

ing the greater amount of indebtedness shall be elected such permanent trustee, subject, however, to the approval of the court or one of the judges thereof, and if the creditors fail to attend or any person fails to obtain the requisite majority of number and amount of creditors as before provided, or if the person elected be in the opinion of the court an unsuitable person to execute the duties of the office of trustee, the court shall appoint some person to act as permanent trustee, and when such person shall be elected and appointed as aforesaid or appointed by the court he shall give bond in manner and form as hereinbefore provided with respect to the preliminary trustee, and thereupon immediately upon the filing and approval of such bond all said estate, property, rights and claims shall vest in such permanent trustee, and such preliminary trustee, if he be a different person from the permanent trustee, shall execute to him a deed of the same, and duly acknowledge the same; and it shall be the duty of the debtor at such meeting to answer under oath any interrogatories of the creditors or any of them touching his property and the disposition of the same, his indebtedness, the judgments and suits against him and as to any matter relating to his business, and the said clerk or deputy clerk shall administer to such debtor an oath that he will speak the whole truth without concealment or evasion in answer to any interrogatories propounded to him at said meeting, and said clerk or deputy clerk may adjourn said meeting from time to time.

Title, powers and duties of trustee.

The trustee can only collect what is actually due an insolvent. He is not a *bona fide* purchaser for value and right of set-off applies as against him. An insolvent trustee compared with a receiver and with a conventional trustee. *Colton v. Drovers' Bldg. Assn.*, 90 Md. 95. See also *Dowler v. Cushwa*, 27 Md. 366.

While a trustee takes the property subject to valid liens, his control over it and right to recover it are not wholly limited to what the insolvent might do. The trustee represents all the creditors. *Applegarth v. Wagner*, 86 Md. 472.

The title of all the insolvent's property vests in trustee whether deed from insolvent is executed or not. The trustee represents creditors and is the proper party to attack fraudulent conveyances. *Waters v. Dashiell*, 1 Md. 471.

Whether or not property passes to insolvent trustee depends upon whether such property could have been devised or assigned by insolvent or could have descended from him. Hence, trustee does not take contingent estates, the person to take not being ascertained. The trustee takes only existing rights. *In Re Banks' Will*, 87 Md. 429.

This section, in connection with secs. 1 and 17, makes it evident that all insolvent's property, whether mentioned in schedule or not, save that excepted in sec. 1, vests in the trustee. Design of insolvent laws and powers and duties of trustees, discussed. *Zeigler v. King*, 9 Md. 333.

Where a *fi. fa.* has been issued upon a judgment against certain land, but the land has not been sold, and later a writ of *venditioni exponas* is issued on the *fi. fa.*, but prior to issue of latter writ judgment debtor goes into insolvency, insolvent trustee takes title to the land, and its subsequent sale by the sheriff is nugatory, the purchaser being charged with notice of insolvent proceedings. The insolvent trustee takes title though the deed from insolvent to him is defective. *Manahan v. Sammon*, 3 Md. 470.

Since under our law all of insolvent's property passes to his trustee, this rule will be enforced as to property brought to Maryland from another state, although laws of latter do not so provide; so also, as to deed by an insolvent which our law declares fraudulent. Whether deed be fraudulently obtained from an insolvent, or is the result of fraud practiced upon him, if thereby his creditors are defrauded, the trustee is person to claim property. All the property of an insolvent wherever situated, is conveyed to the trustee. Where money is paid an insolvent in consideration of a