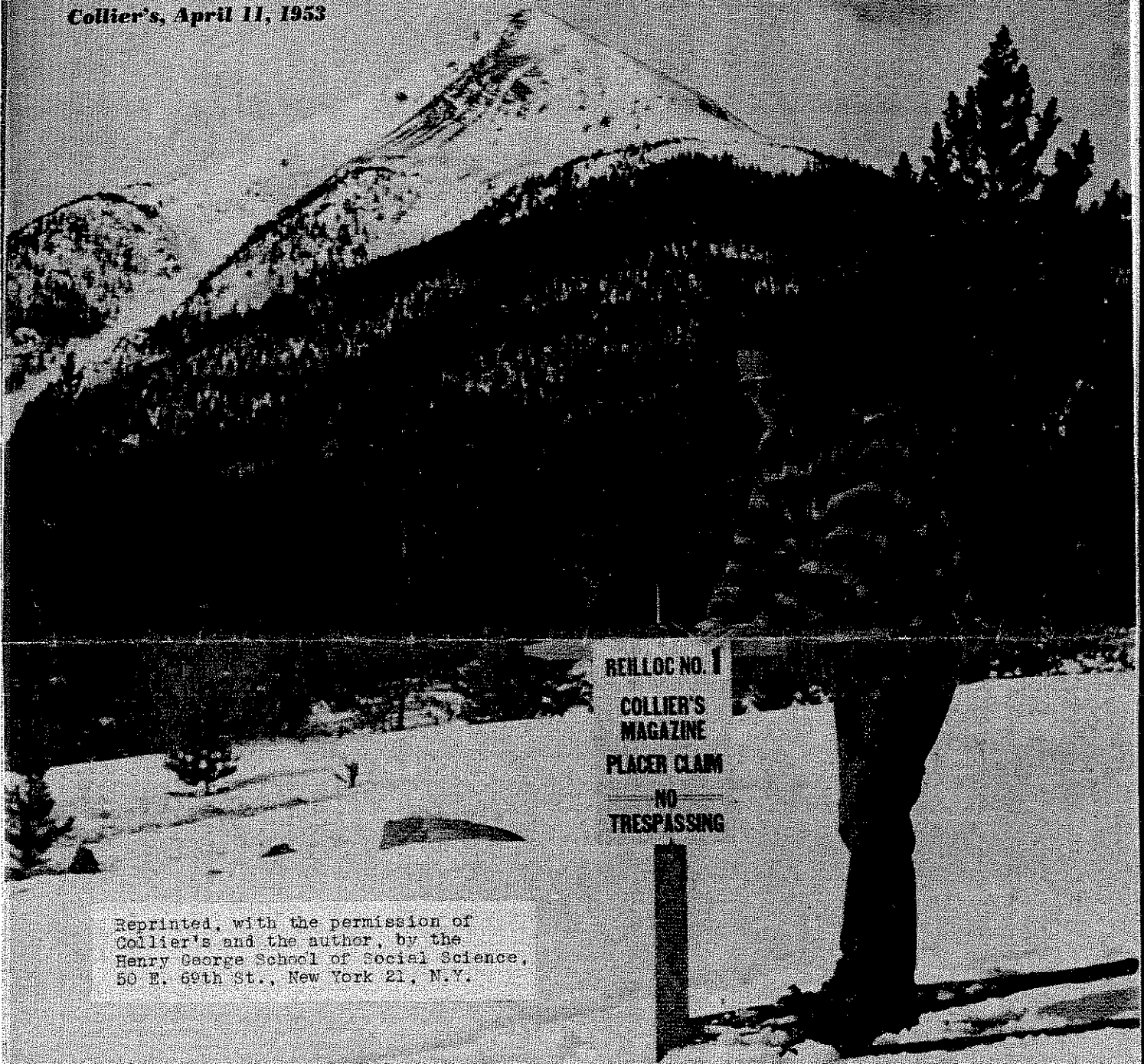


Collier's, April 11, 1953

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## How Collier's Grabbed 20 Acres of Valuable Public Land for \$1.25

SEE NEXT PAGE

## Our outdated mine laws let opportunists seize U.S. land

**A** FEW weeks ago, Collier's stole 20 acres of valuable land from you, the people of the United States. The tract is in Colorado, in one of the most beautiful national forests in the country. It's covered with lodgepole pine and Douglas fir trees; it has its own mountain stream, teeming with trout and beaver—and it lies right across a proposed new route of a heavily traveled transcontinental highway.

