One of the
Handy Dog Booklet Series

LAWS about DOGS

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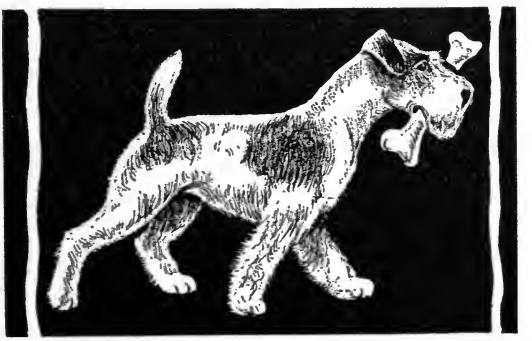

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LAWS ABOUT DOGS

PREFACE TO FOURTH EDITION

When in 1932 we wrote and publisned the first edition of this brief work, it was the only formal publication in America on laws about dogs. It still remains so.

Much interest has been manifested in the subject not only by dog owners, breeders, and others but also by members of the legal profession. The increasing part dogs occupy in our life today has necessitated growing attention to canine jurisprudence.

A—History and Sources of Canine Law

The dog presents a fascinating theme from a legal viewpoint as he does from almost every other due to his irrepressible interest in living. As a member of the lower or animal kingdom, he has a dual status. He of all animals approaches nearest the human in actions, associations and mental functionings.

Changing from the status of the beast of the field, without any rights, belonging to whoever could capture or kill him, the dog has progressed to a status in present-day society, where he partakes of many of the rights of the humans; in fact, at times he is brought into court and tried as a criminal according to the exact procedure for humans. However, basically his very right to live is still a matter of law enactment.

1. Variance in Legal Holdings

Consequently, one must not expect certainties in every point of the law concerning dogs. One jurisdiction holds in a certain way, another in another way.

In one court the dog is held to be personal property as sacred to the owner as automobiles, stocks and his home. In other courts, he may be held somewhat in the nature of a necessary evil, usually a public nuisance, that, when he runs afoul of the law, faces no other penalty than that of immediate death.

2. England the Primal Source

English law logically has developed much law concerning dogs inasmuch as England is the country where the ownership of dogs and the breeding of purebred dogs first received encouragement. England gave the first recognition to the dog as personal property altho it was a conditional or what might be termed a left-handed recognition.

Blackstone, the revered name among law students, set the mode for the legal status of dogs for a long time.

The following is taken from his famous Commentaries: "As to those animals which do not serve for food, and which therefore the law holds to have no intrinsic value, as dogs of all sorts, and other creatures kept for whim and pleasure, though a man may have a base property therein and maintain a civil action for the loss of them, yet they are not of such estimation as that the crime of stealing them amounts to larceny. But by the statute 10 George III c. 18 very high pecuniary penalties of a long imprisonment and whipping in their stead may be inflicted by two justices of the

peace on such as steal, or knowingly harbor a stolen dog, or have in their custody the skin of a dog that has been stolen."

3. American Colonial Enactments

The first formal step in regulating dogs in America is dated 1715 being a provision in the statute of Massachusetts for the killing of unruly and ravenous dogs.

In 1743, the same province enacted a law justifying the killing of dogs in the act of worrying or injuring sheep and lambs.

In 1812 the legislature of Massachusetts authorized any perscon to kill any dog or dogs found without a collar bearing the name and residence of the owner.

A most important decision is found in Bishop vs. Fahy, and based upon a Mass. statute passed in 1858. This decision specifically stated that any law providing for the justifiable killing of dogs does not authorize an entry into a man's house to kill a dog without permission from the owner.

4. What is the Dog Legally?

The gratifying tendency of our day is to enact specific laws concerning dogs and to consider them entirely as personal property, and beyond this, as a particular property of its own kind, inasmuch as it partakes of the nature of its master and owner and inasmuch as it strangely has removed itself out of the field of the lower or dumb creation and has made a bid for inclusion in what one might term the upper animal kingdom, men and dogs.

One cannot kill a dog for chasing game across his land (46 Am. Rep. 423).

In Kansas, District of Columbia, Texas, Tennessee, Connecticut, Indiana, Georgia, Utah, Nebraska and Michigan the dog has been held by the courts to be legal property (Graham v. Smith 28SE225, Ga.; 40SW126-Ark.).

Ohio (Sec. 588 of General Code) gives to dogs full property status if the license tax is paid.

5. No Longer a Beast of the Field

The opinion of Mr. Blackstone has been an unfortunate one for the dog. He originated the dual doctrine that dogs are property in the civil court but not in the criminal court. A vast change with respect to dogs must be recognized by the courts of our day.

Blackstone's logic was inconsistent, for the dog is as useful as he is a thing of pleasure.

Were the dog not a useful member of society, he would not have attained his present high estate. He aided the man of the cave age in killing prey as food for the family so that starvation would not bring death.

As the helper of the herdsman, one dog did work which otherwise required the services of a half dozen men—that of herding cattle and sheep, keeping them together and protecting them against wolves and marauders.

As sled dog in the far north, he transports mail, food for the hungry, medicines for the sick over areas which railroads, horses, autos and even planes cannot traverse.

As the staunch protector of the home, the family and the children, he indeed is a useful member of society.

As guard, detector of concealed enemy, carrier of messages, locator of wounded, and transport for supplies, the war dog has written a most creditable chapter in World War II.

Further, there is something in existence now of which Blackstone never dreamed—the breeding of purebred dogs. This activity has become almost an industry, in which millions of dollars are invested not only in the United States and other English speaking countries but in Germany, France, and a half-dozen other countries. Fifty million dollars are invested in factories and plants designed for the production of food, remedies and supplies for man's best friend, the dog.

It is high time that the Blackstonian doctrine be disregarded for a more modern and a truer view of the legal status of the dog.

The whole situation concerning the Blackstonian doctrine, which is based upon the common law, is set forth in the State of Missouri v. Mease, 69 Missouri App. 1, c. 582 (1896):

"It is unquestionably the law that dogs are property in Missouri and that damages may be recovered civilly for injuries to them. It is also true that they are the subject matter by special statutes of larceny. But it is not an offense at common law to kill a dog, and in that respect the common law is still in force in this state."

The Supreme Court of the United States has passed upon only two dog cases and both of them followed the Blackstonian doctrine. The first one in 1896 was Sentell vs. New Orleans, 166 U.S. 698, in which damages was claimed for a Newfoundland dog killed on a railroad track.

The exact wording of the decision is as follows: "By the common law," Mr. Justice Brown said, "as well as by the law of most, if not all the States, dogs are so far recognized as property that an action will lie for their conversion or injury. The very fact that they are without the protection of the criminal laws shows that property in dogs is of imperfect or qualified nature, and they stand as it were, being animals ferae naturae, in which until killed or subdued, there is no property, and domestic animals in which the right of property is perfect and complete. Laws for the protection of domestic animals are regarded as having but a limited application to dogs."

In the other case, a later case of 1920, Nicchia vs. People of New York, 254 U.S. 228, the court quoted the Sentell case with approval.

In brief, one generally can consider the dog personal property in every way, and surely in a civil suit to recover damages.

