

Opinion of the Court.

SHIPMAN ET AL., TRADING AS SHIPMAN BROTHERS,
ET AL. v. DUPRE ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF SOUTH CAROLINA.

No. 689. Decided April 24, 1950.

In this case, a three-judge federal district court erred in ruling on the merits of a suit to restrain enforcement of a state statute on the ground of its invalidity under the Federal Constitution when it did not appear that the statute had been construed by the state courts; but the federal court should retain jurisdiction pending a reasonable time to afford an opportunity for complainants to obtain such a construction. Pp. 321-322.

88 F. Supp. 482, judgment vacated.

Appellants' application for a declaratory judgment and injunction, on the ground of the alleged invalidity under the Federal Constitution of certain sections of South Carolina statutes regulating the fisheries and shrimping industry, was dismissed on the merits by a three-judge federal district court. 88 F. Supp. 482. On appeal to this Court, *the judgment is vacated and the cause is remanded*, p. 322.

Aaron Kravitch, Phyllis Kravitch and Joseph Fromberg for appellants.

John M. Daniel, Attorney General of South Carolina, *T. C. Callison* and *R. Hoke Robinson*, Assistant Attorneys General, for appellees.

PER CURIAM.

Appellants sought a declaratory judgment that certain sections of the South Carolina statute regulating the fisheries and shrimping industry were unconstitutional, and interlocutory and permanent injunctions restraining the state officials from carrying out those provisions. The

statutory three-judge District Court assumed jurisdiction, decided the issues on the merits, and dismissed the complaint. 88 F. Supp. 482. From the papers submitted on appeal, it does not appear that the statutory sections in question have as yet been construed by the state courts. We are therefore of opinion that the District Court erred in disposing of the complaint on the merits. See *American Federation of Labor v. Watson*, 327 U. S. 582, 595-599.

The judgment of the District Court is vacated and the cause is remanded to that court with directions to retain jurisdiction of the complaint for a reasonable time, to afford appellants an opportunity to obtain, by appropriate proceedings, a construction by the state court of the statutory provisions involved.

MR. JUSTICE DOUGLAS dissents.