Collier's paid \$1.25 for the land—that is, I did, acting as Collier's agent. No one can now get at the timber, or fish the stream; I have plastered the area with No Trespassing signs. If I wish, I can fence off the property as a private hunting-and-fishing preserve. Or I can despoil the scenery by building an ugly hot-dog stand, or a souvenir shop or a merry-go-round—anything I want.

I can do more. I can block the highway.

At present, U.S. Highway 6, a key artery between Massachusetts and California, runs right past the property. Farther on, it becomes winding and dangerous, and hard to maintain. The government wants to reroute it, and a new tunnel has been drilled through the Continental Divide, opening into a valley.

Collier's 20 acres block off the valley from ridge to ridge! If the government wants to build the road through that valley, it will have to buy up the land at my price, or spend long, expensive months in court to get me evicted.

How can one man cause so much trouble with a measly dollar and a quarter?

It was easy. I merely drove from Denver to the 12,000-foot-high Loveland Pass in the Arapaho National Forest, hiked off the road into the woods and tacked an empty tobacco can to a tree. I stuffed a handwritten notice into the can, and on another tree I nailed up a sign reading "Corner Number One." Then I drove back to the village of Georgetown, the seat of Clear Creek County, and paid the county clerk my \$1.25 to record the notice. That's all there was to it. Under our weak, archaic federal mining laws, my out-and-out steal is a perfectly legal mining claim.

In the eleven Western states and South Dakota, there are 450,000,000 acres of federal lands subject to the mining laws. An estimated 30,164,000 acres—an area greater than that of Pennsylvania—already have been taken over by private citizens just as I seized my choice hunk of Loveland Pass.

Only 3 per cent of this huge area is being used for legitimate mining. Most of the rest has been taken from the people of the United States for other purposes—at the rate of 5,000 new claims every year—in a quiet land-grab unparalleled in our history.

Collier's, of course, filed its claim merely to dramatize the shocking situation and is gladly giving up its 20 vital acres after the publication of this article. But thousands of other Americans had more selfish ends in view.

### Mining Claims Put to Various Uses

In the Siskiyou National Forest in Oregon, for example, the late author Zane Grey acquired a 32.5-acre mining tract and used it as a private fishing preserve along the lower Rogue River, one of the finest salmon streams in America. In the Helena National Forest in Montana, Mr. and Mrs. William A. Osborne used their mining claim as a milk farm. In the White Sands National Monument in New Mexico, a "miner" erected a home, a filling station and an auto-repair shop on a tract he called the "White Gyp Lode Claim"; and in the Coeur d'Alene National Forest in Idaho, Basil Rizzinelli put up a string of saloons on claims just outside legitimate mining camps on U.S. lands.

One of the most spectacular cases involved a rancher named A. J. Denny, who staked out no less than 579 contiguous mining claims totaling



Writer Davidson, above, filed Collier's claim in Colorado (aided by J. W. Penfold of Izaak Walton League, p. 13) to show how easy it is to grab public land. The claim will be given up

86,240 acres of fine grazing land (an area as big as the sprawling city of Philadelphia). There are no known worth-while minerals in his section of Emery County, Utah, but Denny posted the vast area with signs reading, "Private Property, No Trespassing," and he used it as a pasture for 13 years—until finally his mining claims were voided by the federal government, and he was separated from his empire.

The U.S. Forest Service estimates that there are 87,838 such invalid or unproducing claims in the national forests. There are probably an additional 1,000,000 in the public-domain lands, which are administered by the Bureau of Land Management of the U.S. Department of the Interior. To this total, add the estimated 5,000 new claims every year, most of which must be regarded as spurious.

Do these figures shock you? They should—since the public lands and national forests are owned by all the citizens, and you, as a taxpayer, are paying for the depredations.

