a party to the fraud. He will, however, be allowed his expenses in preserving the property in his possession, but these should be itemized and verified by oath and vouchers. *In Re Tatum*, 112 Fed. 50; Cf. 7 Virginia Law Register, 656.

Debts Created by Fraud—Discharge.—A debt arising from a sale and collection of the proceeds of property conditionally sold to the vendee with retention of the title until the payments were made as required by the contract is held in *Bryant* v. *Kinyon* (Mich), 53 L. R. A. 801, not to be within the provision of the Bankruptcy Act excepting from the operation of the discharge debts created by fraud while acting as an officer "or in any fiduciary capactty."

FEDERAL PRACTICE—SUITS IN FORMA PAUPERIS.—In *Reed* v. *Pennsylvania Co.* (C. C. A.), 111 Fed. 714, an important ruling (with distinct qualifications) is made, involving the construction of the Act of Congress of July 20, 1892 (27 Stat. 252), relating to suits *in forma pauperis*. That act in substance provides that "any citizen of the United States, entitled to commence any suit or action in any court of the United States, may commence and prosecute to a conclusion any such suit or action without being required to prepay costs or fees, or give security therefor, upon filing a sworn statement" of inability because of poverty. Section 3 requires that officers of courts shall give their services and witnesses shall attend as in other cases; while section 4 provides that the court may request any attorney of the court to represent such poor person and may dismiss any cause brought under the act if it be made to appear that the allegation of poverty is untrue or that the alleged cause of action is frivolous or malicious.

The Circuit Court of Appeals for the Sixth Circuit rules that *appellate* proceedings are within the equity of this statute and not excluded by its letter. Citing *Fuller* v. *Montague* (C. C.), 53 Fed. 206; *Brinkley* v. *R. R. Co.* (C. C.), 95 Fed. 345; *Columb* v. *Mfg. Co.* (C. C.), 76 Fed. 198; *Volk* v. *B. F. Sturtevant Co.*, 99 Fed. 932, 39 C. C. A. 346. In the case of *The Presto*, 93 Fed. 522, 35 C. C. A. 394, the court of appeals for the Fifth Circuit held *contra*, but no reported cases appear in accord with that ruling.

In the principal case it was further held that where under a State statute, the beneficiaries and real parties in interest are the widow and children of the deceased, an affidavit not alleging the poverty of the children is defective. So also where the estate of decedent is not shown to be unable to bear the expenses of litigation. As to both of these defects, leave was given to amend.

The court, however, becomes more technical upon one point—it wishes all cases, whether brought *in forma pauperis* or not, properly presented to it. We quote from the opinion of Lurton, Circuit Judge:

"The application to suspend the rule in respect to printing briefs must be denied. That is an expense usually borne by counsel primarily, and constitutes an item of expense between counsel and client. The importance of such briefs to the attainment of a proper understanding of the merits of the case justifies us in expecting that the attorney who has advised the suing out of this writ of error will not desert the cause, or decline to comply with the rule requiring a printed brief. If we are in error about this, we will appoint an attorney to conduct the suit, upon being applied to, under the power conferred by the fourth section of the act. *Whelan* v. *Railroad Co.* (C. C.), 86 Fed. 219."

FEDERAL PRACTICE—RIGHT OF COURT TO DIRECT VERDICT.—As a corollary to *Patton* v. *Southern Railway Co.*, *supra*, a portion of the opinion of the court in