

quarterly to the Comptroller and pay the same forthwith to the State Treasurer for the use of the State.

The certificate of the judge is not final and does not prevent an inquiry into the legal existence of the supposed corporation; effect of the certificate. *Hyattsville v. Washington, etc., R. Co.*, 120 Md. 137.

The authority of the judge to certify to a certificate of incorporation is a question of jurisdiction, and may be inquired into by the courts when the legal existence of the corporation is in issue. *Oler v. Baltimore and Randallstown R. R.*, 41 Md. 590 (decided in 1875).

An organization held never to have had corporate existence, because of a failure to record the certificate of incorporation as required by secs. 52 and 53 of the Code of 1904. *Jones v. Linden Bldg. Assn.*, 79 Md. 74.

As to the bonus tax, see art. 81, sec. 141, *et seq.*

An. Code, 1924, sec. 7. 1912, sec. 5. 1904, secs. 53, 54. 1888, secs. 45 and 46. 1868, ch. 471, secs. 40, 41. 1908, ch. 240, sec. 5. 1914, ch. 789, sec. 5. 1916, ch. 596, sec. 5.

6. When such certificate of incorporation has been delivered to the State Tax Commission with the fees provided for in Section 5 of this Article and the bonus tax, if any payable, and not before, the incorporators, their successors and assigns, shall according to the purposes, conditions and provisions in such certificate of incorporation contained, become and be a body corporate by the name therein stated. A duly certified copy of a certificate of incorporation, from the records of the Secretary of State, the State Tax Commission, or the Clerk of the Circuit or Superior Court, shall be evidence of the existence of the corporation and of its right to exercise the powers therein mentioned. The recording by the State Tax Commission of the certificate of incorporation shall be conclusive evidence of the payment of the recording fees and the bonus tax, if any, required by law to be paid to it, and of the existence of the corporation, except in a direct proceeding by the State.

See notes to sec. 5.

As to the bonus tax, see art. 81, sec. 141, *et seq.*

Re. evidence of incorporation of foreign corporations, see art. 35, sec. 51.

An. Code, 1924, sec. 8. 1912, sec. 6. 1916, ch. 596, sec. 6.

7. It shall be lawful for all of the incorporators of any corporation having capital stock, before any subscriptions to stock have been accepted by the board of directors, to amend the certificate of incorporation in the following manner:

An amended certificate of incorporation shall be signed by all of the incorporators who signed the original certificate of incorporation. Such amended certificate of incorporation shall be executed, acknowledged, delivered and recorded in the same manner, as in the case of an original certificate of incorporation, but no bonus tax shall be payable except in respect of any increase in authorized capital stock, and upon receipt for record by the State Tax Commission, such amended certificate of incorporation shall take the place of the original certificate of incorporation. Such amended certificate of incorporation shall contain only such provisions as it would be lawful and proper to insert in an original certificate of incorporation.

This section was intended to save the incorporation of persons who had in good faith attempted to comply with the law, but whose compliance turned out to have been irregular and informal. It has no application where, through neglect, there has been no attempt to comply with important requirements of the law which are conditions precedent to the possession or use of corporate franchises. *National Shutter Bar Co. v. Zimmerman*, 110 Md. 319.¹

¹ This note deals with sec. 6 as it was prior to act, 1916, ch. 596.