POPULAR TALKS ON LAW

THE ACTS OF YOUR NEIGHBOR.

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Quarrels not infrequently arise between neighbors. Difficulties may arise and disputes occur even though neither crosses the line that divides his possessions but confines himself strictly to his own property. One may do many things on his own property which will effect and annoy his neighbors. He may burn a cheap grade of soft coal which scatters soot and smoke over his neighbor's premises. He may dig a ditch close to the line, which causes his neighbor's land to cave in with the result that his barn topples over. Or he may build an unsightly shed, close to the street, which seriously affects the appearance of his neighbor's premises and shuts off the light and air from the house. Still again, he may blast some stumps, and pieces of rock may fly across the line of his property and kill his neighbor's cow. So it is, that one often has need to know of his rights against a neighbor who has done things on his own property to the injury of the man who owns the property next to his. These are questions of the rights of adjoining landowners.

We have heard that an Englishman's house is his castle and it is a general rule of law that one has the widest control over his own property and may do with it about as he pleases. But there are certain rights of his neighbor in particular, as well as of the public as a whole, which must be recognized and respected. In so far as possible one must use his own property in such a manner as not to do injury to the property of his neighbor adjoining. One must enjoy his own property but he must enjoy it in such a manner as not to injure the property of another. But this rule cannot be absolutely enforced for it is limited by the larger principle before stated that one is supreme in his own dominions. So if one makes use of his property which is legitimate and yet which causes injury to his neighbor that neighbor must suffer without legal redress. It all depends on whether the use is justified.

Where one wishes to blast with powerful explosives on his own premises in the improvement thereof he is bound to proceed with all possible care and caution and if he does not do so he is responsible for any injury which may result to the property adjoining. If he hires another to do the work under his direction he is still liable for any injury resulting from any lack of caution or proper execution of the work, so that it is not under his own control and direction, he is not liable for the contractor's faults, unless he knew that the contractor was to proceed in an improper manner. Some states under certain circumstances have held that one is absolutely liable for the results of blasting on his premises whether he has been in any way at fault or not. This view has been taken in cities where it is frequently insisted that the use of high explosives on a city lot is an unreasonable, unusual and unnatural use of property and for such use he must answer to his injured neighbor, whether there has been any lack of care or not. Blasting in unsettled communities, away from buildings with the usual and proper precautions is not unusually held to be an unreasonable use of property for which the person blasting is answerable, unless he proceeded with lack of caution. A landowner may secure an injunction to prevent a neighbor from blasting without the use of usual and prudent safeguards.

Whether one keeps his own premises in repair or not is generally an affair of his own, yet if he fails to keep his premises in proper repair and, because of this, neighbor—as through fall of his barn—he must answer for it. This rule applies to those owning adjoining tracts of land, but not of those who own separate parts of the same building. Thus one may own the first floor of a building and another the second. Neither is bound, in the absence of special agreement, to keep his portion in repair so that injury may not result to the other portion. If the owner of the upper portion fails to keep the roof in repair and rain injures the property of the owner of the lower half there is no liability.

Every landowner owes to his neighbor what is known in law as lateral support. That is, in digging a ditch, or making a excavation, close to the line, the person doing the digging must see to it that support is not withdrawn from his neighbor's land so that it will cave in or be weakened in any way. Neither landowner may withdraw the support from the other's land. This does not mean that one may not excavate, but it means that he must by means of a wall, or by props, support the other's land so that it will not tumble down. If he fails to do this he is responsible for all resulting injury.

The support that is owed to the land of the neighbor is support to the land in its natural condition, that is unincumbered by the weight of buildings. Thus if one excavates on his own property, and the land of his neighbor on which a house is situated caves in, he is responsible for the resulting injury if the excavation would have caused the land to cave in had no house rested upon it. But if the land would not have caved in but for the weight of the building upon it the person digging has not violated the duty of lateral support to the land in its natural condition and is not responsible.

The right to excavate does not relieve the landowner from the duty to take reasonable precautions and carry on the work with due care. He must exercise ordinary skill and care to avoid injury to adjoining land upon which there are buildings. In many states statutes have been enacted which govern the making of excavations, limit the depth, specify the precautions which must be taken, etc. Usually these statutes require that notice be given to the owner of the adjoining property of the intended excavation so that buildings may be protected. Whether there is a statute or not this is a wise precaution.

In the absence of some special restriction one may build almost any sort of a structure that he desires on his property and in any location so long as he kepps it within the boundaries of his property. He owes no duty to his neighbor not to shut off the light or air from a structure on the adjoining premises. This is the general rule. There may be some restriction applying to the particular premises, imposed by the transfer of some previous owner, which regulates the kind of a structure which may built, where it may be built and for what purpose it may be used. There may be a municipal ordinance regulating the sort of building that may be built within certain limits, and if so it must be complied with. Before yo plan to erect a structure or buy land with view to erecting a structure be sure that you know what the restrictions are. "Spite houses" are, generally speaking, within the law. One may build any sort of structure he will, in the absence of restrictions, and the law will not inquire into his motives.

The air must not be unreasonably polluted by smoke, gases or odors. Whether any use is unreasonable depends upon the particular circumstances of that general location. The polution must be so serious as to interfere with the ordinary enjoyment of life or the comfort of existence before the law will interfere. In the absence of smoke ordinances one may, generally, burn any kind of coal he wishes to.

If one keeps dangerous and unusual things upon his premises, as stores of high explosives, he is responsible for any injury which may result to a neighbor, as this is regarded as an unreasonable use. The use one makes of his premises must be that of an ordinarily careful, prudent and normal person.

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