

COUR SUPÉRIEURE. Montréal, 29 November 1873.

Coram : MACKAY, J.

LARIN vs. GIBSON.

DOMMAGES.—VENTE DE CHEVAUX.

The sum of \$150 is sued for; \$100 as balance due upon a sale and delivery of horses to defendant, alleged made during or about the month of September last (1872), the horses, having been sold for \$500, and \$51 for money paid, goods and effects furnished; damages due to carriage belonging to plaintiff by defendant's said horses, whilst driving the same (it is not said clearly who was driving) for defendant, through the fault and negligence of defendant's servants; monies spent in repairing the same; the value of a whip lost by the servant of defendant whilst in her employ. Plea: that about 3rd October, 1872, defendant bought a pair of horses from plaintiff; the price was to be \$450, and it was paid; that one horse had been injured before the payment, and has never yet fully recovered; that the alleged damages to plaintiff's carriage was not done by defendant's horses; but by the horses before finally accepted by defendant. The rest of the plea is denial of the various indebtednesses alleged by plaintiff. The witness Renaud would make the sale completed in September, at \$500 for the horses; he says that next day the son of defendant took them; asked to have them harnessed, so that a young man named Wake, in the employ of Egan, might try them. This was done he says, and Plaintiff went with them. During that drive an accident happened, one horse shied, than both sprang and ran off; they took fright at a cart load of peat; horses and carriage were damaged, and harness broken. The horses were taken back to plaintiff's stables and kept there, but it is not proved at whose request; Renaud is contradicted totally by the witness Egan, and by events and facts, conduct and writing of the plaintiff himself. Egan states all about the sale, and the accident upon the trial drive, which took place about the 22nd September. The horses had been examined by McEachern, at Egan's request, in view of a purchase by Mrs. Egan, about the 16th September, and found sound, but they were to be further proved quiet and