



May 19, 2024

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## Chapter II - Animals and Fish

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## Chapter II - Animals and Fish

### Canine Licensing

#### Private Acts of 1927 Chapter 477

**SECTION 1.** That this Act shall be known and may be cited as an Act to promote and protect live stock industries in counties having a population of not less than 30,490 nor more than 30,950, according to the Federal Census of 1920, or any subsequent Federal Census.

**SECTION 2.** That for the purpose of this Act the following terms shall have the following meanings, respectively designated by each:

The term "livestock" shall include horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, jennets, burros, goats, kids and swine and any and all other live stock.

The term "poultry" shall include all domestic fowl.

The word "person" shall include State and local officers or employees, individuals, corporations, co-partnerships and associations. Singular words shall include the plural. Masculine words shall include the feminine and neuter.

The word "owner" when applied to the proprietorship of a dog, shall include every person having a right of property in such dog, and every person who keeps or harbors such dogs or has it in his care, and every person who permits such dog to remain on or about any premises occupied by him.

**SECTION 3.** The term "kennel" shall mean any establishment wherein or whereon dogs are kept for the purpose of breeding, sale or sporting purposes.

The term "officer" shall mean any Sheriff, or his Deputies, or Constables, or anyone appointed by the Sheriff in counties having a population of not less than 30,940 nor more than 30,950, according to the Federal Census of 1920, or any subsequent Federal Census, whose duty it is to enforce this law.

**SECTION 4.** That on or before the first day of June, One Thousand Nine Hundred and Twenty-seven, and on or before the first day of January of each year thereafter, the owner of any dog shall apply to the county court clerk, or deputy county court clerk of the county in which said owner resides, either orally or in writing, for a license for each such dog owned or kept by him. Such application shall state the breed, sex, age, color and marking on such dog, and the name and address of the last previous owner; and shall be accompanied by a fee of \$1.00 for each male dog for which license is applied by the owner, and by a fee of \$2.00 for each female dog for which license is applied by the owner. And it shall be the duty of every person owning, keeping or harboring on the premises where he resides any dog over four months of age to pay on or before the first day of June. One Thousand Nine Hundred and Twenty-seven, and on or before the first day of January of each year thereafter, said fees as hereinabove provided, and in any case where such dog or dogs shall become four months old between June 1, 1927, and January 1, 1928, the license fee shall forthwith become due and payable and hereafter every year following January 1st.

**SECTION 5.** Such license shall be issued on a form prepared and supplied by the County Court of the county, to said County Clerk of said county. Such license shall be dated and numbered, and a description of the dog licensed, and all licenses shall be void on the first day of January of the following year. The County Court of said counties shall furnish the County Court Clerk with each license, a metal tag. Such tag shall be affixed to a substantial collar. The collar shall be furnished by the owner, and the tag attached shall at all times be kept on the dog for which the license is issued.

**SECTION 6.** That the County Court of said counties shall prepare and furnish to the County Court Clerk annually metal tags to be given by the County Court Clerk to the owners of dogs when such owners shall pay the license fee for such dogs. Such tags shall be of metal, and shall bear the name of the county issuing it, and a serial number corresponding with the number of the license issued to said owner, as provided in the preceding section of this Act. Such tags shall also have impressed thereon the calendar year for which such tag is issued, and shall be equipped with a substantial metal fastening device. The general shape of such tag may be changed from year to year. Said blank license and said metal tags shall be paid for by the county for which the license and tags are issued. In case of loss of such tag or license the County Court Clerk shall issue a duplicate tag or license. The duplicate tag shall be forthwith attached to the dog collar, and shall at all times be worn thereon, as herein provided.

**SECTION 7.** That it shall be the duty of the County Court Clerk to collect the license fee under this Act. In a well bound book to be furnished him by the county he shall keep the name of each person paying a license fee on any dog or dogs, the date and amount of such payment, and whether the same is a kennel

license fee or a dog license fee; a description and sex of each dog on which said license fee is paid, and license tag number issued him for said dog. Any deputy County Court Clerk within the county applying to the County Court Clerk, and having received and receipted for necessary blanks and tags, may issue such dog license and tags in like manner as prescribed for the issuance of licenses by the County Court Clerk, and for so doing shall receive the same fee in the same manner as is provided for the County Court Clerk in Section 14 hereof.

