

## Counsel for Parties.

tention on the part of Congress to confer powers or right to be exercised outside of the Territories named therein.

The Supreme Court of Oregon committed no error in affirming the action of the trial court, denying the petition for removal, and its judgment is

*Affirmed.*

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OREGON SHORT LINE AND UTAH NORTHERN RAILWAY COMPANY *v.* MULLAN. Error to the Supreme Court of the State of Oregon. No. 148. Argued with No. 147.

MR. JUSTICE SHIRAS: The facts of this case are similar to those of the case of *The Oregon Short Line and Northern Railway Company v. Jane Skottowe*, just decided, and for the reasons there given the judgment of the Supreme Court of Oregon is

*Affirmed.*

*Mr. John M. Thurston* for plaintiff in error. *Mr. John F. Dillon* was on his brief.

*Mr. Alfred S. Bennett* for defendant in error.

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OREGON SHORT LINE AND UTAH NORTHERN  
RAILWAY COMPANY *v.* CONLIN.

ERROR TO THE SUPREME COURT OF THE STATE OF OREGON.

No. 229. Argued March 17, 1896. — Decided April 20, 1896.

*Oregon Short Line and Utah Northern Railway Company v. Skottowe*, 162 U. S. 492, affirmed and followed.

THE case is stated in the opinion.

*Mr. John M. Thurston*, (with whom was *Mr. John F. Dillon* on the brief,) for plaintiff in error.

*Mr. Alfred S. Bennett* for defendant in error.

## Syllabus.

MR. JUSTICE SHIRAS delivered the opinion of the court.

This is a writ of error to the Supreme Court of the State of Oregon, alleging error in the judgment of that court in affirming a judgment of the circuit court of Washington County in that State, wherein Francis Conlin, the defendant in error in this court, recovered damages for personal injuries alleged to have been caused by the negligence of the Oregon Short Line and Northern Railway Company, plaintiff in error.

The only question presented for our consideration is, whether there was error in denying the petition of the defendant company for removal of the cause into the Circuit Court of the United States. The record discloses a similar state of facts and allegations to that considered in the case, just decided, of *The Oregon Short Line and Northern Railway Company v. Jane Skottowe*. For the reasons there given, we find no error in the judgment of the Supreme Court of the State of Oregon, and it is accordingly

*Affirmed.*

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ALBERTY v. UNITED STATES.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
WESTERN DISTRICT OF ARKANSAS.

No. 853. Submitted March 4, 1896. — Decided April 20, 1896.

Alberty, the accused, was a negro born in slavery, who became a citizen of the Cherokee Nation under the ninth article of the treaty of 1866. Duncan, the deceased, and alleged to have been murdered, was the illegitimate child of a Choctaw Indian, by a negro woman who was not his wife, but a slave in the Cherokee Nation. *Held*, that, for purposes of jurisdiction, Alberty must be treated as a member of the Cherokee Nation, but not an Indian, and Duncan as a colored citizen of the United States, and that, for the purposes of this case, the court below had jurisdiction. A man who finds another, trying to obtain access to his wife's room in the night time, by opening a window, may not only remonstrate with him, but may employ such force as may be necessary to prevent his doing so; and if the other threatens to kill him, and makes a motion as if so to do,