

PREEMPTION AFFIDAVIT OF HEMAN CRANDALL
 THORNTON TOWNSHIP, COOK COUNTY, ILLINOIS # 4339, dated Nov. 14, 1838

F-1 I, Heman Crandall of Cook County, Ills. do hereby apply for the purchase of the South East Quarter of section numbered Thirty Two in township numbered Thirty Six North of range numbered Fourteen East, containing One hundred & Sixty acres, accordi to the returns of the Surveyor General, for which I have agreed with the Register to give at the rate of one dollar and twenty-five cents per acre. (\$200)

Signed: Heman Crandall

James M. Strode, Register of the Land Office at Chicago, Illinois, do hereby certify that the above described Land, contains 160 acres, as mentioned, and that the price agreed upon is \$1 25/100 per acre. Signed: J. M. Strode Register

State of Illinois
 Cook County. S. S.

Personally appeared before the Register and Receiver of the Land office at Chicago and before me Benjamin Butterfield one of the Justices of the Peace in and for the county aforesaid Heman Crandall who being duly sworn deposes and says that he is a bona fide claimant of and entitled to a preemption upon that certain piece or parcel of land lying and being in the State of Illinois and known as the South East quarter of Section number Thirty Two in Township number Thirty Six North of Range number Fourteen East of third principal Meridian: that he, said Crandall, is the head of a family: that his family consists of himself, his wife and one child: that he came into possession of said tract of land sometime previous to the twenty second day of February A. D. 1838: that he has been in possession of said tract of land from that time to the date of this affidavit: that during the aforesaid period of time he has kept house upon said tract of land: that he has personally resided upon said tract of land during the period of time above mentioned: that sometime previous to the twenty second day of February A. D. 1838 said Crandall built a dwelling house upon said tract of land that said dwelling house has stood and remained upon said tract of land from the time last mentioned to the date of this affidavit and that said affiant has lived in said house and made it his home from the said twenty second day of February A. D. 1838 to the present time. And the said Crandall furthermore deposes and says that he entered upon the land aforesaid in his own right and exclusively for his own use and benefit and that he has not directly or indirectly made any agreement or contract in any way or manner with any person or persons whatever by which the title which he may acquire from the Govern- ment of the United States shall inure to the use and benefit of any one except himself or to convey or transfer the said land or the title which he may acquire to the same to any other person or persons what- ever at any subsequent time and further deponent saith not.

Sworn to and subscribed
 before me this sixteenth
 day of October A. D. 1838

Signed Heman Crandal
 Signed Benj. Butterfield, J.P.

(Editors' note: There follow two supporting affidavits of the same date stating nearly the same as above. One signed by David Crandall and Benj. Butterfield. The other reading as follows: We the undersigned hereby certify that the above named David Crandall is a man of credit and respectability. (Signed): Benj. Butterfield and E. D. Taylor, Rcr.)

PREEMPTION LAWS AND THE BEAUBIEN CLAIM

During the Revolutionary War, Virginia troops under the command of George Rogers Clark conquered territory north of the Ohio River and west of Pennsylvania. By reason of this conquest, Virginia made claim to this vast territory. Massachusetts, Connecticut, and New York also claimed considerable portions of this same land.

On March 1, 1784, Virginia ceded the land in the northwest territory to the United States as a common fund for the use and benefit of all States. Virginia thereby relinquished her claim to the land which now comprises Illinois. New York, Massachusetts, and Connecticut also made similar cessions.

Some of the soldiers under Clark took possession of land in the northwest territory as squatters. They made improvements to the land although they had no legal title to it. In 1791, Congress provided that those who had occupied land before 1783 should have title to 400 acres each.

Up to 1812, no land in the Illinois territory had been placed on the market for sale to the settlers who had arrived between 1783 and 1813. Many of these squatters had built houses and made other improvements to the land, although they had no legal title.

In 1813, Congress enacted a preemption law granting these settlers on public land a preference right to purchase up to a quarter-section of this land at minimum price. In order to attract settlers, Congress enacted similar preemption acts in 1830, 1832, 1834, 1838, 1841 and 1843. Some of the early settlers of Thornton township obtained title to land under the Preemption Act of June 19, 1834 (Ch. 54, 4 Stat. 678).

This preference right granted settlers by Congress was called the right of preemption, which was nothing more than an offer by the federal government to sell public land to an individual who was already settled on it. If the settler was unable or unwilling to purchase at the government price at the time fixed by law, he had no further rights to the public land upon which he had settled.

Rights granted under the preemption laws were the subject of much litigation. The most celebrated preemption case in Illinois involved a claim by Jean Baptiste Beaubien, the second permanent settler of Chicago, to the quarter-section upon which he lived near Fort Dearborn at the mouth of the Chicago River.

In 1817, Beaubien bought a house, field, and garden near Fort Dearborn from John Dean, an army contractor, for \$1000. He later bought from the American Fur Company the balance of the quarter-section south of the Chicago River, except for the Fort and its enclosure. This land had not been surveyed and was therefore not open to preemption until 1821.

In 1835, the Chicago land office allowed Beaubien's preemption claim to the entire quarter-section south of the Chicago River known as Fort Dearborn Reservation. He paid the government the sum of \$1.25 per acre, received the Register's certificate to the land, and continued to live there and cultivate the land.

In 1836, the U.S. Supreme Court held that Beaubien acquired no title to the quarter-section of land by his entry because this land had been reserved for military purposes. The Illinois Supreme Court, in an opinion by Judge Theophilus W. Smith, previously had upheld Beaubien's claim. Judge Smith, who studied law under Aaron Burr, was later the subject of an impeachment proceeding in the Illinois General Assembly on charges unrelated to the Beaubien claim.

On June 20, 1839, the disputed land was sold upon orders of the U.S. Secretary of War. Beaubien desired to secure six of the lots sold but his desires were frustrated when one of the attorneys for the government in the case bought five of the six lots.

Mr. William F. Mathieu, the present Mayor of Homewood, is a descendant of Jean Baptiste Beaubien.

An excellent account of the Beaubien claim is given in A. T. Andreas, History of Cook County (1884). A reprint of this book may be purchased from the South Suburban Genealogical and Historical Society. The Society's Library has obtained the complete text of the court opinions in the Beaubien case, and these are available to users of the Library.

Court records are often the best source for local historians seeking knowledge of the kind of people we were and of our way of life. The operation of the preemption laws in regard to the Beaubien claim is an excellent example of how legal records may be used as a source by local historians.

--Ray H. Garrison