

1473.

APPROVAL, BONDS OF THE VILLAGE OF OAKWOOD, MONTGOMERY  
COUNTY—\$35,000.00.

COLUMBUS, OHIO, December 30, 1927.

*Industrial Commission of Ohio, Columbus, Ohio.*

1474.

PARTITION FENCE—LAND OWNED BY CEMETERY ASSOCIATION  
OUTSIDE OF MUNICIPALITY—COST OF REPAIRING OR BUILDING  
FENCE.

*SYLLABUS:*

*Where land owned by a cemetery association outside of a municipality adjoins land of other persons, it is the duty of such cemetery association under the provisions of Sections 5908, et seq. of the General Code, to participate in the cost of the repairing or building of a partition fence, provided such fence will be of some benefit to the lands of such cemetery association.*

COLUMBUS, OHIO, December 30, 1927.

HON. JAMES S. McDEVITT, *Prosecuting Attorney, Mt. Vernon, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date requesting my opinion as follows:

“I have been unable to find anything definite on the question as to what the law is as to fences which enclose a cemetery ground owned and operated by a cemetery association incorporated under the laws of Ohio.

The specific instance which I have in mind is where a cemetery up until about some twenty years ago was owned by some church but was taken over by a cemetery association properly incorporated and which corporation is maintained and operated by virtue of the income of a certain trust fund which it has. During the time the church owned the cemetery and always since that time the fences have been kept in repair or rebuilt by the cemetery association and the adjoining land owner in equal shares the same as any partition fence between two farms. This particular cemetery is located just at the edge of a village corporation by the name of Martinsburg.

The question which has arisen is whether or not a cemetery association must enclose its lands with a suitable fence at its own expense or is the general statute as to partition fences applicable in this case. My understanding is that where a cemetery is owned and operated by township trustees that the duty falls on the township trustees to enclose the cemetery grounds but I have been unable to answer the question where the cemetery grounds are owned and controlled by a cemetery association.”