The mining laws that permit such misuse of government land were described by President Truman's Materials Policy Commission last spring as "a survivor of the frontier days." They were passed by Congress in 1872, when it was our national policy to give away land to encourage settlement and development of the West. Conservation and watershed management were almost unknown then, and the 1872 laws merely formalized

the vigilante rules set up in the lawless mining camps before the government arrived.

Under those laws, any citizen can file a claim to a 20-acre tract of most public lands in the West. The claim must be based on the discovery of minerals (everything except coal, oil, gas, oil shale, sodium, phosphate, potash, and, in some states, sulphur) "in sufficient quantity to warrant a prudent man in expending his time and money in the development thereof."

### U.S. Government at a Disadvantage

But the claimant doesn't have to prove that he has found minerals or even that he is prudent. He merely has to tack up a location notice, as I did, and record the claim with the county clerk. That gives him the use of the land—not only the minerals underneath, but also the timber and soil on the surface. He is prohibited by law from selling the timber—but he can prevent the United States from selling it. What's more, he can keep anyone else from crossing his territory—and that, again, includes the United States government, which sometimes has to resort to long, expensive court proceedings to reach its own installations blocked off by mining claims.

A claim is approximately 20.6 acres—1,500 feet by 600 feet. The 1,500 feet is supposed to run along the axis of the mineral vein, giving the

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man 300 feet of working room on each side. There is no limit to the number of claims one person can file, and an ingenious man has no trouble putting several of them together to follow the winding course of a fertile valley or a trout stream.

To maintain his hold on the claim, a man must simply do \$100 worth of so-called development work each year. Since the law considers such materials as sand, building stone and gravel to be minerals, it is necessary only to run a bulldozer over a few feet of the property or dig a small pit every twelve months. The claim belongs to the original holder and his descendants forever, and he can sell all or part of it at any time.

#### Acquiring "Patent" to His Land

If the claim holder wants to get even more complete control of his land, he can buy it outright—or "patent" it, in the language of the mining laws. To obtain a patent, he must prove only that he has done \$500 worth of development work, and he must have the claim surveyed, which costs roughly another \$500. Then, after he demonstrates the presence of minerals on his land (gravel might do) the U.S. Department of the Interior must sell him the tract for \$2.50 an acre if the minerals are on the surface, or \$5 an acre if they're underground.

Once the claim is patented, the owner can do anything he wants with it. Some people have subdivided the land for homes at a great profit, or built resort hotels. It is not unusual for a "miner" to spend the necessary \$1,000 on his 20 acres, patent the tract for \$50 and then immediately sell the timber to waiting dealers for \$30,000. Fewer than 15 per cent of all patented claims have been mined or are actually used for mining today.

Besides the basic weaknesses which make a farce of the law, it contains loopholes which make it almost impossible to administer.

For example, claims must be filed in county courthouses rather than with the federal government. There are about 350 county courthouses in national-forest territory alone and federal authorities can't even begin to keep an accurate check on how much land they still control and what has slipped away.

If the government protests a claim or a patent on grounds that the land contains insufficient minerals, the burden of proof rests on the federal authorities. Proof is hard to get, since pumice, sand and gravel can be found almost anywhere—and if the government does have proof, the legal costs of a single case run as high as \$1,000.

With thousands of new claims every year and nearly a million existing claims suspected of being invalid, the protests could cost well over a billion dollars.

But even that's not the final straw. According to the law, after a claim has been declared invalid, the holder can file a new claim, and force the government to kick him out all over again.

A man named Avery C. Moore plastered mining claims on both sides of the scenic Sonora Pass Highway near Yosemite National Park in California, and then sold the claims as real-estate sites for summer homes. To one woman, Mrs. Theresa Furlong, of Modesto, California, he wrote in a sales letter, "The price is \$1,000, terms if preferred. The acreage is well-timbered and is quite accessible to community facilities, while affording the degree of seclusion so important for those who desire to escape from city heat, noise and high tempo."