**SECTION 8.** That any person becoming the owner after the first day of January in any year, of any dog which has not already been licensed, shall forthwith apply for and secure a license for such dog in the same manner as the annual license is obtained under the provision of this Act.

**SECTION 9.** That no license or license tag issued for one dog shall be transferable to another dog, except as provided in Section 11 of this Act. Whenever the ownership or possession of any dog is permanently transferred, upon notice given to the County Court Clerk. This Act does not require the procurement of a new license, or the transfer of a license already secured, when the possession of a dog is temporarily transferred for the purpose of hunting game, or for breeding, trial or show.

**SECTION 10.** That any person who keeps or operates a kennel may, in lieu of the license for each dog required by this Act, apply to the County Court Clerk for a kennel license, entitling him to keep or operate such kennel. Such license shall be issued by the County Court Clerk on a form prepared and supplied by the County Court to the County Court Clerk, and shall entitle the license to keep any number of dogs not at any time exceeding a certain number to be specified in the license. The fee to be paid for each kennel license shall be \$5.00 for five dogs or less, and \$10.00 for more than five dogs permitted to be kept under the kennel license. With each kennel license the County Court Clerk shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. All such tags shall bear the name of the county issuing it, the number of the kennel license, and shall be readily distinguishable from the individual tags for the same year.

**SECTION 11.** That the license of a kennel shall at all times keep one of such tags attached to a collar on each dog kept by him under kennel license. Such tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. No dog bearing a kennel tag shall be permitted to stray or be taken anywhere outside of the limits of the kennel.

This Section does not prohibit the taking of dogs having a kennel license outside of the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial or show.

**SECTION 12.** That any person may bring or cause to be brought into the country, for a period of thirty days, one or more dogs for show, trial, or breeding purposes.

**SECTION 13.** That the County Court Clerk shall keep a record of all dog licenses, and all kennel licenses, and all permits issued during the year. Such record shall contain the name and address of the person to whom such license is issued; it shall also state the breed, sex, age, color and markings of the dog licensed; and in the case of a kennel license, it shall state the place where the business is conducted. The record shall be a public record and open to persons interested during business hours. And in addition thereto it shall be the duty of the county court clerk to cause to be published, by districts in one of the newspapers published in his county, if such there be by February 15th, of each year, the owner's name, post office and number of dogs for which he has obtained a license.

Whenever the ownership or possession of any dog licensed under the provisions of this Act is transferred from one person to another, except the temporary transfer of dogs for hunting purposes, or for breeding, trial or show, as provided in Section 11 of this Act, such transfer shall be noted on the record of the County Court Clerk.

**SECTION 14.** That an accurate record of all license fees collected by the County Court Clerk, or paid over to him by any deputy clerk, shall be kept in a book furnished by the county as aforesaid as a matter of information; and all such funds shall be turned into the county funds for the payment of live stock or poultry killed or damaged by dogs, which said fund shall be known as the "dog license fund," derived from the taxation of dogs under the provision of this Act. All bills incurred under this Act shall be paid out of said fund. The County Court Clerk or deputy shall receive fifteen (15) cents for each and every license issued by them respectively, to be paid out of said fund, and shall be retained by the County Court Clerk, or deputy, as his fee for issuing such license.

**SECTION 15.** That the Tax Assessors in each county coming within the provisions of this Act, shall annually, at the time of assessing property as required by law, make diligent inquiry as to the number of dogs owned, harbored or kept by any person and shall list them, and said assessor shall receive five cents for each dog listed by him, the same to be paid out of said fund.

The assessor shall annually, on or before the 31st day of December following make a complete report to

the County Court Clerk on a blank form to be furnished by the county, setting forth the name of every owner of any dog or dogs, whether licensed or unlicensed, the licensed number of each licensed dog, how many of each sex, licensed or unlicensed, and if a licensed or unlicensed kennel is maintained by any person such fact shall also be stated. It shall be the duty of the tax assessor, at the time of taking the list, to notify the owner of such dog or dogs that he must obtain a license for same as provided for in this Act; but the neglect or failure to so notify such owner shall not relieve the owner from his duty to obtain such license.

