less of the number of amendments contained in said certificate, except increases of capital stock upon which the fees shall be as hereinbefore provided."

It is true that provision is made for a filing fee to be paid by a foreign corporation applying for admission to do business in the State of Indiana, which fee is based upon the proportion of its capital stock represented by its business and property in Indiana, but Section 55-2219, *supra*, does not contemplate an application for the right to do business within the state. Such Section 55-2218, *supra*, authorized the purchase, upon a foreclosure sale in Indiana, by a foreign railroad company, and Section 55-2219 provides what such foreign corporation is to do in order to operate in the state, which is limited, simply, to the filing of a certified copy of the Articles of Incorporation. The case submitted does not seem to be covered by any railroad statute now in effect, and the general statute on the subject of fees does not seem to apply except as to the general filing fee of $5. If a certificate and seal is required there is a special fee for that. In my opinion, the fee payable in the case submitted, under existing law, is $5, plus the appropriate fee for certificate and seal.

GENERAL ASSEMBLY:
DENTISTS: Validity of legislative action prohibiting certain types of newspaper advertising.

March 3, 1943.

Honorable Albert J. Beveridge, Jr.,
Member Indiana Senate,
State House,
Indianapolis, Indiana.

Dear Senator Beveridge:

This will acknowledge receipt of your request for an opinion as to the constitutionality of the provisions of Engrossed House Bill No. 103 in so far as it purports to control, regulate and prohibit certain types of newspaper advertising by dentists.

It is my opinion that under the police power, the Legislature has the right to control, regulate, as well as prohibit any news-
paper advertising which in any manner will deceive, defraud, or mislead the general public, or which will tend to deceive, defraud or mislead the public and that the provisions of Engrossed House Bill No. 103, which purports to control, regulate or prohibit any such newspaper advertising by dentists do not violate any of the provisions of the Constitution of the State of Indiana, or the Constitution of the United States.

It is firmly established in Indiana that the practice of dentistry requires skill and learning and is so closely related to the public health and welfare that it is within the legitimate exercise of the police power for the Legislature to require a license to practice the profession and regulate the practice thereof.

Wilkins v. State (1888), 113 Ind. 514;
State ex rel. v. Boston, etc. (1939), 215 Ind. 485-488.

Section 1 of Article 1 of the Constitution of Indiana declares "That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; * * *"

Section 9 of Article 1 provides:

"No law shall be passed restraining the free interchange of thought and opinion or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right, every person shall be responsible."

Section 21 of Article 1 provides:

"No man's property shall be taken by law, without just compensation."

Section 23 of Article 1 provides:

"The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which upon the same terms, shall not belong to all citizens."

The Fifth Amendment to the United States Constitution provides:

"No person shall be * * * deprived of life, liberty, or property, without due process of law."
Section 1 of the Fourteenth Amendment to the United States Constitution reads:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

It is firmly settled that the personal services rendered by a dentist to his patient are property rights within the meaning and purview of all the Constitutional provisions above quoted.

State ex rel. v. Cloud (1942), Ind. 44 N. E. (2d) 972;
Street v. Vainey, etc. (1934), 160 Ind. 338;
Coppage v. Kansas (1915), 236 U. S. 1;
Republic, etc. v. State (1903), 160 Ind. 379.

In the case of Needham et al. v. Proffitt (1942), 41 N. E. (2d) 606, the Supreme Court of Indiana considered the constitutionality of the provisions of Sec. 6, Chapter 165, Acts 1939, Burns' Supp., Section 63-722, regulating Embalmers and Funeral Directors, which reads as follows:

"It shall be unlawful for any individual or individuals so licensed (as funeral directors or embalmers) to advertise the price of services, merchandise and equipment to the public or to advertise any portion thereof as being offered free to the public. By advertising is meant any form of printed matter, newspaper or otherwise, holding out such facts to the public."

It was contended that said Section 6 aforesaid, violated Sections 1, 9, 21 of Article 1 of the Indiana Constitution and the Fifth Amendment, and Section 1 of the Fourteenth Amendment of the United States Constitution.

Judge Shake, speaking for the Court said:

"We are unable to conceive of any possible reason for prohibiting licensed funeral directors and em-
balmers from advertising their prices in newspapers or by handbills and at the same time permitting them to broadcast the same facts to the public by radio. Such a result constitutes a direct violation of Section 23 of Article 1 of the Constitution of Indiana which forbids the General Assembly from granting to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens. For the same reason the act violates Sections 1 and 9 of Article 1 of the State Constitution. * * * That part of Sec. 6, Chapter 165, Acts 1939, quoted above is void.” See also, State ex rel. v. Cloud (1942), — Ind. —, 44 N. E. (2d) 972.

Clause H of Section 1 of Engrossed House Bill No. 103 provides:

“H—To advertise any price, cost, charge or fee or any reference thereto, for the service performed or to be performed or for the material used or to be used.”

Clause K of the same Section reads:

“K—To advertise or attempt to attract patronage by the erection of display signs, placards or devices visible from the street or highway or any other public place or from the public corridors or halls of any building.”

Under the law as declared and established by the authorities heretofore cited, it is my opinion that it is doubtful whether there is such a logical and reasonable connection between the provisions of Clauses H and K, quoted supra, and the public interest, welfare, health and safety as to justify such legislation under the police power doctrine.

For the reasons stated, it is my opinion that a serious doubt may exist as to whether or not the portions of Clauses H and K above quoted are violative of the sections of the Indiana and United States Constitutions above mentioned. I see no constitutional objections to the remaining parts of said proposed Bill.