

"Can there be any valid pre-emption on sections, of land, alternate to the sections granted to the Illinois Central Railroad?"

My opinion is asked on the above question—

"An Act to appropriate the proceeds of the sales, of the public lands, and to grant pre-emption rights" Approved Sep. 4. 1841, contains the first permanent, or prospective pre-emption law —

5. U. S. Stat. at Large 453.

Sections ten, eleven, twelve, thirteen, fourteen, and fifteen, of this act, relate exclusively to pre-emptions — In Section ten it is provided that "no sections of land reserved to the United States, alternate to other sections granted to any of the States for the construction of any canal, railroad, or other public improvement, shall be liable ^{to entry} under, and by virtue of the provisions of this act."

This act continues to be our general pre-emption law, up to the present time — And, although some supplementary provisions have afterwards been enacted, the above provision, in Section ten, remained untouched up to Sep. 20. 1850, when the Central Railroad grant was made —

The latter act, preserved existing pre-emptions, on the even Sections, granted generally, for the Road; but made no mention of pre-emptions, as to the odd sections reserved to the United States —

9 Stat. at Large 466.

August 2. 1852 "An Act to protect actual Settlers upon the Land on the Lines of the Central Railroad and Branches, by granting Pre-emption Rights thereto." By this act, pre-emptions were given on these re-

server sections, to sueh persons as were settlers on them, on Sep. 20, 1850, in such way as to be entit-
led to the benefit of the act of Sep. 4, 1841,

10 Stat. at Large - 27.

This, it is perceived, limits the right to those who have made actual settlements upon the lands, on the 20th of Sep. 1850 — the date of the Central Railroad grant.

March 3, 1853 "An Act to extend Pre-emption Rights to certain lands therein mentioned" was en-
acted —

By this act the general pre-emption laws are extended to those reserved sections, with a proviso "That no person shall be entitled to the benefit of this act who has not settled and improved, or shall not settle and improve such lands prior to the final allotment of the alter-
native sections, to such Railroads by the General Land Office" 10 Stat. at Large - 244.

I have examined all the subsequent acts of Con-
gress up to the close of the Session, on March 3,
1855; and I do not discover that the above

~~proviso~~ ^{proviso} has ever been disturbed or — "An Act
for the sale of timber on lands reserved to Railroad purposes" Approved March 3,
1854 — does not affect the ~~the~~ act last ^{passed} 10 Stat. at Large 269 —

The final allotment of the alternate sections to the Illinois Central Railroad Company, by the General Land Office, was made on the 13th
day of March, 1852 —

It is my opinion that persons who settle on those reserved sections prior to the date of said "final allotment" might have a valid pre-emp-
tion; and that those who settle thereon
after the date of said allotment, can not

As to the mode of redress, in cases of pre-emptions having been improperly allowed by the Register and Receiver, it is more difficult to answer, owing to that matter depending upon the regulations, or special acts, of the Departments, and not upon express statutory provisions—

I understand that if a pre-emption be illegally allowed by the Register and Receiver, or, even legally allowed, but upon false or fraudulent proof, and forwarded to the General Land Office, the party interested to contest the pre-emption, may address a letter, or petition, petition, to the Commissioners of the General Land Office, describing the land, stating the facts, and pointing out wherein the illegality or fraud consists, and asking for a re-hearing; and that, thereupon, the Commissioners will direct the Register and Receiver to give a re-hearing, upon notice to both pre-emptor, and contentant—

I, therefore, would advise that whenever, on the reserved sections, a settlement and improvement have been made before the "allotment" of the General Land Office, four before, March 13, 1852—and ^{claim is now settled} the claim should be contested, on the ground that the right has been lost, by not being followed up with claim, proof, and payment, in due time—see Section 15 of the Act of Sep. 4, 1841—

In cases where settlements were made after the allotment, contest them on the ground that there was no right—

The content to be made in the mode above pointed out—The letter, or petition, to the Commissioners, should, in this class of cases, contain a reference to the ^{afrogard} Acts of Sep. 4, 1841—Sep.

Dec. 1850 - August 2. 1852 - March 3. 1853 & March 27.

1854 and particularly to that of March 3. 1853 -

Also, if it be intended to assail the pro of a bill
the proponent has made, as being false or fraud-
ulent, it would be better to verify the Petition
by affidavit -

March 6. 1858

A. Lincoln