**SECTION 16.** That on or after the first day of June, One Thousand Nine Hundred and Twenty-seven, it shall be unlawful for any person to own or keep any dog unless such dog is licensed by the County Court Clerk or deputy in which the dog is kept; and unless such dog at all times wears a collar and tag provided for by this Act, except such dogs as are temporarily brought into the county for breeding, trial or show purposes.

**SECTION 17.** That it shall be the duty of the Sheriff of the county to seize and impound any dog or dogs which are found running at large unaccompanied by its owner or keeper, which does not bear proper license tag. The Sheriff, or deputy, or constable, shall cause any dog bearing a proper license tag and so seized and impounded, to be properly kept and fed, and shall cause immediate notice, either personally or by registered mail, to be given to the person from whom or from whose premise the dog was taken, or in whose name the license was procured, or his agent, to claim such dog, within ten days. It shall also be the duty of the Sheriff, deputies or constables of said counties, to go upon the premises of any person for the purpose of ascertaining if such person is the owner of or harboring any unlicensed dog or dogs, and if such officer finds any unlicensed dog or dogs, he shall seize and impound each dog or dogs as above provided, and he shall give notice as above provided.

If after ten days from the giving of such notice such dog has not been claimed, such officer whose duty it is to enforce this Act shall dispose of such dog by sale or by destruction in some humane manner. All money received from the sale of such dog, after deducting the expense of its detention, shall be paid to the County Court Clerk, and by him placed in said "dog license fund." For fees for his services such officer shall be paid the sum of \$2.00 for impounding and detaining a licensed dog, and the sum of \$1.00 for killing of the dog.

All expenses incurred under this Act, and under these sections, and not otherwise provided for, shall be paid by the county.

**SECTION 18.** That failure to perform any duty under the provisions of this Act, any officer shall be liable to a penalty of not less than \$10.00 nor more than \$25.00 for each offense, which amount shall be deducted from any amount due such officer from the county at any settlement between such officer and the governing authorities, or if it appears that nothing be due, then to be collected as any other find, and as provided by law.

**SECTION 19.** That any person may kill any dog which he sees in the act of pursuing, worrying or wounding any live stock or poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of the Act. There shall be no liability on such person in damages or otherwise for such killing.

However, licensed dogs, when accompanied by their owner or handler shall not be included under the provisions of this section unless caught in the act of worrying, wounding or killing any live stock on such person in damages or otherwise for such killing.

**SECTION 20.** That it shall be unlawful for any person, except the owner or authorized agent, to remove any license tag from a dog collar, or to remove any collar with a license tag attached thereto from any dog.

It shall be unlawful for any person to harbor or permit to remain about his premises, any dog not having a license.

**SECTION 21.** That it is unlawful for the owner or keeper of any female dog to permit such female dog to go beyond the premises of such owner at any time she is in heat, unless such female dog is held properly in leash.

**SECTION 22.** That whenever any person sustains any loss or damage to any live stock or poultry by dogs, or any livestock of any person is necessarily destroyed because of having been bitten by a dog, such person, or his agent or attorney, may complain to the County Executive of the County, or to any of the Justices of the Peace. Such complaint shall be in writing, and shall be signed by the person making such complaint, and shall state when, where and how much damage was done, and by whose dog or dogs, if known. Such County Executive or Justice of the Peace shall appoint two appraisers, whose duty it shall be to investigate and ascertain the amount of damage sustained. Each appraiser shall be a resident land owner of the county, and not related to claimant by either blood or marriage. Such appraisers shall

examine the place where the alleged loss or damage was sustained and the live stock or poultry injured or killed, and shall also examine, under oath or affirmation, any witnesses called before them. But such loss or damage sustained, or live stock or poultry injured or killed, or the cost, market value or purchase price of the same, but damages on sheep shall not exceed \$10.00 for each common or grade sheep, or \$25.00 each for registered sheep. After making diligent inquiry in relation to such claim, said appraisers shall determine whether any damage has been sustained, the amount thereof, and, if possible, who was the owner of the dog or dogs by which such damage was done, and shall forthwith make a written report of the findings to the County Executive or Justice of the Peace appointing them.

