REPORT

FROM

THE SECRETARY OF THE TREASURY,

IN COMPLIANCE

With a resolution of the Senate of the 12th March last, in relation to the settlement of the mining country in the Territory of Wisconsin, and State of Illinois.

MAY 2, 1838.

Read, and ordered to be printed.

TREASURY DEPARTMENT,
May 1, 1838.

SIR: In obedience to a resolution of the Senate of the 12th of March last, I have the honor to submit the accompanying report from the Commissioner of the General Land Office, received this morning. It is believed to embrace all the useful information to be procured, without much longer delay, on the subject of the public lands in the mining country in the Territory of Wisconsin and the northern part of Illinois, called for by said resolution.

I am, respectfully,
Your obedient servant,
LEVI WOODBURY,
Secretary of the Treasury.

Hon. R. M. JOHNSON,
Vice President of the United States,
and President of the Senate.

GENERAL LAND OFFICE,
April 30, 1838.

SIR: In compliance with your request to procure and report information in relation to the subject of the resolution of the Senate passed on the 12th ultimo, in the following words:

"*Resolved*, That the Secretary of the Treasury be requested to procure and communicate to the Senate such information as he may be enabled conveniently to obtain, relative to the situation of the settlers on the public lands in the mining country in the Territory of Wisconsin and northern part of the State of Illinois; the tenure by which the miners hold their lots

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or claims; the situation of such purchases as have been made in the mining district for which patents have been withheld; and generally any information that may enable Congress to decide what course ought to be adopted in relation to the public lands in the mining country," I have the honor to state that, with the view of obtaining information from an experienced source, and by the advice of the honorable mover of the resolution, I addressed a communication to John P. Sheldon, Esq., register of the land office at Mineral Point, Wisconsin, requesting him to communicate such information touching the subject matter of the resolution as his long acquaintance with the mining country alluded to would enable him to afford; and in reply whereto he has furnished the report which I have now the honor to present to you, accompanied by the draught of a bill intended by him to meet the exigencies of the subject. In case there should be a disposition in Congress to recognise the main principles of Mr. Sheldon's bill, I also submit another bill prepared at this office, (under a belief that it is more simple and less difficult of execution in some respects than that proposed by the register,) in which it will be perceived that the minimum price is left blank, under the conviction that the ordinary minimum designated in the former bill is an inadequate consideration for those lands.

The particular process, however, by which the mineral lands are to be ascertained and officially determined to be such, in order to the public sale thereof, under the first section of the act, is a matter respectfully submitted for consideration.

On proclaiming for public sale the lands in the Mineral Point district in Wisconsin, it was designed to reserve all tracts of land on which lead mines or diggings were indicated to exist by the official plats of survey, together with such other tracts, as from satisfactory evidence to be adduced to the register of the land office prior to the day of sale, should be shown to contain lead mines or diggings, as will be seen from the accompanying copy of the first proclamation herewith submitted. The land officers were also instructed to reserve from sale all lands which, prior to the sale, should be reported to them by the superintendent of lead mines. I beg leave to refer to Mr. Sheldon's report for a statement of the reasons which induced them to deviate from the instructions. In pursuance of the rules adopted by the officers, they appear to have admitted entries of upwards of six hundred tracts of lands embraced by the superintendent's list, among which is a large number of pre-emption rights, all of which appear to have been allowed on affidavits filed tending to show that the lands *did not contain lead ore;* and on which the patents, although mostly all prepared, except in cases of pre-emption, have not yet been issued from the office.

With great respect,
Your obedient servant,
JAS. WHITCOMB,
Commissioner.

The Hon. LEVI WOODBURY,
Secretary of the Treasury.

WASHINGTON, D. C., *March* 23, 1838.

SIR: Your letter of the 15th, enclosing the resolution of the Senate of the 12th instant, requesting information from the Secretary of the Treasu-

ry, "relative to the mining country in Wisconsin, and the northern part of Illinois," &c., would have received immediate attention had my health permitted.

