

## MILWAUKIE AND ROCK RIVER CANAL COMPANY.

By the same resolution the adjustment of an account was required between the United States and the Canal Company, wherein the company were to be allowed such sums of money as had been properly expended in the survey and location of the canal, in its construction, as far as that had been done, together with dams, locks, slack-water navigation, and in the management and keeping the same in repair, not exceeding, however, the balance charged against the State after deducting the allowances upon the sale of canal lands, the Commissioner to determine what sums should be credited.

The company presented an account for expenditures amounting to \$153,625 86. Upon the adjustment of that account, the sum found due the company was \$76,492 77; making a difference between the claim preferred by the company and that allowed of \$77,133 09; caused, first, by the exclusion from the official adjustment of \$21,587 32, charged and entered in the account subsequent to the passage of the resolution, for repairs, office rent, services of officers and attorneys; and second, by the non-admission of \$56,545 77, claimed as interest paid from time to time.

Interest, in the first place, forms no part of the cost of survey, location, construction or management of the public works, such being a liability of the company, not an expenditure upon the canal.

In the next place, unless the statute in express words orders the admission of interest, it cannot be allowed by the Executive, such allowance being against the general policy of Congress.

For these considerations, the interest claimed was held inadmissible, and accordingly rejected out of the aforesaid sum of . . . \$101,355 05  
 Constituting the net proceeds of the sale by Wisconsin of the canal lands. Deducting the award made to the company under the joint resolution of . . . 76,492 77

Leaves the amount of . . . 24,862 28  
 the residue of the aforesaid proceeds as public moneys in the treasury of the United States, being the total consideration the government has received on account of the grant, the measure it contemplated having failed, as only an inconsiderable portion of the canal was constructed.

## HARBOR AND SHIP-CANAL GRANT IN MICHIGAN.

By an act approved March 3, 1865, Congress made provision for "granting land to the State of Michigan, to aid in building a harbor and ship-canal at Portage lake, Keweenaw Point, Lake Superior."

The act concedes to the State 200,000 acres in aid of the construction of a harbor and ship-canal to connect the waters of Lake Superior and the waters of Portage lake, to be selected in subdivisions by agent of the State, subject to the approval of the Secretary of the Interior, from any lands in the upper peninsula subject to private entry, the law stipulating that the selections shall be made from alternate and odd-numbered sections of land nearest the location of the canal, not otherwise appropriated, and not from lands designated by the United States as "mineral," before the passage of said act, nor from lands to which the rights of pre-emption or homestead have attached.

Instructions were accordingly issued in April last to the register and receiver at Marquette to facilitate the execution of the law, and these officers have been advised that the odd-numbered sections within the limits of the military wagon road from Fort Wilkins, Copper Harbor, to Fort Howard, Green Bay, in Wisconsin, are not subject to selection under the aforesaid act of March 3, 1865.

## COAL OIL LANDS IN CALIFORNIA AND COLORADO.

The land officers at Humboldt, California, reported in January, 1865, that petroleum or coal oil had been discovered in certain townships, and it was believed that deposits in that section are extensive and destined to become valuable. Information likewise has been received from Denver leading to the belief that such deposits exist also in Colorado. Instructions have, therefore, been despatched, to the effect that it is not the policy of the government to deal with petroleum tracts as ordinary public lands any more than with auriferous or other mineral or salines, and hence the district land officers were required to report the exact description of any and all tracts strictly of the character mentioned, and withhold the same from disposal by the government, unless otherwise specially instructed.

## SUPPRESSION OF TIMBER DEPREDATIONS.

This valuable interest, the protection of which has been incidentally assumed by the department, is becoming daily more important as settlements advance, it being so indispensable in every relation and branch of social industry. For many years the timber region of the west, viewed perspectively by the statesman, was speculatively appreciated, but its preservation from waste was not then contemplated, because of its exhaustless abundance. The progress of civilization westward within the last thirty years, the wants of a teeming population, inventive and industrious, have made such inroads on this great staple, that it became necessary by penal enactment to interdict its waste. Regardless of statutory prohibition, the pressing demand of settlers and the avarice of capitalists laid waste and spoliated immense areas of timber land until the mischievous effects thereof on the interests of private land owners adjacent constrained the latter to invoke the interposition of the department. Various efforts were made to arrest the evil. Prosecutions were instituted, agencies established, large expenditures incurred, but all without the desired results. Combinations were formed between capital and labor. Community of wants, aided by remoteness and beyond the vigilance of executive officers, rendered prosecutions ineffectual and baffled every effort. Even in comparatively well-settled regions local sympathy sealed up the sources of information, and those personally interested to suppress the mischief would sit inactive, mailing complaints to the department a thousand miles off from the scene of depredation. It became necessary to act; a change of system became imperative, and recourse was had to the employes of the government wherever there was no incompatibility of service. The consequence has been that the trespassing is decreased, and in lieu of prosecutions a compromise system has been adopted, thereby effecting a compensatory return for the waste committed without cost to the treasury, securing a fund ample to defray all expenses, with a surplus of \$30,000 deposited in the United States treasury. Experience has taught us that when community interests conflict with law, and public opinion is in conflict with its enforcement, it becomes virtually inoperative. Hence, by other means equally effective, ends unattainable by legal exactions may be accomplished and public and private interests secured.

The department, by a civil procedure, and avoiding criminal courts, has legitimately converted waste timber into a productive fund, and is gradually suppressing an evil hitherto commensurate with the timber domain of the west. No new legislation is necessary. The present laws, discreetly administered, are ample for protection, unless Congress should deem proper by express enactment to give direct sanction to the authority of the Commissioner, now regarded by this office as legitimately incidental, of relaxing or enforcing the penalty im-

posed by the act of March 2, 1831, on such conditions as shall seem meet to him in all cases involving the spoliation of public timber.

In order to arrest the consequence of concealment as to the proprietorship of timber, a provision by law should declare that in all cases where there is probable cause of seizure of timber, the onus of proof of ownership thereof should be thrown upon the possessor. To this no honest dealer could object, as it would enable him to enter market without the fear of being undersold by a fraudulent competitor.

In connexion with the interests of the Central Pacific Railroad Company on the California side, representations were received that saw-mills had been erected and timber depredations committed. Instructions were therefore communicated to the register and receiver at Marysville to protect the public interests in that respect, but permitting pre-emption and homestead settlers to use the timber for building fences and repairs, yet interdicting cutting for market until actual pre-emption, purchase, or consummation of homestead.

The register and receiver have been directed to warn those engaged in saw-mill operations that the law would be rigidly enforced against offenders; at the same time, for the depredation a reasonable stumpage must be exacted. Since then the subject has been again called up, and instructions have been issued to the land officers at Marysville, informing them that the inhibitory law as to trespass, of 2d March, 1831, is explicit, and in its provisions mandatory upon all.

No discretion is given, no conditional provision made, whereby it can be adapted to any exigency beyond its letter, the Executive being estopped at the threshold. The timber belongs to the United States, and no authority to sell or to permit any one to cut or use it exists. Hence the difficulty—either a refusal to relieve the pressing wants of settlers or permission to violate the law. In order, therefore, to meet the exigencies of the case, this office proposed a compromise, substituting a uniform tariff of fees, in lieu of selling the timber seized, mitigating thereby the penalty in consideration of the peculiar local necessities of the settlers.

