ABOUT RURAL LAW

In this column will be answered for any paid-up subscriber, free of charge, questions of law. Make your questions brief and to the point. This column is in charge of a competent lawyer, who will, from time to time, publish herein notes on current legal matters of interest to farmers. Address your communications to "Legal Column," The Farming World, Toronto.

About a Ditch

A. and B. owned adjoining farms, both of which are crossed by a county road. A sluice crosses the road in the centre of A.'s farm. A. gets a job on the road and moves the sluice so as to empty on B.'s farm, and then requests B. to ditch to keep the water off A.'s farm. B. refused, and the water finds its way back to the original watercourse on A.'s farm. In 1883 A. bought B.'s farm and in 1887 dug a ditch where he wanted B. to dig it. In 1890 A. sold the B. property to C. Can A. compel C. to keep this ditch open, as it is a damage to C.'s farm and the original location of the watercourse is considerably lower than the existing ditch? Can C. compel A. to open the original watercourse.

A partnership lane has existed between the two farms for over twenty years. Both farms have changed in ownership since the construction of the lane. Can either party move his fence to the line and demand a private lane?—J. W. (Ont.).

By right of long user one tenement may acquire an easement over an adjoining tenement which otherwise would not arise. In this particular case A. at one period owned both farms, and during that time one farm could not be said to acquire any easement over the adjoining farm (save possibly way by necessity or something of the same nature), which would remain as an enforceable right after a sale had been made of the servient tenement, unless such right or easement were specially retained in the deed of the farm sold. If, when A. sold the B. farm to C. he did not retain the right to have the water run through the new ditch instead of in the old watercourse, he cannot derogate from his grant by claiming any such right after the grant, if (as in this case it is stated to be) it is a damage to C.'s property.

By uninterrupted user for a period of twenty years or over A. may, however, acquire that right in connection with his farm.

Possibly if C. brought on the township engineer under the provisions of "The Ditches and Watercourses Act" he might direct that the original watercourse be opened, or that a ditch to carry off the water be constructed, following the level of the old course. Without knowing more of the location and of the circumstances in connection with the matter, we cannot advise him what to do in that regard. Neither can we advise him intelligently in regard to the partnership lane. It has been so long used as a partnership lane that it is quite possible either party can insist on it so remaining. It is also possible that there may be a written agreement establishing it. We would have to have fuller data before we could advise you as to the rights of the respective parties. By mutual agreement they could, of course, do away with the lane.

Claim for Insurance

I had a farm rented adjoining my own place, on which farm was an empty house. I am insured in a farmers' mutual fire insurance company. I had some oats stored in this house, and the house and contents were burned. I did not know the exact quantity of oats, but think there were about thirty bushels. To be on the safe side I placed it at twenty-five bushels, for which quantity I asked the insurance company to pay. Two directors of the company inspected the premises, and allowed 33 cents per bushel for the oats, making $8.25, and $1.75 for sundries, and left a claim paper for the total amount, $10.00, which I had to have properly filled out and attested. It went before the Board of Directors, and they gave me only $7 when I called at the office of the company.

(a) Had the Board of Directors the right to deduct anything from the claim I put in?

(b) If a barn is insured for one thousand dollars and was totally destroyed by fire, can the directors deduct anything from that amount, or must they pay the whole sum?—F. W. (Wroxeter).

(a) We would presume that the two directors were there merely to inspect the premises for the purpose of reporting that a fire had actually occurred, and not for the purpose of appraising the amount of the oats lost, as they would have no way of doing this by an inspection. They merely fixed the price per bushel, and their board would have to be satisfied as to the quantity or number of bushels lost. They would consider the whole matter when your claim came before them, and it would have to be adjusted between yourself and the company in accordance with the terms of your policy. If you were dissatisfied with the amount they were allowing you, and thought it was not enough under the terms of your policy, you should not have accepted it.

(b) When a building is burned the insurance company in which it may be insured is liable only on the actual insurable value of the building. For example, a barn worth only five hundred dollars might be insured for two thousand dollars. If the barn were burned the company would not have to pay the two thousand dollars, but only the proper insurable value of same.

Legal Adoption

I was left with a family when only one year old and no legal adoption papers were made out. I now want to go into business for myself. What steps will I have to take to have my name made legal, and about what will it cost?—Subscriber, (N.B.).

The proper method for a person to pursue when desirous of changing his surname is to apply to Parliament for an Act granting him the relief sought. Your proper course would appear to be to apply to the Legislature of your Province. We cannot approximate the cost for you. You would no doubt, find it necessary to consult a solicitor in your own Province in order that the necessary petition or bill for presentation to Parliament may be drafted.