

ment of a sequestrator, under article 1823 of the Civil code, to receive the rents of the property."

C. R., 1879, *Heritable Securities and Mortgage Association, Limited*, vs *Racine*, 23 *L. C. J.*, 242; 24 *do*, 107.

COURT OF APPEAL.

Division wall. — Mitoyenneté. — Acquisition.
— Independent wall.

MONTREAL, 22nd March, 1911.

SIR L. A. JETTÉ, C. J., TRENHOLME, LAVERGNE, ARCHAMBEAULT,
Roy *ad hoc*, JJ.

THE AVENUE REALTY CO., LIMITED vs JAMES
MORGAN *et al.*

HELD.—That a proprietor who builds a wall along that of his neighbor, leaving a small space between the two, without resting it on this latter and without penetrating it does not use this wall as if it were a common wall and is not bound to pay the proportion of its value, even if its own wall was built with terra cotta (spongiuous stone) and was only covered with building paper, the proximity of the neighboring property preventing him to cover it with mental.

Civil Code, article 518.

The Plaintiffs sued to recover \$4,165.50 from defendant for the value of the gable wall of the plaintiffs' store and warehouse, which the defendant has used and taken posses-