

duty of the Respondents to take care that they were so; the public here did require it say the public health, and the Respondents altogether failed in this duty, thereby bringing the Appellant, and others who were, many thousands, into a state of danger: they should now, for each giving effect, be held responsible to him, who is innocent thereof, his losses a sufferer, and it is submitted the law justly punishes the Respondents for to be the cause of the injury when it has been shown that their illegal acts were such as were likely to have directly contributed to, if not actually produced, the accident whereby the injury to his person and property was inflicted. It is respectfully urged that, in obedience to the legislature, for the preservation of the goods and lives of the community at large due should be taken that regulations such as those which were totally disregarded by the Respondents should be rigorously enforced. The acts of the Respondents in evading them were obviously and deliberately wrong, they directly and necessarily contributed to the inconvenience and probable injury of the public, they were not known to be attended with danger to passengers. They were followed by a violent injury to the Appellant, for which he contends the Court below should have held the Respondents liable, even if there had been room to doubt of their being the actual cause of the disaster, it is better to put the law upon the party who has neglected his duty in the open violation of the law, and thus deprived the other party of a protection against accident which the law directed he should have rather than upon the injured party, who merely doing his right to follow through, and to whom no blame is shown to attach, for neither he nor the person with whose carriage he came into collision are to be presumed to have been in fault, as to those, until the contrary is proved the collision must be considered a pure accident; but as to the Respondents they may safely and justly be presumed to have been the cause and cause, without which the accident would never have taken place and they may be fairly considered the immediate authors of the damage. Moreover, there is a want of public policy in refusing every protection that can be afforded to the limbs and lives of persons using the roads, by, actually holding both public and private bodies to the performance of their duty towards the public at large; numerous events show that what is conducive to safety on roads should be strictly observed, and no doubt, the judgment rendered in the Court below has a directly opposite tendency, is a manifest inducement to relax these rules and its effect will be to produce a continued non-observance of them.

The Appellant believes that it is not holding those who have infringed these laws to be accountable for the consequences that naturally flow from their breach, and that are shown to have been caused thereby; there is no one who he conceives himself entitled to have the said judgment reversed, and to obtain against the said Respondents, such compensation for the damage which he has sustained as was sought for by him in the Court below, which compensation he now respectfully prays this Honorable Court to award him.

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1880.

APPENDIX.

PLAINTIFF'S EVIDENCE IN SUPERIOR COURT.

HARVEY COLE, of the City of Quebec, in the District of Quebec, Auctioneer, aged above twenty-one years being duly sworn upon the Holy Evangelists, doth depose and say: I do know the parties in this case; 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; St. John's Street, without, is one of the principal thoroughfares of this city, and any obstruction to this street would be dangerous to the persons by, especially if it were not at a distance from the City Gates. The street was much assembled opposite Marois's building last season; Marois's house is about the fifth house outside St. John's Gate, on the right hand side going out; I was in the habit of frequently passing out that way during last season; it was only the day after the accident that I heard of it.

Cross Examined.—St. John's Street, without, is a very broad street.

ROBERT FANFULL, of the City of Quebec, in the District of Quebec, Storeman, aged above twenty-one years being duly sworn upon the Holy Evangelists doth depose and say: I do know the parties in this case; 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 have lived for several years past in St. John's Street, St. John's Suburbs, and some distance above Marois's new building; during last summer, during the construction of the said building, I was in the habit of going up and down the said street, and passing by place some six times a day; for the first week in November last, and a month or two previous thereto, the street opposite Marois's building was obstructed with building materials, for about one hundred feet in the line of the said street, and to about two-thirds of the way across; from the obstruction to the south side of the street the space was so limited that two-wheeled vehicles could with difficulty pass one another, and there was an inclination from the centre of the street to the parapet, which would render it more difficult for vehicles to pass; I should think that St. John's Street, without, is one of the first thoroughfares of the city, and is one of the principal outlets; I always considered the obstruction in question unreasonable and exceedingly dangerous, and myself brought it under the notice of the police, and of members of the City Council, although at the present moment I do not remember which of them; I think it was Mr. Munn and Mr. McGreevy, at that time, City Councillors; the obstruction in question consisted of brick, sand, timber, and large stone, for columns; I do not remember the day of the month of the Plaintiff's accident; it was, however, a Saturday in November last; I noticed during the week of the accident several large stones,