tions of liability by telegraph companies," I find a case cited in the note where it was held that the force of the condition seems to be restricted to errors arising from causes beyond the companies' control; and another where it was denied that telegraph companies can contract not to be responsible for their own negligence. The text of our own law in relation to common carriers is explicit. Art. 1676, C.C., says :— "Notice by carriers, of special conditions limiting their liability, is binding only upon persons to whom it is made known ; and notwithstanding such notice and the knowledge thereof, carriers are liable whenever it is proved that the damage is caused by their fault, or the fault of those for whom they are responsible."

Now, applying these principles to the case in hand, it is very evident that the fault of the company, defendant here, consisted in not delivering the message to any Mr. Bell at all, or to any one else, a fault that would not have been remedied if it had been written over again any number of times. It is proved by the production of the directory that only one Robert Bell resided in the city. I, therefore, maintain the plaintiff's action. The amount of damage is very inconsiderable. He had to pay some $40 as passage money for these men, and there is the breach of contract that gives rise to nominal damages also. I shall give judgment for $50 and costs as of the lowest class in this Court.

Trenholme & Co. for plaintiff.
Lacoste & Co. for defendants.

GUILLAUME v. CITY OF MONTREAL.

CITY OF MONTREAL v. LAROSE.

Corporation—State of sidewalks—Responsibility of proprietor.

The Corporation of Montreal is liable for damages caused by the bad state of the public footpaths in the city, and the Corporation has a recourse en garantie for such damages against the proprietor of the premises opposite the footpath.

JOHNSON, J. The plaintiff here brings his action for damages against the Corporation for an injury he received by a fall, which was occasioned by the bad condition of the sidewalk opposite the house of one Larose, in St. Catherine street. It is said to have been covered with glare ice, of very uneven surface and extremely dangerous : not having even a sprinkling of ashes over it to prevent people from breaking their necks. The plea admits the dangerous state of the sidewalk, but denies any fault or negligence on the part of the Corporation, the accident having occurred, as they contend, solely from the gross negligence of the proprietor Larose, who was bound by law to spread ashes, and keep the sidewalk even and safe. The plaintiff replies that the Corporation is liable to the public for the consequences of a dangerous state of the sidewalks, and though they can exercise their recourse *en garantie* against Larose, they do not cease to be primarily liable to the plaintiff. This is no doubt the law, on the authorities cited, and indeed admitted; and the Corporation has called in Larose by an action *en garantie ;* so that we must first see if there are any damages in the case against the Corporation. I find the case clearly proved, and on the authority of *Grenier* v. *The Corporation*, 21 L. C. J., p. 296, I must give judgment against them for the amount proved, and I hold this to be $120.

Then comes the next case of the Corporation against Larose. The liability of the defendant *en garantie* is clear under the by-law. He has only a general plea, and his occupation and right of property, as well as notice to him to keep the place in order, are proved ; so that the judgment against Larose *en garantie* is a matter of course.

D'Amour & Dumas for plaintiff.
R. Roy, Q.C., for defendant and plaintiff *en garantie.*
Maillet for Larose, defendant *en garantie.*

SUPERIOR COURT.

MONTREAL, NOV. 13, 1880.

RAINVILLE, J.

VAILLANCOURT v. COLLETTE, and PERRAULT, tiers opposant, BEAUBIEN, collocated, and NANTEL, contestant.

Privileged costs—C.C.P. 728.

The costs incurred in order to obtain the dismissal of a tierce opposition to the Sheriff's sale of an immoveable, are costs upon proceedings incidental to the seizure, and as such must be collocated as privileged under C.C.P. 728.