The proposition that paragraph c of section 23 of the act is applicable to a civil action cannot be maintained. It is limited by express words to "the offenses enumerated in this act," namely, the crimes described in section 29. The motion is granted.

CAMP v. ZELLARS.

(Circuit Court of Appeals, Fifth Circuit. June 1, 1899.)

No. 836.

BANKRUPTCY—JURISDICTION—SUITS BY TRUSTEE.

The district court, as a court of bankruptcy, has no jurisdiction of a petition by a trustee in bankruptcy for the cancellation of a conveyance of land previously made by the bankrupt to his wife, and alleged to have been fraudulent as to creditors, and for the recovery of the land for the benefit of the estate, nor to enjoin the bankrupt's wife from prosecuting a suit against the trustee to recover personal property claimed by her.

Petition for Revision of Decision of the District Court of the United States for the Northern District of Georgia.

H. A. & B. T. Camp were duly declared bankrupts as a partnership and as individuals. T. M. Zellars was appointed trustee of the estates of said bankrupts. After the passage of the bankruptcy act, and within four months of the time in which the petition in involuntary bankruptcy was filed in this cause, H. A. Camp conveyed certain real estate to his wife, Mrs. C. B. Camp, and placed her in possession of the same. T. M. Zellars, as trustee, filed a petition in said United States district court against Mrs. C. B. Camp, seeking to have said conveyance canceled, and to recover said lands for the benefit of the estate. The petition of said trustee is in the nature of a suit to cancel the said conveyance as fraudulent. The petition also alleges that Mrs. C. B. Camp has brought certain suits against the trustee to recover personal property claimed by her. The petitioner seeks to have these suits enjoined. Mrs. Camp filed a demurrer to this petition, upon the ground that the district court had no jurisdiction to hear and determine the question, and because the controversies referred to in said petition must be determined by a separate action at law or in equity, they being no part of the bankruptcy proceedings proper. This demurrer was overruled by the district court. The matter is brought to this court by a petition filed by Mrs. C. B. Camp, alleging that the district court erred in overruling the demurrer, and praying that this court superintend and revise the action of the district court.

H. A. Hall, for petitioner.

Alex. W. Smith, for respondent.

Before PARDEE, McCORMICK, and SHELBY, Circuit Judges.

PER CURIAM. We are of the opinion that the district court erred in overruling the demurrer. The judgment of the district court is reversed. The district court is directed to sustain the demurrer of Mrs. C. B. Camp to the said petition filed by T. M. Zellars, trustee. Bernheimer v. Bryan (present term) 93 Fed. 767.

In re GRIMES et al.

(District Court, W. D. North Carolina. May 30, 1899.)

1. BANKRUPTCY—EXEMPTIONS—PARTNERSHIP ASSETS.
   In North Carolina, in case of the bankruptcy of a partnership, each partner is entitled to receive, out of the partnership assets, the exemption allowed by the law of the state, provided the other partner consents thereto.
2. SAME.
   A partner having an equal interest with his co-partner in the firm property is entitled to claim his statutory exemption therefrom in case of the bankruptcy of the firm, although the amount contributed by him to the capital of the firm was less than the amount of such exemption.
3. SAME—DOMICILE—BURDEN OF PROOF.
   Where a creditor opposes the claim of a bankrupt partner to exemptions out of the firm assets, on the ground that he was not domiciled within the state at the time the firm's petition in bankruptcy was filed, and it is shown that he was at one time domiciled in such state, the burden of proof is on the creditor to show a change of domicile.

In Bankruptcy. On review of ruling of referee.

Glenn & Manley, for bankrupt.
L. M. Swink, for creditors.

EWART, District Judge. I concur with the referee in the conclusion that the partners constituting the firm of Grimes Bros. are entitled to their exemptions out of the partnership assets. In Burns v. Harris, 67 N. C. 140, Mr. Justice Reade says:

> "One of two or more partners cannot have a portion of the partnership effects set apart to him, as his personal property exemption, without the consent of the other partner or partners, because the property is not his. But, if the other partner or partners consent, it may be done. The creditors of the firm cannot object, because they no more have a lien on the partnership effects for their debts than creditors of an individual have upon his effects."

In the case before the referee, the consent of both partners in their claim for exemption out of the partnership assets was filed. It was further insisted before the referee that T. W. Grimes had no such interest in the partnership property which amounted to as much as his exemption. From the evidence taken in the case it appears that he contributed $200 to the capital stock of the company, and that he was to receive a salary of $900, as against his partner's capital. This made him an equal partner, and the finding of the referee that he was entitled to the exemption claimed, viz. $500, was correct, and is hereby approved. It could make no difference to creditors from what fund the exemption was given. Scott v. Kenan, 94 N. C. 296. In this connection I am not unmindful of the decision of Judge Newman of the Northern district of Georgia (In re Camp, 1 Nat. Bankr. News, 142, 91 Fed. 745), which apparently sustains the contention of counsel representing creditors of Grimes Bros. But, in the case referred to (In re Camp), the evidence failed to show that B. T. Camp, one of the partners, and the son of the other partner, H. A. Camp, had such an interest in the partnership assets as would authorize the allowance to him