The mining country in the northern part of Illinois, and in the Territory of Wisconsin, east of the Mississippi river, is included (as indicated by present discoveries) in the following boundaries: commencing at a point on the Mississippi, eighteen or twenty miles south of Galena, and running east about thirty-six miles, to the line dividing ranges numbered 8 and 9; thence north, about sixty-five miles, to the line dividing townships numbered 6 and 7; thence west seventy-five miles, to where said township line strikes the Wisconsin river; thence with that river and the Mississippi, to the first named point. In Illinois, the mining country lies wholly in the country of Jo Daviess, in the district of lands subject to sale at Galena; in Wisconsin, on the east side of the Mississippi, it is embraced by the boundaries of the district of lands, subject to sale at Mineral Point. On the west side of the Mississippi, lead ore has been discovered in the tract of country extending north and south about thirty-five miles, and lying between the waters of Turkey and Big Maquokatai rivers; the main diggings, however, are adjacent to the Mississippi, and near the towns of Dubuque and Peru.

The mining country east of the Mississippi was opened to those who were disposed to embark in the business of mining as early as 1821, and a superintendency was established at Galena. The returns from the superintendent show that from 1821 to the 30th September, 1835, there had been manufactured 70,420,297 pounds of lead. The rent paid to the Government by the manufacturers, to the 1st of January, 1830, was ten per cent. on the amount made, and yielded 4,168,433 pounds. Subsequently the rent was reduced to an average of five and a half per cent., and to the 30th September, 1835, amounted to 1,582,477 pounds. Estimating the amount of lead at four cents per pound, (which is the usual price at Galena, when the article commands six and six and a half cents at New York,) the sum received and due to the Government would be $230,036. The amount due on the 30th September, 1835, was but 493,313 pounds, a portion of which may have been collected since that period.

The mining country east of the Mississippi, in Illinois and Wisconsin, was opened to the miners and smelters of lead ore, under the authority conferred upon the President of the United States, by the act of the 3d March, 1807, which empowered him to lease lead mines, &c., and to make conditions therefor. The regulations or conditions for the government of the lead mines, were few and simple, and the miner was required to subscribe to them before he was permitted to mine, or dig for lead ore. To secure to the Government a rent for the lead ore, produced from the public lands, these conditions, among other stipulations, bound the miner to sell his ore to a licensed smelter, who, by the terms of his license, paid to the Government, through the superintendent, an amount of lead proportioned to the quantity manufactured. The smelter of lead ore was required to renew his lease or license to smelt at the end of a year, and, on taking or renewing a license, he entered into bonds in the sum of ten thousand dollars, conditioned to pay the rent lead, &c., agreeably to the terms of the license. He was permitted to use the public timber for smelting, &c., and for this purpose, a portion of timbered land was allowed him. In this manner, the rent was secured, indirectly from the miner, through the smelter.

From the returns of lead, made previous to the year 1827, it would appear that but few persons had embraced the invitation of the Government to engage in the business of mining; for the whole amount made, up to the 30th of September, 1826, was only 2,133,722 pounds. The following year, however, indicated a great and favorable change; the value and importance of the mining interest began to be known, and hundreds of industrious citizens ventured their all in the business; some succeeded well, while others were unfortunate. In this year (1827) the returns show the amount made to be 5,182,180 pounds. The emigration to the mining country continued to increase, during the years 1828 and 1829, and every new development of the mineral treasures of the country seemed to give additional energy to the labors and enterprise of the miners; so that in the former year, the amount of lead made arose to 11,105,810 pounds, and in the latter to 13,343,150.

From 1829, however, the amount of lead made decreased, mainly in consequence of the sufferings of the miners during that year, and a portion of 1830. The price of lead declined, while provisions of all kinds were enormously dear. Many miners, who had exchanged their mineral for lead, sold the latter for $1, and sometimes for less than $1, per hundred, and took in exchange flour at $20 and $25 a barrel. Many were forced by their wants to leave the country, while others turned their attention to agriculture; and in 1830, the returns showed a falling off of upwards of 5,000,000 pounds. These reverses continued until the close of the Sac and Fox war, in 1832, during which more than three-fourths of the miners discontinued their operations; and the country has but just recovered from the disasters and losses which it then experienced, from the stagnation of enterprise, and the usual trade and business which had given it life and nourishment.

The mining country on the west side of the Mississippi, in the Wisconsin Territory, was opened to the miners in June, 1833, under my superintendence as sub-agent; the duties of which office I continued to perform until the month of September, 1834, during which time rent lead to the value of about $30,000 was collected. The regulations were in all respects like those which had been in force on the east side of the river, and permits were given to those who subscribed to them, to mine, to build cabins, and make gardens, and, in several instances, to enclose and cultivate fields, to raise grain for their teams. The number of permits given, I cannot recollect; they were numerous, perhaps over a thousand.

