

BRITTON, J.—The plaintiff, a merchant residing at Sarnia, is the owner of the tug in question. The defendant, during the season of 1902, was the keeper of the light house on Duck Island, Lake Huron. His usual place of residence was Gore Bay, Manitoulin. This steam tug was, during the season of 1901, in charge of one John S. Nesbitt, a relative of the plaintiff. Nesbitt left the boat on the beach at Gore Bay in 1901, and she was there when the negotiations now under consideration took place. Nesbitt had made a sale of this boat to one La Rue Smith, or to Smith & Henderson, and a bill of sale, signed by plaintiff, was on the 17th May, 1902, sent by Nesbitt to Little Current for delivery to Smith, on payment of the purchase price. On the 24th May, 1902, plaintiff had been informed that Smith would not carry out his purchase, but the bill of sale had not then been returned, and in fact was only returned to Nesbitt, by letter from Little Current, dated the 5th June, 1902. On the 24th May plaintiff wrote an unsigned letter to the defendant. It was suggested at the trial that the letter was purposely left unsigned—because Nesbitt had been up to this time conducting all the business in reference to this tug, and, as the sale to Smith was pending, Nesbitt or the plaintiff or both thought it better to have another string to the bow, and see what could be done with the defendant. I think not signing the letter was mere inadvertence. The letter was on the plaintiff's letter paper—with his name and business at the top—and is as follows:—

“Sarnia, May 24th, 1902.

Jno. Purvis, Esq.,
Duck Island, Ont.,
via Wiarton.

Dear Sir,—I received a letter from Capt. Wm. Glass saying you would pay \$550 cash for the “Island Belle,” as she is, at Gore Bay. I accept the offer and will forward a bill of sale to any place you may name. How would it be to send it to Traders Bank at Wiarton, to be handed to you on receipt of the money? There are no debts against her, but if you want a bond to that effect, I will forward you one.

Yours truly.”

The defendant received this letter in due course, treated it as coming from plaintiff, and replied to it on the 4th June, as follows:—

“Duck Island, Ont., June 4th, 1902.

Mr. John Garroch,
Sarnia, Ont.

Dear Sir.—I received your letter re “Island Belle” a few days ago. I will pay you \$550 cash for the tug, as she is,