6. Common Law as Source

What is said here must be considered particularly as applying in English-speaking countries, where what is known as the common law, is acknowledged, and more particularly to dogs in the United States, and to a great extent, in the Dominion of Canada.

The common or unwritten law has confused many persons and perhaps, a better name would be law as determined by court decision. Points of law on which legislatures or parliaments have not enacted any

specific provision, are originated by judges in accord with generally accepted principles of jurisprudence.

Almost all of our legal decisions today are based upon the common law, as determined by the supreme or high courts of each state in the United States. Within recent years, most states have enacted specific dog laws and these to a great extent, succeed a court decision held the rule previously.

7. No Federal Laws

The United States government as a federal government has passed no laws concerning dogs. We have mentioned already the only two court decisions which have emanated from the highest federal court, the Supreme Court.

The registration of dogs as purebred animals is not any concern of the government. The only direct contact with the dog field by the federal government is thru the Food and Drugs Act and the Insecticide Act.

8. State Legislatures Chief Source

The respective state legislatures have become the chief sources of dog law.

Usually the state law specifies the amount of annual license fee, and all details about it such as the date on which the year begins, use and disposition of moneys collected as fees, classing the dog as personal property, provision for compensation where sheep are killed by dogs, and more recently, as in the state of Illinois, for instance (enacted in 1927), authority to the Department of Agriculture to take temporary measures to combat the spread of rabies.

9. City and Other Local Units

The county, the city and the township may enact certain regulations concerning dogs, on any matter on which the state law does not already have its provisions.

A city may enact in its own ordinance a provision that not more than a certain number of dogs shall be owned by one person within its limits. But unless a state law gives authority, it can not enact that what is known as a kennel shall not be maintained within its limits.

These provisions are legal and constitutional and are based upon the public welfare provision of law.

10. Crying Need for Uniformity

There is a crying need for uniformity in dog laws both state and local. Too often the provisions are rigid and extreme; they are enacted upon pressure from those who do not particularly care for dogs. Consequently, it would be well that all those interested in the cause of dogs, concentrate their efforts upon the enactment of a model state law and a model local ordinance wherever possible. A suggested model local ordinance has been drafted by the author and is available on request to the publishers of this pamphlet.

11. Fight for Man's Best Friend

There need not be any apology or hesitation in demanding for animals their rights under the laws of the land and by the unwritten code of humanity. For those who cannot speak for themselves, we must cry out when pain, whether physical or mental, is inflicted upon them.

Cruelty is not only a crime in itself but a stage on which most other crimes are committed. Whereas human beings oft-times can do something toward helping themselves and others, the animals are dependent upon us for obtaining justice and fair play and consequently it is for us, the superior animals, to carry out the mandate the Creator has placed upon us, namely that a part of His animal creation, the lower kingdom, receive its due consideration from us.

Therefore, the subject of law as it concerns dogs is exceedingly important not only in the matter of protecting one's property rights in obtaining money damages but also in considering the cause of kindness and the unwritten code of chivalry toward all living things high or low.

B—Title of Ownership in a Dog

The legal ownership of a dog may be indicated by purchase papers, by general knowledge, by the payment of the annual license tax (presumption only), and by the tax assessor's roll. The ownership of a dog for registration and show privileges is a consideration which we mention hereinafter and may or may not coincide with legal ownership.

1. Stolen Dogs

The stolen dog does not bring ownership to the thief. Nor can the thief thru sale or otherwise, transfer legal ownership of the dog.

The Penal Law of the State of New York, section 192-A, Article 16, reads:

"Unauthorized possession of dogs presumptive evidence of larceny. The unauthorized possession of dog or dogs, by any person not the true owner, for a period exceeding ten days, without notifying either the owner, the local police authorities, or the Superintendent of the State Police at Albany, New York, of such possession, shall be presumptive evidence of larceny."

2. Harboring Dogs

He who harbors a dog and permits it to remain about his premises, tho the true owner may be another, thereby makes himself liable for damages done by the dog.

If one carelessly or negligently permits a stray dog or the dog of a known owner to remain regularly on his premises, when he could remove the dog from the premises, he thereby takes upon himself all the duties and obligations of the legal owner of the dog.

3. Uncalled-for Dogs

Title of ownership in uncalled for dogs does not of itself pass to the person who is harboring or keeping the dog. No matter how long a person may harbor a stray dog on his premises, even for years, the true owner can claim the dog as his own. He would need, however, to compensate the harborer of the dog for the care and necessary expenses, including the cost of any advertising to locate the owner.

The common law and the statute law

give a kennel owner a lien for services and supplies rendered.

To foreclose the lien, send a registered letter marked "deliver to the addressee only" to the party who owns the dog. If the letter is returned undelivered, insert an ad in your local paper three times in succession, stating that if "so and so" does not call for the dog by a certain date, about ten days in the future, the dog will be sold publicly or privately for all charges incurred.

Then you can sell the dog and charge all expenses, including the cost of the ad.

If there is no buyer, you can sell the dog to yourself for the sum of the charges.

Veterinarian's lien—Calif. Civil Code '37 —Sec. 3051, 3051a, 3052. Unpaid boarding charges, Ill. Rev. Stat. '37—C82, S 59 and C141, S3.

A written contract in advance, covering all conditions, clearly is advisable in any state.

4. Ownership for Show and Registration Purposes

The American Kennel Club and similar organizations consider the ownership of a dog only in respect to the registration of the dog or of puppies of which the dog is the parent; or of the dog in connection with its entry in a dog show. In all these cases and for these purposes, the name of the person on their registration or stud books as the owner, is the owner of the dog.

5. Passage of Title Upon Sale

Who owns a dog legally at times becomes a question whose decision may be determined by some light and delicate considerations.

Unless there is a distinct agreement otherwise, either spoken or written, the actual delivery of the dog carries the title with it at the time of legal delivery to the new owner. Where, however, shipment of a dog is to be made, usually from some distant point, title passes at the instant the buyer's acceptance of the seller's offer to sell is received by the seller, and the seller's obligation ends upon delivery of the dog to the express company or other carrier.

When John Jones in Pittsburgh receives a letter from William Smith in St. Louis, stating: "I inclose full purchase price for the dog named Prince as offered in your letter of July 13," the title then passes. It is presumed the dog has not been disposed of otherwise.

However, John Jones as seller still has obligations. He must be liable for all matters until the dog is actually delivered to the express company or other carrier for shipment. If he himself delivers by automobile for instance, even tho the dog is no longer owned by him, he is responsible for the safe delivery of the dog, in the absence of definite agreement otherwise.

If while the dog is in transit, by express for instance, there is injury or loss of the dog, the purchaser must make the necessary claim as the dog is his legally.

C—Licenses and Taxes

1. Nature and Extent of Licenses and Taxes

By the logic of government, one must pay for the exercise of natural rights. The right to own a dog must be made possible thru obtaining a license at the owner's cost.

The power to license dogs has been upheld in various cases; for instance, McPhail vs. Denvel (Col.) 149 Pac. 257.