Having briefly and imperfectly sketched a history of the mining business on the Upper Mississippi, for the purpose of showing its importance, and mainly for the purpose of demonstrating the value of the labor of the miners to the country, I will now proceed, sir, to state "the situation of the settlers on the public lands in the mining country, in the Territory of Wisconsin, and the northern part of the State of Illinois; the tenure by which miners hold their lots or claims; and the situation of such purchases as have been made in the mining district, for which patents have been withheld."

Among the regulations for the government of the mining country, there was one which required that a mining lot should be 200 yards square, (10 acres,) and bounded by lines running due east, west, north, and south; consequently, the lots claimed by miners do not exceed those dimensions. The usual course heretofore adopted by persons wishing to try their for-

tunes in the business of mining, was, to seek out an unoccupied spot, where they supposed they could find lead ore, and commence digging. If they found ore in sufficient quantities to warrant a continuance of labor, they would measure off their ground, and fix their corner stakes, and then continue their work until they traced their discovery to a valuable vein or sheet, or found it to be delusive. In a vast majority of cases, the labor expended in these attempts to discover lead ore was entirely lost; and there are instances where men have expended years of labor and large sums of money, and have never had the good fortune to discover a valuable vein or sheet of ore; consequently, the property of the miner in a valuable vein or discovery of lead ore, is held inviolable by most of the residents of the country; its sacredness is recognised by the courts and juries of the country; and he clings to it with a tenacity which will admit of no relaxation. I have no data by which I can tell the number of mining lots claimed by miners in the Wisconsin land district; 3,000 acres would, I think, embrace all the lots to which claims would be made. These lots are the sole dependance of numerous families; their value has been discovered by the labor and perseverance of the miners; and were they dispossessed of them by the Government, their families would be reduced to want. It is thought that the miners have an equitable and just claim on the Government for aid and protection; they accepted its invitation to labor upon its territory, and to develop its wealth; they have staked off and labored for years upon some five or six hundred ten-acre lots, and have paid the Government about $230,000 for the privilege. They now look to the Government to extend to them the right of entering by pre-emption their mining lots, and to aid them in recovering those which have been fraudulently or illegally taken from them, owing to the peculiar circumstances of the country, when that part of it, in Wisconsin, embracing the lead mines, was offered for sale.

When the act of June 24, 1834, was passed, there were many valuable mining lots in the possession of miners who had a legal vested right in them, because they had complied with the terms required by the Government; and in law this right could not be invalidated, unless it could be shown that the President of the United States had no right to suffer the lots to be occupied. In the eye of justice, certainly the rights of the miners were sacred. These lots may be considered a species of grant, and if they be not so considered, the act alluded to must be characterized as improvident, unjust, and, in view of the previous laws and proceedings of the Government in relation to the lead mines, illegal. To this period it was believed that the property of the Government and of the miners, in lead mines, could not be touched without special and suitable provisions relating to them; and the sale of a tract of public land, containing a mine, by a law of long standing, was declared to be "*fraudulent and null.*"

When the land office of the Wisconsin land district was opened at Mineral Point, the receiver and myself found ourselves in a trying and perplexing situation. The law of the 24th June, 1834, apparently made no provision for the security of the public or of the miners, in property which, to that period, had been guarded with anxious care; while the proclamation of the President, and the instructions of the Commissioner of the General Land Office, plainly indicated the intention of the Government to protect that property, as well as the rights of the miners. The former directed that "all tracts of land, on which lead mines or diggings are indicated to exist by the official plats of survey, together with such

other tracts as from satisfactory evidence, to be adduced to the register of the land office prior to the date of sale, shall be shown to contain lead mines, will be excluded from sale." The latter instructed us to reserve all tracts held by outstanding leases of timbered land and diggings. The land office at Mineral Point was opened on the 21st of October, 1834, and at that time we found ourselves destitute of the necessary information to carry into effect the intentions of the Government. We were ignorant of the locality of most of the valuable diggings in the district, and were aware that the township plats indicated but a very small proportion of them, for the reason that the surveyors were not bound to examine the interior of the sections, and because a great number of the discoveries of lead ore were made subsequent to the surveys. Owing to the belief among the miners that their diggings were perfectly safe, the information communicated to us by them, relative to the situation of their diggings, was of little consequence, being very limited, and often erroneous. We found it necessary, therefore, to adopt some precautionary regulations, in order to save the property of the miners, and the public from falling a sacrifice to the cupidity of those who might feel disposed to enrich themselves by disregarding the claims of either; and, in the outset, we required of the pre-emptor to show, in his proof to a right of pre-emption, that the tract applied for contained no mines or valuable discoveries of lead ore. The necessity for this rule was apparent, for there were many valuable mining lots situated on tracts to which persons owning merely a cabin and garden could prove a right of pre-emption, while the owners of the lots (which were worth, perhaps, a hundred fold more than the cabin and garden of the claimant under the pre-emption law) could make no claim whatever to such right. At the public sales we stated, from day to day, to the by-standers, that bids would not be received for tracts which contained diggings or discoveries of lead ore, and requested to be informed when any such bids were made.

