

to control the distribution of the corporate assets in case of insolvency or liquidation. *Leviness v. Consol. Gas Co.*, 114 Md. 561.

The holders of preferred stock issued under section 408 of the code of 1904, whose certificates provided that the holder should be entitled to such dividend as might be declared "up to but not exceeding four per centum before any dividend shall be set apart or paid upon the common stock," held to be entitled to a dividend of four per centum and no more, such dividend being payable before any dividend was paid to the holders of common stock. *Scott v. B. & O. R. R. Co.*, 93 Md. 500.

The non-compliance by a corporation with certain provisions of section 408 of the code of 1904, and of sections 69, 70, and 81 of the same code (see sections 35 and 36), held to form no ground of recovery in an action for misrepresentation and deceit. *Robertson v. Parks*, 76 Md. 133.

The common stockholders are necessary parties to a bill in equity filed by the holders of preferred stock under section 408 of the code of 1904, to compel the execution and record of an agreement alleged to have been provided for under said section. *Baltimore, etc., Ry. Co. v. Godeffroy* 182 Fed. 525.

Section 408 of the code of 1904 cited but not construed in *Rogers v. Citizens' Bank*, 93 Md. 615.

See notes to sec. 35.

1904, art. 23, secs. 69 and 70. 1888, art. 23, secs. 61 and 62. 1868, ch. 471, secs. 56 and 57. 1908, ch. 240, sec. 35.

35. Any corporation of this State may issue stock, preferred or common, for services or for property of any description; provided (1) that such services are rendered to or adopted by said corporation; (2) that the property is suitable for any of the purposes for which the corporation was formed; (3) that the value of such services and property, and the propriety of issuing stock therefor, shall be agreed upon and the issue authorized by the affirmative vote of a majority of all the stock (or if two or more classes of stock have been issued, of a majority of each class) outstanding and entitled to vote, given at any meeting duly warned as provided for by sections 15 or 16 of this article, and (4) that in counting the majority of the outstanding stock necessary to authorize the issuance of stock for services or property under this section, no stock shall be counted whose owner or holder is interested in such services or property, nor any stock that has merely been subscribed for, and payment for which is to be made in services.

No corporation could make a valid contract to receive property of any kind in payment for any part of its capital stock, in plain violation of the express conditions imposed by section 69 of the code of 1904. Contract held divisible. *Miller v. Cosmic Cement Co.*, 109 Md. 14; *Balle v. Calvert College*, 47 Md. 120. *Cf. Southern Trust Co. v. Yeatman*, 134 Fed. 810.

If all of the stockholders are present at the meeting when it is agreed that certain stock is to be issued in payment for property or services, no previous notice is necessary. If the property is valued at a grossly exaggerated price, it may not constitute payment in full for the stock, so as to protect the holder from liability under sections 64 and 66. *Tompkins v. Sperry*, 96 Md. 560.

A non-compliance by a corporation with sections 69, 70, 81, and 408 of the code of 1904 (see this section and sections 36 and 34), held to form no ground of recovery in an action for misrepresentation and deceit. *Robertson v. Parks*, 76 Md. 133.

Under section 69 of the code of 1904, stock might be paid for in leasehold property or chattels. *Weber v. Fickey*, 52 Md. 518. *Cf. Basshor v. Dressel*, 34 Md. 511.

Section 69 of the code of 1904 cited but not construed in *Wenstrom, etc., Co. v. Purnell*, 75 Md. 116.

See notes to sec. 66.