Moore said he was mining for building stone, but in 1950 a government examiner ruled against him, accepting the testimony of expert witnesses that "establishment of a quarry would not be economically feasible because there is no market for stone in the vicinity," and that "tests show that the

rock on these claims weathers and decomposes too rapidly." Nevertheless, no sooner is Moore thrown off a claim by the government than he refills on practically the same area. He has refilled on two canceled claims no less than a dozen times, and his real-estate venture is still going strong.

Another case currently being protested by the government is in the scenic Kaibab National Forest at a main approach to the Grand Canyon National Park in Arizona, where two principal highways intersect. Nearly a million tourists pass the junction every year, and the triangle of land formed by the intersection is one of the most valuable tracts in the neighborhood, estimated by local realtors to be worth \$50,000.

The United States Forest Service turned down rental offers from many filling-station operators because it did not want to compete with private owned filling stations in the town of William two miles away.

Then a group headed by Phillip F. Kenney slapped a mining claim on the valuable triangle. Kenney said he was mining for cinders. The government filed a protest against Kenney's estate (he died a few months ago and his relatives are pushing the claim). At the hearing in Phoenix last December, a government geologist testified that volcanic cinders like those on the Kenney claim are found all over the Williams area and that the claim could not possibly be suitable for a commercial operation. Then it was testified that Kenney and an oil company had discussed the possibility of opening a filling station on the triangle.

In both the Moore and the Kenney cases, the "miners" lived up to the letter of the law, but the government contended that there wasn't enough mineral present to "warrant a prudent man in expending his time and money in the development thereof." When there is sufficient mineral present—whether it is worked or not—the government doesn't have a chance.

But what happens when a claim—like mine—can affect thousands of people? Here, too, the answer generally is discouraging.

In Colorado, Forest Ranger W. S. Beckley showed me the Mammoth Basin area which was burned over by a great forest fire and which the Forest Service (helped by the Colorado Mountain Club) now is trying to replant with trees. If the trees are not replanted, the topsoil will erode into Denver's water supply (several inches already have washed away), sifting up and possibly destroying one or more of the city's reservoirs. But Beckley and the Colorado Mountain Club are temporarily stymied: more than 400 acres of the basin are clogged up with unworked mining claims.

#### City's Water Supply Was Endangered

In Utah, a man named Wayne E. Watrous obtained some old mining claims along Big Cottonwood Canyon, which is the largest single source of water for Salt Lake City. The government contends that Watrous could sell homesites on his claims, and that raw sewage from the new homes would go directly into the city's water supply. Thousands of Utah citizens would have to face disease or foot a big bill for purification.

An even more crucial situation was disclosed by a 1952 government report which said that claims have been filed on approximately 50,000 acres in the Rogue River National Forest in Oregon, where "assay reports reveal no valuable minerals in commercial quantity." The report warned: "During World War II, the area now covered by the claims produced as much as \$8,000,000 feet of timber annually—a material contribution to the war effort at that time. In the event of another similar emergency, the timber cut would be negligible with the lands in their present status."

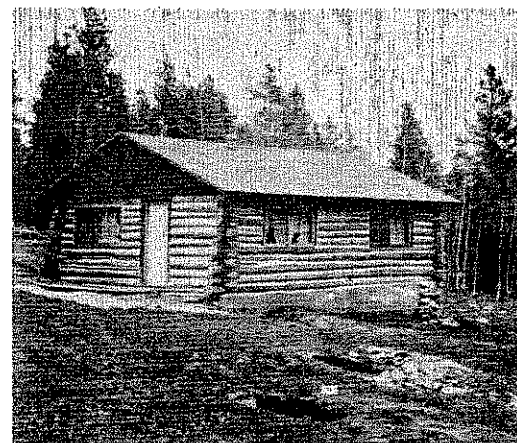
Today the emergency has arrived. The govern-



Summer home in the Stanislaus National Forest, Calif., is on land claimed as "placer mine." The U.S. Forest Service provided these photographs at Collier's request

