the accident occurred, but upon coming down to the shop I heard of it. I opened the door then to see whether there were any signs of the accident but saw nothing. I did not take particular notice whether there was no lighted the pile of bricks that night though there generally was one. My shop was full of people at the time and I wished to serve them and did not look any further about the matter. The night was a dark one, cold and rainy. Mr Barrow's horse was a good horse, and was a valuable horse, though I did not at the time prize that, I would put on him I should think he was worth at the time five guineas. I have every horse, being since I came where I am now living in John Street afterwards, and I have a large sign on St. John Street and have had it during all the time.

Cross-Examined.—I cannot say whether the gas was lighted on the evening in question although it might have been. I was not at home at the time, to serve my customers, however, the night was a dark, cold, rainy one. There is a lamp opposite the corner of my house in the direction of where Gates first found Mr. Bichell's building. There is another lamp post opposite Mr. Bichell's, facing the middle of the building. In the month of November the gas lamps are generally lighted about five and six o'clock. I was in the early part of the evening, Mr Barrow's horse always appeared very quiet in a gentleman's carriage. The fault that I had with him was that I always thought him to be too quiet and fresh.

Re-Examined.—Mr. Marcoux's house might have, as I remember, about three feet. The pile of bricks I have spoken of was about twelve or fifteen feet from the house, and the opposite side of the street, in the direction of Mr. Bichell's shop, was about twenty feet from the house.

WILLIAM SHOOMAKER, of the City of Quebec, in the District of Quebec, Manager, Quebec, Witness, being above twenty-one years, being duly sworn upon the Holy Evangelists, doth depose and say as follows, the parties to this cause; I am neither related, allied or of kin to, nor in the service or domestic of either of them, or interested in the event of the suit. On Saturday the sixth of November last, I saw the Plaintiff in this cause, in Mr. Bichell's grocery shop near St. John's Gate, within the walls of this city. He was then standing very small from the hand-frame being thrown out of a waggon a few minutes before. I was going to St. John's Street, without, and when I came to a pile of bricks on the right hand side going out, opposite a new house in course of construction, for one Marcoux, I noticed, as I noticed before, I came to these bricks, a waggon coming down St. John's Street. I then heard something break as if it had come in contact with another waggon; I was behind the pile of bricks and the night being dark I could not see what was going on. Immediately after the noise of the break down, or crash, I saw a man in a waggon which was driven up John Street, and a little above the pile of bricks; my impression or opinion at the time was that he must have come in contact with another waggon, and was endeavoring to escape. I cannot state positively but I approached that the waggon I saw coming down, that is towards the city, was the waggon that was broken as above mentioned. I made no enquiries as to whose waggon it was, and did not know whose it was. Immediately after the crash I heard a voice crying out "Stop, stop!" and turning round I saw the horse and waggon, which I had seen coming down as aforesaid. The horse appeared restless and inclined to bolt; I saw him break into a gallop and fearing some accident, I turned round and drove on hard as I could towards St. John's Gate; when I arrived at St. John's Gate there was a great crowd. I saw a lady, whom I took to be much injured, being led by two men and taken into Mr. Bichell's grocery store. The lady was stated to me to be a Miss Barrow, the Plaintiff's sister. I saw the Plaintiff there at the same time. This must have been between six and seven o'clock in the evening. After leaving the shop I saw the waggon at the Marcoux. I think both shafts of the waggon were broken. The horse had one of its legs broken, or fore-shattered leg. At the time I heard the horse and waggon were Mr. Barrow's. I knew Mr. Barrow by sight, and had previous to the accident had communication with him on business, corporate or private. When the waggon was coming down John's Street, before it came to the pile of bricks, it was coming quietly down. I have no doubt, but the waggon that I saw coming down quietly was the waggon I afterwards saw broken at John's Gate, and which I was informed belonged to the Plaintiff. Immediately after the crash I followed it as closely as I could keep up at a run, but it was out of my sight before I came up to it, but I did not observe any other waggon going down, and I had just come through John's Gate and there was then no broken waggon there. When the waggon was coming down there were two persons in it, one a gentleman and the other was muffled up. I could not say whether the person muffled up was a gentleman or lady. I did not recognise who the driver was, because the night was darkish and I could not see. I do not know the width of the street opposite Marcoux's house. There was no light upon the outer side of the encumbrance in St. John's Street where the accident happened at the time of the accident. The encumbrance consisted of a large pile of bricks and a large quantity of stone required for Marcoux's building. I passed the place about twice or three times a day and I should say the distance between the pile of bricks and stones and the parapet on the south side of the street might be about fourteen or fifteen feet, but I did not measure it. I should say that between one-half and two-thirds of the street was encumbered by the said building materials. There was no fence outside of this building material, but it is to say, it was not fenced around. After having seen the accident, in returning from Mr. Bichell's, I paid particular attention to see whether there was a light on or about the said building materials, there was none. This might have been about half an hour after the accident that I looked for the light and found none as I have said above. In the day time I have, often observed, in consequence of the encumbrance of Marcoux's building material, the street was obstructed and horses and vehicles were obliged to stop to allow those coming in an opposite direction to pass, as two vehicles coming in contrary directions could not easily pass at the same time in consequence of the street being so encumbered by the said building materials. John Street, without, is about the widest street in the Upper Town. When I say that two vehicles could not pass together, coming in contrary directions, I mean to say that, generally speaking the obstruction was caused by a cart unloading building material. I was in the habit of driving out frequently. I never paid any particular attention to the width of the street. I cannot say that I knew Stokes the grocer's house. Marcoux's house is in the second block outside John's Gate, and the second or third house therein and is within the limits of the City of Quebec. The persons whom I saw about the waggon and in Bichell's shop at the time of the accident were Joseph Sourgeon, Edward Burns, and my brother-in-law, Edward Smith; that is all I remember.

Cross-Examined.—I think that the gas lamps were lit at the time of the accident, but I am not positive. There is a lamp post on the opposite side to Marcoux's building, a little higher up. The horse which was harnessed to the waggon and which I saw coming down near Marcoux's building was coming down at a very gentle trot and appeared to me to keep to the south side of the street. I lost sight of the waggon coming down a little before I entered behind the pile of bricks, and I suppose the waggon was at a distance from the pile of bricks of about fifteen yards at the time. At the time I might have seen the waggon without the gas being lit. When passing in a calèche opposite Marcoux's new building I repeatedly met and passed other vehicles either coming up or down the street, in one word, there was enough space between the parapet of the south side of the street and the