

In the Supreme Court of the State of California

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

BRANDON LANCE RINEHART,

Defendant and Appellant.

Case No. S222620

SUPREME COURT
FILED

MAR 28 2015

Frank A. McGuire Clerk

Third Appellate District, Case No. C074662
Plumas County Superior Court, Case No. M1200659
The Honorable Ira Kaufman, Judge

Deputy

PEOPLE'S REQUEST FOR JUDICIAL NOTICE

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Pursuant to Evidence Code section 459 and California Rules of Court, rules 8.252(a) and 8.520(g), respondent the People of the State of California hereby requests that the court take judicial notice of the following attached documents:

- A. Mining Act of 1866 (Act Cong. July 26, 1866, ch. 262, 14 Stat. 251);
- B. Mining Act of 1872 (Act Cong. May 10, 1872, ch. 152, 17 Stat. 91);
- C. H.R. No. 322, 39th Cong., 1st Sess. (Feb. 21, 1866);
- D. Cong. Globe, July 23, 1866, pp. 4021-22;
- E. Cong. Globe, July 23, 1866, pp. 4048-54;
- F. H.R. No. 365, 39th Cong., 1st Sess. (as amended, July 19, 1866);
- G. Cong. Globe, July 24, 1866, pp. 4091, 4102;
- H. Cong. Globe, July 24, 1866, pp. 4064, 4072;
- I. Cong. Globe, Jan. 23, 1872, pp. 532-35;
- J. Cong. Globe, April 16, 1872, pp. 2456-59;
- K. Sen. Rept. No. 50-1944, July 28, 1888, pp. 1-4;
- L. Cong. Rec. (House), July 18, 1892, pp. 6342-44;
- M. H. Rept. No. 84-730, June 6, 1955, pp. 1-10;
- N. August 17, 1848, Official Report on California Gold Mines by U.S. Army Colonel Richard Barnes Mason;
- O. Gold pricing data obtained from the U.S. Federal Reserve showing prices from approximately 1970 to the present;
- P. Gold pricing data obtained from the U.S. Federal Reserve showing prices from 2010 to the present; and
- Q. Order and Consent Judgment filed Dec. 20, 2006, in *Karuk Tribe v. Calif. Dept. of Fish & Game*, No. RG05 211597 (Super. Ct. Alameda County).

None of these documents were presented to the trial court. Exhibits A through N were submitted to the Court of Appeal, and it denied the request for judicial notice.

Exhibits A through N are relevant to the preemption issue presented in this case because congressional intent is the “critical question” in every preemption case. (*Louisiana Public Service Com. v. F.C.C.* (1986) 476 U.S. 355, 369.) Specifically, these documents are relevant to the issues of whether the Mining Act of 1872 (including 30 U.S.C. §§ 22, 28) or 30 U.S.C. § 612(b) preempt state law (section I. of the accompanying People’s Opening Brief on the Merits). Exhibits O and P are relevant to the issue of commercial impracticability (section II.C. of the brief), and Exhibit Q is relevant to the legal and procedural background of this case as explained in the People’s brief.

1. Exhibits A through N

Exhibits A through M are published legislative history material. As such, a request for judicial notice may be unnecessary. (See *Sharon S. v. Superior Court* (2003) 31 Cal.4th 417, 440, fn. 18.) However, respondent submits this request out an abundance of caution and to provide these documents in one location for the Court’s convenience. For the Court’s convenience, respondent has also highlighted in yellow the pertinent parts of these exhibits.

Exhibits A, B, C, and F are various statutes or bills before Congress. Such versions are “indisputably proper subjects of judicial notice” and are admissible and relevant to determine legislative intent. (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 280, fn. 9; see also, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 36.)

Exhibits D, E, G, H, I, J, and L are excerpts from the Congressional Globe or Congressional Record. These documents are noticeable under

Evidence Code sections 452, subdivision (c), and 453 as legislative acts. (See, e.g., *People v. Bautista* (2004) 115 Cal.App.4th 229, 233, fn. 3.) Statements of senators and representatives made on the floor of the House and Senate are admissible and relevant to determine legislative intent. (See, e.g., *Kaufman & Broad, supra*, 133 Cal.App.4th at p. 31 [floor statements], 35 [statements by sponsors, proponents and opponents communicated to the legislature as a whole]; *California Grocers Assn. v. City of Los Angeles* (2011) 52 Cal.4th 177, 195 [citing statements in Congressional Record to analyze congressional intent]; *Brown v. Mortensen* (2011) 51 Cal.4th 1052, 1068 [same]; *In re Farm Raised Salmon Cases* (2008) 42 Cal.4th 1077, 1086 [same]; see also *Dowhal v. SmithKline Beecham Consumer Healthcare* (2004) 32 Cal.4th 910, 926, fn. 6 [statements of individual senators and representatives are evidence of congressional intent].) This is especially true of statements by a bill's author. (*Bronco Wine Co. v. Jolly* (2004) 33 Cal.4th 943, 977, fn. 46 [that statement was made by author is "strong reason[] to rely" on it as evidence of congressional intent].)

Exhibits K and M are congressional committee reports or excerpts from such reports. The documents are noticeable under Evidence Code sections 452, subdivision (c), and 453 as legislative acts. (See, e.g., *Lang v. Roche* (2011) 201 Cal.App.4th 254, 263, fn. 8.) Statements made in committee reports are admissible and relevant to determine legislative intent. (See, e.g., *Kaufman & Broad, supra*, 133 Cal.App.3d at p. 31; *Hypertouch, Inc. v. ValueClick, Inc.* (2011) 192 Cal.App.4th 805, 825 [citing U.S. Senate committee report on issue of legislative intent]; *Atkinson v. Elk Corp. of Texas* (2006) 142 Cal.App.4th 212, 226 [citing U.S. House committee report on issue of legislative intent].)

Exhibit N is an Official Report on the California Gold Mines by U.S. Army Colonel Richard Barnes Mason, dated August 17, 1848. Two versions of this report are provided: one a printed version from the Virtual

Museum of the City of San Francisco; and one a handwritten copy made by Colonel Mason which was obtained from Colonel Mason's papers at the Bancroft Library at the University of California at Berkeley. This report is judicially noticeable under Evidence Code section 452, subdivision (c), as an official act of an executive department of the United States. (See also *Etcheverry v. Tri-Ag Serv., Inc.* (2000) 22 Cal.4th 316, 331 [taking judicial notice of federal report].)

2. Exhibits O and P

Exhibits O and P are information about gold prices obtained from the website of the U.S. Federal Reserve Bank of St. Louis. These are available at <http://research.stlouisfed.org/fredgraph.png?g=qni> and <http://research.stlouisfed.org/fred2/series/GOLDPMGBD230NLBM>, respectively. This information is judicially noticeable under Evidence Code section 452, subdivisions (c) and (h), as information officially issued by a federal agency, which is not reasonably subject to dispute. (*Etcheverry, supra*, 22 Cal.4th at p. 331.)

3. Exhibit Q

Exhibit Q is a consent judgment entered by the Alameda County Superior Court in *Karuk Tribe v. California Department of Fish and Game* on December 20, 2006. This document is judicially noticeable under

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Evidence Code section 452, subdivision (d), as a record of a court of this state.

Dated: March 23, 2015

Respectfully submitted,

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CHAP. CCLIII. — *An Act to grade East Capitol Street and establish Lincoln Square.* July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commissioner of public buildings be, and he hereby is, authorized and directed, in such manner as he may deem most proper, to cause East Capitol Street to be graded from Third Street east to Eleventh Street east, and to cause the square at the intersection of said street with Massachusetts, North Carolina, Tennessee, and Kentucky avenues, between Eleventh and Thirteenth streets east, to be enclosed with a wooden fence, and the same shall be known as Lincoln Square. And the sum of fifteen thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to enable the said improvement to be made.

East Capitol Street to be graded and Lincoln Square enclosed.

Appropriation.

APPROVED, July 25, 1866.

CHAP. CCLIV. — *An Act in Relation to the unlawful Tapping of Government Water Pipes.* July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unlawful tapping of any water pipe laid down in the District of Columbia by authority of the United States is hereby declared to be a misdemeanor and an indictable offence; and any person who may be indicted for and convicted of such offence in the criminal court of the District of Columbia shall be subject to such fine as the court may think proper to impose, not exceeding five hundred dollars, or to imprisonment for a term not exceeding one year. And it is hereby made the special duty of the commissioner of public buildings to bring to the notice of the attorney of the United States for the District of Columbia, or to the grand jury, any infraction of this law.

Unlawful tapping of government water pipes punishable by fine or imprisonment.

Commissioner of public buildings to prosecute.

APPROVED, July 25, 1866.

CHAP. CCLV. — *An Act to authorize the Entry and Clearance of Vessels at the Port of Calais, Maine.* July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, the Secretary of the Treasury may authorize, under such regulations as he shall deem necessary, the deputy collector of customs at the port of Calais, in the State of Maine, to enter and clear vessels, and to perform such other official acts as the said Secretary shall think advisable.

Deputy collector of customs at Calais, Me., may enter and clear vessels, &c.

APPROVED, July 25, 1866.

CHAP. CCLXII. — *An Act granting the Right of Way to Dutch and Canal Owners over the Public Lands, and for other Purposes.* July 26, 1866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

Mineral lands declared open to occupation to all citizens, &c. subject to regulations, &c.

SEC. 2. *And be it further enacted,* That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than one thousand dol-

Persons, &c. claiming, without opposition, any vein of quartz-bearing gold, &c. having occupied and made expenditures on the

same, and filing diagram, may enter the tract and receive a patent therefor.

Patent to grant what.

After filing diagram of tract claimed, what proceedings to be had before patent issues. Notice to be published.

Survey of plat of premises.

Payment of five dollars per acre, and costs of survey, &c.

Survey, plat, &c. to cover only one vein, to be named in patent.

Proceedings when the location and entry of mine are upon unsurveyed lands.

Location not to exceed 200 feet along vein, with additional claim for discoverer, and right to follow vein to any depth, &c.

Limit to number and extent of locations.

Further condition of sale, and to be expressed in patent.

Where adverse claimants appear, proceedings stayed until right is settled.

Patent then to issue.

President may establish additional land districts, &c. for purposes of this act
See Post, p. 470.

lars, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor-general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the general land office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor-general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country and the local rules, laws, and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. *And be it further enacted*, That as a further condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the rights of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to establish additional land districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted. Right of way for highways.

SEC. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however*, That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage. Owners of vested rights to use of water for mining, &c. to be protected, and right of way for canals and ditches granted.

SEC. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty-acres; or said parties may avail themselves of the provisions of the act of Congress approved May twenty, eighteen hundred and sixty-two, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof. Damages.

SEC. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same. Owners of homesteads made upon lands designated as mineral, in which no valuable mines of gold, &c. have been found, &c. may pre-empt the same, &c.; or may take them as homesteads. 1862, ch. 75. Vol. xii. p. 392.

APPROVED, July 26, 1866.

CHAP. CCXIII. — *An Act to authorize "The Chesapeake Bay and Potomac River Tide-water Canal Company" to enter the District of Columbia, and extend their Canal to the Anacostia River at any Point above Benning's Bridge.* July 26, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "The Chesapeake Bay and Potomac River Tide-water Canal Company," incorporated by the general assembly of the State of Maryland, at the January session thereof, eighteen hundred and sixty-six, by an act entitled "An act to incorporate the Chesapeake Bay and Potomac River Tide-water Canal Company," be, and the same are hereby, authorized to extend their canal from the point where it strikes the boundary line of the District of Columbia, thence in and through the said District to the Anacostia River at any point thereon above Benning's bridge. The Chesapeake Bay, &c. Canal Company may extend its canal to Anacostia River,

SEC. 2. *And be it further enacted*, That the said company are hereby authorized and empowered to take, purchase, and hold, for the purpose[s] of this act, so much real estate and other property as shall be necessarily required for the proper construction of the extension aforesaid, and for the construction of all proper and convenient basins, locks, reservoirs, docks, and wharves, to be connected with said extension. And where the said company shall not be able to procure such real estate by purchase may take and hold property necessary for proper construction of extension, &c. Proceedings where land can-

sed person: *Provided*, That all the persons availing themselves of the provisions of this section shall be required to pay, and there shall be collected from them, at the time of making payment for their land, on the total amounts paid by them, respectively, at the rate of five per centum per annum, from the date at which they would have been required to make payment under the act of July fifteenth, eighteen hundred and seventy, until the date of actual payment: *Provided further*, That the twelfth section of said act of July sixteenth, eighteen hundred and seventy, is hereby so amended that the aggregate amount of the proceeds of sale received prior to the first day of March of each year shall be the amount upon which the payment of interest shall be based.

Five per cent interest to be paid on what sum and for what time.
Settler, transferring claims prior to, &c., not precluded from entering upon another tract, if, &c.

SEC. 3. That the sale or transfer of his or her claim upon any portion of these lands by any settler prior to the issue of the commissioner's instructions of April twenty-sixth, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of this act, upon another tract settled upon subsequent to such sale or transfer: *Provided*, That satisfactory proof of good faith be furnished upon such subsequent settlement: *Provided further*, That the restrictions of the pre-emption laws relating to previous enjoyment of the pre-emption right, to removal from one's own land in the same State, or the ownership of over three hundred and twenty acres, shall not apply to any settler actually residing on his or her claim at the date of the passage of this act.

Certain restrictions of the pre-emption laws not to apply.

APPROVED, May 9, 1872.

CHAP. CLII. — *An Act to promote the Development of the mining Resources of the United States.* May 10, 1872.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining-districts, so far as the same are applicable and not inconsistent with the laws of the United States.

See 1872, ch. 150. Post, p. 466.
Valuable mineral deposits in public lands and the lands to be open to citizens, &c.

SEC. 2. That mining-claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of the location. A mining-claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining-claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end-lines of each claim shall be parallel to each other.

Length of mining-claims upon veins or lodes;
width;
end-lines.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with said laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which

Locators of mining locations where there is no adverse claim, &c., to have what exclusive rights of possession and enjoyment.

Certain exclusive rights to locators of mining claims.

Limitations.

Owners of tunnels to have what rights of possession of certain veins or lodes.

What to be deemed an abandonment of right by owners of tunnels.

Miners may make certain rules as to locations, &c., of mining-claims.

Requirements as to locations; records;

amount of work necessary to hold possession.

See 1872, ch. 214. Post, p. 482.

Mine to be open to relocation, &c.

Rights of co-owners.

Interest of delinquents after notice, &c., to belong to co-owners.

Patent for land claimed, &c., for valuable deposits, how to be obtained.

lies inside of such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations: *Provided*, That their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges: *And provided further*, That nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist; discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining-claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining-claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars' worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein until a patent shall have been issued therefor; but where such claims are held in common such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion to comply with this act his interest in the claim shall become the property of his co-owners who have made the required expenditures.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have,

complied with the terms of this act, may file in the proper land-office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land-office, and shall thereupon be entitled to a patent for said land, in the manner following: The register of the land-office, upon the filing of such application, plat, field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

Patent for land claimed, &c., for valuable deposits, how to be obtained.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land-office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it shall appear from the decision of the court that several parties are entitled to separate, and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall

Proceedings if adverse claim is filed.

Judgment of court to be obtained.

After judgment, patent to issue to party entitled to possession upon, &c.

Where there are several parties entitled to different portions of claim.

Proof of citizenship.
1866, ch. 292.
Vol. xiv. p. 251.
1870, ch. 225.
Vol. xvi. p. 217.

Alienation of title by patent.

Description of vein claims on surveyed lands how to designate location; on unsurveyed lands.

Repeal of §§ 1, 2, 3, 4 & 5, of act of 1866, ch. 292.

Vol. xiv. pp. 251, 252.

Existing rights not affected.

Pending applications and patents heretofore issued.

Proceedings to obtain patents under act of 1870, chap. 225, vol. xvi. p. 217, to be had according to this act.

Placer-claims upon surveyed lands.
Pending proceedings.

Certain agricultural lands may be entered for homestead, &c., purposes.

Proceedings for patent for placer-claim which includes a vein or lode.

certify the proceedings and judgment-roll to the commissioner of the general land office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proof of citizenship under this act, or the acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter, or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever.

SEC. 8. That the description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections one, two, three, four, and six of an act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining-claims now pending may be prosecuted to a final decision in the general land office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and all patents for mining-claims heretofore issued under the act of July twenty-sixth, eighteen hundred and sixty-six, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

SEC. 10. That the act entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer-claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining-claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant, but where placer-claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands: *Provided*, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases: *And provided also*, That where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

SEC. 11. That where the same person, association, or corporation is in possession of a placer-claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer-claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this act and the act entitled "An act to amend an act granting the right of way to ditch and canal owners over

the public lands, and for other purposes," approved July fifth, eighteen hundred and seventy) a patent shall issue for the placer-claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer-claim, or any placer-claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer-claim, an application for a patent for such placer-claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer-claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer-claim is not known, a patent for the placer-claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Effect of patent for placer-claim upon veins, &c., within its boundaries.

Sec. 12. That the surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining-claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer-claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining-notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land-office, which statement shall be transmitted, with the other papers in the case, to the commissioner of the general land office. The fees of the register and the receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the land-office, such fees and allowances to be paid by the respective parties; and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, nor shall this act affect any right acquired under said act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act entitled "An act granting to A. Sutro the right of way, and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Surveyor-general may appoint in each district competent surveyors of mining-claims.

Expenses of survey, &c., of claims, &c. Commissioner of land office to establish maximum charges, &c.

Applicant to file sworn statement of fees and charges. Fees of register and receiver.

Adverse rights not affected by this act.

Provisions of act of 1866, ch. 244, vol. xiv. p. 242, not affected hereby.

Sec. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on per-

Affidavits under this act &c., may be verified and testimony &c., taken, before whom.

Testimony in contests as to

character of land,
how taken.

Where veins
intersect, &c.,
priority of title
to govern.
Proviso.

Where veins
unite, oldest loca-
tion to take.

Patents for
non-mineral
lands, not con-
tiguous to lode,
but used by
proprietors for
mining, &c.,
purpose.

Limit to
amount of such
land.

Repealing
clause.
Existing rights
not affected.

sonal notice of at least ten days to the opposing party; or if said party cannot be found, then by publication of at least once a week for thirty days in a newspaper; to be designated by the register of the land-office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection: *Provided, however,* That the subsequent location shall have the right of way through said space of intersection for the purposes of the convenient working of the said mine: *And provided also,* That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

SEC. 15. That where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes: *Provided,* That no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

SEC. 16. That all acts and parts of acts inconsistent herewith are hereby repealed: *Provided,* That nothing contained in this act shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws.

APPROVED, May 10, 1872.

May 10, 1872. CHAP. CLIII.—*An Act authorizing the Secretary of War to correct an Army Officer's Record.*

Preamble.

Whereas in December, eighteen hundred and seventy, Major Samuel Ross, United States army, unassigned, was examined by a retiring board at San Francisco, California, and found disabled for active duty on account of wounds received in battle; and whereas no official action having been taken to retire from active service the said Ross on the proceedings of said retiring board, and the said Ross being a supernumerary officer was honorably mustered out of service as such on or about January second, eighteen hundred and seventy-one; and whereas on or about March second, eighteen hundred and seventy-two, the said Ross was re-appointed an officer of the United States army, as second lieutenant, with a view of being retired from active service on account of said disability: Therefore,

Name of Sam-
uel Ross to be
placed on retired
list of army
officers, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to place the name of said Samuel Ross on the list of officers retired from active service, according to the proceedings and report of said retiring board, to take effect for rank and pay from the first day of January, eighteen hundred and seventy-one, and to correct the army records and register so that the name of said Ross will appear as continuously in service; *Provided,* That any and all moneys as pay or emoluments received by said Ross, on account of being declared mustered out as aforesaid, shall be deducted from his pay as such retired officer, accruing from, on, and after the said first day of January, eighteen hundred and seventy-one.

Proviso.

APPROVED, May 10, 1872.

H. R. 322.

IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 21, 1866.

Read twice, ordered to be printed, and recommitted to the Committee on the Public Lands.

Mr. JULIAN, from the Committee on the Public Lands, reported
the following bill:

A BILL

To provide for the survey and sale of the lands of the United States containing gold, silver, and other valuable minerals, for the assaying and coining of such minerals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That from and after the passage of this act, the lands of the
4 United States containing gold, silver, and other valuable min-
5 erals, the sale of which has not already been provided for by
6 law, shall be subject to sale on the following terms and con-
7 ditions, to wit: All such lands as are now known to contain,
8 or which may hereafter be found to contain such minerals,
9 shall be sold at public auction, to the highest bidder, after six
10 months' public notice of the time and place of sale, at least

11 once a week for six months in some newspaper having the
12 largest general circulation, published in the vicinity of the
13 land to be sold, but at not less than the minimum price per
14 acre fixed on said lands as hereinafter provided for. Said
15 public notice to contain a full description of the location of
16 said lands, the character and quality of the minerals, the
17 nature of the deposits in which they are found, the general
18 topographical features of the country, the means of access to
19 the lands, and such other matters as may be deemed im-
20 portant by the officers having in charge the execution of this
21 act.

1 SEC. 2. *And be it further enacted.* That the public sales
2 of said lands provided for in the foregoing section shall not
3 remain open longer than two weeks; and no sales of any of
4 the lands embraced in such public notice shall be permitted
5 at private entry during the continuance of such public sale.
6 Should full, fair, and free competition be prevented at any of
7 such public sales by combinations, the titles to all lands pur-
8 chased by any person engaged in such combinations or their
9 assigns shall be utterly null and void, whether the patents for
10 such lands shall have been issued or not, and whether the
11 fact of such combinations shall have been discovered before
12 or after the titles shall have issued for said lands. No person
13 shall be permitted to bid at any such sales, or to purchase
14 any such lands, except citizens of the United States, or those

15 who shall have declared their intention to become such, and
16 any such bid or purchase shall be absolutely null and void. No
17 lands shall be offered at any such public sale except such as shall
18 appear to the Commissioner of the General Land Office to be
19 required by the wants of the community; and they shall be
20 offered in separate lots, beginning at the lowest numbered lot
21 and proceeding in regular numerical order, giving a reasona-
22 ble time for bidding on each lot. All lands thus offered and
23 remaining unsold at the close of any such public sale shall be
24 subject to private entry at the minimum price fixed on such
25 land.

1 *Sec. 3. And be it further enacted,* That it shall be the
2 duty of the surveyor general for the district in which any
3 such lands are situated to prepare plats of subdivisions of any
4 of said mineral lands, said subdivisions to be made in accord-
5 ance with the provisions of the act of fifth of April, eighteen
6 hundred and thirty-two; that is to say, where it is found
7 necessary to subdivide a quarter quarter section, such sub-
8 divisions shall be made by drawing lines from a point equi-
9 distant between the two corners of each boundary of such
10 quarter quarter section to a point in the opposite boundary
11 corresponding thereto; and where it is found necessary or
12 expedient to subdivide any such quarter quarter section into
13 smaller lots than ten acres each, each of such ten acre lots
14 shall in like manner be subdivided into four equal parts, or

15 still smaller, on the same principle, wherever it is deemed
16 necessary; and fractional quarter sections, or fractional quarter
17 quarter sections, shall in like manner be subdivided into lots
18 of suitable size for mining. Said lots shall be numbered in
19 the same manner that sections are numbered in townships.

1 *SEC. 4. And be it further enacted,* That for each land
2 district there shall be appointed at least one geologist, who
3 shall also be a good mineralogist, whose duty it shall be to
4 make a thorough exploration of all the lauds in such district,
5 containing or supposed to contain gold, silver, or other valu-
6 able ores, whether such lands are being worked or not, and to
7 make full report of the same, with the size of the subdivisions
8 necessary and proper to enable each purchaser to work and
9 mine the land properly, and giving full descriptions of the
10 kind and character of such lands, and the mineral found in
11 them; said report to be in triplicate, one to be sent to the
12 General Land Office, one to the Surveyor General, and the
13 third to the district land office in which the land described is
14 located; and the same shall be open to the inspection of all
15 persons desirous of examining it, for the term of at least three
16 months prior to the time of sale of any of the lands described
17 therein. The geologist shall be appointed in the same way
18 as the district land officers, and receive per annum for their
19 services dollars.

1 *SEC. 5. And be it further enacted,* That whenever a

2 person is or shall hereafter be in the occupancy of a mine, or
3 lead, or deposit of mineral, and shall be actually mining or
4 working the same, such person shall be, and is hereby, au-
5 thorized to enter the lands so actually worked and mined by
6 legal subdivisions at the minimum price fixed on said lands,
7 as hereinafter provided. The purchase money for all said
8 lands shall be paid in gold or silver. Proof of the actual
9 mining or working of such lands shall be made to the satis-
10 faction of the register, receiver, and geologist for the district,
11 or any two of them, at least thirty days before the commence-
12 ment of the public sale: the proof of such mining or working
13 shall be the affidavit of the party so mining or working, sus-
14 tained by the affidavits of two respectable disinterested wit-
15 nesses; and any person swearing falsely in any such case
16 shall suffer all the pains and penalties of perjury, and forfeit
17 all right, title, and claim he or she may have acquired to any
18 such lands. Where any such lands are worked or mined by
19 a company that is incorporated, the pre-emption right shall
20 be proven, the entry made, and the patent issued in the name
21 of such corporation or its assignees; but where any such
22 company shall not be incorporated, the pre-emption right,
23 entry, and patent shall be in the names of all the share-
24 holders: *Provided, however,* That any such shareholder in
25 either case, who is not a resident of the district, shall acquire,
26 have, and hold no right to any such pre-emption, entry, or

27 title: *And provided further*, That where two or more per-
28 sons or companies shall occupy and mine or work the parts
29 of the same lot or subdivisions, such persons or companies
30 shall enter such lot as tenants in common; the rights of each
31 to cover the land mined or worked by him or her, and the
32 portion of each of the lot so occupied, shall be in proportion to
33 the extent and value of their improvements or mines, and
34 shall be so specified in the certificate and patent.

1 Sec. 6. *And be it further enacted*, That the register
2 and receiver of the land district, in conjunction with the geo-
3 logist, shall classify said lands with reference to their value,
4 respectively, and the subdivisions that should be made of them
5 to accommodate those who are actually working or mining
6 them or those who may thereafter desire to do so, and report
7 to the surveyor general and the General Land Office, giving
8 the minimum price that should be fixed on each class of lands,
9 the location and extent of each deposit and of each settlement
10 or mining operation, with full reasons for each conclusion.
11 If the surveyor general has any reason to doubt the correct-
12 ness of such report, he shall state his doubts and the reasons
13 for them to the General Land Office and to the land officers
14 and geologist, and the decision of the Commissioner of the
15 General Land Office shall be final as to the minimum prices
16 of said lands and the extent of the subdivisions. No person,
17 corporation, or association shall be permitted to purchase at

18 public or private sale more than twenty acres of any such
19 mineral lands, nor shall any person, corporation, or association
20 enter a second tract till he or they have shown to the satis-
21 faction of the land officers and geologist that he or they have
22 worked the mineral out of said lands, and that it will no
23 longer pay the expense of working. Said purchaser shall
24 also, before being permitted to make a second entry, sell at
25 public auction, to the highest bidder, for cash, the land em-
26 braced in his first entry, and which he proposes to abandon.

1 *SEC. 7. And be it further enacted,* That, for the purpose
2 of assaying and coining said gold and silver, the President of
3 the United States shall be, and is hereby, authorized to lay
4 off said mineral regions into suitable assaying and coining
5 districts, having regard to the mints now established by law,
6 and all gold or silver mined or procured from any of the lands
7 sold under this act shall be assayed and coined at United
8 States assaying offices and mints, the owners paying
9 per centum for assaying and coining gold, and per
10 centum for assaying and coining silver ; and any person who
11 shall remove or attempt to remove any gold or silver out of
12 the coining district in which it was procured, without first
13 having the same assayed and coined, shall forfeit said gold or
14 silver—one-half of which shall go to the informer and the
15 other half to the United States.

1 *SEC. 8. And be it further enacted,* That before any

2 person shall be permitted to purchase any of said mineral
3 lands he shall take the oath of loyalty to the United States
4 prescribed by law; and any violation of said oath, and any
5 malfeasance on the part of any of the officers whose appoint-
6 ments are authorized by this act, shall be deemed a felony,
7 and upon being proven before any court of competent juris-
8 diction the offender shall be punished by a fine of not less than
9 thousand dollars, or imprisonment at hard labor for
10 not less than years, or both, at the discretion of the
11 court; and in case of the officers, they shall forever be dis-
12 qualified from holding office under the government of the
13 United States.

1 *SEC. 9. And be it further enacted,* That the net pro-
2 ceeds of said lands shall be, and they are hereby, dedicated
3 to the payment of the principal and interest of the bonds of
4 the United States; and if Congress shall hereafter authorize
5 the issue of bonds, principal and interest redeemable in gold,
6 any such bonds shall be received in payment for any of these
7 lands. And all the provisions of this act relative to lands
8 shall be carried out under such rules and regulations as may
9 be prescribed by the Secretary of the Interior for that pur-
10 pose, and all relative to assays, mints, coinage, and so forth,
11 under such rules and regulations as may be prescribed by the
12 Secretary of the Treasury for that purpose.

1 *SEC. 10. And be it further enacted,* That upon the

2 survey of the lands aforesaid, the Secretary of the Interior
3 may designate and set apart such portions of the said lands
4 as are clearly agricultural lands, to which pre-emption or
5 homestead rights shall not have attached as provided by law.

1 SEC. 11. *And be it further enacted,* That in extending
2 the United States surveys over the mineral regions, the sur-
3 veyor general shall be, and he is hereby, authorized, when-
4 ever he shall find mining settlements, made in accordance with
5 surveys executed by such settlers, to establish such surveys
6 by lines, courses, corners, and so forth, connecting such lines
7 and corners with the boundaries and corners of the sections
8 of the rectangular surveys, and designate those lots by suit-
9 able numbers on the plats of survey, giving the reasons and
10 facts in full for such anomalous surveys: *Provided, however,*
11 That no such mining lot shall contain more than twenty acres,
12 nor shall more land be included in any such survey than the
13 area being actually worked or mined by the settler: *And*
14 *provided also,* That the surveyor general, under the direc-
15 tion of the Commissioner of the General Land Office, may
16 cause adjacent lands to these mineral lots to be subdivided in
17 the same manner with those lots, when the interest of the
18 government or the convenience of settlers shall, in his
19 opinion, require it.

1 SEC. 12. *And be it further enacted,* That, when in his
2 judgment it shall be necessary for the public interest, the
H. R. 322—2

3 President shall have the power, and is hereby authorized, to
4 increase the number of land districts in any State or Territory,
5 fix the boundaries of the same, appoint a register and receiver
6 for each district so created, and to appoint such additional
7 number of geologists in any land district as may be deemed
8 necessary fully to carry out the purposes and intent of this
9 act, the compensation of said officers to be paid out of any
10 money in the treasury not otherwise appropriated.

1 Sec. 13. *And be it further enacted,* That all laws or
2 parts of laws inconsistent with the provisions of this act be,
3 and the same are hereby, repealed.

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That there shall be established in the District of Columbia, on the tract of land known as the Government farm, a fit and convenient house of correction, suitably and efficiently ventilated, with convenient yards, workshops, and other suitable accommodations for the safekeeping of convicts, and employing of convicts, and the construction thereof by authority of the Senate and Congress of the District of Columbia. *Provided*, That the building already erected on that land for the purpose of establishing a similar institution, together with all the other property there collected for the same purpose, shall be transferred to the trustees appointed according to the provisions of this act, at a cost not exceeding \$1,500.

In section four strike out the words "to" in lines three, six, and eight respectively, and in line thereof insert "they may," so that the section will read:

That it shall be the duty of the said board of trustees to take charge of the general interests of the institution; they may appoint a superintendent, a steward, a teacher, or teachers, and such other officers as may be found necessary, and may be approved by the Secretary of the Interior; they may fix the salaries of said officers, subject to the approval of the Secretary of the Interior; they may propose such by-laws as may be necessary to regulate and direct the management of the institution, which, however, shall not be valid until approved by the Secretary of the Interior; and exercise a vigilant supervision over the institution, its officers, and its inmates.

Strike out "Reform School" wherever these words occur in the bill, and insert "House of Correction."

In section eight, lines six and seven, strike out "a term of time not less than one year and not to exceed the period of his minority," and insert "his sentence," so as to read:

That when any boy under the age of fourteen years is found guilty in a court in the District of Columbia, of any crime punishable by imprisonment other than imprisonment for life, he shall be committed to the said House of Correction, and there held in custody of the superintendent for the term of his sentence.

Strike out the following proviso at the close of the eighth section of the bill:

Provided, however, That nothing in this act shall be so construed as to prevent the discharge from the Reform School, by the trustees, of any boy, as reformed, whenever in their judgment he ought to be so discharged.

Strike out the ninth section of the bill, in these words:

SEC. 9. And be it further enacted, That any boy under the age of fifteen years, residing in the District of Columbia, who may be brought by his parents or guardian before the judge of the orphan's court, or either of the judges of the supreme court of the District of Columbia, and there shown to be habitually disorderly, and defiant of the control of his parents or guardians, or for any sufficient reasons greatly in need of a stronger and more wholesome restraint and discipline, shall by said judge be committed to the Reform School, there to remain, for such a term of time as the trustees may deem best, not to exceed the period of his minority.

Strike out the fourteenth section, in these words:

SEC. 14. And be it further enacted, That every boy committed to the Reform School shall be there reformed, covered, instructed, and employed, under the direction of the trustee, until the expiration of the term for which he was committed to the school, unless sooner discharged by the trustees as reformed; and the discharge of a boy as reformed, or on his arriving at the age of twenty-one years, shall be a complete release from all penalties and disabilities created by the sentence.

In section sixteen, lines twenty three to twenty eight, strike out the words, "The Secretary of the Interior shall secure an assessment of taxes in such delinquent city or county sufficient to cover the amount required and the expenses of collecting the same, and appoint a collector, who shall collect the taxes assessed in such manner as shall be prescribed by the Secretary of the Interior;" and in line thereof insert the words, "the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia in the same manner as for said District, to enforce the same, with interest thereon after the date of default," so as to make the section read:

That for the purpose of securing a transfer of the building and other property to the trustees, preparing the premises and building for occupancy, and for the payment of other necessary expenses, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$12,000, to be paid only on the order of the Secretary of the Interior. *Provided*, That \$2,000 of said appropriation is hereby declared to be the sum that shall be assessed and paid by the cities of Washington and Georgetown, and the county of Washington; and it shall be the duty of the proper authorities of the city of Washington to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time when the premises shall be ready for occupancy by the House of Correction, the sum of \$4,500; and it shall be the duty of the proper authorities of the city of Georgetown to raise, and pay in like manner the sum of \$1,500; and it shall be the duty of the proper authorities of the county of Washington to raise and pay in like manner the sum of \$6,000; and in case of default of such payment into the Treasury of the United States by either of said cities or by the said county of Washington, the party so making default shall be liable to summary proceedings before the supreme court of the District of Columbia, at the instance of the United States attorney for said District, to enforce the same, with interest thereon after the date of default.

Amend the title of the bill by striking out the words "Reform School" and inserting the words "House of Correction."

Mr. INGERSOLL. I move the amendments of the Senate be concurred in; and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. INGERSOLL moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELIGIOUS GIFTS AND DEVICES.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 564, to amend the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia.

The amendment of the Senate was to add to the bill the following:

Provided, That in the case of gifts the same shall be made at least one calendar month before the death of the donor or testator.

The amendment was concurred in.

DITCHES AND CANALS IN PACIFIC STATES.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 385, granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada.

Mr. ASHLEY, of Nevada. Mr. Speaker, this bill as originally introduced, had relation to mining ditches in the mining districts of the States of California, Oregon, and Nevada. The amendment of the Senate proposes to extend the provisions of the bill to some other matters relating to mining. The bill, as amended by the Senate, is substantially Senate bill No. 257, which has already been passed by that body and is now pending before the Committee on Public Lands of this House. A bill precisely similar in form was introduced in this House by the gentleman from California, [Mr. HIGBY,] and having been referred to the Committee on Mines and Mining has been unanimously agreed to by that committee. The Committee on Territories of this House have the same question before them, and concur in the propriety of such a measure.

The bill as now before the House has relation simply to the manner in which the men now working mineral lands in our section of country shall secure their titles thereto. It is a measure which receives the approval of all the Representatives of the States interested. It is a measure of the utmost importance to the people on the Pacific coast. We have been without a regular system of law there for seventeen or eighteen years. There has grown up a sort of common law, which has been recognized by our courts. It has answered our purposes. Under it our country has grown up, producing for the nation sixty or seventy million dollars annually. We now simply ask that the rights which have grown up under that system shall be secured to us.

Sir, as this question cannot be very fully discussed at this late stage of the session, I ask the gentlemen to have some confidence in the united delegation from the Pacific coast. We have no interest as against the United States. On the contrary, our interest is all with the United States. As to the peculiar mode of disposing of the public lands to miners in our section of the country, the members from that region are better entitled to speak than men who have never dug the soil, as have most of the Representatives from the Pacific coast. I trust that the amendment of the Senate will be concurred in, and I move the previous question.

Mr. KASSON. Will the gentleman yield to me for a question?

Mr. ASHLEY, of Nevada. Yes, sir.

Mr. KASSON. I desire to ask whether by this bill the sovereignty of the United States, in regulation of the production of the gold of its mines, is taken away as completely as its

sovereignty over other lands which are sold is taken away?

Mr. ASHLEY, of Nevada. It is not taken away. The bill simply legalizes the rights of the men who occupy that land, subject to the ultimate disposition of the United States.

