

4-16-1878

Salt Spring Lands in Minnesota

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

S. Rep. No. 259, 45th Cong., 2nd Sess. (1878)

This Senate Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

IN THE SENATE OF THE UNITED STATES.

APRIL 16, 1878.—Ordered to be printed.

Mr. JONES of Florida, from the Committee on Public Lands, submitted the following

REPORT :

[To accompany bill S. 1073.]

The Committee on Public Lands, to whom was referred the memorial of the legislature of the State of Minnesota, approved February 26, 1877, asking the passage of a law by Congress "granting to the State of Minnesota other lands within said State in lieu of lands of said State designated and known as 'salt spring lands,' in which and to which there are any adverse claims, by pre-emption filings, homestead, cash, or scrip entries," have had the same under consideration, and beg leave to submit the following report:

By the provisions of "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission in the Union on an equal footing with the original States," approved February 26, 1857, the boundaries of such future State defined, &c., and section 5 of said act reads as follows:

Be it enacted, That the following propositions be, and the same are hereby, offered to the said convention of the people of Minnesota for their free use, acceptance, or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:

The fourth subdivision of said section reads as follows:

Fourth. That all salt springs within said State not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the governor thereof within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. (U. S. Stat. at Large, vol. 11, pp. 166, 167.)

On the 29th of August, 1857, the people of said Territory did, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people at an election held on the 13th October, 1857, for that purpose, and by an act of Congress approved May 11, 1858, entitled "An act for the admission of the State of Minnesota into the Union," said State was declared to be one of the United States of America "and admitted into the Union on an equal footing with the original States in all respects whatever." (U. S. Stat., vol. 11, p. 285.) From evidence submitted with said memorial in the printed reports of the auditor of said State of Minnesota, and from copies of correspondence between said

auditor and Commissioner of General Land Office, furnished by Hon. J. A. Williamson, Commissioner of the General Land Office, at the request of your committee it appears :

That the governor of said State of Minnesota on the 25th September 1858, appointed two commissioners to make the selections of salt springs and lands to which the State was entitled by said act of February 26, 1857.

That said commissioners on the 27th of November, 1858, having made said selections according to instructions received from said governor in the letter of appointment, did on the 27th day of November, 1858, make report thereof to said governor.

That on the 1st day of December, 1858, said governor addressed a letter to the register and receiver of United States land-office at Otter Tail City ; accompanying the same was a list of the selections made by the commissioners ; and that on the same day he also addressed a similar letter to Commissioner of General Land Office and requested that he would instruct local land officers to mark on tract-books the selections made ; and that said Commissioner did on the 14th December, 1858, issue such instructions to said local land officers, as will appear from the following letter :

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 14, 1858.

GENTLEMEN : His excellency the governor of Minnesota having advised this office that he had in a letter of the 1st instant designated to you the location of the twelve salt springs, with the land adjoining, to which the State is entitled under the provisions of the law of February 26, 1857, I have to request that you will mark upon the plats and tract-books, *plainly* and *distinctly*, those salt springs, with the land adjoining, may fall within the limits of the government surveys, and withhold them from entry or location until further advised by this office. Transcribe in one of your permanent records as much of the governor's report giving the description of the locality of the salt springs, which are embraced in land not yet surveyed, so that when the plats of the townships which contain the said springs are received at your office, and the tract-books opened for entries, no errors may occur in regard to the precise location of the springs.

Advise this office of the receipt of this letter.

Very respectfully,

THOMAS A. HENDRICKS,
Commissioner

REGISTER AND RECEIVER,
Otter Tail, Minn.

Nothing further appears to have been done toward securing the title to these lands to the State till the 20th day of November, 1868, when the State auditor addressed a letter to Commissioner of General Land Office, and to which he received the following reply :

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 25, 1868.

SIR : I have to acknowledge yours of the 20th instant, making inquiry about the selections of salt spring lands for the State of Minnesota.

