

possession of the asserted property rights be assumed, it must follow that the power to remove, given by the statute, must be sustained. Considering the context of the act, the limitation which it imposes upon the members of the tribe and the tribe itself to contract and the large administrative supervision over such subjects which the statute confers upon the Secretary, it is not disputable that the right to remove for "good cause to be by him determined" which the statute gives to the Secretary is but an appropriate means provided for the accomplishment of the duties cast upon him with reference to the subject-matters stated. Under these circumstances the proposition could not be maintained without holding that although the duty existed to protect by appropriate legislation the tribe and its members, such legislation if enacted, would be repugnant to the Constitution.

Writ denied.

YOUNG, ADMINISTRATRIX, *v.* CENTRAL RAIL-
ROAD COMPANY OF NEW JERSEY.

ERROR TO THE CIRCUIT COURT OF APPEALS FOR THE
THIRD CIRCUIT.

No. 389. Argued February 26, 1914.—Decided March 9, 1914.

The Circuit Court of Appeals having, pursuant to the state court practice in Pennsylvania, reversed a judgment in favor of the plaintiff and remanded to the trial court with instructions, not for new trial, but for judgment for defendant, *non obstante veredicto*, this court affirms the judgment of reversal so far as the case is remanded to the trial court, but reverses it as to the direction to enter judgment for defendant, and remands the case to the trial court for a new trial conformably with the provisions of the Seventh Amendment. *Slocum v. New York Life Insurance Co.*, 228 U. S. 364.

200 Fed. Rep. 359, modified and affirmed.

THE facts are stated in the opinion.

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Opinion of the Court.

Mr. Ulysses S. Koons, with whom *Mr. Vedantus B. Edwards* was on the brief, for plaintiff in error.

Mr. Arthur G. Dickson, with whom *Mr. Arthur W. Rinke* was on the brief, for defendant in error.

Memorandum opinion by direction of the court. By
MR. CHIEF JUSTICE WHITE.

As administratrix of the estate of her deceased husband, the plaintiff in error sued to recover for the loss occasioned by his death alleged to have resulted from the negligence of the defendant railroad company. Over the objection of the defendant the case was submitted by the trial court to the jury and from the judgment entered on the verdict rendered against the railroad company, error was by the company prosecuted from the Circuit Court of Appeals. On the hearing that court concluding that the evidence did not justify the submission of the case to the jury, reversed the judgment and in passing upon a motion made by the railroad company in the trial court, pursuant to the Pennsylvania practice for judgment in its favor *non obstante veredicto* it was held that the motion was well taken and the case was remanded to the trial court not for a new trial, but with directions to enter a judgment for the defendant. (200 Fed. Rep. 359.) As the case as made by the pleadings depended not merely upon diverse citizenship, but was expressly based on the Employers' Liability Act, error was prosecuted from this court.

We shall not undertake to analyze the evidence or review the grounds which led the court below to conclude that error was committed in submitting the case to the jury, because we think it is adequate to say that after a careful examination of the record we see no reason for holding that the court below erred in so deciding. As regards however, the ruling on the motion for judgment

non obstante veredicto, it is apparent in view of the recent decision in *Slocum v. Insurance Company*, 228 U. S. 364, that error was committed. It follows that our duty is to affirm and modify; that is, to affirm the judgment of reversal and to modify by reversing so much of the action of the court below as directed the entry of a judgment in favor of the defendant. Conformably to this conclusion it is ordered that the judgment of reversal be, and the same is hereby affirmed, and that the direction for entry of judgment in favor of defendant be reversed and the case is remanded to the trial court with directions to set aside its judgment and grant a new trial.

Affirmed and modified.

PRIEST *v.* TRUSTEES OF THE TOWN OF LAS
VEGAS, NEW MEXICO.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF
NEW MEXICO.

No. 218. Submitted January 28, 1914.—Decided March 9, 1914.

A judgment in a suit to quiet title to real property in New Mexico is not binding on a person or corporation or trustees having an interest in the premises who could be definitely located and served with process and who were not joined by name. The court did not acquire jurisdiction over them.

The statutes of New Mexico which, in 1894, permitted unknown claimants to be joined as defendants as such and to be served by publication, did not relate to parties who could be definitely located and joined or who were confirmees of the grant including the property under the act of June 21, 1860.

In affirming a judgment, an appellate court is not confined to the grounds on which the court below based the judgment.

The full faith and credit clause and statutes enacted thereunder do not apply to judgments rendered by a court having no jurisdiction