At the public sales of land east of the fourth meridian, which occurred in the autumn of 1835, we had before us a schedule of lands which the superintendent of the lead mines recommended to us to reserve from sale. This schedule, however, did not designate, among the tracts it embraced, those which contained diggings, or which were occupied or held under a lease; and as by far the greater proportion of them contained no diggings, nor were subject to a smelter's lease, we did not feel ourselves authorized to withhold them. We adopted the rule, however, of requiring satisfactory proof, to be filed in the land office, in relation to each tract sold, (and embraced in the schedule,) that it was not occupied by a smelter, and that it did not contain diggings or discoveries of lead ore. This regulation was extended to those who applied to purchase lands at private entry, and in relation to tracts which, we had reason to believe, contained valuable discoveries at the time they were applied for. The tracts reserved from public sale, on account of the diggings, as indicated by the township plats, embrace about 13,000 acres; and several tracts are also withheld from sale on account of the mines and diggings which they contain, and which are not indicated by the plats.

Under the operation of the rule relative to the proof required of pre-emptors, there were a few cases (not exceeding six or eight) which operated injuriously to the applicants; and I am not aware that the bill now before Congress for their relief will be at all detrimental to the public interests or to private rights.

Notwithstanding the solicitude which was felt by the receiver and myself to protect the rights of the miners in their mining lots, and the public interest in the mineral lands, and despite of the measures we adopted to guard those rights and interests, several opportunities presented to enter at the land office tracts which contained valuable diggings and discoveries of lead ore, which were, at the time of purchase, owned and worked by miners, and to which the person entering them had not the shadow of a claim. These entries have been deemed improper, unjust, illegal; and we have long since suggested that the patents be withheld until the action of Congress be had upon the subject. If, upon consideration, it be deemed expedient to extend relief to the persons whose mineral lots have been thus seized, it could be effected by a simple provision, which you will find in the draught of a bill accompanying this communication. All entries of mineral lots, which have been made through fraud and false swearing, should be declared by law to be null and void, and the decision of questions arising upon all entries of mines and valuable discoveries of lead ore, should be left to the courts and juries of the country.

Under the pre-emption law very few cases of fraud occurred; indeed, I can recollect but one of an aggravated nature.

The provisions contained in the accompanying paper, are the result of my experience and most serious reflections. I believe, if substantially embraced in a law of Congress, they will settle all conflicting claims in the Wisconsin land district, and extend justice to all interested. The notes which are made to each provision will show its necessity and its reason.

The tenure by which miners hold their lots, is founded in the invitation extended by the Government to its citizens, to induce them to expend their labor and their means in developing the resources of the mining country; in the amount of that labor and those means which they have expended upon their mining lots; and, above all, in the settled opinions of the inhabitants of the mining country, and the uniform and numerous decisions of their judicial tribunals.

The passage of a law, enabling claimants to mines or diggings to enter their lots, and for the sale of the public lands adjacent to those lots, and all such as have been reserved as mineral lands, is demanded by considerations connected with the public interest, the public tranquillity, and with principles of justice. There will be a large portion of the mineral lands belonging to the public, after the claims of the miners shall have been satisfied, (the value of which their labors have increased,) which will be for sale; and the history of the last four years has demonstrated the impolicy of withholding it from the market. Nothing has yet been done, nor will be attempted, to prevent the miner from digging on the public lands, and taking the ore from it; while the smelter has long since refused to recognise the right of the superintendent of the lead mines to demand rent lead of them. There is not now, it is believed, a single person, conversant with the state of the mining country, who does not recommend the sale of all the mineral lands.