Mr. KASSON. Then, if I understand the gentleman, we can, notwithstanding the passage of this bill, at any time regulate the use that shall be made of the mineral; that is to say, we can oblige the miners to develop the mineral at so much per year for so many years.

Mr. JULIAN. No, sir; there is nothing of the kind in the bill.

Mr. KASSON. I wish to know whether the fee is transferred.

Mr. ASHLEY, of Nevada. In answer to the gentleman from Iowa, I ask for the reading of the last section of the bill as amended.

The SPEAKER. The whole amendment must be read, unless the reading be waived by unanimous consent.

Mr. JULIAN. I desire to move the reference of the bill to the Committee on Public Lands, which now has the subject before it.

The SPEAKER. The gentleman from Nevada is entitled to the floor, and gives way for the reading of the amendment.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause and insert the following:

That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local custom or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. And be it further enacted, That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than \$1,000, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, or rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. And be it further enacted, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. And be it further enacted, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country, and the local rules, laws, and customs of miners. *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules; *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. And be it further enacted, That as a further

condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines, involving easements, drainages, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the right of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public land, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however*, That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper, discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of preemption thereof, and shall be entitled to purchase the same at the price of \$1 25 per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall hereafter be subject to preemption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Amend the title by striking out the words "in the States of California, Oregon, and Nevada" and inserting in lieu thereof the words "and for other purposes."

Mr. KASSON. Does the gentleman insist on the previous question?

Mr. ASHLEY, of Nevada. I do.

Mr. JULIAN. I hope the previous question will be voted down. This bill is an outrage, a wholesale abandonment by the nation of its authority and duty respecting its vast mineral domain.

The House divided; and there were—ayes 36, noes 25; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. ASHLEY of Nevada, and Mr. JULIAN.

The House again divided; and the tellers reported—ayes 57, noes 12; no quorum voting.

The previous question, by unanimous consent, was considered as having been seconded.

Mr. JULIAN demanded the yeas and nays on ordering the main question.

The yeas and nays were not ordered.

Mr. JULIAN moved that there be a call of the House.

Mr. WILSON, of Iowa, demanded tellers. Tellers were not ordered.

Mr. GLOSSBRENNER moved that the House do now adjourn.

The House divided; and there were—ayes 39, noes 43.

So the House refused to adjourn.

The question then recurred on the motion that there be a call of the House.

The House divided; and there were—ayes 23, noes 50; no quorum voting.

Mr. JULIAN moved that the House do now adjourn.

Mr. ALLISON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 40, noes 57, not voting 36; as follows:

YEAS—Messrs. Ancona, Boyer, Davis, Dawes, Dawson, DeFrees, Donnelly, Eggleston, Farnsworth, Farquhar, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Asahel W. Hubbard, Chester D. Hubbard, Julian, Kasson, Kerr, Latham, William Lawrence, Loan, Niblack, Nicholson, Noell, Orth, William H. Randall, Ritter, Rogers, Ross, Schenck, Shanklin, Shellabarger, Sitgreaves, Spalding, Thornton, Trimble, Ward, Henry D. Washburn, Stephen F. Wilson, and Windom—40.

NAYS—Messrs. Allison, Ames, Anderson, Delos B. Ashley, Baker, Benjamin, Bidwell, Boutwell, Broomall, Bundy, Sidney Clarke, Cobb, Conkling, Dawes, Eliot, Ferry, Garfield, Hart, Higby, Holmes, Hubbard, Ingersoll, Jonckes, Ketchum, Kelley, Keonts, Lyon, McClurg, McRuer, Meador, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Paine, Porham, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Stevens, Stone, Faber, Taylor, Trowbridge, Van Aernam, Bart Van Horn, Robert T. Van Horn, Wentworth, James F. Wilson, Woodbridge, and Wright—57.

NOT VOTING—Messrs. Alley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bergen, Bingham, Blaine, Blow, Brandegee, Bromwell, Buckland, Chanler, Reader W. Clarke, Cook, Cullom, Culver, Darling, Delano, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eekley, Eldridge, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Hotchkiss, Damas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Johnson, Jones, Keiso, Kuykendall, Latta, George V. Lawrence, Le Bion, Longyear, Marshall, Marston, Marvin, McCullough, McInnes, McKee, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, John H. Rice, Secord, Sloan, Smith, Starr, Stoddard, Thayer, Francis Thomas, John L. Thomas, Usjon, Warner, Elihu B. Washburne, William B. Washburn, Welker, Whaley, Williams, and Winfield—85.

So the House refused to adjourn.

The SPEAKER. The question recurs, Shall the main question be now put? on which no quorum has voted.

Mr. JULIAN. I appeal to the House to allow me thirty minutes to explain the bill. I ask it as a matter of justice, on a great measure which proposes to revolutionize our whole land policy.

Mr. ASHLEY, of Nevada, and Mr. McRUER objected.

Mr. HIGBY. I hope the House will, by unanimous consent, allow another half hour on the other side. I hope no one from the mineral district will object.

Mr. WILSON, of Iowa. I do not desire to object, but I submit a proposition. I think this bill can be explained in less than half an hour. If the objections are stated, I think the House can understand the provisions of the bill. If half an hour is required, I think we ought to have a session this evening in order to clear the Speaker's table. Business on the Speaker's table has been accumulating for about a week, and we ought to get rid of it. Much of it will require but little time to dispose of, and it seems to me we ought not to be asked to allow an hour's discussion.

Mr. JULIAN. Say twenty minutes.

Mr. WILSON, of Iowa. I suggest ten minutes, or at most fifteen.

Mr. INGERSOLL. I object to more than twenty minutes being occupied; ten minutes on each side.

The SPEAKER. Is there objection to allowing ten minutes on each side?

Mr. JENCKES. I object.

Mr. WILSON, of Iowa. I suggest that a recess be taken till half past seven o'clock. If we do that I think we can adjourn early next week, by getting this business off the Speaker's table.

Mr. FARNSWORTH. I object.

On ordering the main question there were—ayes 58, noes 36.

Mr. McRUER. I demand the yeas and nays.

The SPEAKER. A quorum has voted.

Mr. McRUER. I withdraw the demand.

Mr. JENCKES. I renew it.

Mr. JULIAN. I move the House adjourn.

On the motion to adjourn there were—ayes 45, noes 48.

Mr. JULIAN. I demand the yeas and nays.

The yeas and nays were refused.

Mr. JULIAN. Tellers.

Tellers were refused.

The SPEAKER. The question recurs on agreeing to the Senate's amendment.

Mr. JULIAN. I ask the House to allow me ten minutes.

Mr. HIGBY. I will not object, provided the same time is allowed to the other side.

Mr. JENCKES. I object.

Mr. JULIAN. I demand the yeas and nays on concurring in the amendment.

The yeas and nays were ordered.

Mr. SCHENCK. I move to lay the bill and amendment on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. I move that the House adjourn.

Mr. ORTH. Will the gentleman withdraw the motion a moment to allow me to ask leave of absence?

Mr. FARNSWORTH. Yes, sir.

LEAVE OF ABSENCE.

Mr. ORTH asked and obtained leave of absence for his colleague, Mr. WASHINGTON.

The SPEAKER asked and obtained leave of absence for Mr. DENING.

Mr. FARNSWORTH. I renew the motion to adjourn.

The motion was agreed to—ayes 40, noes 89; and thereupon (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITION.

The following petition was presented under the rule and referred to the appropriate committee: By Mr. MORRILL: The petition of Mr. W. Davis, and 50 others, citizens of Westminster, county of Windham, Vermont, praying for increased duties on wool.

IN SENATE.

Monday, July 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

OFFICERS OF THE NAVY.

Mr. GRIMES. Senate bill No. 260 has been returned from the House of Representatives with two or three amendments; and with a view to act upon them I move that the bill be now taken up.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 260) to define the number and regulate the appointment of officers in the Navy, and for other purposes.

The amendments of the House of Representatives were read, as follows:

Strike out all of section one after the word "war," in line eleven, and insert in lieu thereof the following:

And who possess the highest professional qualifications and attainments. And nothing in this act shall preclude the advancement in rank now authorized by law for distinguished conduct in battle or for extraordinary heroism. *And provided further*, That nothing in this act nor in the fourteenth section of the act approved July 16, 1862, entitled "An act to establish and regulate the grade of five officers of the Navy," shall be so construed as to prevent the Secretary of the Navy from promoting to the grade of rear admiral, on the retired list, those commanders who have commanded squadrons by order of the Secretary of the Navy; or who have performed other highly meritorious services.

In section two, strike out in line three the words "and" and "twenty" and insert "twenty" and "fifty" and in line three of section two strike out "forty" and insert "seventy-five."

In section three, line ten, insert, after the word "act," the words "provided they shall find that number who are suitably qualified therefor."

At the end of section three, add:

And any volunteer officers attached to vessels at sea or on foreign stations may be appointed to the regular Navy, subject to the conditions contained in this section, after their return to the United States.

In section four strike out lines five and six, as follows: "until their places can be supplied by graduates from the Naval Academy."

Mr. GRIMES. The only material amendment that is made to the bill by the House of Representatives is to double the number of Representatives authorized to be introduced into the regular Navy from those who served during the war. The first long section is only to put in more appropriate language, as it was believed by the House of Representatives, the same provisions that were contained in the original bill as sent to them.

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the Commissioner of Public Buildings to employ three additional watchmen in the Smithsonian grounds.

FINIANS.

Mr. SPALDING submitted the following resolution; on which he demanded the previous question:

Resolved, That this House respectfully request the President to cause the prosecution instituted in the United States courts against the Fenians to be discontinued, if compatible with the public interest.

The previous question was seconded and the main question ordered.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were not ordered. The resolution was adopted.

Mr. ANCONA moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

VERIFICATION OF ACCOUNTS.

Mr. LAWRENCE, of Ohio, submitted the following resolution, on which he demanded the previous question:

Resolved, That hereafter all bills or accounts for work or labor done, or materials or supplies of any kind furnished for the use of the House of Representatives of the United States, shall be verified by an affidavit that the same is correct, and the amount thereof is justly due and unpaid; that the items therein named were duly done or delivered for the use of the House of Representatives; that the prices therein charged, except upon the price shall have been fixed by law or duly authorized contract, are the usual and ordinary prices; that nothing hath been, or is intended to be, paid, directly or indirectly, to any person as consideration for the purchase of any of the items therein charged; and that no officer of the Government hath any interest, directly or indirectly, in the same; Provided, That this shall not apply to pay-rolls of the House, or to accounts incurred by any committee of the House, and approved by the chairman thereof in writing. And the resolution of the House of July 9, 1896, directing the mode of verifying accounts, is hereby repealed.

The previous question was seconded and the main question ordered.

Mr. KERR moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to lay upon the table was disagreed to.

The resolution was then adopted.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CONSTITUTIONAL AMENDMENT COMMITTEES.

Mr. ASHLEY, of Ohio, submitted the following resolution, on which he demanded the previous question:

Resolved, That a select committee of seven be appointed by the Speaker, to whom shall be referred all bills and joint resolutions now pending before any committee of this House, and all which may hereafter be offered, proposing an amendment to the Constitution of the United States, rendering any person who has been elected President ineligible to a second term; as also all bills and joint resolutions proposing a change in the mode and manner of electing the President and Vice-President of the United States.

The previous question was seconded and the main question ordered.

Mr. LE BLOND moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71; nays 42, not voting 56; as follows:

YEAS—Messrs. Atty, Allison, Ancona, Baker, Borah, Burgen, Davis, Dawson, DeLoach, Driggs, Eldridge, Farquhar, Fitch, Garland, Glass, Granger, Aaron Harding, Abner G. Harding, Hooper, Ochsner, D. Hubbard, John H. Hubbard, Ingersoll, Johnson, Kasson, Kelley, Ketchum, Kuykendall, Larkin, Hathorn, William Lawrence, Le Blond, Linn, Marston, McLaughlin, Miller, Moorhead, Morrill, Myers, Newell, Nichols, Nicholson, Neft, O'Neill, Phelps, Pike, Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Ross, Schrank, Secord, Shunkin, Shuttlesburg, Sitgreaves, Stevens, Strong, Taber, Taylor, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, Wentworth, Winter,

Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge 71.

NAYS—Messrs. Ames, Anderson, James M. Ashley, Banks, Baxter, Bidwell, Bingham, Boutwell, Brownwell, Brownell, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Hart, Hayes, Hooper, Johnson, James F. Hubbell, Julian, Keown, Sawyer, V. Lawrence, McCluer, Murray, Moulton, Orth, Paine, Ferriman, Price, John H. Rice, Spaulding, Howbridge, Van Arman, Burt Van Horn, Welker, and Winter 42.

NOT VOTING—Messrs. DeLoach, R. Ashler, Baldwin, Barkon, Berman, Blaine, Blaw, Boyer, Brandegee, Buckland, Bundy, Chandler, Cook, Cullum, Culver, Darling, Hayes, DeLoach, Dunning, Denison, Dodge, Drummond, Ferry, Goodyear, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Deems Hubbard, Edwin N. Hubbard, Hubbard, Humphrey, Jones, Jones, Keiser, Kerr, Longyear, Lynch, Marshall, Marvin, McGuffee, McIndoo, McKee, Morris, Patterson, Plants, Pomroy, Samuel J. Randall, Ritter, Sawyer, Dixon, Smith, Starr, Stillwell, Thayer, Francis Thomas, Upson, Ward, Warner, Elmer B. Washburne, Henry D. Washburn, William B. Washburn, Winfield, and Wright 63.

So the resolution was laid on the table.

The SPEAKER. The morning hour has expired, and the House resumes the consideration of the amendment of the Senate to House bill No. 866, which was under consideration when the House adjourned on Saturday.

NEW JERSEY SOLDIERS' CERTIFICATES.

Mr. NEWELL, by unanimous consent, introduced the following concurrent resolution; which was read a first and second time:

Resolved by the House of Representatives, (the Senate concurring), That the adjutant general of New Jersey be authorized to transmit through the mail free of postage certain certificates of thanks awarded by the Legislature to the soldiers of that State, under such regulations as the Postmaster General may direct.

The resolution was read a third time and passed.

Mr. NEWELL moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOLDIERS' CEMETERIES IN TENNESSEE.

Mr. SCHENCK. The Secretary of War has communicated to the Committee on Military Affairs a number of very interesting reports in relation to the national cemeteries for soldiers in Tennessee. I ask that they may be printed and laid on the table.

No objection being made it was so ordered.

ASSISTANT HOUSE STENOGRAPHER.

Mr. ROLLINS. I ask unanimous consent to introduce the following resolution:

Resolved, That the Speaker be authorized to appoint a competent stenographer as assistant official reporter to the committees of the House, who shall be paid out of the contingent fund, commencing 1st of June, 1896, the same compensation paid to such official reporter, whose term of service shall expire March 4, 1897.

Mr. RADFORD objected.

Mr. ROSS. I call for the regular order.

DITCHES AND CANALS IN PACIFIC STATES.

The House accordingly resumed the consideration of the regular order, being the unfinished business of Saturday, which was the amendment of the Senate to House bill No. 365, granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon and Nevada, on which the previous question had been ordered, the pending question being the motion of Mr. SCHENCK to lay the bill and amendment on the table, on which the yeas and nays had been ordered.

Mr. HIGBY. I ask unanimous consent to make a statement.

Mr. JULIAN. I will not object if I can make a statement also.

The SPEAKER. Is there objection?

Mr. INGERSOLL. How much time does the gentleman want? Five minutes?

Mr. HIGBY. I do not want more than two minutes. I only ask the gentleman from Ohio [Mr. SCHENCK] to withdraw his motion and that the House by unanimous consent allow, twenty or thirty minutes for a statement of this case, giving the chairman of the Committee

on Public Lands [Mr. JULIAN] one half the time. I think we can dispose of this matter, which is one of great importance not only to the West but to the East.

Mr. SCHENCK. I am perfectly willing to withdraw it with that understanding.

The SPEAKER. How long does the gentleman from California want for debate?

Mr. HIGBY. Fifteen minutes to each.

Mr. KASSON. Before that I would ask if this will allow the carrying out of an arrangement with the gentleman in charge of the bill, that is, to endeavor to get the consent of the House to offer certain amendments that will remove certain objections.

Mr. HIGBY. I have no control of the matter except by the unanimous consent of the House. The bill is beyond debate except by unanimous consent, and I have no power to make any arrangement.

The SPEAKER. Is there objection?

Mr. ROSS. I object.

Mr. STEVENS. I find that this is a very important measure and ought to have examination. I therefore move to reconsider the vote by which the House ordered the main question to be put.

The motion was agreed to—yeas fifty-three, noes not counted.

Mr. JULIAN. I am very glad to have the opportunity which I have sought to discuss this extraordinary measure; and in the outset I desire to state some facts which are necessary to a full understanding of the questions involved. About two weeks ago the Senate passed a bill on the subject of the occupation and sale of the mineral lands of the United States. The bill was sent to this House, and on my own motion was committed to the Committee on Public Lands. That committee to-day has the whole subject under its consideration, and is maturing and perfecting the bill as fast as it can, and will soon be able to report it in some form to the House.

The friends of this bill in the other end of the Capitol, becoming eager and impatient of delay, on Saturday last called up a bill of the House of Representatives entitled "An act granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada," and struck out the whole of it except the enacting clause, and inserted the very bill which is now before the House Committee on Public Lands. This was done by the Senate, apparently without comprehending its own action, through the adroit tactics of the gentleman referred to. The bill was sent in hot haste to this House on Saturday afternoon, when it went to the Speaker's table; and when, soon afterward, we proceeded to business upon the Speaker's table, the bill was taken up, and under the gag, with no opportunity for debate or amendment, the attempt was made to force through this House a measure revolutionizing the whole land policy of the Government, abdicating in the name of the nation its authority and jurisdiction over the richest mineral possessions on the face of God's earth, found imbedded here and there over a million square miles of our national territory.

Now, sir, if I had not obtained the opportunity to discuss this measure I should have raised the point of order that this bill is not properly before the House, and cannot be, without a successful motion to reconsider its reference to the Committee on Public Lands, or a motion to discharge that committee from the further consideration of it in order that the House may now act upon it. That point of order, however, is, perhaps, not now necessary, since the House has decided to allow the bill to be debated. But I refer to these facts to show how the attempt is made here to overturn all those parliamentary safeguards by which hasty and dishonest legislation is sought to be prevented in this body. For, if this style of legislation is to be tolerated by this House, every one of its standing committees becomes a sham and a mockery, and the House is defrauded of its right to have those commit-

tees prepare and mature measures for its action. Sir, this indecent haste, this attempt to thrust upon us a bill under a false title, which has taken its ordinary course under our rules, this plot to obtain legislation under false pretenses, is a reproach to public decency and common fair play, and merits the rebuke of this body.

Mr. Speaker, before proceeding to discuss this measure, I desire to move to amend the bill by striking out all after the first section, and insert what I send to the Clerk's desk.

The Clerk read as follows:

Sec. 2. *And be it further enacted*, That from and after the passage of this act the lands of the United States containing gold, silver, and other valuable minerals, the sale of which has not already been provided for by law, shall be subject to sale on the following terms and conditions, to wit: all such lands as are now known to contain, or which may hereafter be found to contain, such minerals, shall be sold at public auction, to the highest bidder, after giving the public notice of the time and place of sale, at least once a week for six months in some newspaper having the largest general circulation, published in the vicinity of the land to be sold, but at not less than the minimum price per acre fixed on said lands as hereinafter provided for. Said public notices to contain a full description of the location of said lands, the character and quality of the minerals, the nature of the deposits in which they are found, the general topographical features of the country, the means of access to the lands, and such other matters as may be deemed important by the officers having in charge the execution of this act.

Sec. 3. *And be it further enacted*, That the public sales of said lands provided for in the foregoing section shall not remain open longer than two weeks; and no sales of any of the lands embraced in such public notices shall be permitted at private entry during the continuance of such public sale. Should full, fair, and free competition be prevented at any of such public sales by combinations, the titles to all lands purchased by any person engaged in such combinations or their assigns shall be utterly null and void, whether the patents for such lands shall have been issued or not, and whether the fact of such combinations shall have been discovered before or after the titles shall have issued for said lands. No person shall be permitted to bid at any such sales, or to purchase any such lands, except citizens of the United States, or those who shall have declared their intention to become such, and any such bid or purchase shall be absolutely null and void. No lands shall be offered at any such public sale except such as shall appear to the Commissioner of the General Land Office to be required by the wants of the community; and they shall be offered in separate lots, beginning at the lowest numbered lot and proceeding in regular numerical order, giving a reasonable time for bidding on each lot. All lands thus offered and remaining unsold at the close of any such public sale shall be subject to private entry at the minimum price fixed on such land.

Sec. 4. *And be it further enacted*, That it shall be the duty of the surveyor general for the district in which any such lands are situated to prepare plots of subdivisions of any of said mineral lands, said subdivisions to be made in accordance with the provisions of the act of 5th of April, 1832; that is to say, where it is found necessary to subdivide a quarter quarter section such subdivisions shall be made by drawing lines from a point equi-distant between the two corners of each boundary of such quarter quarter section to a point in the opposite boundary corresponding thereto; and where it is found necessary or expedient to subdivide any such quarter quarter section into smaller lots than ten acres each, each of such ten-acre lots shall in like manner be subdivided into four equal parts, or still smaller, on the same principle, wherever it is deemed necessary; and fractional quarter sections, or fractional quarter quarter sections, shall in like manner be subdivided into lots of suitable size for mining. Said lots shall be numbered in the same manner that sections are numbered in townships.

Sec. 5. *And be it further enacted*, That for each land district there shall be appointed at least one geologist, who shall also be a good mining engineer, whose duty it shall be to make a thorough exploration of all the lands in such district containing or supposed to contain gold, silver, or other valuable ores, whether such lands are being worked or not, and to make full report of the same, with the size of the subdivisions necessary and proper to enable each purchaser to work and mine the land properly, and giving full descriptions of the kind and character of such lands and the mineral found in them; said report to be in triplicate, one to be sent to the General Land Office, one to the surveyor general, and the third to the district land office in which the land described is located; and the same shall be open to the inspection of all persons desirous of examining it for the term of at least three months prior to the time of sale of any of the lands described therein. The geologists shall be appointed in the same way as the district land officers, and receive per annum for their services—dollars.

Sec. 6. *And be it further enacted*, That whenever a person is or shall hereafter be in the occupancy of a mine, or lead, or deposit of mineral, and shall be actually mining or working the same, such person shall be, and is hereby, authorized to enter the lands so actually worked and mined by legal subdivisions at a price to be computed by the costs of survey and the fees of the proper land officers. The purchase

money for all said lands shall be paid in gold or silver or in bonds of the United States as hereinafter mentioned. Proof of the actual mining or working of such lands shall be made to the satisfaction of the register, receiver, and geologist for the district, or any two of them, at least thirty days before the commencement of the public sale; the proof of such mining or working shall be the affidavits of the party so mining or working, sustained by the affidavits of two respectable disinterested witnesses; and any person swearing falsely in any such case shall suffer all the pains and penalties of perjury, and forfeit all right, title, and claim he or she may have acquired to any such lands. Where any such lands are worked or mined by a company that is incorporated, the pre-emption right shall be proven, the entry made, and the patent issued in the name of such corporation or its assignees; but where any such company shall not be incorporated, the pre-emption right, entry, and patent shall be in the names of all the shareholders: *Provided, however*, That any such shareholder in either case, who is not a resident of the district, shall acquire, have, and hold no right to any such pre-emption, entry, or title: *And provided further*, That when two or more persons or companies shall occupy and mine or work the parts of the same lot or subdivisions, such persons or companies shall enter such lot as tenants in common; the rights of each to cover the land mined or worked by him or her, and the portion of each of the lot so occupied, shall be in proportion to the extent and value of their improvements or mines, and shall be so specified in the certificate and patent.

Sec. 7. *And be it further enacted*, That the register and receiver of the land district, in conjunction with the geologist, shall classify said lands with reference to their value, respectively, and the subdivisions that should be made of them to accommodate those who are actually working or mining them, or those who may thereafter desire to do so, and report to the surveyor general and the General Land Office, giving the minimum price that should be fixed on each class of lands, the location and extent of each deposit and of each settlement or mining operation, with full reasons for each, or conclusion. If the surveyor general has any reason to doubt the correctness of such report, he shall state his doubts and the reasons for them to the General Land Office and to the land officers and geologist, and the decision of the Commissioner of the General Land Office shall be final as to the minimum prices of said lands and the extent of the subdivisions. No person, corporation, or association shall be permitted to purchase at public or private sale more than forty acres of any such mineral lands, nor shall any person, corporation, or association enter a second tract till he or they have shown to the satisfaction of the land officers and geologist that he or they have worked the mineral out of said lands, and that it will no longer pay the expense of working. Said purchaser shall also, before being permitted to make a second entry, sell at public auction to the highest bidder, for each, the land embraced in his first entry, and which he proposes to abandon.

Sec. 8. *And be it further enacted*, That, for the purpose of assaying and coining said gold and silver, the President of the United States shall be, and is hereby, authorized to lay off said mineral regions into suitable assaying and coining districts, having regard to the mints now established by law, and all gold or silver mined or procured from any of the lands sold under this act shall be assayed and coined at United States assaying offices and mints, the owners paying — per cent. for assaying and coining gold, and — per cent. for assaying and coining silver; and any person who shall remove or attempt to remove any gold or silver out of the coining district in which it was procured without first having the same assayed and coined, shall forfeit said gold or silver, one half of which shall go to the informer and the other half to the United States.

Sec. 9. *And be it further enacted*, That before any person shall be permitted to purchase any of said mineral lands he shall take the oath of loyalty to the United States prescribed by law, and any violation of said oath, and any malfeasance on the part of any of the officers whose appointments are authorized by this act, shall be deemed a felony, and upon being proven before any court of competent jurisdiction the offender shall be punished by a fine of not less than — thousand dollars, or imprisonment at hard labor for not less than — years, or both, at the discretion of the court; and in case of the officers, they shall forever be disqualified from holding office under the Government of the United States.

Sec. 10. *And be it further enacted*, That the net proceeds of said lands shall be, and they are hereby, dedicated to the payment of the principal and interest of the bonds of the United States; and all bonds of the United States, principal and interest redeemable in gold, shall be received in payment for any of these lands. And all the provisions of this act relative to lands shall be carried out under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and all relative to assays, mints, coinage, &c., under such rules and regulations as may be prescribed by the Secretary of the Treasury for that purpose.

Sec. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, to which pre-emption or homestead rights shall not have attached as provided by law.

Sec. 12. *And be it further enacted*, That in extending the United States surveys over the mineral regions, the surveyor general shall be, and is hereby, authorized, whenever he shall find mining settlements, made in accordance with surveys executed by such settlers, to establish such surveys by lines, courses, corners, and so forth, connecting such lines and corners with the boundaries and corners of the

sections of the rectangular surveys, and designate those lots by suitable numbers on the plats of survey, giving the reasons and facts in full for such anomalous surveys: *Provided, however*, That no such mining lot shall contain more than forty acres, nor shall more land be included in any such survey than the area being actually worked or mined by the settler: *And provided also*, That the surveyor general, under the direction of the Commissioner of the General Land Office, may cause adjacent lands to these mineral lots to be subdivided in the same manner with those lots, when the interest of the Government or the convenience of settlers shall, in his opinion, require it.

Sec. 13. *And be it further enacted*, That, when in his judgment it shall be necessary for the public interest, the President shall have the power, and is hereby authorized, to increase the number of land districts in any State or Territory, fix the boundaries of the same, appoint a register and receiver for each district so created, and to appoint such additional number of geologists in any land district as may be deemed necessary fully to carry out the purposes and intent of this act, the compensation of said officers to be paid out of any money in the Treasury not otherwise appropriated.

Sec. 14. *And be it further enacted*, That all laws or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. JULIAN. If that amendment is not adopted I desire to offer some amendments, which I ask to have read.

The Clerk read as follows:

Amend Senate bill No. 257, in line eight, section two, by striking out "one thousand" and inserting "five hundred."

Mr. JULIAN. I have designated my amendments by the lines and sections of that bill, because this is virtually the same bill, and the one now before us is not printed.

The SPEAKER. Senate bill No. 257 is not now before the House.

Mr. JULIAN. I know that, but I refer to it simply by way of designating my amendments.

Mr. HIGBY. I make the point of order that the bill to which the gentleman offers his amendments is not now before the House.

The SPEAKER. The Chair sustains the point of order. The Chair cannot entertain an amendment to Senate bill No. 257.

Mr. JULIAN. Well, I wish to offer these amendments to the bill in case my first amendment be voted down, and I will designate them without reference to the Senate bill.

Mr. Speaker, this bill is a very extraordinary one, as I shall endeavor to show by reference to its provisions. It declares that the mineral lands of the United States shall be open to exploration and occupation, "subject to the local custom or rules of miners." It then provides that the miner shall locate his claim, which shall be extended and bounded according to "the local custom or rules of miners." It provides that he shall improve or develop the mine according to "the local custom or rules of miners." It provides, then, that he shall have the right to have his lead or vein surveyed by the surveyor general of the land district, not according to the public surveys, and under the authority of the United States; not having reference to any base lines at all; but that he shall call upon the surveyor general to survey the vein according to the boundaries already fixed by "the local custom or usage of the miners," precisely as I call upon the surveyor of my county to survey my private estate. Upon that survey the surveyor general is to make out a plat or diagram of the vein, and transmit it to the General Land Office at Washington, upon which it is made the duty of the Land Office to issue a patent to the claimant.

The bill further provides that in case of any conflict between different claimants of any vein or lead it shall be determined by the local courts having jurisdiction, without any appeal to the general or local land office, or to any tribunal authorized to speak in the nation's behalf. The bill, in other words, as the House will observe, is an absolute deed of quitclaim of all right, title, and interest of the United States in and to the mineral lands of the nation, and committing them to the management, keeping, and disposition of the miners, who alone are henceforward to settle every question as to boundary, title, survey, and every

other matter and thing involved in this stupendous innovation upon the policy of the nation.

Now, I submit that this is an extraordinary measure indeed; and I take occasion here to refer to the argument, so persistently urged in support of this bill, that it is acceptable to Nevada and California and to the mining regions of our country. Why, undoubtedly it is acceptable to them. I should deem it marvelous if they did not accept a free gift of the gold and silver to be found interspersed over a million square miles of the richest mineral lands on the globe, at the hands of the Government of the United States, which is thus to renounce and abdicate in their behalf its ownership of the whole of it. If I had my home in the center of these mining regions, and owned an immense fortune in minerals, like some of the supporters of this bill, I should undoubtedly favor it. I would urge the passage of the bill with all the zeal which self-interest and local feeling could prompt. I do not think I would resort to the crooked and indefensible legislative tactics to which I have already adverted in order to carry my point, but certainly I would be swayed very strongly by circumstances so controlling.

It is altogether consistent with the interests of these mining districts that their Representatives should zealously labor for this bill, and that honorable gentlemen, not members of this House, should come upon this floor and perambulate these aisles as they did on Saturday and are again doing to-day, and tell us to vote for this bill, and command us, in the tone of slave-drivers, to "Get up, get up, help us, this is a local measure, help us to carry it!" Admirably natural and characteristic! But occupying the stand-point that I do outside these mineral districts, and of the contagion of local opinion and feeling, and having no other desire than the establishment of a broad and enduring national policy—

Mr. WOODBRIDGE. I rise to call the gentleman to order. I submit that reflections upon members of the Senate are not in order.

Mr. JULIAN. Mr. Speaker, I made no reflection upon any member of the Senate; and the gentleman's point of order is not well taken.

The SPEAKER. It is not in order to make reflections upon Senators. The Chair stated on a previous occasion that Senators have the right to come upon this floor to confer with members in regard to legislation, as Representatives have the right to go upon the floor of the Senate Chamber to confer with Senators in regard to legislation; and Senators coming on this floor must not be criticised by members, as the Presiding Officer of the Senate would refuse to allow Senators to criticise Representatives.

Mr. JULIAN. I understand the point of order perfectly. I have not mentioned any Senator from any portion of the country, and I shall not do so. I commented upon the conduct of distinguished gentlemen, not members of this House, who have undertaken to dragoon members on this floor into the support of a measure in which they are interested. But I have alluded to no Senators, for the simple reason that it would be unparliamentary to do so.

Now, Mr. Speaker, the basis of this policy, thus revolutionary of all the past action of the Government, the basis of this extraordinary movement here is the local custom or rules of the districts containing this mineral; the crudely extemporized usages of the miners; and I desire to show what a sandy foundation it is upon which these gentlemen propose to build up their grand superstructure of a land policy for the United States. I propose to read some passages—and I ask for them the attention of the House—from a Senate report of the Legislature of Nevada, the home of the mining gentlemen so deeply interested in this bill, and the locality, probably, of the richest mineral in America. It is an official legislative document, which one of the Senators from Nevada has

told me is authentic, and its statements to be accepted. I want the House to see upon what a sorry foundation this new edifice is to be built:

"1. As to uniformity, there is now nothing approaching it. There never was confusion worse confounded. More than two hundred petty districts within the limits of a single State, each one with its self-approved code; these codes differing not alone each from the other, but presenting numberless instances of contradiction in themselves. The law of one point is not the law of another five miles distant, and a little further on will be a code which is the law of neither of the former, and so on, *ad infinitum*, with the further disturbing fact superadded, that the written laws themselves may be overrun by some peculiar 'custom' which can be found nowhere recorded, and the proof of which will vary with the volume of interested affidavits which may be brought on either side to establish it.

"Again, in one district the work required to be done to hold a claim is nominal, in another exorbitant, in another abolished, in another adjoined from year to year. A stranger seeking to ascertain the law is surprised to learn that there is no satisfactory public record to which he can refer; no public officer to whom he may apply, who is under any bond or obligation to furnish him information, or guarantee its authenticity. Often in the newer districts he finds there is not even the semblance of a code, but a simple resolution adopting the code of some other district which may be a hundred miles distant. What guarantee has he for investment of either capital or labor under such a system?"

That, Mr. Speaker, is the foundation upon which the fabric of this new policy is to be built. Why, sir, the man who builds his house upon the sand is a philosopher in comparison with the men who would erect an enduring land policy for this nation on the basis of such confusion and bewilderment and jargon under which the people of Nevada are to-day groaning.

Mr. BIDWELL. I desire to ask the gentleman whether or not the report from which he has just read is not the strongest possible argument in favor of the bill now before the House; whether that report does not favor precisely this bill.

Mr. JULIAN. I will answer with very great pleasure. I answer that, so far as it is from being true that these facts warrant the policy of this bill, the policy of making this confusion and conflict a basis of action, they prove directly the reverse. What you want is not to recognize this system of uncertainty and instability, but to sweep it away, and usher in through the authority of the nation a system of permanence and peace. The bill before us hands over the miners everywhere to interminable litigation, discord, and strife. Instead of leading them out of the bondage into which the non-action of the Government has led them, it leaves them to wrestle with their destiny as best they may. That is what the nation will do in remanding this question to the miners, as provided for in this bill.

Mr. Speaker, I will tell the gentleman from California [Mr. BIDWELL] what these facts and statements which I have read prove. They prove the absolute necessity for interposing the arm of the national Government through its system of surveys, and thus clearing away this disorder and confusion through the well-adapted machinery of the land department. That is my answer to the gentleman from California.

This machinery is as old as the Government, and perfectly fitted to do the work without any new inventions. My friend from New Hampshire [Mr. MARSTON] suggests that this bill overturns the common law of the world, by allowing one man to run half a mile under the land of another. I may have occasion to refer to that in another connection before I conclude. I resume the reading of the Nevada report:

"2. As to permanency of the regulations, even such as they are, there is now no guarantee even of that. A miner's meeting adopts a code; it stands apparently as the law. Some time after, on a few days' notice, a corporal's guard assembles, and, on simple motion, radically changes the whole system by which claims may be held in a district."

And this "local custom of miners," enacted by "a corporal's guard" of adventurers, who are here to-day and gone to-morrow, is to be the basis of a national policy, and the harbinger of order and peace in the mining regions! Instead of extirpating this pernicious system, or

rather lack of all system, we now propose to set it up as a rule, and coolly ask the nation to conform its policy to it. I will read on:

"Before a man may traverse the State, the laws of a district, which by examination and study he may have mastered, may be swept away and no longer stand as the laws which govern the interest he may have acquired, and the change has been one which by no reasonable diligence could he be expected to have knowledge of. But if the laws be uniform and registered upon the statute-book of the State, he will have security in his tenure, and reasonable notice of any change therein.

"3. As to protection to the minor and encouragement to the capitalist, the present system, or lack of system, affords neither. The curse of uncertainty of titles to land in our sister State did not, through fifteen years of her history, more paralyze her progress, than the uncertainty of mining titles in the outside districts now retards our development. Five years ago a horde of greedy prospectors, from every part of the Pacific coast, swept over our State, leaving their notices of location on every 'dip, spur, and angle,' thick as leaves in Vallombrosa, and after a year or two of feverish unrest, swarmed away again to the newer fields of Idaho and Montana, leaving nothing to mark their passage but their faded 'notices' mouldering on the hill-sides, their pitiful burlesque of development in the way of assessment work, and the threatening terrors of the common-law doctrine as to 'vested rights.'"

Sir, in the light of these remarkable facts, coming to us in an authentic form from the State of Nevada herself, I argue the folly of now establishing any new dispensation on any such foundation. I repeat it, what the nation wants to-day, what the miners and the whole country are hungering and thirsting for, is the interposition of the national Government through the directing hand of the land department, dispelling the chaos and disorder which now afflict the mining regions, bringing light out of darkness, and opening up the pathway to prosperity and peace. That is what we want.

