AMENDMENT

Reported by Mr. Stewart, from the Committee on Mines and Mining, to the bill (S. 1103) to define and protect the rights of miners and to encourage the development of mines. Strike out all after the enacting clause and insert the following:

3 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 persons, 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.

1 Sec. 2. And be it further enacted, 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, or copper, subject to the following limitations: Claims located previous to July twenty-six, eighteen hundred and sixty-six, 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 twenty-six, eighteen hundred and sixty-six, 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 twenty-six, eighteen hundred and sixty-six, 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.

Sec. 3. And be it further enacted, 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 com-
mon, 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. And be it further enacted, That where a tunnel
is run for the development of a vein or lode, or for 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.

Sec. 5. And be it further enacted, 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. 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
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 location.

Sec. 6. And be it further enacted, That a patent shall be obtained in the following manner: Any person, association, or corporation in possession of a mining claim or claims in common, who has complied with the mining regulations and the laws of the United States, may file in the local land office an application for a patent showing such compliance, together with a plat of the claim or claims in common; a copy of such plat, together with a notice of intention to apply for a patent, shall also be posted in a conspicuous place on the claim for the period of ninety days. The register of the land office, upon the filing of such application and plat, shall publish a notice, that such application has been made for the period of ninety days, in a newspaper 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 his application, or at any time thereafter within the ninety days of publication, shall file with the register a certificate of the United States surveyor general that one thousand 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 perma-
nent monuments as shall identify the claim and furnish an
accurate description, to be incorporated in the patent. At the
expiration of the ninety 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 ninety 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.

Sec. 7. And be it further enacted, That where an ad-
verse 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 pro-
ceedings in a court of competent jurisdiction to deter-
mine 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 he 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.

Sec. 8. And be it further enacted, 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 for vein or lode claims
upon unsurveyed lands, the surveyor general in extend-
ing the surveys shall adjust the same to the boundaries of
such patented claim, according to the plat or description
thereof, as in other cases of private claims.

Sec. 9. And be it further enacted, 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-six,
eighteen hundred and sixty-six, are hereby repealed, but such
repeal shall not affect existing rights, or prevent claimants
now prosecuting their claims for patents from proceeding un-
der said act: Provided, That this act shall be enforced as to
such claims where it is not inconsistent with the act approved
July twenty-six, eighteen hundred and sixty-six, aforesaid.

Sec. 10. And be it further enacted, 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," ap-
proved July nine, eighteen hundred and seventy, shall be
and remain in full force, except as to the proceedings to ob-
tain a patent, which shall be similar to the proceedings pre-
scribed 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 subdivis-
ions, no further survey or plat shall be required, and joint en-
tries shall be allowed for contiguous claims, as provided in said
act: Provided, That proceedings now pending may be prose-
cuted 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.

Sec. 11. And be it further enacted, 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 to amend an act granting the right of way to ditch and
canal owners over the public lands, and for other purposes,"
approved July nine, 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 one hundred feet of surface on each side
thereof. The balance of the placer-claim shall be paid
for at the rate of two dollars and fifty cents per acre, and
where a vein or lode, such as is described in the second sec-
tion 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
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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 minerals within the boundaries thereof.

Sec. 12. And be it further enacted, 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 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 sur-
vey. 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 ex-
cessive charges for publication, he may designate any news-
paper 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 publica-
tion and surveys, together with all fees and money
paid the register and 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 registers and receivers shall be the same as
in other cases for similar services. But 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 to the Comstock lode, in the State of
Nevada,” approved July twenty-five, eighteen hundred and
sixty-six.

AMENDMENT

Proposed by Mr. Stewart, viz: Insert at the end of the bill the
following:

1 Provided, That nothing in this act shall be construed to
2 enlarge or affect the rights of either party in regard to any
3 property in controversy at the time of the passage of the act
4 entitled “An act granting the right of way to ditch and canal
5 owners over the public lands, and for other purposes,” ap-
6 proved July twenty-six, eighteen hundred and sixty-six, nor
7 shall this act affect any right acquired under said act.
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