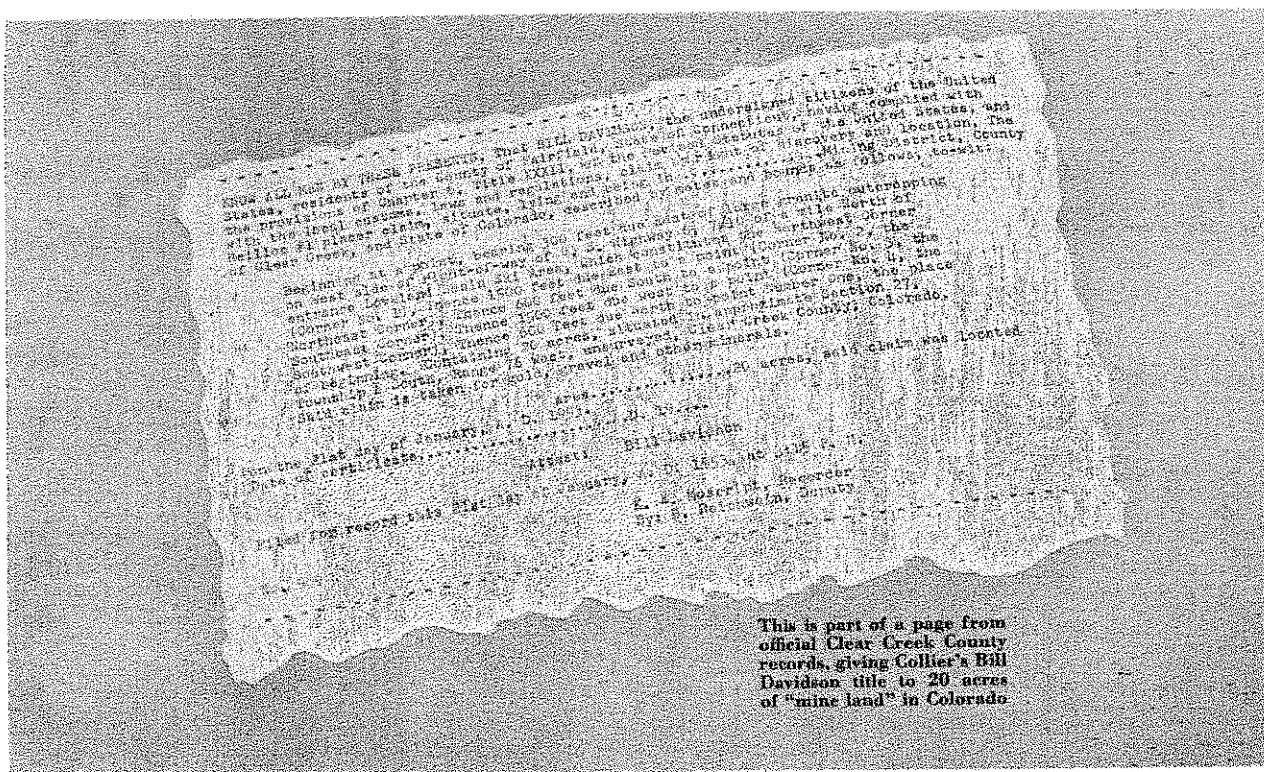


Private cottage on a mining claim near Mount Lemmon, Ariz., resort area. The government says minerals here are not worth much, but the real estate is worth plenty



The U.S. government recovered this valuable tract in Colorado's Roosevelt National Forest by proving that the owner had not discovered any important minerals on it





This is part of a page from official Clear Creek County records, giving Collier's Bill Davidson title to 20 acres of "mine land" in Colorado

ment needs the Rogue River timber (worth \$30,000,000) for the construction of Army camps, but it can't get it. And, since the law forbids anyone to cross a claim without permission of the miner, the government can't even go after \$40,000,000 worth of timber on unencumbered federal property behind the claims!

#### Pool-Hall Miners in Sordid Rackets

Such situations have spawned a host of sordid rackets. When word leaks out that the government is going to cut the timber in a certain area, the local "pool-hall miners," as they are called, rush out and post mining claims on all the approaches. Then they hold up the lumbering contractor for a \$500 to \$1,000 fee for right-of-way privileges. In the long run, the cost is borne by the government—and that means you.

