

paid plaintiff the price stipulated, but he added that one C. was to do so. In the deed of transfer the plaintiff acknowledged receipt of the consideration.

*Held*, 1. That the accessory statement, in the defendant's answer, having relation to a fact wholly distinct from the principal fact mentioned in the first part of the answer, the answer was divisible.

2. (Johnson, C.J., *diss.*) The defendant having admitted in his evidence that he had not paid the plaintiff, it was for the defendant to show that some one else had, and he was not relieved from making this proof by the plaintiff's declaration, contained in the deed of transfer, that he had received payment.—*St. Amour v. St. Amour*, Montreal, in review, Johnson, C.J., Tait and Davidson, J.J., December 30, 1892.

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*Alimentary allowance—Art. 169, C. C.*

*Held*:—In a petition claiming an alimentary allowance, from children and grandchildren, where it is neither alleged in the petition nor established by the affidavits produced in support of it, that the defendants are in a position to pay the alimentary allowance claimed or any part thereof, such petition will be rejected *sauf recours*.—*Levesque v. Plourde et al.*, Montreal, S. C., Tait, J., March 21, 1892.

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*Adopted child—Removal of parents—Claim for maintenance.*

*Held*:—Where a person undertakes the support and maintenance of a child of unknown parents, with the object of bringing it up as his own child, and this purpose is frustrated by the parents, who subsequently appear and claim the child, he is entitled to recover from them a reasonable allowance for the maintenance of the child during the time it was under his care.—*Gingue v. Giroux*, Montreal, S. C., Lynch, J., March 3, 1892.

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*Requête civile—Désistement—Costs.*

*Held*:—A party who, through a misunderstanding between attorneys, has obtained a judgment in the absence of his opponent, but who has voluntarily desisted therefrom, is not obliged to desist with costs; and if the opposite party refuses to accept a *désistement* without costs, and proceeds by *requête civile*, seeking