The situation of the miners and settlers, in Jo Daviess county, Illinois, and in Dubuque county, in Wisconsin Territory, on the west side of the Mississippi, is similar, in all respects, to that of the settlers and miners in the Wisconsin land district, previous to the opening of the land office; and to avoid the perplexities which have occurred there, it is necessary that provision be made for settling the claims of the miners simultaneously with

those of the other settlers, who may claim under the pre-emption law in those counties, and also for the sale of the whole of the mineral lands in them.

I should have observed, sir, in another place, that since the commencement of the land sales in the Wisconsin land district, numerous tracts of land have been sold, on which have been discovered, since they were purchased, rich veins and sheets of lead ore; and it is believed that the quantity of ore now obtained from lands which have been entered, will nearly equal that obtained from the public lands. This fact is an argument in favor of selling all the mineral lands; for admitting the possibility of collecting a tax from the miners, it would be in vain for the miners on the public land to attempt competition with those who obtained mineral from lands owned by themselves, if the former were obliged to pay a rent of 10 or even 6 per cent. on the amount of their labor.

Should any further information, in connexion with the subject, be required, I will, if in my power, give it with pleasure.

I am, sir, very respectfully,
Your obedient servant,
J. P. SHELDON,
Register Land Office,
Mineral Point, Wisconsin Territory.

Hon. JAMES WHITCOMB,
Commissioner of the General Land Office.

A BILL

For the sale of the mines and discoveries of lead ore in the Territory of Wisconsin, and for other purposes.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,* That all the mining lots, containing mines, diggings, or discoveries of lead ore, in the district of lands subject to sale at Mineral Point, in the Territory of Wisconsin, to which miners or other persons have a just and equitable claim, may be entered by the claimants at the rate of one dollar and twenty-five cents per acre.

NOTE TO SEC. 1.—"*Diggings.*" This term is in general use, and is properly applicable to those places where lead ore is found in detached masses, near the surface; these are called "patch diggings." A "discovery" is a quantity of lead ore found by digging holes; and its value depends upon the apparent probability of tracing or following the discovery of lead ore to a regular vein or sheet. The word "prospect" is also used in the same sense. A person laboring to find lead ore in the earth, is, in the technical language of our miners, said to be "prospecting;" and if he makes a "discovery," or "strikes a lead," (or vein,) his property in the "discovery" or "lead," is respected, and recognised by the verdicts of jurors and the decisions of the courts; therefore, property in "mines," "diggings," or "discoveries" of lead ore, may be obtained by labor or by purchase.

SEC. 2. That where two or more claimants can secure their mines, diggings, or discoveries, of lead ore, by entering a quarter-quarter section, they shall enter the said quarter-quarter jointly; and after said claimants shall have measured and staked off, and secured by proper deeds or assign-

ments from each other, their several mining lots or claims, the residue of said quarter-quarter section shall be owned jointly by said claimants: *Provided*, That if the mines, diggings, or discoveries of said claimants run upon an adjacent quarter-quarter section, said claimants may enter ten acres, or two ten acre lots, (so as to secure their mining lots,) each being in a square form, from said adjacent quarter-quarter section; and the residue of said adjacent quarter-quarter section shall be offered at public sale before the same shall be sold at private entry: *And provided, further*, That no mining lot to which a claim is made, shall exceed ten acres of land, in a square form, the boundaries whereof shall conform, in direction, to the sectional lines of the public surveys.

Note to Sec. 2.—These provisions are necessary to secure to miners and others their property, for the reason that their "leads," "diggings," or "discoveries," may run upon two quarter-quarter sections. The matter may be illustrated by the following diagram, (see original MS.,) showing a section with diggings and the proposed subdivision of quarter-quarter sections:

A, B, C, supposed bounds of mineral lots owned by D, E, and F. By the provisions of the bill they secure their claims by entering the whole of the northeast quarter of the northwest quarter, and the northwest quarter of the northwest quarter of northeast quarter, and the northwest quarter of the southeast quarter of the northwest quarter. After measuring, staking off, &c., their several lots, they will own jointly the residue of the lands in the northeast quarter of the northwest quarter, while the residue of the lands in the northwest quarter of the northeast quarter and the southeast quarter of the northwest quarter will be offered at public sale, &c.

