

## Opinion of the Court.

presented, — it is enough now to hold that one who was within the territorial limits at the hour of noon of April 22 was, within both the letter and the spirit of the statute, disqualified to take a homestead therein.

The judgment of the Supreme Court of the Territory was right, and it is

*Affirmed.*

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BENDER *v.* PENNSYLVANIA COMPANY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
NORTHERN DISTRICT OF OHIO.

No. 193. Submitted March 29, 1893. — Decided April 3, 1893.

An order overruling a motion to remand a case to a State Court is not a final judgment.

MOTION TO DISMISS. The case is stated in the opinion.

*Mr. J. R. Carey* and *Mr. F. J. Mullins* for the motion.

*Mr. Lyman R. Critchfield*, opposing.

THE CHIEF JUSTICE: This is a writ of error, brought May 29, 1889, to an order overruling a motion to remand the case to the State Court. Such an order is not a final judgment on the merits, and the writ of error must be dismissed. *McLish v. Roff*, 141 U. S. 661; *Chicago, St. Paul &c. Railway v. Roberts*, 141 U. S. 690; *Joy v. Adelbert College*, 146 U. S. 355.