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1870, July 9 - 16 Stat. 217, Act to Amend "An Act Granting the Right of Way to Ditch and Canal Owners Over the Public Lands"

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BY AUTHORITY OF CONGRESS.

THE
Statutes at Large
AND
PROCLAMATIONS
OF THE
UNITED STATES OF AMERICA,
FROM DECEMBER 1869 TO MARCH 1871,
AND
TREATIES AND POSTAL CONVENTIONS

Arranged in Chronological Order and carefully collated with
the Originals at Washington,

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT
ACTS ON THE SAME SUBJECT.

EDITED BY

GEORGE P. SANGER,

COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1846.

VOL. XVI.

BOSTON:
LITTLE, BROWN, AND COMPANY.
1871.

August 18, 1856, chapter 169, volume 11, page 188.
 February 5, 1859, chapter 22, volume 11, page 380.
 February 18, 1861, chapter 37, volume 12, page 180.
 March 3, 1863, chapter 126, volume 13, page 540.
 February 18, 1867, chapter 43, volume 14, page 395.

APPROVED, July 8, 1870.

CHAP. CCXXXV. — *An Act to amend "An Act granting the Right of Way to Ditch and Canal Owners over the public Lands, and for other Purposes."*

July 9, 1870.
 1866, ch. 262.
 Vol. xiv. p. 251.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July twenty-six, eighteen hundred and sixty-six, be, and the same is hereby, amended by adding thereto the following additional sections, numbered twelve, thirteen, fourteen, fifteen, sixteen, and seventeen, respectively, which shall hereafter constitute and form a part of the aforesaid act.

Sections to be added to former act.

SEC. 12. *And be it further enacted,* That claims, usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims: *Provided,* That where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre: *Provided further,* That legal subdivisions of forty acres may be subdivided into ten-acre tracts; and that two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof: *And provided further,* That no location of a placer claim, hereafter made, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

Placer claims to be subject to entry and patent.

If lands have been surveyed, entry to conform, &c.
 Price of lands.

Ten-acre tracts.
 Joint entry of contiguous claims.
 Placer claim not to exceed one hundred and sixty acres.
 Homestead and pre-emption rights not affected.

SEC. 13. *And be it further enacted,* That where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this act, in the absence of any adverse claim: *Provided, however,* That nothing in this act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

What evidence of possession, &c. to establish a right to a patent.

Existing liens not affected.

SEC. 14. *And be it further enacted,* That all ex parte affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated.

Ex parte affidavits.

SEC. 15. *And be it further enacted,* That registers and receivers shall receive the same fees for services under this act as are provided by law for like services under other acts of Congress; and that effect shall be given to the foregoing act according to such regulations as may be prescribed by the commissioner of the general land office.

Fees of registers and receivers.
 Regulations to carry act into effect.

SEC. 16. *And be it further enacted,* That so much of the act of March third, eighteen hundred and fifty-three, entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption

Part of act 1853, ch. 145, § 2, Vol. x. p. 245, repealed.

Public surveys extended over mineral lands.

Surveyed lands how subdivided into lots, &c.

Waste, &c. lands need not be surveyed.

Rights conferred by certain sections of former act extended, &c.

Vested and accrued water rights secured.

Act of 1866, ch. 244, Vol. xiv. p. 242, not affected.

rights, and for other purposes," as provides that none other than township lines shall be surveyed where the lands are mineral, is hereby repealed. And the public surveys are hereby extended over all such lands: *Provided*, That all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of the claimants: *And provided further*, That nothing herein contained shall require the survey of waste or useless lands.

SEC. 17. *And be it further enacted*, That none of the rights conferred by sections five, eight, and nine of the act to which this act is amendatory shall be abrogated by this act, and the same are hereby extended to all public lands affected by this act; and all patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the ninth section of the act of which this act is amendatory. But nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the "Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

APPROVED, July 9, 1870.

July 9, 1870.

CHAP. CCXXXVI. — *An Act to grant the Right of Way for the Alameda Road through certain Lands in California.*

Certain land granted to San José, California, for street purposes.

Other land in said city granted to persons in possession.

Right of way through the portion outside of San José given to the county of Santa Clara.

Land, subject to right of way, granted to persons owning adjoining lands. Individual grants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the portion of the tract of land situated in the county of Santa Clara, and State of California, lying between the Rancho Potrero de Santa Clara and the Rancho de los Cocheros, which is occupied by Santa Clara Street, according to the map of the city of San José, and the street intersecting Santa Clara Street, is hereby granted to said city for the purpose of streets. And the parcels of said tract of land lying between said ranchos which are included within the corporate limits of said city, and not occupied as streets, are hereby granted to the respective persons in possession thereof, by themselves or their tenants.

SEC. 2. *And be it further enacted*, That the right of way through that portion of the tract of land lying between the said ranchos, which is situated without the corporate limits of the said city of San José, is hereby granted to the said county of Santa Clara, for public use, for the highways, roads, and sidewalks running along, upon, or across the said tract of land; and authority is hereby granted to the board of supervisors of said county to regulate and determine the number, position, width, and grade of such highways, roads, and sidewalks.

SEC. 3. *And be it further enacted*, That the said tract of land in the second section mentioned, subject to the right of way as therein granted, is hereby granted to the several persons, whether natural or artificial, owning the adjoining lands, the parcel hereby granted to each person being the parcel lying between his or its lands and a line running through the middle of said tract of land.

APPROVED, July 9, 1870.

July 11, 1870.

CHAP. CCXXXVII. — *An Act making Appropriations for the consular and diplomatic Expenses of the Government for the Year ending June thirty, eighteen hundred and seventy-one, and for other Purposes.*

Consular and diplomatic expenses appropriation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal