

MAINE STATE LEGISLATURE

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October 1, 1920

To Hon. Frank W. Ball, Secretary of State
Re: Franchise Tax

Ernest L. McLean, clerk of the Indian Refining Company, has conferred with us relative to the franchise tax on that corporation, and the Board of State Assessors has referred to us his letter to them under date of September 27, in which he claims that upon a proper construction of the certificate under which they were taxable on July 1, 1920, the authorized capital should be regarded as \$14,000,000 rather than \$15,500,000.

We are inclined to believe that the position is well taken and that the tax should be as the company claims. It is true that an issue of 15,000 shares in addition to the \$14,000,000 is authorized, but an examination of the certificate shows that none of this stock can be issued except upon the surrender and cancellation of outstanding stock. In other words, there is no possible way in which the total stock outstanding can exceed \$14,000,000 at any time. In our opinion, therefore, this is the proper limit to the authorized capital stock for purposes of taxation.

Mr. Sterling also informs us that the same state of affairs exists in the case of Morton Petroleum Company and if such is the fact, the principle of law would, of course, be the same.

Fred F. Lawrence
Deputy Attorney General