In reply, I state that on the 1st of December, 1858, the governor of the State wrote to this office to the effect that he had written to the Otter Tail land-office, designating "as nearly as possible" the location of the twelve salt springs, with the land adjoining or contiguous thereto, to which the State is entitled by the terms of the enabling act (so called) of Congress approved February 26, 1857. In reply thereto we addressed a letter of instructions to the local officers at Otter Tail City to make such notes on their records as will clearly designate the lands selected, and to await further instructions. I inclose a copy of this letter.

No further action has been taken by the State authorities toward obtaining title to the lands, nor has this office issued any further instructions.

To bring the matter now properly before the department, it is requested that the State will present, through the local officers, a list of the lands claimed for salt springs, with evidence of the existence of such springs; and if any of the springs are still in an unsurveyed region, diagrams should be forwarded showing their locality by proper metes and bounds. When these are received we will be enabled to take definite action.

Very respectfully, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. CHAS. McILRATH,
Auditor and Land Commissioner, Saint Paul, Minn.

To which letter the State auditor made the following reply :

STATE OF MINNESOTA,
LAND OFFICE, SAINT PAUL, March 13, 1869.

SIR: In compliance with the instructions contained in your letter of the 25th November, 1868 (89-419), relating to the selections of "salt-spring lands" for the State of Minnesota, I herewith inclose the following papers, and respectfully request the action of the department thereon, viz :

1. Copy of the affidavit of the commissioners who selected the said lands in 1858, certified to by the governor and attested by the secretary of said State, designating the lands by United States subdivisions where surveyed, and, where not surveyed, describing the same by metes and bounds.

2. Map of the lands, with field-notes of surveys by said commissioners, showing position of said springs in reference to United States section corners.

I have also sent to the local land-office at Alexandria the copy of the letter from your office to the office at Otter Tail land-office, dated December 14, 1858, requiring them to mark on their plats and tract-books said salt-spring lands, and accompanied same by a similar list to the one herewith transmitted, and diagram of the selections beyond the surveys.

Very respectfully, your obedient servant,

CHAS. McILRATH,
Commissioner State Land Office.

Hon. JOSEPH S. WILSON,
*Commissioner General Land Office,
Washington, D. C.*

NOVEMBER 27, 1858.

The following affidavit of Pierre Bottineau and James D. Skinner, commissioners heretofore appointed by the governor to select salt springs and lands, &c., for the State, were this day filed in this office, to wit :

STATE OF MINNESOTA, *County of Ramsey, ss :*

Before me, a notary public in and for said county, personally came James D. Skinner and Pierre Bottineau, who, being duly sworn according to law, did depose and say that in the month of September last (1858) they were appointed by Henry H. Sibley, governor of the State of Minnesota, commissioners on the part of said State to select and mark out the twelve salt springs, with the land adjoining, granted by act of Congress, approved February 26, 1857, to the said State; that they have discharged the duty thus imposed upon them, and have found salt-springs on or adjacent to the following-described tracts or parcels of land included in the United States Government surveys, and which said tracts or parcels of land they have reported to the said governor, as claimed for and in behalf of said State under the act of Congress referred to, to wit: South half of section 23, south half of section 22, and sections 25, 26, 27, 34, and 35 in township 136 north, of range 45 west; sections 2, 3, 10, and 11, west half of section 1, west half of section 12, north half of section 14, north half of section 15, township 135, range 45; south half of section 20, south half of section 21, east half of section 30, east half of section 31, and sections 28, 29, 32, and 33, township 136, range 45; south half of section 19, south half of section 20, west half of section 23, and sections 30, 31, 32, and 29, and west half of section 33, township 136, range 44; sections 4, 5, and 9, east half of section 6, east half of section 7, and section 17, township 135, range 45; sections 12, 13, and north half of section 24, township 133, range 44; sections 1, 2, 11, and 12, north half of section 13, north half of section 14, township 135, range 46; sections 7, 18, and west half of section 8, north half of section 19, west half of section 20, township 133, range 43; west half of section 6, west half of section 7, township 135, range 45; sections 7 and 18, township 131, range 42; sections 12, 13, east half of section 11, east half of section 14, township 131, range 43; west half of section 8, west of section 17, township 131, range 42; section 6 and west half of section 5, township 131, range 42; west half of section 32 and section 31, in township 132, range 42; section 1 and section 2, township 131, range 43; section

