

COUR SUPÉRIEURE, Montréal 31 Mars 1874.

Coram JOHNSON, J.KINGAN *vs.* JOSEPH.LOCATEUR ET LOCATAIRE :—DOMMAGES CAUSÉS PAR LE MAUVAIS ÉTAT DES
LIEUX.

The plaintiff is a warehouseman in this city, and as lessee of the defendant, occupies some building in which the goods entrusted to him suffered damage by the leakage of the roof, and he brings this action to recover \$238.11, and also to have the necessary repairs done at the defendant's cost. The latter admits the lease to have been made to the plaintiff and Mr. Ste. Marie, his co-partner, under the firm of Ovide Ste. Marie & Co.; but he says he is not answerable to the plaintiff alone. The facts affecting this pretention are that Kingan and Ste. Marie, who had been in co-partnership, dissolved on the 18th of march, 1872, and Kingan, under the same style of Ovide Ste. Marie & Co., continued the business and assumed the liabilities. The defendant was well aware of this, and subsequently dealt with the plaintiff alone as constituting the firm of Ovide Ste. Marie & Co., and as such sued him for a resiliation of the lease. The defendant next sets up that the plaintiff was himself the author of any damage he may have sustained, by causing the removal of certain partitions on the ground floor, which acted as supports to the floors above, and caused them to sag or settle, and as a consequence, the roof sank and gaped and got leaky. That he, the defendant, made all necessary repairs, and cannot be made liable without having been notified at the time, and a survey had of the damaged goods. That as regards the water pipes, it was the plaintiff's duty to keep them in repair; and then by a third plea he denies everything. It would be impossible in my judgment to have clearer proof of anything than was made before me of the damage suffered, and of the cause of that damage. Some was occasioned on the upper floors by the water coming directly on the wool stored there, and some