This is an annual license; it is not transferable (altho it should be), and in itself, does not indicate ownership of a dog. It is a license to keep a dog; one pays for the privilege of keeping. The license is issued in the name of the person who keeps the dog.

A license is void outside the state, city or county in which it is issued. There is, however, state courtesy (comity) just as in the licensing of automobile owners. When a dog is boarded, the license tag should accompany the dog.

A dog license is a license to keep a dog, not to own a dog. When a dog is sent to a boarding kennel, the true owner is still keeping the dog tho at a different address. A most important consideration is that the license does not give to the dog or to the owner any rights which either would not have otherwise. The licensed dog must obey and his owner also must obey all regulations concerning dogs.

In the case of Lacker vs. Strauss, Massachusetts Laws, Volume 226, page 579, the rule is laid down that insofar as property value and rights of dogs are concerned, the unlicensed dog and the licensed dog are on the same basis. For example, the fact that the dog on the highway might not be licensed, does not justify any negligence of an autoist who runs down the dog. Also the theft of an unlicensed dog is on a par with that of a licensed dog.

We quote the Massachusetts decision:

"By the common law, as well as by the law of most states, dogs are so far recognized as property that an action will lie for their conversion or injury.

"The general rule supported by the weight of authority is that the owner of a dog, licensed or unlicensed, may maintain an action for damages against any person or corporation wilfully or negligently killing or injuring the animal.

"We are of the opinion the general rule should be followed as one sound in principle.

"The unlicensed dog was not a trespasser and outlaw upon the public highway."

It appears, therefore, that the only legal consequence between a license and no license for a dog is that the owner or keeper of the unlicensed dog is fined for not taking out a license.

2. Provisions of Individual License Fees

The amount of the annual license fee varies greatly in various governing bodies. Usually there is a penalty on the female. License fees vary from $1 up. In Chicago, for instance, the annual license fee is $3, no age minimum (in our opinion, a $2 annual fee should be the maximum). Buffalo requires a fee of $2 regardless of sex

and considers the calendar year the license year.

No abatement of the fee is had in case the dog is sold or disposed of or in case the license is applied for during the current year.

Most states provide that a dog need not be licensed under six months of age. Some have a four months age and others as low as three months. Clearly the minimum should be six months.

Dog licenses are not transferable from dog to dog or owner to owner.

Licenses are issued annually, usually from January first or May first. There is no prorating; one must pay the full year's amount.

In England the license is by the calendar year and can be obtained at any post office. In the U. S., it is obtained from the county or city clerk or township assessor.

An individual tag giving the license number of the dog is furnished without charge. In case of loss, a duplicate may be obtained at a small fee, usually 25 cents.

A city may require inoculation against rabies as a condition of licensing, tho the inoculation need not be done by a veterinarian.

3. Kennel Licenses

Kennel licenses can be had in a number of states. These eliminate the necessity of paying individual dog licenses.

Each state should provide for a kennel license. The fees vary; for instance, in Illinois, the fee is $10 for 20 dogs or less and $5 for each additional 20 dogs or fraction thereof.

Each dog must be described as to breed, sex and age. The license can be obtained from the assessor or from the county clerk. An individual tag, however, is furnished for each dog covered by the kennel license. Buffalo for instance, has a city kennel license of $5.00 plus $1.00 for each dog listed in the application.

The following states have kennel licenses —Conn., Del., Ill., Ia., Ky., Me., Md., Ind., N. Y., Ore., Pa., Va., Wis. Indiana for instance has an annual license of $15 for 5 to 15 dogs; $25 for 16 or more dogs.

4. Double Licenses

The increase in governmental costs and the grasping of officials for further income has brot double taxation in the way of double license; and strangely it has been held constitutional. The city can require a city license and the state a state license for the same automobile.

The state law governs. If the state constitution or statutes, in defining the powers of municipalities, provide that it can license a person for the privilege of keeping a dog, then the municipality can so license the dog owner and this license fee must be paid as well as the state fee. However, in the absence of a direct authorization by the state, a county, city or township in the state cannot demand a license payment.

5. Sales Tax

Where a person or breeder holds himself out publicly as a kennel owner or dog breeder, offering dogs for sale thru signs, advertising, printed stationery, etc., whether he does this as his means of livelihood or not, the sales tax must be paid if there is provision for a general sales tax. A rare, occasional sale would not classify one as in business and would not require the payment of the tax.

It does not apply on services rendered for grooming, medical attention and boarding, nor on sales of dogs shipped outside the state.

6. Personal Property Tax

It must be understood clearly that a tax on the dog as personal property is entirely separate from a license fee required to be paid by the dog owner. A dog can be taxed as property as is an automobile, a piece of furniture or machine.

That the dog is unlicensed does not eliminate the necessity of paying a personal property tax.

7. Income Tax

Where one carries on the breeding and showing of dogs as a business, large or small, major or incidental, gross income and expenditures must be included in the income tax report. See 5 (Sales Tax) also.

D—Justifiable Killing of Dogs

The police powers of a state (not to be confused with the police) are justified upon the basis of public welfare. Thru these powers, the taking of private property without compensation and the setting aside of what ordinarily would be the law, is done.

1. Dog Pound

The maintenance of a dog pound is optional. Cities and districts may operate dog pounds for the purpose of impounding or holding dogs that have been picked up and are held awaiting reclaiming by the owners.

Even where there is no specific provision in the charter, the police powers give this right to a governmental unit. See City of Hagerstown vs. Witmer, 37 Atlantic (Md.) 965. Other state supreme court cases confirming this viewpoint are People vs. Police Board (N. Y.) 24 How. Pr. 481; Stebbins vs. Mayer (Kan.) 16 Pac. 745.

Authority to regulate the keeping of dogs with penalty of destroying them is set forth in various decisions such as Hubbard vs. Preston (Mich.). 51 N.W. 209; 15 L.R.A. 249, Blair vs. Forehand, 100 Mass. 136.

There has been a decision in the U. S. Supreme Court on these matters also—Sentell v. Railroad Company, 17 Sup. Ct. 693, which is as follows:

"It is practically impossible by statute to distinguish between valuable and worthless dogs, and acting upon the principle that there is but a qualified property in them, and that while private interests may require that the valuable one shall be protected, public interest demands that the worthless shall be exterminated, they have, from time immemorial, been considered as their lives at the will of the legislature, and properly falling within the police powers of the several states."

2. On Private Property as Trespassers

The mere presence of a dog on property other than his owner's does not give the right to destroy or injure the dog. However, there is the right to impound a dog by the owner of the property. The owner of the dog must pay for the damage done and for the keep of the dog while being impounded. (Exception — Kentucky, which permits killing for mere trespassing —a horrible law.)

But where the dog is a trespasser on property, he can be forced off the property.

He can be put to death if he is in the act of worrying or killing livestock (note that he need be only worrying); he can be put to death if he is doing damage or clearly threatening to do damage or harm to a member of the family or to merely a guest or stranger.

The right to kill dogs under such conditions is based upon the right of self defense, which covers not only one's body and property but also his family.

The placing of poison, the setting out of traps to catch dogs and the placing of what is known as dog spears, to do damage to trespassing dogs, are prohibited by statute in some states and likely would be prohibited in any state if the matter came before the court.

