

No. 434

AN ACT

Amending the act of April fourteen, one thousand nine hundred five (Pamphlet Laws 162), entitled "An act regulating the method and procedure in the erection of line or partition fences," authorizing surveyors appointed by judges of common pleas courts to act as fence viewers.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Line and partition fences.

Section 1. Sections one and two, act of April fourteen, one thousand nine hundred five (Pamphlet Laws 162), entitled "An act regulating the method and procedure in the erection of line or partition fences," amended April six, one thousand nine hundred forty-nine (Pamphlet Laws 393), are amended to read:

Sections 1, and 2, act of April 14, 1905, P. L. 162, amended April 6, 1949, P. L. 393, further amended.

Section 1. Be it enacted, &c., That from and after the passage of this act, owners of improved and occupied land shall erect and maintain an equal part of all line or division fences between them, nor shall any such owner be relieved from liability under the provisions of this act except by the consent of the adjoining owner. And if any owner of such improved and occupied land shall fail or neglect to erect or maintain his, her, or their share of such line or division fence the party aggrieved shall notify the county surveyor or, if there is no county surveyor in the county, then a county surveyor of any adjoining county, *or, if the county surveyor in any adjoining county refuses to act, a surveyor appointed by a judge of the court of common pleas*, who shall act as a fence viewer and whose duty it shall be to examine such line or division fence, so complained of; and if he finds said fence sufficient, the complainant shall pay the cost of his service; but if he finds such fence insufficient, he shall so report to a justice of the peace or alderman, residing in the county where such fence is located, designating points and distances of such fence, whether a new fence is required or whether the old one can be repaired, and the probable costs of a new, or the repair of the old, fence; and said justice or alderman shall notify the delinquent owner of such improved and occupied land of the [county] surveyor's report, and that his part of said

Owners of improved and occupied land to maintain division fences.

County surveyor or surveyor appointed by the court to act as fence viewer.

Report of viewer.

Notice to delinquent owner.

Compensation of viewer.	fence, as found by the [county] surveyor, be erected or repaired within forty days from the date of such notice; and if such notice be not complied with, the aggrieved party may cause said line or division fence to be erected or repaired, and the costs thereof collected, including the charge of the [county] surveyor, from the delinquent owner of such improved and occupied land, as other debts are collected by law. The [county] surveyor shall be entitled to such payment for acting as a fence viewer as he may fix, not, however, exceeding twenty-five dollars. Where the [county] surveyor reports that he finds the fence complained of sufficient, the amount payable to the surveyor shall be paid by the complainant, but where he reports the fence insufficient, the amount payable to him shall be paid by the delinquent owner of such improved or occupied land: Provided[, however], That no owner of improved land shall be compelled to build or repair fence during the months of December, January, February, and March:
By whom payable.	And provided further, That nothing herein contained shall be construed to apply to railroad companies.
Proviso.	Section 2. Where an owner has improved up to and erected upon the line a division fence, and an adjoining owner subsequently improves and occupies up to said line, he shall become liable to the former for such part of the cost of said fence as is just and reasonable, taking into consideration the quantity of the fence, the length of time it had been erected, and its condition. And in case the parties fail to agree on the amount to be paid, the owner who erected said fence may complain to the [county] surveyor aforesaid, who shall assess the amount which, in his opinion, the other party should pay; which amount, together with payment to the [county] surveyor, as in section one provided, may be recovered as provided in section one of this act.
Proviso.	Section 2. This act shall take effect immediately.
Liability of owner making later improvements for share of cost of fence.	APPROVED—The 3rd day of April, A. D. 1956.
Assessment where owners disagree.	GEORGE M. LEADER
Act effective immediately.	