

claim to the substantial improvement of the property and the payment of interest on the mortgage debt.

In the Case of the Carnegie Steel Company, Limited (decided at this term) 76 Fed. 492, this subject has been discussed. For the reasons given in that case, the decree of the circuit court is affirmed, with costs.

**MORRIS**, District Judge. I dissent on the question of the allowance of interest on the claim in this case.

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SOUTHERN RY. CO. v. ADAMS et al.

(Circuit Court of Appeals, Fourth Circuit. November 10, 1896.)

No. 157.

**RAILROAD COMPANIES—RECEIVERS—PRIORITY—CURRENT SUPPLIES.**

Railroad receivers, by accepting a draft covering an account for supplies furnished prior to the receivership, with interest thereon, approve the claim; and when it is shown that they received earnings in excess of operating expenses sufficient to pay such claims, and expended the same in permanent improvements and payment of interest, the claims should be paid out of the proceeds of the property in preference to mortgage bonds. **Morris**, District Judge, dissenting as to the allowance of interest.

Appeal from the Circuit Court of the United States for the Eastern District of Virginia.

This was a bill by the Central Trust Company against the Richmond & Danville Railroad Company to foreclose a mortgage. **Adams Bros. & Paynes**, creditors of the railroad company, petitioned to have their claim paid out of the proceeds of the mortgaged property in preference to mortgage debts. From a decree in favor of petitioners, appeal was taken.

**Adams Bros. & Paynes** furnished supplies to the Richmond & Danville Railroad Company. The dates and items are as follows:

1890.	Jan. 29.	To bill lumber, E. C. Dunn.....	\$126 50
1891.	Aug. 4.	“ “ brick, Order No. 5,234.....	80 00
	Nov. 23.	“ “ cement, t'g'm No. 2,893.....	57 50
	“ 24.	“ “ “ “ “ No. 2,057.....	34 50
	“ 27.	“ “ “ “ Order No. 1,275.....	5 75
	“ “ “ “ “ “ No. 2,183.....	57 50	
	“ “ “ “ “ “ No. 2,187.....	57 50	
	“ “ “ “ “ “ No. 2,206.....	115 00	
	Dec. 2.	“ “ “ “ “ “ No. 2,338.....	51 75
	“ “ “ “ “ “ No. 2,267.....	92 00	
	“ “ “ “ “ “ No. 2,445.....	11 50	
	“ “ “ “ “ “ No. 2,453.....	13 80	
	“ 7.	“ “ “ “ “ “ No. 2,637.....	57 50
	“ “ “ “ “ “ No. 2,757.....	115 00	
	“ “ “ “ “ “ No. 2,757.....	115 00	

\$990 80

The account was closed by a draft accepted by the receivers, dated May 4, 1892, at four months, for \$1,028.45, being this account and interest. On August 8, 1892, \$166.75 was paid and credited on the draft. The claim is for

\$861.70 and interest at 6 per cent. per annum from May 4, 1892, and costs of protest. The circuit court allowed this claim. This has been assigned as error, and the case has been heard on assignments of error.

Willis B. Smith and Henry Crawford, for appellants.  
Wyndham R. Meredith, for appellees.

Before SIMONTON, Circuit Judge, and HUGHES and MORRIS, District Judges.

SIMONTON, Circuit Judge (after stating the facts). The receivers in the case of Clyde and Others v. Richmond & Danville Railroad Company were appointed on June 17, 1892. Every item in this account was furnished to the railroad company. By accepting the draft for the full amount of the account and interest, they recognized and approved the claim. The evidence shows that, during their administration, they received large earnings, and that these exceeded the operating expenses, the surplus having been applied to permanent improvements, additions to property, and interest. There can be no question as to the right of the petitioners to the payment of their claim. The decree of the circuit court is affirmed, with costs.

MORRIS, District Judge. I dissent on the question of the allowance of interest on this claim.

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SOUTHERN RY. CO. v. DUNLOP MILLS.

(Circuit Court of Appeals, Fourth Circuit. November 10, 1896.)

No. 158.

INTEREST—RAILROAD RECEIVERSHIP.

When the principal sum of a claim for supplies furnished to a railroad has been accepted by the creditor from the receivers, he cannot afterwards recover interest by petition to the court.

Appeal from the Circuit Court of the United States for the Eastern District of Virginia.

This was a bill for foreclosure of mortgage by the Central Trust Company against the Richmond & Danville Railroad Company. The Dunlop Mills intervened, and sought payment of interest on a claim for supplies, the principal sum of which had been paid by the receivers of the road. From a decision in favor of the intervener, this appeal was taken.

Willis B. Smith and Henry Crawford, for appellant.  
Wyndham R. Meredith, for appellee.

Before SIMONTON, Circuit Judge, and HUGHES and MORRIS, District Judges.

SIMONTON, Circuit Judge. This case comes up on appeal from the circuit court of the United States for the Eastern district of Virginia.