An important case is Hubbard, 90 Michigan 221, which justified a person annoyed at night by wandering dogs on his property, to shoot the offending animals without liability. Further, this court held that "cases of this kind are for reference to a jury, which should listen to all of the testimony and render its judgment."

In the N. Y. case Brill 23 Wend. 354, the court held that where the owner of the dog, tho warned a number of times, still permitted his dog to run on the property of another to the annoyance and disturbance of the property owner, the latter incurred no liability in killing the dog.

(See page 4, Killing of Dog While in Pursuit of Game.)

3. Court Order and Trial

Unless a dog is in the actual act of attacking persons or livestock or doing damage to them, or the dog is off his owner's premises and roaming about in public places contrary to a specific law, a police officer has no justification in killing a dog without a specific order or warrant.

At times dogs are brot into court and an actual case conducted. Of course, the dog is not an actual party to the trial but is there merely for purposes of observation and examination. The dog itself legally cannot be tried for any wrongdoing it has committed.

4. Liability of Police Officers

There is a twilight zone between the liability and nonliability of a police officer for killing a dog.

First, an officer cannot come upon an owner's premises and remove a dog unless he has a court order or warrant.

Where an officer goes out of his way to seize a dog or arrest a dog owner, without due process of law, and with malice on his own part, an action for damages will lie against the officer personally.

A public official who kills a dog supposed to be diseased but not actually so, is liable (29 N. E. 854). However, he is not liable for injuries inflicted necessarily while he was exercising due care (170 S. W. 231).

No law is valid which authorizes the killing of a dog unless the killing is justifiable to safeguard the public against injury or loss of property (144 Ind. 2798).

However, a public official performing government functions (as differentiated from purely ministerial functions such as maintenance of roads, for example) can not by his wrongful act, hold his employer, the city or otherwise, liable for damages (74 N. W. Ill. 20 S. E. 653, and 130 Ill. 238). The public official personally may be liable in these cases but not the governing body.

An officer can not shoot a dog without its owner's consent, if it is injured and is not or has not done any harm.

An officer can not enter private property to shoot or capture a dog merely because the dog is not muzzled or not vaccinated.

Unless the officer of the law has seen the dog in the act complained of, or unless a court order is produced, a dog on the owner's premises cannot be taken without the owner's consent.

However, a dog may be killed on public property if its owner violates a law intended to protect citizens against an impending danger; a law enforced to kill unmuzzled dogs on city streets to safeguard the public aganist rabies, is valid (27 Ind. 494).

A dog can not be killed if found unmuzzled just because an ordinance requires dogs to be muzzled (97 N. W. 1074). His owner may be fined.

5. Protection of Dog by Owner

One dog can not legally kill another. If he does, the owner of the killed dog has a right of action against his owner.

A Michigan case (about 1880) concluded that because the killed dog was not licensed, does not lessen the other owner's liability.

Whether the legal status as property is clear or not clear in any state, the owner of a dog has the right to protect his dog from injury by another dog or by a person. And this right justifies the use of necessary physical force. We quote from a Texas Supreme Court decision:

"Homicide may be justified in protection of the possession of a dog by his master. The craven who would wantonly injure him is subject to a fine; the thief who would steal him may be declared a felon and rendered infamous in the eyes of the law and his fellowmen; and human life may be taken justifiably in defense of his possession."

E—Restraint, Quarantine, Examination, Inoculation

1. Public Health and Safety Supreme

Theoretically at least, laws are enacted for the greatest benefit to the greatest majority. In other words, the public welfare comes first and is the basis of interpretation of all laws. Consequently, many

provisions which ordinarily would govern, are swept aside under certain conditions.

The U. S. Constitution provides that property cannot be taken without due process of law. It must be seized only according to the provisions clearly provided for in the law. Such provision is set aside in certain cases and property seized and destroyed without violating any provisions of the law.

In the Illinois Supreme Court decision, People v. Anderson, 189 NE 338 (1934), the court at some length set forth the supremacy of public welfare concerning the destruction and impounding of animals injurious to public health.

2. Muzzle and Leash

Most city or local ordinances require that a dog must be muzzled on the street and in other public places, in hotels, stores, apartment hallways and the like, unless on leash. Also that all dogs must wear collars and the license tag be affixed thereto. Also that bitches in heat, whether muzzled or not, can not run at large.

The ordinance of the city of Baltimore adopted in 1908 (a very good ordinance) states that a dog shall be considered running at large "when such dog is upon any street, lane, alley or public way or place, is not held by chain, or is not in leash, in such manner as to prevent the dog from biting any persons or animals, or is not securely muzzled so as to effectively prevent it from biting any person or animal."

The grant of authority that dogs should be muzzled is presented in the decision in the case of People vs. Warden, 153 N. Y. S. 463.

The Buffalo, N. Y., ordinance (in many ways an ideal one) states that "A dog shall not be deemed to be at large if accompanied by and under the full control of the owner."

3. The Dog as a Nuisance

The dog, tho property and tho one has paid a license to keep the dog (not necessarily to own him), may become a nuisance by way of a menace to health and quiet thru the owner not keeping the dog's quarters clean, or by way of noise, such as needless, excessive barking, or by way of biting, or threatening to bite or by barking at passersby.

Barking in itself is not a nuisance. Excessive and untimely barking or both may be declared a nuisance.

In most states the dog can not be ordered put to death because he is merely a nuisance, tho ofttimes petty magistrates such as justices of the peace, so decree.

It is necessary that a warrant be issued against the owner of a dog before the owner can be brot into court for conducting a nuisance. This warrant must be sworn out by a citizen or by police officer. Also the mere issuance and serving of the warrant does not indicate any guilt.

The situation is one for trial in open court. Usually these warrants are issued upon the request of some neighbor who himself really may be a nuisance instead of the dogs complained against.

Consequently, these cases should be fought to the end for in most instances, the dog owner will win. Neighbors should be brot into court as witnesses who will testify that the dogs or the kennels are not nuisances in any way.

Most disputes are matter for court action for damages, a civil suit: the possession of the dog is not involved. If the owner loses the suit, he pays damages in dollars and cents to the other party.

4. Various Court Decisions on the Nuisance Aspect

Nuisances in themselves—per se—bring an injunction immediately but dogs are not in this group. See 90 Pac. (2nd) 988; 188 So. 849 (1939). Outstanding case affecting a veterinary hospital, Talbot, 189 So. 469 (1939).

79 ALR 1067 ruled that ordinary persons under ordinary conditions, are not annoyed by a kennel so situated, it is not a nuisance.

Kindt 30 Pa. Co. Ct. R. 277 stated that only persons living in close proximity to the kennel location can complain; merely because some other person at a distance is annoyed does not give that person the right to complain in court.

Other cases: Krebs, 6 Pac. (2d) 1907—a leading case; Fuller, 114 Kan. 808; Hwck, Pa. Dist. R. 791. In the last mentioned, the court said: "One dog if sufficiently persistent may make as much noise as a dozen dogs. . . . The owner of dogs should so train them that they will not bark and yelp except in cases of burglary or fire."

