

able paper fraudulently, or suspends payment thereof and fails to resume the same within twenty days; or being a banker or broker shall fail for twenty days to pay any depositor on demand lawfully made, shall be deemed to have committed an act or acts of insolvency, as the case may be; provided, the petition mentioned in the next succeeding section is filed within four months after the act of insolvency is committed.

Acts of insolvency.

Fact that grantee or party to whom money is paid has no knowledge that grantor is insolvent, does not take case out of operation of this section. Prayers correctly setting forth facts requisite to bring a case under this section. Where a firm, being insolvent, sells its stock of goods and immediately returns to purchaser a part of purchase price, to be applied to the payment of notes on which the purchaser is endorser, a preference is created. Where a merchant commits acts of insolvency, a subsequent assignment for benefit of creditors has no effect against insolvent trustee. *Willison v. Frostburg Bank*, 80 Md. 212. (Sec. 36 not applicable.)

Fact that defendant honestly believes he will be able to go on with the business, and makes preferences without any design so to do, is immaterial. As soon as debtor commits any of acts enumerated in this section, it becomes absolute right of creditor to place debtor in insolvency. Though there be an erroneous instruction on one act of insolvency, if debtor is guilty of another act, the judgment will not be reversed. *Castleberg v. Wheeler*, 68 Md. 279.

If conveyances are in other respects valid and there are no proceedings in insolvency within the prescribed time, conveyances are good. The term "insolvency" means an inability to pay debts as they become due in ordinary course of business. Intention of this section. When a party subjects himself to its provisions. *Castleberg v. Wheeler*, 68 Md. 275.

Whatever is the necessary consequence of an act deliberately done, the law presumes every man to intend. When the *quo animo* becomes an inference of law. *Gardner v. Lewis*, 7 Gill, 404.

For a case involving the suspension of payment of negotiable paper as an act of insolvency, see *Cator v. Martin*, 57 Md. 400.

For conveyances, etc., held fraudulent and void, see *Clark Co. v. Colton*, 91 Md. 207; *Brown v. Smart*, 69 Md. 329 (affirmed in 145 U. S. 454); *Cator v. Martin*, 57 Md. 400.

Generally.

The enactment of a bankruptcy law suspends a state insolvency law only so far as the two conflict. The latter continues in force as to any class of persons exempted by former. It is the exercise of the power of establishing a bankrupt law, and not the existence of such power, which renders the state law inoperative. It is the policy of this section to make farmers subject to its provisions. *Old Town Bank v. McCormick*, 96 Md. 349.

Proceedings against a corporation to avoid a preference may be brought under this section or under art. 23, secs. 376 and 377, of the Code of 1904—see secs. 97 and 99 of this Code (art. 23). *Mowen v. Nitsch*, 103 Md. 637. And see *Hughes v. Hall*, 118 Md. 680.

Where a transfer has been made the basis of an adjudication, it is *ipso facto* void and sec. 26 is not applicable. *Vogler v. Rosenthal*, 85 Md. 46.

Object of this section as to bankers, brokers, merchants, traders, etc. The retirement of such person from business or his having made a deed for benefit of creditors, does not absolve him from provisions of this section. *Gardner v. Gambrell*, 86 Md. 660.

For a note upon fraudulent conveyances, see *Swan v. Dent*, 2 Md. Ch. 111.

See secs. 8 and 14 and notes.

An. Code, 1924, sec. 23. 1912, sec. 23. 1904, sec. 23. 1888, sec. 23. 1880, ch. 172, sec. 24. 1886, ch. 298, sec. 24.

25. A petition may be filed in any of said courts having right to take jurisdiction of the debtor so committing any act of insolvency in the preceding section mentioned, by any one or more creditors, the aggregate of whose debts against insolvent amounts to at least the sum of two hundred and fifty dollars, at any time within four months after the recording of any of the conveyances, creation of liens, or committing of any of the acts of insolvency in this article specified; the said petition shall allege the facts upon which the application is grounded, and pray for process against the debtor and an adjudication of insolvency, and shall be verified by the affidavit of the petitioner; the court shall thereupon issue summons for the debtor