

**WILSON'S MINING LAWS, UNITED
STATES, ARIZONA, CALIFORNIA,
OREGON, NEVADA AND UTAH,
INCLUDING LAWS TO LOCATE OIL
LANDS; ANNOTATED, AND WITH FORMS**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649009381

Wilson's mining laws, United States, Arizona, California, Oregon, Nevada and Utah, including laws to locate oil lands; annotated, and with forms by Calvert Wilson

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Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

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CALVERT WILSON

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SIXTH EDITION

COMPILED BY
CALVERT WILSON, 1867-
ATTORNEY AT LAW
340 Wilcox Building, Los Angeles, Cal.

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BAUMGARDT PUBLISHING CO.
Los Angeles, Cal.
1914

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Mining Laws of the United States

Title XXXII, Chapter 6, Revised Statutes.

Sec. 2318. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law. 132 Cal. 115, 113 Pacif. 754, 154 Cal. 768, 221 U. S. 452.

Sec. 2319. 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.

As to Aliens—152 U. S. 505. As to Location by Agent—109 Cal. 122. As to Locations on Townsite—115 U. S. 406. Private Corp. can Locate—137 U. S. 168. A Minor can Locate, 72 Cal. 531. Also see 171 U. S. 55; 173 U. S. 439; 175 U. S. 571; 133 Cal. 634; 181 U. S. 519; 183 U. S. 563; 133 Fed. 209; 154 Cal. 768; 10 Cal. App. 440; 149 Cal. 603; 30 Mont. 562.

Sec. 2320. 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 tenth day of May, eighteen hundred and seventy-two, 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 on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

Meaning of Vein, Lode and Ledge—17 Utah 185; 73 Cal. 114; 116 U. S. 529; 167 U. S. 115; 122 U. S. 484; 37 Mont. 138; 29 Utah 490; 43 L. D. 79.

- Discovery—152 U. S. 227; 134 Cal. 585; 94 F. R. 600; 177 U. S. 505; 93 F. R. 612; 167 U. S. 115; 5 F. R. 172; 17 Utah 185; 14 Cal. App. 60; 113 Pac. 162; 196 U. S. 337.
- Willing to Develop—82 Fed; 37 Oregon 185; 29 Utah 490; 197 U. S. 313.
- Length and Width of Location—18 Col. 524; 5 F. R. 172.
- What is Mining Claim—104 U. S. 284.
- Surface Lines—171 U. S. 75; 122 U. S. 484; 104 F. R. 664; 118 U. S. 196; 171 U. S. 293.
- Overlapping Claims—171 U. S. 75; 171 U. S. 83. Gen. 115 U. S. 45; 104 U. S. 279; 94 U. S. 762; 170 Fed. 63.

Sec. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the 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 the case of a corporation organized under the laws of the United States, or of any state or territory thereof, by the filing of a certified copy of their charter or certificate of incorporation. 11 F. R. 125; 130 U. S. 299; 72 Cal. 531.

Supplemented by an act of April 26th, 1882, which provides as follows:

“That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any state or territory.” 22 Stats. at Large, p. 49, chap. 106.

38 Wash. 619; 36 Colo. 122.

Sec. 2322. 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 claims exist on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial and local regulations not in conflict with the 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 such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described through the end lines of their locations, so continued in their

own direction that such planes will intersect such exterior parts of such veins or ledges. And 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.

11 Pac. 77; 11 Pac. 515; 98 U. S. 463; 118 U. S. 196; 116 U. S. 529; 116 U. S. 418; 98 U. S. 453; 29 F. R. 347; 3 Utah 159; 128 U. S. 680; 122 U. S. 478; 114 U. S. 576; 29 F. R. 814; 16 F. R. 348; 171 U. S. 55; 171 U. S. 293; 113 F. R. 900. Right of Possession—104 U. S. 284; 152 U. S. 229; 182 Fed. 675; 85 Pac. 932; 157 Cal. 126; 167 Fed. 681.

Sec. 2323. 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 such tunnel.

4 Cal. 507; 127 U. S. 481; 182 U. S. 500; 167 U. S. 116; 143 U. S. 405.

Sec. 2324. The miners of each mining district may make 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 tenth day of May, eighteen hundred and seventy-two, and until a patent has 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 tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter,

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for each one hundred feet in length along the vein, until a patent has 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 failure and before such location.

Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, 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 of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Tunnel Amendment, February 11, 1875.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section two thousand, three hundred and twenty-four of the Revised Statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stats. at Large, page 315, chap. 41.)

Amendment of January 22, 1880.

"Provided, That the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, Anno Domini eighteen hundred and seventy-two." (21 Stats. at Large, page 61, chap. 9.)

Marking Location—53 Cal. 149; 59 Cal. 614; 119 Fed. 55; 152 U. S. 227; 116 U. S. 418; 113 Cal. 550; 158 U. S. 441; 130 U. S. 291; 14 Cal. App. 60; 48 Ore. 112.

Time to Mark Boundaries—93 Fed. 611; 115 F. R. 531; 129 Cal. 483; 137 Cal. 211.

Permanent Monument—158 U. S. 441; 137 Cal. 212; 130 U. S. 291; 67 Pac. 955; 129 Cal. 436.

- Notice of Location—129 Cal. 350; 123 F. R. 209; 160 U. S. 318; 25 F. R. 596; 113 U. S. 534; 111 U. S. 356; 183 U. S. 563; 134 F. R. 610; 40 Mont. 282; 207 U. S. 1.
- One Hundred Dollars Labor—125 F. R. 147; 97 F. R. 386; 27 Cal. 501; 127 F. R. 611; 132 Cal. 56; 111 U. S. 353. On one for more—109 U. S. 440; 114 Cal. 100; 30 Cal. 431; 104 U. S. 636; 145 U. S. 428; 11 F. R. 677; 24 Mont. 243; 11 Utah 328; 75 Pac. 919; 133 Cal. 510; 130 U. S. 292; 65 Cal. 555; 158 Fed. 667; 164 Fed. 397; 15 Cal. App. 714.
- Forfeiture to Co-owner—194 U. S. 248; 150 U. S. 585; 17 Colo. 243; 173 Fed. 895; 177 Fed. 172.
- Recording Notice—129 Cal. 361; 144 U. S. 658; 117 U. S. 401; 16 Utah 103; 99 U. S. 261; 29 F. R. 814.
- Relocation—65 Cal. 605; 171 U. S. 77; 129 Cal. 350; 58 F. R. 295; 24 Utah 73; 104 U. S. 279; 82 F. R. 554; 65 Cal. 555; 181 U. S. 269; 18 Utah 183; 75 Cal. 284; 134 F. R. 610; 13 Ariz. 331; 96 Pac. 679.
- Generally—60 Cal. 631; 175 U. S. 571; 17 Cal. 107; 14 Cal. App. 60.

Sec. 2325. (Patents for Mineral Lands, how obtained). 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 chapter, having claimed and located a piece of land for such purposes, who has, or have complied with the terms of this chapter, 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, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the 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 such 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