The American people are victimized even in the vital uranium field. Two years ago, A. B. Stewart, a large legitimate mining operator, began looking for uranium in the Pinos Altos mining district of Grant County, New Mexico. When his activity became known, the pool-hall miners turned out in force and soon nearly every square foot of the area was plastered with mining claims. Then, according to a Bureau of Land Management bulletin, "Stewart had to buy out a considerable number in order to carry out his expanded operations." The result: more expensive uranium.

As Stewart's experience indicates, legitimate mining interests are hard hit by the depredations of the opportunists, and time after time they have to pay heavily to get rid of them. The legitimate miners have used the mining laws with careful regard for the public interest, and neither the Forest Service nor the Bureau of Land Management can recall a single serious instance of abuse on their part. In Colorado, the big Colorado Fuel & Iron Corporation will immediately relinquish a claim, if, after drilling, it does not find minerals in commercial quantities. The New Jersey Zinc Company won't even register a claim until it has made explorations and knows it has found something.

One mining executive told me, "A legitimate mining outfit will never tie up government land it doesn't intend to use. But lately we have been forced to register some claims far in advance—just to protect ourselves from the pool-hall miners."

The mining industry thinks the problem could be solved by stricter enforcement of the law. In addition, some mining-company executives to whom I spoke suggested putting teeth into the present legislation by allowing the Bureau of Land Management to institute criminal proceedings against violators; by limiting the amount of time that a claim can lie dormant; by prohibiting the refiling of a claim once it has been ruled invalid; and by making it easier for the government to get a right of way across a mining claim.

Another solution has been proposed by Representative Ken Regan of Texas. Regan has introduced a bill to eliminate the discovery of sand, stone, gravel, pumice, pumicite and cinders as a basis for filing a mining claim. The bill has a good chance of passage during this session of Congress.

A third solution is a bill introduced last year by Senator Clinton P. Anderson of New Mexico and Representative Harold D. Cooley of North Carolina. The Anderson-Cooley bill provides that all

existing claims be forfeited if the owners do not apply for patent within five years; and it calls for all mining claims to be recorded with the nearest U.S. district land office, as well as with the county clerk. But most important, the bill would separate the mineral from the surface rights. A man filing a mining claim would be entitled to use only as much of the surface as he needs for mining operations: space for mine buildings, timber for shoring up tunnels, and so on. The rest of the surface, including the standing timber, would remain in the possession of the United States.

Still another solution received at least the partial approval of the President's commission last June. It would eliminate mining claims altogether; instead, the government would lease public lands for mining operations, as is done on more than 30,000,000 acres of Eastern federal lands, and in the case of all coal, oil, potash and other so-called soft minerals found on public lands.

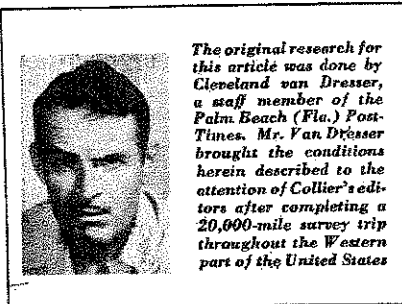
#### Strong Opposition to Both Solutions

Both the Anderson-Cooley bill and proposals to lease the Western public lands are vigorously opposed by almost the entire hard-mining industry of the West, and there seems little likelihood that either solution will become law soon.

But the various suggestions indicate mounting concern over the problem. What the final solution will be is any man's guess, for both Congress and the new Eisenhower administration vary in shade from ardent federal conservationists to equally ardent State righters, who would like to turn the public lands over to the states. (A middle-ground bill, letting the federal government keep the land, but giving its minerals to the states, has been introduced by Senator Lester C. Hunt, Wyoming Democrat.) There's only one certainty: the present system must be changed.

You have only to think of my mining claim up there in the Loveland Pass, blocking off a national highway. You have only to think of how thousands of such claims could cripple America—in peace and in war.

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The original research for this article was done by Cleveland van Dresser, a staff member of the Palm Beach (Fla.) Post-Times. Mr. Van Dresser brought the conditions herein described to the attention of Collier's editors after completing a 20,000-mile survey trip throughout the Western part of the United States