Why, Mr. Speaker, the Constitution of the United States declares that Congress "shall make all needful rules and regulations respecting the territory or other property of the United States." What right has the Congress of the United States to abdicate its jurisdiction over this great domain? What right has the central Government, owning these lands in fee, to say to these embryo communities in the far West that it gives up to their absolute discretion and management these great magazines of mineral wealth? Why, sir, it would be a most wanton recreancy to the grand trust devolved upon us if we should do so. Here is the General Land Office in Washington, with its local land offices multiplying in every portion of the public domain in which they are demanded. The State of Nevada has registers and receivers, with their offices located in the very midst of her minerals, and armed under existing laws with the power to deal with all questions which may arise affecting the public lands.

The register and receiver under the laws of Congress, charged with the execution of our land policy within their respective districts, and in the vicinity of the matter in dispute, can call parties before them, hear their statements, take evidence, and determine the whole matter, with the reserved right of either party who may feel aggrieved to appeal to the General Land Office at Washington or to the Federal courts under existing laws. Why do you propose to take away from the register and receiver of the land districts of Nevada their jurisdiction over this question? Why do you wish to confer the jurisdiction and settlement of a national question upon a State or territorial tribunal? Did anybody, before this bill was introduced, ever hear of such a proposition? Can Congress thus delegate such a power?

Mr. Speaker, it is said that the reason why these disputes should be referred to the local tribunals is that they are disputes about the possession of the land only, and not about the title; that it only involves the question as to whether A or B has been the trespasser upon the possessory title of the other. Why, sir, if you will read this bill you will find that the question of possession is the question of title, for it declares expressly that the party to whom is awarded by the local court the possession of the land shall thereupon receive the title from the Federal Government. A novel idea, in-

deed, that this does not involve anything but the right of possession; that I, owning a tract of land about which two men are quarreling, shall not have the right to say that the honest man and not the rogue shall take it if I see fit to grant it to either.

The nation owns the fee of every rood of these mineral lands. Every inch of them is, to-day, legally the property of the Republic. The title is in the great body-politic of the nation; and is it not a surprising doctrine that the Government, representing this body-politic, shall not be consulted as to the question of title between conflicting claimants? The House cannot fail to see that this question of possession, which it is proposed to refer to the local tribunals, is a question of title. The gentlemen from California know it. They know that the moment the question of possession is settled under this bill, it is made the duty of the land department to execute a patent accordingly. Even if it were not so, there is no occasion for transferring the question from the land department of the Government to the local tribunals of the miners. The machinery of the Land Office is well understood and is perfectly adapted to the work of settling all disputes.

Sir, I repeat, what we want to-day is the intervening arm of the national authority in the settlement of all disputes and the consequent security of titles. I see here around me gentlemen from the Northwest who know something about the policy pursued in relation to the lead and copper mines in the upper peninsula of Michigan and in the State of Illinois. Years ago we adopted the policy of leasing those mineral lands, and retaining the fee in the national Government. The result was an utter failure, financially and otherwise. We established, at length, the policy of survey and sale, and I remember that Congress instituted a geological survey, which was conducted, I think, by a distinguished scientific gentleman from my own State, David Dale Owen, in connection with another gentleman; and their labors proved to be of great value to the country and to the land department. We had also the ordinary land survey and subdivision of the mineral regions, and the lands were opened to purchase upon six months' notice. The moment we instituted this policy of survey and sale order began to bear rule in the mining regions, sober and intelligent citizens became purchasers and settlers, and organized and prosperous communities were established.

Sir, I would enact a law—and the Committee on Public Lands have agreed upon a bill to that effect—extending our surveys over all these mineral lands. The bill provides, in connection with the general survey, for a geological survey, the surveyor to be a mineralogist and mining engineer, and the mineral regions to be explored and classified preliminary to their sale. The bill, however, provides that these lands shall be open to occupancy and settlement, and the title is to be conferred in fee upon every man who is, or shall hereafter be found, in the occupancy of the lands, and developing the same, on payment of the fees of the Land Office and the costs of survey. Unlike the bill before the House, we require no thousand dollars' worth of improvement beforehand, and no five dollars per acre as a price, but we say to the adventurers and explorers from all quarters: explore these mineral regions; select your claim; occupy and improve it in good faith, and you shall have your lead or vein of land, with its minerals, on these conditions. This is the homestead law, in its essential principles, applied to these fields of gold and silver.

That is the policy that I propose. A bill making provision for these things and conforming to the land policy of the United States has been agreed upon by the Committee on Public Lands, as I have stated; and I have offered the sections of that bill as a substitute for the bill now before us. I hope, if any legislation is to be had upon this subject at this session, it will be legislation of that character, and I can

see no reason whatever for discarding the well-tried instrumentality of the Land Office for the purpose of trying experiments like this. I know it is said by the friends of this bill that these mines are so numerous and so peculiarly situated, and the strife growing out of them is so unusual, that the land department is incapable of settling it at all; that it would cost the miners more than their claims are worth to settle their disputes except in their local tribunals, and that it would be practical confiscation to require these disputes to be settled as other land controversies. But why should this be so? There are land offices in the mining districts. They are there for the purpose of surveying and disposing of the agricultural lands. The machinery of these offices extends everywhere over the Republic, and whether it applies to the gold and silver lands or not. I want to know why these offices cannot be used in the settlement of these difficulties.

Mr. McRUER. I would ask the gentleman if the registers and receivers of the land office have final jurisdiction over these questions, and if every single case brought before them is not subject to appeal to the Land Office in this city?

Mr. JULIAN. I will answer the gentleman. I supposed he knew, having been in California, and knowing all about these questions, that there is an appeal from the local land offices to the General Land Office in Washington. But let me say further that I can imagine no reason why the United States, owning these lands in fee, should not have the right on final appeal to determine the question of title. It may be attended with expense. It may be that a poor man in Nevada could not carry up his case to Washington, while a rich man could, but still the nation ought not to thrust itself in the way of applicants for relief. Why should we close the door against them? And let me say, that under the bill of the Senate, there may be litigation in the Federal courts at all events. If there is a claim between citizens of different States that delay and litigation which the gentleman so much dreads might occur. He does not wholly evade the difficulty by taking the jurisdiction from the local land offices; but I venture to say that in ninety-nine cases out of a hundred the final adjudication will be before the registers and receivers of the local land office. It would only be in rare cases that an appeal would be sought. All disputed claims between preëmptors and purchasers and homestead claimants on the public lands go before these officers, and the claimants of mineral lands certainly ought to have the right to appeal if they should desire it.

But, Mr. Speaker, I need not dwell upon that. If this bill is not disposed of in the way that I desire, by the adoption of the substitute I have offered, then I shall propose to amend certain features in the way I will now indicate. Where it requires the purchaser to pay five dollars per acre, I would change it so that he may pay but \$1 25 per acre, in conformity with our laws in other cases. The object is not to make money by the sale of these lands so much as to develop them. And any policy which stimulates exploration and development is the wisest policy for the Government, for individual wealth is national wealth.

I also propose to strike out that clause which requires the miner to have expended \$1,000 on his improvement before he can obtain a title to it. I think if a man spends \$500, or even \$100, on a vein, he should have a title; or even if he has expended a dollar on it, and will go on it, and work it and develop it, the Government ought to give him a title. I would not cripple the exploration and settlement of these lands by the interposition of this obstacle of \$1,000. It might do for my distinguished friend, the Senator from Nevada, to exact a condition of that kind; it might put money in his pocket, for aught I know. But it cannot serve the interests of the rank and file, the poor man who are exploring these mines and desire to find homes. And I propose further to provide, in accordance with the views already expressed, that the settlement of disputed cases shall be

determined by the land department of the Government, as in other cases, subject to the right of ultimate appeal to the Land Office at Washington.

If we adopt this bill at all it certainly should be with the amendments I have indicated. But I hope the substitute I have offered may prevail. I wish to inquire of the Speaker, before I take my seat, whether it is now in order for me to move to commit this bill to the Committee on Public Lands, as I gave notice the other day I would do, that committee now having charge of the subject.

The SPEAKER. That motion will be in order.

Mr. JULIAN. I will make that motion. As I said before, this bill is in the Committee on Public Lands, who have partially matured it. We are now completing the consideration of it, and perhaps after another session we will be through with it. The bill has been reëacted by the Senate under a false title, and is hurriedly brought here for the purpose of ousting a standing committee of this House of its jurisdiction. That action, I claim, ought not to receive the sanction of this House, unless we are willing to take from our standing committees their powers in the preliminary examination of questions upon which we are to act. I now move that this bill be referred to the Committee on Public Lands.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORTY, its Secretary, announced to the House that the Senate had passed, without amendment, a House bill (No. 476) in relation to the unlawful tapping of Government water-pipes.

The message further announced that the Senate had passed, with an amendment, a joint resolution of the House (No. 190) in regard to rations of Union soldiers held as prisoners of war, in which amendment the concurrence of the House was requested.

The message further announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

A joint resolution (S. R. No. 198) to change the place of holding the terms of the circuit court for the district of West Virginia; and

A joint resolution (S. R. No. 190) for the benefit of the Illinois Soldiers' College and Military Academy.

LEAVES OF ABSENCE.

Mr. ASHLEY, of Ohio, asked and obtained indefinite leave of absence for himself.

Mr. SCHENCK. My colleague, Mr. BOWEN, is compelled to leave on imperative business, and I ask leave of absence for the remainder of the session for him.

No objection was made, and leave was accordingly granted.

PRINTING OF TESTIMONY.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported certain testimony taken by that committee, in pursuance of the order of the House, in connection with Utah, which was laid upon the table and ordered to be printed.

LEAVES OF ABSENCE.

Mr. SPALDING. I ask leave of absence for my colleague, Mr. BOCKWOLD, after Wednesday next.

Mr. WILSON, of Iowa. I must object to any further leaves of absence being granted this session, unless some very good reason is assigned.

The SPEAKER. The Chair asks leave of absence for the gentleman from Iowa, Mr. GRINNELL.

Mr. SPALDING. I object.

The SPEAKER. The Chair asks leave of absence for the gentleman from Missouri, Mr. NOEL.

Mr. ALLISON. I object.

The SPEAKER. The Chair will state that the votes this morning show the presence of only eighteen more than a quorum.

JAMES, FOWLER, KIRKLAND AND COMPANY.

Mr. RIGBY, of Maine. I ask unanimous consent that Senate bill No. 429, for the relief of James, Fowler, Kirkland & Co., be taken from the Speaker's table and referred to the Committee for the District of Columbia.

Mr. SPALDING. Object.

Mr. KASSON. I have several amendments which, by an arrangement that has been made, I propose to offer to this bill. I desire to inquire of the gentleman from California [Mr. HIGBY] whether he would prefer that I shall offer those amendments before or after he has submitted his remarks.

Mr. HIGBY. I would like to know by what agreement or arrangement the gentleman is to have the opportunity to offer those amendments.

Mr. KASSON. The gentleman in charge of this bill, with whom such understandings are always arrived at, agreed that I should have the opportunity this morning to offer the amendments. If the gentleman from California wishes to preclude all amendments to this bill, even those most friendly to his interests, I certainly shall not press them upon the attention of the House.

Mr. HIGBY. I was not aware that there had been any such agreement. Whatever arrangement has been made, I of course will live up to it.

Mr. KASSON. Mr. Speaker, I desire to remark upon the character of this bill that it is an entire divestment of the United States of two things, which I think the United States should always retain within its control: one is the fee of the mining property; the other is the right to regulate the production of gold, in order that no private interests, no local rules or regulations may interfere with the proper and legitimate supply of the mineral which furnishes our measure of value in the United States. As the Constitution gives us the right to exercise this control we should, in my opinion, never part with it.

With these views, deliberately and long entertained, I have made inquiry to ascertain whether this bill as it comes from the Senate could be intelligently amended so as to secure those two results, and at the same time attain the great object which the gentlemen from the mining districts have in view—an object equally legitimate and equally deserving the attention of the House—which is that security shall be given to the possessory titles and the interests already vested, under no authority from the United States, but simply through the enterprise and irrepressible zeal which characterize the American people. How shall we accomplish these two purposes—the reservation of this supreme right of the United States and the security of those who are willing to invest their property and even expose their lives in the production of this very valuable mineral?

In order to answer that question, I propose to amend in the fourteenth line of the second section by changing the phrase "granting such mine" so as to read, "granting the use of such mine," also, by striking out in the sixteenth and seventeenth lines all after the word "adjoining." This, Mr. Speaker, is for the purpose of providing that the parties who now have possession of a mine shall have a patent granting to them the use of a mine, which, when the title is ascertained, is to be exclusive of all others making claim thereto hereafter, and will secure the investments already made by citizens of the United States.

The gentleman from Indiana [Mr. JULLIAN] has suggested that we shall violate a great principle of the common law if we allow these miners to enter the adjoining lands. I wish to say, sir, that I differ with him; and with the adoption of my amendment his objection will fall to the ground. Gentlemen who have not visited the mining districts may not, perhaps, be aware that the different veins and lodes are not perpendicular, but descend frequently at an angle, the angle being sometimes even forty-five degrees; and thus they go down hundreds

of feet into the earth. They have been known to run a short distance very nearly horizontally, and then to descend at an angle.

The lode must be followed wherever it leads. I recollect two mines in Colorado of very great value indeed, where two lodes cross each other some three hundred feet below the surface of the earth, and each man must follow his own lode, and where it crosses he must go on the other side, on the other land, and *vice versa*, the other claimant must go on other land. This bill is intended to provide that each may use his own lode and nobody else, though in descending the earth he may strike another; that each must follow his own lode, wherever that may lead. That I regard as indispensable.

In the third section, page 3, line fifteen, where it provides that upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description, &c., I propose to strike out "per acre" and insert "for each one hundred lineal feet along the vein or lode." It is simply to make it follow the grant of the use of the mine, and that takes with it so much of the adjoining land as is necessary for the development of the mine. That is also indispensable.

I then insert "for the use thereof" and "a claim on;" so it will read:

And a patent for the use thereof shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for a claim on more than one vein or lode, which shall be expressed in the patent issued.

I also in the fourth section propose, in the adjustment of the survey, that it shall be made under regulations to be provided by the Commissioner of the Public Lands.

In the eighth and ninth lines of the fourth section I strike out "local rules, laws, and customs of miners" and insert "rights hereby conferred." That also accomplishes the purposes of the gentlemen from the mining districts.

At the end of the fourth section is a proviso that no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons. It is previously provided that the discoverer may make two. That is right, and I propose to insert "other than the discoverer." It will then read:

And provided further, That no person other than the discoverer may make more than one location on the same lode, and not more than two thousand lineal feet shall be taken in any one claim by any association of persons.

In the fifth section, where it is provided that "as a further condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development, and those conditions shall be fully expressed in the patent," I would add "until otherwise ordered by Congress." That gives them temporary regulation until we find it necessary to exercise the reserved supreme right of the United States. There are some other verbal corrections in the next and following sections. In the ninth section, instead of saying we protect the owners of reserved rights, I say so far as the rights of the United States are concerned as against any legal claims they may have the right of way as granted and limited by a right of way across and through the public lands of the United States.

In the tenth section, where agricultural lands are granted, I say it shall be done without prejudice to the right of the United States to deal with them as mineral lands in case of discovery of such mineral therein.

Then I add an additional section, as follows: Sec. 12. *And be it further enacted*, That Congress reserves the right of forfeiture and of disposition of all claims patented under the provisions of this act, which shall not be in good faith developed, used, and worked within three years from the date of such pat-

ent, and with reasonable continuity thereafter; and to provide all rules, regulations, and conditions for ascertaining the same and relating thereto; and if any such claim shall be abandoned, the same shall be thereby forfeited, and may be again patented to any other claimant on the same terms as before, the facts to be ascertained by the like proceedings as provided in the second and third sections of this act; and the proper regulations for carrying this act into effect shall be provided by the Commissioner of Public Lands, approved by the Secretary of the Interior; and Congress further reserves the right to adjust, by general law, in any mining district, any discrepancies, irregularities, or uncertainties touching the character and management of mining claims.

This concludes my own views as to the necessity of a reservation of the rights of the United States.

Mr. Speaker, the great object of the Government should be to develop the mineral resources of that part of the country; and in doing that it can best be accomplished by providing that they shall not absorb these lodes and veins and hold them, as they do the public lands of the United States, for purposes of speculation, but they shall go on and continue in good faith to develop them. If they do that, then the title will be granted; if they do not, the title reverts to the United States. Unless this be done, I see no safety in passing this bill as it comes from the Senate.

Mr. HIGBY. I yield five minutes to my colleague.

Mr. McRUER. I wish to make one or two remarks touching this bill. In the first place, I wish to say that the proposition to sell the mineral lands did not come from the Pacific coast or from the mineral region. Two years ago we were progressing, as we have progressed for the last seventeen years successfully, to develop the wealth of that country, and possessory titles were considered sound. They were bought and sold with entire confidence and faith in the legislation of this country, the same as titles to real estate were bought and sold. But, sir, since that time there have been introduced into Congress schemes to sell the mineral lands without any regard to the possessory titles.

I hold in my hand a bill that was introduced into the Thirty-Eighth Congress, reported from the Committee on Public Lands, which proposes—what? Why, sir, to put up every possessory right within that whole region, and sell it at auction to the highest bidder. And the whole logic of the speech and the report made in regard to that measure was, that the people of the mineral regions were a set of vagabonds, and the women were, to a large extent, unchaste, and therefore we should drive out that worthless class of people, sell the mineral lands, and thus attract a meritorious class of people to those regions as settlers. That was the logic of the speech made to the Thirty-Eighth Congress.

It is in consequence of the apparent encouragement which such a scheme has received here that we now feel that our whole titles are insecure. It has disturbed the faith, it has disturbed the credit, and consequently those who are interested in that region, those who have the interests of that country at heart, have set themselves to work to frame a bill recognizing the possessory rights of all these people, recognizing the fact that they are and have been a meritorious class of citizens and that the development of that region to its greatest extent is for the best interest of the whole country.

Now, sir, this bill came from the Senate some weeks since. It was sought to be referred to the Committee on Mines and Mining, which, in my opinion, was the proper committee to which it should have gone. But through the influence of the chairman of the Committee on Public Lands it was sent to his committee. And I wish to state to the House now that the majority of the Committee on Public Lands are in favor of this bill as it came from the Senate; and if it had not been for action of which the House has been advised it would have been reported to the House before this time. I understand the Committee on Mines and Mining have considered this bill, and are ready to report favorably upon it at any time.

It has also been before the Committee on Territories, and they approve of it. And, sir, I hope that this House will pass the bill just as it came from the Senate, without any further amendment; because there is an imperative necessity for something being done that will assure the people in those regions that the Government does not mean to undermine them.

[Here the hammer fell.]

Mr. HIGBY. I yield ten minutes to the gentleman from Nevada.

Mr. ASHLEY, of Nevada. Mr. Speaker, as a matter of course, in the brief space allowed me, I cannot discuss this bill fully. There are two or three objections that have been urged to this measure as if they were of vital importance. It is objected, first, that our local rules in regard to mining are conflicting. In regard to that, I will say that they are not so much so as the report which was read this morning by the gentleman from Indiana [Mr. JULLIAN] would indicate. There are differences, it is true, but by no means to the extent indicated, as some of us know by experience.

Again, it is said that this bill is to overturn the whole land system of the United States. Sir, the United States has had a system applicable to farming lands, but since the discovery of our gold and silver mines, I will ask any gentleman to tell me what system this Government has had. In 1850 it was proposed to legislate upon this subject. A discussion took place in the Senate, but ultimately nothing was done, on the ground that Congress was not sufficiently informed, and it would, therefore, leave the people of the mining region to get along as best they could. Accordingly, they were let alone, and for seventeen years they have been going on under their own local rules. Rights of property have grown up. Men have spent seventeen years of their lives there, and invested their capital. Their future hopes are all centered in that country. They have considered themselves safe heretofore, and I tell you if we could be sure that the Congress of the United States would never interfere with our occupation of these lands, would never survey and cut them up into square parcels and sell them at auction, we would not come here asking you to dispose of these lands in the manner proposed by this bill, because the local title would be considered safe.

Sir, we ask gentlemen not to put us off. We want security. We have lived there almost a generation, and is it too much that we come here and ask you to pass this measure? Are we to be charged with being impudent because we are earnest and want you to believe us? We, as American citizens, ask that we shall have the same rights as you have. You own your property here. We ask that the Government of the United States shall give us the same titles to ours. I know that the response of every true man is that we are right. Why should we be lessees and tenants always? Is that the system that the American Government wishes to establish—that all the rest of you may own your homes, but we who delve in the earth for the precious metals shall be tenants and serfs always? I ask the House now to say "no."

Heretofore the United States has had no system in regard to the mineral lands. Now we propose that the people shall hold these lands under their local rules. This is a legalization of the system by the United States, a thing which has never been done except by permission heretofore. We ask that our occupation may be declared legal, simply retaining the right on the part of the United States to dispose ultimately of these lands to the possessors. That is the first section of the bill.

This bill gives a permissive right to a man in occupation of a mine or lode to buy of the United States provided he has expended \$1,000 upon it, showing that he is in earnest and has settled in good faith, and is not seeking to seize it and hold it for speculative purposes. Now, there have been disputes between men over what they consider valuable mines, involving sometimes millions of dollars. The rights of the

different parties to this dispute are dependent on our local rules. We occupy upon the doctrine of possession, upon that great common law that the people have established for themselves during the twenty years past, of which you know nothing and with which Congress has never undertaken to meddle. That determines our rights as between ourselves. Now, we say it is nothing to the United States who buys the land, but it is of immense importance to us that the man should be held to be the owner who, under our rules, regulations, and customs, is entitled to possession.

It is objected to the bill that we are to settle that question in our local courts. I tell you all our rights in these mining regions depend upon local rules and customs, and they must be settled there. We will trust to a jury of our countrymen and to the mode of procedure in our courts, our interests, our homes, our whole possessions much more freely and with much more confidence than we will trust them to any man who happens to be appointed to political position in the Government, whether he be commissioner in a land office or Secretary of the Interior, or a clerk who may be deputed to decide upon our disputes. Our rights that have grown up under the common law give us that equal protection that Englishmen and Americans have always claimed, that their disputes shall be submitted to the courts and to a verdict of their peers. I ask this House not to change that, but let these disputes be settled there in our courts, for we can decide them much better there.

Further, let me tell this House that if Congress shall say that these disputes must go to the Land Office, it will have the effect of opening litigation which has been settled for years past, and mining claims that are now supposed to be worth fifty, sixty, or one hundred thousand dollars, will become worthless the moment the information reaches there that this Congress has decided that the Secretary of the Interior shall have the final decision of these claims.

Sir, there is not a man from those States and Territories who dare go home and face the indignation of that people if he should vote to throw this property into litigation again, after it has passed through the ordeal and had the determination of our highest courts. I have stated now all the overturning of our land system which this bill contemplates. You have never had any system as to our mineral lands. Now, we ask that the determination of the question as to who are rightfully in possession shall be left to our courts, and not to the Secretary of the Interior.

I know I have been a little broken in my argument, for I cannot state it fully and regularly in the brief time that is allowed me. I think I have referred to the prominent objections which have been made to this bill. In regard to whether the amount to be expended by a miner to entitle him to a title to his claim shall be \$1,000 or \$500, we are satisfied with the sum as it is in the bill, \$1,000. We would not object to \$500, except that it would involve delay to amend the bill. And so, too, in regard to the price per acre. We would not object to \$1 25, except that the bill now has it five dollars per acre, and we think it better be passed that way and changed afterward by another bill, if it should be considered necessary.

Mr. HIGBY. Mr. Speaker, I find that any bill asking for the settlement of questions pertaining to the great West, of the country beyond the Rocky mountains, has to be fought here through a terrible struggle before we can get a vote on it. Other questions of vast importance are settled here in a very few minutes if they only relate to matters near at hand. But when a bill comes up, for instance, to quiet land titles in the State of California, embodying the simplest proposition that could be presented to this body for its action—and he who would take the bill and read it would see how full of justice it was—it was subjected to a contest of several days. And the chairman of the

Committee on Public Lands, [Mr. JULLIAN,] who was instructed by his committee to report the bill favorably, occupied some two hours and a half of that time in an effort to defeat the bill. And now when we come before this body with a bill that has met with the sanction of the Treasury Department, and of the Interior Department, and of every man who represents any portion of the mineral regions of our country, the minds of all coinciding in reference to the terms it contains, we find the very same man with his concentrated hostility trying to get this House if he possibly can to defeat the bill. He speaks of the bill as a swindle, and calls us pickpockets. Sir, that is undignified language to be used upon the floor of a body like this.

A few words, now, as to the merits of this bill. Let me first show the manner in which it came here, and the means and manner by which it went to the Committee on Public Lands. It was sent to the Committee on Mines and Mining of the Senate, that being the legitimate committee to consider it. The Senate gave that committee the care and custody of that bill because it properly belonged to that committee, it being a standing committee of that body.

The bill passed the Senate and came here, and we supposed it was proper that it should go to the Committee on Mines and Mining of this body. I moved its reference to the Committee on Mines and Mining; but the member from Indiana, [Mr. JULLIAN,] as an amendment, moved its reference to the Committee on Public Lands, to which committee it was sent. That committee may have many respectable members upon it; one of them is my colleague [Mr. McRIVEN.] But I do not know whether he has ever been much in the mineral regions or not. But I presume from the character of the business he has pursued, he is at least conversant with the great question pertaining to the mineral lands. But, sir, the Committee on Public Lands are by no means well fitted, in comparison with the Committee on Mines and Mining, to take charge of this question; for we have upon the latter committee three members from the mineral belt, as well as members from other mining regions of the country. That was the proper committee. But by the malice and petty spleen in which the member from Indiana seems to have been indulging on this occasion and one other we are justified in believing him hostile to every interest of the Pacific coast. It has been stated here by a member of the Committee on Public Lands that a majority of that committee are ready to report a bill precisely similar to the bill now before us. The Committee on Territories have had the same subject before them; and I understand that the members present when the question was under consideration agreed unanimously to report a measure of this character.

That bill having gone to the Committee on Public Lands, the Committee on Mines and Mining felt that they had the right, with the mass of matter which had been referred to them, to report a bill and ask this House to pass it. A bill which was a precise copy of that which was referred to the Committee on Public Lands and of the bill now under consideration, has been considered and carefully examined by the Committee on Mines and Mining, who have unanimously decided to report in favor of the bill.

Thus the bill has the recommendation of two committees, as it would have of a third committee, but for the fact that its chairman is determined to stand in the way of the great interests of the mineral belt, and therefore prevents the committee from reporting upon the question. The Representatives from the States interested in this measure are unanimous in favor of its passage. It has also the approval of the Treasury Department and the Interior Department, as well as of the Senate Committee on Mines and Mining, and the same committee of this body. I trust it will also receive the approbation of a large majority of the members of this House.

Mr. TRIMBLE. Will the gentleman from California yield to me for a question?

Mr. HIGBY. I will.

Mr. TRIMBLE. Do I understand the gentleman from California to say that the Committee on Mines and Mining have had this bill under consideration and unanimously recommend its passage?

Mr. HIGBY. They have had before them a bill precisely similar, word for word, and have unanimously agreed to report it.

Mr. TRIMBLE. Let me ask one further question: Is the same bill, or a bill substantially the same, received the approval of a majority of the Committee on Public Lands?

Mr. HIGBY. My colleague, [Mr. McRUER,] who is a member of the committee will answer that question. I have understood from him that such is the fact.

Mr. McRUER. The majority of the committee are ready to vote in favor of reporting the bill whenever an opportunity is afforded to them.

Mr. TRIMBLE. Do I understand that they have had the bill before them and that a majority of the committee are willing to report it?

Mr. HIGBY. They have had before them the Senate bill, which is precisely similar.

Now, Mr. Speaker, having given a history of this bill, let me say a few words as to its merits. Sir, the bill does not contain a single sentence which will compel any miner, if he becomes a law to purchase one foot of mineral lands. It leaves untouched a large class of mineral lands, to be occupied as they have been for the last fifteen or seventeen years. I refer to the placer mines, the deep-shaft claims, the tunnel claims, and the hydraulic claims, where they have, by hydraulic power, washed down hills fifty, seventy-five, and even one hundred feet high. All these different classes of mines are left by this bill as they have been for fifteen or seventeen years, to be occupied by the people of the country. Such is the first section of the bill; and not only does it leave that class of claims, but it leaves the other class of claims, in reference to which provision is made in the second section, to precisely the same rules and regulations and the same conditions. All manner of mining is left open precisely as heretofore, and it is left optional, as you may see by the second section, with those who have quartz claims, by taking a certain course, to finally get a patent from the General Government. They are not compelled to take this course, but may do so if a patent title is desirable.

I will say further, Mr. Speaker, if a man has a quartz claim, holding it under the rules and regulations and customs of miners, if he does not see fit to take this step to get a patent from the General Government there is no man or company of men who can, under the provisions of this bill, force him or a company to leave the claim and give them an opportunity to proceed to obtain a patent for the same. The simplest proposition in the world is contained in this bill. It is but one proposition, and that is to leave the whole mineral district as heretofore, only saying that what the Government has tolerated for fifteen or seventeen years shall now be legalized by the Government. With millions, tens of millions, ay, many tens of millions of property in these mines, yet there are men entirely ignorant of this matter who seem to be determined to destroy the great interest we have acquired by fifteen years of labor. I say to this House that all these men who go upon mineral lands want is that their occupancy shall be their title for the time being. They do not want anything else.

Mr. Speaker, I wish now to say a word to this House why it is we are anxious to have some legislation at this session. It is true that it is late in having a bill prepared in the Senate, but this, like other important matters, takes time for consideration. It has to be amended and reamended and amended again, so as to get it in such shape that it will meet the concurrence of the various executive branches of Government, the Representatives

of the mineral belt and of the Senate. Thus it has come here late, thus it passed the Senate late, thus it comes to the House late, and at a time when I would have forborne to say anything on the subject, much less to enter into any lengthy debate, if the opposition came from an honest and sincere heart, as it is perfectly evident that it does not.

Sir, I will state the reason for this bill. As was well said by my colleague in the Thirty-Eighth Congress in its last session a bill was introduced by the Committee on Public Lands. It was crude and deformed. It had not a single feature in it that could be adapted to the mineral lands. If it had been enforced as law in any mineral district in ten years that district would have been a desolation. The chairman of that committee has brought forward another bill this session. It has been reported. I do not know whether a speech has been made upon it at this session, but there was one at the last session. It has been printed and sent back to that committee; and a report was made by that committee which came from the chairman. It is but a mere string of glittering generalities. There is not a particle of anything applicable to the question one way or the other. As I have said, these bills have been printed. Boys of twelve years old all along the mineral belt know what the gentleman from Indiana has been doing. They know that he is at the head of the Committee on Public Lands. The people there keep close watch of what is being done here. Sir, capital ready to go there hesitates and will not go. Capital already invested hesitates to add capital to carry on improvements. Why? Because of this very bill which the gentleman has reported at this session. Let it become a law and be enforced, and from one half to two thirds of the valuation of property in the mineral districts would be wasted by such a proposition in one year's time after its enforcement.

Mr. Speaker, I have said that different Departments of the Government had sanctioned this bill; and I send up to the Clerk to be read, as a part of my remarks, a few lines written on the back of the bill by the Secretary of the Interior. When these lines have been read I demand the previous question on the bill and the pending amendment.

Mr. KASSON. Before the question is put I would ask the member from California whether, in case the motion to commit the bill is defeated, he will then allow me to offer the amendment which I have already explained to the House.

Mr. HIGBY. I do not know that I have any objection to allowing a vote to be taken.

The SPEAKER. The Chair will state that when the gentleman from Iowa [Mr. KASSON] was upon the floor by the permission of the gentleman from California, [Mr. HIGBY,] he indicated certain amendments which he proposed to offer with a view of perfecting the amendment of the Senate. But previous to that time the gentleman from Indiana [Mr. JULIAN] had moved to commit the bill to the Committee on Public Lands, which of course prevented any amendment being offered. If there be no objection the amendments indicated by the gentleman from Iowa will be considered as pending.

Mr. EGGLESTON. I object.

Mr. KASSON. Then I hope the bill will be committed.

Mr. HIGBY. I now ask for the reading of the indorsement upon the bill which I send up. The Clerk read as follows:

I have read the within bill. I do not hesitate to say that I heartily approve its principles and the policy indicated for the disposition of the mineral lands.
JAMES HARLAN.

July 23, 1866.

The previous question was seconded and the main question ordered; being first upon Mr. JULIAN's motion to commit the bill to the Committee on Public Lands.

Mr. JULIAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. JULIAN's motion was disagreed to—yeas seventeen, noes not counted.

The question recurred upon the amendment submitted by Mr. JULIAN for the amendment of the Senate, and being put, the said amendment was disagreed to.

The question then recurred upon agreeing to the amendment of the Senate.

Mr. JULIAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 37, not voting 71; as follows:

YEAS—Messrs. Alley, Ancona, Anderson, Dolos R. Ashley, Banks, Barker, Baxter, Bergon, Bidwell, Boyer, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Davis, Dawson, Eggleston, Eldridge, Farnsworth, Ferry, Glessbrenner, Abner C. Harding, Hart, Hayes, Higby, Hogan, Hotchkiss, John L. Hubbard, James K. Hubbell, Hulburd, Ingorsoll, Johnson, Kelley, Kerr, Koontz, Laffin, George V. Lawrence, Lo Blond, Marshall, McClurg, McRuer, Morris, Moulton, Myers, Nowell, Niblack, Nicholson, O'Neill, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Sawyer, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Taylor, John L. Thomas, Trimble, Trowbridge, Burt, Van Horn, Robert T. Van Horn, Ward, Welker, Whaley, Williams, Stephen F. Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. Baker, Bingham, Boutwell, Bromwell, Rander W. Clarke, Dawes, DeForest, Dolano, Elliot, Finch, Aaron Hardier, Holmes, Asahel V. Hubbard, Chester D. Hubbard, Jencks, Julian, Kasson, Kuykendall, Latham, William Lawrence, Loan, Marston, Merrill, Miller, Moorhead, Orth, Paine, Pike, Plants, Radford, Rollins, Ross, Seefeldt, Shellabarger, Stevens, Thornton, and James F. Wilson—37.

NOT VOTING—Messrs. Allison, Ames, James M. Ashley, Baldwin, Beaman, Benjamin, Blaine, Blow, Brandegee, Bundy, Chanler, Cook, Cullom, Culver, Darling, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Farquhar, Garfield, Good-year, Grider, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hooper, Demas Hubbard, Edwin N. Hubbell, Humphrey, Jones, Kelso, Ketcham, Longyear, Lynch, Marvin, McCullough, McIndoe, McKee, Morrill, Noell, Patterson, Phelps, Pomeroy, Raymond, Alexander H. Rice, John H. Rice, Rogers, Schenck, Sloan, Smith, Starr, Stillwell, Thayer, Francis Thomas, Upson, Van Arcom, Warner, Elihu D. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Winfield, and Wright—71.

So the amendment was concurred in.

Mr. HIGBY moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found correctly enrolled bills of the following titles, when the Speaker signed the same:

An act (S. No. 236) to authorize the construction of certain bridges and to establish them as post roads;

An act (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad of California, to Portland in Oregon; and

An act (S. No. 260) to define the number and regulate the appointment of officers in the Navy, and for other purposes.

ASSAULT UPON A CLERK.

Mr. ALLEY. I rise to a question of privilege. The special committee, to whom was referred the investigation of the assault upon Uriah H. Painter by B. F. Beveridge, have instructed me to report the testimony, with the accompanying resolution, which I send to the Clerk's desk and ask to have passed.

The Clerk read the resolution, as follows:

Resolved, That the Sergeant-at-Arms be directed to deliver into the custody of the civil authorities Benjamin F. Beveridge, and to prosecute the said Beveridge before the criminal court in this District for an assault upon the person of Uriah H. Painter, an officer of this House, within the walls of the Capitol, and that the evidence taken in the case by the special committee of the House be delivered to the United States district attorney for this District.

Mr. ALLEY. I will not ask for the reading of the testimony, as it is very voluminous, but I will state as briefly as may be the facts of the case. [Several members, "Oh, no; let us vote,"] It seems to me that this is a very important matter, and that it should not be disposed of without some reference to the testimony, involving as it does the liberty of a citizen. As

IN THE SENATE OF THE UNITED STATES.

JULY 19, 1866.

Ordered to be printed.

AMENDMENT

Reported by Mr. STEWART, from the Committee on Public Lands, to the act (H. R. 365) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada, viz: Strike out all after the enacting clause, and insert as follows:

3 That the mineral lands of the public domain, both surveyed
and unsurveyed, are hereby declared to be free and open to
5 exploration and occupation by all citizens of the United
6 States, and those who have declared their intention to become
7 citizens, subject to such regulations as may be prescribed by
8 law, and subject also to the local custom or rules of miners
9 in the several mining districts, so far as the same may not be
10 in conflict with the laws of the United States.

1 SEC. 2. *And be it further enacted,* That whenever any
2 person or association of persons claim a vein or lode of quartz,
3 or other rock in place, bearing gold, silver, cinnabar, or cop-
4 per, having previously occupied and improved the same

5 according to the local custom or rules of miners in the district
6 where the same is situated, and having expended in actual
7 labor and improvements thereon an amount of not less than
8 one thousand dollars, and in regard to whose possession there
9 is no controversy or opposing claim, it shall and may be law-
10 ful for said claimant or association of claimants to file in the
11 local land office a diagram of the same, so extended laterally
12 or otherwise as to conform to the local laws, customs, and
13 rules of miners, and to enter such tract and receive a patent
14 therefor, granting such mine, together with the right to fol-
15 low such vein or lode with its dips, angles, and variations, to
16 any depth, although it may enter the land adjoining, which
17 land adjoining shall be sold subject to this condition.

