Wyoming Law Journal

Volume 14 | Number 2 Article 9

December 2019

Examination of Title to Mining Claims

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EXAMINATION OF TITLE TO MINING CLAIMS

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Examination of title to mining claims is important either directly in determining ownership and validity thereof, or indirectly in determining the validity of conflicting leases or entries upon the same land. An example of the latter would be a situation in which there is an unpatented mining claim on a tract of land upon which there is a subsequent United States Oil and Gas Lease. If the mining claim were located prior to August 13, 1954, the validity of the oil and gas lease would depend upon the invalidity of the mining claim.

I will approach the problem directly, but it should be remembered that the same rules can be used to find a claim void and a conflicting entry or lease valid. There are few definite standards for examination of title to mining claims. However, I feel it is best to consider a mining claim in contemplation of subsequently obtaining a patent. The proper procedure is to bring the title to such a condition that it would meet the requirements of the Bureau of Land Management preliminary to issuing a patent. This is the one premise an examiner should aways keep in mind. Titles to mining claims could be substantially improved if examiners would follow this practice.

Examination can be divided into two fundamental parts. The first is the record title. Generally, examination of record title to a mining claim is like examination of title to any other piece of real property. An abstract of title prepared by a licensed and bonded abstractor should be obtained. However, under some circumstances it may be more desirable to examine the records in the Office of the County Clerk.

There will be no taxes on the real property embraced within the claim until after the final certificate issues in a patent proceeding. There may, however, be an assessment on improvements upon the land. If so, these must be paid in full.

The first thing to be determined, of course, is the validity of the first muniment of title to the claim, the location certificate. The requirements of a valid location are discussed in a separate paper, but generally the statutes and regulations provide that the location certificate must contain the following matters:

Name of lode or placer
Names of locators
Date of location
Description of claim located by reference to some natural object or permanent monument, which should in nearly ever case be a corner according to the public survey

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Names of adjoining claims
In the case of a placer, describe according to the public survey by regular subdivisions.

You should always examine the statutes and regulations with regard to the requirements of the location certificate. These will be found in 43 C.F.R., Part 185, Title 30, U.S.C., and Title 30, Chapter 1, Wyoming Statutes, 1957.

It has been held that although signatures of all locators should be on the location certificate, one locator may sign as agent for the others, and no written power of attorney is required.

The government does not require acknowledgment of the location certificate.

You should be aware that the location certificate is not binding as to any of the matters therein stated. It may be considered as evidence that the location certificate was prepared, but the actual facts of location are controlling. For example, the recorded date and description may vary from the actual location upon the ground, but the claim quite likely would be valid as to the land actually claimed on the ground, and as of the date of actual location, if there are no intervening rights. So long as there are no intervening rights, it would only be necessary to file an amended location certificate correcting the matters contained in the original location certificate.

The title standards of the Wyoming Bar and the curative acts of the State of Wyoming may be used, just as in examining fee titles. Use of these is very important as claims have been bought and sold many times without the aid of competent advice as to legal form.

It should be noted that the homestead laws of the State of Wyoming apply also to mining claims, and that any conveyance of a mining claim should be executed also by the spouse of the locator or owner, or if there is no spouse this fact should be stated. It is common to find deeds of record executed only by the locator, with no reference to marital status. Section 34-92, Wyoming Statutes, 1957, validates a conveyance without joinder of spouse when such conveyance has been recorded for ten years or more, by a conclusive presumption that such land was not used as a homestead by either the grantor or the spouse.

In the event a defective conveyance has been of record less than ten eyars and a new conveyance is unobtainable, it is satisfactory to obtain an affidavit from two disinterested persons that the land in the mining claim was not used as a homestead by either the owner or the spouse.

There may arise the problem of how to place good record title to an association placer in one or two of the original locators when the others refuse to do their share of the assessment work and refuse to execute

conveyances or cannot be located. A quiet title action cannot be used because there is no adverse possession. Regulation 43 C.F.R. 185.20 provides for written notice, or publication of notice for 60 days, giving the co-owners 90 days after notice in writing, or 180 days after the first publication, to contribute their proportionate parts and if they fail to do so then their interests are forfeited to the co-tenants serving notice. The claimants taking advantage of this procedure should prepare an affidavit that such contribution was not made, together with the circumstances of serving notice. They should also otbain a proof of service of notice or proof of publication. These should be kept in the file for later reference and use. I think it would also be good pratcice to record a declaration of forfeiture setting forth all the facts of publication, service, and failure to contribute.