D, supposed bounds of a mineral lot laying on two quarter-quarters. By the provisions in Sec. 3, the owner of the diggings will enter the northwest quarter of the southeast quarter of the northeast quarter, and the northeast quarter of the southwest quarter of northeast quarter, and the residue of each quarter-quarter will be offered at public sale. Should this lot be farther south, it will be optional with the owner to enter a north or a south ten acre lot. It will rarely happen that a miner cannot secure all his valuable mineral grounds by these provisions; and should this be the case, he will be enabled to secure the small portion that may not be included in his entry, at the public sale.

Sec. 3. That where but one person owns a mine or discovery of lead ore upon a quarter-quarter section, he may enter two ten acre lots, in a square form, so as to include his mine or discovery; and if his mine or discovery extends upon an adjacent quarter-quarter, he may enter one of the said ten acre lots on said adjacent quarter-quarter; and the residue of said quarter-quarter shall be offered at public sale before it shall be sold at private entry.

Note to Sec. 3.—(See note to section 2.)

Sec. 4. That for the purpose of carrying into effect the provisions of this act, the subdivision of quarter-quarter sections shall be by lines running east and west, and north and south, through the centre of the quarter-quarter sections which contain mines, diggings, or discoveries of lead ore; and

said subdivisions shall be designated as the northeast, northwest, southeast, or southwest fourth of the northeast, northwest, southeast, or southwest, quarter of the northeast, northwest, southeast, or southwest quarter of the section; and the surveyor general at is hereby authorized to appoint a competent surveyor to make the subdivisions required by this act, and require him to make the proper returns; and said surveyor shall be compensated for his services under this act by the persons owning mines or discoveries of lead ore upon the quarter-quarter sections which it may be necessary to subdivide.

NOTE TO SEC. 4.—The additional labor in making entries and returns under this act will not be great; no new blanks or forms will be necessary. The entry of a fourth part of a quarter-quarter section will be designated in the returns, &c., as follows: northeast quarter of northwest quarter of southeast quarter of section 4, T. 3, R. 4, E., &c., with the number of acres, price, &c., as usual. The result of the subdivision will be, to secure to miners and others the property to which they have a just and equitable right, and to secure to the Government a fair equivalent for lands adjacent to mines and mineral discoveries, which are not claimed, but which bid fair to be valuable on account of their proximity to good discoveries or mines.

SEC. 5. That all entries in said land district, of one hundred and sixty acres of land or under, under the pre-emption law of June 19, 1834, shall be deemed legal and good, except it be shown that an entry was obtained by fraud or false swearing, or that the just and equitable rights of miners or owners of mines or discoveries of lead ore, were injured by said entry; in either of which cases, the Commissioner of the General Land Office shall withhold the patent from the person so entering, until the matter shall have been decided by the judicial tribunals of the Territory; and in case the decision be against the person entering said tract, he shall receive the money which he paid for the same from the receiver of public money at Mineral Point; but if the court decide that the entry be good and legal, the patent shall issue to the person who made the same: *Provided, however*, That every entry under said pre-emption law, which shall contain mines, diggings, or discoveries of lead ore, and where it shall appear that no fraud or wilful false swearing was resorted to by the persons entering or proving a right to enter, shall be deemed valid and good; and the Commissioner of the General Land Office shall issue a patent for every such entry, after he shall have been satisfied, by good and sufficient proof, that the person so entering has made restitution or satisfaction to each and every miner and other person who had a good and just claim to any mine or discovery of lead ore on the tract so entered.

NOTE TO SEC. 5.—The provisions of this section are necessary, as will be shown by the following statement of a single case: J. W. Shull and L. Vanmetre entered, under the pre-emption law of June, 1834, the southwest quarter of section 10, T. 1, R. 2, E. Under the act they were entitled to floating rights, of which they availed themselves. They assigned their entries to R. H. McGoon, except one half-quarter section, which was assigned to S. Oliver. The township plats did not show that any of the tracts entered contained mines or diggings, and the land officers had no

knowledge that there were diggings upon either of them; and yet, it was satisfactorily shown to the register and receiver, a few days after the entry, that the float assigned to McGoon contained several valuable mines or diggings; that several millions of lead ore had been raised on it, and that there were steam works erected thereon for the purpose of pumping the water from the mines; that Shull and Vanmeter, (who were ignorant of maps and surveys,) were deceived by McGoon as to the lines and location of the tracts entered by them; and when they discovered that they had entered the property of miners, they came forward and voluntarily signed a relinquishment of their entries, but not until after they had assigned to McGoon; and subsequently they have filed a deposition in the land office, that they were deceived by McGoon. McGoon will not relinquish the entry and take back the purchase money, although requested to do so by the land officers, under the directions of the Commissioner of the General Land Office. The mines and property on this tract, to which Shull, Vanmeter, and McGoon had no right or claim, are valued at $50,000, (some estimate them higher.) If cases like this were to be settled by the courts of the Territory, where the rights of those who claim mining lots are well understood, justice would be done. Cases may occur, too, where mines or discoveries have been entered by a pre-emptor who had no claim to them, because of his ignorance of the boundaries of the tract entered; and if it be shown that he intended no fraud, the miner should be satisfied to receive his mine or diggings, or payment therefor.