A city ordinance providing that dogs must not disturb persons who are ill was declared void (Heyman, 27 App. D.C. 563) because impractical as any one at a distance who heard a faint dog bark could claim annoyance.

5. Dog Pound

When a dog is taken up because running at large, contrary to specific provisions of the local or state law, there must also be a provision in the law concerning the final disposition of the dog. Very few ordinances state the manner of death; a number of them state "in a humane way." There is no authority for selling or otherwise disposing of dogs at the end of the impounding period, unless provision clearly is made in the law itself.

Also the extent of the period during which the dog is held at the dog pound varies. In times of quarantine on account of rabies, the period may be reduced to 24 hours. Usually it is five days. If the dog bears a license tag, the pound must make an immediate effort to get in touch with the owner.

The dog must be redeemed by the payment of arrest costs, which usually average about $1.50. If the dog is not licensed, the license fee must be paid at the time.

The fact that a dog is licensed but is running at large contrary to provisions of the ordinance does not prevent the dog from being picked up and taken to the pound (Commonwealth v. Flynn, 258, Mass. 136).

6. Health Examination and Interstate Shipments

Health examinations are required by states (none by the Federal Government) only for dogs coming within their borders unless from an area quarantined within the state. No certificate is required for a dog in transit thru a state requiring examination. Canada, no requirement.

Alabama, Alaska, Conn., Florida, Georgia, Illinois, Idaho, Iowa, Maryland, Michigan, Minnesota, Mississippi, Montana, New Jersey, N. Y., North Dakota, Okla.,

Oregon, Pa., Rhode Island, South Car., South Dakota, Tennessee, Texas, Utah, Vermont, Washington, W. Va., Wisconsin, Wyoming, require health certificates for dogs shipped into these states. But in the great majority of cases the requirement is disregarded. The requirement has its source in a State Veterinarian's decree rather than statute, which requirement may be forgotten by the next State Veterinarian.

This certificate should be made out in triplicate by the veterinarian at the point of shipment. One copy is presented to the express or other conveying agency to accompany the dog. A second is sent to the Chief Veterinarian of the state of delivery.

The health certificate must state that the dog has not been exposed to rabies or other infectious or contagious diseases within a certain period of time, usually sixty days and that at the time of shipment is free from them. A dog might not be in sound health and yet receive a shipping certificate.

Alabama, Alaska, Florida, Miss., Okla., Texas and Washington require not only a health certificate but a statement that the dog has been immunized against rabies. In the absence of immunization, Florida requires a 30-day quarantine in the home of the consignee.

North Carolina requires immunization against rabies before shipment or within seven days after arrival in state.

Hawaii has a four-months quarantine on all dogs coming into that island.

The other states have no restrictions whatever regarding examination unless on account of rabies; then an examination may be required for dogs entering or leaving a quarantined area, during the period of the quarantine.

F—Protection of Rights of Dog Owners

The rights of dog owners are fairly well established by law. At all times, the owner of a dog, where his rights are certain, should fight to the extreme in defending his rights and in protecting his dog.

Too often the officers of the law are disposed to go beyond their powers. The mere complaint that a dog is vicious or has bitten someone or has done damages does not in itself give the officer the right to invade one's property and take possession of the dog.

There is an increasing desirability that dog owners resent trampling upon their rights. It is highly necessary that they make a firm resolve to fight for these rights in behalf of man's best friend. At times to do so may require time, effort and expense but when one dog owner confirms his rights in open court, he does an immense benefit to all other dog owners.

1. All the Rights of Personal Property

We already have spoken of the dog as personal property and that in most instances he is covered by all the safeguards which have been placed around private property.

2. The Dog on the Highways

The right of the dog upon the streets and public highways is a right which should be protected. Merely because a dog happens to be wandering on the highway, does not justify the killing of the dog by the motorist. The motorist must exercise every possible care to avoid hitting the dog.

A number of states now require that when a dog is injured or killed, a report of the accident must be made just as in the case of humans. The state of New York, for instance, imposes a fine of not more than $50 or 30 days in jail for the hit-and-run killing of a dog. Massachusetts and Connecticut have similar laws.

The New York law reads that "any person operating a motor vehicle or motor cycle, knowing that damage has been caused to anything, whether it be an animal or property must stop and exhibit his license and give the facts contained thereon to the person sustaining the damage, or to a police officer or in lieu thereof report it to the nearest police station under penalty of being guilty of a misdemeanor."

3. Compensation for Injury by Auto

Where a dog is injured by a motorist, usually the insurance which the motorist carries against public liability and property damage will cover damage done to dogs also.

G—Liability of Dog Owner for Acts of His Dog

The general principle of jurisprudence affecting liability for dog bites or other actions of the dog is stated well and briefly in Sec. 155, Mass. Dog Laws:

"If any dog shall do any damage to either the body or property of any person, the owner or keeper, or if the owner or keeper be a minor the parent or guardian of such minor, shall be liable for such damage, unless such damage shall have been occasioned to the body or property of a person who, at the time such damage was sustained, was committing a trespass or other tort, or was teasing, tormenting or abusing such dog."

1. The "First-bite" Privilege

The legal doctrine of "scienter" perhaps is the best known section of laws about dogs. Popularly it is known as the "first bite" or the "one-bite" doctrine. It arose out of the common law and is based upon the general principle of law that a man cannot be held responsible for acts not of his own knowledge known or presumed.

If a person has been bitten by another person's dog, he needs to prove that the owner of the dog knew of the dog's disposition to bite. The owner may know of this disposition even tho the dog never has bitten any person. But if the dog already has bitten a person, the owner is presumed to know that the dog has a disposition to bite. In other words, it is not necessary to prove that the owner knew of this disposition if it can be proved that the dog had already bitten a

person. A disposition to bite would be evidenced by a savage nature such as the habit of rushing at people and attempting to bite them.

The doctrine of the first-bite has been voided by statute in California and New Jersey.

It does not apply of course to instances of dogs worrying sheep and cattle.

There is one outstanding exception to the first-bite privilege of the dog, namely, that if the dog is trespassing when he takes the bite, the owner is liable.

2. Liability for Bites

When a dog bites a helper in the kennel, the state law on workmen's compensation applies just as in the case of any employee.

Altho not any case has been tried, in our opinion, the doctrine of first-bite would not apply where a dog is placed with other dogs in a boarding kennel, for instance, and the dog bites one or more of the boarders. Clearly in this case the owner of the kennel is obligated to take every reasonable precaution and it should be presumed that part of the precaution is to know definitely whether or not his own dog or some other dog put in upon his order is vicious and might bite other dogs to their injury.

A person who rushes in to separate two fighting dogs whether his own or not, does so at his own peril.

3. Liability to Trespassers

We already have mentioned that when a dog itself is trespassing, there is not the defense of scienter or first-bite. We now consider the liability of the dog owner when the dog bites a trespasser upon the owner's property.

Few phrases of law have become as much a part of ordinary speech as the two Latin words "cave canem," words which are found inscribed upon building stones unearthed today in ancient Roman cities.

