OFFICIAL OPINION NO. 4

February 28, 1947.

Mr. Joseph McCord, Director,
Dept. of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Mr. McCord:

I have your letter of February 15 which reads as follows:

> "Some question has arisen in the Department with respect to interpretation of Sections 195 and 196 of The Indiana Financial Institutions Act with respect to loan limitations of state chartered banks and trust companies.
>
> "One bank has taken the position the loan limitation provided in Section 195 does not apply to a combination of various types of obligations and that a bank could legally loan 10% of its sound capital to a person, firm, or corporation and then purchase paper endorsed or guaranteed by the same person, firm or corporation. We would appreciate an official opinion from your office as to the application of the above mentioned sections in connection with this contention."

Sections 195 and 196 of The Indiana Financial Institutions Act as amended and presently found in Section 18-1301 Burns' Pocket Supplement and 18-1302 Burns' R. S., 1933 provide as follows:

> "Except as otherwise provided in sections 197, 198 and 199 (§§ 18-1303—18-1305) of this act, the total obligations of any person, firm or corporation to any bank or trust company shall, at no time exceed ten (10) per cent of the amount of the sound capital of such bank or trust company.
>
> "The term 'obligations' as used in section 195 (§ 18-1301) of this act shall be construed to mean the direct liabilty of the maker or acceptor of paper discounted with or sold to such bank or trust company, and the

liability of the indorser, drawer or guarantor who obtains a loan from, or discounts paper with, or sells paper under his guaranty to such bank or trust company, and in the case of obligations of a copartnership or association, shall include the obligations of the several members thereof, and shall include, in the case of obligations of a corporation, all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest."

The language of these sections is clear and unambiguous. The possibility has been suggested that a broad interpretation of the statutes would permit obligations of one entity in excess of 10% where the obligations were of combined types, none of which singly exceeded the maximum. Thus, a bank might loan 10% of its sound capital to one entity and then purchase endorsed or guaranteed paper from that same entity, resulting in total obligations in excess of the statutory limit. With this construction I cannot agree. The Indiana cases are uniform in holding that where the language of statutes are clear and unambiguous, there is no room for interpretation or construction, and the statutes must be given their literal meaning.

Leach v. City of Evansville (1937), 211 Ind. 444, 7 N. E. (2d) 207;
Taelman v. Board of Finance, School City of South Bend (1937), 212 Ind. 26, 6 N. E. (2d) 557;
Tucker v. Muesing (1942), 219 Ind. 527, 39 N. E. (2d) 738;
Williams v. Michigan City (1934), 100 Ind. App. 136, 192 N. E. 103;
Lutz v. Trustees of Purdue University (1936), 102 Ind. App. 482, 1 N. E. (2d) 680;
McDaniels v. McDaniels (1945), 116 Ind. App. 322, 62 N. E. (2d) 876.

Section 195 speaks of "total obligations". Since total means sum or aggregate it cannot be said that this section does not place a limitation on *all* obligations. Section 196 in defining "obligations" includes not only the direct liabilty of the

maker or acceptor of paper, but, also, with the use of the conjunctive *"and"* the liability of the "indorser", "drawer", or "guarantor".

Since the language used is clearly inclusive I can arrive at only one conclusion; that the 10% limitation is applicable to the sum, total or aggregate of any and all "obligations" of any person, firm or corporation, provided the obligations are within the statutory definition of that term, and are not subject to specific exceptions.

OFFICIAL OPINION NO. 5

March 18, 1947.

Hon. Clarence E. Ruston,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of March 11, 1947, received requesting an opinion on the following questions:

> "(1). The City of Salem has recently passed an ordinance enlarging its corporate limits and a remonstrance has been filed in the Circuit Court against this ordinance. Pending this appeal are the property owners of the territory being annexed entitled to fire protection from the City?
>
> "(2). Are residents living in that part of the territory sought to be so annexed to the City, entitled to vote in the coming city election?"

Section 48-702 Burns' 1945 Supplement, same being Section 1, Chapter 153, Acts 1935, is the general statute authorizing remonstrance against, and appeal from, the ordinance of a city annexing territory. This statute provides in part as follows:

> "* * * Pending such appeal, and during the time within which such appeal may be taken, such