

the stock and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be subject to the liability imposed upon the holders of said shares. And the liability of such stockholders shall be an asset of the corporation for the benefit ratably of all the depositors and creditors of any such corporation, if necessary, to pay the debts of such corporation, and shall be enforceable only by appropriate proceedings by a receiver, assignee or trustee of such corporation acting under the orders of a court of competent jurisdiction; provided, that this section shall not affect the rights or remedies of any creditor or depositor under the existing laws of this State against the stockholders of any such corporation, who were liable to any such creditor or depositor on March 30, 1908; and provided further, that nothing in this section shall be considered as a construction by the legislature of the law hereby repealed.¹

A corporation held to be embraced within this section; the charter of such corporation could not exempt its stockholders from the obligations imposed by art. 3, sec. 39, of the Constitution. Statute of limitations begins to run in favor of stockholder only from date of order fixing amount to be paid by him. *Mister v. Thomas*, 122 Md. 456.

The words "such corporation," as used in this section as it stood in the Code of 1904, construed to refer to the corporations mentioned in sec. 137, and this section held applicable to a company incorporated by special act of the legislature subsequent to its adoption. If sec. 104 of the Code of 1904 were invalid in so far as it imposed liabilities upon the stockholders of foreign corporations not covered by their subscriptions to their stock, it would still be valid as to the holders of stock in domestic corporations, and would be read as if it excluded foreign corporations from its operation. *Murphy v. Wheatley*, 100 Md. 362.

As this section stood prior to the act of 1904, ch. 101, each stockholder was liable to creditors in an amount equal to double the amount of his stock, and such liability was not dependent upon, or affected by, the stockholder's liability to pay for his stock, under sec. 77 (sec. 72, Code of 1904). *Murphy v. Wheatley*, 102 Md. 513.

Stockholders are only liable for debts contracted while they were stockholders. When the relationship is terminated so as to put an end to liability under this section. *Murphy v. Wheatley*, 102 Md. 516 (construing this section as it stood prior to the act of 1904, ch. 101). And see *Weber v. Fickey*, 47 Md. 200; *Hager v. Cleveland*, 36 Md. 476; *Hammond v. Straus*, 53 Md. 10; *Knickerbocker Trust Co. v. Myers*, 133 Fed. 764; *Myers v. Knickerbocker Trust Co.*, 139 Fed. 111.

The liability of stockholders under this section to creditors is absolute and primary; hence, the former may be sued without exhausting remedy against the corporation. Matters which do not discharge the stockholder from liability. *Knickerbocker Trust Co. v. Myers*, 133 Fed. 764 (based on act of 1892, ch. 109). And see *Myers v. Knickerbocker Trust Co.*, 139 Fed. 111; *Republic Iron, etc., Co. v. Carlton*, 189 Fed. 130.

A stockholder may be sued on his liability by virtue of this section, under the practice act of 1886, ch. 184, applicable to Baltimore city. *Coulbourn v. Boulton*, 100 Md. 354. And see *Norris v. Wrenschall*, 34 Md. 492.

This section referred to in construing sec. 148—see notes thereto. *Miners' Bank v. Snyder*, 100 Md. 66; *Myers v. Knickerbocker Trust Co.*, 139 Fed. 111 (affirming 133 Fed. 764); *Knickerbocker Trust Co. v. Cremen*, 140 Fed. 973.

The act of 1892, ch. 109, sec. 85L, referred to in construing sec. 28—see notes thereto. *Md. Trust Co. v. Mechanics' Bank*, 102 Md. 619.

The act of 1892, ch. 109, cited but not construed in *Penniman v. Miners' Bank*, 100 Md. 456.

As to the liability of stockholders of banks and trust companies, see art. 11, sec. 72.

An. Code, sec. 117. 1904, sec. 105. 1904, ch. 337, sec. 85L 1.

148. The exclusive remedy for the enforcement against stockholders of all rights existing under the preceding section as said section stood

¹This section, so far as it related to trust companies, was repealed by the act of 1910, ch. 219 (p. 6). As to trust companies, see art. 11, sec. 42, *et seq.*