The arrangement proposed rests on the principle of treating the parties as offenders under extenuating circumstances, and releasing them on conditions ample to meet the exactions of justice—a principle applicable as well *before* as *after* conviction. Hence, while the law is not evaded, nor its violation countenanced, the wants of new settlements are gratified so far as consistent with sound policy and the necessity of the case.

#### RESTORATION OF THE PUBLIC LAND MACHINERY TO THE STATES OF MISSISSIPPI, ALABAMA, FLORIDA, LOUISIANA, AND ARKANSAS.

By the President's proclamation of 13th June, 1865, it was ordered that the laws relating to the Interior Department applicable to the geographical limits of Mississippi be put in force in that State. Accordingly it was recommended that a register and receiver be appointed by the President for the district of lands subject to sale at Jackson, Mississippi, who should be instructed to collect and so arrange the land archives as would enable those officers to administer the public land system within their jurisdiction, and that they should be required to collect and arrange the archives belonging to the other land districts in the same State, and to report which of these should be opened to business, and what consolidation can be made so as to afford reasonable facilities, and secure proper economy.

It was at the same time proposed that registers and receivers should be appointed at Montgomery, Alabama; Tallahassee, Florida; New Orleans, Louisiana; and Little Rock, Arkansas.

Appointments at all the different points mentioned, Jackson excepted, have already been made.

The land officers at Montgomery have entered into satisfactory bonds, and instructions have been communicated to the register, with a view to prompt resumption of business, and the same course of proceeding will be had in order that our land system at an early period may be in full operation throughout the aforesaid States.

#### DISCONTINUANCE AND CONSOLIDATION OF LAND OFFICES.

By the 2d section of the act of 12th June, 1840, it is made the duty of the department to discontinue land offices where the quantity of unsold acres is less than 100,000, and the residue is made subject to sale at some one of the existing land offices most convenient to the district in which the land office shall have been discontinued, of which the Secretary shall give notice.—(Vol. 5, p. 385.)

The 7th section of the act of September 4, 1841, gives authority for the continuance of "any land district in which is situated the seat of government of any one of the States, and for the continuance of the land office in such district, notwithstanding the quantity of lands unsold" may not amount to "100,000 acres, when in" the Secretary's "opinion such continuance may be required by public convenience, or in order to close the land system in such State at a convenient point," under act of 12th June, 1840.

In the general appropriation act, March 3, 1853, (acts, page 194,) it is provided, "that whenever the cost of collecting the revenue from the sales of the public lands in any United States land district shall be as much as one-third of the whole amount received in such district, it shall and may be lawful for the President of the United States, if in his opinion not incompatible with the public interest, to discontinue the land office in such district, and to annex the said district to some other adjoining land district or districts of the United States."—(Vol. 10, p. 194.)

By the act of 3d March, 1855, (vol. 10, p. 244,) the President is "authorized to change the location of the land offices in the several land districts established by law, and to establish the same from time to time at such point in the district as he may deem expedient."

In the act of February 18, 1861, (vol. 12, page 131,) provision is made in relation to consolidating land offices; and by the 5th section of the act of 30th May, 1862, the President, on the recommendation of the Commissioner, approved by the Secretary, "may order the discontinuance of any land office, and the transfer of its business and archives to any other land office within the same State or Territory."—(Vol. 12, p. 409.)

It is important, and recommended, that further legislation be had authorizing the President to modify the boundaries of land districts, so as to enlarge or diminish according to the convenience of the public.

#### LEGISLATION SUGGESTED TO MEET CASES WHERE THE LANDS ARE SOLD OUT IN A STATE.

As land operations may be virtually wound up in a State, it is important that authority of law should be conferred for transferring all the records to the seat of the general government, and that to the Commissioner should be delegated in such cases all the powers possessed by the register and receiver under existing laws.

An enactment to this end will save the salary and incidental expenses of six officers, which may be dispensed with at an early day, and will meet such cases as may hereafter arise from time to time in the closing of public land business within the limits of any State.

## NEW LAND DISTRICT SUGGESTED.

It is recommended that authority of law be given for the organization of land districts in Arizona, Idaho, Utah, and Montana.

In the advance of our people over those distant Territories, such organization is necessary in order to enable them to consummate titles under the pre-emption and homestead laws.

It is not expected that the proceeds from sales will meet expenses for some time to come, yet advantages in the suggested measure are to be realized in extending the beneficent agency of the general government to our people, however distant from the political centre, thus enabling them to realize the benefits of wise and liberal legislation.

## LIMITATION SUGGESTED FOR TAKING APPEALS.

As the law now stands there is no period of limitation for taking appeal from decisions of the Commissioner.

It is true, that when a patent issues the case passes beyond the reach of the department, but prior to that time an appeal may be taken, even though years may elapse from date of entry.

To guard against the evils incident to this, it is submitted that a specified time from date of adjudication by local offices shall be fixed for an appeal to this office, also for taking appeal from the General Land Office decision to the head of the department; and further, that to make an appeal effective, the appellant shall file his affidavit, pointing out the alleged error of fact or of law, and stating that it is not for the purpose of vexation or delay to his opponent.

Lands partaking both of the characteristics of arability and of mineral cases arise in the administration of the pre-emption laws, in which the validity of claims are drawn in question by allegations that the premises are mineral lands. The rule adopted is to order an examination to determine whether the predominating element in value is mineral or arable. If the latter, of course the exception fails; but if in mineral, the pre-emption is rejected, the laws expressly interdicting such lands from pre-emption; and hence, even if a patent should by inadvertence issue embracing a tract more valuable as mineral than for agriculture, it would not vest in the party a valid title.

## TWO AND THREE PER CENT. FUND ON THE NET PROCEEDS OF THE SALES OF THE PUBLIC LANDS.

The account for the five per cent., amounting to \$5,690 28 on this fund, for the State of Wisconsin, has been reported up to 31st December, 1864, to the treasury for payment.

Accounts are in process of adjustment for the amount of such fund as may have accrued to the States of Michigan, Minnesota, Kansas, and Oregon in the year ending 31st December, 1864, and will be reported for payment at an early day. Nothing has accrued to the State of Nevada since her admission into the Union, and for the State of California no provision in this respect has been made. No percentage has accrued to the States of Ohio, Indiana, Iowa, Missouri, Arkansas, Alabama, Mississippi, Louisiana, and Florida since the period of past reported adjustment. In the State of Illinois, claiming the two per cent. under act of 3d March, 1857, an adjustment of the three per cent. on the value of permanent Indian reservation, at \$1 25 per acre, has been made and paid over, nothing further having been found due the State, according to the judgment of this office, under existing laws.

## FEES OF REGISTERS AND RECEIVERS.

The act of Congress approved March 21, 1864, amendatory of the homestead law, limits, by the 6th section, the salary and fees of all registers and receivers to a sum not exceeding \$3,000 per annum; the 4th section increasing their fees in pre-emption cases to one dollar each, under regulations to be prescribed by the Commissioner of the General Land Office.

