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pendent contract. The view of the Georgia court was that, while the traveling employee can be classified as an employee, he must be treated as such. Thus, as it was stated in the *Thornton* case, "The scope and range of a traveling man's territorial activity necessarily broadens the field of his employment, but in no other way is a traveling employee distinguished under the act from ordinary employees who do not have to travel in the performance of their work."⁴²

In the final analysis the problem may be solved in either of two ways. The court may set a definite boundary line in each instance over which no traveling employee may step still clothed in the protective covering of the act, or the court must resolve that, as a matter of policy, all traveling employees, and perhaps employees of any nature, will be compensated for any and all accidental injuries arising in the course of activities in any way connected or associated with the employment, throwing the resultant burden on the employer who passes the increased operating expense on to the consumer of his product or services in the form of increased charges. What future courts will choose to do can only be surmised. It is clear that the present trend of the Georgia court is toward the former policy.

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Corporations—Withholding Charter Because No North Carolina Incorporator

Press reports of January 15 stated that the Secretary of State had refused "to issue the charter," i.e., to file the certificate of incorporation of an oil company and certify a copy because no incorporator was a resident of this state.¹ The obstacle was met by adding a North Carolina subscriber, presumably by issuing him one share of stock. The news story correctly stated that the North Carolina corporation law does not require any incorporator to be a resident² but does require one director to be and provides that all directors must be bona fide stockholders.³ As the business of the corporation must be managed by its directors,^{3a} this means that sooner or later there must be a North Carolina stockholder if the law is complied with. Nevertheless a corporation might be organized sometime in advance of entering upon active business⁴ and there is nothing in the law to prevent it existing for that period without North Carolina stockholders. After the corporation is once organized, however, it might merely ignore the legislative direc-

⁴² *Ibid.*

¹ Durham Sun (Jan. 15, 1945), P. —, col. —, *re*: Tidewater Petroleum and Gas Co.

² N. C. GEN. STAT. (1943) §55-2.

³ *Id.* at §55-48. *Quaere*, what is meant by "bona fide."

^{3a} *Ibid.*

⁴ See *Hammond v. Williams*, 215 N. C. 657, 659, 3 S. E. (2d) 437, 439 (1939).

tion; and the only relief then would seem to be by quo warranto,^{5*} a special proceeding seldom resorted to and the chances are that the corporation could go ahead for sometime without compliance.^{6*} The Secretary of State by his action heads off the possibility of that evasion^{7*} but there seems no warrant for this administrative policing of incorporation, and it is believed mandamus would lie to compel the issuance of a charter.^{8*} Here, however, as in so many other cases, compliance was easier than standing up for probably inconsequential rights and the administrative action gets no test.

^{5*} That is, a civil action having the essentials of quo warranto. N. C. GEN. STAT. (1943) §55-126. The special proceeding itself is abolished. *Id.* at §1-514.

^{6*} Though if securities were sold the "blue sky" law, N. C. GEN. STAT. (1943) Ch. 78, would call for registration with the Secretary and a disclosure of the names and addresses of directors. *Id.* at §78-9(a).

^{7*} Of course, if the resident incorporator is a mere nominee of the others, there is no assurance that he will be elected director; and the Secretary's effort to enforce the policy of the law would then be ineffective, perhaps an added reason for holding his action unwarranted.

^{8*} "When a statement of incorporation which conforms to the provisions of the general Corporation act is presented to the Secretary of State, he must file it and must issue a certificate of incorporation to the incorporators; but if the statement of incorporation presented to him is not in conformity with the act he must refuse to file it. His duties in this regard are ministerial. The inquiry, then, is whether the statement presented by the relators set forth the information required by the act." *People ex rel Hardin v. Emmerson*, 315 Ill. 241, 243, 146 N. E. 129 (1925). Certificate issuing officials often have attempted to carry out the policy of a law by refusing to act when they considered it unwise for some reason. Unless discretion was vested in them as to the specific matter objected to they have usually been overruled. *Elmer v. Com'r of Ins.*, 304 Mass. 194, 23 N. E. (2d) 95 (1939) (Commissioner doubts fitness of incorporators); *Manley v. McLendon*, 158 Ga. 659, 124 S. E. 138 (1924) (Secretary thinks name suggests State ownership); *State ex rel Security Sav. & Loan Ass'n v. Brodigan*, 44 Nev. 212, 192 Pac. 263 (1920) (Secretary objects to amended certificate on ground of ultra vires). Contrast the situation as to discretion where banking privileges are sought and there is special legislation. *Pue v. Hood*, 222 N. C. 310, 22 S. E. (2d) 896 (1942). And see *State ex rel Lucey v. Terry*, 196 Atl. 163 (Del. Super. 1937); *Isle Royale Land Corp. v. Sec'y of State*, 76 Mich. 162, 43 N. W. 14 (1889) (per Campbell, J., foreign corporation).