

Syllabus.

"1st. The provisions of the second clause of section 23 of the Bankrupt Act of 1898 control and limit the jurisdiction of all courts, including the several District Courts of the United States, over suits brought by trustees in bankruptcy to recover or collect debts due from third parties, or to set aside transfers of property to third parties, alleged to be fraudulent as against creditors, including payments in money or property to preferred creditors.

"2d. The District Court of the United States can, by the proposed defendants' consent, but not otherwise, entertain jurisdiction over suits brought by trustees in bankruptcy to set aside fraudulent transfers of money or property, made by the bankrupt to third parties before the institution of the proceedings in bankruptcy.

"3d. The District Court for the Northern District of Iowa cannot take jurisdiction over this suit as it now stands on the record."

The result is that the decree of the District Court, dismissing the bill for want of jurisdiction, must be

Affirmed.

MITCHELL v. McCLURE.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

No. 237. Submitted April 12, 1900.—Decided May 23, 1900.

A District Court of the United States has no jurisdiction, without the proposed defendant's consent, to entertain an action of replevin by a trustee in bankruptcy to recover goods conveyed to the defendant by the bankrupt in fraud of the Bankrupt Act and of his creditors.

Bardes v. Hawarden Bank, ante, 524, followed.

THE case is stated in the opinion of the court.

Opinion of the Court.

Mr. Thomas Patterson and *Mr. S. Duffield Mitchell* for plaintiff in error.

Mr. John S. Ferguson for defendants in error.

MR. JUSTICE GRAY delivered the opinion of the court.

This was an action of replevin in the District Court of the United States for the Western District of Pennsylvania by a trustee in bankruptcy, appointed by that court, a citizen of Pennsylvania, to recover a stock of goods, of the value of \$2500, in the possession of the defendants, citizens of Pennsylvania and residents of that district, and alleged to have been conveyed to them by the bankrupt, within four months before the institution of proceedings in bankruptcy, in fraud of the Bankrupt Act of 1898, and of the creditors of the bankrupt. The District Court, on motion of the defendant, held that it had no jurisdiction to entertain such an action, and therefore ordered it to be abated. 91 Fed. Rep. 621. The plaintiff sued out a writ of error from this court, and the District Judge certified that the question of jurisdiction was the sole question in issue.

For the reasons stated in *Bardes v. Hawarden Bank*, ante, 524, just decided,

The judgment is affirmed.