ACCOUNTS, BOARD OF: Whether school corporations applying for state aid should be charged with balances on deposit in closed depositories in determining amount of operating deficits to be paid from the relief funds.

April 7, 1933.

Hon. Lawrence F. Orr,
State Examiner,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter in part as follows:

“At the beginning of the school year of 1932-33 many school units had funds on deposit in their regularly designated depositories, which depositories were closed and in process of liquidation. It is contended by these units that these funds are not available for use by them, and therefore same should not be charged to them in the audit made by this office to determine the amounts of operating deficits to be paid from relief funds. It is conceded that any parts of such funds received by the units in the way of dividends declared in the liquidation of the defunct depositories, or otherwise, would be chargeable, but it is contended that until such time as such funds are available for expenditure by the school officials same would not be chargeable to the units under the statutes providing for distribution of state school relief funds.”

You desire an opinion as to whether school corporations applying for state aid, should be charged with balances on deposit in such closed depositories in determining the amount of operating deficits to be paid from the relief funds.

In my opinion such corporations should be thus charged unless it is shown that the balance or some part thereof was on deposit in a closed bank and by reason thereof could not be drawn upon for the year for which it was raised. To the extent that such balances are represented by deposits in closed banks which prevented their use during the year for which they were raised, I do not think they should be charged to such corporations. As to other balances in closed banks, I think, the rule is otherwise.

It is true that such deposits may not become actually avail-
able during the school year; but they, nevertheless, are assets of the corporation, and I do not think the law contemplates that the state board of accounts in auditing claims for state aid should make appraisals of these deposits.

CONSERVATION DEPARTMENT: Statutory construction —when two acts each purporting to amend the same section of a previous act are passed by the same session and neither has an emergency clause—the one last approved prevails.

April 7, 1933.

Hon. Walter Shirts, Superintendent,
Fisheries and Game,
Indianapolis, Indiana.

Dear Sir:

Chapter 100 of the Acts of 1933, (Senate Enrolled Act 100), was passed by the house of representatives on February 28, 1933. It was received by the governor on March 6, 1933, and approved by him on March 8, 1933.

Chapter 202 of the Acts of 1933, (House Enrolled Act 375), was passed by the senate on March 3, 1933. It was received by the governor on March 6, 1933, and approved by him on March 9, 1933.

Both acts purport to amend section 28 of chapter 37 of the Acts of 1927. Acts of 1927, page 93. The provisions of said acts are not the same. Neither act contains an emergency clause so that the effective date of both are made to depend upon their publication as provided by the Constitution.

You submit the question as to which of said acts will become the law upon the publication of the Acts of 1933.

In my opinion chapter 202, supra, will become the law upon the publication of the Acts of 1933. “When two acts are passed at the same session of the legislature, the presumption is strong against implied repeal, and effect must be given to each if possible; but if the two are irreconcilable, the one which was approved last will prevail.” Newbauer v. State, 200 Ind. 118 at p. 122. Applying the above principle, chapter 202 having been approved last will prevail.

The facts in the case submitted by you present a somewhat different question, however, from the question presented