

ance is required, the court may, in its discretion, fix another day and order new notice.

For a case dealing with a prior insolvent law, but bearing upon this section, see *Elder v. Reaney*, 13 Md. 240.

Cited but not construed in *Baylies v. Ellicott*, 9 Gill, 455.

An. Code, sec. 17. 1904, sec. 17. 1888, sec. 17. 1827, ch. 70, sec. 8. 1854, ch. 193, sec. 15.

17. Any property or debts not mentioned in the schedule of any insolvent may be taken under a *fiery facias* or attachment, at the suit of any creditor, except such as may be exempted by law; but nothing in this section shall be construed to impair the right and title of the trustee to such property or claims as provided by this article, but shall only operate to give the judgment creditor who shall discover such property or claims a priority, to be paid out of the proceeds thereof.

The first clause of this section means creditors who have obtained judgments prior to the filing of the petition. *Becker v. Whitehill*, 55 Md. 574.

This section, in connection with secs. 1 and 2, makes it evident that all the insolvent's property whether mentioned in the schedule or not, save that excepted in sec. 1, vests in the trustee. *Zeigler v. King*, 9 Md. 333.

While the creditor has a lien, it does not divest the trustee of his title or right of possession. *Waters v. Dashiell*, 1 Md. 472.

This section protects creditor who has issued against property not included in schedule, to the same extent as sec. 11 does those creditors who proceed prior to petition in insolvency. *Manahan v. Sammon*, 3 Md. 474.

For case drawing a distinction between rents which were and were not open to execution or attachment under this section, see *Hupe v. Seibert*, 4 Gill, 246.

Cited but not construed in *Buckey v. Snouffer*, 10 Md. 160 (dissenting opinion); *Hall v. McPherson*, 3 Bl. 536.

As to property not mentioned in schedule vesting in trustee, see sec. 2.

An. Code, sec. 18. 1904, sec. 18. 1888, sec. 18. 1854, ch. 193, sec. 16. 1880, ch. 172.
1894, ch. 93.

18. The clerks of the circuit courts may receive the petitions under this article, and appoint the preliminary trustee mentioned in this article, and approve his bond, as well as the bond of the permanent trustee; take acknowledgments to the deeds to the preliminary and permanent trustees, and fix the day or days for the insolvent to appear and answer interrogatories or allegations, and order notices to be given to the creditors under such rules as the circuit courts may prescribe, and shall receive as compensation one dollar; provided that no clerk shall in any case appoint the preliminary trustee of any applicant for the benefit of the insolvent law against whom there is pending at the time of his application a petition or petitions filed by his creditors under section 23, but shall submit every such application, together with all such petitions then pending against such applicant, to one of the judges of the said courts for this action.

The clerk may approve bond in absence of rules of court. *Gable v. Scott*, 56 Md. 186.

An. Code, sec. 19. 1904, sec. 19. 1888, sec. 19. 1854, ch. 193, sec. 17. 1880, ch. 172.

19. The clerk of the court of common pleas of Baltimore city may appoint from among the clerks in his office one who shall have the power vested in the clerks of the circuit courts by the preceding sections of this article, and shall also have power to receive the answers of insolvents to in-