Sec. 6. That in all cases where property in mines or discoveries of lead ore shall have been entered in said land district, by persons not having a just right thereto, either by deceiving the land officers, or by taking advantage of their ignorance of the location of such mines or discoveries, the Commissioner of the General Land Office, on a representation and sufficient proof of such improper entry, is authorized and directed to withhold the patent from the person entering said mines or discoveries, until said person shall have satisfied the parties interested; and when said Commissioner is notified that said satisfaction has been made, he may issue the patent.

Note to Sec. 6.—There have been several tracts of land entered, which contained mines and discoveries of lead ore at the time they were entered, but respecting which the land officers had no knowledge until after the entry. In some instances the person entering a tract has satisfied the miners by giving them deeds for, or by purchasing their lots; in other cases, purchasers have refused to do either, and forbid the miners to work their grounds.

Sec. 7. That all disputes which may arise in said land district, respecting claims to mining lots, or respecting the boundaries thereof, shall be settled as heretofore, by arbitration, or by the judicial tribunals of the Territory; and the award or decision in every case shall be forthwith filed in the office of the register of the land office at Mineral Point.

Note to Sec. 7.—Questions or causes arising from the conflicting claims of owners of mines or discoveries, are of frequent occurrence, and the courts and juries of the Territory, it is believed, are better qualified to settle them justly than other tribunals. Sometimes parties prefer to refer their case to arbitrators, giving bonds to abide the decision.

SEC. 8. That all the lands in said district which have been reserved from sale on account of diggings or discoveries of lead ore, shall be offered at public sale in the usual manner, under the direction of the President of the United States; the *bona fide* owners or claimants of mining lots being first satisfied, as provided by this act.

SEC. 9. That for each entry, by pre-emption, under this act, of mines, diggings, or discoveries of lead ore, the register and receiver of the land office at Mineral Point shall each be entitled to receive from every person claiming and proving his right of pre-emption, the sum of one dollar: *Provided*, That in every case the claimants and witnesses shall be sworn by a person lawfully qualified to administer oaths, and give their testimony before one or both of said land officers: *And provided, further*, That the person who shall wilfully swear false in any case under this act, shall be deemed guilty of perjury; any act which may be in force in said Territory of Wisconsin to the contrary notwithstanding.

NOTE TO SEC. 9.—The last proviso in this section is deemed necessary on account of the construction given to the existing law against perjury by many gentlemen of the bar, who contend, that as the law now is, no man can be convicted of perjury unless he swear false in some cause or in a court of record, &c.

SEC 10. That this act shall take effect on the first day of July next, and continue in force until the thirtieth day of September, 1841.

A BILL

To authorize the sale of certain mineral lands, and to protect the just and equitable rights of miners therein, and for other purposes.

SEC. 1. *Be it enacted*, That the President of the United States shall be authorized to sell the public lands containing *lead mineral*, in the State of Illinois and Territory of Wisconsin, at public sale, in the manner prescribed by law for the sale of other public lands of the United States: *Provided*, That all such lands, when offered, shall be sold in quarter-quarter subdivisions, as created by the act of April 5th, 1832, and for a price of not less than —— per acre.