Pursuant to these provisions an official circular was issued April 18, 1864, authorizing the register to collect the fee of one dollar when a pre-emption "notice" is filed; the receiver's fee to be collected when proof and payment are made.

At the same time it was required of "the register and receiver to account in all cases for pre-emption fees received as revenue, using the form of fee statement already provided," being that which accompanied circular of January 3, 1863.

At the time the circular of 1863 was issued it applied only to consolidated land offices. Now it applies to all land offices, the fees being a part of their compensation, which is not to exceed the \$3,000 maximum, and hence they must be accounted for—must be paid to the receiver as other fees, and credited to the United States in monthly and quarterly accounts.

By the first section of the act of Congress approved July 1, 1864—Statutes for 1864, page 335, chapter 196—it is stipulated that "in the location of lands by States and corporations, under grants from Congress for railroads and other purposes, except for agricultural colleges, the registers and receivers of the land offices of the several States and Territories, in the districts where such lands may be located, for their services therein, shall be entitled to receive a fee of one dollar for each final location of one hundred and sixty acres, to be paid by the State or corporation making such location, the same to be accounted for in the same manner as fees and commissions on warrants and pre-emption locations, with limitations as to maximums of salary prescribed by existing laws, in accordance with such instructions as shall be given by the Commissioner of the General Land Office."

Instructions have been issued to the proper land officers advising them that, under this law, the register and receiver are respectively entitled to receive a fee of one dollar for each final location of one hundred and sixty acres, or any quantity approximate thereto, where the deficit is less than forty acres. That the grantees shall file with the register and receiver lists of the tracts claimed by them as inuring under the grant; the lists to be verified by the agent or attorney. That in the preparation of those lists the register and receiver will afford the agent or attorney all reasonable facilities, but not to the interruption of current public business; the lists to be critically examined by the district officers, their accuracy tested by the plats and records, and when so tested and examined to be treated as a "final location," and are to be so certified to the General Land Office.

These summary proceedings will then authorize the district office to collect the fees; and when the lists are here received, with evidence of the fee payments, such definite action as the law requires will be taken by this office with a view to invest the grantees with complete title. Fees for exemplifications furnished by the General Land Office.

The act of Congress approved July 2, 1864, on this subject, went into effect on July 1, 1865. Accordingly, a system with proper checks has been established, and the proceeds received for such services are promptly paid into the treasury at the close of each month.

## SATISFACTORY SETTLEMENT OF ACCOUNTS.

The accounts of receivers of public moneys, disbursing agents, surveyors general and deputies, are adjusted to recent dates, and it is a source of gratification to report that within a full administrative term not a single defalcation is known to this office.

## EVENTS IN EARLY AND LATER HISTORY INDICATING THE NECESSITY FOR DIRECT COMMUNICATION BETWEEN THE EASTERN AND WESTERN SHORES OF THE CONTINENT AND WITH THE EAST INDIES.

In the earliest period of the history of this continent the statesmen of Europe were alive to the importance of more direct communication with the east, the first discoverer having sailed westward in search of a direct passage to India, and reached in his last voyage the Darien isthmus, yet without seeing the Pacific, which was discovered a few years afterwards by Balboa, one of his distinguished successors. The Spanish captains, under instructions from the Court of Madrid, were actively in search of a passage between the two oceans.

Hernan Cortez having sought information in this respect from the Mexican Emperor, and learned from him that none such existed, was then furnished a chart of the Tehuantepec isthmus.

The distinguished philosopher and voyageur Humboldt, in the early part of this century, invited the attention of statesmen and the trading world to several different localities as channels of communication across the continent. The most northerly was proposed in latitude  $54^{\circ} 37'$ , where he suggested the uniting of the sources of Peace river with those of the Columbia, their sources being seven leagues apart, the Columbia constituting the outlet westward to the Pacific ocean, whilst Peace river, mingling its waters with Slave lake and Mackenzie river, formed the outlet to the Arctic, whence a water communication eastward could be traced to the Atlantic.

The second point proposed, advancing southward, was in the  $40^{\circ}$  north latitude, and this was to be accomplished by uniting the sources of the Rio Grande del Norte—that river flowing into the Gulf of Mexico on the Atlantic side—with the sources of the Colorado, the latter discharging itself into the Gulf of California on the Pacific, the sources of these rivers being thirteen leagues apart.

The third, fourth, and fifth localities, Tehuantepec, Nicaragua, and Panama, the main points which Humboldt suggested for inter-oceanic communication, were those which occupied the attention of the Spanish authorities three and a half centuries ago, and have been the subject of grave consideration from that time to this by eminent men of both hemispheres.

Whilst Humboldt was examining the outline of the continent in view of its commercial relations, President Jefferson planned the national expedition which was accomplished for tracing a route to the Pacific by ascending the Missouri, crossing the Rocky mountains, and descending the Columbia river to the Western ocean. A few years after this exploration, an able English writer, in contemplating the opening of a maritime communication between the two oceans, predicted that the whole of the immense interests which are deposited in the regions of Asia would become augmented in value to a degree which then could not be conceived, by obtaining direct access to them across the Pacific; that the traffic would be immense which would immediately begin to cover that ocean; that all the riches of India and China would move towards America, and the riches of Europe and America would move towards Asia; that vast depots would be formed at the great commercial towns which would immediately arise at the two extremities of the central canal, and that goods would be in a course of perpetual passage from one depot to the other

In latter years the governments of Old Spain, Mexico, France, and England have made demonstrations in this respect in the interests of trade, whilst the subject did not escape the attention of that extraordinary man who now presides with such acknowledged ability over the French empire, and whose views in regard to the Nicaragua canal were published some twenty years ago. The legislative and executive mind of our own country in the years 1835 and 1846 had been occupied with this subject, and negotiations were opened with Central America and Grenada. The war, in the year following, with Mexico was succeeded by the treaty of 1848 with that republic, whereby our boundary to the Rio Grande was acknowledged, and the pre-existing possessions on the distant west so enlarged as to extend from  $32\frac{1}{2}$  north latitude to Puget's sound and the  $49^{\circ}$  parallel, thereby giving us a sea-coast on the Pacific ocean of one thousand six hundred and twenty miles.

By these events the interests of the people of the United States and the Pacific were indefinitely multiplied, and in view of these interests the national energies were put forth to facilitate and quicken inter-communication by land and sea;—the new and wonderful agents of nature, steam and the electric power, in their development, having been brought by American genius into active and general requisition to meet public and individual wants, in the establishment of steam lines on the Atlantic and Pacific, running an aggregate distance of seven thousand miles, breaking bulk at the Isthmus, the narrow neck of land standing as an obstruction to the trade of the world, whilst within our own limits the telegraph does its bidding in placing our people even on the opposite ocean shores in daily intercourse.

Now, in this age of unprecedented progress, what indemnity has the wisdom of the national legislature given to the demands of trade and intercourse, in view of the Isthmian obstructions? The answer is found in the

## RISE AND PROGRESS OF THE RAILWAY SYSTEM UNDER CONGRESSIONAL LEGISLATION.

By an act of Congress in 1850, a grant was made to Illinois to aid in the construction of railroads. It conveyed for the purpose 2,595,053 acres, which have been valued as high as thirty millions of dollars, resulting in an extraordinary impulse to the settlement and prosperity of the State. At the date of the grant nearly half of the public land within the limits of Illinois was vacant and undisposed of. Now, after the lapse of only fifteen years, the United States have virtually retired as a landholder from the State.

