to do this, the sloop was justified in supposing he would, and going forward. Seeing that he still held his boat across the stream he was cautioned to let her stern go, and every proper effort made to arrest the sloop's headway. He persisted, however, in his folly, and was struck. That the accident occurred in this way, and from this cause, seems very clear from the evidence on both sides. Directly after, the master of the barge repeatedly admitted his fault, and exonerated the sloop.

A decree must be entered dismissing the libel, with costs.

THE ASHLAND.[1]

(Circuit Court, E. D. Louisiana. December, 1883.)

1. PRACTICE—APPEAL—REMITTITUR.
   Where a judgment was rendered by the district court against claimants for an appealable amount, and thereafter proctor for libelants offered to enter a *remittitur* of so much of the judgment as to reduce it below the appealable amount, and the district court refused to allow the *remittitur*, *held*, that it was within the discretion of the district judge to allow or refuse to allow the *remittitur* to be entered.
   Ins. Co. v. *Nichols*, 3 Sup. Ct. Rep. 120, followed.

2. SAME.
   A *remittitur* comes too late when offered to be entered after an appeal has been allowed.

On Motion to Dismiss Appeal in Admiralty.

R. King Cutler, for libelants.

A. G. Brice, *Joseph P. Hornor*, and *F. W. Baker*, for claimant.

PARDEE, J. It appears from the transcript that on June 7, 1883, the judgment was rendered in the district court for $51. On the same day a motion for appeal was made and allowed. June 9th a bond was given and accepted. June 11th the decree was signed by the district judge, and on the same day a *remittitur* of one dollar "was filed, but not entered on the minutes, nor allowed by the court." The motion to dismiss must be overruled and refused because (1) the *remittitur* was not allowed by the court. *Alabama Gold Life Ins. Co.* v. *Nichols*, 3 Sup. Ct. Rep. 120. (2) It came too late after an appeal was allowed and perfected.

Order accordingly.

[1] Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

DOTY and another *v.* JEWETT and others.

Circuit Court, N. D. New York. February 16, 1884.)

1. JURISDICTION OF CIRCUIT COURTS—REVIEW OF PROCEEDINGS IN DISTRICT COURT —WAIVER OF JURY.
   The circuit courts of the United States have no jurisdiction to review any question raised by a bill of exceptions in an action at law in a district court, where the facts have been found without the aid of a jury, since there is no warrant in the statutes for the waiver of a jury in the district courts.
2. SAME—APPEAL—BILL IN EQUITY—ACTION AT LAW—WRIT OF ERROR.
   Proceedings in equity in the district courts can be reviewed in the circuit courts only upon appeal, and not upon writ of error. If a writ of error is taken, the court of review can only treat the case as an action at law.
3. SAME—LIMITED BY STATUTE.
   The circuit court has no jurisdiction to revise judgments of the district court in any other way than the statutes prescribe; and no agreement of the parties can give it such authority.

At Law.

Thomas Corlett, for plaintiffs in error.

Ruger, Jenney, Marshall & Brooks, for defendants in error.

BLATCHFORD, Justice. This is an action brought in the district court of the United States for the Northern district of New York, by the plaintiffs in error against the defendants in error. The first pleadings of the plaintiffs calls itself a complaint and is sworn to as a complaint. It sets forth the copartnership of Albert Jewett and William Johnson, as Jewett & Johnson; an indebtedness of the firm to the Phœnix Mills, a corporation, of $6,208.51, for goods sold and moneys advanced; the adjudication of the corporation as a bankrupt; the appointment of the plaintiffs and said Johnson as its assignees; an assignment to them; the death of Johnson; the insolvency of Jewett; the want of copartnership assets of Jewett & Johnson to pay any part of said debt; the absence of any other remedy for the plaintiffs to collect the debt, except against the estate of Johnson; the granting of letters of administration on his estate to the defendants Angeline C. Johnson and Stephen B. Johnson; the non-payment of any of the debt; and its existence as a debt against the estate of Johnson, enforceable by the plaintiffs. The prayer is for judgment against Jewett, surviving partner, and against the other defendants as administratrix and administrator, for $6,208.51, with interest. Jewett put in a separate answer containing three distinct defenses, to which the plaintiff put in a replication, which treated the answer as consisting of three pleas, and itself contained two separate pleadings, each of which concluded to the country. The other defendants put in a separate answer containing five separate defenses, to which the plaintiffs put in a replication, which treated the answer as consisting of five pleas, and itself contained five separate pleadings, each of which concluded to the country. Each of the replications speaks of the plaintiffs' initial pleading as a "declaration."