35, township 132, range 43; also three salt springs outside of the lines of the government surveys, with six sections of land to each, marked out by metes and bounds and described as eighteen sections of land lying south from the Wild Rice River, and traversed by the south branch of the said Wild Rice River, which arises along the eastern boundary of said tract, and closely adjoining and northwest from the crossing of the Red River trail (so called). At said branch, posts were set and lines run out as per letter of instructions of the said governor, and a map or diagram of which selections accompanies this affidavit, marked A. And deponents further say that according to the best of their knowledge and belief, no right to any of the said salt springs or lands claimed for the State as aforesaid has vested in any individual or individuals by reason of prior claim of settlement or pre-emption, or by any grant from the Government of the United States; that they have visited in person and examined said salt springs, and that they do exist on or adjacent to the lands above designated, and are of the kind or description contemplated by the act of Congress above referred to. And the said deponents further say that they have delivered to the said governor a general map of the country, which map or draught contains a designation of the particular location of the several salt springs so selected by them for the State as aforesaid which correctly describes the location of the salt springs as they are marked on the said map or draught, and further deponents say not.

his
PIERRE + BOTTINEAU.
mark.
JAMES D. SKINNER.

Attest:
W. F. WHEELER.

Sworn to and subscribed before me this 27th day of November, 1858. Witness my hand and notarial seal.

[L. S.]

WM. F. WHEELER,
Notary Public, Minnesota.

Attest:
WM. F. WHEELER,
Private Secretary.

I hereby certify that the foregoing is a true copy of the original affidavit as recorded in book "A" of the record journal of this State.

[SEAL.]

WM. R. MARSHALL,
Governor of Minnesota.

H. C. ROGERS,
Secretary of State.

Accompanying and attached to the foregoing report of the commissioners there is a plat showing the location of the three salt springs which were located outside the surveyed limits, designating the same by metes and bounds, mounds, and stakes.

It further appears from list of selections furnished to your committee by Commissioner of General Land Office that all of the lands embraced in the foregoing report of commissioners, and which were located within the surveyed limits were approved January 4, 1871, and certified to the State, except as shown in the following letter from Hon. J. A. Williamson, Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 6, 1878.

SIR: I am in receipt of your letter of the 28th ultimo, received at this office the 4th instant, requesting further information relative to Minnesota salt springs selections, and in compliance therewith, I have the honor to submit the following statement of—

1st. The quantity of lands selected for salt springs, but which have not been certified to the State, on account of portions thereof being covered by adverse claims.

2d. Quantity of lands selected which are covered by adverse claims; and,

3d. Quantity of lands selected which are not embraced in such adverse claims, and which may be certified to the State as saline lands, viz:

Tracts selected.	Section.	Township.	Range.	Area of tracts.	Quantity covered by adverse claims.	Quantity which is clear and may be approved.
West ½	5	131	42	315.03	155.00	160.03
All of	6	131	42	591.17	281.53	309.64
All of	7	131	42	205.77	131.64	74.13
West ½	8	131	42	162.35	162.35	-----
West ½	17	131	42	305.93	238.43	67.50
All of	18	131	42	553.88	156.73	397.15
All of	1	131	43	635.39	635.39	-----
All of	2	131	43	629.74	309.74	320.00
East ½	11	131	43	326.00	160.00	160.00
All of	12	131	43	623.70	303.70	320.00
All of	13	131	43	580.09	391.24	198.85
East ½	14	131	43	326.00	240.00	80.00
All of	31	132	42	576.25	149.00	427.25
West ½	32	132	42	283.06	80.00	203.06
All of	35	132	43	640.00	-----	640.00
South ½ of northeast ¼	24	133	44	80.00	-----	80.00
-----	-----	-----	-----	6,832.36	3,394.75	3,437.61

