

release such carrier or agent from any liability in said shipment or carrying of said game, and the original affidavit shall be retained by the person taking the same, and shall be used as evidence in any trial to which said affidavit belongs; and if any person ensnare or trap any prairie hen or chicken, quail, or any other game-birds mentioned in this act at any season of the year, or if any person shoot or in any manner kill or capture any of the above mentioned birds or animals contrary to the provisions of this section, he shall be liable to the penalties provided in section 4050 of the code of 1873.

Trapping game birds.  
Killing or capturing same.  
Punishment.

Approved March 23d, 1874.

CHAPTER 70.

THE HERD LAW AMENDED.

AN ACT to Amend Chapter 3, Title XI. of the Code in relation to Domestic and other Animals.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That sections 1446, 1448, 1450, 1451, 1452, 1453, 1457, 1458, 1459, 1460, 1461, 1462, and 1463 of the code be and the same are hereby repealed, and the following enacted in lieu thereof, to-wit:

Code; title xi., ch. 3.

SEC. 2. Section 1446. Every owner of swine, sheep, or goats shall restrain the same from running at large.

Swine, sheep, and goats restrained.

SEC. 3. Section 1448. When any person is injured in his lands, inclosed by a lawful fence, by any kind of domestic animal, he may recover his damages by an action against the owner, or by distraining the animals doing the damage; but if they were lawfully on the adjoining land, and escaped therefrom by reason of the neglect of the person suffering the damage to maintain his part of the division fence, the owner of the animals shall not be liable for such damage, and if the party injured elects to recover by action against the owner of the stock, no appraisalment need be made by the trustees as in cases of distraint; and in counties where by police regulation stock is restrained from running at large, any person injured in his improved or cultivated lands by any domestic animal may recover his damages as provided in section six of this act and sections 1454, 1455, and 1456 of the code, whether the lands whereon the injury was done was inclosed by a lawful fence or not.

Damages may be recovered for injuries done by stock in inclosures.

Owner not liable when.

Recovery when stock is restrained from running at large. §§ 1454-1456.

SEC. 4. Section 1450. Section 309 of the code is hereby amended by striking out the word "now" in the fifth line thereof; and the word "stock," as used therein and in this chapter, is hereby declared to mean cattle, horses, mules, and asses; and, under said section, the board of supervisors of each county may—and on petition of one-fourth of the legal voters thereof, as shown by the returns of the last general election, must—submit, in the manner provided by section 310 of the code, except as herein

Code, § 309, amended.

Meaning of "stock."

Board of supervisors to submit question to popular vote. § 310.

modified, to the electors of the county at the next general election, or, if they deem it advisable, at a special election called for that purpose, the following questions of police regulation, or either of them, and no others, to-wit :

Questions  
that may be  
submitted.

First. Shall stock be restrained from running at large ?

Second. Shall stock be restrained from running at large between sunset and sunrise ?

Third. Shall stock be restrained from running at large from the first day of (naming the month) in each year, until the first day of (naming the month) following?

Fourth. Shall stock be restrained from running at large between sunset and sunrise from the first day of (naming the month) in each year, until the first day of (naming the month) following ?

Regulation in  
force when.

SEC. 5. Section 1451. If at such election a majority of the electors voting thereon, shall vote in favor of either of such regulations, then the same shall take effect and be in force at the end of thirty days after said election, and shall continue in force until the end of ninety days after an election at which, on a resubmission of the same question, a majority of the electors of the county voting thereon shall vote against the same: *Provided*, That where any county prior, to the taking effect of this act, shall have voted, on the submission of such question "for restraining "stock from running at large;" or "for restraining stock from "running at large between the hours of sunset and sunrise," as provided in chapter 3, title 11, of the code, or in the law or laws to which the same is amendatory, such vote is hereby declared to be legal and valid, and to amount to an adoption by the county of the police regulation so voted for, as the same is herein set out as fully and effectually as if the same was submitted and voted for under this act, except that the same shall be and remain in force in such county until the end of thirty days after the next general election and no longer unless readopted thereat.

Proviso: reg-  
ulation  
declared in  
force in coun-  
ties adopting  
provisions of  
herd law.

Owner of  
stock liable  
for damage  
where police  
regulation is  
adopted.

How recov-  
ered.

Proviso:  
when animals  
shall not be  
considered  
running at  
large.

SEC. 6. Section 1452. The owner of any stock or domestic animal, prohibited by law or police regulation of any country from running at large at any of the times hereinbefore mentioned, shall be liable for all damages done thereby while wrongfully remaining at large upon the public highway or upon the improved or cultivated lands of another, which may be recovered by action at law, or the party injured may, at his option, distrain the trespassing animals, and retain the same in some safe place, at the expense of the owner, until the damages are paid as provided in section[s] 1454, 1455, and 1456 of the code: *Provided*, That no stock or domestic animal, except the male animals mentioned in section 1447 of the code, shall be considered as running at large, so long as the same is upon unimproved or uncultivated lands, and under the immediate care and control of the owner, or upon the public highway under like care and control, for the purpose of travel or driving thereon.

Who to be  
considered  
owner.

SEC. 7. Section 1453. The word owner, as used in the preceding and in the three succeeding sections of this chapter of the code, shall include the person entitled to the present possession

of the animal, and also the person having the care or charge of the same, as well as the person having the legal title thereto.

SEC. 8. This act being deemed of immediate importance shall take effect immediately from and after its publication in The Iowa State Register, and the Iowa State Leader, newspapers published in Des Moines, Iowa, anything in the code notwithstanding. Publication clause.

Approved March 28th, 1874.

I hereby certify that the foregoing act was published at Des Moines, in *The Iowa Daily State Leader* March 31, and in *The Iowa Daily State Register* April 1, 1874.

JOSIAH T. YOUNG, Secretary of State.

## CHAPTER 71.

### AGRICULTURAL COLLEGE LANDS.

AN ACT to Regulate the Leasing of the Lands belonging to the Iowa State Agricultural College.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa:* The board of trustees of the Iowa state agricultural college and farm are hereby authorized to lease the land granted to the State of Iowa by an act of Congress entitled, "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2d, 1862, in amount not exceeding one hundred and sixty acres to any one person, for a term not exceeding ten years, the lessee to pay eight per cent. per annum in advance upon the price of said land, which is hereby declared to be not less than fifty per cent. additional to the price at which each piece of said land, respectively, was appraised by the board of trustees in the year 1865; and the said lessee shall have the privilege of purchasing said land at the expiration of the lease at the price aforesaid. The lessee failing to pay the interest upon said lease, within sixty days from the time the same becomes due, shall forfeit his lease, together with the interest paid thereon, and the improvements made on said land. Board of trustees may lease lands.

SEC. 2. The said board of trustees are also authorized to renew leases heretofore made, for a term not exceeding ten years from the date of such renewal, the rate of interest to be eight per cent., and when leases are so renewed the lands shall be subject to assessment for taxation at the end of ten years from the date of the original lease. The board of trustees shall cause to be certified to the auditors of the several counties, in which said lands are situated, a list of said land which may be subject to taxation as herein provided: *Provided*, That the releasing of this land shall be done by the secretary of the said college without extra compensation. Lessee may purchase at expiration of lease.  
Forfeiture of lease.  
Board may renew lease at eight per cent. interest.  
Same to be subject to taxation.  
B'd to certify lists to co. auditors.  
Secretary to do releasing.