

Jurisp.—In an action *en bornage*, if the defendant pleads (as he may) that he holds the land which is in his possession (*de fait*) in right of another, he must set forth in his exception the name and residence of the person for whom he holds. — *Fortier vs Reinhardt*, C. B. R., 1818, 3 Rev. de Lég., 70.

2. Twenty years existence of a fence between two properties cannot defeat a demand *en bornage*. — *Ducyau & Watson*, C. B. R., La Fontaine, Aylwin, Duval et Caron, JJ., 1856, 1 L. C. J., 137. (Voir Nos. 5, 6, 7, *infra*.)

3. Dans une action en bornage le défendeur ne peut être condamné à contraindre ses voisins à borner avec lui, et un allégué et des conclusions à cet effet seront renvoyés sur défense au fonds en droit. — *Fradet vs Labrecque*, C. S., Chabot, J., 1858. 8 L. C. R., 218.

4. Si après l'institution d'une action en bornage, les parties font un compromis et un bornage à l'amiable, il ne sera plus fait de procédés dans la cause. — *McFaul vs McFaul*. C. S., 1864, 12 R. L., 597.

5. The existence of fence for upwards of forty years, as a dividing line between two properties, will not prescribe either the right to institute proceedings *en bornage* or the right of the lawful owner to such portion of the property as may have been improperly enclosed by such fence. — *Le Curé et Marguilliers de l'œuvre et fabrique de l'île Perrot vs Ricard*. C. S., Loranger, J., 1865, 9 L. C. J., 99. (Voir. en sens contraire, Nos 6 et 7, *infra*.)

6. In an action *en bornage* the existence of a fence between the two properties for upwards of 30 years before action brought, entitles the defendant to claim such fence as the legal boundary or division line between the properties. — *Eglaugh & The Society of the Montreal General Hospital*, C. B. R., Duva, Caron, Drummond et Badgley, JJ., 1868, 12 L. C. J., 39.

7. In an action *en bornage* where a division fence had existed for upwards of thirty years between the properties to be *bornées*, and one of the parties had enjoyed his possession "franchement, publiquement et sans inquiétude" for that period, he had a right to demand that the boundary be drawn according to this line. — *Pattenaude vs. Charron*, C. S., Torrance, J., 1870, 17 L. C. J., 85 ; 1 R. C., 121.

8. Dans le cas où il n'existe aucune ligne de démarcation entre les héritages des parties, c'est l'action en bornage qui doit être intentée et non l'action pétitoire par celui des deux voisins qui se plaint d'un empiètement. — *Graham vs. Kempley*, C. R., Monlelet, Mackay et Torrance, JJ., 1871, 16 L. C. J., 56.

9. In an action for encroachment on a lot of land by building beyond the line of division between it and the adjoining lot, where the encroachment is clearly proved, judgment may be rendered accordingly, without the necessity of a legal *bornage*. — *Lerêque et McCready*, C. B. R., Dorion, Monk, Ramsay, Sanborn et Tessier, JJ., 1876, 21 L. C. J., 70.

10. When a person brings an action *en bornage* without previous demand,