

Case No. 8,038. LANCASTER v. COUNTY AUDITOR.
[2 Dill. 478.]¹

Circuit Court, D. Iowa.

1873.

TAX SALE—REDEMPTION.

The county auditor can not lawfully refuse to receive from the owner to the patent or regular title to lands, the amount of money, when tendered in time, necessary to redeem the same from a sale for taxes, on the ground that there is an outstanding tax title to the same lands in some one else.

The plaintiff claimed to be the owner of certain lands in Page county which had been sold for taxes in 1864, and for which a deed was given to the purchaser. In 1867 the land was again sold for taxes, to one Callanan. In 1870, the plaintiff went to the county auditor's office, and offered to redeem the lands from the last sale, but the auditor refused to accept the money, on the ground that he was no longer the owner of the land, and the only person who could redeem was the holder of the tax deed under the former sale. This suit was brought to redeem the land, and to enjoin the treasurer from making a deed under the last sale.

Brown, Campbell & Sully, for complainant.

Barcroft, Gatch, & Hammond, for defendant.

DILLON, Circuit Judge. We hold that the plaintiff had the right to redeem; that the auditor had no right to refuse to issue the redemption certificate, and that it was his duty to receive the money tendered by the owner of the regular title. The existence of an outstanding deed could not prevent the owner from protecting his interest from the inception of a new estate under the last sale. Decree accordingly.

¹ [Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.]