

BOIS *v.* MERRIAM.

Circuit Court, D. Nebraska. November 10, 1880.

VOID TAX SALE—LIEN OF VENDEE FOR TAXES
PAID—INTEREST.

In Equity.

C. W. Seymour, for complainant.

E. F. Warren, for respondent.

This cause was brought to set aside the tax deed of the respondent, and was decided by Judge McCrary, who held that the ruling of the state courts, in their interpretation of the statutes of their respective states, in these tax cases, would be followed by this court ordinarily, and in this case the report of the master is ratified and confirmed, as follows:

First. The complainant was the owner and in peaceable possession of lots 1, 2, 3, 4, 5, and 6, block 168, Nebraska City, Nebraska.

Second. On the twenty-third of February, A. D. 1876, the said lots above described were sold by the then treasurer of Otoe county for the delinquent taxes of 1873, at private sale, to the assignor of the respondent, Merriam.

Third. The holder and owner of said tax certificate has paid the taxes upon said lots both prior and subsequent to said date. That from 1869 to 1875 the complainant had abundance of personal property in Otoe county out of which said taxes might have been made. Gen. St. 916; 4 Neb. 139; 4 Neb. 59; 7 Neb. 119, 123.

Fourth. The said tax sale of said real estate was illegal and void, and that said pretended tax deed is void upon its face. 6 Neb. 236; New Rev. vol. 445, 453; New Rev. vol. 445, 447; Rev. Laws, §§ 113, 112.

Fifth. That the respondent be subrogated to the rights of the county, and decreed to have a lien upon

said real estate for all the taxes by him paid, with 12 per cent. interest from the date of such payment, and that the respondent pay the costs of this action. 8 Neb. 92; Gen. St. 922, § 64.

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Sixth. That the decree in this case draw 10 per cent. interest from the date of the master's report; and that the complainant have until May 12, 1881, to satisfy the decree.

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