is no law now in force authorizing this court to reëxamine and affirm or reverse a judgment rendered by the Supreme Court of the Territory, or giving this court any jurisdiction over it. This difficulty has, however, been removed by an act of Congress, passed during the present session (and since this motion was made), which authorizes the Supreme Court to proceed to hear and determine cases of this description.* And as this objection no longer exists, and the writ of error, citation, and bond appear to have been regularly issued, signed, and approved, the case is legally and properly in this court, and the motion to dismiss must be overruled.

*213] *ORDER.

On consideration of the motion made by *Mr. Grant*, on a prior day of the present term, to dismiss this writ of error, and of the arguments of counsel thereupon, had as well against as in support of the said motion, it is now here ordered by this court, that the said motion be and the same is hereby overruled.

MINERS' BANK OF DUBUQUE, PLAINTIFFS IN ERROR, *v.* THE UNITED STATES EX REL. JAMES GRANT.

A judgment of a court, sustaining a demurrer under the following circumstances, is not a final judgment which can be reviewed by this court.
Information in the nature of a *quo warranto*, calling upon the President, Directors, and Company of the Miners' Bank of Dubuque to show by what warrant they claimed the right to use the franchise.
Plea, referring to an act of incorporation.
Replication, that the act of incorporation had been repealed.
Rejoinder, that the repealing law was passed without notice to the parties, and without any evidence of misuse of the franchise.
Demurrer to the rejoinder.
Joinder in demurrer.
Sustaining the demurrer, without any further judgment of the court, did not

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* This is an error. The court refrained from pronouncing its opinion in this case, and also in one from Florida, until Congress might pass an act to supply the omission of previous legislation in relation to writs of error and appeals from their Territorial courts upon judgments and decrees rendered before their admission into the Union as States. An act was passed as the court understood, with this view, and then the above opinion was given. But it appears, that, owing, it is supposed, to some misapprehension, the act provides for Florida and Michigan, and Iowa is not included in it. Act of Feb. 22, 1847, ch. 17. There is, therefore, no law relating to Iowa.

This note has been shown to and approved by the Chief Justice, who delivered the opinion of the court.

prevent the parties from continuing to exercise the franchise, and therefore is not a final judgment.

The writ of error must, upon motion, be dismissed.[1]

A MOTION was made by *Mr. Grant* and *Mr. Hastings* to dismiss the writ of error in this case, upon the same grounds as in the preceding case of *Sheppard and others* v. *Wilson*, and upon the additional ground, that the judgment in this case was not a final judgment.

Mr. Webster. If it was not a final judgment, the court below is abolished, and the counsel on the other side may make whatever use they can of the record.

Mr. Chief Justice TANEY delivered the opinion of the court.

This case has been brought here by a writ of error to the Supreme Court of the Territory of Iowa. A motion has been made to dismiss the writ upon several grounds, and among others, upon the ground that the judgment of the Territorial court is not a final one; and therefore, under the act of June 12, 1838, ch. 96, § 9 (5 Stat. at L., 238) cannot be brought here for revision by writ of error.

It appears that an information in the nature of a *quo warranto* was filed by the United States in the District Court of Iowa, against certain persons named in the information, who are now the plaintiffs in error, charging them with having used the liberties and *franchises of President, Directors, and Company of the Miners' Bank of Dubuque, without any lawful authority; and calling upon them to show by what warrant they claim the right to use the liberties and franchises aforesaid. [*214

The plaintiffs in error appeared, and pleaded that the privileges and franchises which they were exercising were conferred on them by a charter of incorporation, duly passed by the proper authority, which is more particularly set forth in the plea, but need not be here stated.

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[1] See *Territory* v. *Lockwood*, 3 Wall., 239.

Where there was a demurrer to some parts of a replication, and a motion to strike out other parts, still leaving in the replication some essential allegations, a judgment upon the demurrer and motion to strike out, was not such a final judgment as allowed an appeal to the Supreme Court. *Holcombe* v. *McKusick*, 20 How., 552.

Reversing the judgment, and awarding a new trial, is not a final judgment. *Tracy* v. *Holcombe*, 24 How., 426.

Motions to quash executions, when ruled upon, are not final judgments. *Boyle* v. *Zacharie*, 6 Pet., 648; *Smith* v. *Trabue*, 9 Id., 4; nor is a decision upon a rule or motion. *Toland* v. *Sprague*, 12 Pet., 300; *Evans* v. *Gee*, 14 Id., 1.

