AMENDMENT

Reported by Mr. Alcorn to the bill (H. R. 1016) to promote the development of the mining resources of the United States, viz:

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

3 That all valuable minerals 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, 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.

Sec. 3. That the locators of all mining locations hereto-
fore 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 posses-
sion 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: Pro-
vided, 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 sur-
face 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 mouth 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 man-
ner as if no location of the same had ever been made: Pro-
vided, 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 compli-
ance, together with a plat and field-notes of the claim or
claims in common, made by or under the direction of the
10 United States surveyor general, showing accurately the
11 boundaries of the claim or claims, which shall be distinctly
12 marked by monuments on the ground, and shall post a copy
13 of such plat, together with a notice of such application for a
14 patent, in a conspicuous place on the land embraced in such
15 plat previous to the filing of the application for a
16 patent, and shall file an affidavit of at least two persons that
17 such notice has been duly posted as aforesaid, and shall file a
18 copy of said notice in such land-office, and shall thereupon
19 be entitled to a patent for said land, in the manner follow-
20 ing: The register of the land-office, upon the filing of such
21 application, plat, field-notes, notices, and affidavits, shall pub-
22 lish a notice that such application has been made, for the
23 period of sixty days, in a newspaper to be by him designated
24 as published nearest to said claim; and he shall also post such
25 notice in his office for the same period. The claimant at the
26 time of filing this application, or at any time thereafter,
27 within the sixty days of publication, shall file with the regis-
28 ter a certificate of the United States surveyor general that
29 five hundred dollars' worth of labor has been expended or
30 improvements made upon the claim by himself or grantors;
31 that the plat is correct, with such further description by such
32 reference to natural objects or permanent monuments as shall
33 identify the claim, and furnish an accurate description, to be
34 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.

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 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 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 un-
incorporated, 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 con-
strued 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 con-
form therewith; but where a patent shall be issued as afore-
said for claims upon unsurveyed lands, the surveyor general,
in extending the surveys, shall adjust the same to the bounda-
ries 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 pur-
poses," 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
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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 privi-
leges 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 pub-
lic 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 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.

Sec. 11. That where the same person, association, or
corporation is in possession of a placer-claim, and also a
3 vein or lode included within the boundaries thereof, applica-
4 tion shall be made for a patent for the placer-claim, with the
5 statement that it includes such vein or lode, and in such case
6 (subject to the provisions of this act and the act entitled "An
7 act to amend an act granting the right of way to ditch and
8 canal owners over the public lands, and for other purposes,"
9 approved July ninth, eighteen hundred and seventy) a
10 patent shall issue for the placer-claim, including such vein
11 or lode, upon the payment of five dollars per acre for such
12 vein or lode claim, and twenty-five feet of surface on each
13 side thereof. The remainder of the placer-claim, or any
14 placer-claim not embracing any vein or lode claim, shall be
15 paid for at the rate of two dollars and fifty cents per acre,
16 together with all costs of proceedings; and where a vein
17 or lode, such as is described in the second section of this
18 act, is known to exist within the boundaries of a placer-
19 claim, an application for a patent for such placer-claim
20 which does not include an application for the vein or lode
21 claim shall be construed as a conclusive declaration that the
22 claimant of the placer-claim has no right of possession of
23 the vein or lode claim; but where the existence of a vein
24 or lode in a placer-claim is not known, a patent for the
25 placer-claim shall convey all valuable mineral and other
26 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 Gen-
eral Land-Office shall also have power to establish the max-
imum 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 state-
ment 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 respect-
ive 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 prop-
erty 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 hun-
dred 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 Ne-
vada," approved July twenty-fifth, eighteen hundred and
sixty-six.

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 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 pre-
liminary requirements as to survey and notice as are appli-
cable 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 superfcies
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 con-
tained in this act shall be construed to impair, in any way,
rights or interests in mining property acquired under existing
laws.