

ON THE HOUSE

By DAVID G. BAREUTHER, AP Real Estate Editor

"Good fences make good neighbors," the poet says. But good fences in bad places make lawsuits, the lawyer says.

Some general rules about fences are fairly popularly known. Much known is the fact that none of these rules always holds true.

A reputable fence man recently told us "You can't put a fence right on the dividing line between your property and your neighbor's unless you both erect the fence together and share the costs of its construction and maintenance."

"Otherwise," he said, "build your fence on your side of the line, but right up to the line. Don't leave any strip of land to spare if you want to avoid serious trouble."

He was Frank Nichols, president of the Nichols Wire & Aluminum Co., of Davenport, Ia., one of the largest manufacturers of aluminum chain link fencing.

Well, it's easy to see how you might erect an aluminum chain link fence in that manner—putting the posts on your side of the line and stretching the fencing right along the line so there wouldn't be any land to spare. But we got to thinking about the split rail fences, the Lincoln style erected throughout Indiana and Kentucky, and about the fieldstone walls you see all through Connecticut, and the natural hedges that grow almost anywhere in the country.

Where is your property line among the X supports of rail fence, or among the green sprouts of a hedge?

So we asked Prof. Howard Williams, property law instructor at Columbia University Law School.

"Laws regarding real estate," he said, "have many ramifications in many different localities. If I were buying a house, or had a boundary problem in regard to a fence, I myself would seek the guidance of the best real estate lawyer I could obtain."

He mentioned some of the hazards involved.

If you guess at your boundary and happen to build your fence on your neighbor's side of the line, it's his fence. It's on his land and he has a right to tear it down.

But can he tear it down without being liable for damages? Apparently that depends on when he tears it down.

If you build your fence too far over on your side of the line, so that a strip of a few inches or a few feet of your land extends along your neighbor's side of the fence,

you run the risk of losing that strip of land.

But apparently that depends on what the law is used for.

There is a law of "adverse possession." This means that whoever uses any land without objection over a period of years may

claim ownership of that land. So if you put your fence inside your property line and your neighbor uses the spare land for his polo patch for a number of years, it may become his land.

If your fence leaves a path for public passage and this is undisturbed for a period of years, the

path may become a public path. This is why a fence closer to a street in New York—Rockefeller Plaza—to all traffic one day a year. The plaza is private property, leased from Columbia University, and Rockefeller Center by closing this street prevents it from becoming public property.

The number of years that it takes anyone to claim adverse possession depends on laws that vary among the states. The time varies from 15 to 40 years. To offset adverse possession, you must main-

tain your claim to spare land—close it to pasture once a year, or plant grass, vines, etc.

However, to establish your planting on a neighbor's side of a fence, you may have to get his permission to walk on his land. Otherwise your passage there may create an easement over his land and eventually you might claim the perpetual right to that passage.

Prof. Williams suggests that the safest procedure in regard to any variation of boundaries is to have a written agreement. And like all written agreements, it is best to have this prepared by a lawyer.

Hedges are notorious trouble makers in boundary disputes. Ordinarily what is on your property belongs to you. If the branches of a neighbor's apple tree hang over your yard, the apples on those branches are yours. So are the branches. You can cut them off if you don't like them. But still there can be extenuating circumstances.

For example, one home owner planted a hedge in 1925. He told his gardener to plant it on the property line. Apparently the neighbor didn't mind as the hedge grew and its roots and branches encroached over the boundary.

Almost 25 years later the neighbor sold his house. The new owner had a survey made and found the hedge to be a foot inside the property line. He figured it was his hedge, being on his land, and he cut it down.

The man who planted the hedge brought suit. He argued that although the hedge turned out to be on his neighbor's land, that strip of land belonged to him since he had used it adversely for more than 15 years.

The judge did not agree. He held that the former neighbor had discussed the maintenance of the

hedge with its planters granting permission, and therefore possession of the one-foot strip was not adverse under the law. But the court called this an easement over the neighbor's property for the purpose of maintaining the hedge. And the judge awarded \$400 damages for the destruction of the hedge, determined to be the value of the shrubbery.

The real trouble in overstepping boundaries arises when you or your heirs sell the property no matter how good neighbors are today, or how good your fence may be.

at Walgreen's



Gifts FOR EVERYONE

Eastside

By MRS. MERLE O'NEIL

Those from here who attended the graveside services for Mrs. Caroline Smith at Cedarville on Monday were Mr. and Mrs. Neal Elliott, Mr. and Mrs. Lee O'Neil and Alf Smith.

Clayton Bradley trucked a load of cattle to Corvallis Wednesday of last week. Due to the severity of the recent storm he was on the road longer than he anticipated, arriving home Sunday.

Harry Lightle is helping his brother Walter for a few weeks, and staying on at the ranch. The two men have been building a pump house near the old Cogswell creek school house, which when finished, will give Walt a good water supply for his cattle.

Holiday guests of the Bill Kelsoes last week were Mr. and Mrs. Homer Baldwin and Freddie of the Thomas Creek district, Inez Olson of Prineville, and Mrs. Mabel Baldwin of Washington.

Mr. and Mrs. Albert Turner and daughter Pat spent one evening last week visiting at the Lee O'Neil home.

Mr. and Mrs. Fred Longellow had an exciting time at their ranch home on Saturday. It seems (that being a day of very severe wind) that their flu blew apart letting a gale of wind come down right into the oil stove. It in turn blew out into the room a large amount of oil and fire too.

It is thought that had it not happened in the day time and when the men happened to be at home to put it out, that their house could very likely have gone up in flames.

Elgin Cornett attended the executive meeting of the State Stock Growers' Association at Prineville last week. Other men were Jess Roberts of the West Side, Donald Hotchkiss of the Idaho district, and Robert Weir Jr. of Crooked Creek district.

Pete Longellow trucked some cattle for Clarence Metzger and Neal Elliott one day last week.

Mr. and Mrs. James Lee have been visiting for several days at the home of her mother, Mrs. Walter Lightle and family.

James recently enlisted with Uncle Sam in the Air Force, and is waiting for his call at any time. His wife expects to stay with her mother Mrs. Ray Jones in Lakeview, while James is in the service.

Mr. and Mrs. Don Combs and children of Tulare spent several days last week visiting with their parents at the Charlie Combs home up Crane Creek.

They also called at the home of Mrs. Fred Longellow one day last week.

Mr. and Mrs. Clyde Cogburn of New Pine Creek, were dinner guests of Mr. and Mrs. John Baxter one day last week.

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