

Baker Vs. Power

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Court : US Supreme Court

Decided On : Jan-16-1888

Appeal No. : 124 U.S. 167

Appellant : Baker

Respondent : Power

Judgement :

Baker v. Power - 124 U.S. 167 (1888)

U.S. Supreme Court Baker v. Power, 124 U.S. 167 (1888)

Baker v. Power

Submitted January 9, 1888

Decided January 16, 1888

124 U.S. 167

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF MINNESOTA

SYLLABUS

An appeal can be taken from a decree of a circuit court of the United States, entered under the supervision and by the direction of the district judge of the district sitting in the circuit court, although he may under the provisions of Rev.Stat. 614, have had no right to a vote in the cause.

Motion to dismiss

"because the judgment in the circuit court from which this appeal was taken was rendered without consent of appellees by the judge of the United States district court of said district, sitting in the circuit court upon an appeal from his decision as district judge."

The following statement accompanied the motion.

"Appellants filed a libel in admiralty against appellees in the United States District Court for the District of Minnesota to recover damages alleged to have been sustained by collision &c.; The district court dismissed the libel, and the libellants appealed to the circuit court. The circuit judge reversed the decree of the district court, and ordered the cause referred to a commissioner to examine proofs and report to the court the amount of damages. On a rehearing before the circuit justice, the decree and order of reference was sustained. The commissioner's report was confirmed by the district judge holding circuit court, and a judgment rendered by him, without consent of parties, from which judgment this appeal was taken. "

Page 124 U. S. 169

MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

This motion is denied. If it be true, as is alleged, but which is by no means clear, that the decree appealed from was rendered by the district judge when he had no vote in the cause, we still have jurisdiction of the appeal. Although the district judge may have had no right to a vote, he was rightfully a member of the circuit court, [*Rodd v. Heartt*](#), 17 Wall. 357, and a decree of that court entered under his supervision and by his direction would be a decree of the court, good until

reversed or otherwise vacated. From such a decree an appeal can be taken.

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