"The legislature of Maryland, by the amendment to the pilot laws contained in the act of 1896 (chapter 40), did not intend to exempt all American vessels bound to or from Baltimore, engaged in foreign commerce, from the payment of pilotage, but only those laden in whole or in part with coke or coal mined in the United States. The exemption obviously was intended as a relief or encouragement to the coal trade. Being a statute to affect trade and commerce, it should receive a sensible construction, looking to its object. It was intended to continue to the pilots their statutory fees for compulsory pilotage, unless the fact of the cargo which the vessel was carrying made it an advantage to the coal trade to exempt her. It would seem, therefore, that to hold that putting on board a few bushels or a few tons of coal gratifies the law is to defeat the law in both these respects. It deprives the pilots of their fees, and does not benefit the coal trade. In the present case a vessel of 657 tons was chartered to take a full and complete cargo of spruce lumber to South America, but the owners reserved the privilege of putting some coal on board as part of her ballast. They bought 25 tons at a cost of $55, and put it in the hold as ballast. The pilotage fees amount to $82.50. The agent of the owners confesses that the incidental advantage of escaping pilotage was a motive, but states that he had also the wish to try the market for coal at the vessel's port of discharge, never having before made a shipment there. Obviously the owners could not lose, for they would be gainers even if they had to throw the coal overboard. I think, to be entitled to exemption, the vessel's cargo must, in some substantial proportion, consist of coal or coke, and that this vessel was not in part laden with coal, in any fair commercial sense. It is not sufficient, in my opinion, to entitle the vessel to exemption, if the quantity is of no commercial value as a shipment. Legislation with regard to commercial matters should be construed, if the language will permit, so as to give effect to the scheme which it is apparent the lawmakers had in mind; and it cannot be supposed that when the legislature of 1896 amended a general law, intended to provide for the support of pilots, by introducing into it an exemption in favor of vessels carrying coal, they intended to leave the law in such a state that it would deprive the pilots of their support without benefiting the coal-exporting trade. It is urged against the proposed construction that it will become a matter of doubt and dispute, as to every vessel which has any coal aboard, whether or not it is sufficient to enable her to say that she is laden in part with coal. But this is a difficulty which attaches to all similar legislation. It must be determined by considering all the circumstances by which reasonable men would be controlled in similar business transactions. If the legislature has failed to establish a definite criterion which can be applied with certainty, all that can be done is to apply a reasonable one. It is a matter of common knowledge in the port of Baltimore that coal is usually shipped in full cargoes, but it is also a fact that, for long voyages, coal is sometimes too weighty if the vessel is filled full, and, therefore, lighter cargo is used to fill up the vessel. It is not improbable that it was for this reason that the legislature, intending to favor the coal trade, provided that vessels should be exempt even when not fully laden with coal, and that it should be held to be essential to entitle a vessel to the exemption that she should be, in a commercial sense, a coal-laden vessel, carrying a reasonable quantity to constitute a cargo, looking to her capacity and the voyage she is to sail. In the present case, at all events, it seems to me clear that one car load of coal, belonging to the owners and of less value than the pilot fees, dumped as ballast into the hold of a large vessel, which was under charter to carry a complete cargo of lumber, is not a substantial part of her cargo, but is an attempt to evade the law. The other points are not strongly insisted, and I think could hardly constitute a good defense. The statute obviously contemplates that the consignee, as well as the vessel's owner, shall be liable. It seems to me that the offer of a pilot was made in good faith. It was made by a pilot who was competent and qualified to take the vessel himself, and the offer was declined solely and openly upon the ground that the vessel was not required to take a pilot because she had on board a cargo partly of coal. The issue was intended to be raised, and it seems to me that it was distinctly raised, and that what took place was an offer and a refusal. I shall sign a decree for the libelant."

The decree appealed from is affirmed.

SIMPSON et al. v. WARD et al.

(Circuit Court, S. D. New York. April 24, 1897.)

FEDERAL COURTS—ENJOINING SALES ORDERED BY STATE COURTS.

After the entry of an order in a state court dissolving a corporation and ordering a sale of its property, consisting chiefly of real estate, certain members of the corporation (some of whom had had notice of the proceedings in the state court two years before, but had taken no action) applied to the federal court to restrain the sale, on the ground that the state court was wholly without jurisdiction. *Held*, that such injunction should not be granted.

Application for an injunction to restrain the sale by receiver, under a judgment of the state court, of the property of the Peekamoose Fishing Club, a state corporation dissolved by special proceeding in the supreme court of the state under section 2420, Code Civ. Proc.