The general theory is that no one has the right to come uninvited upon another's property. If he does, it is at his own peril. However, it is construed that a person coming peaceably and on business, or perhaps on a friendly visiting call, does not forfeit the ordinary right of protection against damage. Milkmen, mailmen, newspaper delivery boys and even solicitors and salesmen coming peaceably are presumed to be entitled to come without injury to themselves.

Where one comes on to another's property, against the express will of the owner, or if some one intoxicated comes upon the premises, if anyone comes as a trespasser, or if any one who has come properly on the premises, teases, abuses or incites the dog, or if any one enters to commit any unlawful act—the owner of the dog is relieved of any damages done by the dog's bite or other actions.

The mere posting of a sign "cave canem" ("beware of the dog") does not protect the owner against damages the dog may do to persons who plainly or presumably have a right to enter the premises. It is sufficient against beggars and persons who do not come peaceably.

However, the sign, to protect the owner against all damages, should read, "A vicious dog is at large on premises. All persons enter at their own peril." A sign stating, "Salesmen, solicitors, beggars and peddlers prohibited from entering these premises" would release the owner of the dog from any liability for damages arising out of bites by his own dog.

4. Destruction of Property

In general, the owner is liable for the acts of his dog off his premises (21 Ill. App. 205).

Always the owner of a dog must exercise ordinary care that his dog does not do damage or injury to persons or property. This ordinary care is necessary notwithstanding the theory of the first-bite privilege. The absence of a fence to restrain the dog does not lessen liability.

5. Liability for Injury to Live Stock

Thru the years there has been a constant battle between dog owners on the one hand and live stock owners, particularly sheep owners, on the other.

The primal urge of the dog to attack animals particularly if their coat be furry or fleecy, still exists.

A tendency to kill is dormant or developed in some dogs far more than in others. The evil name of sheepkiller has been brot upon the entire dog family by perhaps less than 1 per cent of all dogs. Some of these are occasional killers, urged perhaps by special circumstances or by temporary temptation. Such dogs can be trained so that they are entirely safe with live stock either in or away from the presence of their owners.

But as with humans, there are a few dogs criminally inclined, hopeless beyond redemption. These dogs may kill for the sheer lust of killing. No one, not even the most loyal dog lover, can defend such dogs. Their instant death is to be desired.

On the other hand, the dog has been blamed often and unjustly for killing sheep. The farmer walks into his field of a morning, finds a number of sheep killed, and instantly raises the cry "dogs, dogs."

As provided by law, a committee of appraisal is appointed; usually these are neighboring farmers, friends of the complaining farmer, and who, thinking to do him a good turn and perhaps having in mind that on a future day their own sheep may be killed, readily fall in with every suggestion, blame the dog and assess generous damages. These in turn are paid out of the funds obtained from the payment of dog license fees.

In general, practically every state by law provides that any one whether the owner of the land or not, can kill a dog caught in the act of chasing, killing or wounding sheep or other live stock on land not owned by the owner of the dog.

The wording of the Illinois statute concerning the right to kill a dog when doing damage to live stock is as follows: "Any person seeing any dog in the act of pursuing, chasing, worrying, wounding or killing sheep, goats, cattle, horses, mules, poultry or swine unaccompanied by or not under the supervision of the owner or keeper of such may pursue and kill such dog."

In some cases such as Ohio, the "sunset law" is in effect, namely, that dogs found at large on other premises between sunset and sunrise may be killed.

Also dogs in some states when found at

large after having been proved as sheep-killers, can be killed by any one without liability (a reckless law, in our opinion).

Some states make it a misdemeanor to keep a dog known to have killed sheep or other live stock.

Animals that run from a dog without likelihood of injuries, do not come under the general provisions that the dog can be killed without liability (14 Iowa 475).

Altho in a few states it has been held that the mere fact that the dog has been chasing fowl or other animals, perhaps in play, does not give the right to kill, nevertheless it may be accepted as general law that the dog may be killed at the time without liability if it is actually biting or contacting or has the stock on the run with the possibility that the dog at any moment will injure the stock (60 Ind. App. 332).

Again we state that the mere fact that the dog merely is trespassing on another's property, does not at any time give the right to kill the dog (Kentucky an exception).

6. Liability of Dog Owner for Accidents or Death Caused by His Dog

The general law of liability, namely that the owner is responsible for any injury or damages or acts which arise out of property or anything else under his control, applies in the ownership of dogs.

If for instance, a dog playing on the street runs into a person, throws the person over and the person thereby suffers a broken arm, the owner of the dog is liable.

However, a domestic injured by falling over her employer's dog in the home, can not recover damages. Likely it would be held that a dog roaming the highway without its owner, which would cause the death of a motorist or injury to him or his car, would bring liability to the owner of the dog. It would need to be shown, however, that the autoist used every precaution to avoid the accident.

7. Liability for Damages from Rabies

We come now to an unusual instance, namely whether or not the owner of a dog would be held for the death of a person bitten by a rabid dog owned by the first person. Logically the liability would attach to the dog owner. However, practically all rabies exist among roaming stray dogs.

If the rabid dog bites live stock which in turn contracts rabies, the owner of the dog is liable for the damages only if he had or should have had previous knowledge of the rabid condition.

8. Liability of Persons Harboring Dogs

We already have discussed the status of the persons who harbor dogs and who permit the dogs over a long period of time to remain on the premises. The liability attaches to such persons even tho they are not the owners of the dogs. Such persons if they do not care to incur this liability, should take every measure to remove the dogs from their premises and to keep the dogs away. The correct legal action is to deliver the dog to the police.

9. Liability Insurance

Practically all liability insurance companies write policies of protection for dog owners against any liability which might be incurred on account of the acts of dogs.

Also, when a dog is injured by an automobile, usually the insurance company which has covered the auto owner with a liability policy, will pay damages to the dog owner.

H—Laws against Cruelty

1. Various Forms of Cruelty

Most but not all states have humane laws or laws against cruelty.

The Illinois state humane law is found in chapter 38, paragraph 144 of the Criminal Code under the heading Cruelty to Animals. The fine varies from $3 to $200; the law prohibits various forms of cruelty —cruelly beating, torturing, mutilating, cruelly killing a dog or other animals, failure to provide proper food, drink and shelter, abandoning an old, maimed, infirm, sick or disabled animal and taking part directly or indirectly in dog fighting.

In Chicago under City Code No. 2622, the ordinance repeats much of the state law.

See Sec. I, 1, immediately following for cropping of ears.

I—Laws Particularly affecting Breeders, Kennelmen, Exhibitors, Dealers and Veterinarians

1. Cropping of Ears

The American Kennel Club has not taken any definite stand for or against cropping. It simply states that exhibitors must obey the laws of those states in which dog shows are being held.

Practically every state has a law against cruelty to animals. Very few prosecutions have been made successfully against ear cropping on this basis.

Seven states have passed laws directly affecting cropping. **One of these is Michigan, which prohibits cropping unless done under an anesthetic by a licensed veterinarian. See Cruelty, this page.**

The other six states are New York, New Jersey, Connecticut, Massachuetts, New Hampshire and Pennsylvania.