Any owner or keeper of such dog or dogs shall be liable to the county in which the damages occurred to such live stock or poultry in a civil action for all damages and costs, and the owner who suffers the loss shall be reimbursed out of said funds in which said damage occurred.

Upon making examination required as aforesaid, in this Section of this Act, the county executive or magistrate shall immediately make a certificate thereto, signed and sealed by him, that such appraisement was regularly and duly made. If, by such examination, it appears that any damage has been sustained by the claimant, the county executive or Justice of the Peace, shall deliver the report of such examination, and all papers relating to the same, to the claimant, his agent or attorney, upon payment of the cost up to that time. Such report shall be delivered to the County Court to be filed in his office. The County Court Clerk receiving such report, if it appears thereby that a certain amount of damage has been sustained by the claimant, shall immediately file the same, and on the first day of June and the first day of January of each year following, shall total the claims so filed, and if sufficient money is on hand in said "dog license fund" to pay all of said claims in full, so filed, he will immediately draw his order on the Trustee of the County, in favor of the claimants for the amount of loss or damage such claimants have sustained, according to said report, together with necessary and proper cost incurred. But if said fund on hand is insufficient to pay said claims so filed in full then he will pro rate the same on said claimed so filed. No person shall receive any order for any claim until the county executive, or Justice of Peace, before whom the claim was made has certified that due diligence was made to ascertain whose dog or dogs did the damage, and where the carcasses of the live stock or poultry killed, and for which damages have been assessed, were located within twenty-four hours after the assessment of damages.

**SECTION 23.** That any valid claims or parts thereof for loss of damage to sheep, horses, mules, cattle or swine which have accrued under any general or local laws at any time, prior to the passage of this Act shall not abate by reason of the repeal of such general or local laws.

**SECTION 24.** That it is unlawful for any person knowingly to make any false statement or to conceal any fact required to be disclosed under any of the provisions of this Act.

**SECTION 25.** That in any proceeding under this Act the burden of proof of the facts that a dog has been licensed, or has been imported for breeding, trial or show purposes, shall be on the owner of such dog, or the party who has possession of such dog. Any dog not bearing a license tag shall prima facie be deemed to be unlicensed.

**SECTION 26.** That any person, other than an officer, violating or failing or refusing to comply with any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be adjudged to pay a fine of not less than \$10.00 nor more than \$40.00.

All fines collected under the provision of this Act shall be forthwith paid to the Trustee of the County, and credited, after payment of such commission as officers may be entitled to under this Act, to said "dog license fund."

**SECTION 27.** That this Act is intended as a complete and uniform system in all counties having a population of not less than 30,940 nor more than 30,950 according to the Federal Census of 1920 or any subsequent Federal Census, for the licensing of dogs, and the protecting of live stock and poultry from injury by dogs; but nothing in this Act shall interfere with any law for the protection and preservation of game, except where such Act or parts of Act are specifically repealed this Act does not repeal or affect any Act or parts of Acts relating to mad dogs affected with any disease.

**SECTION 28.** That nothing in this Act shall be construed to prevent the owner of a licensed dog from recovery, by action at law, the value of any dog, which dog has been illegally killed by any officer, farmer, stockman or other person in said County, from said officer, farmer, or other person. In case such officer or other person fails to pay the value of such dogs so killed, the same shall be paid by the proper officials of said county, said value of said dog to be ascertained in the same manner and form as provided hereinabove in this Act for assessing the damages done to live stock or poultry by dogs, but the amount so paid for such dog or dogs shall not exceed \$25.00 per dog.

Nothing in this Act shall be construed to prevent the killing of a dog by any officer empowered to enforce the game laws of this State when said dogs are pursuing game during the closed season for the training of

dogs and game, providing said dogs are not under the immediate control or accompanied by their owner or keepers, and also providing that legal notice has previously been given said owner or keeper as required by the existing game laws of this State.

