Trust Fund Doctrine for the purpose of protecting general creditor in corporate liquidation procedure from 19th century through 20th century

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The Trust Fund Doctrine occupied special position not only in American corporation law but also in all American Law. One of the reasons why the Doctrine kept such a special position is in its originality. In the beginning of 19th century, almost all parts of American law system were not America's original one but it was almost all imported from British law system. Under these circumstances the Trust Fund Doctrine occupied special position in American Law System because it was a newly created doctrine in America. And the other reason gave more speciality for the Doctrine. The Doctrine was created by the famous Justice Story.

In 1824 the Trust Fund Doctrine was first formulated by United States Circuit Court and rapidly adopted by many other States Courts. In the 1870's the Trust Fund Doctrine was well established, and in the 1880's the Doctrine was concretely established. But now in the 21st Century the Trust Fund Doctrine faced the fundamental question whether it has still in effect or not. Although if the Doctrine has still in effect, there are many problems in its applying condition and in its effect. In this article, firstly I discuss some problems such as ambiguity in condition and in effect of the Trust Fund Doctrine and secondly I introduce the beginning and the development of the Trust Fund Doctrine.

Many texts suggest that the Trust Fund Doctrine was first formulated in Wood v. Dummer (1824) by Justice Story. Certainly, this case was the First case formulating the Trust Fund Doctrine as ratio decidendi .

The reason why the Trust Fund Doctrine formulated by the court in the early 19th century was defect in the corporation law especially in dissolution and liquidation procedure. In Common Law, in 19th century, once corporation was dissolved, at the same time, corporation lost its legal capacity as defendant and as complaint, and it had no more legal entity. At this point, Justice Story said in Wood v. Dummer case that "Now I cannot distinguish between the case of a corporation and the case of a private person, dying pendente lite." The famous American corporation scholar, Morawetz wrote in his book "it was held, at common law, that, upon the dissolution of a corporation, its real estate would revert to the original owners, and the personal estate escheat to the King. All legal remedies to enforce debts due by or to a corporation are necessarily extinguished when the corporation ceases to exist in legal contemplation." Therefore, in the early 19th century, when the corporation was dissolved, at the same time, creditors to the corporation lost their credit and creditors could not maintain their action by or against the corporation. At that time when the corporation was dissolved, creditors had no power to do in Common Law. That's why Justice Story created the Trust Fund Doctrine. The Trust Fund Doctrine was: the corporation property had been transferred to its stockholder, director or someone else before the corporation dissolved, and after that the corporation had dissolved and in liquidation procedure, creditor could trace such corporation property which was regarded as trust fund for creditor's satisfaction. At the beginning of the Trust Fund Doctrine Justice Story made the Trust Fund Doctrine for the purpose of protecting general creditor in liquidation procedure.

From Wood v. Dummer (1824) to Curran v. Arkansas (1853), the Trust Fund Doctrine was as ratio decidendi adopted by many state courts, for example 1843 in Mississipi Supreme court, 1844 in Connecticut Supreme Court, 1850 in Maine Supreme Court, 1850 in Georgia Supreme Court. In Mumma v. Potomac Co, (1834) United States Supreme Court reaffirmed the Trust Fund Doctrine which was adopted in Wood v. Dummer. In 1853, United States Supreme Court definitely affirmed the Trust Fund Doctrine in Curran v. Arkansas.

After Curran v. Arkansas the Trust Fund Doctrine was well established. The three famous cases were emerged which distinctively pointed out the Trust Fund Doctrine at the end of 19th cetury. (i) Sawyer v. Hoag (1873), in this case U. S. Supreme Court decided that assessment of the corporation is debt for the corporation, so the assessment constitute the Trust Fund. And for that trustee in bankruptcy can use assessment for the corporate creditor.

(ii) Upton v. Tribilock (1875), in this case U. S. Supreme Court said, "The capital stock of a moneyed corporation is a fund for the payment of its debts. It is a trust fund, of which the directors are the trustees. It is a trust to be managed for the benefit of its shareholders during its life, and for the benefit of its creditors in the event of its dissolution." (iii) Sanger v. Upton (1875) in this case U. S. Supreme Court acknowledged the equitable lien for corporation creditor under the Trust Fund Doctrine. Each three U. S. Supreme Court decision made the Trust Fund Doctrine well established. In 1870's many decisions were made by United States Supreme Court for the corporation creditor's equitable lien on the Corporate asset which derived from the Trust Fund Doctrine.

Accordingly the Trust Fund Doctrine was well established in 1870s and in 1880s. The famous corporation treatise writer Taylor said in 1884 that "There seems to be no longer the slightest question as to the firm establishment of this Doctrine."