By an act of August 4, 1852, the right of way is granted "to all rail and plank roads and macadamized turnpikes passing through the public land belonging to the United States," where the companies may be chartered within ten years from that date; since extended to August 4, 1867.

Congress have likewise granted lands for similar purposes to Mississippi, Alabama, Missouri, Arkansas, Iowa, Florida, Michigan, Louisiana, Wisconsin, Minnesota, and Kansas. These, together with the concessions to Illinois, cover an area, by estimate in round numbers, of forty million seven hundred and forty-five thousand six hundred acres, half of which has already been certified and the titles vested.

In aid of the construction of wagon roads there have been conceded to Wisconsin, Michigan, and Oregon, an aggregate of nearly two and a quarter millions of acres. These grants are, however, secondary in extent to the great Pacific railway routes, which are designed, by two lines some eight degrees of latitude from each other, to span the territories of the Union from near the geographical centre of the republic to the Pacific ocean.

The authority for these concessions is found in the act of Congress approved July 1, 1862, and the amendatory law of July 2, 1864. The first of these routes

having centrality of position, starting from Omaha, Nebraska, is to be formed by the Union Pacific on the eastern or Missouri side, linked to the Central Pacific on the western or Pacific side, constituting one great national route, with a line from the Missouri river at the mouth of the Kansas, in north latitude  $39^{\circ} 20'$ , near the latitude of Washington city, the national metropolis, and of St. Louis, curving northward, takes its westerly course by two branches along the Kansas and Republican rivers, uniting upon the 100th meridian, thence across the plains to Denver, the capital of the new State of Colorado, onward over mountains and through valleys, extending to Great Salt Lake City, in latitude  $40^{\circ} 50'$ . From that point the Union Pacific and Central will traverse Nevada, near the silver region, entering California, and reaching the navigable waters of the Sacramento, in latitude  $40^{\circ} 15'$ , turning southwardly along the valley of that river, *via* Sacramento City, it will extend to San Francisco, in latitude  $37^{\circ} 47'$ . Then the terminus on the eastern or Kansas-Missouri side will have a branch road, now in progress, and the construction of which is aided by a liberal grant, starting from Leavenworth, through Lawrence, in Kansas, to the southern boundary of that State, in the direction of Galveston bay, on the Gulf of Mexico. This road, extended to the latter point, would not only open to our advancing population one of the richest agricultural regions on the continent, but would connect the whole system of railroads north and south, unite them to the great Pacific trunk line, and bind the northern, central, and southern portions of the great valley of the Mississippi by the indissoluble bonds of interest and commerce. Congress has ordered land concessions in aid of the Union Central route, which, by estimate, will embrace some thirty-five millions of acres.

The second of these semi-continental routes is the northern Pacific railway, which will begin at a point on Lake Superior, in Minnesota, in latitude  $47^{\circ}$  north, running thence westwardly between the parallels of  $45^{\circ} 30'$  and  $48^{\circ} 30'$  north latitude, by a serpentine line to Olympia, at the southernmost point of Puget's sound, in latitude  $47^{\circ} 12'$  north, in Washington Territory, the most distant political mosaic block of the republic, with a branch road along the valley of the Columbia river to Portland, Oregon, in latitude  $45^{\circ} 30'$ . The land grant by Congress to accomplish this great work will comprise, by estimate, forty-seven millions three hundred and sixty thousand acres.

A division on the Pacific side of the Central Pacific railway has been actually completed, equipped, and is in running order.

Authentic advices having reached here in March last that the commissioners, under the 6th section of the act of 2d July, 1864, had made report to that effect in regard to the "portion of the line of railroad and telegraph from a point on the east bank of the Sacramento river, at the foot of I street, in the city of Sacramento, California, for a distance of thirty-one consecutive miles eastward," in aid of this part of the work selections in Marysville land district have been returned for the Central Pacific Railroad Company under the grant, accompanied by evidence of the payment of cost of survey, as required by the 21st section of the act of 2d July, 1864, (Statutes, page 365.) and also of the fees allowed the register and receiver by another act of 1st July, 1864, page 335. Accordingly, the department has actually certified by schedule to said company forty-five thousand and some hundred acres, to be followed by a patent investing the company with the fee for all clear lands not mineral in the certified schedule. Lands on the Missouri eastern division of the Union Pacific were withdrawn in 1862, but no action in certifying selections on that side has yet been called for. In March last a diagram was sent to this office, showing the proposed route of the Northern Pacific railroad; but in report of the 22d June last to the Secretary it was recommended by the Commissioner as an indispensable preliminary to the withdrawal of lands to satisfy the grant that there should be required a connected map showing the exact location of the northern route, indicating by flag-staffs the progress of the survey; the map

to be authenticated by the affidavit of the engineers, with the approval of the accredited chief officer of the grantee. When such map shall have been filed, the first step will have been taken with a view to the future satisfaction of the grant, as the work of constructing the Northern Pacific shall from time to time advance over the great region of the Union which it is designed to traverse.

These immense railroad grants, by estimate, embrace the quantity of one hundred and twenty-five millions of acres, exceeding by eight millions of acres the aggregate area of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. These enormous grants are within about a fourth of being twice the united area of England, Scotland, Wales, Ireland, Guernsey, Jersey, the Isle of Man, and islands of the British seas, and less than a tenth of being equal to the French empire proper, with its 89 departments and its 37,510 communes.

Why is it that the Congress of the United States, as the national trustee, charged under the Constitution with the disposal of the public lands, have made grants on such a stupendous scale as this? The answer is found not merely in the indemnifying principle of duplicating the reserved sections, but in the higher purpose of opening speedy communication by the iron railway across the continent to unite the great industrial interests of the Atlantic slope, the valley of the Mississippi, and the declivity from the Rocky mountains to the Pacific, as the accompanying railroad exhibit and maps of such grants may serve to some extent to illustrate.

Forty-odd years ago an eminent French geographer, referring to the then extent and geniality of the United States, declared it a region in which man is everywhere occupied in building houses, in founding cities, in opening new lands, in subjugating nature; that on all sides were heard the blows of the hatchet, the blasts of the forge; that ancient forests were delivered to the flames, the plough passing over their ashes, and smiling cities, temples, and palaces rising up within a short distance of Indian cabins.

The same authority referred to the progress of these States as then unexampled, having risen from the war of the Revolution from thirteen States and two and a half millions of people to twenty-four States with a population of ten millions. Such are the glimpses of a philosophic mind from the Atlantic slope, where the elements of progress were then, and have ever since been, so actively in motion.

What is the condition of things now? The national boundaries have been enlarged, as hereinbefore indicated, by the treaties, not only of 1848, but 1853, with Mexico, and our northern limits on the Pacific side are settled by the treaty of 1846 with Great Britain. Our political communities have advanced from twenty-four to thirty-six States, nine Territories, and the Indian country, whilst we have increased from ten to thirty-four millions.

