

SIOUX CITY & ST. PAUL R. CO. *v.* RICE.  
ST. PAUL & SIOUX CITY R. Co. *v.* THE SAME.

*Circuit Court, D. Minnesota.* November, 1881.

1. SWAMP LANDS—ACT OF CONGRESS—WHEN TO TAKE EFFECT.

Title to swamp land was not vested by the act of congress of September 28, 1850, until the admission of a territory into the Union. Hence, the state of Minnesota not having been admitted into the Union at the date of the passage of the act granting lands to the territory of future state of Minnesota for the construction of railroads, approved March 3, 1857, a grantee of the state, by virtue of the acts of the legislature approved March 8, 1861, and March 4, 1864, has a good title as against one whose title depends upon the proper construction of the acts of congress approved September 28, 1850, and March 12, 1860.

*E. C. Palmer*, for complainant.

*John B. & W. H. Sanborn*, for defendant.

NELSON, D. J. This suit is instituted to establish the superior right of the complainants to the land in controversy. The equitable title is claimed to be in the complainant and the legal title in the defendant. The defendant's title is derived from the state of Minnesota by conveyance under the authority of an act of its legislature, the land being described as swamp, and certified to the state as swamp lands belonging to it by virtue of the acts of congress approved September 28, 1850, and March 12, 1860. The complainant's title is claimed to be vested under the act of congress passed March 3, 1857, 369 granting lands to the territory or future state of Minnesota to aid in the construction of railroads, and subsequent acts, disposing of those lands for that purpose, passed by the legislature of the state March 8, 1861, and March 4, 1864.

CONCLUSIONS.

1. The state of Minnesota was admitted into the Union May 11, 1858, and the title under the

swamp-land act did not take effect until the date of this act of admission.

2. The title to the land in controversy was in the United States at the time of the passage of the act granting lands to the territory of future state of Minnesota for the construction of railroads, approved March 3, 1857, and there is nothing in the acts of congress of September 28, 1850, which prevented congress from granting this land for that purpose.
3. The land was not reserved out of that grant by any of the provisions embodied in the act of March 3, 1857, but is located within the limits prescribed therein, and enured to the complainant's benefit, and the title became vested in it by virtue of the acts of the legislature of the state of Minnesota, approved March 8, 1861, and March 4, 1864.

The complainants are, therefore, entitled to a decree, and it is so ordered.

McCRARY, C. J., concurred.

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