injunction on the oldest patent, or even to have reached a final decree on the merits before the expiration of the patent. An answer was due at the first rule-day after the filing of the bill, and, for aught the court can say, the case might have been brought to a hearing upon the bill and answer, and decree rendered before the expiration of the earlier patents. There was certainly time to have given notice and argued the application for an injunction, which, the court must assume from the language of Vice-chancellor JAMES, there was not time to do in the case decided by him. It seems to me, therefore, that the case made by this bill is exceptional to those which have been cited in support of the demurrer.

The motion to dismiss as to the patent of June, 1867, is overruled.

BIGLEY *v.* THE VENTURE.

(*District Court, W. D. Pennsylvania.* October Term, 1884.)

ADMIRALTY PRACTICE—JURY TRIAL—REV. ST. § 566.

Section 566 of the Revised Statutes does not give a trial by jury in a cause of admiralty and maritime jurisdiction which concerns a vessel employed in commerce and navigation upon the rivers Monongahela and Ohio.

In Admiralty. *Sur* rule to show cause why that portion of the respondent's answer demanding a jury trial should not be stricken out, etc.

Knox & Reed, for libelant.

Barton & Son, for respondent.

ACHESON, J. The respondent claims a trial by jury under section 566 of the Revised Statutes. But the right to such trial in causes of admiralty and maritime jurisdiction, by the express terms of that section, is not general, but restricted to causes arising where the vessel is "at the time employed in the business of commerce and navigation between places in different states and territories upon the lakes and navigable waters connecting the lakes." *Gillet* v. *Pierce*, 1 Brown, Adm. 553; *The Erie Belle*, 20 FED. REP. 63. In this case, at the time the cause of action arose, the vessel was employed in navigating the rivers Monongahela and Ohio. Now it is very clear that these rivers come not within the terms "lakes and navigable waters connecting the lakes." *The Hine* v. *Trevor*, 4 Wall. 555, 566. Moreover, the vessel here was not employed in commerce and navigation between places in different states, but was plying altogether within the Western district of Pennsylvania. The request for a jury trial must be denied, and the rule to show cause made absolute; and it is so ordered.

ALLEN v. WILSON and others.

(Circuit Court, E. D. Michigan. April 7, 1884.)

EQUITY JURISDICTION OF CIRCUIT COURT—JUDGMENT AT LAW.

The circuit courts of the United States have no power to set aside, reverse, or modify a judgment at law or decree in chancery after the term at which it was entered, save only in the cases specified in *Bronson* v. *Schulten*, 104 U. S. 410.

In Equity.

This was a demurrer to a petition of defendant Canfield to set aside an execution and levy for a deficiency arising out of the sale of mortgaged premises upon foreclosure, to restrain the plaintiff and the marshal from further proceedings to sell the defendant's lands; and also to open the final decree in the cause, and modify the same, so far as it decreed the payment of the mortgaged debt by the petitioner. The bill, which was filed September 19, 1881, charged that defendant was a subsequent purchaser of the mortgaged premises, and alleged that he had assumed payment of the mortgaged debt. A subpœna was taken out and personally served upon all the defendants, September 21st. The ordinary decree *pro confesso*, for want of an appearance, was entered December 17, 1881, and a final decree for the sale of the property, upon the order *pro confesso* and testimony, was made October 3, 1882. The decree was enrolled November 15th. This decree provided "that upon the coming in and confirmation of said report" (master's report of the sale of the mortgaged premises) "said defendants James Wilson and Lucius H. Canfield, who are personally liable for the debt secured by the said mortgage, pay to complainant the amount of such deficiency, with interest thereon as aforesaid from the date of such report, and the complainant have execution therefor." The mortgaged premises were regularly sold under this decree by the master on the twenty-sixth day of January, 1883, report of sale filed, and, in due course, an order of court taken confirming it. By this order of confirmation an execution was again ordered to issue, pursuant to general equity rule 92, as it had before been ordered by the final decree. This order was made in November, 1883. The petition filed by defendant Canfield stated that he was not a party to the mortgage and notes sought to be foreclosed, and that his only connection with the mortgaged premises was this: That the defendant Wilson came to him and stated that he owed the mortgage to one Hathaway, who then held it; that he had not been able to agree with him upon the amount due; that the amount actually due was about $2,000, and he thereupon requested petitioner to let him have the money to pay Hathaway, and that petitioner should see Hathaway and endeavor to agree upon the amount due, and pay him, if they could agree; that petitioner found, on seeing Hathaway, that the amount due was largely in excess of $2,000,