

RECORDS vs. MONUMENTS.

Prior to 1899 the practice of the surveyors general, acting under the commissioner of the general land office, was to make descriptions of mineral claims correspond to the actual boundaries as established on the ground, when it could be shown by claimant and local surveyors that the field notes sent in by the original surveyor were erroneous. In other words, the monuments and boundary lines, as appeared on the ground, were evidences that took precedence of the calls in the records. When a patent was issued and it afterwards appeared that the description called for in said patent differed from that of the ground actually covered by the location the maps and records were made to conform to the conditions established by the survey itself. This obviated conflicts that would follow if the records were allowed to represent a condition that did not exist. But a more recent ruling of the general land office decides that the records and maps in the surveyor general's office must not be altered to conform to the acts upon the ground, but shall remain as officially reported and in harmony with the descriptions named in the patent. That is, if a claim has been surveyed and its location incorrectly described in the surveyor's report to the surveyor general, and it passes to patent under the wrong description, the present practice requires that records and maps shall remain unchanged until such patent is annulled and cancelled, requiring also that the claimant have a resurvey made and advertise for a new patent to correct the error.

A test case was recently carried to the commissioner of the general land office by the Colorado Mine Operators' Association, the decision of the commissioner holding that the land described in the patent is the tract the claimant gets title to thereunder, notwithstanding the evident fact that his lode, shaft and tunnel are shown by his survey to be on an entirely different tract. The courts have always maintained that the acts on the ground are paramount and that any error in the records must give way thereto. The test case referred to was from Hinsdale county, Colorado, and was known as the Groves case. In this case the Groves claim cuts across the Silver Coin claim. The latter was patented years ago, but the patent papers assign it one position and, as is claimed, the owners show by their location stakes and survey that it was originally located in another position. Now patent was asked for the Groves claim, exclusive of that part which was in conflict with the Silver Coin claim according to the latter's original location; but this patent was denied because, according to the patent and the records, the Silver Coin was not in the position given it in the Groves application. The case will soon be argued before the secretary of the interior and his decision will be awaited with much concern.

We do not understand that the commissioner of the general land office seeks to take issue with the courts as to the monuments on the ground taking precedence of records and patent descriptions, but believe that the policy is more to keep the department records clear and leave the adjudication of the cases that result from