

THE HAXBY.

BROWN v. MERRITT WRECKING ORGANIZATION.

(Circuit Court of Appeals, Fourth Circuit. November 24, 1897.)

No. 251.

ADMIRALTY APPEALS—REDUCTION OF SALVAGE AWARD—MANDATE—ALLOWANCE OF INTEREST.

The district court in a salvage case awarded a specified sum to libelants, with interest from the date of completion of the salvage services. On appeal, the award was reduced, and the decree and mandate of the appellate court directed the entry of a decree for a specified sum, without any mention of interest. *Held*, that the district court had no authority to give interest on this sum from the date of completion of the salvage services, and that interest should only run from the date of a decree of the appellate court.

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

This was a libel in admiralty by the Merritt Wrecking Organization against the British steamship Haxby to recover compensation for salvage services. The district court awarded to the salvors the sum of \$27,500. Upon a prior appeal to this court this award was held to be excessive, and was reduced to \$16,666.66 $\frac{2}{3}$. See 83 Fed. 715. On the receipt of the mandate from this court the district court entered a decree for libelants in the sum specified, with interest from January 19, 1897, the date of the completion of the salvage services. The complainant thereupon took this second appeal, assigning error in respect to the court's action in allowing interest.

Schmucker & Whitlock, for appellants, contended that as the decree of this court, and the mandate in pursuance thereof, were silent on the subject of interest, the district court was without authority to provide for interest in its decree.

The court, without filing any written opinion, thereupon reversed the decree below, and remanded the cause, "with instructions to enter a decree in favor of the Merritt Wrecking Organization for the sum of \$16,666.66 $\frac{2}{3}$, with interest thereon from the 3d day of November, 1897"; this being the date of the decision on the prior appeal.

RAYMOND v. RAYMOND.

(Circuit Court of Appeals, Eighth Circuit. November 15, 1897.)

No. 889.

FEDERAL COURTS — JURISDICTION OF SUITS BETWEEN MEMBERS OF CHEROKEE NATION—CITIZENSHIP.

A white person, a citizen of the United States, who, by intermarriage with an Indian, becomes by adoption a member of the Cherokee Nation, does not thereby cease to be a citizen of the United States, but such adoption ousts the jurisdiction of the federal court over suits between the adopted member and other members of his tribe, and confers exclusive jurisdiction thereof on the tribal courts; and a subsequent unauthorized naturalization of such person does not affect his legal status.

Appeal from the United States Court of Appeals in the Indian Territory.

Suit for divorce by Eliza E. Raymond against Jesse B. Raymond.

William T. Hutchings, for appellant.

Thomas Marcum and S. S. Fears, for appellee.

Before BREWER, Circuit Justice, and SANBORN and THAYER, Circuit Judges.

SANBORN, Circuit Judge. This is an appeal from a decree of the United States court of appeals in the Indian Territory (37 S. W. 202), which affirmed a decree of divorce rendered by the United States court in the Indian Territory for the Northern district thereof at its December term, 1895. At the threshold of the investigation, the appellant challenges the jurisdiction of the trial court upon the ground that both of the parties to the suit were members of the Cherokee Tribe of Indians, and that the courts of that tribe had exclusive jurisdiction over all suits and controversies between them. The appellee meets this challenge with the assertion that on October 2, 1894, she was naturalized by the United States court in the Indian Territory, pursuant to the provisions of section 43 of "An act to provide a temporary government for the territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," approved May 2, 1890 (26 Stat. c. 182, pp. 81, 99). These are the facts disclosed in the record which present the question of jurisdiction: The appellee, Eliza E. Raymond, was a white woman, and a citizen of the United States, and Jesse B. Raymond was an Indian by blood, and a member of the Cherokee Nation. On June 5, 1893, they intermarried, and lived together in the Cherokee Nation as man and wife. On August 28, 1893, a decree of divorce was rendered in a suit between them in the circuit court of the Canadian district, which was one of the established courts of the Cherokee Nation. On October 2, 1894, the appellee, Eliza E. Raymond, procured a certificate of naturalization from the United States court in the Indian Territory, under the provisions of section 43 of the act of May 2, 1890. On October 4, 1894, she brought a suit in equity against the appellant for a divorce and for alimony. The appellant answered, in effect, that the United States