

any one's right by taking the cow into his possession, at the death of the owner, before the end of the pasture season. From his possession, the defendant took the cow without right. However qualified the plaintiff's lien may be, it is a security which the defendant cannot dispute. The plaintiff did not relinquish the possession to which, by virtue of his lien, he was entitled as against the defendant.

*Judgment for the plaintiff.*

STANLEY and BLODGETT, JJ., did not sit: the others concurred.

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ELY v. CURTIS.

The fraud by which a debt is created, and a discharge of it prevented in bankruptcy, under U. S. Rev. St., s. 5117, is actual, and not mere fraud in law.

ASSUMPSIT. The plaintiff contended that the debt was not discharged in bankruptcy because created by the defendant's fraud. Facts found by a referee.

*Barnard & Barnard*, for the plaintiff.

*E. B. S. Sanborn*, for the defendant.

DOE, C. J. The fraud must be actual, and not mere fraud in law. *Neal v. Clark*, 95 U. S. 704; *Wolf v. Stix*, 99 U. S. 1, 7. The referee has reported evidence, and has not decided the general question of fraud.

*Case discharged.*

STANLEY and BLODGETT, JJ., did not sit: the others concurred.

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CARR v. ROGER WILLIAMS INS. CO.

CARR v. FIRE ASSOCIATION OF PHILADELPHIA.

When a notice of loss, given to an insurer, contains a statement that the property was not occupied, and that the insurer was informed, when the policy was issued, that the property would not be occupied, the insurer's reply denying his liability on the ground that his consent was not endorsed on the policy is evidence of the fact of information alleged in the notice, and not denied in the reply.