

## HEIRS OF WILLIAM STEVENS.

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FEBRUARY 11, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

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Mr. KETCHAM, from the Committee on Private Land-Claims, submitted the following

### REPORT:

[To accompany bill H. R. 719.]

*The Committee on Private Land-Claims, to whom was referred the bill (H. R. 719) entitled "A bill for the relief of the heirs of William Stevens," having considered the same, report the same with a favorable recommendation.*

The evidence before the committee shows—

That the said William Stevens, in about the month of August, A. D. 1858, took up and settled upon a tract of land in Dakota Territory, being the same land described in the said bill, and that the land in the vicinity, including the said tract, was not at that time surveyed, but was surveyed in the following year, (1859.)

Soon after the survey the said Stevens, in order to secure his right, filed a notice of his claim with the surveyor-general, (Hill, since dead,) and paid him the fees, and was told by the surveyor-general that it was all right. In the course of the fall of 1858 he built upon the said tract of land a small stone house, in which he resided, and soon after a log stable, and fenced and cultivated about five acres of land, and continued to live in the house and to make it his exclusive home until the autumn of 1862, when the Sioux Indians attacked the settlement and drove all the settlers away. Continued hostilities with the Indians prevented the settlers from returning until 1867. In January, 1867, the land in question, under order of the President, was included in the reservation of Fort Dakota, and continued so reserved till June 10, 1869. In the spring of 1869 Stevens returned and took possession of said land, repaired the house, put in a crop upon the five acres previously cultivated, and continued to live in the house until the autumn of that year, till within a few days of his death, in November, 1869, having been removed to a neighbor's shortly before his death for better care. The land in question was not open for entry or purchase, under the pre-emption or homestead laws, until July, 1870—eight months after the death of said Stevens.

The land in question is one-fourth of section sixteen, (16,) which is designated and appropriated for school purposes, but the other three-fourths of the section have been already purchased of the Government, and other land must be or has been substituted therefor for schools.

As to citizenship, and occupancy or ownership of other land under the pre-emption laws or otherwise in any State or Territory, the said Stevens in all things conformed to the requirement of laws.

Upon proof of the foregoing facts, in the fall of 1873 or beginning of 1874 application was made on behalf of said Stevens's heirs at the district land-office for permission to purchase the land in question under the pre-emption laws, but said application, on being referred to the Commissioner of the General Land-Office, was refused by the Commissioner on the ground that said Stevens had not filed a declaratory statement as required by law, and that the statement alleged to have been filed with the surveyor-general was not authorized by law.

The township-plats of survey were filed in the district land-office July 16, 1862. By act of May 30, 1862, the claimant had three months from the date of filing the plats to file his declaratory statement. But Stevens had filed his statement with the surveyor-general in 1859, and, whether legal or not, it is fairly to be presumed, from the fact that he thought it sufficient and all that was necessary.

It does not appear that there are any intervening rights or conflicting claims that can or could be affected by the failure of said Stevens to file the formal declaratory statement required by the statute.

From all the evidence before them, the committee conclude, as matter of fact, that said Stevens did go upon and improve said land, and continue and follow up the possession and occupancy of the same, with the *bona-fide* intention of obtaining a title for the same under the pre-emption laws, and to appropriate it to his own exclusive use and benefit; and, further, that the equities of the case entitle the claimants to the privilege of purchasing the said tract as provided in the said bill.