

This section makes it evident that where there is specific property, it must be sold. *Zeigler v. King*, 9 Md. 334.

**Generally.**

This section does not clothe insolvent court with powers and jurisdiction of a court of chancery; it is acting under special statutory powers. *Gable v. Scott*, 56 Md. 185. And see *Bowie v. Jones*, 1 Gill, 208; *Paul v. Locust Point Co.*, 70 Md. 292.

The provisions of this section apply equally to voluntary and involuntary insolvency. A creditor who files his claim for a distributive share of an insolvent estate, will not be allowed to impeach the adjudication. *Gottschalk v. Smith*, 74 Md. 562.

Where A. issues an attachment against B. and the latter thereafter goes into insolvency, and C. still later gets a judgment against B. and issues an attachment thereon laying it in the hands of the insolvent trustee to affect the fund arising from a sale of the property attached by A., C. may intervene and move to quash A.'s attachment. *Clarke v. Meixsell*, 29 Md. 228.

Where there are three judgment debtors and one of them dies and the other two go into insolvency, and the judgment debt being filed against the insolvent estate of one of the latter, is paid by the trustee, the latter is entitled to two-thirds of the amount paid by him out of the proceeds of the sale of the real estate of the deceased judgment debtor, the evidence establishing the relation of principal and surety between his insolvent and the other judgment debtors. *Walsh v. Boyle*, 30 Md. 267.

This section relates only to cases of insolvency. *Triebert v. Burgess*, 11 Md. 462. The attachment may be on *mesne* process, as well as on judgment. *Thomas v. Brown*, 67 Md. 515.

The insolvent trustee could not recover from the guarantors of debts of the insolvent. *Colton v. Mayer*, 90 Md. 716.

Cited but not construed in Insolvent Estate of Leiman, 32 Md. 241; *State v. Mayugh*, 13 Md. 377.

The landlord's lien on crops reserved as rent is not divested by the tenant's insolvency—art. 53, sec. 24.

As to the insolvency of agents and factors as bearing upon consigned goods and money due therefor, see art. 2, sec. 7, *et seq.*

An. Code, 1924, sec. 12. 1912, sec. 12. 1904, sec. 12. 1888, sec. 12. 1854, ch. 193, sec. 11.

**12.** The said courts, or the judge thereof in the recess, may remove any trustee for misconduct, or may, at discretion, discharge a trustee who applies to be discharged.

Where a trustee's interests are conflicting, he should ask to be relieved. *Hoffman v. Armstrong*, 90 Md. 132.

See sec. 13 and notes.

An. Code, 1924, sec. 13. 1924, sec. 13. 1904, sec. 13. 1888, sec. 13. 1854, ch. 193, sec. 12. 1880, ch. 172.

**13.** The said courts, or judges thereof, shall prescribe the penalty of the bonds of the trustees and approve the security therein, and may order a new bond or a new security or securities to be given, and may remove any trustee on failure in compliance or for incompetency or neglect of duty, and shall have all the powers over the trustees under this article, which courts of equity have over trustees appointed by decree to sell property; and the said courts shall, by their rules, provide the method and forms for the proof of claims against the estate of insolvents.

A separate bond must be given in each case, though the trustee be the same person. *Gable v. Scott*, 56 Md. 186.

A creditor of an insolvent cannot maintain an action on the trustee's bond until his claim has been audited and directed to be paid by the court, and the trustee has notice. *State v. Mayugh*, 13 Md. 377.

The trustee being answerable only for a breach of trust, no proceedings can be instituted against him until ratification of audit. Insolvent Estate of Leiman, 32 Md. 240.

An equity court has no jurisdiction to remove or appoint an insolvent trustee, though it will exercise ancillary jurisdiction for prevention of injury until insolvent court can take hold. *Powles v. Dilley*, 2 Md. Ch. 127; *Powles v. Dilley*, 9 Gill, 239.

Insolvent courts have no jurisdiction to compel executors and administrators of a deceased trustee to account in such court. The insolvent court may, however, proceed against the trustee for default or neglect of duty. *Purviance v. Glenn*, 8 Md. 206.

A trustee's appointment will not be rescinded because he was counsel for the applicant and represented no creditors. *Teackle v. Crosby*, 14 Md. 21.