1 *SEC. 3. And be it further enacted,* That upon the filing
2 of the diagram as provided in the second section of this act,
3 and posting the same in a conspicuous place on the claim,
4 together with a notice of intention to apply for a patent, the
5 register of the land office shall publish a notice of the same
6 in a newspaper published nearest to the location of said claim,
7 and shall also post such notice in his office for the period of
8 ninety days; and after the expiration of said period, if no
9 adverse claim shall have been filed, it shall be the duty of
10 the surveyor general, upon application of the party, to survey
11 the premises and make a plat thereof, indorsed with his ap-
12 proval, designating the number and description of the loca-

13 tion, the value of the labor and improvements, and the
14 character of the vein exposed; and upon the payment to the
15 proper officer of five dollars per acre, together with the cost
16 of such survey, plat, and notice, and giving satisfactory evi-
17 dence that said diagram and notice have been posted on the
18 claim during said period of ninety days, the register of the
19 land office shall transmit to the General Land Office said plat,
20 survey, and description; and a patent shall issue for the same
21 thereupon. But said plat, survey, or description shall in no
22 case cover more than one vein or lode, and no patent shall
23 issue for more than one vein or lode, which shall be expressed
24 in the patent issued.

1 *Sec. 4. And be it further enacted,* That when such
2 location and entry of a mine shall be upon unsurveyed lands,
3 it shall and may be lawful, after the extension thereto of the
4 public surveys, to adjust the surveys to the limits of the
5 premises according to the location and possession and plat
6 aforesaid, and the surveyor general may, in extending the
7 surveys, vary the same from a rectangular form to suit the
8 circumstances of the country and the local rules, laws, and
9 customs of miners: *Provided,* That no location hereafter
10 made shall exceed two hundred feet in length along the vein
11 for each locator, with an additional claim for discovery to the
12 discoverer of the lode, with the right to follow such vein to
13 any depth, with all its dips, variations, and angles, together

14 with a reasonable quantity of surface for the convenient
15 working of the same as fixed by local rules: *And provided*
16 *further*, That no person may make more than one location
17 on the same lode, and not more than three thousand feet shall
18 be taken in any one claim by any association of persons.

1 *Sec. 5. And be it further enacted*, That as a further
2 condition of sale, in the absence of necessary legislation by
3 Congress, the local legislature of any State or Territory may
4 provide rules for working mines involving casements, drain-
5 age, and other necessary means to their complete develop-
6 ment; and those conditions shall be fully expressed in the
7 patent.

1 *Sec. 6. And be it further enacted*, That whenever any
2 adverse claimants to any mine located and claimed as afore-
3 said, shall appear before the approval of the survey, as pro-
4 vided in the third section of this act, all proceedings shall be
5 stayed until a final settlement and adjudication in the courts
6 of competent jurisdiction of the rights of possession to such
7 claim, when a patent may issue as in other cases.

1 *Sec. 7. And be it further enacted*, That the President
2 of the United States be, and is hereby, authorized to establish
3 additional land districts and to appoint the necessary officers
4 under existing laws, wherever he may deem the same neces-
5 sary for the public convenience in executing the provisions
6 of this act.

1 **SEC. 8.** *And be it further enacted,* That the right of
2 way for the construction of highways over public lands, not
3 reserved for public uses, is hereby granted.

1 **SEC. 9.** *And be it further enacted,* That whenever, by
2 priority of possession, rights to the use of water for mining,
3 agricultural, manufacturing, or other purposes, have vested
4 and accrued, and the same are recognized and acknowledged
5 by the local customs, laws, and the decisions of courts, the
6 possessors and owners of such vested rights, shall be main-
7 tained and protected in the same; and the right of way for
8 the construction of ditches and canals for the purposes afore-
9 said is hereby acknowledged and confirmed: *Provided, how-*
10 *ever,* That whenever, after the passage of this act, any person
11 or persons shall, in the construction of any ditch or canal,
12 injure or damage the possession of any settler on the public
13 domain, the party committing such injury or damage shall be
14 liable to the party injured for such injury or damage.

1 **SEC. 10.** *And be it further enacted,* That wherever, prior
2 to the passage of this act, upon the lands heretofore designated
3 as mineral lands, which have been excluded from survey and
4 sale, there have been homesteads made by citizens of the
5 United States, or persons who have declared their intention
6 to become citizens, which homesteads have been made, im-
7 proved, and used for agricultural purposes, and upon which
8 there have been no valuable mines of gold, silver, cinnabar

9 or copper discovered, and which are properly agricultural
10 lands, the said settlers or owners of such homesteads shall
11 have a right of pre-emption thereto, and shall be entitled to
12 purchase the same at the price of one dollar and twenty-five
13 cents per acre, and in quantity not to exceed one hundred and
14 sixty-acres ; or said parties may avail themselves of the pro-
15 visions of the act of Congress approved May twenty, eigh-
16 teen hundred and sixty-two, entitled "An act to secure
17 homesteads to actual settlers on the public domain," and acts
18 amendatory thereof.

1 *SEC. 11. And be it further enacted,* That upon the sur-
2 vey of the lands aforesaid, the Secretary of the Interior may
3 designate and set apart such portions of the said lands as are
4 clearly agricultural lands, which lands shall thereafter be sub-
5 ject to pre-emption and sale as other public lands of the United
6 States, and subject to all the laws and regulations applicable
7 to the same.

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ought to be well considered before it is hurried through the Senate.

Mr. SHERMAN. I suggest to the Senator from Massachusetts that now the very fact that he is compelled to suggest amendments to his own proposition shows that we are not prepared to consider this measure on this bill.

Mr. WILSON. I only read it as a proposition. I do not offer it.

Mr. SHERMAN. I suggest that we had better take a vote on the proposition before us, reject it, and let it come up again for future consideration. It is so late to-night that we are all weary.

Mr. EDMUNDS. It is not too late to see that what is necessary and proper should be done. Now, I want to ask the chairman of the Committee on Military Affairs—I assume that he is one of the numerous gentlemen who have had a hand in this pie—why it is that our gallant soldiers who were taken prisoners and were languishing in prisons and lost their health and almost their lives, and came home skeletons—or those who had the malaria in the swamps down here and were discharged on account of sickness and not on account of wounds received in battle, are not provided for.

Mr. WILSON. I will say to the Senator that they got their pay for the time they served the country, and they got their bounty for the time they served.

Mr. EDMUNDS. So do those who were wounded.

Mr. WILSON. But these men by the ruling of the Government have never had any bounty.

Mr. EDMUNDS. So much the more reason why they should have it now.

Mr. WILSON. Men who retired wounded received bounty, and men who retired for sickness, whether real or pretended, whether a sickness for which they ought to retire, or a sickness growing out of disease before they entered the service, have never received any bounty, and we now propose to give them bounty for the time they served. If they served two years they get two years' bounty, but nothing after that.

Mr. EDMUNDS. Why not?
Mr. WILSON. It is so difficult to tell who retired on account of sickness justly and who not; but there is no difficulty in telling about a wounded man.

Mr. EDMUNDS. Why is it any more difficult in regard to bounty than it is under the pension laws?

Mr. WILSON. At any rate it is so difficult that the Government has never yet allowed any bounty for them, and nobody has ever proposed to give any, and this is the only chance they have to get any bounty at all.

Mr. EDMUNDS. Where the Government.

Mr. WILSON. I mean Congress. The Department have never paid these men anything. In the beginning of the war, for the first six or eight or perhaps twelve months of the war, hundreds and thousands and tens of thousands went out of the service who ought not to have gone out and who could not have got out during the last two years. They let almost anybody go out at first. Now, the question is, are you to give a bounty to those men for a longer time than they served? Will you treat them as you do the wounded men who could not serve you? There are cases, I admit the fact, of men who retired on account of sickness, who ought to have bounty up to the end, but it is so difficult to confine it to those cases that it is an impracticable thing to do.

Mr. GRIMES. I suppose the expression, "not to any soldier who was a captured prisoner of war at the time of enlistment," refers to the few regiments raised among the rebel prisoners at Hock Island and Fort Delaware.

Mr. WILSON. Yes, sir.
The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts on behalf of the Committee on Military Affairs, as amended.

Mr. LANE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. HOWARD, (when his name was called.) On this question I agreed to pair off with the Senator from Maine, [Mr. Fassenshaw,] who is absent in consequence of ill health. I should vote in the affirmative on this question, and he would vote in the negative if he were here.

Mr. MORRILL, (when his name was called.) I should vote in favor of the amendment, but I have paired off with the Senator from Maryland, [Mr. Johnson,] who was obliged to leave the Hall a short time ago.

The Secretary concluded the call of the roll. Mr. HENDRICKS, (who had voted in the affirmative.) I ask permission of the Senate to withdraw my vote. I forgot at the time I voted that I had paired off with the Senator from Kentucky, [Mr. Governor.] He is against the measure, as an amendment to this bill, and I am for it.

No objection being made, leave was granted to withdraw the vote.

The result was announced—yeas 14, nays 22; as follows:

YEAS—Messrs. Chandler, Creswell, Grimes, Henderson, Howe, Kirkwood, Linn, Pomeroy, Ramsey, Trumbull, Wade, Wiley, Wilson, and Yates—24.

NAYS—Messrs. Anthony, Brown, Buckle, Clark, Conness, Cowan, Davis, Doobittie, Edmunds, Foster, Harris, McDougal, Morgan, Russell, Pomeroy, Riddle, Sherman, Sprague, Stewart, Sumner, Van Winkle, and Williams—22.

ABSENT—Messrs. Gracia, Dixon, Fessenden, Guthrie, Hendricks, Howard, Johnson, Morrill, Norton, Nye, Sanborn, and Wright—14.

So the amendment was rejected.

Mr. HOWARD. I desire to move an amendment.

Mr. CONNESS. If the Senator will give way I will move an adjournment.

Mr. SHERMAN. I hope we shall go on and finish the bill to-night.

The motion to adjourn was agreed to; there being, on a division—yeas 22, nays 16; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, July 24, 1866.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. G. B. BOWEN.

On motion of Mr. ELIOT the reading of the Journal was dispensed with.

PERSONAL EXPLANATION.

Mr. FINCK. I ask unanimous consent of the House to record my vote on the Penian resolution yesterday.

The SPEAKER. By the rule of the House it cannot be done.

Mr. FINCK. I wish to state, then, that if I had been present I should have voted for both resolutions offered yesterday on that subject. I was unavoidably absent.

PORT OF CALAIS, MAINE.

Mr. ELIOT. I am instructed by the Committee on Commerce to report a bill to authorize the entry and clearance of vessels at the port of Calais.

The SPEAKER. This is in accordance with the leave granted by the House the other day at the request of the chairman of the committee, [Mr. WASHINGTON, of Illinois.]

The bill was read a first and second time. It provides that the Secretary of the Treasury may authorize the collector of customs at the port of Calais, Maine, to enter and clear vessels and perform such other official acts as the Secretary of the Treasury may think advisable.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

WEIGHING OF EXPORTS.

Mr. ELIOT, from the Committee on Commerce, reported back House bill No. 480, to provide for and to regulate the weighing of exports, and for other purposes.

The bill was read. It provides that on all weighable articles on which drawback or return

duty is allowed there shall be levied and collected from the several ports three cents per hundred pounds, to be returned by the weighers. It also abolishes the office of measurer at New York, whose duties shall be performed by the weighers. It also regulates the salary of the weighers.

Mr. DAVIS. Do I understand that this bill abolishes the office of inspector?

Mr. ELIOT. Not the inspectors, but the measurers are abolished, because all their duties are transferred to the weighers.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table. The latter motion was agreed to.

PACIFIC RAILROAD.

On motion of Mr. PRICE, by unanimous consent, the Committee on the Pacific Railroad was discharged from the further consideration of bill of the Senate No. 20, granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, and the same was laid upon the table.

INSPECTORS OF MERCHANTSHIPS.

Mr. ELIOT, from the Committee on Commerce, reported back bill of the Senate No. 89, to amend the act in relation to officers employed in the examination of imported merchandise in the district of New York, with sundry amendments.

The amendments were agreed to.

The bill was then ordered to a third reading, and it was accordingly read the third time and passed.

WRECK OF THE SAN FRANCISCO.

Mr. ELIOT, from the Committee on Commerce, reported back, with an amendment, joint resolution of the Senate No. 81, manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel.

Mr. ANCONA. Is this the regular order of business?

The SPEAKER. It is. Leave was granted to the gentleman from Illinois [Mr. WASHINGTON] to make these reports, and in consequence of his sickness the leave was transferred to his colleague on the committee, the gentleman from Massachusetts, [Mr. ELLER.]

Mr. ELIOT. I demand the previous question on the amendment, first yielding to my colleague on the committee [Mr. O'NEILL] to make a report upon the subject.

Mr. O'NEILL. I submit a report upon this joint resolution, and move that it be printed.

The motion was agreed to.

The report is as follows:

The Committee on Commerce, to which was referred joint resolution of the Senate No. 81, "manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel," respectfully reports that the subject has had full, mature, and ample consideration. The services rendered by Captain Creighton, of the ship Three Belts, of Glasgow; Captain Stouffer, of the ship Antares; and Captain Low, of the bark Kirby, on the occasion of this terrible wreck, about the end of the year 1858, and their voluntary and ungrudging conduct in saving the lives of some six hundred soldiers of the United States with the passengers and crew of the ill-fated steamship, in the estimation of the committee, deserve some marked manifestation of the American Congress.

The joint resolution passed the Senate unanimously on the 20th of April last, and proposed that "valuable gold medals with suitable devices" should be presented to each of these noble captives, and that the President should reward them and the officers and crews of their vessels and such other persons as aided in the rescue, by distributing among them, in such manner as he might deem expedient, the sum of \$50,000, and recommended that such an amount of money be appropriated out of any money in the Treasury not otherwise appropriated for carrying the joint resolution into effect.

approved on the 5th of May, he appointed Mr. Kinney a commissioner to appraise the lands described in the act entitled "An act for the relief of William Sawyer and others, of Ohio," approved July 1, 1864. I need not go on farther to state what the Secretary says. Here is an appropriation to carry out the law. The value of these lands has already been ascertained in the mode prescribed by act of Congress.

Mr. BINGHAM. I ask the gentleman whether the statute under which this appraisal was made does not expressly provide that the land shall be appraised and valued according to its present valuation in a state of nature.

Mr. STEVENS. It does, and so the commissioner, in a long report giving us the evidence, states that he did value it in a state of nature. Now, sir, it is the most remarkable thing in the world that Mr. Sweetzer, who has a right to this land, is to be held responsible for the original title given by the Government of the United States to these settlers. Mr. Sweetzer can turn them out to-morrow under the law without asking anybody's favor, and in order to prevent it the vendor, who sold what he did not possess and thus put into possession innocent men, is asking us to appropriate this money to protect the vendees from a just and lawful claim, so decided by ourselves and decided by the judgment of the courts.

Mr. WILSON, of Iowa. I wish to ask whether there have not been two appraisements of this land; whether the commissioner who made the first did not appraise it at a much less price than is now fixed; whether Sweetzer did not refuse to take it, demanding a higher price; and whether he did not procure the appointment of another commissioner who, for some reason, I know not what, has returned this appraisal, which is satisfactory to Sweetzer.

Mr. STEVENS. I do not know about the first appraisal, but the resolution shows that this is a reappraisal; hence there must have been one before. Mr. Sweetzer was not bound to accept it, but he has signified his willingness to accept the sum which was fixed by Mr. Kinney. Now, it is a simple question whether this Congress will allow their own vendees to be turned out.

[Here the hammer fell.]

The question being taken on the amendment of Mr. COMBING to strike out the section, it was not agreed to—ayes thirty-five, noes not counted.

Mr. KASSON. I move to add the following as an additional section:

And be it further enacted, That whereas doubts have arisen whether the fourth section of the act approved March 3, 1865, entitled "An act to amend an act to provide for the internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 20, 1864, authorized disbursing agents to disburse other moneys than those appropriated in the said fourth section, therefore for the purpose of removing said doubts and declaring the true intent and meaning of said fourth section, the said fourth section shall be deemed, held, and construed as being and remaining in full force and effect from and after the 31 day of March, 1866, until the same shall be modified and repealed, and as authorizing the disbursement through such agents of money heretofore appropriated and that may hereafter be appropriated for the payment of the lawful expenses incident to carrying into effect the various acts relative to the assessment and collection of the internal revenue, and all bonds and obligations heretofore entered into by collectors of internal revenue as disbursing agents shall be binding and obligatory upon such collectors and their surties as well in respect to moneys which have been or may hereafter be received by said collectors as moneys disbursed as to moneys appropriated in the said fourth section.

The amendment was agreed to.

Mr. KASSON. I offer the following additional items as amendments to the bill:

For compensation of the depositary at Santa Fe, New Mexico, as per act of March 8, 1865, \$1,000.
For salaries of additional clerks and additional compensation of officers and clerks, under act of August 6, 1864, at such rates as the Secretary of the Treasury may deem just and reasonable, \$10,000.
For compensation of two superintendents for the life-saving stations on the coast of Long Island and New Jersey, per acts of December 14, 1854, and August 10, 1856, \$2,500.

For compensation of fifty-four keepers of stations, per same act, \$5,000.
For salary of the superintendent of the building occupied by the Quartermaster General's office, \$200, for the current fiscal year.

The amendment was agreed to.

Mr. WRIGHT. I offer the following as an additional section:

And be it further enacted, That the Capitol police shall be entitled to the increased compensation allowed to officers, clerks, messengers, and others in the employ of the House of Representatives.

I will state that last year a bill was passed which it was supposed gave to them their compensation as employes of the House, but it appears that as the law stood they were employed by Congress, the House paying one-half and the Senate the other half. Therefore they were left out in the cold. The object of my amendment is to have that mistake rectified. There are only a half-dozen of these men and I think justice requires that this amendment should be adopted.

The amendment was agreed to.

Mr. STEVENS. I move that the committee lay this bill aside and take up another small appropriation for Nebraska.

The amendment was agreed to.

REIMBURSEMENT OF NEBRASKA.

The Committee of the Whole then proceeded to consider House bill No. 701, to authorize the reimbursement of Nebraska of certain expenses incurred in repelling Indian hostilities.

On motion of Mr. STEVENS, the first reading of the bill was dispensed with, and the bill was read by sections.

No amendment was offered.

Mr. J. L. THOMAS. I move that the committee rise.

Mr. KASSON. I move to amend by adding that the Chairman report both bills to the House.

Mr. J. L. THOMAS. I accept the amendment.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. DAVIS reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 701, to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1866, and for other purposes, and had directed him to report the same to the House with sundry amendments; also that the Committee of the Whole had had under consideration the special order, being bill of the House No. 751, to authorize the reimbursement to the Territory of Nebraska of certain expenses incurred in repelling Indian hostilities, and had directed him to report the same to the House without amendment.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendments of the House to the amendments of the Senate to House bill No. 776, to establish certain post roads.

Also, that the Senate had passed without amendment House bill No. 772, to authorize the issue of certain bonds in denominations greater than \$1,000.

Also, that the Senate had passed House joint resolution No. 176, amendatory of a joint resolution entitled "Resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances to their heirs," approved June 16, 1866, with amendments, in which the concurrence of the House was requested.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 887) making appropriations for the current contingent expenses of the Indian department for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1867.

ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee

had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes;

An act (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union, of Washington, District of Columbia;

An act (H. R. No. 729) to change the port of entry in Puget Sound;

An act (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home;

An act (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands, and for other purposes;

Joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war; and

Joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company.

DEFICIENCY BILL—AGAIN.

The House proceeded to the consideration of the deficiency bill as reported from the Committee of the Whole.

Mr. STEVENS. I demand the previous question on the several amendments made in committee.

Mr. LAWRENCE, of Ohio. I ask for a separate vote on striking out section five.

The SPEAKER. That was not stricken out in committee.

Mr. LAWRENCE, of Ohio. Then I hope the previous question will not be seconded so that the motion may be made to strike out.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments reported from the Committee of the Whole were concurred in, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS. I call the previous question on the passage of the bill as amended.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REIMBURSEMENT OF NEBRASKA.

The House then proceeded to consider House bill No. 701, authorizing the reimbursement of the Territory of Nebraska for certain expenses incurred in repelling Indian hostilities, which had been considered in Committee of the Whole and reported to the House without amendment.

Mr. KASSON. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TENNESSEE.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

The following "Joint resolution, restoring Tennessee to her relations in the Union," was last evening presented for my approval:

"Whereas, in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its

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IN SENATE.

TUESDAY, July 24, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred resolutions of the Chamber of Commerce of the State of New York in favor of timely and adequate appropriations for exhibiting the products of the American Union at the Exposition at Paris in 1867, in such a manner and on such a scale as shall maintain its just rank among the nations of the earth, asked to be discharged from their further consideration, which was agreed to.

He also, from the same committee, to whom was referred the memorial of James Roache, praying for compensation for services rendered in Ireland during the late rebellion, in behalf of this country, asked to be discharged from their further consideration, which was agreed to.

PACIFIC RAILROAD BONDS.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred a bill (H. R. No. 772) to authorize the issue of certain bonds in denominations greater than \$1,000, to report it back without amendment, and as it relates to a matter very simple in itself, I ask that it be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that hereafter the bonds of the United States authorized by the act of July 1, 1862, to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and by all acts amendatory thereof, may be issued in denominations greater than \$1,000, at the discretion of the Secretary of the Treasury, but it shall at all times be optional with any railroad company whether they will receive bonds of a larger denomination than \$1,000.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

NORTHERN PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad to whom was recommitted the bill (S. No. 297) to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes, have had the same again under consideration, and have instructed me to report it back to the Senate with certain amendments. In making this report, I beg the indulgence of the Senate for one moment, while I say that the Committee on the Pacific Railroad do not expect that at this late period of the session it will be possible for the Senate to act upon the bill further. Indeed, many of them are of opinion that it is not expedient under the circumstances to proceed further with the consideration of the bill at the present session, and I shall be content for one to have its consideration postponed until the commencement of the next session of Congress.

The amendments of the committee, I beg to say, are very brief, and I seize upon this opportunity of stating substantially what they are. The committee amend the scheme of guaranty embraced in the bill by dividing the whole route of the Northern Pacific railroad into three sections, the first section commencing at the eastern terminus on Lake Superior and running westwardly to the one hundred and eleventh degree of longitude, the distance being about one thousand one hundred miles, and on this section the amendments guaranty the interest on stock at the rate of \$10,000 per mile, that is, for one hundred and sixty shares, the shares of the company being \$100 each. The second section commences at the one hundred and eleventh degree of longitude, running west to the one hundred and nineteenth degree, being,

according to the bill which was referred to the committee, five hundred and twenty miles in length. This is the mountain region and is called the mountain district. On this section the amendments of the committee guaranty interest on stock at the rate of \$48,000 a mile, or four hundred and eighty shares per mile. The third section commences at the one hundred and nineteenth degree, running to the western terminus, that is the main trunk to Puget's sound and the branch to Portland, in Oregon, and on this section the amendments of the committee guaranty interest on stock at the rate of \$82,000 per mile, or three hundred and twenty shares. The distance to Puget's sound is supposed to be about two hundred miles, and the length of the branch, as near as it can be estimated by the materials which the committee have in their possession, is about four hundred miles.

The scheme presented by the amendments of the committee gives to the company the same rate of aid in guarantying stock per mile as the Union Pacific railroad has in bonds, and is in fact a reduction of the aid claimed in the original bill by nearly one half the whole amount of guarantied stock, that amount being by the scheme presented in the amendments about sixty million dollars in such stock so far as the distances can at present be estimated.

I present the following, Mr. President, as a rough estimate of each of the three sections of this Northern Pacific railroad route: the first section says eleven hundred miles at \$16,000 guarantied stock per mile would require \$17,600,000 of guarantied stock. Of course I speak of principal. The second section, being by the bill as originally presented five hundred and twenty miles, at the rate \$48,000 per mile would require \$24,960,000. The third section, including the branch to Portland, Oregon—these lines, measuring, the main line to Puget sound, say two hundred miles, and the branch to Portland say four hundred miles, amounting together to six hundred miles, at the rate of \$82,000 per mile, would require \$49,200,000. The total of aid in the shape of guarantied stock being thus \$61,760,000. The annual interest upon it would be \$3,706,600, and the whole interest for twenty years \$74,112,000.

I avail myself of this opportunity of making this statement in order that the facts may appear upon the reports of our proceedings, and I ask that this bill be postponed until the next session of Congress, with a view to elicit discussion throughout the country upon the part of all persons who have an interest in the prosecution of this great enterprise. I therefore submit the motion that the bill be postponed until the next session of Congress, and that it be printed.

The motion was agreed to.

Mr. HOWARD. In connection with this subject I desire to present a resolution, and I hope the Senate will take it under present consideration. It is simply for the purpose of obtaining information from the War Department and from the Interior Department with a view to the ultimate cost and expense of building this road, and the amount of transportation which the Government will find it necessary to have upon it. I hope the resolution will be passed. It will lead to no debate, I am sure.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of War be requested to furnish to the Senate such information as may be in the possession of the War Department touching the probable cost of constructing a railroad on the route mentioned in the charter of the Northern Pacific Railroad Company, together with estimates of the probable amount of Government transportation on said road, derived from such data as may be in his power, and that the Secretary of the Interior render him such aid and help as may be necessary in answering this resolution.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 449) to credit sea service to officers of the Navy who have served during the war to suppress the rebellion who may have resigned prior to said rebellion, which was read twice

by its title and referred to the Committee on Naval Affairs.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 440) authorizing special juries in the District of Columbia, which was read twice by its title and referred to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the following bills and joint resolutions of the Senate without amendment:

A bill (S. No. 164) for the relief of Alois Klaus;

A bill (S. No. 207) for the relief of the owners of the British vessel *Magicienne*;

A bill (S. No. 352) granting to A. Sestro the right of way and granting other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada;

A bill (S. No. 414) to regulate the times and manner of holding elections for Senators in Congress;

A joint resolution (S. R. No. 70) to authorize the purchase for the Library of Congress of the law library of James L. Pettigrew, of South Carolina, and

A joint resolution (S. R. No. 93) providing for the appointment of a commission to examine and report upon certain claims of the State of Iowa.

The message further announced that the House of Representatives had passed the bill (S. No. 224) granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had corrected the error in the engrossment of its amendments to the bill (S. No. 226) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, and had returned the bill and amendments to the Senate, and asked the concurrence of the Senate in the amendments.

The message further announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 480) to provide for and to regulate the weighing of exports, and for other purposes, and

A bill (H. R. No. 795) to authorize the entry and clearance of vessels at the port of Calais, Maine.

MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I move to take up the amendment of the House of Representatives to the bill (S. No. 138) to increase and fix the military peace establishment of the United States. The motion was agreed to.

Mr. WILSON. I will simply state that in March last the Senate passed an Army bill, which is the one now pending, and, some weeks ago passed another. On the very day on which we passed the last bill, the House of Representatives took up our Army bill that had lain for four months on their table, and passed it with an amendment in the nature of a substitute. I propose now to concur in that amendment, first striking it all out after the word "that," which is the first word in it, and inserting a bill which is the same that we last passed, with one or two small changes. I make that motion now, and as the amendment I offer has been passed by the Senate, it is not necessary to read it. I suppose this will put the matter in a shape that will lead to a committee of conference.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the amendment made to this bill by the House of Representatives be amended by striking out all after the word "that" and inserting what he has sent

man was exceedingly modest in indicating who was to be on this commission, so that he would have a partial report. It would be in the power of the Secretary of the Treasury to appoint those who would certainly report in favor of the warehouse system; it would be in his power to appoint those who would certainly report in favor of the cash system and going away with the warehouse system; but neither report would settle this question if it is the determination of the great manufacturers of this country to war against the warehouse system and the importing merchants.

I will not go further into this question. This is a war against the warehouse system in favor of the cash system. If Senators are ready to give up the warehouse system, they will adopt the amendment proposed by the Senator from Rhode Island.

THE PRESIDING OFFICER. The question is on the amendment to the amendment proposed by the Senator from California, to strike out the latter part of the proposition of the Senator from Rhode Island.

The amendment to the amendment was agreed to.

THE PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Rhode Island as amended.

The question being put, there were, on a division—yeas 6, nays 12; no quorum voting.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 23; as follows:

YEAS—Messrs. Anthony, Howard, Howe, Kirkwood, Lane, Morrill, Norton, Pomerooy, Sherman, Sprague, and Wade—11.

NAYS—Messrs. Brown, Chandler, Conness, Crosby, Davis, Fessenden, Grimes, Guthrie, Harris, Hendricks, Johnson, McDougall, Morgan, Newhall, New, Seward, Sumner, Tumbull, Van Winkle, Wiley, Williams, and Wilson—23.

ABSENT—Messrs. Buckalew, Clark, Cowan, Craig, Dixon, Doolittle, Edmunds, Foster, Ramsey, Riddle, Salisbury, Stewart, Wright, and Yates—11.

So the amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed the bill (S. No. 170) in relation to the district courts of the United States in the States of California and Louisiana, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 649) to alter the places of holding the circuit courts of the United States for the Rhode Island district;

A bill (H. R. No. 766) amendatory of an act to amend an act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," approved May 11, 1866; and

A bill (H. R. No. 800) for the relief of Marion M. Baxton.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 365) granting the right of way to ditch and canal owners over the public lands, and for other purposes;

A bill (H. R. No. 587) to incorporate the Soldiers' and Sailors' Union, of Washington, District of Columbia;

A bill (H. R. No. 692) increasing the pensions of widows and orphans, and for other purposes;

A bill (H. R. No. 729) to change the port of entry in Puget sound;

A bill (H. R. No. 779) to incorporate the National Soldiers' and Sailors' Orphan Home;

A joint resolution (H. R. No. 178) in reference to the Dismal Swamp Canal Company; and

A joint resolution (H. R. No. 190) in regard to rations of Union soldiers held as prisoners of war.

ADMISSION OF NEBRASKA.

Mr. WADE. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 447, for the admission of Nebraska as a State.

Mr. SHERMAN. I will ask, what is the pending business? I think the civil appropriation bill is still pending as the unfinished business, and I hope my colleague will postpone Nebraska until we get through with this bill.

THE PRESIDING OFFICER. The Chair understands that the bill mentioned by the Senator from Ohio has not yet been reported.

Mr. WADE. I believe it has not been. I will now report it from the Committee on Territories, and ask for its present consideration. I thought it had been reported.

THE PRESIDING OFFICER. The Senator from Ohio asks the unanimous consent of the Senate to consider the bill just reported by him.

Mr. SHERMAN. I object until the miscellaneous appropriation bill is disposed of.

THE PRESIDING OFFICER. Objection being made, it cannot be considered now.

Mr. SHERMAN. I will join my colleague in his efforts for the admission of Nebraska tomorrow, when we get through with this miscellaneous appropriation bill.

Mr. WADE. I give notice that I shall move to-morrow to take it up the first thing.

REPORT OF A COMMITTEE.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Joseph Segar, praying for compensation for property seized by the Union Army in Virginia, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 737) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, the pending question being on the amendment proposed by Mr. BUCKALEW from the select committee on ventilation.

Mr. SUMNER. That is a proposition to appropriate \$117,000 for the ventilation of this room. If we are to continue in this room I should like to have it ventilated; but I think that so large an outlay of money is out of place for that object. I think, as I said yesterday, we ought to go further and do something better. I am not willing, for one, to pay \$117,000 merely to stay in this gilded cage where we are kept. I will pay more in order to change the room entirely. I think that the committee has made a mistake. They will pardon me; I do not intend really any criticism; but I think they have made a mistake in trying to refashion this room. That is the object of this large appropriation, \$117,000, merely for the ventilation of this impossible Chamber; for when it is ventilated it is not a proper Chamber for the Senate of the United States. I hope, therefore, that instead of appropriating \$117,000 to ventilate this room, we shall appropriate perhaps a larger sum to make a more thorough change. In this matter I am in earnest. I feel that we shall make a mistake if we invest more money in this apartment. The object of the proposition of the Senator is a further investment of money in these walls by which we are

encaged. I will invest to take the walls down, but I am unwilling to pay more to keep these walls in their place.

I am not able to present a plan as a substitute for that of the Senator from Pennsylvania. I have never presented this subject to any architect or person who was able to make a report as an architect upon it; but I should like to have the whole question submitted to a proper person or a proper committee with a view to a practical result. As I tried to say last night, there were two objects at which I would aim. One would be to bring the Chamber right out in connection with the open air, and the other would be to diminish the size of the Chamber. I would reduce it by one half. For instance, a Chamber that would be left by running a line from the main door to the chair of the President, I think would be ample for all the business of the Senate. We should be more comfortable in it. Public business would be transacted more advantageously. For instance, what we are now engaged upon to-day would be attended to much better than in this large room.

Since the discussion last night, I have been reminded of a saying by one of the best of the early English writers, old Fuller, which you will find in his proverbs.

Mr. FESSENDEN. Can you give the chapter and verse. [Laughter.]

Mr. SUMNER. I cannot give the chapter and verse. I have got it here. I have written it down. It is as follows, and I think you will see the application of it, and my friend from Maine will not be insensible of it. A house, he says in this proverb, had better be too little for a day than too big for a year; therefore, houses ought to be proportioned to ordinary occasions and not extraordinary. Now, this Chamber of ours is not proportioned to ordinary occasions; it is not proportioned to our every-day business; and what I desire is that it should be brought into those proportions, that it should be brought into harmony with what we are called upon to do every day; and that it should not be kept in proportion to those extraordinary occasions when these galleries are filled.

Now, sir, I have no motion to make, but I do not see how I can vote for this large appropriation which is to involve an increased expenditure on this room, which, it seems to me, we ought to do all we can to get rid of, instead of putting more money into it.

Mr. HARRIS. Mr. President, I am not prepared to agree to any proposition to change this Chamber, so far as it relates to its size or its location, but I am decidedly in favor of improving its ventilation. But I desire to inquire of the Senator from Pennsylvania who presents this proposition, how much of this \$117,000 he proposes to have expended during the recess of Congress. I suppose a very small proportion; and I should think it much more advisable to make an appropriation equal to the amount to be expended during the time that will elapse between this and our reassembly in December, and then consider what we shall do after Congress shall adjourn next year. It seems to me we ought to make a moderate appropriation now to carry on the changes that he proposes to make during the coming recess.

Mr. BUCKALEW. Mr. President, the estimates for the different items of outlay were very carefully ascertained and reported at the last session in the report of the joint select committee, and they appear on pages 24 and 25 of that report. As a matter of course, the amount proposed for appropriation will not be expended before the meeting of the next session of Congress; but it is necessary to know what the Senate intend to do. This plan of improvement is an entirety; one part is dependent upon another; and a complete result can only be secured by the adoption of the entire scheme, at least in its main parts. The committee have reported to the Senate a plan in conformity to their investigations, and what is

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Mr. CONKLING. Then, does the Senator withdraw his motion to postpone?

Mr. ROBERTSON. No, I do not.

Mr. CONKLING. I understand that the question before the Senate now arises on a motion to postpone this bill and all its amendments.

The PRESIDING OFFICER. That is the pending question.

Mr. CONKLING. Is that the question which the Senator wants to take the vote on to-morrow at four o'clock?

Mr. ROBERTSON. I want to take the question on that, and then on the bill that may be agreed upon by the Senate, and all the amendments, so that the subject may be disposed of.

Mr. CONKLING. That is, that to-morrow at four o'clock we vote first on the motion to postpone?

Mr. ROBERTSON. Yes.

Mr. CONKLING. If that motion prevails, what then do we vote upon—taking up some other bill?

Mr. ROBERTSON. Any amendment that may be offered.

Mr. CONKLING. Then, we are asked to agree now that to-morrow at four o'clock we shall take the vote on the motion pending on this bill, and if that motion prevails and this bill passes away entirely, we shall then vote upon any other bill that the Senator chooses to bring forward.

Mr. ROBERTSON. Any amendment that may be offered to the bill.

Mr. CONKLING. I do not think such an agreement as is proposed will quite do.

Mr. ROBERTSON. I asked unanimous consent that the vote be taken to-morrow at four o'clock. Is there objection?

The PRESIDING OFFICER. There is objection.

Mr. CONKLING. I wish to say that I make no objection to taking the vote on the pending bill and all amendments to it at any hour to-morrow the Senator will propose. I do not wish to be understood as objecting to that.

Mr. EDMUNDS. I wish to say that after the experience we have had on this very bill and some others, of failing to keep the real good faith of the Senate without any person being personally responsible for it, I will not agree to anything whatever. If my friend from South Carolina wishes us to stay here to-night and finish this question, then let us stay on; but it is a waste of time and a mortification to a good many people to find themselves entrapped by agreeing to take votes at particular times, and I do not intend to do it.

Mr. CAMBRON. I shall not agree to the suggestion of the Senator from South Carolina, because I desire to vote with him as near as I can, and to-morrow afternoon at half past four I shall not be here. Having said that, I trust he will not push his motion until after I have an opportunity to come back. Now I move that the Senate proceed to the consideration of executive business.

Mr. MORBILL, of Maine. If the Senator will withdraw that motion a moment, I will not interfere.

Mr. CAMBRON. I give way for a moment.

Mr. MORBILL, of Maine. I had hoped to be able to address myself for a few minutes to the Senate upon this question to-day, and, if it does not interfere with the Senator's desire to have an executive session, I rise for the purpose of being able to do that to-morrow. So I address the Chair now on the subject before the Senate.