The lands referred to in the report transmitted with my letter to you of the 19th ultimo, as having been selected June 6, 1870, as swamp lands, amounting in the aggregate to 120 acres, and the selection of lot 1 of section 7, township 131, range 42, containing 6.40 acres as school land cannot be considered as valid selections, the same having been made long subsequent to the date of the salt springs selections. Hence the above are not included in the statement of interferences above.

The selection of the east half of section 10 and north half of section 14, township 135, range 45, for university purposes, May 8, 1872, was illegal, the said tracts having been approved to the State as saline lands, January 4, 1871. Hence the reselection of the tracts for university purposes was an error, and should not have been allowed. The paper submitted with your letter is herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. W. JONES,
United States Senate.

From the foregoing, it appears that of the selections made inside the surveyed limits, and which have not been approved, there is 3,437.61 acres, to which there is no adverse claim, and which can now be approved and certified to said State. It also appears that there is 3,394.75 acres which are covered by adverse claims, for the greater portion of which patents have already issued, and to which title cannot now be made to the State; and that the 3,394.75 acres represents six (6) sections by government subdivisions as originally selected.

The "three salt springs outside of the lines of the government surveys with six sections of land to each," as described in the report and diagram of selections made by the commissioners, on examination, are found to be within the limits of the White Earth Indian Reservation. The Indian title to the land embraced within the present limits of said reservation was ceded to the United States by the treaty of February 22, 1855, between the United States and the Chippewa Indians of the Mississippi. (U. S. Stat. at Large, vol. 10, pp. 1165, 1166.)

By the treaty with said Indians of March 20, 1865, they ceded certain reservations made in the treaty of February 22, 1855, and a new reservation was set apart for them which included a small portion of northern part of what is now White Earth Reservation. (U. S. Stat. at Large, vol. 13, p. 693.)

By the treaty with said Indians proclaimed April 18, 1867, they ceded to the United States the reservation set apart by treaty of March 20, 1865, and in lieu thereof the United States set apart the White Earth reservation. (See art. 2, treaty Mar. 19, 1867, U. S. Stat. at Large, vol. 16, pp. 719, 720, 721.)

As a summary of the foregoing your committee find as follows:

That said lands were granted to said State by act of February 26, 1857; that the selection thereof by the commissioners appointed by the governor of said State was proper and made within the time limited by said act; that the governor of said State served due and proper notice of selections made on the Commissioner of General Land Office and local land officers; that the Commissioner of General Land Office issued instructions to local land officers to mark said selections on tract-books and permanent records of their office; that through oversight or negligence of the local land officers adverse claims were permitted to attach to six sections of the lands selected within the surveyed limits, so that the United States cannot now make title to the State thereto; that ten years after the selection of the three springs and eighteen sections of land adjoining thereto which were located outside the surveyed limits, the United States made a treaty with the Mississippi bands of Chipewya Indians, whereby there was set apart from lands to which the United States acquired title by the treaty of February 22, 1855, thirty-six townships of land as a reservation, and which is now known as the White Earth reservation, and within the limits of which these lands are located; that the United States cannot now make title thereto; that the total amount of said selections to which the United States cannot now make title to the State is twenty-four sections.

Your committee are therefore of opinion that the State of Minnesota should be permitted and authorized to select from the public lands of the United States, not otherwise appropriated, twenty-four sections of land in lieu of that amount of lands to which said State of Minnesota was entitled as aforesaid, and to which the United States cannot make title to said State of Minnesota.

Your committee, therefore, recommend the passage of accompanying bill.