

air-course, or brattice, or shall obstruct or throw open any air-ways, or carry any lighted lamps or matches into places that are worked by the light of safety-lamps, or shall disturb any part of the hoisting machinery, or open a door in the mine and neglect or refuse to have it closed again, whereby danger is produced either to the mines or to those engaged therein; or who shall enter into any mine against caution; or who shall disobey any order given in pursuance of this act; or who shall do any willful act whereby the lives and health of persons working in the mine, or the security of such mine, or the machinery thereof, is endangered, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or both, at the discretion of the court.

Penalty for
sundry
dangerous
acts.

SEC. 10. The inspector provided for by this act shall receive three dollars per day for the time necessarily employed in the discharge of his duties, to be paid out of the county treasury; but in case[s] where, on inspection, the provisions and requirements of this act are found not to have been complied with in operating a mine, then the expense of inspecting said mine shall be paid by the owner, operator, or agent of such mine, to be recovered if necessary by suit before any court having jurisdiction.

Pay of
inspector, and
by whom
paid.

SEC. 11. In all cases where the inspection is called for by a written request of five miners working in any mine, or by the owners thereof, it shall be his duty to proceed at once to inspect the same when the parties so applying have deposited a sufficient sum in the hands of the county clerk to defray the expense of inspecting such mine. Where the mine proves defective, it shall be at the expense of the owners of the mine; and where the inspecting shows there was no necessity for the examination, it shall be at the expense of the parties demanding the inspection.

Code: title xi.,
ch. 8, repealed.

SEC. 12. Chapter 8, title XI. of the code, and all acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 18th, 1874.

CHAPTER 32.

JURORS' FEES TO BE TAXED AS COSTS.

AN ACT to Amend Section 3812, Chapter 3, Title XXIII. of the Code in Relation to Jury Fees. H. F. 245.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That section 3812, chapter 3, title 23 of the code be amended to read as follows: Code: § 3812 amended.

“For every case tried in a court of record by jury, the per diem of such jury, while engaged in the trial thereof, shall be taxed as part of the costs, and shall be collected the same as other costs and paid into the county treasury by the clerk, who shall report the same to the board of supervisors at each regular session thereof, who shall

Per diem of
jurors to be
taxed as costs,
and paid into
county
treasury.

Clerk to report.
 Clerk to keep account of time of jury.

cause the same to be charged to the treasurer; and it is hereby made the duty of the clerk of the court, where a case is tried by jury, to keep the true and correct time occupied by the jury in such case, from the time of its being impaneled to the time when it is discharged, and to tax to each case the amount of jury fees properly chargeable to it under the provisions of this section.”

Approved March 18th, 1874.

CHAPTER 33.

EVIDENCE OF HUSBAND AND WIFE.

S. F. 108. An ACT to Repeal Section 3641 of Chapter 1 of Title 22, of the Code [relating to “Evidence”] and to Enact a Substitute therefor.

Code: § 3641 amended.

When husband and wife may be witnesses against each other. May be witnesses for each other in all cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That section three thousand six hundred and forty-one (3641), of chapter one (1), title twenty-two (22) of the code, be and the same is hereby repealed, and in lieu thereof the following is enacted as a substitute:

“Section 3641. Neither the husband nor wife shall in any case be a witness against the other, except in a criminal prosecution for a crime committed one against the other, or in a civil action or proceeding one against the other; but they may in all civil and criminal cases be witnesses for each other.”

Approved March 18th, 1874.

CHAPTER 34.

ESTABLISHMENT OF PUBLIC WAYS TO MINES AND STONE QUARRIES.

S. F. 223. AN ACT Authorizing the Establishment of Public Ways to Lands having Stone and Mineral Thereon. [Additional to Code, Title IX. Chapter 4: relating to “Taking Private Property for Works of Inter-“nal Improvement.”]

Quarry or mine owners may have public way established.

Same to be fenced.

Proceedings to condemn right of way.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That any person, copartnership, joint-stock association, or corporation, owning, leasing, or possessing any lands having thereon or thereunder any coal, stone, lead, or other mineral, may have established over the land of another a public way from any stone-quarry, coal, lead, or other mine, to any railway or highway, not exceeding (except by the consent of the owner of the land to be taken) fifty feet in width. When said road shall be constructed, it shall, when passing through inclosed lands, be fenced on both sides by the person or corporations causing said road to be established.

SEC. 2. If the owner of any real estate, necessary to be taken for the purposes mentioned in this act, refuse to grant the right of way, or if such owner and the person, partnership, joint-stock