The PRESIDING OFFICER. The Senator from Maine will be entitled to the floor when this business is resumed to-morrow.

Mr. CAMBRON. Now I renew my motion. The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-one minutes spent in executive session the doors were reopened, and (at four o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 23, 1872.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Clerk proceeded to read the Journal of yesterday.

On motion of Mr. GARFIELD, of Ohio, by unanimous consent, the further reading of the Journal was dispensed with.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at thirty-two minutes past twelve o'clock, and reports are first in order from the Committee on Railways and Canals.

COAL LANDS IN THE PACIFIC STATES, &C.

Mr. WALDRON, from the Committee on Mines and Mining, reported back House bill No. 754, to grant the right of preemption to coal lands on the public domain in the Pacific States and Territories; and moved that it be referred to the Committee on the Public Lands. The motion was agreed to.

Mr. WALDRON. I now yield to my colleague on the committee from California, [Mr. SARGENT.]

DEVELOPMENT OF MINING RESOURCES

Mr. SARGENT, from the same committee, reported back, with the recommendation that it do pass, the bill (H. E. No. 1016) to promote the development of the mining resources of the United States.

The bill was read. In its first section it provides that all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, and the lands in which they are found to occupation and purchase by all persons, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable, and not inconsistent with the laws of the United States. In its second section, it provides that the miners of each mining district may determine the length of their mining claims upon veins or lodes of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, subject to the following limitations: claims located previous to July 26, 1866, shall be limited as to extent along the vein or lode by the local laws or customs existing at the date of the location. Single claims located subsequent to July 26, 1866, shall not exceed two hundred feet in length along the vein or lode, with an additional claim of two hundred feet for discovery to the discoverer of the vein or lode. Several persons may locate in common on a vein or lode, each person taking one claim; but no person, except the discoverer, shall locate more than one claim upon the same vein or lode, and the aggregate amount of a location in common made subsequent to July 26, 1866, shall not exceed three thousand feet in length along the vein or lode. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other, and at right angles with the general course of the vein. In its third section it provides that the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, territorial, and local regulations, not in conflict therewith, governing their possessory title, shall have the exclusive right of possession

and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of said surface locations; provided that their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end lines of their locations, or locations in common, so continued in their own direction, that such planes will intersect such exterior parts of said veins or ledges; and provided further, that nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another. In its fourth section it provides that where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes, not previously known to exist, discovered in such tunnel, to the extent of five hundred feet on each side of the same; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid. In its fifth section it provides that the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: the location must be distinctly marked on the ground, so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. After the passage of this act, and until a patent shall have been issued, not less than twenty-five dollars' worth of labor shall be expended or improvements made upon each claim of two hundred feet during each year; but claimants in common, as defined in the second section of this act, may cause all the labor to be expended for improvements to be made upon any one claim; provided that the aggregate amount equals twenty-five dollars a year to each claim of two hundred feet. And upon a failure to comply with this condition the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made; provided that the original locator has not resumed work upon the claim after such failure and before such relocation; and provided further, that no such mining regulation or custom not in existence at the time of possession taken of any claim shall affect the same or the manner in which a patent therefor shall be obtained under this act. In its sixth section it provides that a patent for any land claimed and located for valuable mineral deposits may be obtained in the following manner: any person, association, or corporation having claimed and located a piece of land for such purposes, not exceeding in extent the area prescribed in this act, who has or have complied with the mining regulations, where any such exist at the place of location by the custom of miners, and with the terms of this act, may file in the nearest land office an application for a patent, under oath, showing such compliance, together with a plat or plats of the claim or claims in common, and shall post a copy of such plat or plats, together with a notice of intention to

apply for a patent therefor, in a conspicuous place on the land embraced in such plat or plats, sixty days previous to such application for a patent, and shall file an affidavit, of at least two persons, that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land office, shall thereupon be entitled to a patent for said land, in the manner following: the register of the land office, upon the filing of such application and plat, notices and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant, at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor general that \$500 worth of labor has been expended or improvements made upon the claim, by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, and that no adverse claims exist; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act. In its seventh section it provides that where an adverse claim shall be filed during the period of publication all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightfully possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. In its eighth section it provides that the description of vein or lode claims upon surveyed lands shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands,

the surveyor general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim. In its ninth section it provides that sections one, two, three, four, and six of an act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 26, 1866, are hereby repealed, but such repeal shall not affect existing rights, or prevent claimants now prosecuting their claims for patents from proceeding under said act; provided that this act shall be enforced as to such claims where it is not inconsistent with the act approved July 26, 1866, aforesaid. In its tenth section it provides that the act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July 9, 1870, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and joint entries shall be allowed for contiguous claims, as provided in said act; provided that proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases. In its eleventh section it provides that where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such a vein or lode, and in such case (subject to the provisions of this act and the act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July 9, 1870,) a patent shall issue for the placer claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and one hundred feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2 50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof. In its twelfth section it provides that the surveyor general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and

fix the rates to be charged by such paper. And to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land office, which statement shall be transmitted with the other papers in the case to the Commissioner of the General Land Office. The fees of the register and the receiver shall be the same as in other cases for similar services; provided that nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 26, 1866; nor shall this act affect any right acquired under said act. In its thirteenth section it provides that all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and when duly certified by the officer taking the same shall have the same force and effect as if taken before the register and the receiver of the land office; provided that in all cases of contest such testimony and proofs shall only be taken on at least ten days' personal notice to the opposing parties, when such parties can be found; and if they cannot be found, then by at least forty days' publication in a newspaper published nearest to the location of said claims; and the register of the land office shall require proof that such notice has been given. The fourteenth section provides for the repeal of all acts and parts of acts inconsistent therewith.

The amendments reported by the committee were as follow:

In section six, line eight, strike out the word "nearest," and insert in lieu thereof the word "proper;" so that it will read, "may file in the proper land office."

In section twelve, line twenty-nine, after the word "passage," insert the words "of this act or," so that it will read, "that nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act," &c.

In section twelve, line thirty-three, insert at the close of the section the following:

And nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel in the Comstock lode, in the State of Nevada, approved July 25, 1866.

The amendments reported by the committee were agreed to.

The question was on ordering the bill, as amended, to be engrossed and read a third time.

Mr. SARGENT. I yield to the gentleman from Colorado [Mr. CHAFFEE] to offer an amendment.

Mr. CHAFFEE. I offer the following amendment:

In section six, line eleven, after the word "common," insert the following: "made by or under the direction of the United States surveyor general, showing accurately the boundary of the claim or claims."

Mr. SARGENT. I have no objection to that amendment, but of course, as I report the bill from the committee, I am not entitled to accept it.

The amendment was agreed to.

Mr. MAYNARD. I desire to make an inquiry of the gentleman from California, [Mr. SARGENT.] This bill, so far as I am able to judge from the reading of it, seems to introduce a change in the policy of the Government with regard to mineral lands. I judge from its character that it is an important piece of legislation. It will be seen, from the date of the introduction of the bill, that scarcely a week has elapsed since it was introduced, and a still

less time since it was printed, and of course there has been no time to send it into the mining districts and get opinions, as we frequently do with regard to legislation which may be proposed. I wish the gentleman from California, [Mr. SANDERS,] who certainly understands this subject, to charge us, or some of us at least, by stating the reasons for these important changes. The House will vote more intelligently on the bill after having such an explanation.

Mr. SARGENT. I will endeavor to explain the bill, if gentlemen will give me an opportunity. The bill does not make any important changes to the mining laws as they have heretofore existed. It does not change in the slightest degree the policy of the Government in the disposition of the mining lands. It does not increase or decrease the amount of lands or extent of lands that a miner may acquire under the mining laws. It does not increase or decrease the price or the amount coming to the Government on account of them.

The changes made by the bill are principally those which relate to the legal questions involved; in other words, to the application of the law so as to facilitate the miners obtaining their title in cases where heretofore their right to a title has been recognized. For instance, it has been found by experience that the original bill, as it passed this House in 1870, making provision that testimony might be taken in all cases before local officers, instead of requiring the parties to take their witnesses long distances, where travel is expensive to the land offices, was right. A provision in regard to that matter, incorporated by the House in the original bill, was struck out in the Senate.

It has been found that the expenses of the actual operation of the bill have been so great that poor men have been to a great extent debarred from the privileges which Congress intended to confer upon them. I propose by this bill, and so does the Committee on Mines and Mining, that the privilege of cheaply getting this testimony, which has been found in uncontested cases to work well, shall be allowed in contested cases, and shall be given to the miner or the applicant for the mining claim according to the original idea of the House.

Now, there is another provision of the bill to which I desire to call the attention of the House. It is provided in the existing law that ninety days' notice shall be given by advertisement in the newspapers of application for a mining claim. The cost of advertising in the distant States and Territories is very heavy, and it is believed by the officers of the local land offices with whom I have consulted on the subject, and by miners generally, that sixty days would be an ample time for advertisement of the application, which is the rule now in the State of California in cases of publication of notice of summons to absent defendants, and is, I believe, as long as the term usually prescribed in the Territories for analogous notices. It is merely a question of costs, and this provision will save the cost of thirty days advertising to parties, important to poor men, and leaving ample time for notice.

There is another feature of the bill supplemental to the former legislation of Congress, and that is, that where a man or a company starts and runs a prospecting tunnel, which is a work of great labor and of large expense, and they are nearing the object of their search, believing from geological indications that there is a lode of gold or some other mineral in the mountains, they shall not be deprived of the fruits of their labor by some party who comes in after they have prosecuted their work nearly to completion, and locates the lode which was not known to exist at the time they commenced their enterprise. That is to say, if they discover, by their skill, industry, and perseverance, a lode, they shall be entitled to the benefit of it. This bill allows miners to take three hundred feet on each side of their claim.

By the legislation as it now exists the amount is unlimited. The Government is entitled to five dollars an acre for the land so taken, which is the highest price paid for any lands whatever to the Government of the United States except coal lands.

There is a provision made in the bill in reference to the case where a party owns a placer claim through which there runs a quartz claim.

Mr. MAYNARD. At that point will the gentleman pardon me for asking him a question? It is, how will this bill affect the case in which a tunnel has been already commenced?

Mr. SARGENT. It does not deprive the tunnel company of any privileges they now have or of any lode which they may discover by their skill, enterprise, and exertion. Where a lode is known to exist any person may locate it under the mining laws of the United States; but in a case of this kind, where parties run a tunnel and actually discover the lode, this legislation provides that they shall have a right to it.

Now, a word with reference to a case which has created practical difficulty. Where a person owns a placer claim, and a quartz claim runs through it, there is no provision, as the law now exists which enables the party to acquire a title to both claims, although he is entitled to both under all the mining customs in every State and Territory. It is possible that under recent decisions in the mining States he might be able to make two applications, but if he did the Government would get nothing for the quartz lode. It may be known to some gentlemen that quartz lodes are sometimes exceedingly narrow, often not more than six inches wide, probably; eighteen inches is a wide quartz lode in some of the best mining regions of my State; and if any one will cipher out what the Government would get for a claim of that description by the acre he will find that it is infinitesimally small. This bill provides that a party applying for such a claim shall be required to pay for one hundred feet upon each side of the ledge, and that the Government shall receive five dollars an acre for it. If the lode is not known to exist at the time of the purchase it passes with the placer claim to the purchaser. This is an arrangement with which the miners are satisfied, as it will save the expense of two applications, and give a practical solution to the whole difficulty.

Now, the gentleman says that this bill has been recently introduced. That is true, so far as the House is concerned, but this bill substantially was reported by the Committee on Mines and Mining of the Senate at the last session, and passed the Senate, and only failed to pass the House for want of time. The Committee on Mines and Mining of the House were ready to report upon it favorably, but they were not called for a report, and hence it did not come before the House for its consideration. The only change from the Senate bill, I believe, is in the matter of advertising notice, which I have referred to, lessening it to sixty days, which is ample, thus lessening the cost and giving additional facility in getting testimony before the local land office. This will prevent the enormous accumulation of costs upon the miners for the transportation and subsistence of their witnesses, in some cases transporting them fifty miles, in some a hundred miles, and even three hundred miles in some cases, thereby almost rendering nugatory all the benefits intended to be conferred by the law.

Now, sir, this legislation was originally an experiment. In 1866, when the original quartz law was passed, the question was fiercely debated whether it was worth while for the Government to sell the mineral lands of the United States. Some thought that on some idea of royalty belonging to the Government, or some principle growing out of the constitutional right to regulate its coinage, it ought to keep control of the precious metals, and hence it was

not advisable for the mines to pass out of its own hands into the hands of its people. But it was argued that these people were to a great extent nomadic and unsettled, in one section this year, and next year in some other place, and it was necessary to attach them to the soil, so that they would make more permanent improvements, and acquire for themselves lands which they could improve, upon which they could build their little homes. Where agricultural land was connected with mining lands, and these are almost inextricably intermixed, the miner would make improvements, cultivate his land, raise his peach trees and potatoes, and conduct his mining and farming operations at the same time, or at different seasons of the year, and the result would be a more settled community, and the creation of more taxable property to the benefit of both the State and General Governments.

Now, although the legislation of 1866 was extremely imperfect in the machinery, which since that time we have been trying to improve so that it may be easier for miners to avail themselves of the benefits intended to be conferred upon them by law, yet it showed to observers that the system was correct, and our counties and sections have improved under it. In 1870, after a discussion here, participated in by the then chairman of the Committee on Public Lands, (Mr. Julian,) and by the gentleman from Illinois, [Mr. HAWLEY,] now sitting near me, and by a large number of other members of the House, we improved the machinery of the bill and extended the principle of it to placer veins. Where, before that time, there were ten claims applied for by miners, under this improved law there are hundreds applied for. I speak knowingly whereof I have affirmed.

The law is now going into general operation. We are inducing miners to purchase their claims, so that large amounts of money are thereby brought into the Treasury of the United States, causing the miners to settle themselves permanently, to improve and establish homes, to go down deeper in the earth, to dig further into the hills, and in every way to improve their own condition, and to build up the communities and States where they reside. This bill simply oils the machinery a little; it does not change the principles of the law; it does not change tenures; it simply provides that testimony shall be more easily taken, fees reduced, and generally deals with matters of that kind.

Mr. SHELLABARGER. Is there any provision for the preservation of existing rights?

Mr. SARGENT. Certainly, as follows:
Provided, That nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act or the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 26, 1866, nor shall this act affect any right acquired under said act.

Then, there is a special provision put in at the request of Mr. Sutro, that nothing contained in this bill shall affect any of his rights. And if any gentleman can suggest anything that will make the matter stronger, I will have it put in.

Mr. MAYNARD. Will the gentleman yield for a question?

Mr. SARGENT. Certainly.

Mr. MAYNARD. Will the policy of granting titles to mining lands to individual holders produce any disposition on their part to place themselves within the reach of speculators, so that they may obtain large quantities of these mining lands and monopolize them? I would ask the gentleman, as he understands this subject and I do not, whether there has been any tendency in that direction, and whether his bill is so framed as to prevent any advantage being taken of it for a purpose of that kind?

Mr. SARGENT. I will answer the gentleman; but in doing so it will be necessary for me to make a statement. In all kinds of min-

ing, including placer and quartz, the claims differ in size. During the course of twenty years before the passage of the original law, where lodes were found to be very deep in the earth or far in the hills, in order to run the required tunnel it was necessary sometimes to consolidate claims; and claims were consolidated—sometimes two, sometimes three, sometimes a dozen. Miners would thus consolidate their claims, which made them of irregular sizes, and often quite large. Now, the legislation of 1866 (and that of 1870 conformed to it) provided that claims existing at the time of that legislation might be patented upon proper proof, no matter what their extent, how large or how small; but it is provided also that after the passage of that legislation a certain size, which this bill does not vary, should be conformed to; that claims acquired under the mining law should not be more than a certain size, which I can give the gentleman if he desires. Of course it would not do to confiscate a part of a claim because the claim was large, when it had been made so, very likely, either by some one investing capital under the mining laws, or by the action of two or three miners concurring together for the purpose of running a long tunnel or erecting more than ordinarily expensive crushing-works, or something of that kind.

Mr. WILLARD. Will the gentleman from California yield to me for a moment?

Mr. SARGENT. Certainly.

Mr. WILLARD. Mr. Speaker, I have not examined this bill carefully, nor am I well enough acquainted with the mining law as it now exists to be able to speak with precision about it. But it seems to me that a bill so general in its provisions as this is ought to contain some general saving clause, something which will go further than the clause to which the gentleman has already referred. I propose, therefore, to add to section fourteen, which is in itself a general repealing clause, this saving clause: provided that nothing contained in this act shall be construed to impair in any way rights or interests in mining property acquired under existing laws.

Mr. SARGENT. I have no objection to that amendment. It seems to me a very good provision, and is entirely compatible with the general scope of the bill.

The SPEAKER. Unless objected to, the amendment will be considered as agreed to.

There was no objection, and the amendment offered by Mr. WILLARD was adopted.

Mr. SARGENT. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. SARGENT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JACOB R. DAVIS.

Mr. COBB, from the Committee on Freedmen's Affairs, reported a bill (H. R. No. 1186) for the relief of Jacob R. Davis, of Richmond county, Georgia, which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Jacob R. Davis, of Richmond county, Georgia, \$1,500, whenever an appropriation is made for that purpose, for his services as agent of the Freedmen's Bureau for Richmond county, Georgia, from June 1, 1866, to June 1, 1867.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHOCTAW AND CHICKASAW FREEDMEN.

Mr. COBB, by unanimous consent, presented the petition of the freedmen of the Choctaw and Chickasaw nation, the letter of the Commissioner of Indian Affairs referring to the freedmen of the Choctaw and Chickasaw nation, and a letter of Edward Earle on the same subject; all of which were referred to the Committee on Freedmen's Affairs, and ordered to be printed.

GENERAL BALLOCH.

Mr. HOAR, from the Committee on Education and Labor, reported back the communication of the Secretary of War in reference to the suspension of General Balloch, and moved that it be referred to the Committee on Military Affairs; which motion was agreed to.

EDUCATIONAL FUND.

Mr. PERCE, from the Committee on Education and Labor, reported back a bill (H. R. No. 1043) to establish an educational fund, and to apply the proceeds of the public lands to the education of the people, with the recommendation that it do pass.

The first section of the bill, which was read, provides that the net proceeds of the public lands are hereby forever consecrated and set apart for the education of the people.

The second section provides that the Secretary of the Interior shall cause an account to be taken upon the close of each fiscal year, and ascertain the total receipts from the sale or other disposition of the public lands of the United States, including all fees received at the general and district land offices during each year, and the amount of expenditures incurred or occasioned by the survey, sale, location, entry, or other disposition of such lands, including appropriations for the expenses of the said offices for said year, and shall certify to the Secretary of the Treasury the amount of the net cash proceeds from the sale, entry, location, or other disposition of such lands as aforesaid, after deducting such expenses and expenditures.

The third section provides that upon the receipt of such certificate the Secretary of the Treasury shall cause one-half the amount so certified to be invested in bonds of the United States, bearing interest at the rate of five per cent. per annum, which said amount so invested shall constitute a perpetual fund in the Treasury of the United States, to be known as the national educational fund; and the Secretary of the Treasury, on or before the 31st day of July of each year, shall certify to the Secretary of the Interior and the Commissioner of Education, the amount so paid into the Treasury to the credit of said educational fund, and the amount of said educational fund, the amount of interest due thereon at the close of the fiscal year last preceding such certificate.

The fourth section provides that upon the receipt of the certificate of the Secretary of the Treasury, as provided by section three of the act, the Commissioner of Education, under the direction of the Secretary of the Interior, shall proceed to apportion to the several States and Territories and to the District of Columbia, upon the basis of population, one-half of the net proceeds of the public lands for the previous year, together with the whole amount of the income of the said educational fund so certified, such apportionment to be according to the last preceding general census of the United States.

The fifth section provides that each of the States and Territories, and said District, shall be entitled to receive its share of the first distribution under such apportionment, which shall, before the 1st day of January, 1873, or within two months of the first meeting of its Legislature thereafter, have, by its Legislature, engaged that it will provide by law for the free

education of all its children between the ages of six and sixteen years, and will apply all moneys which it shall receive under this act in accordance with its conditions.

The sixth section provides that a sum not exceeding fifty per cent. of the amount received from the United States by any State or Territory, or by the District of Columbia, the first year of such receipt by it, and not exceeding the amount of ten per cent. in any year thereafter, may be applied, at the discretion of the Legislature thereof, to the maintenance of one or more schools for the instruction of teachers of common schools; said sum, after the first year, to be appropriated wholly to the payment of teachers of such schools.

The seventh section provides that each State and Territory and said District shall be entitled to receive its share of every apportionment after the first which shall have complied with the following conditions: First. That it shall have made the provision for the education of its children required in the fifth section of this act. Second. That it shall have applied all moneys by it previously received under this act in accordance therewith. Third. That it shall, through the proper officer thereof, for the year ending the 30th day of June, last preceding such apportionment, make full report of the number of schools free to all the children thereof; the number of teachers employed; the number of school-houses owned and the number of school-houses hired; the total number of children taught during the year; the actual daily attendance, and the actual number of months of the year schools shall have been maintained in each of the several school districts or divisions of said State, Territory, or District, and the amounts appropriated by the Legislature for the purpose of maintaining a system of free public schools.

The eighth section provides that on or before the 1st day of September of each year the Commissioner of Education shall certify to the Secretary of the Treasury as to each State, Territory, and District, whether it is entitled to receive its share of the apportionment under this act, and the amount of such share, which shall thereupon be entitled to receive the same. If the Commissioner shall withhold a certificate from either, its share of such apportionment shall be kept separate in the Treasury until the close of the next session of Congress, in order that it may, if it see fit, appeal to Congress from the determination of the Commissioner. If Congress shall not at its next session direct such share to be paid, it shall be added to the general educational fund.

The ninth section provides that the superintendent of public instruction of each State and Territory, and of said District, or such other officer as shall by the laws of such State, Territory, or District, be required so to do, shall, immediately upon the receipt of the certificate provided in section four, proceed to apportion the amount so certified to his State, Territory, or District, to the several school districts therein which shall have maintained, for at least three months during the preceding year, one or more free public schools for all the children of such school district between the ages of six and sixteen years, which apportionment shall be upon the basis of the population of such district, or of the number of children of school age therein, or of the attendance upon said schools during the year preceding, as may be by law determined by such State, Territory, or District, and the amount so apportioned shall be solely applied in payment of teachers' wages.

The tenth section provides that the amount apportioned to the school districts of any State or Territory, or of the District of Columbia, and certified as herein provided, shall be paid upon the warrant of the Commissioner of Education, countersigned by the Secretary of the Interior, out of the Treasury of the United States, to the State, territorial, or District

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Mr. WRIGHT. I make the suggestion that the bill be considered now, at the request of the Senator from California.

The VICE PRESIDENT. The Senator from Iowa desires the present consideration of a bill reported by the Committee on Finance. The Senator from Nevada, chairman of the Committee on Mines and Mining, having obtained consent to use the remainder of the morning hour for a bill reported by them, objects.

Mr. STEWART. We shall not have time to reach it if we allow other bills to come in.

Mr. COLE. I do not care particularly about this bill for Montana, but it is a formal bill, and I think it will be passed without debate when it is read.

The VICE PRESIDENT. Objection is made to the present consideration of the bill, and it will be placed on the Calendar.

Mr. WRIGHT, from the Committee on Finance, to whom was referred the bill (H. R. No. 2036) for the relief of James A. Bell, reported it with an amendment.

Mr. AMES, from the Committee on Military Affairs, to whom was referred the bill (S. No. 511) to amend an act entitled "An act to provide for the payment of expenses incurred by the Territories of Washington and Oregon in the suppression of Indian hostilities therein in the years 1855 and 1856," approved March 2, 1861, reported it with an amendment.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 613) to provide for the appointment of a district judge in each of the judicial districts of Mississippi, reported it with an amendment.

Mr. EDMUNDS. I am also directed by the same committee to report back the bill (H. R. No. 286) to perpetuate testimony in the courts of the United States. The committee have agreed upon an amendment, which I have not at hand at this moment, to simplify the thing, which will be submitted to-morrow within the same scope. I report the bill that it may go on the Calendar, so that we may act upon it to-morrow with the other reports of the Judiciary Committee.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 677) granting a pension to Mrs. Melinda Brooks, which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 978) for adjusting the claims of the State of New Hampshire; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. CLAYTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 679) to define the territorial limits and jurisdiction of the United States district courts for the eastern and western districts of Arkansas, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. DUCKINGHAM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 990) to advance Commodore Francis M. Bance one grade in the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 991) for the relief of Edmund Jussen; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. CAMERON. I ask leave to introduce a joint resolution, and in introducing it I desire to say a single word. The emperor of Germany, wishing to manifest his gratitude to

ministers and consuls of the United States in France, is desirous of paying them some substantial compliment; but that cannot be done without the permission of Congress. I therefore offer a joint resolution on the subject for the purpose of having it referred to the Committee on Foreign Relations.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 6) permitting certain diplomatic and consular officers of the United States in France to accept testimonials from the emperor of Germany for their friendly services to the subjects of the emperor during the war between France and Germany; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. HAMILTON, of Texas, submitted an amendment intended to be proposed by him to the bill (S. No. 724) supplementary to an act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 8, 1871; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. SAWYER. I gave notice to the Senate on last week that either yesterday morning or this morning I would crave their indulgence to make a few remarks on Senate bill No. 968, making an appropriation for instruments to be used in taking observations upon the transit of Venus in 1874, reported from the Committee on Education and Labor. Finding that the morning hour has been taken by my friend from Nevada, I give notice that to-morrow morning during the morning hour I will ask unanimous consent to move to take up that bill for the purpose of submitting some remarks.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GRACIN, from the Committee on Naval Affairs, submitted an amendment intended to be proposed to the bill (H. R. No. 1161) making appropriations for the naval service for the year ending June 30, 1873, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CALDWELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 1541) making appropriations for the support of the Army for the year ending June 30, 1873; which was referred to the Committee on Appropriations, and ordered to be printed.

DEVELOPMENT OF MINING RESOURCES.

The VICE PRESIDENT. The Senate, as in Committee of the Whole, resumes the consideration of the bill (H. R. No. 1016) to promote the development of the mining resources of the United States, reported by the Senator from Mississippi [Mr. ALCORN] from the Committee on Mines and Mining.

The committee reported an amendment, to strike out all after the enacting clause of the bill, and in lieu thereof to insert the following:

That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States, and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

SEC. 2. That mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, fifteen hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of

the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, whose no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with said laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of said surface locations: *Provided*, That their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end lines of their locations, so continuing in their own direction that such planes will intersect such exterior parts of said veins or ledges: *And provided further*, That nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That where a tunnel is run for the development of a vein or lode or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: the location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act ten dollars' worth of labor shall be performed or improvements made for each one hundred feet in length along the vein until a patent shall have been issued therefor; but where such claims are held in common such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice such delinquent should fail or refuse to contribute his proportion to comply with this act, his interest in the claim shall become the property of his co-owners who have made the required expenditure.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this act, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and shall file a copy of said

notice in such land office, and shall thereupon be entitled to a patent for said land, in the manner following: the register of the land office, upon the filing of such application, plat, field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor general that \$500 worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to the patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute to the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightfully possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proof of citizenship under this act, or the acts of July 28, 1850, and July 9, 1870, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

SEC. 8. That the description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor general in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections one, two, three, four, and six of an act entitled "An act granting the right of way to ditch and canal-owners over the public lands, and for other purposes," approved July 15, 1856, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining claims now pending may be prosecuted to a final decision in the General Land Office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and all patents for mining claims heretofore issued under the act of July 28, 1850, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

SEC. 10. That the act entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 9, 1870, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings

prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and joint entries shall be allowed for contiguous claims, as provided in said act; but where said claims cannot be conformed to legal subdivisions survey and plat shall be made as on unsurveyed lands; *Provided*, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases; *Provided also*, That where by the segregation of mineral lands in any legal subdivision a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law for homestead or preemption purposes.

SEC. 11. That where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this act and the act entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 9, 1870) a patent shall issue for the placer claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2 50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

SEC. 12. That the surveyor general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and in case of excessive charges under this act, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land Office. The fees of the register and the receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the land office, such fees and allowances to be paid by the respective parties; and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 28, 1856, or shall this act affect any right acquired under said act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act entitled "An act granting to A. Sutor the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July 25, 1866.

SEC. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and the receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided, on personal notice of at least ten days to the opposing party; or if said party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersec-

tion: *Provided, however*, That the subsequent location shall have the right of way through said space of intersection for the purposes of the conventional working of the said mine; *And provided also*, That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

SEC. 15. That where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes; *Provided*, That no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

SEC. 16. That all acts and parts of acts inconsistent herewith are hereby repealed; *Provided*, That nothing contained in this act shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws.

Mr. STEWART. There is no time this morning for any one to explain the various details of this bill, and I will not attempt to do it. It is very important that it should be passed. With the consent of the Senator who reported the bill, I wish to state that in the first instance miners legislated for themselves. Congress finally in 1866 passed a bill embodying many of the principles of this bill, and from that time to this the Land Office has been operating under it, and for the last three years we have been attempting to codify it and bring it into a shape that will be satisfactory and more certain and correct abuses. Last year a bill was introduced here and passed which was quite similar to this. A bill has passed the House which is similar to the one that was passed here last winter. Since its passage by the House the Delegates from the Territories and those familiar with mining rules have had a great many meetings over this bill in connection with the Committee on Mines and Mining, and the result is a codification, which is the best they can do.

I believe it will meet with universal favor. It is a very important bill to be passed to prevent litigation and give certainty to mining enterprises. It provides for a very large district of country where there are important interests dependent upon it which are now in a very uncertain condition involving litigation. This is the best we can get with all the experience we can bring to bear. It is no one man's work, but it is the work of a great many men interested in this business. I will not stop to debate it.

Mr. COLE. I think some amendments ought to be made. In line five of section one I move to strike out the words "and purchase," after "exploration."

Mr. STEWART. I think that is merely verbal. That was stricken out, and then a member of the House thought it had better be inserted. The thing was discussed. There is no change in the meaning, and I would not amend it for that purpose.

Mr. COLE. I will say to the Senator that there are some amendments which I have here. I have no wish to interfere with the passage of the bill, but I am representing a constituency who are, in part at least, very much interested in the subject of mining. It is my duty to look to their interests in matters of this sort, and I cannot decline it. I am not so particular about this first amendment, though I think the words ought to be out, but for the present I will not press it.

In line four of section four I believe the word "face" should be put in place of the word "mouth."

Mr. STEWART. That amendment is made. Mr. ALCOBORN. It was made by consent of the committee after the bill was printed.

Mr. COLE. Then in that same section I call the attention of the Committee on Mines and Mining to the fact that there is no limit to a vein which may be discovered by tunneling. The veins in either direction indefinitely

would be the property of the discoverer under this bill—

Mr. STEWART. It says "to the same extent as if located on the surface."

Mr. CASSERLY. It says "to the same extent," in the sixth line.

Mr. COLE. "As if discovered from the surface." What is the limit in discovery from the surface?

Mr. STEWART. Fifteen hundred feet.

Mr. COLE. That brings me to remark about a provision on the second page of the bill in reference to this fifteen hundred feet. The bill that was enacted in 1866 limited the amount of a vein which one person might claim to two hundred feet. The discoverer was entitled to two hundred feet more, and if it was owned by a company each member of the company could own the amount of two hundred feet, so that if the company was composed of half a dozen they could claim twelve hundred feet, with two hundred additional feet for the discoverer.

Mr. STEWART. Right in that connection allow me to make an explanation of the change that is made, because if we are to take up these little amendments we had better dispose of them as we go along. In the act of 1866 it is true the locator was confined to two hundred feet, and two hundred feet additional for the discoverer of the lode, making four hundred feet. It allowed them to unite in companies until they got three thousand feet. In practical operation it is thought by the Delegates generally, and that is the experience, that three thousand feet is longer than can be worked at one place conveniently, but fifteen hundred feet makes a very reasonable claim. The practice under the other law was for them to put in fictitious names and buy them out, and you could not prevent them doing it. This matter was discussed considerably; we had several meetings on this point, and the committee thought it was best to let them do directly what was reasonable, and not have them do anything indirectly. It is a matter to which I am not especially wedded, but it was the result of three or four meetings of all the parties interested as to which plan should be adopted, and this was the one which was selected.

Mr. COLE. I have heard the Senator's explanation, and it is not satisfactory to me at all, because I know by the rules of miners claiming the mines upon these ledges for a long time two hundred feet was the limit to which they restricted each other, and to allow persons now to obtain title, each individual to fifteen hundred feet upon a lode, is certainly a very great leap forward. It is, in my judgment, too much of an extension. I will add here that the original bill of 1866 restricted even a company, no matter of how many it might be composed, to three thousand feet.

Mr. STEWART. This restricts them to fifteen hundred.

Mr. COLE. No, sir; each individual may have fifteen hundred feet.

Mr. STEWART. Either a company or an individual.

Mr. COLE. The language is, "a mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, fifteen hundred feet in length along the vein or lode," and any number may afterward combine.

Mr. STEWART. No matter how many put in a claim, it is not to exceed that.

The VICE PRESIDENT. Does the Senator from California move to amend at this point?

Mr. COLE. I was going to move to restrict it, to make it plain on the point to which I referred, the fifteen hundred feet.

Mr. STEWART. That is plain enough.

Mr. COLE. But you allow every individual to take up a claim of fifteen hundred feet.

ORDER OF BUSINESS.

The VICE PRESIDENT. The Senator will

please suspend his remarks. The morning hour has expired, and the deficiency appropriation bill is now before the Senate; but it is the duty of the Chair to remind the Senate that to-day at one o'clock was set apart for the consideration of bills reported from the Committee on the District of Columbia. The Chair will recognize the chairman of that committee in order to enable him to test the sense of the Senate as to what they desire to go on with to-day.

Mr. PATTERSON. I wish to say to the Senate that the various railroad companies have made matters so lively for the Committee on the District of Columbia that they have not been able to get quite ready all the business they wanted to bring forward on the day set apart for them, and therefore I have made an arrangement with the parties having in charge the Australian steamship bill who have had Thursday set apart for their use, to make an exchange with me, giving me Thursday and they taking to-day. I suppose that will be done perhaps by general consent, as both days have been set apart. We are not quite ready to go on to-day, and should be glad to have that change made for our accommodation.

The VICE PRESIDENT. To-day was set apart for the consideration of bills reported from the Committee on the District of Columbia, and Thursday for the consideration of the Australian steamship bill. The Senator from New Hampshire now asks that these assignments may be changed for the reason he has stated. Is there objection to that proposition?

Mr. DAVIS, of West Virginia. I did not hear the object of the change. I should like to know why.

Mr. PATTERSON. It is simply this: some matters we did not anticipate have been thrown before the District Committee. The railroad companies have made it so lively for us for the last three or four mornings that we have not been able to prepare all the bills which we supposed we could report and have acted upon to-day. In a word, we are not ready, and we made an arrangement with the gentleman who has in charge the Australian steamship bill that he should have to-day and let us have Thursday. That is all there is to it—a simple exchange of days.

Mr. DAVIS, of West Virginia. Is there any probability of the District Committee being ready on Thursday?

Mr. PATTERSON. We shall be ready on Thursday.

The VICE PRESIDENT. If there be no objection, that change will be made. The Chair hears no objection, and it is made. The deficiency bill is before the Senate, but to-day is now assigned for the Australian steamship bill, and the Chair will recognize the Senator having that bill in charge to test the sense of the Senate.

Mr. POMEROY. I move to postpone the present and all prior orders and proceed to the consideration of the Australian steamship bill.

The VICE PRESIDENT. That will require to have the deficiency bill either informally passed over or laid on the table; and the Chair is reminded that the Senator from Kentucky, who had an amendment pending last evening, [Mr. Stevenson,] is now sick at his room, and the other Senator from Kentucky is sick at his home. An amendment relating to a Kentucky claim was pending on the deficiency bill last evening. The Senator from West Virginia [Mr. Davis] is more conversant with the condition of the Senator from Kentucky than the Chair.

Mr. COLE. The Senator from Kentucky has sent the same word to me, and I feel bound therefore not to call up the deficiency bill, he being absent, and being a member of the committee also.

Mr. POMEROY. I propose, then, that we go on with the Australian bill. I have not the bill in charge, but I helped to report the

bill from the Committee on Post Offices and Post Roads last year and this year. The chairman of the Committee on Appropriations properly has it in charge; but as he has the appropriation bills to take care of, I consented to call up the Australian bill, which has been postponed from time to time.

The VICE PRESIDENT. The Chair understands there is no objection to laying the deficiency bill on the table.

Mr. ANTHONY. There is objection. I wish to inquire if the chairman of the Committee on Appropriations is going to lay aside an appropriation bill to take up a subsidy bill on a day not assigned for it? It seems to me quite enough to lay aside appropriation bills for bills that are regularly assigned for days; but here is a bill that does not belong to this day.

Mr. COLE. If the Senator from Rhode Island will hear me a moment, I will repeat what I said awhile ago. The pending question on the appropriation bill relates to a matter in which Kentucky is particularly interested. The Senator from that State, the only one now occupying a seat here, sends word that he is sick and confined to his house under the care of a doctor, and he is very anxious that I shall not proceed with that bill until he can be present.

Mr. ANTHONY. It is not my business to take care of the appropriation bills. I do not know that it is anybody's.

The VICE PRESIDENT. The Chair understands that the appropriation bill is laid on the table. No objection being made, and this day having been assigned by the order of the Senate to the Australian steamship bill, that bill is now before the Senate.

Mr. STEWART. Is the steamship bill now up?