To this plea, the defendant in error replied, that the act of incorporation conferring the privileges in question was repealed by the legislature of Iowa; and the plaintiffs in error rejoined, averring that the repealing law was passed without any notice to them, or any opportunity afforded them of being heard in their defence, and without any evidence of the abuse and misuse of any of the liberties and franchises in question. To this rejoinder the defendant in error demurred, and the plaintiffs joined in demurrer, and at the trial of the case, the following judgment was given by the court:—

"It appears to the court that the said rejoinder, and the matters therein contained, are not sufficient in law to bar or preclude the said plaintiffs from having and maintaining their aforesaid information thereof against the said defendants, and that said demurrer ought to be sustained.

"Therefore it is ordered by the court here, that the said defendants take nothing by their said rejoinder, and that they have leave to amend or answer over to the said plaintiffs' replication, by Monday morning next, at the meeting of the court."

No amendment, however, appears to have been made, nor any further proceeding to have been had in the District Court; but upon the judgment above stated the case was removed to the Supreme Court of the Territory, where the judgment of the District Court was affirmed, and a *procedendo* awarded.

It is evident that this judgment is not a final one against the plaintiffs in error. It merely decides, that the rejoinder and the matters therein contained are not sufficient to bar the information, and that the demurrer ought to be sustained, and that the plaintiffs in error take nothing by their rejoinder. But there is no judgment of ouster against them, nor any thing in the judgment which prevents them from continuing to exercise the liberties and privileges which the information charges them to have usurped. In order to make the decision a final one, the court, under the opinion expressed by them, should have proceeded to adjudge that the plaintiffs in error do not in any manner use the privileges and franchises in question, and that they be forever absolutely forejudged and excluded from exercising or using the same, or any of them, in future. And we presume that the Supreme Court of the Territory awarded the *procedendo* to the District Court in order to enable it to *proceed to final judgment, the Supreme Court having no power to give a judgment of ouster, in the shape in which the case came before it.

*215]

Inasmuch, therefore, as there has been no final judgment,

the writ of error from this Court must be dismissed for want of jurisdiction. And being dismissed on this ground, it is unnecessary to examine the other objections which have been taken in support of the motion.

ORDER.

This cause came on to be heard on the transcript of the record from the Supreme Court of the Territory of Iowa, and was argued by counsel. On consideration whereof, and it appearing to the court here upon an inspection of said transcript that the judgment of the said Supreme Court is not a final one in the case, it is thereupon now here ordered and adjudged by this court, that this writ of error be and the same is hereby dismissed for the want of jurisdiction.

WHARTON JONES, PLAINTIFF, *v.* JOHN VAN ZANDT.*

Under the fourth section of the act of 12th February, 1793, respecting fugitives from justice, and persons escaping from the service of their master, on a charge for harboring and concealing fugitives from labor, the notice need not be in writing by the claimant or his agent, stating that such person is a fugitive from labor under the third section of the above act, and served on the person harboring or concealing such fugitive, to make him liable to the penalty of five hundred dollars under the act.[1]

Such notice, if not in writing and served as aforesaid, may be given verbally by the claimant or his agent to the person who harbors or conceals the fugitive; and to charge him under the statute a general notice to the public in a newspaper is not necessary.[2]

Clear proof of the knowledge of the defendant, by his own confession or otherwise, that he knew the colored person was a slave and fugitive from labor, though he may have acquired such knowledge from the slave himself, or otherwise, is sufficient to charge him with notice.

Receiving the fugitive from labor at three o'clock in the morning, at a place in the State of Ohio about twelve miles distant from the place in Kentucky where the fugitive was held to labor, from a certain individual, and transporting him in a closely covered wagon twelve or fourteen miles, so that the boy thereby escaped pursuit, and his services were thereby lost to his master, is a harboring or concealing of the fugitive within the statute.

A transportation under the above circumstances, though the boy should be recaptured by his master, is a harboring or concealing of him within the statute.

Such a transportation, in such a wagon, whereby the services of the boy were entirely lost to his master, is a harboring him within the statute.

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*Same case, 2 McLean, 596, 611.

[1] See *Robinson* v. *Rowland*, 26 Hun. (N. Y.), 502.

[2] Notice, as used in this statute, means knowledge. "It is enough if the defendant knows that the person he is harboring is a fugitive from labor." *Oliver* v. *Weakley*, 2 Wall., Jr., 311, 317.