent paid being that due on the 3rd of April.

On the 1st of June, the plaintiff and his solicitor attended on the defendant at his place of business, and then made a tender of one thousand dollars cash and of a mortgage for $3,500 dated on the 1st of June, and carrying interest from that date.

The plaintiff's solicitor seeks to avail himself of what then took place, in support of his action. I do not think that this is open to him. His cause of action must be complete before the action is instituted; and if what then took place is relied upon as an acceptance of the offer embodied in the option, the contract was not made until after the action was brought.

The letters which I have referred to are put forward as constituting an acceptance. I do not think that they are sufficient. The case of Cushing v. Knight, 46 S.C.R. 555, shews that where an option stipulates for a cash payment, the cash payment is a condition precedent to the existence of any contractual rights.

This case affords a good illustration. The vendor stipulated for cash. The purchaser accepts, and substitutes for cash a payment "as soon as the papers are in shape."