Benjamin F. Tracy, for plaintiffs.
David McClure, for defendants.

LACOMBE, Circuit Judge. Complainants' contention is that their bill is not obnoxious to section 720, Rev. St. U. S., and the many decisions holding that the federal courts will not interfere with proceedings in the state courts, for the reason that the supreme court was wholly without jurisdiction of the subject-matter,—having no power, under section 2420 of the Code, to dissolve a corporation which has no stock,—and that the judgment decreeing dissolution, appointing a receiver, and ordering sale is wholly void. If this be so, then the purchaser at the sale will take no title, and the receiver will be personally liable for all damages sustained. Inasmuch as the property is nearly all real estate located in a thinly-settled part of the state, it is difficult to see how any such irreparable injury would result as to make it necessary to issue a preliminary injunction. Moreover, if the complainants' contention as to section 2420 be sound, then the corporation itself was never dissolved. It is the property of the corporation which is offered for sale, and any proceedings to restrain or postpone the sale should be brought by the corporation, which owns the property, not by individual members, who do not hold the title, and whose bill of complaint fails to comply with the requirements of the ninety-fourth rule in equity. It further appears that one, at least, of the complainants, was advised two years ago of the pendency of the proceedings for dissolution. It was open to him to apply to the state court for leave to present the objection to such proceeding which is now relied upon. The state court was the proper tribunal to pass upon that objection, since it is a question of the construction of a state statute regulating special proceedings for dissolving state corporations. Complainants, by failing to make any effort to present this objection in the proper forum and at the proper time, have been guilty of such gross laches that they are in no position to invoke the favorable consideration of

a court of equity, or to ask for an injunction to restrain the receiver appointed by the state court from carrying out its instructions. The motion is denied, and restraining order vacated.

LILIENTHAL v. DRUCKLIEB et al.

(Circuit Court, S. D. New York. February 16, 1897.)

1. FEDERAL COURTS—JURISDICTION—RIGHTS UNDER STATE STATUTES.
Whenever a statute of a state gives a right, such right may, on proper citizenship, be enforced by suitable proceedings in the federal courts.

2. SAME—FRAUDULENT CONVEYANCES—FOREIGN CREDITORS.
Under chapter 740, Laws N. Y. 1894, providing that a creditor of a deceased insolvent debtor, having a claim over $100, may disaffirm, treat as void, and resist all acts done and conveyances made in fraud of creditors by such debtor, and may maintain an action for the purpose, though no judgment has been obtained, a foreign creditor of a deceased debtor may maintain an action in a federal court in New York to set aside transfers made by him, though no judgment has been obtained in New York and no administration has been taken out there.

3. FOREIGN JUDGMENTS—FRAUDULENT CONVEYANCES.
A judgment of a French tribunal, adjudicating that a wife is entitled to a certain amount of property as against her husband, both being residents of France, which judgment has been voluntarily liquidated by him in part, is sufficient to constitute the wife a creditor of the husband for the purpose of bringing suit to set aside his fraudulent conveyances under Laws N. Y. 1894, c. 740.

William H. Blymyer, for plaintiff.
Henry B. Twombly and Louis O. Van Doren, for defendants.

WHEELER, District Judge. This suit is brought to reach property that was of Maurice Lilienthal, husband of the plaintiff, deceased, both of Paris, France, which is alleged to have come into the hands of the defendants here in fraud of the rights of creditors. The plaintiff has no judgment here on which execution could issue against the property, and no administrator has been appointed here. Without these, by the common law well established, the plaintiff would have no standing here. But by chapter 740 of the Laws of New York of 1894, amending chapter 314 of the Laws of 1858, as amended by chapter 487 of the Laws of 1889, any executor or administrator may, for the benefit of creditors, disaffirm, treat as void, and resist all acts done and transfers and agreements made in fraud of the rights of any creditor; "and any creditor of a deceased insolvent debtor having a claim or demand against the estate of such deceased debtor exceeding in amount the sum of one hundred dollars, may, in like manner, for the benefit of himself and other creditors interested in the estate or property of such deceased debtor, disaffirm, treat as void, and resist all acts done, and conveyances, transfers and agreements made, in fraud of the right of any creditor or creditors, by such deceased debtor, and for that purpose may maintain any necessary action to set aside such acts, conveyances, transfers or agreements; and for the purpose of maintaining such action, it shall not be necessary for such creditor to have obtained a judgment upon