25th CONGRESS,
3d SESSION.

H. R. 1166.

(Rep. No. 299.)

FEBRUARY 25, 1839.

Read twice, and committed to a Committee of the Whole House to-morrow.

Mr. LOOMIS, from the Committee on the Public Lands, reported the following bill:

A BILL

To secure to actual settlers on public lands the right to purchase their own improvements, when offered for sale, in preference to other persons.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall have been in the actual possession of any public lands in his own right and for his own use and benefit, by actual residence thereon, except lands specially reserved, for the period of not less than six months next before the same shall be offered for sale, and who shall have enclosed by a substantial fence, and under actual tillage, not less than ten acres of ground, shall be entitled to purchase the quarter section or fractional quarter on which the same or the greater part thereof shall be situated, in preference to all other persons, at the minimum price at which the same shall be offered for sale, subject to the restrictions and regulations hereinafter contained.

SEC. 2. *And be it further enacted*, That application shall

be made for such purpose, accompanied by the payment of the purchase-money and the requisite proofs, in such form and manner as shall be prescribed by the Secretary of the Treasury, (which proofs shall also be accompanied by the affidavit of the applicant,) at the land office of the district in which the lands are situated, at least thirty days before the day appointed for the public sale of said lands. And where several persons shall claim pre-emption of the same quarter section, each of whom shall make satisfactory proof of coming within the provisions of the first section of this act, each shall be entitled to an equal share in common of the same quarter section: but no person shall be permitted to claim as landlord of another, or to sustain his claim by showing a tenancy under him for any part of the above time; but when an actual right of pre-emption shall have accrued to an individual, his bona-fide assignee, who shall have purchased his right after it accrued, and without any pre-existing agreement for that purpose, shall be entitled to the rights of the original settler.

SEC. 3. *And be it further enacted*, That the registers of the several land offices are hereby authorized to administer the oaths and to take the affidavits and depositions rendered necessary by this act, and to decide all matters of controversy arising thereon, subject to an appeal to the Commissioner of the General Land Office; and the Secretary may

7 prescribe rules for the taking of depositions before State offi-
8 cers or special commissioners in cases where the personal
9 attendance of witnesses before the register cannot be obtained.

1 SEC. 4. *And be it further enacted*, That whenever it shall
2 so happen that a right of pre-emption shall be established to
3 the sixteenth section of a township or to any portion thereof,
4 there shall be reserved for the same purposes the corre-
5 sponding quarter sections, consecutively, in sections fifteen,
6 twenty-two, and twenty-one, in their order, until the deficiency
7 occasioned by such pre-emption right is supplied by the like
8 quantity in corresponding quarter sections to which the right
9 of pre-emption has not attached.

1 SEC. 5. *And be it further enacted*, That in all cases of
2 public lands now offered for sale, the sales made before the
3 first day of July next shall be made subject to the right of
4 pre-emption, to be established before that day; and until that
5 day time is given to actual settlers to make and establish by
6 proper proof their respective pre-emption claims.