If the cropping has been done in another state and the dog is owned by a person not a resident of the state in which the show is being held, dogs whose ears have

been cropped can be shown at dog shows, in any of the six states except Pennsylvania.

However, in Connecticut, New Jersey and Massachusetts a special certificate must be taken out certifying to this effect. This is obtained from the State Commissioner of Domestic Animals at the state capital.

Pennsylvania does not make any provision similar to the foregoing.

A resident of New York can own a dog with cropped ears if the dog was imported in the state exclusively for show purposes, having been cropped in another state.

In the other five states, it is unlawful to own a dog whose ears were cropped after the passage of the laws against cropping.

In Pennsylvania even tho the ears were cropped previous to the passage of the law, the dog must be registered with the county treasurer.

There is one exception in all states—where the cropping is certified by a registered veterinarian as reasonably necessary for the protection of the dog's health, cropping is not unlawful.

The Michigan law is an amendment of section 1, act 70 (1877), to section 17,066 (laws of 1929) and in effect May 15, 1931. It presents an example of legislation that likely in the future will be followed by other states, and so we quote verbatim:

"Cruelty to animals: penalty; cropping dog's ears. Section 1. Whoever overdrives, etc., etc., etc.

"The cropping of dog's ears shall be considered to be a mutilation or cruelty to an animal within the meaning of this act, unless such cropping is performed by a registered veterinary surgeon, while the dog is under an anesthetic."

2. Sales Guarantee

The seller of a dog may make specific guarantee by word of mouth or in writing before or at time of sale and be bound accordingly. In the absence of any specific guarantee, the seller of a dog, by implied contract, guarantees that the dog is sound, that it is free from communicable diseases, and that to the extent of ordinary external examination, he knows that the dog is not ailing.

At the very moment, the dog may be nursing a distemper germ which within a few days will develop into the disease of distemper but the seller cannot be held to guarantee against this coming disease, in the absence of a specific statement.

To sell a dog as healthy does not include bodily soundness. A dog should be purchased as sound and in good health. Then the buyer is protected against deformities, lameness, and the like.

The seller guarantees that the dog is purebred; that its pedigree is known for at least three generations; that he will furnish a signed copy of the pedigree.

He does not necessarily guarantee that the dog is eligible to registration altho in practically all cases, the seller does guarantee this specifically.

For a seller to sell a dog with the statement that it will become a great show winner or a certain champion, is considered sales puffery and not a guarantee as sellers are held not to be prophets with honor. Representations to be determined in the future by other persons cannot be made subject to guarantee.

Where the buyer has had opportunity to examine the dog personally or thru a representative, any statements by the seller concerning type, are not really guarantees but sales puffery and the buyer is considered to be aware of the puffery.

In matters of type, future accomplishments and the general quality of beauty, the old law adage "caveat emptor" (let the buyer beware) applies.

3. Injuries, Disease and Loss in Boarding, Training and Handling

Acceptance for pay, benefit or compensation, of a dog for boarding, training, handling or the rendering of other services, entails the use of high care and diligence by the trainer or others.

An open gate, a defective fence, permission to outsiders to handle the dog, putting a vicious dog in the same kennel with another dog, careless exposure of a dog to dogs suffering from diseases, or to persons in direct contact with diseased dogs, careless acts resulting in the dog running away, being lost, becoming ill or otherwise being of less value, fastens the responsibility for the loss or damage upon the kennel.

But if the keeper of the kennel uses the proper care which reasonably would be used by any person familiar with dogs, he cannot be held for disease, illness, death or other unfavorable happenings.

For instance, if he should take a dog for a walk along the highway, in the midst of traffic, without lead, and the dog run away or be killed or injured by traffic, it would be considered that he did not take proper care; the dog should have been on lead.

Practically all these cases are determined by the particular circumstances attached to them. If on account of a low fence or an old fence in need of repairs, a dog gets into another runway or stall and does injury, the keeper is liable.

In all cases, when a dog becomes ill, the owner should be notified immediately and instructions requested from him. If time does not permit, a veterinarian should be called at the owner's expense and the owner notified.

4. Injuries, Disease and Loss on account of Transportation

Who bears any loss or damage while the dog is in transit depends upon who is the owner of the dog. Unless otherwise stated, title to a dog sold passes when the seller gives possession of the dog to the buyer or his agent or to the transportation company.

Whether or not the dog has been sold at a delivered price, the shipper or seller must pay the express charges in case of refusal of the buyer to pay them.

The carrier whether express company, railroad or bus, is held to the highest care of the dog while in transit. If any injury or illness develops on account of lack of proper attention given to the dog while enroute, the carrier is held liable. On the other hand the carrier can refuse to accept a dog which is not in good health.

Where the title is passed at the time the dog is delivered to the express company, and a claim is made, it must be done by the buyer.

Where an express agent gives out wrong information, any resulting damages can be held against the company. For instance an agent informed a breeder that a health certificate was necessary for a dog to be shipped into a certain state. The owner therefore, decided not to ship this bitch and as a result, the owner of the stud in the other state lost a stud service, but recovered the amount of the fee from the company.

Also, if a stud service is lost because the agent informed the owner of the bitch that a quarantine existed in a district where the owner of the stud is located, and the owner of the bitch therefore did not send the bitch, the information being incorrect, a claim is in order against the company.

Dogs are insured automatically up to $50 regardless of the value declared, by the live stock contract (bill of lading) of the express company. A higher valuation can be made and the required insurance fee paid.

5. Rights and Liabilities as Show Exhibitor and User of Stud Book

The person who enters his dog or dogs at a dog show must abide by the rules stated on the entry blank.

If the dog while at the show bites or does injury, the persons injured can maintain a court action against either the club or the owner or both. On the other hand, the club seeks to free itself of liability under the provision usually inserted in an entry blank, a provision which most courts hold void as contrary to public policy.

The show exhibitor specifically states that he will abide by all the rules and regulations of the American Kennel Club —indeed a large book of them, but the contract is binding. This club is a private corporation and is not a public or governmental body.

The owner of a registered stud dog has no particular rights in the stud book.

Registry books in the United States are not public or official records. Any rules are based upon a private contract between the individual and the club and as such must be enforced in the courts just as any other contract.

6. Stud Service and Care of Bitches

The owner of a stud enters into a certain agreement when his stud services a bitch. In the absence of specific agreement, it is understood that the stud is free from communicable diseases, that the owner will take proper care of the bitch from the moment she is received to the moment she is sent back.

Any loss, damage or injury to the bitch which can be blamed upon improper care or negligence, fastens responsibility upon the owner of the stud.

The stud owner does not sell puppies or litters; he sells a stud service, which is evidenced by tieing (mating). He sells only one stud service. Whether or not two services are rendered for the mating is a matter of kennel practice.

That a bitch does not show in whelp or become pregnant or becoming pregnant. does not whelp a litter of live or sound or normal puppies is not the liability of the owner of the stud.

There is no agreement to furnish a return service in these cases unless agreement specifically is made in advance. And if it is made in advance, the return service is at the next heat of the bitch and to the same stud dog, provided the owner still has the stud and provided the owner of the bitch gives notice to the stud owner at about the time the bitch should have whelped, that she did not whelp.