The VICE PRESIDENT. It is now up. Mr. STEWART. Then I move to lay it on the table until we can finish this mining bill, or rather I will ask that it be laid aside informally for that purpose.

The VICE PRESIDENT. The Senator from Nevada asks that the regular order be informally passed over for the purpose of continuing the consideration of House bill No. 1016, to promote the development of the mining resources of the United States.

Mr. RAMSEY. How long will that bill require?

Mr. STEWART. Five or ten minutes.

Mr. POMEROY. I have no objection to the steamship bill being laid aside informally subject to be called up at any time.

The VICE PRESIDENT. It will be subject to be called up at any time on the demand of any Senator if the mining bill should give rise to a prolonged debate.

Mr. DAVIS, of West Virginia. I wish to understand the condition of the appropriation bill.

The VICE PRESIDENT. It is on the table, and will remain there until called up by a vote of the Senate.

Mr. DAVIS, of West Virginia. I hope it will not be called up until one of the Senators from Kentucky is present.

The VICE PRESIDENT. It has been laid on the table in consequence of the absence of the Senator from Kentucky, and it will require a formal vote to take it up.

PAPERS WITHDRAWN AND RETURNED.

On motion of Mr. FENTON, it was Ordered, That the papers on the files of the Senate in the matter relating to the Norton post-marking and postage-canceling machine be referred to the Committee on Post Offices and Post Roads.

PRINTING OF AMENDMENTS.

Mr. CORBETT submitted an amendment intended to be proposed to the bill (S. No. 866) extending the time for the selection of swamp and overflowed lands in Oregon under act of Congress approved March 12, 1860; which was ordered to be printed.

Mr. CORBETT. I also submit an amend-

ment to be proposed to the bill (H. R. No. 2116) to amend an act entitled "An act to provide for the better security of life on board of vessels propelled in whole or in part by steam, and for other purposes," approved February 28, 1871, which I move to have printed and referred to the Committee on Commerce. I am requested to offer this amendment. I know nothing about it myself.

The motion was agreed to.

DEVELOPMENT OF MINING.

The VICE PRESIDENT. The Australian steamship bill being before the Senate, it is informally passed over, and the Senate, by unanimous consent, resumes the consideration of the bill (H. R. No. 1016) to promote the development of the mining resources of the United States, reported by the Senator from Mississippi this morning, upon which the Senator from California [Mr. COLE] is entitled to the floor.

Mr. COLE. I wish to move some amendments on the fourth page of the bill. I will simply state them without detaining the Senate by any argument upon them. On page 4, section five, line thirteen, after the words "on each," I move to insert the words "lode or placer;" so that it will read, "on each lode or placer claim located after the passage of this act." I will state the several amendments in their order, and probably they can all be acted on together, inasmuch as they are necessary to make the bill harmonious.

Mr. STEWART. Mr. President—

Mr. COLE. Before the Senator interrupts me I wish to offer the amendments that I desire to propose.

The VICE PRESIDENT. The Senator from California is entitled to the floor.

Mr. STEWART. I will not interrupt the Senator, but I was going to state the objection to the amendment.

The VICE PRESIDENT. The Senator from California desires that the question shall be taken on the amendments together after they have been stated by him. The Senator from Nevada will then be entitled to the floor.

Mr. COLE. In the next line, I move to strike out the words "and until a patent shall have been issued therefor." Then in the nineteenth line following, after the word "made," I move to insert the words "each year." In line twenty, I propose to strike out the words "until a patent shall have been issued therefor" and to insert in lieu of them the words "or for each placer claim of twenty acres." Then that portion of the section will read as follows:

On each lode or placer claim located after the passage of this act, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act ten dollars' worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein or for each placer claim of twenty acres; but where such claims are held in common such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made.

Then I propose to add the words "or patent issued." My object is to insure good faith in the working of the mines, to prevent their being held by owners an indefinite length of time without working them to the exclusion of the miners of the neighborhood. This is an attempt to return to the Spanish law on the subject of mining to some degree. The Spanish law on the subject of mining which prevailed in Mexico and other Spanish-American States, in my judgment, was rather the wisest law that has ever been adopted in reference to the systems of mining upon this continent. They grant titles, but subject to what they term denouncement of the title or defeasance of the title upon a failure to work the mine after a certain time. The danger we are under in this country, where we have the richest mines that can be found in the world perhaps, is that

they may be purchased up at these Government rates in large tracts or quantities and held as they will be and are now by foreign capitalists, by non-residents of the country. This calamity we do not wish to see inflicted upon the mines and mining lands of this country. We wish to avoid that very thing, and require the miner to use some little diligence and exertion in the working of his mine or the mine-owner to expend some industry or capital upon it, or else leave it subject to a beneficial use by some other party.

Now, I would state distinctly what my object is in this amendment, and I think it will commend itself to the Senate; I hope it will commend itself to the Committee on Mines and Mining. It is a proposition, it seems to me, that ought to be adopted; and I will state here that we have passed laws now two or three times in reference to mining. In 1866 quite an elaborate law was passed upon this subject, giving title to lode mines and mines in veins; and in 1870 we passed what was termed an amendment to that law. No longer ago than 1870 we passed something like a half dozen or more long sections on the same subject, providing for the sale of placer mines, mines in which the gold has mingled with the earth; and that law has been in force now a year or two, but it is decidedly objectionable in some of its features. Some of the Senators may remember that I opposed the provision by which any one person could take up under that law one hundred and sixty acres of these placer mines, which might be worth thousands of dollars per acre, and perhaps millions. The bill was so amended in conference committee, after the adoption of my amendment in the Senate limiting it to twenty or forty acres, as to allow upon claims thereafter located the taking up of one hundred and sixty acres; but upon a provision to apply to mines which were claimed prior to the passage of that law there was no limit. The effect is that persons under that law have taken up large tracts of land in their own right and have obtained title, sometimes to the extent of a thousand acres and upward to an individual or a firm composed of two or three persons. This is certainly a use that was not intended for the mining lands. It is not in accordance with the wishes of those who are prospecting those lands. These large tracts, after being so taken up, are very apt to fall into the ownership of foreigners, non-residents of the country, and are held by them, and there is no compulsion upon them to work the mines; but the honest and poor miners of my own State, if I may be allowed to refer to them, are excluded from these large tracts of rich mineral ground, precluded from setting their foot upon them or putting their spade into the soil. I was told, when in California last year, and traveled through the mining regions, that large sections were so taken up in Tuolumne county, Calaveras county, and Nevada county. In Placer county two large tracts were taken up in this way and held to the exclusion of the miners absolutely, and they may be so held as long as those persons, non-resident capitalists living abroad, choose to retain their ownership in these lands. This is a thing I wish to remove. I believe I have made it plain enough, so that I need not argue it further.

Mr. STEWART. We are not passing a code for the placer mines now. There was an act passed in 1870 for the placer mines. I think it a very good law. I have not heard any complaint about it. There are no placer mines in my State particularly; and I have not made perhaps a full examination into that subject. That, however, is not now under consideration. This applies to veins and lodes.

Mr. COLE. I beg the Senator's pardon; it applies to placer mines. Absolutely a large part of the provisions relate to that, though the part the Senator may have noticed particularly may not relate to that; but this bill does legislate for placer mines.

Mr. STEWART. As far as the machinery for getting the patent is concerned, it requires them both to go through the same process; but as to the claim, extent of claim, and so on, that is all provided for in the other act.

Now, as to the amendments the Senator proposes, I do not think they are near as good as the provision of the bill. The bill provides the amount of work that shall be done upon the claim until it is patented. It requires \$100 worth of work on claims hereafter located, because a claim hereafter located is fifteen hundred feet. On claims located heretofore it requires ten dollars' worth of work per annum for each one hundred feet, which would be about reasonable. There are a great many claims in the older districts where they made the experiment of working and failed years ago that cannot be worked now for the fear that some old claimant will come up. The supreme court of California and the supreme court of Nevada have so far ruled against the possibility of forfeiture or abandonment that a title twenty years old on which no work has been done is still a cloud, and in the districts that have been abandoned for years everybody is afraid to go to work on old claims. The object in requiring a little work to be done was to make these miners show their good faith by doing something and requiring them to keep them up until the patent so issued; but requiring work to be done after the patent has been issued would destroy all the virtue of your patent. The object of the patent is to give title; it cuts off all uncertain title; if the person wants to improve a claim he can go and buy it, and it becomes private property, and it is certainly the best policy to have any kind of property improved that it shall become private property. Men think more of a patented claim than they do of one that is not patented. They will spend millions in prospecting a patented claim where they will not spend hundreds of dollars to prospect a claim where the title is uncertain and liable to be disturbed by somebody outside. A patent title is the best for mining operations.

Now, for the want of a more definite rule the whole region is in litigation. Every man who goes from here West to locate a claim finds so much local legislation which is uncertain that he is discouraged; he finds the neighborhood all in litigation. To remedy these evils and trample on nobody's rights, this bill has been prepared with great care and labor. It has required a great deal of study, and I believe this bill is in a better shape than we shall get it by attempting to amend it here. I would have been very glad of the help of the Senator from California. I have mentioned this bill to him frequently. If he had referred his amendments to the Committee on Mines and Mining where we could have considered and have had a fair discussion on them when there was time to look into them, I would have been glad.

Mr. COLE. I hope my friend does not take me to task for that, because the bill has been reported very lately, and I have lost no time in considering it. It was only yesterday morning or the day before that I saw it in print.

Mr. STEWART. When the bill first came from the House I asked the Senator to look at it.

Mr. COLE. This is a different bill.

Mr. POMEROY. This bill is being proceeded with by unanimous consent. If we can have a vote, I have no objection to its further consideration.

Mr. STEWART. I do not propose to occupy time.

Mr. ALCORN. Having had the honor to report the bill now under consideration, I deem it proper to say a word in regard to it.

I represent a State, and I believe the only one in the Union, that has no mines or mining. We have no minerals. I represent a people who are without knowledge of the

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REPORT:

[To accompany bill H. R. 1216.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 1216) for the investigation of the mining debris question in the State of California, submit the following report :

The object of this bill is to ascertain if any hydraulic mining can be conducted in California without injury to the navigation of the Sacramento River and its tributaries. Placer mining for gold is conducted by the use of water to separate the gold from the sand, gravel, or earthy matter. The gold mines first discovered in California were in the beds of streams and were worked by washing the gravel on the bars and in the channels of the rivers, and in the gulches. It was soon after found that there were gold deposits in gravel beds which had formed ancient channels and that gold was also deposited quite generally over a large region of country where quartz gravel could be found.

These deposits were at first washed by means of a cradle, into which the gravel was shoveled. Water was then poured in and the gold was separated from the earthy matter by rocking the cradle by hand. Then followed what was known as the "Long Tom," which was a box 10 to 15 feet long, made of boards, into which the gold-bearing earth was deposited and a stream of water allowed to pass through the box to wash out the gold. This box was improved from time to time by inserting riffles in it and by using quicksilver to amalgamate the gold. These boxes finally grew to be enormous flumes, sometimes miles in length, through which earth, gravel, and bowlders are propelled by the force of large streams of water. Next followed what was known as "ground sluicing," whereby a stream of water was allowed to run over a bank, and by the aid of men picking and shoveling at the same time the earthy matter was conveyed into the flume, through which it was carried in the process of separating and amalgamating the gold.

In 1852, Amos T. Laird, a miner from the State of Georgia, constructed a canvas hose and attached to it a nozzle, and with a fall of water of about 100 feet used the hose against the bank of earth to wash it down, which was found to be very effective. This method of using water to wash down gravel banks became very general, and the machinery and appliances for that purpose were improved from time to time, until vast bodies of water, contained in reservoirs and brought

long distances through expensive ditches, were discharged through nozzles against high banks of earth, under the pressure of from 300 to 800 feet fall, which were most effective in removing enormous quantities of earthy matter from the gravel beds and hill-sides into the streams below.

Vast sums of money were expended in preparing mines to be worked by this process. Ditches and flumes were constructed along mountain sides from 5 to 75 miles in length. Immense reservoirs were built to retain the water. Deep bed-rock tunnels, thousands of feet in length, were excavated to furnish outlets to convey the water and earthy matter from these hydraulic mines. After the river beds, gulches, ravines, and gravel deposits easily accessible had been worked, first by the cradle, then the "Long Tom" and the "ground sluice," and afterwards by the hydraulic process, a remarkable discovery was made. It was found that there was extending through nearly every ridge of mountains from Tuolumne to Shasta Counties, Cal., a distance of more than 200 miles, a deep gravel bed, supposed to be the bed of an ancient river, containing a sufficient amount of gold to make it profitable to work by the improved hydraulic process above described, and not otherwise. In washing away the easily accessible gravel before reaching this great channel a vast amount of earth was deposited in the beds of the streams, and not less than \$1,000,000,000 of gold extracted.

The streams emptying into the Sacramento River rise high in the Sierra Nevada Mountains, and flow westwardly through deep gorges, leaving a series of ridges extending in the same direction between them. It is across these ridges that the great gravel bed above mentioned runs. In early times these streams were perfectly clear, except in flood time, and found their way into the great valley of the Sacramento within deep and well-defined banks. But when mining began in 1849 and 1850, and débris was washed from the hills in the practice of mining, the beds of these streams were gradually filled, and as mining progressed the filling process continued. Finally, after the hydraulic process was well developed and the principal mines on the great channel opened, and the available water brought into use, the quantity of débris was greatly augmented, and filled the rivers with great rapidity, causing overflows and injuring considerable land, and impairing to some extent the navigation of the Sacramento River. Numerous suits were brought to enjoin the miners. These suits were tried in the valleys, and injunctions obtained against the miners operating in the mountains. Several suits were brought in the United States circuit court and injunctions were granted until hydraulic mining was practically stopped, and the property of the miners, which they had bought of the United States, and upon which they have expended vast fortunes, was rendered valueless.

It is estimated by experienced experts that not less than one thousand millions of dollars of gold is contained in this great channel (which would have been rapidly extracted if hydraulic mining could have continued), and must remain where it is and become a total loss by reason of these injunctions. At the last session of Congress an appropriation of \$40,000 was made to prosecute these miners and compel them to stop the discharging of débris into the tributaries of the Sacramento and San Joaquin Rivers. Many suits have been commenced by the United States against miners already enjoined by the State courts and the United States court, with the money appropriated by Congress. A large force of detectives are employed to patrol the mountains and prevent the working of these mines. It having been suggested that these proceedings might be oppressive in some cases, and that the absolute destruction of all this mining property might not

be necessary for the preservation of the farming lands or the navigation of the rivers, but that some scheme might be devised whereby the débris from the mines could in some cases be impounded, so as not to be discharged into the rivers, and that some hydraulic mining might be prosecuted without material injury to the rivers, the legislature of California, representing all sections of the State, passed at its last session the following resolution:

Whereas under the laws of this land, as expressed by the courts, the mining industry of this State is in imminent danger of being entirely suppressed; and whereas the miners desire to submit to the mandates of the law and pursue their occupation under its sanction, and inasmuch as mining can not be carried on without débris; and whereas this industry has added materially to the wealth of this country, and is one upon which vast interests depend, and upon which the welfare, the homes, and fortunes of thousands of hard-working people depend, and it is now *in extremis mortis*; and whereas it is impossible to continue that industry openly and legally without some legislation to protect it; and whereas the miners, as a class, are at present unable to carry on their industry and works under the laws of the land; and whereas immense sums of money have been paid the General Government in the purchase of mining land, and still greater sums invested in improving the same, and in the construction of ditches, canals, and reservoirs to carry on such industry; and whereas such vast expenditures have been made in good faith, and under the belief that the license to mine was presumed to exist by reason of the past course of the General Government towards the mining industry; and whereas the product of the miners' toil has largely fallen off in California by reason of the law as announced by the courts; and whereas an increase of the bulk of our circulating medium is imperatively demanded by the great growing commercial interests of the world, and more especially in view of the fact that the aggregate annual output of the entire world is not more than sufficient to supply the demands for use in the arts alone; and whereas it is the opinion of this body that some Congressional legislation and action is not only desirable, but absolutely necessary, and that the valley people, as well as the miners, desire to promote the industry of mining, provided it can be done without detriment or damage to the valleys and navigable streams of California: Therefore, be it

Resolved, That our Senators and Representatives in Congress be requested to take such steps as will, in their judgment, relieve the mining industry of California from its present status, with a view at all times to a proper recognition of the law and the interests of all, and to that end procure the passage of such laws as will provide, first, for an immediate and thorough investigation of this mining débris question by a commission of competent Government engineers, for the purpose of ascertaining whether some plan can be devised whereby the present conflict between the mining and farming sections may be adjusted and the mining industry rehabilitated; second, if the carrying out of such plans, in the event any suitable ones be determined on; third, for a complete examination and survey of the injured river channels, with a view to their improvement and rectification; fourth, providing sufficient means to accomplish said purposes.

In addition to the foregoing, thousands of citizens of California have petitioned Congress for the passage of the bill under consideration, the object of which is an examination and report by Government engineers, to the end that Congress and the Departments may be informed as to the proper action to be taken in the future to protect the navigation of the California rivers, without doing injustice to the miners or the farmers.

The ground upon which your committee recommend the passage of the bill is that the hydraulic mines in question were sold by the United States to the parties now enjoined for mining purposes while hydraulic mining was pursued at the headwaters of the streams, the navigation of which has been injured by the mining débris. Although it may be urged that the miners were bound to know the law, and that they must use their own property so as not to injure navigation or the property of the inhabitants in the valleys below, still hydraulic mining had been conducted to a greater or less extent for many years, and the miners had every reason to suppose, when they were making vast expenditures in preparing to mine and paying their money to the United States for title, that hydraulic mining might be continued. The United States

having undertaken to enjoin the working of these mines through the Federal courts, your committee deem it reasonable that a thorough investigation should be made by the United States, to the end that no more mining property shall be destroyed by Federal injunctions than is necessary for the preservation of the rivers and the protection of the farming lands in the valleys.

They therefore report the bill back favorably and recommend its passage.



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It is estimated by experienced experts that not less than one thousand millions of dollars of gold is contained in this great channel (which would have been rapidly extracted if hydraulic mining could have continued), and must remain where it is and become a total loss by reason of these injunctions. At the last session of Congress an appropriation of \$40,000 was made to prosecute these miners and compel them to stop the discharging of débris into the tributaries of the Sacramento and San Joaquin Rivers. Many suits have been commenced by the United States against miners already enjoined by the State courts and the United States court, with the money appropriated by Congress. A large force of detectives are employed to patrol the mountains and prevent the working of these mines. It having been suggested that these proceedings might be oppressive in some cases, and that the absolute destruction of all this mining property might not

be necessary for the preservation of the farming lands or the navigation of the rivers, but that some scheme might be devised whereby the débris from the mines could in some cases be impounded, so as not to be discharged into the rivers, and that some hydraulic mining might be prosecuted without material injury to the rivers, the legislature of California, representing all sections of the State, passed at its last session the following resolution:

Whereas under the laws of this land, as expressed by the courts, the mining industry of this State is in imminent danger of being entirely suppressed; and whereas the miners desire to submit to the mandates of the law and pursue their occupation under its sanction, and inasmuch as mining can not be carried on without débris; and whereas this industry has added materially to the wealth of this country, and is one upon which vast interests depend, and upon which the welfare, the homes, and fortunes of thousands of hard-working people depend, and it is now *in extremis mortis*; and whereas it is impossible to continue that industry openly and legally without some legislation to protect it; and whereas the miners, as a class, are at present unable to carry on their industry and works under the laws of the land; and whereas immense sums of money have been paid the General Government in the purchase of mining land, and still greater sums invested in improving the same, and in the construction of ditches, canals, and reservoirs to carry on such industry; and whereas such vast expenditures have been made in good faith, and under the belief that the license to mine was presumed to exist by reason of the past course of the General Government towards the mining industry; and whereas the product of the miners' toil has largely fallen off in California by reason of the law as announced by the courts; and whereas an increase of the bulk of our circulating medium is imperatively demanded by the great growing commercial interests of the world, and more especially in view of the fact that the aggregate annual output of the entire world is not more than sufficient to supply the demands for use in the arts alone; and whereas it is the opinion of this body that some Congressional legislation and action is not only desirable, but absolutely necessary, and that the valley people, as well as the miners, desire to promote the industry of mining, provided it can be done without detriment or damage to the valleys and navigable streams of California: Therefore, be it

Resolved, That our Senators and Representatives in Congress be requested to take such steps as will, in their judgment, relieve the mining industry of California from its present status, with a view at all times to a proper recognition of the law and the interests of all, and to that end procure the passage of such laws as will provide, first, for an immediate and thorough investigation of this mining débris question by a commission of competent Government engineers, for the purpose of ascertaining whether some plan can be devised whereby the present conflict between the mining and farming sections may be adjusted and the mining industry rehabilitated; second, if the carrying out of such plans, in the event any suitable ones be determined on; third, for a complete examination and survey of the injured river channels, with a view to their improvement and rectification; fourth, providing sufficient means to accomplish said purposes.

In addition to the foregoing, thousands of citizens of California have petitioned Congress for the passage of the bill under consideration, the object of which is an examination and report by Government engineers, to the end that Congress and the Departments may be informed as to the proper action to be taken in the future to protect the navigation of the California rivers, without doing injustice to the miners or the farmers.

The ground upon which your committee recommend the passage of the bill is that the hydraulic mines in question were sold by the United States to the parties now enjoined for mining purposes while hydraulic mining was pursued at the headwaters of the streams, the navigation of which has been injured by the mining débris. Although it may be urged that the miners were bound to know the law, and that they must use their own property so as not to injure navigation or the property of the inhabitants in the valleys below, still hydraulic mining had been conducted to a greater or less extent for many years, and the miners had every reason to suppose, when they were making vast expenditures in preparing to mine and paying their money to the United States for title, that hydraulic mining might be continued. The United States

having undertaken to enjoin the working of these mines through the Federal courts, your committee deem it reasonable that a thorough investigation should be made by the United States, to the end that no more mining property shall be destroyed by Federal injunctions than is necessary for the preservation of the rivers and the protection of the farming lands in the valleys.

They therefore report the bill back favorably and recommend its passage.



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Mr. McMILLIN. I desire to say that I have had an opportunity to look into the bill. I have looked into it, and I find that an injustice has been done that officer, and I take pleasure in so stating now.

Mr. BERGEN. I am very glad for that statement of the gentleman from Tennessee.

Mr. WHEELER of Alabama. The bill has more merit in it than any similar bill brought up this session.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading, and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. BERGEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

ORDER OF BUSINESS.

Mr. KILGORE. I demand the regular order.

The SPEAKER. The House will be in order. There is so much confusion on the floor that no business can be transacted.

CHANGE OF REFERENCE.

Mr. COBB of Alabama. Mr. Speaker, I desire to have a change of reference from the Committee on the District of Columbia to the Committee on the Judiciary of the bill (H. R. 6011) fixing the salary of the warden of the United States jail in the District of Columbia, and the number of the employes, and compensation for each.

Mr. GULBERSON. Mr. Speaker, I think that bill is properly referred.

Mr. COBB of Alabama. The facts in the case are these: There was a bill introduced into this House, and also a similar bill introduced in the Senate. The Senate bill was passed, and when it reached this House it was referred to the Committee on the Judiciary; so the Committee on the District of Columbia thought that inasmuch as the Judiciary Committee had the bill which had passed the Senate, that committee had better take charge of the whole matter and complete it.

The SPEAKER. Without objection, the Committee on the District of Columbia will be discharged from the further consideration of this bill and it will be referred to the Committee on the Judiciary.

There was no objection.

PETWORTH, BRIGHTWOOD AND TAKOMA RAILWAY COMPANY.

The SPEAKER laid before the House the bill (H. R. 5670) to incorporate the Petworth, Brightwood and Takoma Park Railway Company of the District of Columbia, with Senate amendments.

Mr. HEMPHILL. Mr. Speaker, this bill passed the House some time ago and to it the Senate has made some amendments, one of which I think was made under a misunderstanding; and I ask that the House nonconcur in the Senate amendments, so that the bill can go into committee of conference.

The SPEAKER. This is a House bill with Senate amendments, and the Senate asks for a conference on the disagreeing votes of the two Houses. The gentleman from South Carolina moves to nonconcur in the Senate amendments and agree to the conference asked. Without objection that order will be made.

There was no objection.

The SPEAKER. The Chair will appoint as conferees on the bill Mr. HEMPHILL, Mr. HEARD, and Mr. POST.

ADMINISTRATION OF THE UNITED STATES GOVERNMENT AT THE BEGINNING OF THE FOUR HUNDRETH ANNIVERSARY OF THE DISCOVERY OF AMERICA.

Mr. McMILLIN. Mr. Speaker, I ask for the consideration of the resolution which I send to the Clerk's desk.

The resolution was read, as follows:

Joint resolution (H. Res. 155) to authorize and direct the Secretary of State to affix the great seal of the United States to a certain document therein stated.

It is enacted, etc., That the Secretary of State be, and he is hereby, authorized and directed to affix the great seal of the United States to the document entitled, "The administration of the United States Government at the beginning of the four hundredth anniversary of the discovery of America."

Mr. McMILLIN. I will state, Mr. Speaker, that the great seal of the United States was affixed to a similar document concerning the administration of the Government in 1876. There is a precedent for it, and no appropriation is required.

Mr. DINGLEY. That is all right.

Mr. DURBOROW. I would like to hear the resolution read again.

The resolution was again read.

The resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. McMILLIN, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

Mr. McMILLIN. I ask for the consideration of the accompanying resolution also; that one may be donated to the Government of the United States:

The Clerk read as follows:

Ordered, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to affix the seal of the House of Representatives to the document entitled "The administration of the United States Government at the beginning of the four hundredth anniversary of the discovery of America."

Mr. McMILLIN. That is authorizing the proper officer of the House to affix the seal, and then one to accept it on the part of the Government.

The SPEAKER. Without objection, this resolution will be considered as agreed to.

There was no objection, and the resolution was agreed to.

Mr. McMILLIN. I also ask consideration of the following resolution:

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the sanction of Congress is hereby given to the acceptance by the President of the United States, from James D. McBride, for preservation in the archives of the Executive Department, of one copy of the "State edition" of a memorial entitled, "The administrators of the United States Government at the beginning of the second century;" also of one copy of the document entitled, "The administration of the United States Government at the beginning of the four hundredth anniversary of the discovery of America."

The resolution was agreed to.

On motion of Mr. McMILLIN, a motion to reconsider the vote by which the concurrent resolution was agreed to was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, Mr. W. J. STONE obtained indefinite leave of absence, on account of important business.

ENROLLED BILLS SIGNED.

Mr. WARWICK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

A bill (H. R. 649) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department;

A bill (H. R. 669) for the relief of Dabney, Simmons & Co.

ORDER OF BUSINESS.

The SPEAKER. The regular order is demanded. Under the rule, this being the third Monday in the month, motions to suspend the rules are in order, preference being given to committees. The call rests with the Committee on Territories. On last suspension day, however, the Chair had recognized the gentleman from North Carolina [Mr. COWLES] to move to suspend the rules and pass a bill and a second had been demanded. The gentleman from North Carolina [Mr. COWLES] and the gentleman from Texas [Mr. BAILEY] were appointed as tellers, but no quorum appeared, and the House adjourned. The Clerk will report the title of that bill.

The Clerk read as follows:

A bill (H. R. 6280) to create the California Débris Commission and regulate hydraulic mining in the State of California.

Mr. BURROWS. Mr. Speaker, was not that an individual recognition?

The SPEAKER. It was, but under the practice, as the Chair understands, it comes over to to-day.

Mr. BURROWS. Ought not that to go over until the next individual suspension day?

The SPEAKER. The practice has been to let such cases come up on the next suspension day notwithstanding the fact that the recognition was an individual one. Of course it is only by reason of the recognition previously given that this bill comes up now, and the Chair will not recognize other individuals until the committees have first been recognized.

Mr. COWLES. Mr. Speaker, I ask unanimous consent to strike out sections 21 and 22 of the bill as read by the Clerk when it was before the House the other day.

Mr. McMILLIN. Mr. Speaker, I hope that consent will be given, because the omission of those sections would, I think, make the bill unexceptionable.

Mr. BAILEY. I suggest to the gentleman from North Carolina that my understanding is that there is to be a further amendment limiting the prohibition against hydraulic mining to cases in which such mining would interfere with navigable streams.

Mr. COWLES. That was in the original bill.

Mr. BAILEY. It was not in the copy of the bill that I had.

Mr. COWLES. If the gentleman will listen to the reading of the bill he will see that it is there.

Mr. WATSON. Mr. Speaker, I shall object to any change that does not open the bill for a fair discussion.

The SPEAKER. The Chair will state that the gentleman presenting the bill has the right to present it in the form in which he desires the House to consider it, no second having been

ordered. In other words, the mover may make any change that he desires in the bill until it has been seconded and is in possession of the House. The Clerk will report the bill as presented by the gentleman from North Carolina.

Mr. WATSON. I make the point of order, Mr. Speaker, that the bill having been once read and debated and its form determined—

The SPEAKER. The bill has not been debated. When it was presented, on a former occasion, a second was demanded, and tellers were appointed and took their places, but no quorum appeared, and the House adjourned; so that the motion has not yet been seconded. If the motion had been seconded the bill could not be altered; but it has not been seconded, and therefore the Chair thinks the bill may be altered as the mover desires. The Clerk will read the bill, omitting the sections indicated by the gentleman from North Carolina; so that the House may understand exactly the proposition that is presented.

Mr. McMILLIN. Mr. Speaker, the bill having been read in full before, I suggest that the Clerk read now the two sections that are proposed to be eliminated. I ask consent that that be done.

The SPEAKER. The Chair was going to have the bill read in full as offered by the gentleman from North Carolina [Mr. COWLES].

Mr. McMILLIN. My suggestion would avoid the necessity for reading the bill in full.

Mr. DINGLEY. It had better be read as now presented, so that the House may understand exactly what it is.

The SPEAKER. The Clerk will report the bill as now presented.

The bill was read, as follows:

Be it enacted, etc., That a commission is hereby created, to be known as the California Débris Commission, consisting of three members. The President of the United States shall, by and with the advice and consent of the Senate, appoint the commission from officers of the Corps of Engineers, United States Army. Vacancies occurring therein shall be filled in like manner. It shall have the authority, and exercise the powers hereinafter set forth, under the supervision of the Chief of Engineers and direction of the Secretary of War.

Sec. 2. That said commission shall organize within thirty days after its appointment by the selection of such officers as may be required in the performance of its duties the same to be selected from the members thereof. The members of said commission shall receive no greater compensation than is now allowed by law to each, respectively, as an officer of said Corps of Engineers. It shall also adopt such rules and regulations, not inconsistent with law, to govern its deliberations and prescribe the method of procedure under the provisions of this act.

Sec. 3. That the jurisdiction of said commission, in so far as the same affects mining carried on by the hydraulic process, shall extend to all such mining in the territory drained by the Sacramento and San Joaquin river systems. Hydraulic mining, as defined in section 8 hereof, directly or indirectly injuring the navigability of said river systems carried on in said territory other than as permitted under the provisions of this act is hereby prohibited and declared unlawful.

Sec. 4. That it shall be the duty of said commission to mature and adopt such plan or plans, from examinations and surveys already made and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, deepen their channels, and protect their banks. Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from debris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand, the navigability of said rivers to the condition existing in 1880, and permitting mining by the hydraulic process, as the term is understood in said State, to be carried on without injury to the navigability of said rivers or the lands adjacent thereto.

Sec. 5. That it shall further examine, survey, and determine the utility and practicability, for the purposes hereinafter indicated, of storage sites in the cañons and tributaries of said rivers and in the respective branches of said tributaries, or in the plains, basins, sloughs, and tule and swamp lands adjacent to or along the course of said rivers, for the storage of debris or water or as settling reservoirs, with the object of using the same by either or all of these methods to aid in the improvement and protection of said navigable rivers by preventing deposits therein of debris resulting from mining operations, natural erosion, or other causes, or for affording relief thereto in flood time and providing sufficient water to maintain scouring forces therein in the summer season; and in connection therewith to investigate such hydraulic and other mines as are now or may have been worked by methods intended to restrain the debris and material moved in operating such mines by impounding dams, settling reservoirs, or otherwise, and in general to make such study of and researches in the hydraulic mining industry as science, experience, and engineering skill may suggest as practical and useful in devising a method or methods whereby such mining may be carried on as aforesaid.

Sec. 6. That the said commission shall from time to time note the conditions of the navigable channels of said river systems, by cross-section surveys or otherwise, and observe the effect thereon of such hydraulic mining operations as may be permitted by its orders.

Sec. 7. That said commission shall submit to the Chief of Engineers, for the information of the Secretary of War, on or before the 15th day of November of each year, a report of its labors and transactions, with plans for the construction, completion, and preservation of the public works outlined in this act, together with estimates of the cost thereof, stating what amounts can be profitably expended thereon each year. The Secretary of War shall thereupon submit same to Congress on or before the meeting thereof.

Sec. 8. That for the purposes of this act "hydraulic mining" and "mining by the hydraulic process" are hereby declared to have the meaning and application given to said terms in said State.

Sec. 9. That the owner or owners, or in the case of a corporation its manager or agent appointed for that purpose, owning mining ground in the territory in the State of California mentioned in section 3 hereof, which it is desired to

work by the hydraulic process, may file with said commission a verified petition, setting forth such facts as will comply with the rules prescribed by said commission.

Sec. 10. That said petition shall be accompanied by an instrument duly executed and acknowledged, as required by the law of said State, whereby the owner or owners of such mine or mines surrender to the United States the right and privilege to regulate by law, as provided in this act, or any law that may hereafter be enacted, or by such rules and regulations as may be prescribed by virtue thereof, the manner and method in which the debris resulting from the workings of said mine or mines shall be restrained, and what amount shall be produced therefrom, it being understood that the surrender aforesaid shall not be construed as in any way affecting the right of such owner or owners to operate said mine or mines by any other process or method now in use in said State.

Sec. 11. That the owners of several mining claims situated so as to require a common dumping ground or dam or other restraining works for the debris issuing therefrom in one or more sites may file a joint petition setting forth such facts in addition to the requirements of section 9 hereof; and where the owner of a hydraulic mine or owners of several such mines have and use common dumping sites for impounding debris or as settling reservoirs, which sites are located below the mine of an applicant not entitled to use same, such fact shall also be stated in said petition. Thereupon the same proceedings shall be had as provided for herein.

Sec. 12. A notice specifying briefly the contents of said petition and fixing a time previous to which all proofs are to be submitted shall be published by said commission in some newspaper or newspapers of general circulation in the communities interested in the matter set forth therein. If published in a daily paper such publication shall continue for at least five days; if in a weekly paper in at least two issues of the same. Pending publication thereof said commission, or a committee thereof, shall examine the mine and premises described in such petition. On or before the time so fixed all parties interested, either as petitioners or contestants, may file affidavits, plans, and maps in support of their respective claims. Further hearings, upon notice to all parties of record, may be granted by the commission when necessary.

Sec. 13. That in case a majority of the members of said commission, within thirty days after the time so fixed, concur in a decision in favor of the petitioner or petitioners, the said commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines: what restraining or impounding works, if facilities therefor can be found, shall be built, and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interest and prevent injury to the said navigable rivers, with such further conditions and limitations as will observe all the provisions of this act in relation to the working thereof and the payment of taxes on the gross proceeds of the same: *Provided*, That all expense incurred in complying with said order shall be borne by the owner or owners of such mine or mines.

Sec. 14. That such petitioner or petitioners must within a reasonable time present plans and specifications of all works required to be built in pursuance of said order for examination, correction, and approval by said commission; and thereupon work may immediately commence thereon under the supervision of said commission or representative thereof attached thereto from said Corps of Engineers, who shall inspect same from time to time. Upon completion thereof, if found in every respect to meet the requirements of the said order and said approved plans and specifications, permission shall thereupon be granted to the owner or owners of such mine or mines to commence mining operations, subject to the conditions of said order and the provisions of this act.

Sec. 15. That no permission granted to a mine-owner or owners under this act shall take effect, so far as regards the working of a mine, until all impounding dams or other restraining works, if any are prescribed by the order granting such permission, have been completed and until the impounding dams or other restraining works or settling reservoirs provided by said commission have reached such a stage as, in the opinion of said commission, it is safe to use the same: *Provided, however*, That if said commission shall be of the opinion that the restraining and other works constructed at the mine or mines shall be sufficient to protect the navigable rivers of said systems and the work of said commission, then the owner or owners of such mine or mines may be permitted to commence operations.

Sec. 16. That in case the joint petition referred to in section 11 hereof is favorably acted upon, the commission shall fix the respective amounts to be paid by each owner of such mine toward providing and building necessary impounding dams or other restraining works. In the event of a petition being filed after the entry of such order, or in case the impounding dam or dams or other restraining works have already been constructed and favorably considered, the commission shall fix such amount as may be reasonable for the privilege of dumping therein, which amount shall be divided between the original owners of such impounding dams or other restraining works in proportion to the amount respectively paid by each party owning same. The expense of maintaining and protecting such joint dam or works shall be divided among mine-owners using same in such proportion as the commission shall determine. In all cases where it is practicable, restraining and impounding works are to be divided, constructed, and maintained by mine-owners near or below the mine or mines before reaching the main tributaries of said navigable waters.

Sec. 17. That at no time shall any more debris be permitted to be washed away from any hydraulic mine or mines situated on the tributaries of said rivers and the respective branches of each, worked under the provisions of this act, than can be properly cared for at or below said mine or mines, as per order of said commission, or by the restraining works erected in accordance with the directions of this act by said commission.

Sec. 18. That the said commission may at any time, when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine-owners or such as may be provided by Government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce amount thereof to meet the capacities of the facilities then in use, or if actually required in order to protect the navigable rivers from damage, may revoke same until the further notice of the commission.