SEC. 2. That a patent issued for land sold in pursuance of the first section of this act, shall vest in the purchaser thereof the fee of the land, subject to all just and equitable claim or claims of any and every person or persons, to a mining lot, mine, discovery, or digging, which such person or persons may own thereon at the day of such sale; and such owner or owners, on paying to such purchaser a pro rata proportion of the purchase money, with the addition of —— per cent. thereto, shall be entitled to receive a conveyance of such portion of said purchase as will include and secure to such person or persons the title to his just claim; and if said purchaser shall refuse to make such conveyance, the claimant or claimants may prosecute any such claim in any court of record in said State or Territory, which shall hereby have jurisdiction to hear and determine such matter, and whose order or decree in favor of any such claimant shall vest in him a good and perfect title to any such mining lot: *Provided*, That all

suits to be brought under the provisions of this section shall be commenced within one year from the close of the public sale; and in case of the absence of any such purchaser out of the State or district in which the land may lie, so that a tender of the pro rata proportion of the purchase money cannot be personally made, or that personal notice cannot be given of the pendency of the judicial proceedings, the money may be deposited with the clerk of the proper court, and notice may be given of the pendency of the suit and nature of the claim, by publication, under the seal of the court, in any newspaper of general circulation in said State or Territory, for the period of twenty-four consecutive weeks, which shall be deemed equivalent to personal notice, but no further proceeding shall be had until the full period given for publication of notice shall have expired; and in case a personal tender of the money, and demand of conveyance, shall not have been made before the commencement of such proceeding, the claimant shall not recover costs, but shall pay all costs, unless, in the opinion of the court, on account of an unconscientious defence, vexatiously prolonged, it shall be deemed equitable to require the defendant to pay costs, in which cases the court may direct the taxation of costs, as, in its opinion, the principles of equity may require. And it is hereby declared that the mining lot contemplated and understood by this act, is a tract of land not exceeding two hundred yards square, bounded by right lines running to the four cardinal points of the compass, as prescribed by the regulations heretofore adopted for leasing the lead mines.

Sec. 3. That all entries of reserved or reported mineral lands, mines, diggings, and discoveries, made or known prior to the sale, which have been permitted at the land office, for the district of lands subject to sale at Mineral Point, in the Territory of Wisconsin, shall be patented, and the patent shall vest a title in all respects similar to the titles provided for by the first and second sections of this act; and suits and proceedings may be instituted under this section, and shall be conducted in the manner provided for in the second section, except that they shall be brought within eighteen months from the 1st day of January, 1838, and not after: *Provided*, That if, in the opinion of the President, any such entry shall have been procured by unfairness, fraud, connivance with the district officers, or by false testimony, the patent shall not be issued thereon, but the entry shall be held void, and the land offered for sale in the same manner as is provided by this act for other mineral lands.

Sec. 4. That if it shall be hereafter ascertained that any lands do not contain mineral, which may have been, or may be hereafter, reserved from sale in consequence of information that they contained mineral, it shall be lawful for the President to proclaim and sell the same in the same manner as is provided by law for the sale of other public lands.

Sec. 5. That if lead mines shall be discovered hereafter on any land now in market, prior to the entry thereof, it shall be the duty of the President to reserve the same from sale, under the provision of general laws, and to proclaim and sell them in the manner provided for by the first and second sections of this act; and all lands which may be offered at public sale agreeably to the provisions of this act, and which may remain unsold at the close of such public sale, shall be liable to entry at private sale, at the minimum price of —— dollars per acre, and shall be disposed of in no other manner.

By the President of the United States.

In pursuance of law, I, Andrew Jackson, President of the United States of America, do hereby declare and make known, that a public sale will be held at Mineral Point, in the Territory of Michigan, on the second Monday in November next, for the disposal of the public lands within the limits of the undermentioned townships and fractional townships in the Wisconsin land district, to wit:

North of the base line and west of the meridian.

Townships 1, 2, 3, 4, 5, 6, 7, 8, and 9, of range 1.

Townships 1, 2, 3, 4, 5, 6, and 7, and fractional townships 8 and 9, of range 2.

Fractional township 2, and townships 3, 4, 5, and 6, and fractional townships 7 and of 8, range 3.

Townships 3, 4, 5, 6, and fractional townships 2 and 7, of range 4.

Townships 4 and 5, and fractional townships 3, 6, and 7, of range 5.

Fractional townships 3, 4, 5, and 6, of range 6.

Fractional townships 5 and 6, of range 7.

The sale will be kept open for two weeks, and no longer.

The lands reserved by law for schools, or other purposes, are to be excluded from sale.

All tracts of land on which lead mines or diggings are indicated to exist by the official plats of survey, together with such other tracts as from satisfactory evidence to be adduced to the register of the land office prior to the date of sale shall be shown to contain lead mines, will be excluded from sale.

Given under my hand at the City of Washington, this seventh day of July, A. D. 1834.

ANDREW JACKSON.

By the President:

ELIJAH HAYWARD,

Commissioner of the General Land Office.