was distinctly passed upon by the court, and was held unavailing to defeat the invention claimed. As to the alleged prior use by Hague, it may be said that it was in the prior suit alleged by the defendant with the sanction of the present appellant that the cultivators complained of as infringing were manufactured under the letters patent to Hague of June 21, 1881. This patent was some two weeks subsequent in date to the complainant's patent, and was held to infringe. Prior use by Hague may not have been specifically alleged, but the defendant there attacked the validity of the patent because of prior use and of anticipation by other patents. It was a duty to have asserted all anticipating patents, and all prior use. The issue of the pleadings was novelty of invention. The testimony of prior use and of anticipatory patents bore upon the issue of novelty of invention. In a suit at law such issue is tendered by a plea of the general issue, and such evidence may be given thereunder upon giving a certain notice. So in a suit in equity, like defense of invalidity may be pleaded, "and proofs of the same may be given upon like notice in the answer of the defendant and with the like effect." Rev. St. § 4920. The statement so required of particular anticipating patents, and of prior use, is clearly a mere bill of particulars of evidence to establish the issue of want of novelty; not independent issues. So no new defense is here asserted. The matter charged is merely additional evidence in support of the issue presented and determined in the former suit. It was competent evidence in that suit without any statement of it in the pleading, if the objection of the statute was not timely urged. Loom Co. v. Higgins, 105 U. S. 580; Zane v. Soffe, 110 U. S. 200, 203, 3 Sup. Ct. Rep. 562. The proposed evidence comes too late to be availing. The decree of a court is not the less conclusive because a party has failed to produce all the evidence at command, or because of newly-discovered evidence. "Expedit reipublicae ut sit finis litium."

The decree will be affirmed.

MOLINE PLOW CO. v. EAGLE MANUF'G CO.

(Circuit Court of Appeals, Seventh Circuit. October 6, 1893.)

No. 26.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

In Equity. Bill by the Eagle Manufacturing Company against the Moline Plow Company to restrain the infringement of a patent. Complainant obtained a decree. Defendant appeals. Affirmed.

Bond, Adams & Pickard, for appellant.

George H. Christy, for appellee.

Before GRESHAM and WOODS, Circuit Judges, and JENKINS, District Judge.

JENKINS, District Judge. This case differs in no essential particulars from that of David Bradley Manuf'g Co. v. Eagle Manuf'g Co., 57 Fed. Rep. 980, herewith decided. It presents the same questions, and is controlled by the same rules of law. The decree is therefore affirmed.

LYNDE v. COLUMBUS, C. & I. C. RY. CO. et al.

(Circuit Court, D. Indiana. October 14, 1893.)

No. 8,867.

1. JUDGMENT—RES JUDICATA—PLEA IN BAR—PRESUMPTIONS.
When a former judgment of a court of general jurisdiction is pleaded in bar, it will be presumed that it had jurisdiction of the subject-matter and the parties, and the plea is therefore not bad for failing to aver that the court acquired jurisdiction of the parties by service of process or by appearance.

2. SAME—RAILROAD FORECLOSURE—DECREE—EXTRATERRITORIAL OPERATION.
In the foreclosure of a mortgage on a railroad situated partly in two states, a court of one state cannot merge into its judgment the lien on the property in the other state, and, while it may act upon the person of defendant, so as to compel it to make conveyances or releases, yet, if it has not done so, its mere judgment is not a bar to a suit in the other state, between the same parties, to foreclose the same mortgage there. Farmers' Loan & Trust Co. v. Postal Tel. Co., 11 Atl. Rep. 184, 55 Conn. 334, followed. Muller v. Dows, 94 U. S. 444, distinguished.

In Equity. Bill by Charles R. Lynde against the Columbus, Chicago & Indiana Central Railway Company, Archibald Parkhurst, and the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, to foreclose a mortgage. Heard on a plea in bar. Overruled.

Kittridge, Wilby & Simmons, for complainant.
Watson, Burr & Linsay and L. Maxwell, Jr., for defendants.

BAKER, District Judge. The plaintiff brings this suit as a bondholder for whom the trustee has refused to bring suit against the Columbus, Chicago & Indiana Central Railway Company, Archibald Parkhurst, trustee, and the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, for the foreclosure of a trust deed or mortgage executed by the Columbus, Chicago & Indiana Central Railway Company to Archibald Parkhurst, as trustee, to secure 1,000 bonds, of $1,000 each, issued by it, and asking for the sale of its railroad embraced in said trust deed, extending from Indianapolis, Ind., to Columbus, Ohio, together with its franchises, equipments, property, tolls, and interests,—that is to say, the lands, tenements, hereditaments, fixtures, goods, and chattels of the Columbus, Chicago & Indiana Central Railway Company; its property, rights, privileges, interest, and estate of every description and nature; its rails, ties, fences, buildings, and erections; its right of way, cars, engines, tools, and machinery; its rents, reservations, and reversions, of every nature, or so much thereof as lies and is within the state and district of Indiana. The bill avers that the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company claims some interest in the said premises, and prays that it may be required to make answer to, all and singular, the allegations and charges contained in the bill, and that said property may be decreed to be sold free and discharged from any and all claims or interest of the parties respondent to the bill.