enveloped Mr. Johnson's sleigh and blinded Mr. Dore, who let his horse run off. It is impossible to account for the accident otherwise, and this proposition is supported very materially by one of plaintiff's witnesses, Mr. Larocque, who tells us that the avalanche was "*de la neige folle et ce produit une nuée terrible.*" Other witnesses speak of it as a cloud. This evidence is treated as if it were mere speculation, and it is argued that such evidence must yield to positive testimony, as one of plaintiff's witnesses adroitly said: "I don't know whether it could happen or not, it did happen." This is, of course, unless he were mistaken either in his impression or as to what he saw. As a general rule proof of a physical impossibility is the most satisfactory of all evidence.

Judgment confirmed, Monk & Ramsay, JJ., dissenting.

Kerr, Carter & McGibbon for appellant.
Geoffrion, Rinfret & Dorion for respondent.

COURT OF QUEEN'S BENCH.

MONTREAL, March 24, 1882.

DORION, C. J., MONK, TESSIER, CROSS and BABY, JJ.

Hon. L. O. LORANGER, Atty.-Gen. (petr. below), Appellant, and THE COLONIAL BUILDING & INVESTMENT ASSOCIATION (defts. below), Respondents.

Powers of Dominion Parliament—Building and Investment Association—37 *Vict.* (*Can.*) *Cap.* 103.

The Dominion Parliament has no power to incorporate an association for the purpose of buying, leasing and selling landed property and buildings, the operations of a society for such purpose affecting exclusively property and civil rights within the province where they are carried on; and therefore the Act 37 *Vict.* (*Can.*) *cap.* 103, *incorporating the Colonial Building and Investment Association for such objects, was ultra vires, though power was given by said Act to carry on operations throughout the Dominion.*

This was an appeal from a judgment rendered by the Superior Court at Montreal (Caron, J.), on the 9th July, 1881, dismissing the petition of the appellant. (See 4 Legal News, p. 374, for judgment by Torrance, J., on the same point.)

The question was whether the Federal Parliament exceeded its powers in granting a charter to the company respondent, whose operations and business, it was alleged, were limited to the Province of Quebec, and were of a purely local or private nature.

Girouard, Q. C., for the appellant, submitted that the Colonial Building and Investment Association, the respondents, acted as a corporation within the Province of Quebec exclusively, and that their business was building, buying, leasing and selling landed property and buildings, and lending money on the security of mortgage on real estate in the Province; that the operations of the Company had been limited to the Province of Quebec, and were of a local or private nature, affecting property and civil rights in the Province, and therefore the Association could not be legally incorporated except by the Legislature of the Province of Quebec. The incorporation, however, had been effected not by provincial Act, but by an Act of the Parliament of Canada, in 1874 (37 Vict. c. 103), which, it was submitted, was *ultra vires*, and null and void. The present petition had been presented at the solicitation of John Fletcher, of Rigaud, a holder of 47 shares in the capital stock of the Association, of $1,000 each, transferred to him by William Rodden, one of the promoters of the Association. The prayer of the appellant was that the Association be adjudged and declared to have been illegally incorporated, and that it be declared dissolved. The only witness examined was the Secretary of the Association, W. L Maltby, whose evidence showed that the operations of the Association had been confined to Montreal and its vicinity, and that, owing to the depression of business, no steps had been taken for the extension of the business in other parts of the Dominion. Mr. Girouard cited *Belisle & L'Union St. Jacques* (20 L. C. J. 29); *McClanaghan & St. Ann's Mutual Building Society*, (3 Legal News, 61; 24 L. C. J. 162); *Reg.* v. *Mohr*, (4 L. N. 328; 5 L. N. 43), and the recent decision of the Privy Council in *The Queen Insurance Company* v. *Parsons* (5 L. N. 25). He cited the following passage from the judgment in the last mentioned case:—"But, in the first place, it is not necessary to rest the authority of the Dominion Parliament to incorporate companies on this specific and enumerated power. The authority would belong to it by its general power over all matters not coming within the classes of subjects