

in nearly every week day through St. John's road; this road is one of the principal thoroughfares of the city, and vehicles are constantly passing; I considered any obstruction in this road dangerous; I saw an obstruction last fall, opposite a house then being constructed for Mr. Marois, especially so on the evening on which the Plaintiff met with his accident; the road was then obstructed fully three-fourths of the road-way, by building materials for the said house; I went out that evening after dusk in my wagon; there was no light whatever upon the building; materials upon the town side, whether there was one on the other I cannot say, but I am positive in saying there was none upon the town side. I am thus positive because I was driving up to the place after dark between six and seven, but of the hour I am not so certain of; when I saw a wagon coming down in the space between the said incumbrance and the parapet on the South side I had to draw my horse on the right hand side of the road below, that is on the side of the obstruction, and even in doing so the other wagon struck against mine. My horse was then stopped and I saw no light. The gap was so narrow that I had frequently, in driving in and out from town during the progress of the building, to stop my horse at the entrance of the gap, to permit the vehicle that had entered it first to pass; it being sometimes, on several occasions, too narrow to permit two vehicles to pass at the same time. I always considered it a public nuisance; I considered that about the latter end of October or early part of November last the incumbrance in question was greater than at any other time. The night in question was dark, nothing unusual at that season of the year; I know the police were stationed in this street, at John's Gate; but whether the Defendants were aware of the obstruction or not I cannot say. Speaking together with my friends and others, continual complaints were made at this time respecting the said incumbrance, especially those that make use of the road by driving.

Cross-Examined.—I am certain that it was after five that I went home on the evening on which the Plaintiff met with his accident. I generally leave town at five, but that evening I was detained till after five waiting for my brother-in-law, it was dark however. **Question.**—Did you on that occasion measure the width of the gap between the obstruction and the parapet on the opposite side of the street? **Answer.**—No, except as I usually did, with my eye. **Question.**—How do you know that the street was more obstructed on that evening than it usually was? **Answer.**—By having another wagon running foul of me, and by seeing a larger quantity of stone lying by at the lower end, that was my principal reason for stopping my horse. **Question.**—Is it not true that the street was not more obstructed on that occasion than it had been for some days previous? **Answer.**—It appeared to me to be more so, for the reason given in my previous answer. The stones, to the best of my belief, were lying on the town side of the pile of bricks, and my impression was and is now that that place was the most unobstructed, I could not see further up. I am not certain whether the gap was lit at the time or not, but I think it was, but I am positive there was no light upon the pile of bricks.

MARSHALL MORRAY, of the city of Quebec, Engineer, 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 event of this suit; I live in St. John's Suburbs, and have lived there since May last, and during that time have been in the habit of passing up and down St. John's street, without about four times a day. St. John street is one of the principal streets in the city, and one of the principal outlets from the city, it being the thoroughfare for the St. John's, part of St. Louis, and part of St. Roch's Suburbs. Any incumbrance in that street would be dangerous and would be a great annoyance to passers by. I know Marois' new house in St. John's Suburbs; it was commenced during the summer of last year. It is the fifth house outside St. John's Gate, on the right hand going out. There was an incumbrance in the street opposite Marois' for several months last summer and fall up to the earlier part of November; the incumbrance consisted of building materials for the said house, and it appeared to me to extend fully to the half of the street and sometimes even beyond it. What extended beyond the half of the street was generally beams, and that was all I took any particular notice of. In passing I frequently noticed, in this place, that vehicles coming in one direction would have to wait for those coming the opposite way before entering into the gap between the incumbrance and the parapet on the south side of the said street. The greatest annoyance that I perceived was that foot passengers had to leave the parapet and go around the incumbrance. I did not often drive out this way. I often spoke to others at the time respecting the incumbrance, and wondering with them that it should be allowed. I am not aware whether it was brought under the notice of the Corporation. I do not think they could have been ignorant of it. I passed down John Street about ten minutes after Mr. Barrow had met with his accident, and seeing a crowd as I was passing John's Gate, in stopping towards the crowd, I saw a horse lying dead with two of his legs broken, I was there told it belonged to the Plaintiff. This was on a Saturday in the early part of November last.

Cross-Examined.—I live in St. Joachim street, St. John's Suburbs, and very frequently pass in front of Marois' new building. My shop being in town, I had to pass nearly every day in front of Marois' building.

ADOLPH KRAUTH, of the City of Quebec, in the District of Quebec, Watchmaker, 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 nor domestic of either of them or interested in the event of this suit. I live in St. John Street, in St. John's Suburbs, in a house this side of Marois' new house which was commenced some time last summer. The street opposite the said new house, and even opposite my own was, during last fall, till the first week or so in November, partially blocked up by building materials for the said house. Sometimes it was more or less blocked up; but I often saw that it was impossible for two horses and vehicles to pass abreast, and sometimes those coming one way had to wait for those coming in the contrary direction, that is when they were carting stones. I am certain that one half of the street at least was blocked up, at times there was more. This was at the latter time, about the end of October, when they were cutting or preparing the large stones for the top of the house. I heard my neighbours complaining of the state of the street at the time. I only heard of Mr. Barrow's accident some three days after it occurred. There was no fence to enclose the building materials.

Cross-Examined.—I believe that Marois' new building was commenced some time in the month of June.

CHARLES JAMES FREMONT, of the City of Quebec, in the District of Quebec, Surgeon, aged about fifty 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 nor domestic of either of them, or interested in the event of this suit. On the sixth of November last I was called upon to visit the Plaintiff in this cause, about six or half past six in the evening; I saw him in at Bickell's near St. John's Gate, he had a great gash on his forehead. As Dr. Sewell, his regular medical attendant, came in a few minutes, I merely dressed the wound on the forehead and left the case in Dr. Sewell's hands. Beyond the wound on the forehead, I do not remember whether the