The people on the shores of the Western ocean are advancing from that side towards the interior, whilst from the Atlantic our people are progressing westward to unite their interests with the millions dwelling in the valley of the Mississippi, the basin of which embraces a million of square miles, capable of supporting a hundred millions of inhabitants; the river, with its tributaries, having a steamboat navigation of 16,600 miles, the great river itself rolling its floods to the ocean, bearing upon its bosom the immense products of this most fertile region, and returning in exchange the diversified productions of other portions of the Union and of foreign countries.

In the zenith of ancient greatness the extreme northwestern limit of the dominions of civilization was fixed in the second century of the Christian era at the wall of Antoninus, a rampart against Caledonian incursions, extending from the Frith of Forth to the Clyde, near the  $56^{\circ}$  parallel of north latitude, in Scotland. The great public highways of that age, issuing, as the historian informs

us, from the Forum, "traversed Italy, pervaded the provinces, and were terminated only by the frontiers of the empire." It linked together cities of ancient Italy, traversed Cisalpine Gaul, passing the Alps, entering Spain, opening the forests of Britain, diverging so as to connect provincial cities of Greece, Asia, and Africa, having been drawn out from the northwest to the southeast at the capital of Judea, a "length of four thousand and eighty Roman," or three thousand seven hundred and nine statute miles. By a comparison of the length of this splendid and enduring work of antiquity, with the enactments in respect to our overland connexions with the Pacific, some idea may be formed of the magnitude of purpose of the American mind in the construction of the two great national railways of an aggregate length of over four thousand statute miles, and which are designed to connect existing highways already traversed by locomotives in every direction of the eastern half of the republic, having in 1864 an aggregate extension of thirty-five thousand miles.

In the administration of the laws making the Pacific grant of the central route the legal rate of the sections retained by the government has been the subject of consideration, resulting in the

DEFINITIVE SETTLEMENT OF THE QUESTION AS TO THE MINIMUM RATE OF THE EVEN OR UNITED STATES RESERVED ALTERNATE SECTIONS ALONG THE LINE OF THE PACIFIC RAILROAD.

In July, 1862, a map was filed in this office of the Leavenworth, Pawnee and Western railroad, now known as "the Union Pacific railroad, eastern division," the company claiming, pursuant to the act of 1st July, 1862, "to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean;" and on the 12th September following, instructions were despatched by the Commissioner to the register and receiver at Junction City, Kansas, in which the several statutes bearing upon the interests of the grant, and of settlers, were carefully considered.

In those instructions the claims of pre-emptors are held admissible where the settlements were made *after* the withdrawal of the lands to satisfy the grant, and *prior* to the final allotment of the alternate sections to the railroad, upon payment at the rate of \$2 50 per acre.

Subsequently, and during the present year, exception was taken to the correctness of our ratability; and in a given case, as the price was not stated in said act of 1st July, 1862, nor in act of 2d July, 1864, a former Secretary sustained the exception, not regarding the lands in question as affected by the act of 3d March, 1853. The General Land Office, however, has relied, as fixing the price of these reserved sections, on the said act of March 3d, 1853, vol. 10, p. 244, for extending "pre-emption rights to certain lands therein mentioned," as follows: "That the pre-emption laws of the United States, as they now exist, be and they are hereby extended over the alternate reserved sections of the public lands along the lines of all the railroads in the United States whenever public lands have been or may be granted by acts of Congress."

The words here used are comprehensive, reaching *retrospectively* and *in futuro*, without any limitation whatever, in fact to all time, with the express stipulation "that the price to be paid shall in *all* cases be two dollars and fifty cents per acre, or such other minimum price as is now fixed by law, or may be fixed upon lands hereafter granted."

The minimum price then fixed by law for railroad reserved sections was two dollars and fifty cents (\$2 50) per acre. Since then neither the said acts of 1862, 1864, nor any other law, has changed the railroad minimum. The established doctrine of this office is that there are two distinct classes of tracts under our agrarian system

1st. The "ordinary minimum" of \$1 25 per acre; and, 2d, the "railroad minimum" of \$2 50 per acre.

These two minimums are everywhere known as separate and distinct from each other in land legislation and land administration.

The term minimum, *railroad minimum*, therefore, as found in the second clause of said act of 1853, should not be confounded with the ordinary minimum, which applies to the great mass of the unreserved public lands, but must, in our judgment, be treated as part of the special matter—railroad tracts—dealt with in the said act of 1853, namely, railroad lands which are fixed at \$2 50 per acre, and that, too, as the law declares, "in all cases," *past and future*.

The importance of the issue to the interests of the United States was set down at over twenty millions of dollars, even if all such lands were disposed of at private sale; but if at public auction, and the coal, useful and precious metals are embraced, the estimate would be immensely increased, because the rate will affect every even-numbered or United States reserved section falling in the belt stretching latitudinally from the Missouri river to the Pacific ocean. By letting down the reserved section to the ordinary minimum, the line which Congress has drawn in legislation between the *ordinary* minimum and the *railroad* minimum would, in the Commissioner's opinion, be obliterated; the indemnity to the United States by the enhanced price of reserved sections, the basis on which such grants were founded, would be at an end; and a principle would be thus overthrown which was strenuously asserted and resolutely insisted upon as the justification for such immense concessions of the public lands. We held, therefore, that Congress, in its wisdom, passed the said act of March 3, 1853, making it of general, nay, universal application, not only for the past but for the future, without limitation of time, so that the principle might be inwrought with all such legislation which might be had, and the question placed beyond doubt or peradventure.

Such were the considerations advanced by the General Land Office in support of its decision, that the true minimum was \$2 50 per acre.

The subject, in another case, has, on appeal, been brought before the present distinguished head of the department, by whom the whole matter was elaborately examined, and the question definitely put to rest by his decision, bearing date August 4, 1865, fixing the ratability of the aforesaid sections at \$2 50 per acre; and this, consequently, so stands as the established and controlling judgment of the department in the premises.

RAILROAD SYSTEM.—IMPOLICY OF ANY DEPARTURE FROM THE PRINCIPLE OF GRANTING LANDS "IN PLACE."

The question has been agitated as to the propriety of change of policy in making grants in aid of the construction of railroads by substituting *floats* or *scrip* in lieu of land indemnity *in place*, when the full complement is not found within the usual lateral limits. In this connexion the result of such departure from the well-established policy of the government is an important consideration, in view of the interests of homestead and pre-emption settlers.

In reference to any such suggested general change of policy, the General Land Office holds that three principal considerations have always been addressed to Congress in favor of this class of grants:

1st. That the grants are for alternate sections "in place" within limited distances of the line of route; that the duplication of the residuary sections in price, and the quickening of public lands, are the considerations to the government, whereby there is not only no loss, but an absolute gain to the United States treasury.

2d. That the facilities afforded by the construction of these routes are of

great public advantage in advancing the column of settlement and civilization more rapidly than it would otherwise progress.

3d. That there is a tender of free transportation for governmental property and troops, and favorable terms for the transit of the United States mails, besides the creation of facilities over lines which could only be constructed with such governmental aid.

By discarding defined limits and the principle of the double maximum in reserved alternate sections, the whole policy of compensation to the government is at once abandoned, and whatever is given without those restrictions is purely a gratuity to the railroad corporation; nor, indeed, can the limits now prescribed by law be much enlarged without, to some extent, disregarding the existing policy to the prejudice of the government.

