

and the amount charged to Pulling & Co.'s account. Williscroft then enclosed it in a letter addressed to plaintiff, and delivered it to one Kitchen to be mailed, but the latter, instead of mailing it to plaintiff, opened the letter, forged plaintiff's name, and obtained, on 18th August, payment of the cheque at the private bank of Cook & Co. at Sarnia, who transferred it to the Bank of Toronto in Sarnia, which bank in turn forwarded it to the Traders Bank at Windsor, which latter bank paid the amount to the Bank of Toronto on 19th August. On 21st August Williscroft, finding, upon his return to Windsor, no acknowledgment of the cheque from plaintiff, telegraphed to him, and receiving his reply, went to defendants' bank on 22nd and was shewn the cheque and told it had been paid by defendants to the Bank of Toronto at Sarnia. Williscroft told defendants' manager that the indorsement of plaintiff's name was a forgery, and was told by him that defendants would make a draft on the Bank of Toronto at Sarnia, which latter bank would probably repay in a few days; on the same day defendants returned the cheque to the Bank of Toronto at Sarnia, without any objection upon the part of Williscroft, and without the latter making any demand upon them that the cheque should be delivered to him or sent to plaintiff. Rennick, defendants' accountant at Windsor, says he told Williscroft they would have to send the cheque back to Sarnia, and this is not contradicted by Williscroft, it apparently being expected that the money would have to be refunded by the Bank of Toronto, as Williscroft says he saw defendants' manager again and was told that the Bank of Toronto were probably looking into the legal position of the matter, and that the money would probably be along in a few days. Williscroft says he asked defendants for the cheque, upon instructions from plaintiff, but that this was after defendants had returned it to Sarnia; he also says that when he first saw defendants' manager at Windsor he cannot say that he told him to whom the cheque belonged, but that he had indorsed it to Geo. H. Smith, Southampton, and he wanted him to get the money. On 23rd August both plaintiff and Williscroft were in Sarnia, and Williscroft says that "Mr. Cook offered to settle the matter; when Mr. Smith asked for the money, Mr. Cook offered to pay the half." At this time the cheque was in either the hands of Cook & Co. or the Bank of Toronto at Sarnia. Plaintiff says: "I went to see Cook and I said, 'you cashed a cheque belonging to me,' and I said, 'that was