

a copy thereof shall be sent with the writ to be set up at the court house door by the sheriff, or other officer.

Where there is no short note the attachment fails, and the defect is not obviated by the appearance of the defendant. *Brent v. Taylor*, 6 Md. 69. See also *Campbell v. Webb*, 11 Md. 481; *Stone v. Magruder*, 10 G. & J. 386; *Boarman v. Patterson*, 1 Gill, 379.

A short note merely specifying an indebtedness, without stating the cause of action, is insufficient. *Dean v. Oppenheimer*, 25 Md. 377.

The short note must set out the individual names of the members of the firm suing out the attachment. *Hirsh v. Thurber*, 54 Md. 210. And see *Third National Bank v. Teal*, 5 Fed. 508.

A variance between the cause of action filed as required by sec. 4 and the short note (the former being date June 1, 1864, and the latter June 1, 1867), is fatal. *Browning v. Pasquay*, 35 Md. 295. See also notes to sec. 4 under "Variance."

The short note is a substitute for the declaration, and no new declaration, after the defendant dissolves the attachment, is required. *Spear v. Griffin*, 23 Md. 428. See also *Trashear v. Everhart*, 3 G. & J. 234.

Judgment for the defendant in the short-note case necessarily defeats the attachment case also. *Higgins v. Grace*, 59 Md. 373.

Cited in quashing attachment proceedings for money of prisoner in hands of Supt. of Md. House of Correction on ground that attachment cannot be laid against public officials or state institutions. *Hughes v. Svoda*, 168 Md. 441.

An. Code, 1924, sec. 10. 1912, sec. 10. 1904, sec. 10, 1888, sec. 10. 1715, ch. 40, secs. 3-7. 1778, ch. 9, sec. 6. 1835, ch. 201, sec. 14.

10. Any kind of property or credits belonging to the defendant, in the plaintiff's own hands, or in the hands of any one else, may be attached; and credits may be attached which shall not then be due.

#### **Property in the hands of a receiver.**

The right of a creditor to attach property in Maryland, is not impaired by the appointment in another state of a receiver for the defendant in the attachment. *Linville v. Hadden*, 88 Md. 594; *Hadden v. Linville*, 86 Md. 228; *Bartlett v. Willbur*, 53 Md. 494.

The rule that property in the hands of a receiver is not subject to attachment, does not apply until the receiver has actually or constructively taken possession of the property. *Farmers' Bank v. Beaston*, 7 G. & J. 421.

#### **Property, etc., in the hands of a trustee for benefit of creditors.**

Where a deed for the benefit of creditors is valid, the property in the trustee's hands cannot be attached. *McIntosh v. Corner*, 33 Md. 598; *Horwitz v. Ellinger*, 31 Md. 505; *Glenn v. Gill*, 2 Md. 18.

An attachment, however, will lie up to the time the deed of trust is recorded and the trustee's bond filed, and a subsequent record of the deed and filing of the bond cannot affect an attachment already laid. *Stiefel v. Boston*, 73 Md. 412. See also *White v. Pittsburg Bank*, 80 Md. 1.

#### **Funds or property in the hands of a trustee in equity.**

Unascertained funds in the hands of a trustee in equity cannot be attached, because the garnishee cannot come in and confess the amount in his hands. *Cockey c. Leister*, 12 Md. 129; *Bentley v. Shrieve*, 4 Md. Ch. 412.

Where a final audit fixes the amount due by a trustee to a debtor, the money may be attached, and where a portion of such fund has been assigned prior to such attachment, the balance of the fund may be condemned. *Williams v. Jones*, 38 Md. 566. See also *Cockey v. Leister*, 12 Md. 129.

If the share of the debtor in the fund in the hands of a trustee is ascertained at any time before trial of the attachment, it may be condemned. *McPherson v. Snowden*, 19 Md. 232; *Groome v. Lewis*, 23 Md. 149; *Hardesty v. Campbell*, 29 Md. 537; *Early v. Dorsett*, 45 Md. 467.

And accounts may be suspended by a court of equity for a reasonable time, in order that the attaching creditor may obtain judgment of condemnation and thus make his attachment effective. *Early v. Dorsett*, 45 Md. 468.

A contingent or uncertain interest in a trust estate which could not be definitely ascertained and was not susceptible of appraisal, held not attachable. *Safe Depos. & Tr. Co. v. Ind. Brew. Asso.*, 127 Md. 468.

#### **Property left in trust.**

The following bequests in trust are held not to be subject to attachment in the hands of a trustee by a creditor of the *cestui que trust*: Property bequeathed so that the same shall not be liable "To be taken in execution or attachment or otherwise howsoever, and so that she shall not pledge or anticipate it." *Read v. Safe Deposit, etc., Co.*, 86 Md. 464.

An income bequeathed to be paid to the beneficiary "Into his own hands and not into another, whether claiming by his authority or otherwise." *Smith v. Towers*, 69 Md. 77.