

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. Drivers' 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 19, 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 used 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 conveyance which is fraudulent as to creditors, the trustee may maintain trover without returning the money so paid. Contract among creditors not to institute legal proceedings during a certain period pending an investigation, upheld. *Gardner v. Lewis*, 7 Gill, 392.

The insolvency of the holder of a note or bill of exchange passes the title thereto to his trustee. *Somerville v. Brown*, 5 Gill, 425.

Funds of insolvent in hands of a receiver in equity vest in insolvent trustee from time of his appointment. *Glenn v. Boston Glass Co.*, 7 Md. 295.

The right to a trade-mark, not personal, but which denotes the place where the goods are manufactured, passes to the assignee under bankrupt or insolvent laws. *Wilmer v. Thomas*, 74 Md. 491.

Though the insolvent has made an absolute transfer of property in the nature of a trust, such property must be administered by insolvent trustee. *Bank of Westminster v. Whyte*, 3 Md. Ch. 511.

Insolvency of buyer does not revoke a purchase of goods made prior to insolvency. The seller has his right of stoppage *in transitu*, but if the goods are once delivered, title vests in assignee. The same principle applies to an assignment for benefit of creditors. *McElroy v. Seery*, 61 Md. 398.

For a case where property was held to have passed to an insolvent trustee subject to liens, see *Repp v. Repp*, 12 G. & J. 352.

Insolvent trustee has no power to sell without an order of court. Where an equitable title is vested in an insolvent, G. & B. holding the legal title as security for certain claims, insolvent trustee can only sell equitable title. If this is not advantageous, trustee may institute proceedings in equity against G. & B. Where trustees are the same in two insolvent cases, they cannot file a bond in one of the cases conditioned upon a performance of their duties in both cases. Each case must be conducted separately, though property owned by two insolvents jointly may be sold at same time. *Gable v. Scott*, 56 Md. 181.