In the event a grantee obtains title from less than all the claimants and it is now impossible to obtain deeds from them, it is possible, if the statute of limitations has run, to obtain a good title without going to the expense of a quiet title suit. 43 C.F.R. 185.78 and 185.79 provide that when filing application for patent, an applicant may file a narrative statement as to the facts of possession and origin of title, together with affidavits of two disinterested witnesses, a certified copy of the appropriate statute of limitations, and a certificate from the clerk of court that there is pending no suit involving the right to possession and that there has been no suit or action of any character whatever involving title to the claim for a period equal to the time fixed by the statute of limitations other than those which have been finally decided in favor of the claimant. If there is no more imperative reason for quieting title immediately, these papers may be retained and submitted with an application for patent, which the Land Office will acept in lieu of a decree quieting title.

30 U.S.C., Section 38, provides that possession of a mining claim during the period fixed by the State statute of limitations is sufficient to establish a right to the claim although the original location was void. Possession for a period of limitations without adverse rights is equivalent to a valid location and after the period of limitations runs the location is good against the world. This can be a very desirable use of the adverse possession principle in the event the original location was void because the land was not open to location at the time made. The time under the statute would commence to run when the land became open to location. It should be noted, however, that the land must be open and unappropriated during the entire ten year term. At the expiration of the ten year term the claim is just as valid as if the original location had been in full compliance with the law.

It may be that examination of the records will disclose other mining claims upon the same land. It will have to be determined, of course, whether any of the other claimants assert any interest in the land. I am

unable to imagine any situation in which there could be more than one valid location on the same land, except a lode within a placer. The normal situation would be the claim being examined is void or valid, depending on whether there was a prior valid location at the time of the location of the claim being examined. Therefore, you should determine whether the prior location, if there is any, was in good standing at the time of location of the claim being examined. If the assessment work was in default, the land would be open to further location and the prior claim is actually not in conflict. If it appears that the prior claimant believes his claim was in good standing, and if there is evidence of work on the claim, it will do no good to obtain a quitclaim deed from the prior claimant with the idea of thereby clearing your title of the adverse interest. If the prior claim is valid and you acquire the interest by quitclaim deed, then you should base your title upon the prior claim. If the prior claim is void, then your title is based upon the claim you are examining and it adds nothing to otbain the quitclaim deed from the prior claimant. It would be proper, however, to obtain and record a declaration from the prior claimant that no interest is being asserted by virute of the prior claim, and that said prior claim was in default at the time of location of the claim which is being examined. If you should find that the prior claim was valid, however, then the claim being examined is void and there is no way to make the void claim valid. The only alternative is to make a new location if the prior claim is now in default and the land is open to location, or else purchase the prior valid claim.

If you are approving title for purchase by or from a corporation, you should determine that the corporation has been duly formed, that it has been licensed to do business in the state in which the claim is located, and that the corporation is in good standing. You should also obtain a resolution of the board of directors of the corporation either selling or buying the claim, which authorizes the sale or purchase by or from the corporation. In every case the Land Office will require from a corporate applicant for patent evidence in the form of a resolution of the board of directors authorizing the purchase of the claim by the corporation.

If you represent a corporation purchasing an association placer or desiring to obtain a patent on an association placer, more fully described hereinafter, which association placer is acquired from stockholders or directors, you should require an affidavit from one or more corporate directors setting for the facts of such purchase, that such purchase was bona fide, and describing exactly what the full consideration was. If the corporation cannot show a bona fide purchase at the time of making application for patent, the Land Office will hold the claim good only to the extent of a single location of 20 acres.

Other matters such as correct execution and acknowledgment of instruments, corporate qualifications, judicial sales, probates, judgment liens,

partnerships and agreements of sale should be treated the same as in other title examinations.

An equally technical part of the examination is the claim status. This falls logically into two parts. The first is examination of the claim itself. It is important that someone, either a qualified mining engineer or a mining lawyer, examine the claim to determine that all the stakes are in their proper places, that the stakes are substantial, that the location on the ground corresponds with the location as described in the location certificate, and that there is no evidence of conflicting interests by foreign stakes or foreign workings.