**SECTION 29.** That the County Court Clerk shall quarterly make a report to the County Trustee of all licenses issued, amounts collected, number, kind and breed of live stock and poultry injured or killed, amounts paid out, and for what, and in fact a general report covering the enforcement of this Act, and also pay over all fees collected under the provisions of this Act to the County Trustee quarterly; and for the collection of said licenses as herein provided said County Court Clerk is hereby allowed the sum of 5% of the amounts so collected by him, which is hereby allowed as his compensation for the performance of the duties required of him under this Act; and the residue thereof shall be turned over by the County Court Clerk to the County Trustee in a separate fund known as the "dog license fund," and so kept by said County Trustee; and for his compensation for handling said fund the County Trustee shall be allowed 2% of the amount so handled and disbursed by him under the provisions of this Act.

The Sheriff, his deputies, and constables, whose duty it is to enforce the provisions of this Act, are hereby allowed, in addition to the fees herein provided for, 10% of the amount of the license fee collected by them from any persons owning, keeping or harboring any dog or dogs, when the same becomes delinquent, and is placed in the hands of said officer or officers for collection, it being hereby declared the duty of the County Court Clerk, after said license fees as herein provided for said dogs become delinquent, to issue distress warrants for said license fees against any person owning, keeping or harboring any dog or dogs, and this compensation to said officers is in addition to the legal statutory cost for serving distress warrants.

**SECTION 30.** That the Magistrates in said counties shall have jurisdiction for the trial of all criminal offenses herein provided, and authority to impose said fines herein provided, for any violations under the provisions of this Act.

**SECTION 31.** That in any event that any one or more of the provisions of this Act shall be decided to be unconstitutional, the Court's decision holding same unconstitutional shall not affect the validity of the remaining provisions of this Act, it being the intention of the Legislature that the provisions of this Act are severable.

**SECTION 32.** That all moneys collected by said County Court Clerks under the provisions of this Act shall, after deducting the amounts paid out for loss necessary for the enforcement of this Act, damages, compensations and other expenses, revert to the school fund of the County.

**SECTION 33.** That all laws or parts of laws in conflict with this Act are hereby repealed, and that this Act shall become effective upon its passage and approval, the public welfare requiring it.

Passed: April 14th, 1927.

**COMPILER'S NOTE:** This act was mentioned in a dissenting opinion by Justice Cook in Darnell v. Shapard, 156 Tennessee 568, 3 S.W.2d 668 (1928). This was also the subject of litigation in Birdsong v. Wilkinson, 13 Tenn. App. 276 (1931).

## Animals and Fish - Historical Notes

The following is a listing of acts that at one time affected, but no longer appear to have any effect on, hunting, fishing or animal control in Giles County. They are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1889, Chapter 128, actually amends an 1887 general act to the extent of prohibiting any person from fishing in Giles County with a seine or net whose meshes are less than 1½" and subjected violators to a fine of not less than \$2.00 per offense.
2. Private Acts of 1893, Chapter 15, made it unlawful for any person to trap, kill, net, or capture quail or partridges for pleasure or for profit, on his land or elsewhere in Gibson, Montgomery, Lincoln, and Giles County, at any season other than from November 1 to March 1 of the following year, fines for violation ranging from \$5 to \$25.
3. Private Acts of 1897, Chapter 285, made it lawful for any resident of Giles County to fish in these ways, by hands or grabbing, by baskets by slat trap where slats are 1½" apart, and by seining when meshes of the seine are 1½" or larger. This Act amended Chapter 127, Acts of 1895, which was a general state law forbidding the things which this act permits in Giles County.
4. Private Acts of 1899, Chapter 72, repealed Acts of 1897, Chapter 285, and thus brought the county back under the provisions of Acts of 1895, Chapter 127, again.
5. Private Acts of 1903, Chapter 147, made it lawful to catch fish in any of the streams of Giles

County in any way and at any time except by use of explosives and poison.

6. Private Acts of 1905, Chapter 294, repeals Acts of 1903, Chapter 169, Section 3, subsection 7, a general game law for the entire state, as the act applied to Giles County in this regard, by making it lawful to kill squirrels in the county at any time during all seasons of the year.
7. Private Acts of 1905, Chapter 306, prohibited one from grabbling, seining, or trapping fish in any stream, lake, or pond in Giles County without written permission of the person through whose lands the lake or pond is located, but this was not to apply to seining for minnows for bait. Fines for violation ranged from \$5.00 to \$50.00.
8. Private Acts of 1917, Chapter 527, permitted any resident of the county to catch fish by rod and line, trot line, snatch hook, basket with slats 1½" apart, and nets with meshes 1½" wide, or larger, provided permission were granted from abutting property owners. It was also lawful to grabble and seine for fish in any stream from July 1 to August 31 of each year. Violations were classified as misdemeanors, punished by fines upon conviction.
9. Private Acts of 1919, Chapter 375, declared it a misdemeanor to shoot, take, kill, hunt, capture, destroy or injure by any means or method, any quail, partridge, dove, or squirrel except during the following open seasons; quail and partridge from December to February 1; doves, from September 1 to March 1; and squirrel, from October 15 to July 1.
10. Private Acts of 1929, Chapter 460, again legalized fishing with hook and line, or troutline in any month of the year and in all county streams.
11. Private Acts of 1933, Chapter 871, made it unlawful for any person, firm, or corporation, to engage in market fishing in any water or stream in Giles County; no fish taken in such manner shall be sold or offered for sale. Further, it was unlawful to fish by net, basket, hoop net, gill net, seine, grabhooks, or grabbling, or by any device other than hook or line. The fines for violations started at \$25.
12. Private Acts of 1939, Chapter 243, by population figures for Giles County declared it to be unlawful to catch or transport within the boundaries of said county or counties, minnows intended for transportation or sale beyond the borders of Tennessee, or to have more than 1000 minnows in one's possession at one time. Maximum fine in these cases was set at \$100.
13. Private Acts of 1963, Chapter 244, allowed the County Court of Giles County to appropriate \$2,000 to pay a bounty of \$2.00 each to everyone killing a grey fox in Giles County who claimed it. The offer expired in two years or when the funds were exhausted, whichever came first. Red foxes were excluded from the bounty payments.
14. Public Acts of 1974, Chapter 703, amended Tennessee Code Annotated, Section 51-4107, by adding a provision immediately preceding the last paragraph which said that the words at the end of the paragraph "while having in his possession or under his control any firearm or bow and arrow," and the prohibitions contained in the next two paragraphs following that would not be applied to deer hunting in several counties listed in the Act and identified by population groupings of the 1970 Federal Census. Giles County was included in their number.

### **Fences**

1. Private Acts of 1909, Chapter 377, amended a general law on legal fences, Acts of 1887, Chapter 35, and Acts of 1883, Chapter 46, but made the amendment applicable only to Giles County which permitted fence posts in that county to be 16 feet apart instead of 9 feet as specified by the state act.
2. Private Acts of 1915, Chapter 104, made it a misdemeanor for the owner, or the one in possession of, cattle, horses, mules, jacks, jennets, hogs, sheep and goats to permit them to run at large, at the risk of being fined \$2.00 to \$5.00 therefor and becoming liable in a civil suit for damages done. The damaged person was given a lien on said stock for his damages, could take them up and keep them, and charge compensation therefor, but nothing in this Act is intended to relieve railroads in any way from their responsibilities in this respect.
3. Private Acts of 1921, Chapter 271, described a lawful partition fence in Giles County as one made of wire, 39 inches in height, with a strand of barbed wire ten inches above all to be fastened to posts with staples, said posts being no more than 12 feet apart. If the fence is of rails only, there shall be nine rails to the panel.

### **Dogs: General**

1. Private Acts of 1923, Chapter 481, was a special dog law for Giles County. The Act provided for payment of certain license fees for dogs, and certain records to be kept on each dog by both owner and County Assessor. A Dog was declared to be a public nuisance in some circumstances



when running at large. Funds were to be kept in an account which would be subject to claims from owners of sheep which had been injured or killed by dogs at large and, when paid out of this fund, it was the duty of the Tax Assessor to recover the same in a suit if need be, against the true and lawful owner or custodian of said dogs. All surpluses in this account at the end of the fiscal year went to the schools. The Tennessee Court of Appeals in Birdsong v. Wilkinson, 13 Tenn. App. 276 (1931), held that this act was impliedly repealed by Private Acts of 1927, Chapter 472.

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