The second consideration is one that usually awakens high expectations seldom realized, except upon very long lines connecting remote centres of population, and passing over intervening unsettled or sparsely inhabited districts, as was the case with the Illinois Central, and will be with the great Pacific railroad.

Experience has demonstrated that even with full grant of six sections to the mile, roads will not be constructed unless through settlements which may be relied upon for local business, or as connecting links between great centres of trade and population.

It therefore becomes a question for consideration under this head, how far the policy can, with advantage to the public interest, be allowed to drive settlements back from any proposed line of route.

Judging from the roads which have fallen under the Commissioner's observation, he holds the opinion that the public interest would not be advanced by extending the limits beyond those now fixed by law. If upon any part of the line a road gets less land, it is because there is larger population, and consequently more local business; and if on any part of the line more land is obtained, it is because the reverse is true; yet, in every instance, it will be found that the road is first constructed, and best compensating to the stockholders along that part of its line on which little or no public land is obtained.

In all of the country east of the great western plains, almost every quarter section of land is susceptible of settlement and cultivation; and if so settled, a sufficient number of roads would be promptly constructed, even though no aid should be contributed by the government. How, then, can the public interest be promoted by unduly multiplying these enormous grants, and how can such grants be justified at all except upon a few principal thoroughfares, and for the purpose of connecting remote, present or prospective, centres of population? This office is not aware that any material advantage has accrued to the government, although it has no absolute knowledge in the matter under the reservations mentioned in the third proposition, it being generally understood that these roads are dealt with upon the same terms accorded to lines which have never received governmental aid.

The effect upon the homestead settler may be briefly stated as follows:

To the extent of their road limits the railroad company will take every foot of land allowed by the grant, and the homestead settler will, consequently, be driven that distance from the line of road, and generally from settlements, as the road will invariably follow the line of population.

If a float be granted, it will be promptly located upon the best and all of the good lands nearest to the settled portion of the country and to the line of road, and the homestead settler will, consequently, be driven still further back to the full extent of the grant; thus the settler will be compelled to surrender the local advantages of schools, churches, mills, mechanics, wagon roads, and all other necessary and social advantages incident to a well-settled neighborhood, for the prospective advantage of a railroad within twenty, forty, or sixty miles of him,

as the case may be. These are sacrifices which few settlers will submit to, and which cannot be made with advantage to the country.

The undersigned has glanced, without argument, at only a few of the prominent public considerations which it appears to him should weigh against any radical departure from the principles embodied in existing laws. He has not alluded to the advantages of a concentrated population over one sparse and scattered; to the hostile principles between the homestead law and a monopoly of lands which would follow a concession of floats to railroad corporations; nor to the pertinent inquiry whether, in legislation on the subject, the advantages of the settler should not, in all instances, be first considered; nor has he discussed the impolicy of adding to the present large outstanding floating land certificates for taking up the public lands—such as bounty land warrants under various enactments for military services from the Revolution to the year 1855 for indemnity claims under the swamp acts; for internal improvements and the agricultural law; all of which, to a greater or less extent, diminish the field for pre-emptions, homestead settlers, and lessen the public revenue. These are considerations which address themselves with great force to Congress.

The judgment of this office undoubtedly is, that "floats" or "scrip" should, in no instance, be granted to railroad companies; and further, that, except on arid plains which cannot be peopled, or in mountain regions where agricultural lands only to a very restricted extent exist, the maximum limits now allowed by law, in which indemnity selections may be made upon alternate sections, cannot be extended with advantage to the government or people; nor does this office believe that the companies themselves would reap any decided advantage by such extension.

Should this, however, be a mistaken view, it is clear that the advantage should not be conceded at the public expense, nor to the detriment of our frontier settlements.

#### MINERALS

In again referring to the immense value of the mineral deposits within the public domain, it is desired specially to impress upon the department, Congress, and the country, the importance of this source of wealth, its great extent, and the propriety, not to say necessity, of some positive policy in dealing with this interest, instead of the negative one now existing, and which has to this time prevailed.

Partial and very meagre explorations in much the larger portions of the western and Pacific States and Territories afford indubitable evidence of an inexhaustible supply of the precious metals; the annual yield of which in the future is to be restricted only by the limit of the capital and labor employed in their development, which, to a greater or less extent, will be influenced by the policy which shall govern the possession of the mineral-bearing localities. Already vast local interests have grown up in the vicinity of the richer and earlier discovered veins; local usage, in the absence of definitive legislation, has prescribed regulations for the acquisition and disposal of mining rights which ought not and cannot be rudely disturbed without serious detriment to individuals and corporate interests, and corresponding diminution of the product of the localities thus to be affected—results which it is neither the interest nor the purpose of the nation to produce.

In all of the States and Territories in which mining for the precious metals is a leading branch of industry, the local usages have been sanctioned by State or Territorial laws, and sustained by the judicial tribunals of the respective sections. The system thus inaugurated is without that uniformity which national legislation alone can give, yet it is the offspring of necessity, and adapted to the practical wants of each section and district; is interwoven with all the business

interests of the people, and has to this time resulted in great individual prosperity and rapid development of the mineral resources of the country. Under this system no compensation is rendered by individuals or demanded by the government for the possessory right, and no title is acquired by individuals or parted with by the United States. The laws and theory are, that the mineral lands are the property of the nation, and cannot be sold or disposed of under existing legislation. The practice is, that each discoverer has a claim to so much as the miners' laws of the district shall prescribe, with the exclusive right to work or dispose of the possessory right, which is daily done, with confidence in the titles, which are passed from hand to hand, and at prices ranging from a few cents to six or eight thousand dollars a lineal foot along the vein or lode.

Incident to this system are immense expenditures for opening the mines; the excavation of shafts, tunnels, and chambers; the construction of roads over lofty mountains, deep valleys, and streams; the erection of ponderous and expensive machinery; the construction of vast canals; the creation of towns and cities in desert places, in advance, too, of the public surveys and the introduction of the ordinary machinery of civil government. Such are some of the results which have been produced by the restless energy of our people—the anxiety for the precious metals, the stimulant of rich discoveries, and the free occupation accorded to the miner by the negative policy of the government.

These improvements have been carried into and over the mountains, ravines, and rivers of California, Nevada, Arizona, New Mexico, Colorado, Utah, Montana, Idaho, Oregon, and Washington, and with them population has entered the remotest valleys and recesses of mountains wherever the existence of the precious metals has been ascertained.

The necessities which the war for the preservation of the Union has created will still further stimulate the acquisition of the precious metals and their accumulation in the country, thus enlarging the metallic basis for our national currency, whilst the resistless spirit of adventure of the millions of men who have been in arms during the last four years will find occupation in the construction of the great iron pathway across the continent, and in searching for and bringing to light and use the immeasurable hidden treasures contained within the mountain ranges which span our country from north to south, and extend from the great plains to the Pacific.