Using an abundance of caution, I believe there should be a copy of the location certificate at the point of discovery, and each corner post should be numbered and bear the name of the claim. If any detail of the location procedure is missing or inaccurate, it should be corrected immediately. Missing posts should be replaced. Pits should be deepened or enlarged. Core holes should be exactly located and marked. Notices should be posted if they are not already there.

In the case of lode claims, a survey is recommended and it should show the location by course and distance from the nearest survey corner of the point of discovery and corner number 1 of the outside boundaries. Placer claims should correspond to the government survey. Although no survey would be necessary, a plat showing location of discovery points, assessment work and improvements is invaluable.

It should be positively determined that sufficient discovery work has been done. The mineral should be clearly visible, either in a pit, tunnel or open cut, or in core samples removed from a drill hole. It may become necessary at any time to prove the existence of a valuable discovery, either in a suit involving other claimants or in a contest commenced by the government to determine the existence of a valid claim which segregates the land from the public domain. It would be advisable to have on hand not only the plat showing the location of discovery holes and pits, but also a laboratory analysis or assay of mineral samples removed from the claims together with samples of the mineral removed.

It is important that assessment work is done every year to prevent loss of the claim. A complete record of the work done should be maintained. This would include acquiring from the seller a complete record of the work done for his benefit. The claim should be examined for evidence to substantiate the work claimed by prior owners. Although filing an affidavit of assessment work done is prima facie evidence that such work has been done, this may be rebutted by evidence that the work was not in fact done.

By Public Law 736—85th Congress, the assessment year was changed from July 1 to September 1, beginning with the year 1959. For prior years

the affidavit should have been filed on or before July 1. The state law still requires assessment work to be done by July 1, but I believe the federal law would control.

As between the locator and the United States, however, it is not necessary that assessment work be done each year. If the claim is validly located, it may be valid as against the government forever even if no work is done, so long as there has been no intervening location by another party. If you can satisfy yourself that there were no claims during any previous default in performance of assessment work, it is my opinion you may approve title to a claim if the current year's assessment work has been done.

One locator may locate as many claims, either lode or placer, as he desires. $100.00 worth of assessment work must be performed for each claim. However, in the case of a group of contiguous claims all the required work may be performed in one area or on one claim if it can be shown that the work will inure to the benefit of all the claims.

An association of persons may locate a claim in common not exceeding 20 acres for each individual in the association, and not exceeding 160 acres for the entire association. Thus, eight people may locate a placer claim of 160 acres. Only a single discovery is required to validate the claim, and ony $100.00 worth of annual labor is required, just as in the case of a 20 acre placer.

There is one other matter which is not widely known, but which is very important in the event you desire to patent mining claims. This is the so-called ten acre rule. In order to obtain a patent on land in a mining claim, the land must be predominately mineral in character. It has been held in numerous decisions of the Department of Interior that any 10 acre subdivision of a placer claim which does not contain mineral must be rejected in a proceeding for patent. Therefore, it is wise to determine in the beginning that every ten acres of a placer claim does in fact contain a mineral deposit, and that there has been a discovery on each 10 acres. It is my opinion that you should require evidence of mineral deposit on each 10 acres in the form of core holes or open pits, and these should be available for examination at any time. This distinction should be kept in mind: One discovery is sufficient to maintain an unpatented mining claim indefinitely, even an association placer of 160 acres; however, to obtain a patent from the government, it will be necessary to prove to the mineral examiner that every ten acres in the claim is mineral in character. Determination of the mineral character of the land is also important if a purchaser is paying for the claims on the basis of the number of acres included.

The second part of the claim status is the determination from the Land Office records that the land in the claim is open to location and that there are no restrictions on the ownership of the claim. Along with this

portion we should also consider the effect of recent Acts of Congress. Basically, the land must be public land owned by the United States of America.

There are a number of withdrawals which will affect the validity of the claims. They are:

1. Lands in reclamation withdrawals under the First Form, under the Act of June 17, 1902, are not subject to any form of mining location unless first opened to mining under the Act of April 25, 1932. Withdrawals under the Second Form are open to mining location. You will find, however, that all recent withdrawals under this act withdraw the land from all appropriation, including mining location. 43 C.F.R. 185.36 provides a method for making application to have withdrawn lands opened to mining location.