Sec. 19. That an intentional violation on the part of a mine owner or owners, company, or corporation, or the agents or employés of either, of the conditions of the order granted pursuant to section 13, or such modifications thereof as may have been made by said commission, shall work a forfeiture of the privileges thereby conferred, and upon notice being served by the order of said commission upon such owner or owners, company, or corporation, or agent in charge, work shall immediately cease. Said commission shall take necessary steps to enforce its orders in case of the failure, neglect, or refusal of such owner or owners, company, or corporation, or agents thereof, to comply therewith, or in the event of any person or persons, company, or corporation working by said process in said territory contrary to law.

Sec. 20. That said commission, or a committee therefrom, or officer of said corps assigned to duty under its orders, shall, whenever deemed necessary,

Asst report territory and all mines operating under the provisions of this act. iv report of such examination shall be placed on file.

SEC. 21. That the said commission is hereby granted the right to use any of the public lands of the United States, or any rock, stone, timber, tress, brush, or material thereon or therein, for any of the purposes of this act; and the Secretary of the Interior is hereby authorized and requested, after notice has been filed with the Commissioner of the General Land Office by said commission, setting forth what public lands are required by it under the authority of this section, that such land or lands shall be withdrawn from sale and entry under the laws of the United States.

SEC. 22. That any person or persons who willfully or maliciously injure, damage, or destroy, or attempt to injure, damage, or destroy, any dam or other work erected under the provisions of this act for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of \$5,000 or be imprisoned not to exceed five years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 23. That upon the construction by the said commission of dams or other works for the detention of débris from hydraulic mines and the issuing of the order provided for by this act to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the débris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay a tax of 3 per cent on the gross proceeds of his, their, or its mine so worked, which tax of 3 per cent shall be ascertained and paid in accordance with regulations to be adopted by the Secretary of the Treasury. All sums of money paid into the Treasury under this section shall be set apart and credited to a fund to be known as the "débris fund" and shall be expended by said commission under the supervision of the Chief of Engineers and direction of the Secretary of War, in addition to the appropriations made by law in the construction and maintenance of such restraining works and settling reservoirs as may be proper or necessary. *Provided*, That said commission is hereby authorized to receive and pay into the Treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions hereof, such money advances as may be offered to aid in the construction of such impounding dams, or other restraining works, or settling reservoirs, or sites therefor, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said débris fund: *And provided further*, That in no event shall the Government of the United States be held liable to refund same except as directed by this section.

SEC. 24. That the said commission, in order to secure harmony in work to be constructed for reclamation and drainage purposes on said river systems, with present plans of river conservation, or with such plans as may hereafter be adopted as provided by this act, having in view their protection from the encroachment of mining débris, or other material, and to promote efficiency and economy, is empowered to consult thereon from time to time with a commission of engineers authorized to join such conference by the laws of the State of California. The result of such conferences shall be reported to the Chief of Engineers for transmission to Congress. The consent of the United States, in so far as it is necessary to confer same on account of its reserved control over said navigable rivers, is hereby granted to the State of California, or any municipal or local organization authorized by the laws of said State, to construct such works at its expense: *Provided*, That whenever the navigable waters of said systems are, or may be, affected thereby, the plans therefor shall be recommended by the commission created by this act and approved by the Chief of Engineers, United States Army.

SEC. 25. That said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin River systems resulting from mining operations, natural erosion, or other causes, may be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable, is hereby directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said débris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or at any place adjacent to the same, or at any point calculated, in the judgment of said commission, to effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in Executive Document No. 257, Fifty-first Congress, second session, and Executive Document No. 98, Forty-seventh Congress, first session, as far as they refer to impounding dams or other restraining works, are hereby adopted, and the same are directed to be made the bases of operations. The sum of \$15,000 is hereby appropriated from moneys in the Treasury not otherwise appropriated, to be immediately available, to defray the expenses of said commission.

The SPEAKER. A second had been demanded on the motion to suspend the rules and pass this bill, and the gentleman from North Carolina [Mr. COWLES] and the gentleman from Texas [Mr. BAILEY] had been appointed tellers.

Mr. COWLES. I ask unanimous consent that a second may be considered as ordered.

Mr. WATSON. I object.

Mr. BANKHEAD. I wish to inquire whether by agreement section 27 has been stricken out of this bill?

Mr. COWLES. Sections 21 and 22.

Mr. BANKHEAD. Then section 27 is still a part of the bill. The House divided; and the tellers reported, ayes 174, nays 3. So a second was ordered.

The SPEAKER. The gentleman from North Carolina [Mr. COWLES] is recognized to control the fifteen minutes in favor of the motion to suspend the rules, and the gentleman from Texas [Mr. BAILEY] to control the fifteen minutes against it.

Mr. COWLES. I yield five minutes to the gentleman from California [Mr. CAMINETTI].

[Mr. CAMINETTI withholds his remarks for revision. See Appendix.]

Mr. COWLES. I now yield three minutes and a half to the gentleman from California [Mr. CUTTING].

Mr. CUTTING. Mr. Speaker, in the short time allotted to

me I can only make a brief statement of the case under consideration, which statement will be based upon facts as they exist to-day and have for many years.

Some ten years ago, through a decision of the Federal court, hydraulic mining in California was suppressed; injunctions were issued against the mines, and one of the largest and most important industries of the State of California was paralyzed.

This condition of affairs was brought about through a conflict between the farmers and the hydraulic-mining interests, on account of the débris from the mines flowing into the navigable streams and upon the land bordering thereon, not only interfering with navigation but ruining thousands of acres of valuable farming land.

Through this decision mines that had heretofore produced from ten to fifteen millions of dollars in gold annually were shut down and property amounting to \$150,000,000 became worthless. The conflict between the farmers and miners had waged for years; both were endowed with individual rights; but the courts held that hydraulic mining should cease. Our State Legislature was powerless to render the miners any relief, as it could not enact laws in conflict with the decision of the Federal court. But realizing the importance of the question, by joint resolution it appealed to Congress for aid, and in compliance therewith Congress passed an act which was approved October 1, 1888, entitled "An act for the investigation of the mining-débris question in the State of California."

Under this act a commission composed of eminent engineers was appointed for the purpose of ascertaining if some plan could not be devised whereby the conflict between the mining and farming sections might be adjusted and the mining industry be rehabilitated without injury to the navigable rivers and the farms bordering thereon. After a most thorough investigation by this committee, a unanimous report was submitted to the Secretary of War in which the construction of impounding dams was recommended as the only means whereby the mining industry could be resumed without injury to the navigable streams.

The bill under consideration is framed on the basis of the report I have referred to. The passage of this bill authorizes the mine-owners to construct impounding dams at their own cost, under the direction and supervision of Government engineers, insuring absolute protection to the Government and without injury to public or private rights.

The passage of this bill will restore millions of dollars of property now worthless, to its former value. It will set in motion a great industry, furnishing employment to thousands of skilled laborers and contribute to the country millions of dollars in gold every year. It is of the utmost importance to the State I have the honor in part to represent, and I appeal to the members of this House to support the bill.

Mr. COWLES. I now yield two minutes to the gentleman from California [Mr. BOWERS].

Mr. BOWERS. Mr. Speaker, the injunction granted by the courts against hydraulic mining in the State of California practically confiscated nearly \$100,000,000 worth of property of the mining people. That property was not owned by large companies or corporations of rich men, but most of it, as you know who know anything about hydraulic mining, was owned by men of limited means. Hydraulic mining does not require a mill and expensive machinery of that character. The great cost is in building ditches to convey the water. So twenty, forty, or fifty miners put in their little earnings and their labor to dig ditches to carry the water to the gravel mines. The gold is extracted by washing. Ten millions of gold a year was being produced by these hydraulic mines when this injunction came. Now a hundred million dollars' worth of property lies there absolutely idle.

This bill simply asks the appointment of a commission of United States engineers to examine the question and see if that property can not be released to the owners, who are working miners of California, for their relief, as well as to the benefit of the rivers themselves. We are spending millions and millions of dollars annually—properly expending it—for the protection of the levees and building up the banks of the Mississippi River to protect the property of the plantation owners along its banks. California miners are only asking the small appropriation of \$15,000 that they may be again permitted to use their own property, on which they have spent years of time and all their means; and they think that they have just as good a right to this character of protection as the property owners in the great Mississippi Valley. That is the question that is presented now by this bill; and I hope it will pass and the miners of California receive some recognition by the General Government as well as the settlers along the Mississippi Valley.

[Here the hammer fell.]

Mr. COWLES. I reserve the remainder of my time.

Mr. BAILEY. I yield now four minutes to the gentleman from Georgia [Mr. WATSON].

AMENDING THE ACT OF JULY 31, 1947 (61 STAT. 681), AND THE
MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SUR-
FACE OF THE SAME TRACTS OF THE PUBLIC LANDS

JUNE 6, 1955.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs, sub-
mitted the following

REPORT

[To accompany H. R. 5891]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 2, line 1, following the word "States," insert the words:

including for the purposes of this Act land described in the Acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270),

Page 3, line 10, strike the word "Agriculture." and insert in lieu thereof the words:

Agriculture: *Provided*, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense.

Page 3, line 21, following the word "except" insert the words:

that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said Acts and except.

Page 6, line 3, strike the words "The Secretary of the Federal Department" and insert in lieu thereof the words "The head of a Federal department or agency".

Page 16, line 3, change the period to a comma and add the words:
or to limit or repeal any existing authority to include any limitation or restriction in any such patent.

LEGISLATION CONSIDERED

In reporting H. R. 5891, by Representative Rogers, of Texas, it is pointed out that the measure reported is 1 of a total of 10 bills having an identical purpose considered by the committee. The others: H. R. 5561, by Representative Dawson, of Utah; H. R. 5563, by Representative Fjare, of Montana; H. R. 5572, by Representative Young, of Nevada; H. R. 5577 by Representative Ellsworth, of Oregon; H. R. 5595, by Representative Cooley, of North Carolina; H. R. 5742, by Representative Hope, of Kansas; H. R. 6223, by Representative Udall, of Arizona; H. R. 6307, by Representative Budge, of Idaho; and H. R. 6372, by Representative Engle, of California.

PURPOSE

H. R. 5891, if enacted into law, would amend the act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185), commonly known as the Materials Act of 1947, in two respects: by barring future locations under the mining laws for certain materials commonly occurring throughout the United States; by giving to the Secretary of Agriculture administrative responsibility under the Materials Act.

If enacted, H. R. 5891 would also amend the general mining laws to permit more efficient management and administration of the surface resources of the public lands by providing for multiple use of the same tracts of such lands.

To achieve these objectives, the bill would:

(1) Amend the Materials Act of 1947 to prohibit future location and removal, under the mining laws, of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, by requiring disposition of these materials under the Materials Act.

(2) Amend the Materials Act of 1947 to give to the Secretary of Agriculture the same authority with respect to mineral materials (including, but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay), and vegetative materials (including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products) located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under Interior's jurisdiction.

(3) Amend the general mining law to prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing, and related activities.

(4) Amend the general mining law to limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources. The bill would accomplish this by vesting in the responsible United States administrative agency authority to manage and dispose of vegetative surface resources on such locations, to manage other surface resources thereof (except minerals subject to the mining laws), and to use so much of the surface as is necessary for management purposes or for access to adjacent lands.

The legislation would limit surface use to those activities which do not endanger or materially interfere with established mining operations or related activities.

(5) Establish, with respect to invalid, abandoned, or dormant mining claims, located prior to enactment of the bill, an in rem procedure in the nature of a quiet-title action, whereby the United States

could expeditiously resolve uncertainties as to surface rights on such locations.

BACKGROUND OF THE LEGISLATION

The House Committee on Interior and Insular Affairs, through its Subcommittee on Mines and Mining and Public Lands Subcommittee, and working with coordinate legislative committees, has given continuing consideration to legislation proposing more effective management and utilization of the resources of the public lands of the United States.

In the more than 80 years since enactment of the Mining Act of 1872, and the period which has elapsed since passage of the Mineral Leasing Act of 1920, the principal problem faced by the Congress and responsible Federal administrative agencies has been this: the development of statutory authority and regulations thereunder which would operate to encourage mining activity on our vast expanse of public lands compatible with utilization, management, and conservation of surface resources such as water, soil, grass, timber, parks, monuments, recreation areas, fish, wildlife, and waterfowl.

The foregoing problem is one of surface versus subsurface competing uses.

In the same category, equally complex, is the problem posed by competition for surface resources on the public lands, for example: grazing and forestry with watershed management; utilization of reservoir sites for storage of water with the use of the same areas for park, monument, scenic, scientific, and recreational values; development of lands through irrigation, flooding, or drainage with use of the same lands as wildlife habitats, or for breeding, nesting, feeding, and resting places for migratory waterfowl, etc.

The latter problem is one of competing surface uses.

Finally, there has been the problem of developing statutory authority containing conditions under which multiple mineral development could go forward. Public Law 585, 83d Congress, the act of August 13, 1954 (68 Stat. 708), operates to permit multiple use of the same lands; that is, concurrent development under the mining law and the mineral leasing laws. Public Law 585 appears to have resolved many of the problems raised by competing subsurface uses.

It is with the first of these problems—surface versus subsurface competing uses—that H. R. 5891 and related measures deal. Consideration of these measures, which propose to modify established procedures and to redefine the surface rights of persons entering on public lands under the mining laws, must be considered in light of presently existing procedure.

Procedure under mining laws, general

Deposits of minerals, other than coal, oil, gas, oil shale, sodium, phosphate and potash (and sulfur in the States of Louisiana and New Mexico), in both surveyed and unsurveyed lands belonging to the United States, are open to entry under the act of May 10, 1872, as amended. The act of 1872, with amendments, embraces the general mining laws.

Minerals belonging to the United States and excepted from the operation of the general mining laws may be acquired under what are known as the mineral leasing laws, are not subject to location and

purchase under the mining laws, but may be developed only under rights acquired through license of lease.

Mineral resource utilization comes about only after: (1) prospecting; (2) exploration; and (3) development.

Historically, the Federal mining law has been designed to encourage individual prospecting, exploration, and development of the public domain. The incentive for such activity has been the assurance of ultimate private ownership of the minerals and lands so developed. Under these laws, prospectors may go out on the public domain not otherwise withdrawn, locate a mining claim, search out its mineral wealth and, if discovery of mineral is made, can then obtain a patent. The property, with issuance of patent, becomes the individual's to develop or sell, according to his initiative or desire.

A restatement of the traditional approach of Congress to this development of our mineral resources is to be found in section 1 of the act of May 10, 1872 (17 Stat. 91):

* * * all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Initiation of rights to mineral lands

Rights to mineral lands, owned by the United States, are initiated by prospecting, that is, searching for minerals thereon, and, upon the discovery of mineral, by locating the lands upon which such discovery has been made, or lands which the prospector believes to be valuable for minerals. A location is made by staking the corners of the claim, posting a notice of location thereon, and complying with the State laws regarding the recording of the location in the county recorder's office, discovery work, etc.

National parks and monuments

With the exception of Mount McKinley and Glacial Bay National Monuments, both in Alaska, Organ Pipe Cactus National Monument in Arizona, and Death Valley National Monument in California, mining locations may not be made on lands in national parks and monuments after their establishment.

Minerals in Indian lands

In general, the mineral deposits in Indian reservation lands are subject to special leasing provisions under the administration of the Bureau of Indian Affairs of the Department of the Interior, and not the general mining laws. An exception to this was the Papago Indian Reservation in Arizona. With enactment of Public Law 47, 84th Congress, 1st session, on May 27, 1955, (H. R. 2682) mineral rights in Papago Reservation lands were conveyed to the Papago Tribe with future control in the tribe, and administrative responsibility in the Indian Bureau.

National forest lands

The national forests of the United States are generally open to entry under the mining laws. An exception is made in some instances where Congress has enacted legislation to vest in the Secretary of

Agriculture authority to make regulations with respect to mineral entry in designated national forest areas.

An example is the act of May 24, 1949 (63 Stat. 75; 16 U. S. C. 482 n) which applies to lands within Coconino National Forest, Ariz., and declares that mineral locations made after the date of the act within a specified area (some 20,000 acres) would confer on the locator or patentee only mineral rights and the right to use timber and surface as needed for mining purposes. The purpose of the act was to reduce the incentive to locate mining claims for nonmining activities without at the same time interfering with the development of bona fide mineral values.

Your committee reported, the House and Senate passed, and the President signed into law on May 13, 1955, H. R. 2679, which extends the application of the act of May 24, 1949, to an additional 78,000 acres in the Coconino National Forest.

Location and its effect

Upon entering the lands selected the prospector (also known as an entryman, locator, or claimant) must, to protect his claim, stake it out. Under the law, he is limited in any one claim to an area of not to exceed 20 acres. Under traditional practice, this claim will be approximately 600 by 1,500 feet, or less. By posting notice of location, which notice contains the name of the claimant, date of location, and a description of the claim (forms used vary from mining district to mining district), the locator, without further requirement under Federal law, as of that moment, acquires the immediate right to exclusive possession, control, and use of the land within the corners of his location stakes. He must, of course, to protect this right to exclusive possession—

(1) comply with the State law having to do with recordation, etc.; and

(2) carry out under the Federal law what is known as annual assessment work. This simply means that he must perform \$100 worth of labor during each assessment year (12-month period beginning July 1), or in the alternative, he must carry out improvements worth \$100 in value during the same period.

Having thus complied, he retains exclusive possession, control, and use of the area, and may remove the minerals from the land without first proceeding to patent.

Failure to perform the assessment work for any year subjects the claim to relocation, unless work for the benefit of the claim is resumed before a relocation is made. The determination of the question of the right of possession between rival and adverse claimants to the same mineral land is a function committed exclusively to the courts.

Abuses under the mining laws

The Committees on Interior and Insular Affairs of both the House and Senate have in the past several years been made increasingly aware of the abuses under the general mining laws by those persons who locate mining claims on public lands for purposes other than that of legitimate mining activity.

Because of the widespread and common occurrence in nature of certain materials named in the Materials Act of 1947, and greatly increased public interest in mining brought on by the "boom" in

uranium and other fissionable source materials, these abuses have multiplied in number in the past few years.

Numerous examples have been cited describing the activities of persons using the guise of mining locations for nonmining purposes, and the results of such activities:

The mining laws are sometimes used to obtain claim or title to valuable timber actually located within the claim boundaries. Frequently, whether or not the locator so intends, such claims have the effect of blocking access-road development to adjacent tracts of merchantable Federal timber, or to generally increase costs of administration and management of adjacent lands. The fraudulent locator in national forests, in addition to obstructing orderly management and the competitive sale of timber, obtains for himself high-value, publicly owned, surface resources bearing no relationship to legitimate mining activity.

Mining locations made under existing law may, and do, whether by accident or design, frequently block access: to water needed in grazing use of the national forests or other public lands; to valuable recreational areas; to agents of the Federal Government desiring to reach adjacent lands for purposes of managing wild-game habitat or improving fishing streams so as to thwart the public harvest and proper management of fish and game resources on the public lands generally, both on the located lands and on adjacent lands.

The ingenuity of American citizens which has made our Nation strong has also operated to develop new and better ways of abusing public land resources through obtaining color of title under the mining law.

Some locators in reality, desire their mining claims for commercial enterprises such as filling stations, curio shops, cafes, or for residence or summer camp purposes. If application is made for residence or summer camp purposes under Federal law other than the mining laws, sites usually embrace small tracts, that is, 5-acre tracts; on the other hand, mining locations provide for control and utilization of approximately 20-acre tracts. Fraudulent locators prefer 20 acres to 5 acres.

Under existing law, fishing and mining have sometimes been combined in another form of nonconforming use of the public lands: a group of fisherman-prospectors will locate a good stream, stake out successive mining claims flanking the stream, post their mining claims with "No trespassing" signs, and proceed to enjoy their own private fishing camp. So too, with hunter-prospectors, except that their blocked-out "mining claims" embrace wildlife habitats; posted, they constitute excellent hunting camps.

The effect of nonmining activity under color of existing mining law should be clear to all: a waste of valuable resources of the surface on lands embraced within claims which might satisfy the basic requirement of mineral discovery, but which were, in fact, made for a purpose other than mining; for lands adjacent to such locations, timber, water, forage, fish and wildlife, and recreational values wasted or destroyed because of increased cost of management, difficulty of administration, or inaccessibility; the activities of a relatively few pseudominers reflecting unfairly on the legitimate mining industry.

Problems faced in developing corrective legislation

Problems raised by abuses under the mining laws have for sometime been recognized by the legitimate mining industry, by the Federal agencies responsible for administration of the public's resources; by private groups and individuals sincerely interested in wise conservation and utilization of all of our surface and subsurface resources.

If fraudulent locations are made, under present law the United States has the right to refuse patents (if application is made), or to attack such locations in court.

Modification of presently authorized administrative action alone does not appear the answer. Presently available remedies are time-consuming, are costly, and, in the end, not conclusive. Where a location is based on discovery, it is extremely difficult to establish invalidity on an assertion by the United States that the location was, in fact, made for a purpose other than mining.

If locations must be proven fraudulent in court before dispossession, the mining laws must be so drawn or so framed as to make clear to locators what can and what cannot be done. On the other hand, continual interference by Federal agencies in an effort to overcome this difficulty would hamper and discourage the development of our mineral resources, development which has been encouraged and promoted by Federal mining law since shortly after 1800.

Congress and responsible Federal agencies have recognized this need for a balance between competing surface and subsurface demands, as have spokesmen outside of the Federal Government.

The American Mining Congress, a national organization composed of both large and small producers of all metals and minerals mined in the United States, included the following statement in its declaration of public land policy adopted at the annual meeting in San Francisco in September 1954:

We believe * * * that suitable amendments can be made in the general mining laws which, with proper use of available procedures, will simplify enforcement and minimize bad-faith attempts through pretended mining locations to serve objectives other than the discovery and development of minerals. We believe that this can be accomplished in a manner which will protect the incentive and reward now inherent in the mining laws.

The nonprofit, noncommercial, educational American Forestry Association, with more than 25,000 members, echoes this industry position. With some 800 natural-resource leaders present, the Fourth American Forest Congress, in October 1953, adopted by an overwhelming referendum vote of the association as section III D, of its new program for American forestry, under the heading "Mining on Public Lands," this language:

Efficient management of many millions of acres of Federal public lands, including the discovery and development of new or known mineral resources, is in the public interest. The legitimate miner and prospector should be encouraged to carry on such work. However, widespread abuses under the existing mining laws as a means of acquiring Government lands for other than mining purposes should be stopped. We therefore recommend that Congress revise the Federal mining laws to prevent their abuse by claimants or patentees who use their claims to tie up more valuable timber or other resources than they legitimately need to develop the minerals.

With this agreement on the end sought to be achieved by remedial legislation there has not always been agreement on what means should be employed to achieve that end.

There is, however, agreement that any corrective legislation providing for multiple use of the surface of the same tracts of public lands, compatible with unhampered subsurface resource development, must be aimed at—

First, prohibiting location of mining claims for any purpose other than prospecting, mining, processing, and related activities;

Second, providing for conservation and utilization of timber, forage, and other surface resources on mining claims, and on adjacent lands; and

Third, accomplishing these desirable ends without materially changing the basic concepts and principles of the general mining laws.

H. R. 5891 is, in the view of the Committee on Interior and Insular Affairs, responsive to the need for corrective action outlined.

EXPLANATION OF THE BILL, H. R. 5891

H. R. 5891 would amend the Materials Act of 1947 by barring future locations under the mining laws for certain materials commonly occurring throughout the United States, would extend the act's operations to national forest lands, and would give to the Secretary of Agriculture Materials Act administrative responsibility for lands under his jurisdiction.

The bill would also amend the general mining laws by defining the rights of locators to surface resources prior to patent for locations hereafter made; would establish procedures for more efficient management and administration of the surface resources on mining locations hereafter made; and would permit quieting of title to surface resources on locations made prior to the effective date of the act through procedures established in the act.

1. Amendment of Materials Act

Section 1 of the reported bill when read together with section 3 of the bill would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185) to remove from the purview of the mining laws location and removal thereunder of common sand, stone, gravel, pumice, pumicite, and cinders. In the future, these commonly occurring materials cannot be the object of location and removal under the general mining law, but will be subject to disposal under the Materials Act.

The Secretary of Agriculture is given, by section 1, the same authority with respect to mineral materials and vegetative materials located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction.

The provisions of section 1 of the 1947 act, as thus amended, will, by the terms of this bill, apply in the future to national forest and title III Bankhead-Jones lands, which lands are already subject to the general mining laws.

The provisions of section 1 of the 1947 act will remain inapplicable to national parks and national monuments or to Indian lands, or lands set aside or held for the use or benefit of Indians, including lands withdrawn for Indian use by Executive order.

Section 1 of the bill applies only to locations made after enactment, does not affect rights under existing valid mining claims.

2. Receipts from materials disposal

Section 2 of H. R. 5891 would amend section 3 of the 1947 act (43 U. S. C. 1187) to provide that moneys received from the disposal of materials thereunder shall be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed.

Receipts from disposal of materials from Alaska school section lands will be treated as income from such lands is presently treated.

3. Removal of common materials from mining location

Section 3 of the bill specifically states that a deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give effective validity to any mining claim hereafter located under such mining laws.

Attention is called to two additional clauses contained in this section.

The proviso in this section reading—

* * * nothing herein contained shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit—

has been incorporated in the bill to make clear the committee intent to not preclude mining locations based on discovery of some mineral other than a common variety of sand, stone, etc., occurring in such materials, for example, a mining location based on a discovery of gold in sand or gravel.

The last sentence of this section declares that—

“Common varieties” as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value * * *

which language would exclude materials such as limestone, gypsum, etc., commercially valuable because of “distinct and special” properties.

Finally, this section contains the clause—

* * * and does not include so-called “block pumice” which occurs in nature in pieces having one dimension of two inches or more,

which clause recognizes a class of pumice having distinct and special properties.

Section 3 of the bill applies only to locations made after enactment, does not affect rights under existing valid mining claims.

4. Rights of future locators to surface resources

Section 4 of the bill delineates the rights, limitations, and restrictions which would apply to any unpatented mining claim located after the effective date of the act.

Subsection (a) specifically provides that, prior to issuance of patent, no mining claim hereafter located could be used for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto. In short, this subsection recognizes essential rights—mining claims can, in the future, be used for activities related to prospecting, mining, processing and related activities, though not for unrelated activities.

Subsection (b) of section 4 provides that hereafter located claims under the mining laws shall be subject, prior to patent issuance, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof, except mineral deposits subject to location under the mining laws.

This subsection would also make such claims subject, prior to issuance of patent, to the right of the United States, its permittees and licensees, to use so much of the location surface as may be necessary for access to adjacent land.

With respect to the reservations in the United States to use of the surface and surface resources as set out in the two preceding paragraphs attention is called to the proviso which qualifies them:

* * * any use of the surface of any such mining claim by the United States, its permittees, or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

This language, carefully developed, emphasizes the committee's insistence that this legislation not have the effect of modifying long-standing essential rights springing from location of a mining claim. Dominant and primary use of the locations hereafter made, as in the past, would be vested first in the locator; the United States would be authorized to manage and dispose of surface resources, or to use the surface for access to adjacent lands, so long as and to the extent that these activities do not endanger or materially interfere with mining, or related operations or activities on the mining claim.

Subsection (c) of section 4 of the bill specifically imposes restrictions on the locator's use of surface resources not related to mining or related activities.

It prohibits removal or use, by the mining claimant, of timber or other surface resources made subject, by subsection (b) of section 4, to management and disposition by the United States; again, it will be noted—

Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States * * *.

This language, read together with the entire section, emphasizes recognition of the dominant right to use in the locator, but strikes a balance, in the view of the committee, between competing surface uses, and surface versus subsurface competing uses.

Finally, subsection (c) requires that any timber cutting by the mining claimant, other than that to provide clearance, shall be done in accordance with sound principles of forest management.

The foregoing rights, reservations, limitations, and restrictions apply only to claims hereafter located, and operate only prior to issuance of patent.

After patent, the patentee, as under traditional law which has existed since 1872, acquires full title to the mining claim and its resources, surface, and subsurface. As members will understand, acquisition of patent requires compliance with the mining laws as to location, performance of assessment work, payment to the United States of the purchase price, and a determination by the Department of the Interior as to claim validity and full compliance with the law.



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OFFICIAL REPORT ON THE GOLD MINES.



Col. Richard Barnes Mason

This is the official account of a visit paid to the gold region in July 1848 by Colonel Richard Barnes Mason, who had been appointed to the military command in California, and wrote his report for the adjutant-general at Washington. It is dated from headquarters at Monterey, August 17, 1848.

Sir,—I have the honour to inform you that, accompanied by [Lieut. W. T. Sherman](#), 3rd

Artillery, A.A. General, I started on the 12th of June last to make a tour through the northern part of California. We reached San Francisco on the 20th, and found that all, or nearly all, its male inhabitants had gone to the mines. The town, which a few months before was so busy and thriving, was then almost deserted. On the evening of the 24th the horses of the escort were crossed to Saucelito in a launch, and on the following day we resumed the journey, by way of Bodega and Sonoma, to Sutter's Fort, where we arrived on the morning of July 2. Along the whole route mills were lying idle, fields of wheat were open to cattle and horses, houses vacant, and farms going to waste. At Sutter's there was more life and business. Launches were discharging their cargoes at the river and carts were hauling goods to the fort, where already were established several stores, a hotel, etc. Captain Sutter had only two mechanics in the employe—wagon-maker and a blacksmith, whom he was then paying \$10 per day. Merchants pay him a monthly rent of \$100 per room, and while I was there a two-story house in the fort was rented as a hotel for \$500 a month.

On the 5th we arrived in the neighbourhood of the mines, and proceeded twenty-five miles up the American Fork, to a point on it now known as the Lower Mines, or Mormon Diggings. The hill sides were thickly strewn with canvas tents and bush-harbours; a store was erected, and several boarding shanties in operation. The day was intensely hot, yet about 200 men were at work in the full glare of the sun, washing for gold—some with tin pans, some with close woven Indian baskets, but the greater part had a rude machine known as the cradle. This is on rockers, six or eight feet long, open at the foot, and its head had a coarse grate, or sieve; the bottom is rounded, with small cleets nailed across. Four men are required to work this machine; one digs the ground in the bank close by the stream; another carries it to the cradle, and empties it on the grate; a third gives a violent rocking motion to the machine, whilst a fourth dashes on water from the stream itself. The sieve keeps the coarse stones from entering the cradle, the current of water washes off the earthy matter, and the gravel is gradually carried out at the foot of the machine, leaving the gold mixed with a heavy fine black sand above the first cleets. The sand and gold mixed together are then drawn off through auger holes into a pan below, are dried in the sun, and afterwards separated by blowing off the sand. A party of four men, thus employed at the Lower Mines, average 100 dollars a-day. The Indians, and those who have nothing but pans or willow baskets, gradually wash out the earth, and separate the gravel by hand, leaving nothing but the gold mixed with sand, which is separated in the manner before described. The gold in the Lower Mines is in fine bright scales, of which I send several specimens.

As we ascended the south branch of the American fork, the country became more broken and mountainous, and twenty-five miles below the lower washings the hills rise to about 1000 feet above the level of the Sacramento Plain. Here a species of pine occurs, which led to the discovery of the gold. Captain Sutter, feeling the great want of lumber, contracted in September last with a Mr. Marshall to build a saw-mill at that place. It was erected in the course of the past winter and spring—a dam and race constructed; but when the water was let on the wheel, the tail race was found to be too narrow to permit the water to escape with sufficient rapidity. Mr. Marshall, to save labour, let the water directly into the race with a strong current, so as to wash it wider and deeper. He effected his purpose, and a large bed of mud and gravel was carried to the foot of the race. One day Mr. Marshall, as he was walking down the race to this deposit of mud, observed some glittering particles at its upper edge; he gathered a few, examined them, and became satisfied of their value. He then went to the fort, told Captain Sutter of his discovery, and they agreed to keep it secret until a certain grist-mill of Sutter's was finished. It, however, got out and spread like magic. Remarkable success attended the labours of the first explorers, and, in a few weeks, hundreds of men were drawn thither. At the time of my visit, but little more than three months after its first discovery, it was estimated that upwards of four thousand people were employed. At the mill there is a fine deposit or bank of gravel, which the people respect as the property of Captain Sutter, though he pretends to no right to it, and would be perfectly satisfied with the simple promise of a pre-emption on account of the mill which he has built there at a considerable cost. Mr. Marshall was living near the mill, and informed me that many persons were employed above and below him; that they used the same machines as at the lower washings, and that their success was about the same—ranging from one to three ounces of gold per man daily. This gold, too, is in scales a little coarser than those of the lower mines. From the mill Mr. Marshall guided me up the mountain on the opposite or north bank of the south fork, where in the bed of small streams or ravines, now dry, a great deal of coarse gold has been found. I there saw several parties at work, all of whom were doing very well; a great many specimens were shown me, some as heavy as four or five ounces in weight; and I send three pieces, labeled No. 5, presented by a Mr. Spence. You will perceive that some of the specimens accompanying this report hold mechanically pieces of quartz—that the surface is rough, and evidently moulded in the crevice of a rock. This gold cannot have been carried far by water, but must have remained near where it was first deposited from the rock that once bound it. I inquired of many if they had encountered the metal in its matrix, but in every instance they said they had not; but that the gold was invariably mixed with wash-gravel, or lodged in the crevices of other rocks. All bore testimony that they had found gold in greater or less quantities in the numerous small gullies or ravines that occur in that mountainous region.

On the 7th of July I left the mill and crossed to a small stream emptying into the American fork, three or four miles below the saw-mill. I struck the stream (now known as Weber's Creek) at the washings of Sunol and Company. They had about thirty Indians employed, whom they pay in merchandise. They were getting gold of a character similar to that found in the main fork, and doubtless in sufficient quantities to satisfy them. I send you a small specimen, presented by this Company, of their gold. From this point we proceeded up the stream about eight miles, where we found a great many people and Indians, some engaged in the bed of the stream, and others in the small side valleys that put into it. These latter are exceedingly rich, two ounces being considered an ordinary yield for a day's work. A small gutter, not more than 100 yards long by four feet wide, and two or three deep, was pointed out to me as the one where two men (W. Daly and Percy M'Coon) had a short time before obtained 17,000 dollars' worth of gold. Captain Weber informed me, that he knew that these two men had employed four white men and about 100 Indians, and that, at the end of one week's work, they paid off their party, and had left 10,000 dollars' worth of this gold. Another small ravine was shown me, from which had been taken upwards of 12,000 dollars' worth of gold. Hundreds of similar ravines, to all appearances, are as yet untouched. I could not have credited these reports had I not seen, in the abundance of the precious metal, evidence of their truth. Mr. Neligh, an agent of Commodore Stockton, had been at work about three weeks in the neighbourhood, and showed me, in bags and bottles, 2000 dollars' worth of gold; and Mr. Lyman, a gentleman of education, and worthy of every credit, said he had been engaged with four others, with a machine, on the American fork, just below Sutter's Mill, that they

worked eight days, and that his share was at the rate of fifty dollars a-day, but hearing that others were doing better at Weber's Place, they had removed there, and were then on the point of resuming operations.

The country on either side of Weber's Creek is much broken up by hills, and is intersected in every direction by small streams or ravines which contain more or less gold. Those that have been worked are barely scratched, and, although thousands of ounces have been carried away, I do not consider that a serious impression has been made upon the whole. Every day was developing new and richer deposits; and the only impression seemed to be, that the metal would be found in such abundance as seriously to depreciate in value.

On the 8th July I returned to the lower mines, and eventually to Monterey, where I arrived on the 17th of July. Before leaving Sutter's, I satisfied myself that gold existed in the bed of the Feather River, in the Yuba and Bear, and in many of the small streams that lie between the latter and the American fork; also, that it had been found in the Consumnes, to the south of the American fork. In each of these streams the gold is found in small scales, whereas in the intervening mountains it occurs in coarser lumps.

Mr. Sinclair, whose rancho is three miles above Sutter's on the north side of the American, employs about fifty Indians on the north fork, not far from its junction with the main stream. He had been engaged about five weeks when I saw him, and up to that time his Indians had used simply closely-woven willow baskets. His net proceeds (which I saw) were about 16,000 dollars' worth of gold. He showed me the proceeds of his last week's work—14 lbs. avoirdupois of clean-washed gold.

The principal store at Sutter's fort, that of Brannan and Co., had received in payment for goods 36,000 dollars' worth of this gold from the 1st of May to the 10th of July. Other merchants had also made extensive sales. Large quantities of goods were daily sent forward to the mines, as the Indians, heretofore so poor and degraded, have suddenly become consumers of the luxuries of life. I before mentioned that the greater part of the farmers and rancheros had abandoned their fields to go to the mines. This is not the case with Captain Sutter, who was carefully gathering his wheat, estimated at 40,000 bushels. Flour is already worth, at Sutter's, 36 dollars a-barrel, and will soon be 50. Unless large quantities of breadstuffs reach the country much suffering will occur; but as each man is now able to pay a large price, it is believed the merchants will bring from Chili and the Oregon a plentiful supply for the coming winter.

The most moderate estimate I could obtain from men acquainted with the subject was, that upwards of 4,000 men were working in the gold district, of whom more than one-half were Indians, and that from 30,000 to 50,000 dollars' worth of gold, if not more, were daily obtained. The entire gold district, with very few exceptions of grants made some years ago by the Mexican authorities, is on land belonging to the United States. It was a matter of serious reflection to me, how I could secure to the Government certain rents or fees for the privilege of securing this gold; but upon considering the large extent of country, the character of the people engaged, and the small scattered force at my command, I resolved not to interfere, but permit all to work freely, unless broils and crimes should call for interference.

The discovery of these vast deposits of gold has entirely changed the character of Upper California. Its people, before engaged in cultivating their small patches of ground, and guarding their herds of cattle and horses, have all gone to the mines, or are on their way thither. Labourers of every trade have left their work-benches, and tradesmen their shops; sailors desert their ships as fast as they arrive on the coast; and several vessels have gone to sea with hardly enough hands to spread a sail. Two or three are now at anchor in San Francisco, with no crew on board. Many desertions, too, have taken place from the garrisons within the influence of these mines; twenty-six soldiers have deserted from the post of Sonoma, twenty-four from that of San Francisco, and twenty-four from Monterey. I have no hesitation now in saying, that there is more gold in the country drained by the Sacramento and San Joaquin Rivers than will pay the cost of the present war with Mexico a hundred times over. No capital is required to obtain this gold, as the labouring man wants nothing but his pick and shovel and tin pan, with which to dig and wash the

gravel, and many frequently pick gold out of the crevices of rocks with their knives, in pieces of from one to six ounces.

Gold is also believed to exist on the eastern slope of the Sierra Nevada; and, when at the mines, I was informed by an intelligent Mormon that it had been found near the Great Salt Lake by some of his fraternity. Nearly all the Mormons are leaving California to go to the Salt Lake; and this they surely would not do unless they were sure of finding gold there, in the same abundance as they now do on the Sacramento.

I have the honour to be,
Your most obedient Servant,

R. B. MASON, Colonel 1st Dragoons, commanding.

[To:] Brigadier-General R. Jones, Adjutant-General, U.S.A.,
Washington, D.C.

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Minute

Duplicate.

Head Quarters 10th Mil^y Dep^t
Monterey, California
August 17th 1848

No 37.

Sir.

I have the honor to inform you that we accompanied by Lieut W. B. Sherman and 3^d Artillery A. A. A. General, I started on the 12th of June last to make a tour through the northern part of California. My principal purpose however was to visit the newly discovered Gold "Placer" in the valley of the Sacramento. I had proceeded about forty miles when I was overtaken by an Express, bringing me intelligence of the arrival at Monterey of the U. S. Ship Serrano, with important letters from Commodore Shubert and Lieutenant Col Burton. I returned at once to Monterey, and dispatched what business was most important and on the 17th resumed my journey; we reached San Francisco on the 20th and found that at all or nearly all, its male inhabitants had gone to the mines. The town which a few months before was so busy and thriving was thus almost deserted. On the evening of the 24th the horses of the escort were crossed to Sordobeta in a launch, and on the following day we resumed the journey by way of Bodega and Sonoma, to Sutter's Fort, where we arrived on the morning of the 2^d of July. Along the whole route, Mills were lying idle; fields of wheat were open to Cattle & horses; houses vacant, and farms going to waste. At Sutter's there was much life and business, Launches were discharging their cargoes, at the river, and carts were hauling goods to the Fort, where already were established several stores a hotel &c; Captain Sutter had only two mechanics in his employ, a cooper, mason and a Blacksmith, whom he was then paying ten dollars a day. Merchants pay him a monthly

sent of \$100 dollars per room, and whilst I was there a two story house in the Fort was rented as a hotel for 500 dollars a month.

At the urgent solicitation of many gentlemen I delayed then to participate in the first public celebration of our National Anniversary at that fort, but on the 5th resumed the journey, and proceeded twenty five miles up the Peninsular fork to a point on it, now known as the Lower mines or Moaman diggings. The hill sides were thickly strewn with canvas tents and lush arbours; a store was erected, and several boarding shanties in operation. The day was intensely hot, yet about two hundred men were at work in the full glare of the sun, washing for gold, some with tin pans, some with close woven Indian baskets, but the greater part had a rude machine, known as the Cradle. This is one rock six or eight feet long, open at the foot, and at its head has a coarse grate or sieve; the bottom is rounded, with small cleats nailed across. Four men are required to work this machine, one digs the gravel in the bank close by the stream; an other carries it to the Cradle and empties it on the grate, a third gives a violent rocking motion to the machine, whilst a fourth dashes water on from the stream itself. The sieve keeps the coarse stones from entering the Cradle, the current of water washes off the earthy matter, and the gravel is gradually carried out at the foot of the machine, leaving the gold mixed with a heavy fine black sand above the first cleats. The sand and gold mixed together are then drawn off through auger holes into a pan below, are dried in the sun, and afterwards separated by blowing off the sand; a party of four men thus employed at the Lower Mines, averaged a hundred dollars a day. The Indians and those who have nothing but pans or willow baskets, gradually wash out the earth separate the gravel by hand, leaving nothing but the

gold mixed with sand, which is separated in the manner before described. The Gold in the Lower mines is in fine bright scales of which I send several specimens.

As we ascended the South Branch of the American Fork, the country became more broken and mountainous, and at the saw mill 25 miles above the lower washings or 50 miles from Sutters, the hills rise to about a thousand feet above the level of the Sacramento plain. Here a species of pine occurs, which led to the discovery of the gold. Capt Sutter feeling the great want of lumber, contracted in September last with a Mr. Marshall to build a saw mill at that place. It was erected in the course of the past winter & spring, a dam & race constructed, but when the water was let on the wheel, the tail race was found to be too narrow to permit the water to escape with sufficient rapidity. Mr Marshall to save labor, let the water directly into the race with a strong current so as to wash it wider and deeper. He effected his purpose and a large bed of mud & gravel was carried to the foot of the race. One day Mr. Marshall ^{as he} was walking down the race to this deposit of mud, observed some glittering particles at its upper edge; he gathered a few, examined them and became satisfied of their value. He then went to the Fort, told Captain Sutter of his discovery, and they agreed to keep it secret until a certain Grist Mill of Sutter was finished. It however got out, and spread like magic. Remarkable success attended the labors of the first explorers, and in a few weeks, hundreds of men were drawn thither. At the time of my visit but little more than three months after its first discovery, it was estimated that upwards of four thousand people were employed, at the mill there is a fine deposit or bank of gravel which the people respect as the property of Captain Sutter, although

he pretends to no right to it, and would be perfectly satisfied with the simple promise of a pre-emption on account of the mill which he has built there at considerable cost, Mr Marshall was living near the mill, and informed me that many persons were employed above and below him: that they used the same machines as at the lower washings, and that their success was about the same, ranging from one to three ounces of Gold per man daily. This gold too is in scales a little coarser than those of the lower mine. From the mill Mr Marshall guided me up the mountain on the opposite or north bank of the South Fork, where in the bed of small streams or ravines now dry, a great deal of Coarse gold has been found, I there saw several parties at work, all of whom were doing very well; a great many specimens were shown me some as heavy as four or five ounces in weight and I send three pieces labeled N^o 5 presented by a Mr Spence, you will perceive that some of the specimens accompanying this, hold mechanically pieces of Quartz: that the surface is rough, and evidently moulded in the crevice of a rock. This gold cannot have been carried far by water, but must have remained near where it was first deposited from the rock that once bound it. I inquired of many people, if they had encountered the metal in its matrix, but in every instance they said they had not, but that the gold was invariably mixed with washed gravel, or lodged in the crevices of other rocks: All bore testimony that they had found gold in greater or less quantities in the numerous small gullies or ravines that occur in that mountainous region. On the 7th of July I left the mill, and crossed to a small stream emptying into the American Fork, three or four miles below the ~~lower~~ mill, I struck this stream (now known as Weber's Creek) at the washings of Snodgrass & Co. They had about thirty Indians employed, whom they pay in Merchandise, They were getting Gold of a character similar to that

found in the main fork, and doubtless in sufficient quantities to satisfy them. I send you a small specimen, presented by this company of their gold. From this point we proceeded up the stream about eight miles where we found a great many people and Indians, some engaged in the bed of the stream, and others in the small side valleys that put into it. These latter are exceedingly rich, and two ounces were considered an ordinary yield for a days work. A small gutter not more than a hundred yards long, by 4 feet wide & 3 or 3 feet deep, was pointed out to me as the one, where two men Wm. Dehy and Perry Mc Coon had a short time before obtained \$17,000 worth of gold. Captain Meber informed me that he knew that these two men had employed 4 white men, and about a hundred Indians and that at the end of one weeks work, they paid off their party & had left \$10,000 worth of this gold. Another small ravine was shown me, from which had been taken upwards of \$12,000 worth of gold. Hundreds of similar ravines ~~have~~ to all appearances are as yet untouched. I could not have credited these reports had I not seen, in the abundance of the precious metal, evidence of their truth. Mr. Meligh an agent of Commodore Stockton had been at work about three weeks in the neighbourhood and showed me in bags and bottles over \$2,000 worth of gold, and Mr. Lyman a gentleman of education and worth, of every credit, said he had been engaged with four others with a machine in the American Fork just below Sults mill. that they worked 8 days, and that his share was at the rate of fifty dollars a day, but hearing that others were doing better at Webers place they had removed there, and were then on the point of resuming operations, I might cite of hundreds of similar instances; but to illustrate how plentiful the gold was in the pockets of common labourers, I will mention a simple occurrence which took place in my presence, when I was at Webers store. This store was nothing but an outcrop of bushes and

which he had exposed for sale, goods & groceries sent to his Customers, A man came in, picked up a box of bedding powders & asked its price. Captain Weber told him it was not for sale, the man offered an ounce of gold, but Captain Weber told him it only cost 50 cents, & he did not wish to sell it. The man then offered an ounce and a half, where Captain Weber had to take it. The prices of all things are high and yet Indians, who before hardly knew what a bunch of cloth was, can now afford to buy the most grand dresses.

The Country on either side of Weber's Creek is much broken up by hills and is intersected in every direction by small streams or ravines, which contain more or less Gold, those that have been worked are barely scratched, and although thousands of ounces have been carried away. I do not consider that a serious impression has been made upon the whole. Every day was developing new and richer deposits, and the only impression seemed to be, that the metal would be found in such abundance as seriously to depreciate in value.

On the 8th of July I returned to the Lower Mines, and on the following day to Sutters; where on the 10th I was making preparations for a visit to the Feather, Yubah and Bear rivers, when I received a letter from Commander A. R. Long, U. S. Navy, who had just arrived at San Francisco from Mazatlan, with a crew for the sloop of War Warren, with orders to take that vessel to the Squadron at La Paz, Capt Long wrote me that the Mexican Congress had adjourned, without ratifying the Treaty of Peace, that he had letters for me from Commodore Jones, and that his orders were to sail with the Warren on or before the 20th of July. In consequence of these, I determined to return to Monterey, and accordingly arrived here on the 17th of July. Before leaving Sutters, I satisfied myself that Gold existed in the bed of the Feather river, in the Yubah and Bear, and in many of the small streams that lie between the latter and the American Fork; also that it had been

found in the Cosumnes to the South of the American Fork. In each of these streams the gold is found in small scales, whereas in the intervening mountains it occurs in coarser lumps.

Remot Mr. Sinclair whose Rancho is three miles above Sutters on the N side of the American, employs about 50 Indians on the North Fork, not far from its junction with the main stream. He had been engaged about five weeks when I saw him, and up to that time his Indians had used simply closely woven Willow baskets. His net proceeds (which I saw) were about \$16000 worth of Gold. He showed me the proceeds of his last week's work, fourteen pounds Avondupeis of clean washed gold.

The principal store at Sutters Foot, that of Brauman & Co had received in payment for goods \$36000 (worth of this gold) from the 1st of May to the 10th of July; other merchants had also made extensive sales. Large quantities of Goods were daily sent forward to the mines, as the Indians heretofore so poor and degraded have suddenly become consumers of the luxuries of life. I before mentioned that the greater part of the farmers and Ranchers had abandoned their fields to go to the mines. This is not the case with Captain Sutter, who was carefully gathering his wheat, estimated at 40,000 bushels. Flour is already worth at Sutters \$36 a barrel, and soon will be fifty, unless large quantities of headstiff reach the Country much suffering will occur; but as each man is now able to pay a large price, it is believed the merchants will bring from Chile & Oregon, a plentiful supply for the coming winter.

The most moderate estimate I could obtain from men acquainted with the subject, was that upwards of four thousand men were working in the Gold district, of whom more than half were Indians; and that from \$30,000 to \$50,000 worth of Gold, if not more, was daily obtained. The entire Gold District with very few exceptions of grants made some years ago by the Mexican Authorities, is owned and belonging to the United States. It was a matter of serious

reflections with me, how I could secure to the Government certain rents of fees for the privilege of procuring this Gold, but upon considering the large extent of Country, the character of the people engaged, and the small scattered force at my command, I resolved not to inter-fer, but to permit all to work freely, unless hoists and crime should call for interference. I was surprised to learn that crime of any kind was very infrequent, and that no thefts or robberies had been committed in the Gold District. All live in tents in bush arbours or in the open air; and men have frequently about their persons thousands of dollars worth of this gold, and it was to me a matter of surprise, that so peaceful and quiet state of things should continue to exist. Conflicting claims to particular spots of ground may cause collisions, but they will be rare, as the extent of Country is so great & the Gold so abundant, that for the present there is room enough for all, still the Government is entitled to rents for this land, and immediate steps should be taken devised to collect them, for the longer it is delayed, the more difficult it will become. The plan I would suggest is to send out from the U.S. Surveyors with high salaries, bound to serve specified periods.

A Superintendent to be appointed at Sutters Fort, with power to grant licenses to work a spot of ground say 100 yds square, for one year at a rent of from 100 to 1000 dollars, at his discretion; the Surveyors to measure the ground, and place the renter in possession.

A better plan however will be, to have the District surveyed, and sold at public Auction to the highest bidder, in small parcels say from 20 to 40 Acres, for either case there will be many intruders, whom for years it will be almost impossible to exclude.

The discovery of these vast deposits of gold has entirely changed the character of Upper California, its people before engaged in cultivating their small patches of ground, and guarding their

Order

herds of Cattle and horses, have all gone to the mines
 or are on their way thither, Labourers of every trade
 have left their work benches and to demand their shops
 Sailors desert their ships as fast as they arrive on the
 Coast, and several vessels have gone to sea with hardly
 enough hands to spread a sail, Two or three are
 now at anchor in San Francisco with no crew on
 board. Many desertions too have taken place
 from the Garrison within the influence of these mines,
 26 Soldiers have deserted from the Post of Sonoma
 24 from that of San Francisco, and 24 from
 Monterey. For a few days the evil appeared so
 threatening, that great danger existed that the
 garrisons would leave in a body, and I refer you
 to my orders of the 25th of July, to show the steps
 adopted to meet this contingency, I shall spare
 no exertions to apprehend and punish deserters,
 but I believe no time in the history of our Country
 has presented such temptations to desert, as now
 exists in California. The danger of Apprehension
 is small, and the prospect of high wages cut away;
 pay and bounties are trifles, as labouring men of
 the mind can now earn in one day more than
 double a Soldier's pay and allowances for a month,
 and even the pay of a Lieut or Captain cannot hire
 a servant, A Carpenter or Mechanic would not listen
 to an offer of less than fifteen or twenty dollars a day,
 Could any Combination of affairs try a man's fidelity
 more than this, and I really think some extraordinary
 marks of favor should be given to those Soldiers who
 remain faithful to their flag, throughout this tempting
 X Crisis, No Officer can now live in California on his
 pay, Money has so little value, the prices of necessary
 Articles of Clothing and Subsistence are so exorbitant
 and labor so high, that to hire a cook or servant has
 become an impossibility, save to those who are earning
 from thirty to fifty dollars a day. This state of things
 cannot last forever, yet from the geographical position

of California, and the new character it has assumed
as a mining Country, prices of labour will always be high
and will hold out temptations to desert. I therefore have
to report, if the Government wish to prevent desertions here
on the part, of men, and to secure Peace on the part of
Officers, their pay, must be increased very materially,
Soldiers both of the Volunteers & Regular service discharged
in this country, should be permitted at once to locate
their land warrants in the Gold District. Many private
letters have gone to the United States giving accounts
of the vast quantity of Gold recently discovered, and
it may be a matter of surprise why I have made no report
on this subject at an earlier date. The reason is, that
I could not bring myself to believe the reports that I heard
of the wealth of the Gold District, until I visited it
myself. I have no hesitation now in saying that
there is more Gold in the Country drained by the
Sacramento and San Joaquin rivers, than will pay
the ^{cost of the} ~~force~~ ^{of the} ~~force~~ was with Mexico a hundred times over,
no capital is required to obtain this Gold, as the
labouring man wants nothing, but his pick & shovel
and tin pan, picks which to dig and wash the gravel
and many frequently pick Gold out of the crevices of
rocks with their butcher knives in pieces from one
to six ounces.

Mr Dye a gentleman residing in Monterey,
and worthy of every credit, has just returned from
Heather River; he tells me that the Company, to
which he belonged, worked seven weeks and
two days, with an average of fifty Indians (washing
and that their gross product was 273 pounds of
Gold, His share, one seventh, after paying all
expenses, is about 37 pounds which he brought with
him and exhibited in Monterey. I see no labouring
man from the mines, who does not show his two, three
or four pounds of gold. A Soldier of the Artillery,
Company returned here a few days ago from the
mines, having been absent on furlough twenty days

It is made by tradings and working during that time 1500 dollars; during these twenty days he was travelling ten or eleven days leaving but a week in which he made a sum of money greater than he receives in pay, clothes and rations during a whole enlistment of five years. These statements appear as incredible, but they are true.

Gold is also believed to exist on the eastern slope of the Sierra Nevada; and when at the mines, I was informed by an intelligent Mormon, that it had been found near the Great Salt Lake by some of his fraternity; nearly all the Mormons are leaving California, to go to the Salt Lake, and this they surely would not do, unless they were sure of finding gold there in the same abundance as they now do on the Sacramento.

The Gold "Places" near the Mission of San Fernando has long been known, but has been little sought for want of water. This is in a spur that puts off from the Sierra Nevada (see Fremont's map) the same in which the present mines occur. There is therefore every reason to believe that in the intervening spaces of five hundred miles (entirely unexplored) there must be many hidden and rich deposits. The "places" Gold is now substituted as the currency of this country, in trade it passes freely at \$6. per ounce; as an article of Commerce its value is not yet fixed. The only purchase I made was of the Specimen No 7, which I got of Mr. Nelligh at \$12 the ounce. That is about the present Cash value in the Country, although it has been sold for less. The great demand for goods and provisions made by this sudden development of wealth, has increased the amount of Commerce at San Francisco very much, and it will continue to increase.

I would recommend that a mint be established at some ^{point} ~~place~~ of the bay of San

San Francisco, and that Machinery and all the necessary apparatus and workmen be sent out by sea. These workmen must be bound by high wages, and men bound to secure their faithful services, else the whole plan, may be frustrated by their going to the mine as soon as they arrive in California. If this course be not adopted gold to the amount of many millions of dollars will pass yearly, to other Countries, to enrich their merchants and Captains. Before leaving the subject of mines I will mention that on my return from the Sacramento, I touched at New Almoder the Quicksilver mine of Mr. Alexander Forbes, Consul of her Britannic Majesty at Loxis. This mine is in a spur of Mountains 1000 feet above the level of the Bay of San Francisco, and is distant in a Southern direction from the Pueblo de San Jose about 12 miles. The ore (Cinnabar) occurs in a large vein dipping at a strong angle to the horizon, Mexican miners are employed in working it, by driving shafts and galleries about 6 ft by 7 following the vein.

The fragments of rock and ore are removed on the back of Indians in raw hide sacks. The ore is then hauled on an ox wagon from the mouth of the mine, down to a valley well supplied with wood and water, in which the furnaces are situated. The furnaces are of the simplest construction, of a cylindrical shape, like a common bake oven, in the crown of which is inserted a Archal's trying Needle; another connects the furnace to the lid. Through a hole in the lid a small brick Channel leads to an apartment or chamber in the bottom of which is inserted a small raw Pottle. This chamber has a chimney.

In the morning of each day the Pottles are filled with the mineral (broken in small pieces) mixed with lime; fire is then applied and kept up all day. The Mercury is

volatilyd, passes into the Chamber, is condensed on the sides & bottom of the Chamber, and flows into the pot prepared for it; no water is used to Condense the Mercury.

During a visit I made last Spring, four such ovens were in operation and yielded in the two days I was there 656 pounds of QuickSilver, worth at May at an $\$1.80$ per lb., Mr. Walpole has the gentleman now in charge of this mine, tells me that the vein is improving, and that he can afford to keep his people employed even in these extraordinary times, This mine is very valuable of itself and becomes the more so, as Mercury is extensively used in obtaining gold, It is not at present used in California for that purpose, but will be at some future time, When I was at this mine last Spring other parties were engaged in searching for veins, but none have been discovered, that are worth following up, although the earth in that whole range of hills is highly discoloured, indicating the presence of the ore. I saw several beautiful Specimens properly labelled, The amount of QuickSilver in Mr. Hale's vats on the 15th of July was but 2500 pounds.

I enclose you herewith sketches of the County through which, I passed, indicating the position of the Mines and the topography of the County, in the vicinity of those I visited.

Some of the Specimens of Gold accompanying this were presented for transmission to the Department, by the gentlemen named below, the notes on the Topographical sketch corresponding to the labels of the respective Specimens, show from what part of the Gold region they were obtained.

1. Captain J. A. Smith
2. John Sinclair
3. Wm. Glover, R. C. Hurly, Ira Blanchard, Levi Kefelds. Franklin & August mormon diggings.

4. Charles Waters
5. Robert Spence
6. Lunol & Co
7. Robt D Delight
8. C C Pickett, American Fort Columbia
9. C C Kemble
10. J H Green, from San Fernando near Los Angeles.

A 2 Oz purchased from Mr Delight

B Sand found in washing gold which contains small particles.

11. Captain Frisbie, Long Digging, White creek.
12. Consumed.
13. Consumed, Hartmills Ranch.

I have the honor to be
Your most Obedt Servt

R. W. Mason
Colonel 1st Dragoon
Commanding

Brig General R Jones
Adjutant General
U S Army
Washington
D.C

Note.

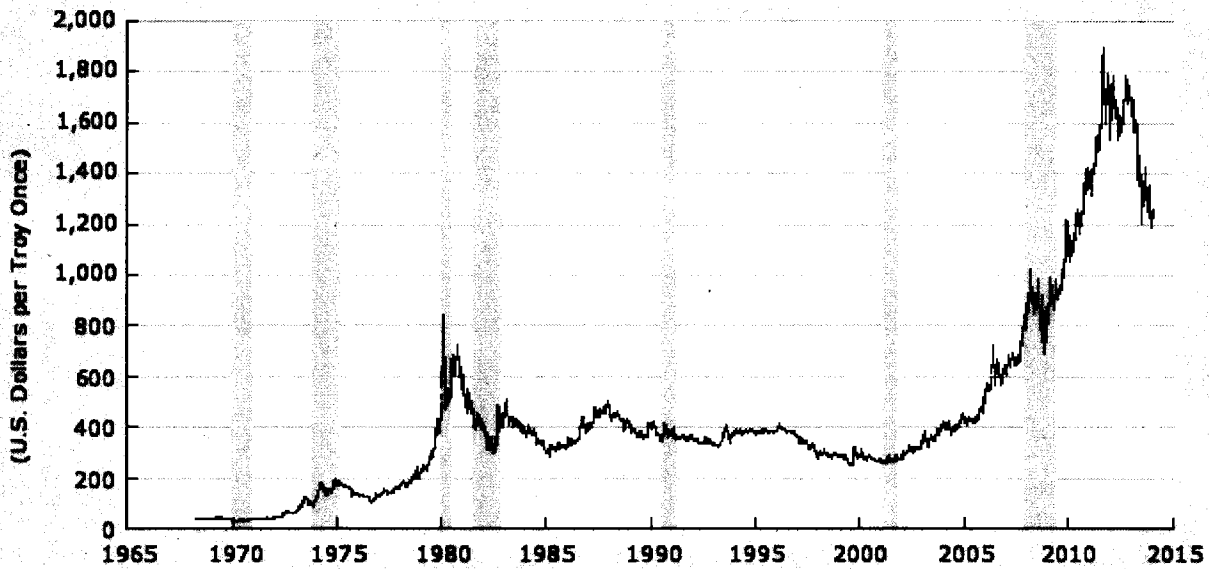
The original letter of which this is a copy was sent to its address, in charge of Sicut C. Loeber 3rd Artillery, Branch of Despatches, who sailed in the Schooner *Cambagecana* from Monterey, August 30, 1848, bound for Payta Peru.

Sicut Loeber bears in addition to the specimens mentioned in the foregoing letter a Sea Caddy containing two hundred and thirty ounces, fifteen pennyweights and nine grains of Gold. This was purchased at San Francisco, by my order, and is sent to you as a fair sample of the Gold obtained from the Mines of the Sacramento. It is a mixture, coming from the various parts of the Gold District.

P. V. Maffin
 W. L. Deaf
 Corvidy

Sent 3rd 10 Mile Sept.
 Monterey Cal. Sept 10. 1848.

Gold Fixing Price 10:30 A.M. (London time) in London Bullion Market, based in U.S. Dollars (GOLDAMGBD228NLBM)
Source: London Bullion Market Association

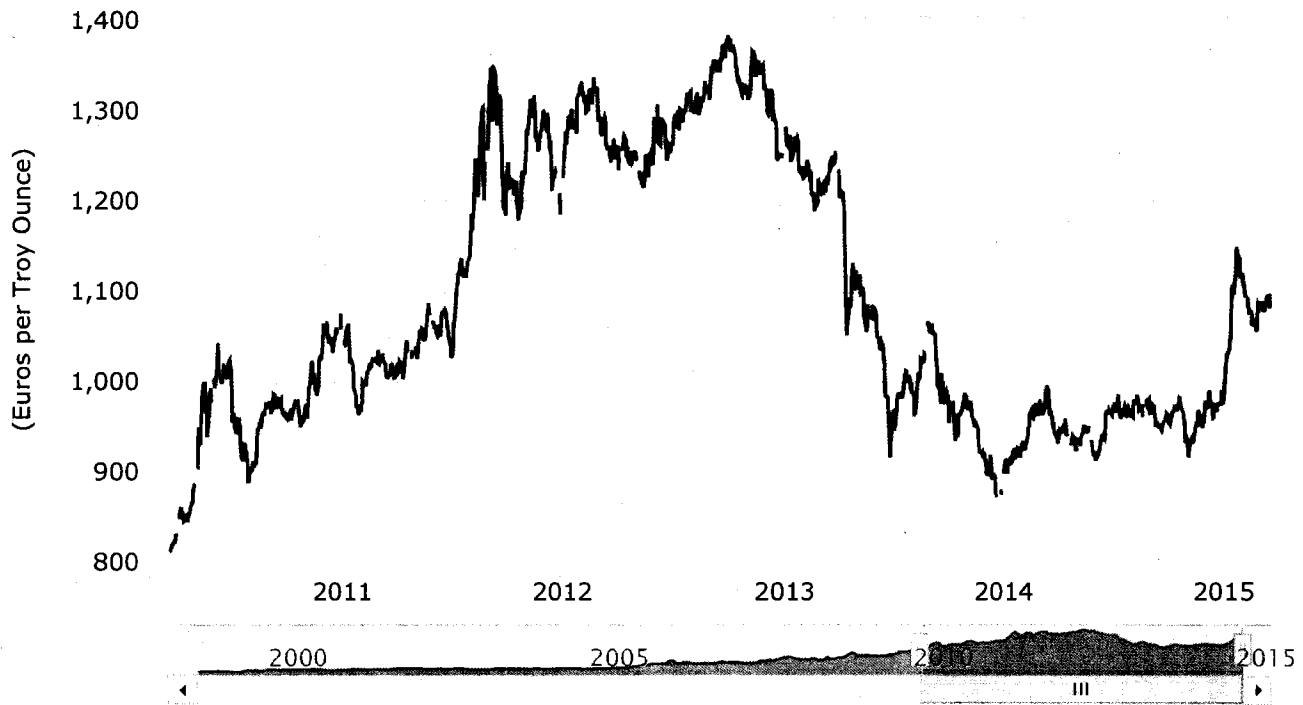


Shaded areas indicate US recessions.
2014 research.stlouisfed.org





— Gold Fixing Price 3:00 P.M. (London time) in London Bullion Market, based in Euros



Source: London Bullion Market Association

Shaded areas indicate US recessions - 2015 research.stlouisfed.org

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

KARUK TRIBE OF CALIFORNIA, and
LEAF HILLMAN,

Plaintiffs,

vs.

CALIFORNIA DEPARTMENT OF FISH
AND GAME, et al.

Defendants.

THE NEW 49ERS, et al., and GERALD
HOBBS.

Intervenors.

No. RG05 211597

ORDER AND
CONSENT JUDGMENT

ENDORSED
FILED
ALAMEDA COUNTY

DEC 20 2006

CLERK OF THE SUPERIOR COURT
By SARA DALLESKE

Deputy

In this action, Plaintiffs Karuk Tribe of California and Leaf Hillman ("Plaintiffs") filed a Complaint For Declaratory Relief against Defendants California Department of Fish and Game and Ryan Broddrick, its Director (jointly "Department"), alleging that Department had violated the California Environmental Quality Act ("CEQA"), Public Resources Code §21000 et seq., and Fish & Game Code §5653(b) in issuing permits for suction dredge mining in certain parts of the Klamath, Scott and Salmon River watersheds, and sought declaratory and injunctive relief. Department initially denied these allegations, but

later filed declarations with the Court stating that, in the opinion of the Department at this time, suction dredge mining in those watersheds is resulting in deleterious effects on the Coho salmon, as alleged in the Complaint. Intervenors New 49ers, Inc. and Raymond W. Koons ("Intervenor Miners") and Intervenor Gerald Hobbs ("Intervenor Hobbs") deny that the suction dredge mining is in any way deleterious to Coho salmon, and deny that the Department's issuance of the permits is or was wrongful.

The Court, having been advised that the parties have consented to entry of order and judgment by the Court, and good cause existing, hereby issues the following order and judgment with the consent of the parties:

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that

1. New information has become available relating to the effect of suction dredge mining on Coho Salmon, which was not reasonably available to Department at the time it completed the 1994 EIR on the suction dredge mining regulations under which permits are currently issued ("1994 EIR").

2. The new information provides evidence, and the Court so finds, that the pattern and practice of issuing suction dredge mining permits under the current regulations could result in environmental effects different or more severe than the environmental impact considered in the 1994 EIR on the Coho salmon, and/or

other fish listed as endangered or threatened after the completion of the 1994 EIR.
(See Public Resources Code § 21166; 14 Cal. Code Regs. §§ 15162-15164.)

3. THEREFORE, the Department is hereby ORDERED to conduct a further environmental review pursuant to CEQA of its suction dredge mining regulations and to implement, if necessary, via rulemaking, mitigation measures to protect the Coho salmon and/or other special status fish species in the watershed of the Klamath, Scott, and Salmon Rivers, listed as threatened or endangered after the 1994 EIR.

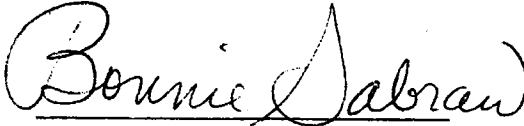
4. Said review and rulemaking is to be completed within 18 months following the date of entry of this Order and Judgment.

5. Plaintiffs' Second Cause of Action, alleging violation of Fish and Game Code §5653, is dismissed without prejudice.

6. Plaintiffs' request for temporary injunctive relief pending further environmental review is withdrawn without prejudice.

7. The Court shall retain jurisdiction of the matter.

12/20/06
Date

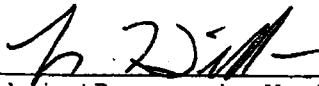

Honorable Bonnie L. Sabraw
Judge of the Superior Court

ACCEPTED AND CONSENTED BY:



Attorneys for Plaintiff, Karuk Tribe of California
and Leaf Hillman

12/18/06
Date



Authorized Representative, Karuk Tribe of California
and Leaf Hillman

12/12/06
Date

Attorneys for Defendants, California Department of
Fish and Game and Ryan Broddrick, Director

Date

Authorized Representative, California Department of
Fish and Game and Ryan Broddrick, Director

Date

Attorney for Interveners, The New 49'ERS and
Raymond W. Koons

Date

Authorized Representative, The New 49'ERS and
Raymond W. Koons

Date

Attorney for Intervener, Gerald Hobbs

Date

Intervener Gerald Hobbs

Date


ACCEPTED AND CONSENTED BY:

Attorneys for Plaintiff, Karuk Tribe of California
and Leaf Hillman

Date


Authorized Representative, Karuk Tribe of California
and Leaf Hillman

Date



Attorneys for Defendants, California Department of
Fish and Game and Ryan Broddrick, Director

12/15/06
Date



Authorized Representative, California Department of
Fish and Game and Ryan Broddrick, Director

Dec 9, 2006 /
Date

Attorney for Interveners, The New 49'ERS and
Raymond W. Koons

Date

Authorized Representative, The New 49'ERS and
Raymond W. Koons

Date

Attorney for Intervener, Gerald Hobbs

Date

Intervener Gerald Hobbs

Date

ACCEPTED AND CONSENTED BY:

Attorneys for Plaintiff, Karuk Tribe of California
and Leaf Hillman

Date

Authorized Representative, Karuk Tribe of California
and Leaf Hillman

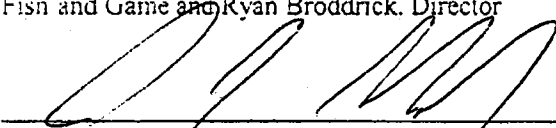
Date

Attorneys for Defendants, California Department of
Fish and Game and Ryan Broddrick, Director

Date

Authorized Representative, California Department of
Fish and Game and Ryan Broddrick, Director

Date



Attorney for Interveners, The New 49'ERS and
Raymond W. Koons

Date

12/12/06

Authorized Representative, The New 49'ERS and
Raymond W. Koons

Date

Attorney for Intervener, Gerald Hobbs

Date

Intervener Gerald Hobbs

Date

ACCEPTED AND CONSENTED BY:

Attorneys for Plaintiff, Karuk Tribe of California
and Leaf Hillman

Date

Authorized Representative, Karuk Tribe of California
and Leaf Hillman

Date

Attorneys for Defendants, California Department of
Fish and Game and Ryan Broddrick, Director

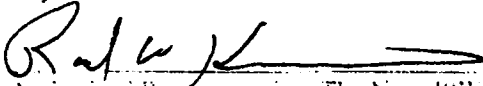
Date

Authorized Representative, California Department of
Fish and Game and Ryan Broddrick, Director

Date

Attorney for Interveners, The New 49 ERS and
Raymond W. Koons

Date



Authorized Representative, The New 49 ERS and
Raymond W. Koons

12-12-06
Date

Attorney for Intervener, Gerald Hobbs

Date

Intervener Gerald Hobbs

Date

ACCEPTED AND CONSENTED BY:

Attorneys for Plaintiff, Karuk Tribe of California
and Leaf Hillman

Date

Authorized Representative, Karuk Tribe of California
and Leaf Hillman

Date

Attorneys for Defendants, California Department of
Fish and Game and Ryan Brodrick, Director

Date

Authorized Representative, California Department of
Fish and Game and Ryan Brodrick, Director

Date

Attorney for Interveners, The New 49'ERS and
Raymond W. Koons

Date

Authorized Representative, The New 49'ERS and
Raymond W. Koons

Date

David Young

Attorney for Intervener, Gerald Hobbs

12/11/06

Date

Gerald E Hobbs

Intervener Gerald Hobbs

12-9-06

Date

1 **PROOF OF SERVICE**

2 I, Nicole Feliciano, hereby declare:

3 I am over the age of 18 years and am not a party to this action. I am employed in the
4 county of Alameda. My business address is Public Interest Law Office, 1736 Franklin Street,
5 Ninth Floor, Oakland, CA 94612.

6 On December 19, 2006, I caused to be served the attached:

7 **ORDER AND CONSENT JUDGMENT**

8
9 BY MAIL. I caused the above identified document(s) addressed to the party(ies) listed below
10 to be deposited for collection at the Public Interest Law Offices or a certified United States Postal
11 Service box following the regular practice for collection and processing of correspondence for
12 mailing with the United States Postal Service. In the ordinary course of business,
13 correspondence is deposited with the United States Postal Service on this day.

14 X By FACSIMILE. I caused the above identified document(s) to be sent by facsimile
15 transmission to the party(ies) listed below at the facsimile number(s) shown.

16 ***SEE ATTACHED SERVICE LIST.***

17 I declare under penalty of perjury, under the laws of the State of California, that the
18 foregoing is true and correct, and that this Declaration was executed at Oakland, California on
19 December 19, 2006.

20
21 
22 _____
23 Nicole Feliciano
24 DECLARANT
25
26
27
28

SERVICE LIST:

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25 David Young
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27 11150 Olympic Blvd Ste 1050
28 Los Angeles, CA 90064
Fax: (310) 575-0311

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

Declaration of Mailing

KARUK TRIBE OF CALIFORNIA, et al. vs. CALIFORNIA DEPARTMENT OF FISH
AND GAME, et al. RG05 211597

I declare under penalty of perjury that I am not a party to this action, and that on or before the date stated below, I caused a copy of ORDER AND CONSENT JUDGMENT to be mailed by United States Mail, First Class, postage pre-paid to the parties listed below:

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David Young
Law Offices of David Young
11150 Olympic Blvd.
Suite 1050
Los Angeles, CA 90064-1817

Executed at Hayward, California.

Dated: Dec. 21, 2006

PAT S. SWEETEN, EXECUTIVE OFFICER/CLERK

by: 
Sara Dalleske, Deputy Clerk