

ABOUT RURAL LAW

Building Line Fence

A and B own adjoining farms. A built a portion of his line fence of rails. B built part of his line fence of rails and the balance of barbed wire. Can A compel B to build the same kind of line fence as A built, as the barbed wire injures A's stock? Is there any law to prohibit B from building a barbed wire fence?—A. R. B. (Ontario).

A cannot compel B to build the same kind of fence as A built. B has fulfilled his duty when he has erected a lawful division fence. B may be passed by the councils of municipalities for settling the height, extent and description of lawful division fences and also for providing proper and sufficient protection against injury to persons or animals by fences constructed wholly or in part of barbed wire or any other material. A should see what by-laws (if any) have been passed by the council of the municipality in which this fence is situate in regard to barbed wire fences and if B's fence does not comply with such by-laws he can be legally forced to make it so comply. The clerk of the municipality will be able to inform A what by-laws (if any) have been passed by the council in regard to the above.

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Dividing Line Fence

A and B agree to divide the line fence between their two lots. There is four acres sold off that corner of B's lot next the road and adjoining A's lot. This is at the end of that part of the line fence which is to be built. B says that the division fence between the four acres owned by C and A's lot should not be counted in measuring and dividing the division fence between B's lot and A's lot. A thinks he should have the benefit of the division fence between his lot and C's, half of which was built by C. How should this be?—Bruce (Ontario).

The division fence between A and C should not be considered at all in fixing that part of the line fence between A and B, which each should build. The distance to be considered is that which divides the land actually owned by B from that owned by A adjoining it. As regards the division fence between the four acres owned by C and A's lot, A and C should each build one-half. This, however, should not be considered in settling the proportion of the line fence between A's land and B's land to be built by each of them.

4

Who Owns the Old Rails?

A built a line fence of cedar rails between his farm and B's farm. The fence was built over twenty years ago and A put up the whole of it, as B was unable to build his half. B sold his farm and A sold his farm. They had never made any settlement in regard to the division fence between them. The purchaser of B's farm built his half of the line fence of wire and took the rails of which the original fence was built. Who should have these rails?—Bruce (Ontario).

It would appear that the purchaser of B's farm is entitled to take the rails which he has replaced by the wire fence. At one time it was his half of the line fence. He could have compelled B to pay him for the half of the line fence he built for B, but it was simply a debt owing by B to A and it is so long ago that A, no doubt, lost all his rights in that behalf unless B gave him some acknowledgment which would keep such right alive. This is hardly probable. In any event the purchaser from B would

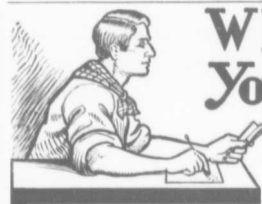
not be bound by it unless he was notified in some way that it existed, or unless he agreed to pay A for the rails. One-half of the line fence supposedly belongs to each of the adjoining farms and consequently in buying the farm from B the purchaser would naturally think he was getting the advantage of that part of the line fence which pertained to such farm, and which, we presume, is partly upon his land, and he would be entitled to it unless he had some notice that no part of the fence went with the sale of the farm. Moreover, A has sold his farm, and we cannot see that the purchaser of it could have any claim whatever to these particular rails.

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Who Owns the Ice?

Last winter the wind filled the lake for miles with snow and broken ice. As soon as the ice would hold a few men staked every available piece of clear ice here and other persons could not get any for miles from here. Can a man stake out a field of ice and hold it for weeks till he gets ready to cut it? Can he stake more than he needs for himself and compel others to buy what he cuts? Can he have a man find who cuts ice in a field he has staked out, but on which he has not begun work? Will scraping off the snow allow him to hold a field of ice for weeks?—"Live and Let Live," Leamington (Ontario).

Unless specially authorized or licensed by those having jurisdiction over the waters thereof, no one individual has greater rights than another, so far as concerns the cutting of ice in an open lake. The lake is free to all, and no one private individual has any proprietary (Continued on Page 482.)



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