2. Power site withdrawals present a more complicated picture. Originally the withdrawal was under the Act of June 25, 1910, which was the general withdrawal act. This was amended by the Act of August 24, 1912. Between June 25, 1910, and August 24, 1912, the lands were open to location of all minerals. After August 24, 1912, and until June 10, 1920, the lands were subject to location for metalliferous minerals only. The Land Office will still allow patent to issue on claims for non-metalliferous mineral claims located before August 24, 1912, if patent is taken subject to section 24, of the Act of June 10, 1920.

Subsequent to the Act of June 10, 1920, which is the Federal Water Power Act, withdrawn land was not open to any mining location unless restored to mining subject to section 24 of this Act. There was a specific procedure set out to obtain such restoration, and in most cases restoration was not difficult. However, it was limited to areas for which the power commission had no immediate plans for development. Any mining location in a withdrawal made after June 10, 1920 and prior to August 11, 1955, was void unless the land was first restored.

Public Law 359, approved August 11, 1955, provides for location of mining claims on all lands in Power Site withdrawals, subject to certain exceptions set forth in section 2 of the Act, and in 43 C.F.R. 185.173. All power rights are reserved by the United States of America and any part of the land can be occupied for power purposes at any time without liability. The placer locator can conduct no operations on the land until sixty days after filing a copy of the notice of location in the Land Office, which must be done within 60 days after location. Affidavits of assessment work must also be filed in the Land Office. You should therefore be very careful of the existence of Power Site Withdrawals and if land is found to be withdrawn, and the location was made after August 11, 1955, you should check to be sure the location certificate was also filed in the Land Office and that the affidavits of assessment work have been properly filed. Unless all papers are timely filed in the Land Office the claim is void.

3. Prior to the general withdrawal act of June 25, 1910, many withdrawals were made by Executive Order under the general executive power to withdraw land for the public good. Nearly every type of withdrawal was made in this way, and each order of withdrawal must be examined to determine its effect. Generally, it can be said that the lands in these withdrawals are not open to mining location.

4. The Act of December 29, 1916, provided for Stock Driveway withdrawals under the withdrawal act of June 25, 1910, as amended, and lands withdrawn were open to location for metalliferous minerals only. They were opened to location of non-metalliferous minerals by the Act of January 29, 1929. All mining claims located within stock driveway withdrawals are subject to the provisions of this Act and of regulation 43 C.F.R. 185.35.

5. Under 43 C.F.R. 296.8 the general withdrawal orders No. 6910 of November 26, 1934, and 6964 of February 5, 1935, both made under the Taylor Grazing Act of June 28, 1934, do not prevent prospecting, locating, developing, mining, entering, leasing or patenting withdrawn lands under the mineral laws.

6. Lands in national parks and monuments are not subject to the mining laws. Military reservations are not open to location. Withdrawn Indian lands are not subject to location, except the Papago Indian Reservation in Arizona. Townsites are open to location only when land was known to be mineral in charatcer at time of townsite entry. Lands in Naval Petroleum Reserves are not subject to location. National forests are open to mining location, subject to compliance with all forest regulations. Lands in Public Water Reserves and lands withdrawn as containing hot or medicinal springs were withdrawn under the withdrawal act of June 25, 1910, as amended by the Act of August 24, 1912, and would therefore be open to location for metalliferous minerals only.

The matter of rights of way may be important to the rights of a mining claimant.

Any mining location made after the existence of a valid right of way is taken subject to the continued use of the right of way. For example, a location embracing a right of way for a railroad will be patented subject to the right of the railroad to continue using the tracks. Whether the mining claimant owns the minerals under a railroad right of way has been rather a difficult question, but I think it can be said that he would.

If the mining location is prior to Public Law 167 of July 23, 1955, and is prior in time to the proposed right of way, any right of way will have to be obtained from the mining claimant. That is, a right of way obtained from the United States while a mining claim is on the land would be void. This is based on the theory that the patent to the mining claim has a retroactive effect and relates back to the inception of the patentee's rights, normally being the date of location.

By Public Law 167 of July 23, 1955, the United States reserved the right prior to the issuance of patent to use so much of the surface of a mining claim as may be necessary for access to adjacent land. This refers to roads only and also is limited to the period prior to issuance of patent. Therefore, although there have been no cases, I believe you should recognize road rights of way created by authority of the government after location of a mining claim subsequent to July 23, 1955, but only until patent issues. Upon issuance of patent the mining claimant owns the surface as well as the minerals.

