the later act may fairly be construed without much regard to the construction put upon earlier and much more intricate phraseology. I am strongly of the opinion that, except for the purpose of imposing a penalty on any one importing an abnormal bale (i. e. as the evidence shows, one with more than 15 per cent. wrapper, to less than 85 per cent. filler), any percentage system is abandoned in this tariff, and that all wrapper tobacco, wherever found, and in whatever amount, shall pay the higher rate. Inasmuch as the case will undoubtedly be appealed, it seems unnecessary to discuss the question presented at any greater length. Decision reversed, and collector sustained.

DUNHAM et al. v. UNITED STATES.

(Circuit Court, D. Connecticut. June 20, 1898.)

CUSTOMS DUTIES—CLASSIFICATION—ROVINGS OF COTTON.

"Rovings" made of cotton, not commercially known as thread, but being in fact a cotton thread, were dutiable under paragraph 250 of the act of 1894, as "cotton thread in singles, not advanced beyond a condition of singles, by grouping or twisting two or more single yarns"; and not as manufactures of cotton not specially provided for, under paragraph 264.

This was an application by Austin Dunham & Sons for a review of the decision of the board of general appraisers in respect to the classification for duty of certain goods imported by them.

Comstock & Brown, for importers.
C. W. Comstock, for the United States.

TOWNSEND, District Judge (orally). The article in question is "rovings" made of cotton. It was assessed for duty under paragraph 264 of the act of 1894, as "manufactures of cotton not specially provided for"; and the importer protested, claiming that it was dutiable under paragraph 250 of said act, as "cotton thread in singles, not advanced beyond a condition of singles, by grouping or twisting two or more single yarns together." The board of appraisers sustained the classification of the collector, and overruled the protest, and the importer appeals.

This article is not commercially known as "thread." It is, in fact, a twisted sliver of cotton. If still further twisted, it would become yarn. The testimony of the importer that it is a cotton thread in fact is not denied by any of the witnesses called by the government, and his testimony is supported by the history of the manufacture of thread, by the dictionary definitions, and by the use of the term "thread" by congress in reference to manufactures of cotton cloth. If this article was not intended to be covered by this provision of the statutes for cotton thread, it does not appear that there would be anything on which this provision could operate. The decision of the board of general appraisers is reversed.

SHOSHONE MIN. CO. v. RUTTER et al.

(Circuit Court of Appeals, Ninth Circuit. May 23, 1898.)

No. 413.

1. ADVERSE CLAIMS TO MINING LAND—JURISDICTION—FEDERAL QUESTION.
A suit brought in pursuance of Rev. St. § 2326, based upon an adverse claim made upon the filing of an application for a patent for mining ground, is a suit arising under the laws of the United States, and is within the jurisdiction of the circuit court. 75 Fed. 37, affirmed.

2. SAME—EQUITABLE OR LEGAL ACTIONS.
Suits brought in pursuance of Rev. St. § 2326, to determine adverse claims to mining ground, are in their nature equitable, and not legal, actions. 75 Fed. 37, affirmed.

3. RELOCATION OF MINING CLAIM—EXTENDING LIMITS UNDER NEW NAME.
A locator may relocate his mining claim, including additional vacant ground unclaimed by others, under a different name, and convey it by the designation of the last name.

4. RIGHT TO LOCATE MINING CLAIM—DISCOVERY OF LODE OR VEIN.
Seams containing mineral-bearing earth and rock, discovered on a claim before its location, were similar to seams that had induced other miners to locate claims in the same district, and which by development had proved to be a part of a well-defined lode or vein containing ore of great value. *Held* a sufficient compliance with Rev. St. § 2320, requiring the discovery of a lode or vein within the limits of a claim before a valid location thereof can be made.

Gilbert, Circuit Judge, dissenting.

Appeal from the Circuit Court of the United States for the Northern Division of the District of Idaho.

W. B. Heyburn, for appellant.
John R. McBride and Garber & Garber, for appellees.

Before GILBERT and ROSS, Circuit Judges, and HAWLEY, District Judge.

HAWLEY, District Judge. This is a suit in equity brought under the provisions of section 2326 of the Revised Statutes to determine the rights of the respective parties to certain mining ground situated in Yreka mining district, Shoshone county, Idaho. On August 21, 1895, appellant applied for a patent to the Shoshone lode claim. Appellees thereafter filed their protest and an adverse claim against said application, and in due time commenced this suit in support of their claim in the circuit court of the United States for the district of Idaho. Both parties are citizens and residents of the state of Idaho. A demurrer was interposed to the complaint, and overruled by the court. 75 Fed. 37. The cause thereafter came to issue, was tried upon its merits, and resulted in a decree in favor of the appellees. The questions presented by the demurrer will be first considered:

1. Appellant claims that the circuit court had no jurisdiction to try the case. Does the complaint in this case show upon its face that the suit is one arising under the laws of the United States? This question, under the repeated decisions of the courts in this and other circuits, has been, so far as we are advised, universally answered in