The elements essential to the continued and rapid increase of the products of the mines are security in possession under some permanent and well-regulated system, and the early extension and multiplication of railroad communications from ocean to ocean and with the interior of the continent. The improvement of the great navigable rivers which find their sources in the vicinity of those mineral deposits is also essential, with the construction of some leading wagon-roads and post routes on the important lines where railroads cannot at present be constructed, and where rivers do not furnish the requisite facilities for transportation; and also the establishment of military posts, of such number and strength as will furnish adequate security to persons and property on the lines of travel and throughout the whole mineral region.

Kansas, Colorado, Utah, Nevada, and California, through which will pass the lines of the Central and Union Pacific railways, are known to contain immense deposits of iron and coal, thus furnishing the material, in great abundance and of superior quality, for both constructing and working railways to any conceivable extent. New Mexico and Arizona are likewise rich in these essential minerals, and those Territories should be encouraged by the aid of liberal grants of the public domain to connect them with the great trunk road by lateral branches.

Montana, Idaho, and eastern Oregon and Washington, equally rich in both the precious and useful metals, present similar claims for consideration, and promise like liberal returns in the yield of their mines and forests. If efficient

measures are not early adopted for the extension of the Northern Pacific railroad, land concessions should be made for connecting these localities with the great trunk of the Pacific road.

Fears have been entertained that, considering the great extent of mountain and inarable land along the central portion of the line of the Pacific railroad, freights from the centre towards the ocean termini would be inadequate for the support of such length of line. Experience will demonstrate that the outward will exceed the inward freights for all time after the completion of the route. The richer ores, containing gold, silver, copper, quicksilver, tin, with salt, alkali, iron, cotton, wool, lumber, and other products of the interior region, seeking an outward market, will always exceed the inward flow of merchandise, machinery, and manufactures of every kind. The great bulk of inward transportation at the present time consists of articles of food, tools, and machinery, which will be furnished in the vicinity of the mines as soon as the resources of the country are better understood, and the necessary capital and higher cultivation introduced, both of which will keep pace with, if they will not be in advance of, the construction of the road. The agricultural and pastoral capabilities of the larger portion of the region in question, fully developed, are equal to the support of a dense population; and the vast water-power created by its mountain torrents in all the northern portions will afford extraordinary manufacturing facilities.

Interests so immense, so intimately interwoven with the pursuits of our people, so essential to an adequate increase of the proper currency basis of the country, affording so extended a field for the enterprise of our citizens, and with necessary development a solid basis for national credit and commercial ascendancy, it would seem, should receive the fostering care of the executive and legislative mind, and be placed upon such fixed and solid foundation as will secure to individuals the permanent enjoyment of the legitimate fruits of their labor and enterprise, and to the country the enduring advantage and supremacy which the possession of such resources should command.

Schemes for the disposal of the mineral lands, varied and numerous as the combinations of interests directed to their acquisition, will be presented for the consideration of the legislative department; and each will be urged upon public attention with all the fervency which can be inspired by the magnitude of the matter involved, than which none greater in a pecuniary sense ever existed. The ostensible purpose of all parties will be to fill the public treasury with the golden product.

Prominent among these, and the measure that will be urged with the greatest tenacity of purpose, the most importunate argument, and extravagant promises of astounding results to the treasury, will be the project for the survey and sale of this class of lands.

In the discussion of such plans, it should not be forgotten that the policy of deriving direct revenue from all other portions of the public domain has been abandoned by the adoption of the homestead principle in favor of actual settlers, and the bestowal upon States and corporations of extensive grants for purposes of education, internal improvement, and drainage; that these grants already cover an extent greater than the original thirteen States; and that, considering the Pacific States and the new Territories, the system is but half developed. Other land concessions, equally great, must, in pursuance of this policy, be made to the auriferous States and Territories.

Such being the established views of the government in relation to its arable and swamp lands, the question naturally arises with the masses of the people directly interested, being the miners and those to become such, upon what principle of public justice or sound policy are they alone required to contribute beyond those engaged in other pursuits?

In this connexion the fact is also presented, that of the million of square



miles over which this great mineral wealth is scattered, not to exceed a hundredth part is mineral-bearing to an extent that is compensating to labor and capital. The small portion which is mineral-bearing can only be definitely ascertained by expensive explorations, and no inconsiderable portion of the non-mineral-bearing area is utterly worthless for all other purposes.

To what extent, by any system of subdivision and sale, are the purchasers expected to pay for the worthless portion?

Is it rational to suppose it will be done to an extent that will defray the great expense of any system of surveys over these almost inaccessible mountains and defiles?

If the worthless will not sell, what price is to be attached to the strictly mineral-bearing areas?

How are these particular subdivisions to be ascertained?

If by the government, the cost will be enormous, far greater than any minimum which will be established. If by individual exploration, is the explorer not to be given a preference right to purchase for the risk and outlay of labor and capital?

If not, their exploration will be deprived of its principal stimulant, and consequently sales will cease, except at a very low minimum—so low as not to justify individual risk—whilst aggregate receipts will be diminished to less than the cost of administering the system.

The experience of nearly twenty years has demonstrated the fact that valuable discoveries have invariably been the result of accident or individual enterprise; that in no instance has the large public expenditure for surveys and explorations of the region in question resulted in bringing to the knowledge of the public the exact locality of valuable deposits of the precious metals.

Again: the value of the mineral deposit is not estimated or determined like that of arable lands, by the superficial area included in any subdivision, but by the richness of the deposit, and its perpendicular, lateral, and lineal extent far beneath the surface—it may be one hundred or fifteen hundred feet—to be ascertained, in either case, by years of labor and corresponding outlay of capital.

Until some approximate estimate can be reached, by what rule can any minimum be established which shall either serve as an indication of value, be compensating to the government, or bear any equitable ratio between the various localities?

If an explorer shall discover a valuable deposit he will not make the fact known to the representative of the government until he has become the purchaser and owner of the land, and therefore all lands valuable for mineral, the character of which has not been established prior to the time when they shall be opened for sale, will be purchased at the ordinary rate, which must be a very low minimum, and consequently the title will pass from the United States, without reference to the tract, either as extremely valuable or very inferior mineral location.

It may be said that many poor locations will be sold which will compensate for the sale of a few good ones at a low price. This is presupposing that the individual who pays his money will be equally as indifferent as the government, which only parts with a few acres of its vast domain, of the value of which it has and can have no exact information.

In practice this will seldom occur; and even if it should, the advantage to the government resulting from driving a hard bargain with one of its citizens is hardly conceivable. Clearly, the more numerous this class of cases the less benefit will it be to the country.

This brief allusion to some of the difficulties to be met and overcome in inaugurating any equitable and profitable system for the sale of mineral lands is presented in order that, so far as it can be done, these difficulties may be con-

sidered and, if possible, avoided. Should such a policy receive the sanction of Congress?

In the absence of legislative direction or restriction beyond the simple prohibition of survey and sale of this class of lands, the necessities of the mining population have induced the establishment of local systems for the distribution of mineral discoveries and the protection of claimants in possessory rights by discovery or purchase, to the extent allowed or prescribed by regulation in the respective localities.

At first these regulations were few and simple, binding only upon the parties participating in their adoption, and limited in their application to the particular bar, gulch, or placer, upon which the miners enacting the same happened for the time being to be operating. They were applicable alone to the placer mines, the only class worked in the first instance.

