price of $2,100. If it means the former, there was no offer in existence to which the acceptance could be applied, and, even if Rutherford's letter had stated the facts truthfully, the name of the proposed purchaser had not been given, and the telegram cannot refer to plaintiff's written offer of the 29th April, because the defendant was in ignorance that any such offer had been made. On the other hand, if the telegram is to be regarded as a direction to Rutherford, it is no more than an answer to his inquiry whether the defendant will sell at the price named. It contemplates that a contract will be subsequently entered into: Harvey v. Facey, [1893] A. C. 552: and is an authority to Rutherford to accept any offer which may be made to buy at that price. Rutherford never acted effectively upon that authority, as he did not accept the plaintiff's offer in writing. In no point of view, therefore, is there any valid contract in writing between the parties sufficient to satisfy the Statute of Frauds, and the judgment of the learned trial Judge should be affirmed on the ground on which he rested it. The evidence suggests more than one other difficulty in the plaintiff's way, but into them it is not necessary to enter.

ARMOUR, C.J.O., MACLENNAN and MOSS, JJ.A., concurred.

Appeal dismissed with costs.

H. G. Tucker, Owen Sound, solicitor for plaintiff.

McKay & Sampson, Owen Sound, solicitors for defendants.

APRIL 10TH, 1902.

C. A.

BONNVILLE v. GRAND TRUNK R. W. CO.

Railways—Injury to Person Crossing a Main Street of a Town having Eight Tracks—High Degree of Care which should be Exercised by Defendants—Negligence of Defendants—Proximate Cause—To Fasten Liability on Defendants Immaterial to Shew that Tracks not Lawfully upon the Street.

Appeal by defendants from judgment of FALCONBRIDGE, C.J., in favour of plaintiff in action for damages for injuries sustained by plaintiff who was run down by a box car which was being shunted by an engine along one of the eight tracks of defendants crossing King street in the town of Midland. The Chief Justice held that the defendants, having so many tracks in such a busy locality,