The methods for obtaining rights of way over public lands are set forth in 43 C.F.R., Subchatper S, and particularly Part 244. There is one exception, however, which is important to mining claimants. 43 U.S.C. Section 932, provides that the right of way for the construction of highways over public lands, not reserved for public uses, is thereby granted. By the terms of this section public roads and trails may be established by mining claimants or others over the public domain without any license or formality, and would be valid if constructed and used prior to the location of the claim.

Another problem arising often, which limits the use of the surface by the mining claimant is the prior existence of a Stock Raising Homestead Entry. The minerals are reserved by the United States of America and they are subject to mining location. The law states that the claimant may explore for minerals and may reenter and work the claim, using so much of the surface as is necessary to conduct his mining operations. At this point there is a serious conflict between the surface owner and the mining claimant. The only practical answer is for the parties to reach an agreement as to damages. There is a provision for filing a bond with the Land Office, but this only postpones the difficulty. Several factors are important. In the case of placers worked by strip mining, probably the answer is to buy the surface from the owner. When mining operations are completed, there might be no usable surface remaining. The one difficulty with purchasing the land is that the price asked might be substantially higher than the market value in the general area. Piling the overburden or storing the mined mineral, such as bentonite, requires the use of large parcels of land. In this case it might be possible to obtain a lease from the surface owner. There actually is no single, clear solution to this problem. It depends on the parties involved and the facts of each case. The examining attorney should certainly make his client aware of the existence of any surface rights, and then take some action to reach an agreement with the surface owner if operations are contemplated in the near future.

Public Law 167, referred to above, effects another broad change in policy. This Act removes certain common varieties of sand, stone, gravel, pumice, pumicite, or cinders from the operation of the mining laws. The

question is, what is a common variety. It pretty clear that sand containing no metalliferous mineral and to be used for road ballast, for example, is no longer a mineral. However, exactly where to draw the line is not even known by the United States Mineral examiners. If a stone deposit contains iron ore, for example, this probably would not be a common variety for sand, stone or gravel.

Another very important part of Public Law 167 is section 4, which provides that the mining claims thereafter located shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations, and uses reasonably incident thereto. Also, the United States reserved the right to manage and dispose of the vegatative surface resources thereof and to manage other surface resources except mineral deposits subject to location. That is, the United States can sell timber from the land in the claim, or can issue grazing leases. The locator cannot block access to water needed in grazing use or block access to recreational areas, or prevent agents of the government from crossing the claim in order to reach adjacent land. This act is not retroactive. However, the act does provide a means by which the United States can ask for a hearing to determine the surface rights of prior claims. This is used in order to obtain surface rights to forested or grazing lands embraced in old mining claims which have probably been abandoned or claims which do not contain a valuable discovery.

Prior to February 25, 1920, the Department created withdrawals or reserves, such as Petroleum withdrawals; coal land withdrawals, phosphate withdrawals, etc. These were under the Act of June 25, 1910, as amended by the Act of August 24, 1912, and the lands were still open to mining location for metalliferous minerals. They were not open to non-metalliferous mineral location, after August 24, 1912, however. Therefore, land in a petroleum reserve was not open to placer location for oil or bentonite, but would be open to location for iron or other metal deposits, in which case the locator would acquire the title to oil and gas deposits if he obtained a patent. A reserve made under the Act of June 25, 1910, was for classification and in aid of legislation. If the claim was located prior to February 25, 1920, or October 2, 1917, in the case of Potassium, a location for a metalifferous mineral would be valid even if the land was in a reserve.

Subsequent to the Act of October 2, 1917, chlorides, sulphates, carbonates, borates, silicates and nitrates of potassium, in lands valuable for such deposits, were made subject to disposition only under that act. Subsequent to February 25, 1920, under section 37 thereof, deposits of coal, phosphates, sodium, oil, oil shale, and gas, in lands valuable for such minerals, were made subject to disposition only under this act and not open to mining location for any mineral. The act of February 7, 1927, brought the potash minerals under the act of February 25, 1920, and the act of October 2, 1917 was repealed.