A bitch sold as bred does not include a guarantee of puppies. She may have been bred, may even show in whelp, but unless the sale specifically provides that puppies are guaranteed from the breeding, there is no liability on the part of the seller.

If the seller guarantees puppies, one puppy whelped fills the agreement, and unless otherwise specified, live puppies are not guaranteed.

The agreement by the owner of the stud to accept a puppy in lieu of a cash stud fee, or of his pick of the litter, gives him the only puppy if there is only one in the litter.

If there are no puppies or all are whelped dead. the stud owner can demand payment in cash unless the contract specifically stated otherwise.

The custom in the fancy is that the stud owner, being notified promptly of the whelping of the puppies, must choose and take away his puppy not later than eight weeks after birth. Failure to do so, places the puppy at his risk and at his expense, and permits the owner of the puppies to choose at the end of eight weeks for the owner of the stud and hold the puppy at the expense of the stud owner.

7. False Pedigrees

A number of states including Illinois have specific statutes giving punishment for the issuance of false pedigrees of live stock, including dogs.

Also of course, there can be an action for damages under contract against any person who issues a false pedigree.

J—Regulations affecting the Import and Export of Dogs

Importation and Exportation of Dogs Into Mexico

Five pesos, approximately $1.40, is the import duty on each dog. There is a health inspection of the dog at the Mexican port of entry. Dogs can be shipped into Mexico only thru certain specified ports of entry.

A health certificate signed by a veterinarian at the place of shipment in the U. S. must accompany the dog. If there is a Mexican consul available, the certificate must be vised by him.

In the absence of this health certificate, the dog may be quarantined for disinfection by the Mexican authorities at the port of entry.

Hawaiian Quarantine

The Hawaiian Islands has set up a 4-months quarantine for U. S. dogs (there is no custom's charge), at the expense of the consignee (approximately 25c a day). There is no quarantine for dogs from Australia or the British Isles, as these countries presumably are free from rabies.

Importing Dogs into the U. S.

Tariff duty of 15 per cent of the declared value must be paid on dogs imported into the United States.

If the dogs are purebred and are registered in a foreign stud book, and are imported mainly for breeding purposes, under Par. 1606, Tariff of 1930, the customs duty need not be paid provided a three-generation pedigree certificate and a statement showing transfer of ownership to the person importing the dog, are available at the port of entry.

The importer must make an affidavit of his United States citizenship. A second certificate guarantees that the United States Department of Agriculture will issue a certificate of purebreeding.

The forms necessary can be obtained from the Bureau of Animal Industry, Washington, D. C. known as AH105 and AH283.

If the necessary papers are not available in time or do not accompany the dog, the 15 per cent must be paid but later it will be refunded when the papers are obtained and sent to the Bureau of Animal Industry.

Canadian Requirements

Dogs can be imported free of duty from U. S. into Canada if the dog already is registered in both the AKC and CKC stud books, these registration papers accompany the shipment, and the bill of lading states: "Imported for breeding purposes." No health examination or rabies inoculation is required. Otherwise the duty is 10 per cent.

Bitches shipped into Canada for breeding are carried on a temporary bond, which amount is refunded when the bitch is returned thru the same port as entered. Dogs going into or out of Canada for show exhibition are handled without duty, and on a temporary bond (dog club holding show usually attends to formalities).

ABOUT OHIO DOG LAWS

ADDENDA TO 4TH EDITION OF JUDY'S LAWS ABOUT DOGS

We are indebted to that enterprising journalist, book author, dog club official and field trial judge, Maxwell Riddle, Ravenna, Ohio, for the following comments on Ohio dog laws based upon a specific case which the author sent to him just before presstime.

First, the "sunset to sunrise law" of the state of Ohio expressly exempts hunting dogs from the provisions that a dog may be shot at any time during hunting season without liability for damage (Sec. 5652-14a, Ohio General Code). In part it says: "or when lawfully engaged in hunting accompanied by an owner or handler."

Second, the Ohio courts have ruled that a dog is not at large when hunting "at the command and within call of the owner EVEN THO ON THE LAND OF ANOTHER."

Third, the courts have held that "one who wounds a dog trailing rabbits or other game on his land and incidentally worrying sheep, and leaves the dog mangled, is not exempt from prosecution therefor under G. C. Sec. 13376."

Fourth, Sec. 13363, governing trespassing, gives the landowner the right to kill a dog, if and when he is trying to drive it off his land. That is, the killing would be an accident which happened during the driving off the land. However, the statute states that the killer must pay for the damage done to the dog, less any damage the dog did to the killer's livestock.

My conclusions, therefore, in the specific case Capt. Judy presented, are these.

First, Mr. A's dog was hunting; if he got over onto Mr. B's land, B had no right to shoot the animal. He could be prosecuted for this.

Second, B wounded the dog, which surely can be considered mangling it. Therefore, he can be prosecuted on a separate charge of cruelty to animals.

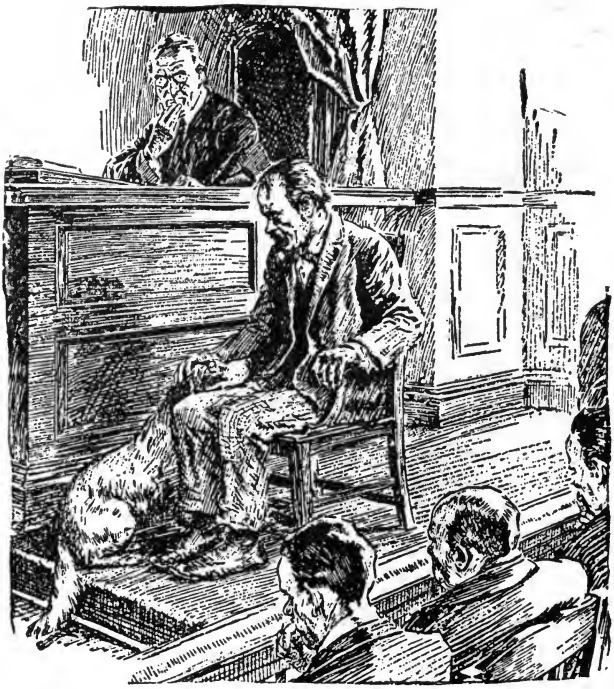
I might add that the Ravenna Kennel Club brought a successful prosecution for this. A man owned a bitch in season. He shot a neighbor's dog which came into his yard, not killing it but paralyzing it. He left it there. Neighbors called police. The shooter was fined heavily.

Third, B cannot claim he shot the dog because it was worrying his sheep, since obviously the dog was hunting. And if he had been worrying the sheep incidentally, B still would not have the right to shoot the animal.

Fourth, B is still liable for the value of the dog which he shoots.

I believe, therefore, that A can bring action against B on several counts. Perhaps he and his neighbors should insure that they have plenty of witnesses the next time such thing happens—then "go after him" in court. However, A should turn over the present case to the county prosecutor, and ask that B be summoned and put under bond to keep the peace.

THE END



The only witness for the defense