The rapidity with which these localities were exhausted, the migratory habits of miners, and the varied and uncertain extent of this kind of mining, would have prevented these regulations from assuming any uniformity of character or permanently binding authority, had not the labor of our people been directed to the opening and working of the heavy hill placers and the rich quartz veins or lodes. In these was found more permanent mining property, the successful development of which required time, the erection of expensive works as canals, and mills, and withal security of title under fixed and equitable rules of distribution.

It is scarcely possible that the duty of prescribing these regulations, with such certainty of advantage to the country and justice to the parties immediately interested, could have been placed in any other hands so competent as the practical, well-informed, interested and self-constituted body of miners who voluntarily assumed the task.

The regulations thus established have been gradually improved by additions and amendments, suggested by experience and imposed by necessity, until they have reached the dignity and authority of well-defined and acknowledged laws, binding and enforced over the entire mineral region by the local, legislative, executive, and judicial authorities of the respective States and Territories, controlling the possession and distribution of a vast property, and the business relations and prospects of more than one hundred and fifty thousand of our most enterprising and deserving citizens.

The wisdom and fitness of these regulations are best determined by the results: these are seen in the more rapid development of the mines of this than those of any other country, ancient or modern; in the steadiness and regular increase of the product; in the progress of new discoveries; in the readiness of capital to invest in this branch of industry; in the general prosperity of the mining population; in the growth and establishment of new States and Territories distant from the marts of commerce and channels of communication; in the vast wave of population from the agricultural to the mineral region; in the construction of roads and establishment of post routes; in the great project of the Pacific railway; and the maintenance of the public credit against the judgment of foreign nations, and beyond the expectations of our own people.

It must be clear to even the most superficial observer that a system so interwoven with the material interest of the country—upon which rests the whole industrial and business fabric of the mining communities, with roots and branches in all our commercial cities—should be considered and continued or provided for in framing any law for the disposal of, or in relation to, the public property, embracing mines of the precious metals.

The existing system, the result of local necessity, bears analogy to the homestead policy applicable to the arable portions of the public domain, with this difference, that it does not, of course, give promise of ultimate title in fee as the

reward of occupancy and improvement, yet it contemplates the equivalent of undisturbed possession so long as occupancy and improvement shall be continued.

Undoubtedly the miner's system of laying off, distributing, and limiting claims is one of the best if not the only practical and equitable one which can be devised. It is adapted to the formation, takes hold of and deals with the precise property, follows the line of deposit, and limits the acquisition to a reasonable extent, and to the continuous working of the same. The objection to which this system will be made liable by the advocates of survey and sale is, that it makes no compensation to the government for the possession, nor for the mineral value extracted. It is not the sum that may to-day be placed in the treasury as an equivalent for the possession of a few hundred feet, more or less, of any rich or any undeveloped mineral lode which determines its value to the nation, but the permanence and extent of the annual product, the number of persons it can profitably employ, their prosperity, and the contribution they can annually make to the aggregate wealth of the country. To capitalize this vast property at this time is impossible; and it is worthy of consideration whether appropriate measures to that end can be devised with the imperfect data at hand as to the extent, locality, and relative value of the various known and unknown deposits. How far the existing system can, with judicious modifications, be made applicable to the production of national direct revenue without oppressing the mining communities, and what modifications would be required to make it acceptable to the country and justify its adoption in lieu of a system of survey and sale, are questions referable to the future, and to be settled only by careful observation within the mining districts, and in view of actual mining operations. In any event, it becomes the nation to suggest and provide for gathering and systematizing accurate information and representations of the products, capabilities, wants, and usages in the mining States and Territories. When this shall be done, the way will be plain for the inauguration of a system which shall be beneficial alike to the mining communities and the nation at large. Until then, it is more than probable that any plan which may be devised will be found oppressive to the one, or disadvantageous to the other of these interests. With well-organized authority at the seat of government, and even very limited encouragement for the formation of voluntary central organizations in the States and Territories having branches in each mining district or locality, it is believed that accurate information and full representations by geological and mineral specimens could be promptly and economically gathered from all sections of the country.

To this end, the organization of an institution at the seat of government is hereby recommended. By such a system commendable emulation would be aroused in every district, and with every interest. Individual and associated effort would be combined with that of the government, reciprocally aiding each other. The results in a few years would be realized in the receipt and dissemination of exact information of the mineral product and resources of the whole country, and in the accumulation at the national capital of a geological and mineral cabinet, which, while it represented only our own country, would not be excelled in richness or variety by any similar collection on the globe. Such an institution should also have the capacity to collect, in process of time, the manufactured products of the mines in all the various stages of advancement, from the crude to the most highly finished and valuable, the whole forming a grand practical study for the student, the experienced scholar, the artisan, and statesman.

All of which is respectfully submitted.

J. M. EDMUNDS, *Commissioner.*

Hon. JAMES HARLAN,  
*Secretary of the Interior.*

*Tabular statement showing the number of acres of public lands surveyed in the following land States and Territories up to June 30, 1864, of public lands and private land claims during the last fiscal year, and the total of the public lands surveyed up to June 30, 1865, and also the total area of the public domain remaining unsurveyed within the same.*

Land States and Territories.	Number of acres of public lands surveyed up to June 30, 1864.	Number of acres of public lands surveyed within the fiscal year ending June 30, 1865.	Total of the public lands surveyed up to June 30, 1865.	Total area of private grants surveyed within the fiscal year ending June 30, 1865.	Total area of the public lands remaining unsurveyed June 30, 1865, including private claims surveyed but not yet fully reported.
Wisconsin .....	33,018,805	721,826	33,740,631	.....	770,729
Iowa .....	35,630,898	.....	35,630,898	.....	.....
Minnesota .....	21,035,594	*419,208	21,454,802	.....	30,024,440
Kansas .....	14,578,920	183,661	14,762,581	.....	37,280,939
Nebraska Territory .....	11,907,517	1,262,784	13,170,301	.....	35,466,499
California .....	26,762,049	246,268	27,008,317	†38,700	74,670,345
Nevada .....	451,407	.....	451,407	.....	51,733,553
Oregon .....	5,249,838	199,028	5,448,866	.....	55,509,860
Washington Territory .....	3,123,431	210,471	3,333,902	.....	41,462,258
Colorado Territory .....	592,040	605,281	1,197,321	.....	65,774,971
Utah Territory .....	2,425,239	.....	2,425,239	.....	65,659,241
Arizona Territory .....	.....	.....	.....	.....	80,730,240
New Mexico Territory .....	2,293,142	.....	2,293,142	.....	75,275,498
Dakota Territory .....	1,431,630	313,251	1,744,881	.....	152,237,199
Idaho Territory .....	.....	.....	.....	.....	58,196,480
Montana Territory .....	.....	.....	.....	.....	92,016,640
Total .....	158,500,510	4,161,778	.....	33,700	.....

\* Of which 172,208 acres are Dakota or Sioux Indian lands surveyed under the provisions of the act of Congress approved March 3, 1863.—*Statutes at Large, vol. 12, p. 819.*

† Yo-semite valley and Mariposa Big-Tree grove, granted to the State of California by act of Congress approved June 30, 1864.

DEPARTMENT OF THE INTERIOR,

*General Land Office, September 30, 1865.*