perly be paid out of the capital funds of the City, and not out of the annual revenue.—*Ex parte Foster*, and *The City of Montreal*, Würtele, J., May 17, 1889.

Sale—Goods consigned as samples to test market—What constitutes acceptance.

Held:—That where goods are forwarded without order from the consignee, but along with goods ordered by him—the object of the consignor being to test the market, the evidence necessary to establish acceptance by the consignee must be much clearer and more positive than if the goods had been consigned to order in the usual way. So, where two cases of accordeons were consigned without order, but amongst other goods ordered; and the consignee paid the freight bill upon the whole consignment, but complained of the price and quality of the accordeons, and declined to accept, unless certain deductions were made for broken articles (which offer was not accepted by the consignor), it was held that the payment of freight and the opening of the cases were not sufficient to constitute acceptance of goods not specially ordered. — *Trester* v. *Trester*, in Review, Taschereau, Würtele, Tait, JJ., Dec. 22, 1888.

Procedure—Review—Deposit—Art. 497, C. C. P.—Defendants uniting in one inscription—Petitory Action.

Held:—1. Several defendants may inscribe in Review by one inscription, though they pleaded separately in the Court of first instance.

2. In such case they are only obliged to make a single deposit in Review.

3. If the defendants have pleaded separately, and the plaintiff inscribes in Review, he is obliged to make a separate deposit for each contestation, unless the defendants have united in a single appearance before the Court of Review, in which case only one deposit is necessary.

4. In a petitory action a deposit of forty dollars is required, whatever may be the amount sought to be recovered.—*B. A. Land Co.* v. *Yates*; *Gaudry* v. *Gaudry*; *Bulger* v. *Bulger*, in Review, Jetté, Würtele, Davidson, JJ., April 23, 1889.

Demande en garantie—Contestation—Réponse en droit.

Jugé:—Que lorsque le défendeur en garantie refuse de prendre le fait et cause du demandeur en garantie, il ne peut lui opposer que des moyens qui auraient pour effet de le décharger de la garantie, et qu'une défense contenant des moyens qui tendraient à faire renvoyer l'action principale sera rejetée, quant à ces moyens, sur réponse en droit.—*Beaudreau* v. *Jarret*, Würtele, J., 16 sept., 1889.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, August 1, 1889.

Present:—THE EARL OF SELBORNE, LORD WATSON, LORD BRAMWELL, LORD HOBHOUSE, SIR RICHARD COUCH.

NORTH SHORE RAILWAY CO. (defendants), appellants, and PION et al. (plaintiffs), respondents.

Navigable river—Riparian owner—Right of access—Obstruction by railway company—Damages—Remedy.

HELD:—*Affirming the decision of the Supreme Court of Canada* (14 *Can. S.C.R.* 677), *which reversed the decision of the Queen's Bench, P.Q.* (9 *Leg. News*, 218), *That a riparian owner on a river, whether navigable or not navigable, is entitled to recover damages from a railway company for obstruction of the access to his property from the river.*

2. *The railway company in the present case not having complied with the provisions of the Quebec Consolidated Railway Act*, 1880, 43-44 *Vict.* (*Q.*), *sec.* 7, *with reference to compensation, the person whose access was obstructed was entitled to bring an action at law for the injury and diminution in value occasioned to his property.*

The appeal was from a judgment of the Supreme Court of Canada (14 Can. S.C.R. 677) reversing a judgment of the Court of Queen's Bench, P.Q. (9 Leg. News, 218; 12 Q.L.R. 205). The judgment of the Court of Queen's Bench reversed the decision of Mr. Justice Casault, in the Superior Court. Mr.