After February 25, 1920, withdrawal or classification of lands under the act of June 25, 1910 as lands valauble for any of the mineral leasing act minerals, was accepted by the department as prima facie evidence of the value of the lands so classified for that mineral. Thus, the existence of a classification or withdrawal for petroleum under the Act of June 25, 1910, as amended, created prima facie oil and gas value and withdrew the land from location pursuant to section 37 of the Act of February 25, 1920. However, a mining claimant had the right to prove the land was not in fact valuable for oil and gas by asking for a hearing to disprove the validity of the oil and gas classification. As a practical matter this would be nearly impossible to accomplish.

On determining the validity of a claim located prior to August 13, 1954, it is therefore important to determine from the federal records whether the land in the mining claim was in a withdrawal or was classified as being valuable for one of the leasing act minerals. The records in the Cheyenne Land Office are not very complete and if there is any question, it is important to get a determination based upon the Washington records of the Bureau of Land Management.

After February 25, 1920, if there was an application, lease or permit for a leasing act mineral on the land at the time of making the mining location, the location was void for the reason that the land was withdrawn from the public domain and was not available for any other disposition. Further, if the location was void at the time made, it remained void even after the application, permit or lease was cancelled or terminated of record. In this situation the only way to acquire a valid claim was to make a new location after the cancellation or termination of the application, permit or lease, and while the land was open public land. The only exception to this was the limited relief granted by Public Law 250 of August 12, 1953, and Public Law 585 of August 13, 1954. By these acts the prior invalid mining claim could in certain instances be made valid by filing within a specified time an amended location certificate. By so doing, the claimant relinquished all right to all leasing act minerals.

A mining location made after August 13, 1954, is valid even though the land was embraced in a mineral application or lease under the Act of February 25, 1920, at the time of location. However, while the claim is unpatented, the United States may issue leases or permits for leasing act minerals and the permittees or lessees may enter the land and use so much of it as is necessary in their operations. If the land is embraced in an application, permit, or lease at the time of patenting claim, all leasing act minerals are reserved, together with the right of the United States and its lessees to go upon the land and use so much of the surface and subsurface as may be necessary.

This gain brings up the same situation as between the stock raising

homestead entryman and the mining locator. There will always be conflicts between opposing interests, and in this case all you can do is tell your clients that their rights of mining claims located after August 13, 1954, are subject to collateral rights of lessees and permittees under the mineral leasing act, and that they will probably acquire no interest in any leasing act minerals if and when they obtain a patent.

There are thousands of unpatented claims located prior to August 13, 1954, which are valid. These claims withdraw every part of the land, both surface and mineral, from the public domain. The government has no knowledge of the existence of them, as there is no coordination between the records in the County Clerk's office and the Federal Land Office. There may be a mining location on the land the government may issue an oil and gas lease. If the mining claimant contests the issuance of the lease, the Land Office will require a hearing to determine the validity of the mining claim, with the burden of proof being on the mining claimant. If the claim is held to be valid the lease will be cancelled. Also, Section 7 of the Act of August 13, 1954, provides a procedure whereby a mineral leasing act lessee may have the ownership of the leasing act minerals determined. This is used principally to clear the record of old, unpatented mining claims which are probably abandoned, but which still withdraw the land from the public domain and make the land unavailable for issuance of leases and permits under the mineral leasing act. I certainly would recommend filing in the County Clerk's office a request for copy of notice, as provided in section 7 of the Act of August 13, 1954, thereby insuring receipt of any notice pursuant to request for publication filed by a leasing act lessee or permittee.

The mining laws originated as a few simple basic principles established by statute. There was no overlapping and you could say with some degree of certainty that the claim was valid and the locator had certain rights so long as the claim was maintained. It was not necessary to obtain a patent on the claim, as the locator had what amounted to a fee title. Now, however, I would strongly recommend that a mining claimant obtain a patent to his claim as soon as possible in order to protect what property rights remain. The policy toward mineral lands and their acquisition is changing rapidly and the ultimate step is to place all minerals under a leasing act.

The topic of examination of mining claims is so broad that it is difficult to cover the subject in a single presentation. I have tried to outline the subject rather hurriedly so that by reading certain basic works like Lindley on Mines and Morrison's Mining Rights you can combine the new with the old and perhaps get a more complete understanding of the mining law as it exists today, together with some of its less known intricacies. If you have any questions I will be happy to answer them at any time.