

building materials to allow two vehicles to meet and pass. I did not observe the waggon which was coming up until after the noise of the crash. There is also a lamp post at the corner forming the second block from John's Gate, which is near to Marois's building. I swear that there was no light on the evening in question upon the bricks or building materials; I am positive for I took particular notice, but I will not swear that there was not one upon the fence of Marois's house, that is, at the time of the accident.

Re-Examined.—I do not recollect having passed up or down John Street on the day of the accident, in a vehicle. I do not know what the distance between gas lamps is.

ALEXANDRE FARGUEAN, 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 cause; I am not related, allied, or of kin to, nor in the service or domestic of either of them, or interested in the result of this suit. I reside in St. John's Suburbs of this city, in St. John's Street, without, and on the opposite side to Marois's house, and about one hundred feet lower down, and have resided there for several years past. From about the middle of last summer to about the middle of November last, the street opposite to Marois's was much encumbered by building material for his house then in course of construction. The building material which caused the obstruction consisted principally of a large pile of bricks, large stones for the pillars of the house and for vaulting, sand, lime, and large beams. I saw many of the workmen cutting the very large stones in the street. The street was so much encumbered by the said building materials during the time aforesaid, that though two vehicles might pass one another, still, to do so was not easy, and I frequently saw vehicles going one way having to stop at the said encumbrance to permit those coming in an opposite direction to pass, in that portion of the said street between the said encumbrance and the parapet on the south side. On a Saturday evening, in the early part of November last, Mr. Barrow, the Plaintiff, met with an accident by which he was much injured. I did not see the accident, but saw the horse galloping down past my door; I could not say who was then in the vehicle. I was inside the shop and hearing a noise went to the door and seeing the horse galloping down, I followed him as fast as I could. Inside the Gate I saw the Plaintiff's broken carriage. I went into Mr. Bickell's and saw persons washing fresh wounds which the Plaintiff had just received in the head. At that time the Plaintiff's wounds appeared to be very dangerous, and he appeared to be much injured. The vehicle appeared to be much injured. I saw different parts of it lying about. I then went down to the next block and saw the Plaintiff's horse lying there and two of his legs broken. The horse could not rise and the legs were so much broken that I saw the bones sticking through the skin, and the part below the fracture dangled upon any one lifting the leg. I considered that the horse was rendered useless, and those around me said he would have to be shot. I did not remain long there as I had to attend to my auction sales that night, and immediately returned home. I do not recollect having paid any attention as to whether there was any light on the encumbrance. The street opposite Marois's house was not always so much encumbered, as it was on the day of Mr. Barrow's accident, by the building materials. On the Monday following a good deal of the stone and rubbish which extended beyond the pile of bricks into the street, was moved back towards Marois's house at least a yard, it might be nearer two. I should say that upon the Saturday of the accident, stone and other building materials extended into the street from Marois's building to beyond the pile of bricks to the distance of at least six feet, the height I cannot exactly say. I did not pay much attention to that, but I noticed that the upper end of the street opposite Marois on that day and for several days previous there were several stones further out in the street than I had previously seen them, and extending beyond the top of the brick pile by several feet. From the nature of my business I was frequently out and in of my shop, and had frequent occasions of seeing the state of the street and the manner in which it was encumbered, in fact I could not go in or out without seeing it. Before the accident occurred I heard people complaining of the encumbrance of the street saying that they never saw a street so much encumbered in their lives, that was the ordinary conversation. There was no fence outside the building material.

Cross-Examined.—The accident in question happened about six o'clock in the evening, it might have been a quarter to six or a quarter after six, but I am certain the gas was lit at the time. When the horse passed my place he was galloping. I saw him between myself and the gas on the opposite side. I paid no particular attention to the state in which the street opposite Marois's building was, at the time of the accident, but it appeared to me to be in the same state as it had been in a few days previous, I observed no particular difference. I did not say how many days before the large stones were placed there, but they were continually changing their places or positions. I cannot say what distance there was between the large stones and the parapet on the opposite side of the street, but vehicles might have passed with easy safety. There is a lamp post opposite Marois, but I think, a little above it, and another one at Bickell's corner.

GEORGE BREVERE, of the City of Quebec, in the District of Quebec, Shoemaker, aged above twenty-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 result of this suit. I live in St. John's Street, without, some four houses below Marois's new buildings and so resided during last summer. The street opposite the said house was much encumbered and obstructed during the course of the erection of the building, by building material, and for the first week of November, and two months previous thereto, the street opposite the said building of Marois was encumbered, to the best of my observation and opinion, three quarters of the road by the said building materials, and during that time almost every one who came into the store complained of the manner and extent to which the street was taken up by the building materials, and I frequently saw, that in two or three times, vehicles going in one direction having to stop for those coming in another in order to pass the gap between the obstruction and the other side of the street, this was in the course of last summer. I have often passed the obstruction in question at night, when it was dark I have often seen it without a light though often there was light. During part of the season the light was suspended from the walls but during the latter part, before and after the accident when I did see the light it was on the bricks though it, that is the brick and the said obstruction, was frequently without any light at all after dark. Marois's house is in St. John's Suburbs of this city.

GEORGE W. ELLISON, of the City of Quebec, in the District of Quebec, Daguerreotypist, aged above twenty-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 result of this suit. On the sixth of November last I saw John W. Barrow, the Plaintiff in the cause; I saw him between seven and eight o'clock on that day at Mr. William Bickell's, in St. John's Street, the corner just inside St. John's Gate. He had a very severe cut on the head. Dr. Frémont was present at the time dressing the wound. The accident which caused the cut occurred in my presence, I was going out of St. John's Gate in this city about six o'clock on the said sixth of November, as I was first entering the Gate I heard a horse coming at a furious pace