pose of enforcing the payment of a judgment in the state court, and as that judgment is not before us we cannot take jurisdiction of the supplemental proceeding.

These views, we think, are supported by the following cases: *Pratt* v. *Albright*, 9 FED. REP. 634; *Weeks* v. *Billings*, 55 N. H. 371; *Chapman* v. *Bargar*, 4 Dill. 557; *Bank* v. *Turnbull*, 16 Wall. 190; *Barrow* v. *Hunton*, 99 U. S. 80; *Buford* v. *Strother*, 10 FED. REP. 406.

The statutes under consideration in those cases were not always exactly the same as the statute of this state, but we think they were in substance the same. We think the authorities are conclusive as to the question here.

The motion to remand is sustained.

WELLMAN and others *v.* HOWLAND COAL & IRON WORKS.

(*Circuit Court, D. Kentucky.* January 2, 1884.)

1. PETITION FOR REMOVAL—JURISDICTION.
   After the filing of a petition for the removal of a cause to a federal court, and the tender of a valid bond, if the petition and record show good ground for removal, the jurisdiction of the state court is superseded, and an amendment of the pleadings subsequently allowed in the state court is invalid.
2. SAME—SEPARATE CONTROVERSY—NECESSARY PARTIES—DEFUNCT CORPORATION.
   A corporation which has sold all its property and franchises, except the mere right to exist, and which has no officers or place of business, is not a necessary party in a suit against a stockholder to make him liable for his unpaid subscription, notwithstanding the fact that the corporation has still the power to reorganize and collect the stockholders' dues.

In Equity.

W. W. Thum and *George Du Relle*, for complainants.

Otto A. Wehle, for defendant.

BARR, J. The motion of complainant to remand to the state court must be determined by the relation which the Howland Coal & Iron Works bears to this litigation. The suit is to make defendant Small liable for his unpaid subscription to that company's stock to the extent, at least, of complainant's debt. The allegation of complainant in his original petition is that "the Howland Coal & Iron Works is now, and has been for several years, insolvent, its entire property and franchises having been sold out several years ago, and said corporation has long since ceased to do business, and has no officers or agents or office in this state, and has had none for three years or more last past." After the filing of the petition for removal in the state court and the tender of the bond, the complainant, by leave of state court, amended his petition, and alleged "that the defendant, the Howland Coal & Iron Works, is a resident of this state, and has a corps of or-

ganic officers maintaining and keeping up the corporate existence of the said defendant, but that none of the officers or agents of said defendant reside in this state, and residences of each and all its officers and agents are unknown to those plaintiffs. The plaintiffs desire to further amend their said petition, and say that by the charge that said defendant had ceased to do business they meant to say, and now so charge the fact to be, that said defendant Howland Coal & Iron Works has ceased to do business in the way of operating its mines, and transporting and selling the coal taken therefrom in the markets, which mining and selling coal was the chief business of said corporation."

This amendment should not have been allowed to be filed by the state court, as it came too late. The petition for removal had then been filed and the bond tendered, and thereby the state court had ceased to have jurisdiction over the cause, if the petition, with the record as it then existed, made a good ground for removal. *Railroad Co.* v. *Mississippi*, 102 U. S. 141. The allegations of the pleadings and the exhibits then and now in the record show that all of the visible property of this corporation had been sold, also its franchises, except the right to exist as a corporation. The corporation still had a legal existence, but not an actual one. It had no organization, no officers, or agents, but the stockholders still have the right to reorganize and elect officers. If this were done the corporation could sue and be sued, and it could collect the unpaid stock subscription and apply it to the payment of the debts of the company.

The complainant did not bring this suit against the corporation, but against Small, the stockholder. In its present condition no personal judgment could be rendered against the company, and it is exceedingly doubtful whether the company will be bound by the judgment should one be rendered against Small. It is true that complainant, after he had sued Small, who was a non-resident, and seized his property by process of attachment, attempted to bring the corporation before the court by a constructive summons; but if the corporation has no organization, officers, or agents anywhere, how can this corporation be even constructively summoned? While, therefore, this corporation is not defunct, it has no living, active existence, although in law it may survive sufficiently to have the power of reorganization for some purposes. Its present *status* makes the reasons which apply to a defunct corporation apply to this one. The Howland Coal & Iron Works is only a nominal party, if a party at all.

The motion to remand to the state court is overruled.

MASON and others, Adm'rs, *v.* HARTFORD, P. & F. R. Co. and others.

(*Circuit Court, D. Massachusetts.* January 18, 1884.)

1. JURISDICTION OF CIRCUIT COURTS—WHEN CONCURRENT WITH DISTRICT COURT.
   By section 4979 of the Revised Statutes of the United States the several circuit courts have concurrent jurisdiction with the district courts "of all suits at law or in equity, brought by an assignee in bankruptcy against any person claiming an adverse interest, or by any such person against an assignee touching any property or rights of the bankrupt transferable to or vested in such assignee." By this section jurisdiction is conferred upon the circuit courts to ascertain and adjust all lien and other specific claims upon the property vested in the assignee claimed by any person adversely to the assignee representing the general creditors, without regard to the citizenship of the parties. Nor is such jurisdiction affected by the change of interest created by a conveyance made under the decree of the district court. Having once acquired jurisdition of the subject-matter and the parties, the court will retain it for all purposes within the scope of the equities to be enforced.
2. EFFECT GIVEN TO TESTIMONY OF PARTIES ON FORMER TRIAL.
3. BILL OF REVIVOR—STATUTE OF LIMITATIONS—LACHES.
   Ordinarily a bill of revivor may be filed at any time before it is barred by the statute of limitations, which, when the suit is abated by the death of the plaintiff, begins to run from his decease, or, according to some authorities, from the time administration is taken out. Where one acquires title with full notice and subject to an incumberance of a lien, he cannot charge laches on the part of the person bringing suit to enforce the lien if the suit is brought within the time prescribed by the statute.

In Equity.

S. E. Baldwin, for defendants.

A. Payne, T. E. Graves, and *W. S. B. Hopkins*, for complainants.

NELSON, J. This is a bill of revivor and supplement filed by the administrators of Earl P. Mason, to revive a suit abated by his decease, and to bring in as defendants parties who have succeeded to the interest of some of the original defendants. The facts and proceedings in the suit, so far as it is necessary to state them, are as follows:

The original bill was filed in this court by Earl P. Mason in December, 1871, against the Hartford, Providence & Fishkill Railroad Company, whose road and franchises had been previously conveyed to and formed part of the railroad of the Boston, Hartford & Erie Railroad Company, the assignees in bankruptcy of the Boston, Hartford & Erie Railroad Company, adjudicated bankrupt by the district court of this district in March, 1871, the trustees under mortgages of the Hartford, Providence & Fishkill Railroad made prior to the consolidation, the trustees of the Berdell mortgage of the Boston, Hartford & Erie Railroad, made subsequent to the consolidation, and the treasurer of the state of Connecticut. The object of the bill was to enforce against that part of the Boston, Hartford & Erie Railroad in the states of Rhode Island and Connecticut, which was formerly the Hartford, Providence & Fishkill Railroad, a lien claimed by the plaintiff to exist on account of certain preferred stock issued by the Hartford, Providence & Fishkill Railroad Company in 1854, before the consolidation, the certificates of which stock contained a clause that the par value thereof was "demandable by the holder of the same from the company, at any time after April 1, 1865," and a demand of payment made upon the company in March, 1871. To that bill answers were filed in 1873, and replications were filed October 15, 1875.