

# This Is The Law

By ROBERT E. LEE  
For the N. C. Bar Association

## SPITE FENCES

May a property owner erect a so-called "spite fence" or other structure on his land solely for the purpose of annoying a neighbor?

This is a question concerning which the courts of the several states are divided.

A spite fence has been defined by the Supreme Court of North Carolina as "one which is erected and maintained solely for the purpose of annoying a

neighbor." Such fences are usually erected where the neighbors are unfriendly, and for no other than the malicious motive of cutting off the view, air and light of the other.

In a large number of states a man may build a fence upon his own land as high as he pleases, even though he obstructs the view, light and air of his neighbor and does so to solely annoy the adjoining neighbor. In the states so holding, the motives of the builder cannot be considered as having any bearing on his legal right.

On the other hand, some states, including North Carolina, have held that a fence erected maliciously and for no other purpose than to shut out the view, air and light of a neighbor is a private nuisance.

Being a private nuisance, the injured neighbor may in North Carolina sue for damages or obtain an injunction prohibiting the erection or maintenance of a spite fence.

The right to use one's property for the sole purpose of injuring others is not one of the inalienable rights of ownership.

The law of spite fences for North Carolina was pounded and hammered out in a 1909 North Carolina Supreme Court decision, which said: "No one ought to have the legal right to make a malicious use of his property for no benefit to himself, but merely to injure his fellowman. To hold otherwise makes the law an engine of oppression with which to destroy the peace and comfort of a neighbor, as well as to damage his property for no useful purpose, but solely to gratify a wicked and debasing passion."

In a decision on the same subject in November, 1963, the Supreme Court of North Carolina reaffirmed its earlier decision of 1909, which had been reached by a vote of 3 to 2.

It is, of course, the function of the jury to decide whether a particular fence is in truth and fact a so-called "spite fence."

If a fence is erected for some useful or ornamental purpose of its owner, it cannot be enjoined even though the adjoining neighbor is annoyed thereby.

## Chappell Hill Revival Slated

The Chappell Hill Baptist Church in Tyner will hold an annual series of revival services August 26-31 with services beginning at 8 P. M. each day.

Rev. John Wesley Shipp, pastor of Smyrna Baptist Church, Rock Castle, Va., will be the guest evangelist.

George Cooke, director of music at Temple Baptist Church in Norfolk, Va., will direct the music with special music each evening. The public is cordially invited to attend these services.



REV. DON SUMMERS

## British Pastor At Rocky Hock

Rev. Don Summers of Bristol, England, will preach at Rocky Hock Baptist Church during a series of evangelistic services beginning at 7:45 P. M. Tuesday. The services will be held nightly through Sunday.

Rev. Meredith G. Garrett, pastor, said the community is fortunate to have such an outstanding guest speaker for the revival services and issues an invitation for everyone in the area to join in these services.

Special music and congregational singing will be a feature of each service. Jack Evans will direct the music.

Mr. Summers has probably spoken to more people face to face than any other preacher in Britain today, Mr. Garrett said.

His recent activities have included the unique "All-Dorset Crusade," which brought to a spiritually desolate area a three-year program of evangelism and saw hundreds of inquirers referred to local churches.

With a number of associates, he has taken over 200 campaigns from united city and county crusades to tiny meetings in village churches.

Also, Mr. Summers has spent several periods as an associate evangelist with Dr. Billy Graham, notably for 10 months with the Earls Court Crusade in 1966. He has traveled widely in the United States and Canada and has taken missionary crusades in Spain and Portugal.

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