

of these four feet in length, a good deal outside of or beyond the line of the pile of bricks opposite Marois' house; they might have been from one to two feet beyond the line of brick, but in that narrow place, six inches beyond the line would expose vehicles to danger and accident, and more especially at night; the stones in question were removed the week after the accident; the officers of the Corporation must have known of the incumbrance, as the police were passing continually and could not help seeing it; the incumbrance in question was the subject of frequent conversation amongst my neighbors as being a public nuisance and dangerous. On the evening of the accident I was returning from my office, when in St. John's street I noticed a dead horse upon a track going down the street; when I made enquiries about this circumstance I was told of Mr. Barrow's having met with an accident; I know nothing further about the matter; I want to see him next night, but could not get an entrance; I have had some little to do with horses and from what I saw of the Plaintiff's horse I should say he was worth about thirty-two pounds ten shillings; I noticed particularly in going home that night, there was no light upon the incumbrance, but there was none hanging from the next building to Marois' house. I noticed the same thing frequently, that there was no light on the incumbrance; Marois occupies, and occupied, during last summer, the adjoining house to the west of his new shop; the joint frontage of the two buildings might be eighty feet; the incumbrance in the street extended to the front of his shop, past the new building; I did not measure the width of the street though I did the length of the said incumbrance, and to the best of my recollection, six hundred feet of the said street must have been occupied, when I say I measured it, I mean I passed it.

Crown Examined.—With the exception of Crown street, I believe, St. John street is one of the widest of this city; I think four or five horses with vehicles, could pass abreast opposite Marois' new building if not encumbered with building materials; I will not take upon myself to swear that two vehicles could not pass in the gap opposite Marois' new building without meeting with some accident, but in passing quickly the risk would be increased.

Nicolas Perron, of the City of Quebec, in the County of Quebec, in the District of Quebec, Grocer, aged about forty-one years, being duly sworn upon the Holy Evangelists doth depose and say: I do know the parties in this cause; I am not related, allied, or of kin to, nor in the service or domestic of either of them, or interested in the event of this suit; I reside in St. John street in this city, and have so resided for several years past. St. John's street in St. John's suburbs is one of the principal streets in the city; and one of the principal thoroughfares, horses and vehicles continuously passing night and day. I know the new house built for Mr. Marois last summer; it is, I think, the fifth house in St. John street westward from St. John's Gate, and on the right hand side going out. In front of the said house in the said street there was an incumbrance last summer and last fall to the extent of more than half the street; the incumbrance, I considered very dangerous in the way I saw it. I passed there pretty frequently during the last summer and fell; this incumbrance must have been known to the Corporation, because no person could pass without noticing it, and more especially as the street was used for preparing the stone for the house, and also, because there was a large pile of bricks, and the police passed there daily. The incumbrance consisted of a pile of bricks, rubbish, stone, and stone in course of preparation for the building. Mr. Barrow's accident, I think, occurred on the first Saturday in November last. I saw him, immediately after the accident at Mr. Bickell's grocery shop, the house nearest St. John's Gate inside; he had a deep gash on his forehead which was bleeding profusely. I assisted in holding his head while the physician dressed the wound; it was a student, I think, with Dr. Fremont that did so; Dr. Roy was also there. Being busy on Saturday night after the Plaintiff's wound had been dressed I returned to my shop, but as Mr. Barrow had lost his hat I lent him mine; the next day, Sunday, I visited the spot where I understood the first cause of the accident to be, and found the obstructions I have mentioned above, still there; I had a tape line with me and measured the obstruction opposite Marois' said house, and the gap or distance between the said obstruction and the parapet upon the opposite side of the street, and I found the distance between the outside of the obstruction, where the stones lay and the parapet on the South side to be fifteen feet, so that there was only fifteen feet of the road for vehicles to pass upon. From the outside of the incumbrance to the parapet on the north side there were nineteen feet, there might have been a few inches one way or the other, but as that parapet was covered with rubbish I could not take this distance as exactly as the other, however, from my measurement I made out that there were four feet more than half the road incumbered by the said building materials; I made a memorandum of this at the time. From what I saw of the road I do not think that two vehicles could pass each other on a dark night easily; two waggons could not. The night of Mr. Barrow's accident was a very dark night. I measured the spot again on Monday, when I found it different, some of the stones and beams removed and there was more space in the gap for vehicles to pass. There were then nearly seventeen feet clear; I have the exact distance on the memorandum which I looked at yesterday; I have not it now with me but I am positive as to the measurement. I measured the above at the request of the Plaintiff's brother who accompanied me when I did it; he held the end of the tape. No part of the street opposite Marois' house was enclosed by a fence; the first measurement I made on Sunday night after the accident; there was no light then upon the said incumbrance but one over the gateway of the adjoining building.

Crown Examined.—It was with a tape line I measured; Mr. Edmund Barrow assisted me. I measured the obstruction in several places. The narrowest part of the gap was fifteen feet, another place was fifteen feet nine inches, and in a third place a difference of a few inches; the obstruction from which I then measured was above; the pile of bricks extended to about half the street. I am not positive whether the tape was English or French measure, but I believe it was English. It was dark when I made the measurement; we had to go to the gas lamp to see the figures on the tape, and after returning from the light I went back to the spot to verify my measurement, which I found to be correct; (I have just returned from getting my tape); it is an English measurement, I have just tried it with a foot rule. When I went out on the following Monday to remeasure the extent of the gap in question it was dark, but not so dark as on the Saturday. I was accompanied upon both occasions by the same person, that is, the Plaintiff's brother; I did not measure the width of the street between the parapets, but it is one of the widest streets in the locality. I do not know the ordinary width of a wagon but in driving we ordinarily look for sixteen feet for two ordinary vehicles. Question.—In the early part of November last had you occasion to go out several times in St. John's street. Answer.—I had. I might within the first week of November, gone out that way two or three times, but I do not now recollect; I live in St. John street, No. 51, within the walls.

WILLIAM BLANCHARD VALLEAU, of the City of Quebec, in the County of Quebec, in the District of Quebec, Merchant Tailor, aged thirty-seven years, being duly sworn upon the Holy Evangelists doth depose and say: I do know the parties in this cause. I am not related, allied, or of kin to, nor in the service or domestic of either of them, or interested in the event of this suit; I live at St. Foy's, as my business is in the City I drive