

cle 2, § 2, Con. U. S.) is another question of a more serious character.

The constitution of this state limits the privilege of suffrage to "white males." Article 2, § 2, Con. Or. But by the operation of the fourteenth and fifteenth amendments this word "white" is, in effect, stricken out of the constitution of the state. The fourteenth one provides that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state where they reside;" and the fifteenth one declares that "the right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude." The result is that citizens of the United States cannot be excluded from the polls on account of color. Therefore, negroes born in the United States, being born "subject to the jurisdiction" thereof, became citizens and voters.

But the Indian tribes in the United States, or the members thereof, are not born "subject to the jurisdiction" of the United States. *McKay v. Campbell*, 2 Saw. 132. There are no Indians in Oregon that were born subject to its jurisdiction or that have since become so. In the report of the senate judiciary committee, made by Mr. Carpenter, December 14, 1870, it was stated that the Indian tribes, or the members thereof, are not subject to the jurisdiction of the United States, and, therefore, such Indians are not made citizens by the fourteenth amendment. 1 Dillon, 348, note.

The state may make any Indian a voter, or the United States may make him a citizen, and then by operation of the fifteenth amendment he becomes a voter within the state where he resides, if he is otherwise qualified according to its laws.

By the treaty of January 31, 1855, (10 Stat. 1157,) the tribal organization and relation of the Wyandotte Indians, in Kansas, with the United States, was dissolved and terminated, and they were made "citizens of the United States to all intents and purposes."

But an Indian cannot make *himself* a citizen of the United States without the consent and co-operation of the government. The fact that he has abandoned his nomadic life or tribal relations, and adopted the habits and manners of civilized people, may be a good reason why he should be made a citizen of the United States, but does not of itself make him one. To be a citizen of the United States is a political privilege, which no one not born to can assume without its consent in some form.

The Indians in Oregon, not being born subject to the jurisdiction of the United States, were not born citizens thereof, and I am not aware of any law or treaty by which any of them have been made so since.

It follows as a matter of course that the defendant, in disposing of spirituous liquors to the Indian Joe, when and as he did, was guilty of a violation of the statute. But as it appears probable that the act of the defendant was the result of carelessness or a misapprehension of the *status* of the Indian Joe, rather than any guilty purpose to violate the law, I think it is a proper case for a mere nominal punishment. The defendant is therefore sentenced to pay a fine of one dollar.

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UNITED STATES v. WILLIAMS.

(*Circuit Court, D. Oregon.* February 5, 1880.)

**ASSAULT WITH A DANGEROUS WEAPON—ATTEMPT TO COMMIT MURDER—PUNISHMENT.**—There is no punishment provided for an assault with a dangerous weapon, committed within the exclusive jurisdiction of the United States, if committed on land, even if it should involve an attempt to commit murder.

Indictment for an attempt to commit murder.

*Rufus Mallory*, District Attorney, for the United States.

*William H. Page*, for defendant.

DEADY, D. J. On January 7, 1879, the grand jury for this district found an indictment against the defendant, containing two counts.