

brought by different claimants, and be pending at the same time, the court may order them to be consolidated.

Claimants to be  
paid proportion-  
ately

Sec. 7. If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each.

Defendant to  
file written  
undertaking

Sec. 8. In all actions or proceedings commenced under this chapter, the defendant may file a written undertaking, with surety, to be approved by the court, to the effect that he will pay the judgments that may be recovered, and costs, and thereby release his property from the lien hereby created.

Certain act re-  
pealed, Proviso

Sec. 9. Chapter fifty-four of the session laws of 1862, entitled an act to create a lien for mechanics in certain cases, is hereby repealed;

*Provided, however,* That such repeal shall not affect the rights or liabilities that have already accrued under and by virtue of said act.

When to take  
effect

Sec. 10. This act to take effect and be in force from and after its passage and approval.

Approved, December 24, 1867.

## MINES AND MINING.

### CHAPTER XXII.

#### AN ACT CONCERNING MINES AND MINING.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Size of claim

Section 1. That a mining claim subject to location and pre-emption, by any one individual, on any gold or silver bearing quartz ledge or lode, in the Territory of Dakota, either discovered or that may hereafter be discovered, shall consist of two hundred feet along the ledge or lode with all its dips, spurs and angles, and with fifty feet on

each side of the ledge for the purpose of conveniently working and developing the same ;

*Providing*, That the discoverer and locator of any gold or silver bearing quartz ledge or lode, shall be entitled to an extra claim of two hundred feet on the ledge or lode so discovered, and located in accordance with this act.

Sec. 2. Any person discovering and locating any gold or silver bearing quartz ledge or lode, or who shall locate a claim thereon after discovering, shall immediately thereafter, make the same known by defining the boundaries, and extent of his or their location, by posting in the ground at the point of discovery, on the ledge, a good and substantial stake, not less than three feet above the surface of the earth, with a notice thereof, stating the name of the person so locating or discovering.

Persons to  
make known  
their discoveries

Sec. 3. A copy of the notice mentioned in section two of this act, and notices of all river, bar, hill, creek or gulch, mining claims, must be recorded by the register of deeds for the county wherein the said mines may be situated, and such record shall be evidence in all courts of justice ;

Notice of  
discovery to be  
recorded

*Providing*, That the fee for recording all such notices shall not be more than two dollars.

Sec. 4. All notices of mining claims must be filed for record with the register of deeds, within the following specified times, to-wit :

When notice to  
be filed

If discovered and located within ten miles of the county seat, five days thereafter ; if more than ten and less than twenty miles, ten days ; if more than twenty and less than one hundred and fifty miles, thirty days.

Sec. 5. Any person or persons, owning or holding or who shall hereafter own or hold a mining claim on any gold or silver bearing quartz ledge or lode, in the Territory of Dakota, shall be required to perform monthly labor thereon, to the value of not less than twenty dollars per month for the first six months following location, and to the value of not less than thirty dollars per month for the six months ensuing ; at the expiration of which time, the required labor having been duly performed in accordance with this act, and satisfactory evidence of the fact, having been certified to by two competent witnesses, and to the satisfaction of the register of deeds, the title to the said mining claim shall as between claimants thereafter be deemed perfect, and a certificate to that effect shall be issued by the register of deeds, to the party or parties interested ; and upon complying with these conditions the same shall be treated as real estate ;

Necessary steps  
to acquire title  
to claims

*Providing*, That any company or association of men, owning or holding more than one claim of two hundred feet and not more than ten thousand feet, on any one gold or silver bearing quartz ledge or lode, and who have complied with the general incorporation law of the Territory, shall not be required to perform more than one thousand dollars worth of labor upon their associated claims, upon any single ledge or lode, and such labor may all be expended on any one of their different claims of two hundred feet, on the respective ledge or lode where the same may be located ;

*Providing further*, That any person or persons, claiming or holding, shall hereafter claim or hold a mining claim on any gold or silver bearing quartz ledge or lode, either discovered or that may hereafter be discovered in the Territory of Dakota, and who shall fail to comply with the provisions of this act, shall forfeit all rights to any such mining claim, and the same shall be subject to re-location and pre-emption ;

*And providing further*, That nothing in this act shall be so construed as to conflict with any law of congress in regard to quartz mines and mining.

When privileges  
mill sites &c to  
be staked and  
notices posted

Sec. 6. All water privileges for ditches and other mining purposes, and all mill sites must be staked, and at least two notices posted in a conspicuous manner on the ground, a correct copy of which must be filed for record with the register of deeds in the same manner as provided for the recording of mining claims in section four of this act.

When notice to  
be filed with  
Register of  
deeds

Sec. 7. Any person or persons, locating water privileges for mining purposes and with the intention of conveying the said water from its natural channel, must within ten days after filing his or their notice, as provided for in section six of this act, commence the construction of his or their ditch by actual survey or by constructing at least one rod, or sixteen and one-half feet of the same, into which the waters of the stream must be turned from its natural channel, to the extent of the capacity of the ditch in contemplation of construction, and no person or persons, shall claim or appropriate to the exclusion of others, more of the waters of any natural streams than can be conveyed through his or their ditch.

Miners to enact  
by laws

Sec. 8. The miners in all placer or surface diggings, are hereby empowered to enact all by-laws, rules and regulations for the government of the same ;

*Providing*, That the record of all such mining claims must be made in the office of the register of deeds.

Sec. 9. All sales, transfers and conveyances of mining property, shall be made by deed as in the sale, transfer, or conveyance of real estate. Transfer to claims to be by deed

Sec. 10. This act shall take effect and be in force from and after its passage and approval. When to take effect

Approved, January 10, 1868.

## OATHS.

### CHAPTER XXIII.

#### AN ACT IN RELATION TO THE FORMS OF CERTAIN OATHS.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Section 1. The following shall be the forms of oaths to be administered to officers and persons hereafter mentioned :

*Oaths to be administered to Witnesses and Persons when examined under oath.*

“ You do solemnly swear that the evidence you shall give relative to the matter in difference now in hearing between A. B. plaintiff, and ——— defendant, shall be the truth, the whole truth and nothing but the truth, so help you God.” Oath for witnesses

*Oath to be administered to Interpreters of Testimony.*

“ You do solemnly swear that you will justly, truly and impartially, interpret to A. B., the oath about to be administered to him, and the questions that may be asked him and the answers that he shall give to such questions relative to the cause now under consideration before this court, so help you God.” Oath for interpreters

## ERRATA.

On page 214, chapter XXII, in section 5 of an act entitled an act concerning Mines and Mining, in first proviso commencing in fourth line, leave out the words, "*and who have complied with the general incorporation law of the Territory.*"

S. L. SPINK,

*Secretary.*