

The act defines the word "mine" to mean any land in which any vein or lode or rock in place shall be mined for gold or other minerals, precious or base, except coal, and "mineral" to mean all valuable deposits of gold, silver, etc. "Rock in place" is defined to be all rock in place bearing valuable deposits of gold, cinnabar, lead, copper, iron, or other minerals usually mined, except coal; or, in other words, that "rock in place" is practically synonymous with a "vein" or "lode," and, as stated by the witness Kelly, means, I think, a substance confined between some definite walls or boundaries. Where, then, you have this substance so located, and bearing valuable deposits of gold or mineral, you have "rock in place," or a "vein" or "lode" within the meaning of the act. It does not, I think, mean mere mineralized rock wherever you may find it, as suggested by some of the witnesses. Mr. Cronan, for instance, says: "I call it mineral in place if it is in rock. If I was to find it in earth or soil where apparently it had been moved, it would not be 'mineral in place.'" He seems to think that wherever you find mineral in the country rock you have "rock in place." I do not think he is right. Taking the statutory definition of a "mine," "mineral," "rock in place," reading them together they are, I think, intended to refer to a vein or lode (found in rock) carrying valuable deposits of mineral. The object of this act was, I think, to give the miner the right to acquire a vein or lode so found, and sufficient adjoining land to work it. If he has discovered no such vein or lode he acquires no right to anything. All the sections of the act must be read in the light of the interpretation clauses, and, so read, seem to point to the right to locate a vein and use the land for the purpose of mining it, and for no other purpose. Read particularly sections 10, 14, 20, and especially section 26, "No free miner shall be entitled to hold more than one mineral claim on the same vein or lode except by purchase," but may hold by location upon any separate vein or lode. Section 30: "Should any free miner locate more than one mineral claim on the same vein or lode all locations, excepting the location and record of his

first claim on such vein or lode shall be void." Then section 36 provides that before he can obtain a crown grant the miner has to show that he has found a vein or lode within the limits of his claim, all implying the same thing, viz: that to have a location there must be a vein or lode—or rock in place—and under the act of 1895, the spirit of the law, conspicuous throughout all the legislation is further demonstrated by requiring that before the miner can locate at all he must file a declaration showing his discovery of a vein or lode. In other words, he can have nothing under the act except a vein or lode and the prescribed area of land to work it.

The meaning of our act in this respect seems much the same as the law of the United States. Section 2,320 of the revised statutes of the United States enacts: "Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, etc., may be located, and the definition there of a vein or lode as interpreted by the courts is the same as I have expressed it here. In *Eureka Mining Co. vs. Richmond*, Morrison's Mining Reports, Vol. 9, page 582, argued in the Supreme court of the United States, Mr. Justice Field, after elaborate argument, and with the advantage of the best of expert and scientific skill, defines the distinguishing characteristics of a vein or lode, as the location of a vein between well defined boundaries, containing a combination of mineral matter which has been thrown up or generally precipitated in solution against the walls of the cavity by the action of water circulating in the original fissure of the earth's surface.

In *Wheeler vs. Smith*, 32 Pacific Rep., 785, it is laid down: "The mineral land laws of the United States were enacted for the purposes of securing the miners upon the public lands the title to mineral discovered by them, and a sufficient quantity of the land in which mineral is discovered as will enable them to prosecute the work of development and production successfully. Mines, as known to those laws embrace nothing but deposits of valuable mineral ores, and do not include mere masses of non-mineralized rock whether rock in place or scattered about through the soil." See also *Consolidated Gold Mining Co. vs. Cham-*