

and qualifications of each class, the fixed annual dividends thereon and the times and prices of redemption thereof shall be sufficiently set forth, described, expressed and determined in the charter of the corporation if determinable in a manner set forth in the charter or in articles supplementary for which provision is hereinafter made, or if in the charter the board of directors is empowered, subject to any limitations or restrictions set forth in the charter and to the limitations and restrictions set forth with respect to charter amendments in Section 28 of this Article, to classify or reclassify any unissued stock by fixing or altering in any one or more specified respects, from time to time before the issuance of such stock, the preferences, voting powers, restrictions and qualifications of, the fixed annual dividends on, and the times and prices of redemption of, such stock. Whenever the board of directors, so empowered in the charter, shall so fix or alter the preferences, voting powers, restrictions or qualifications of, the fixed annual dividends on, or the times or prices of redemption of, any such unissued stock, and before any such stock shall be issued, a further description of such stock, with the preferences, voting powers, restrictions and qualifications thereof, the fixed annual dividends thereon, and the times and prices of redemption thereof, as so fixed or altered by the board of directors, shall be set forth in articles supplementary to the charter, which articles shall be verified under oath by the chairman or secretary of the meeting of the board of directors at which such preferences, voting powers, restrictions, qualifications, fixed annual dividends or times or prices of redemption shall have been so fixed or altered, and shall in other respects be executed, acknowledged and recorded in the manner, including payment of the same recording fees, prescribed in Section 29 of this Article with respect to articles of amendment. A duly certified copy of such articles supplementary from the records of the State Tax Commission or the Circuit or Superior Court shall be evidence of the classification so fixed or altered and therein set forth.

Stock issued under sec. 408 of the Code of 1904 and called "preferred stock," held not to be ordinary preferred stock, but that the holders thereof, by virtue of the act of 1880, ch. 474, acquired a lien on the franchises and property of the corporation which gave them priority as to such franchises and property over general creditors, but not as to merchandise manufactured and sold or the proceeds thereof, nor as to insurance and rents collected. Change in this section wrought by the act of 1880, ch. 474—the latter act held valid. As between creditors and the holders of ordinary preferred stock, the former have priority in the distribution of assets. *Heller v. Marine Bank*, 89 Md. 608; *Leviness v. Consol. Gas Co.*, 114 Md. 572. And see *Baltimore, etc., Ry. Co. v. Godeffroy*, 182 Fed. 525 (dissenting opinion).

The lien of preferred stockholders under sec. 408 of the Code of 1904, held to be dischargeable as to any particular part of the corporate property under a decree of a court of equity in a proceeding in which fairly selected representatives of the preferred stockholders are parties, and in which the reasonable necessity for a sale is alleged and proven, and suitable provision made for the protection of the lienors relative to the proceeds of sale. Such lien is a fixed and not a floating charge, and is not intended only 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 sec. 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.