able income of an owner or holder thereof, or (3) tax such associations on their net income, or (4) according to or measured by their net income, * * *.”


Therefore, I must respond to your first inquiry in the negative. The tax imposed by chapter 50, Acts of 1933, not being consistent with any of the four methods specified by the grant of the power to tax national banks made by Congress, it follows that this tax cannot be levied and collected from national banks doing business in Indiana.

II

Your second inquiry is:

“Whether the one per cent tax on gross earnings will, nevertheless be assessed and levied against banks doing business under and pursuant to the law of the State of Indiana, and if so, whether such attempted levying of assessment would be violative of the Constitution of this state?”

State banks are to be taxed upon their respective gross earnings under this law, and the taxing of such state banks is not violative of the provisions of the Fourteenth Amendment to the Federal Constitution or of section 23, Article 1 of the Constitution of the State of Indiana. Such institutions are so different as to warrant placing them in different categories for the purpose of taxation.


LIBRARY BUILDING COMMISSION: Method of procedure when bids for designs and commercial fixtures have been decided upon.

July 3, 1933.

Indiana State Library Building Commission,
Hon. Louis J. Bailey, Secretary,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you advise that the commission has decided to accept the designs and bid of Wal-
ter G. Warren & Company of Chicago, and the commercial fixtures of C. L. Smith Electric Company of Indianapolis, and requesting further directions as to the method of further procedure.

Replying, I desire to say that in my opinion you should now advise C. L. Smith Company of your selections and the price for which you can obtain same. You should also advise Walter G. Warren & Company and C. L. Smith Electric Company of the selection of their designs at the bid price and that same are to be furnished C. L. Smith Company on its account. It will then be the duty of C. L. Smith Company, under its contract with the commission, to enter into proper contracts with the persons furnishing the fixtures and proceed with their installation.

TAX COMMISSION: Whether leases are taxable under the General Intangibles Tax Act.

July 5, 1933.

State Board of Tax Commissioners,
231 State House,
Indianapolis, Indiana.

Gentlemen:

I have at hand your letter and inquiry of date June 8th requesting an official opinion as to whether or not leases, with or without option to purchase, are taxable under chapter 81 of the Acts of 1933, commonly known as the General Intangibles Tax Act.

A careful examination of said chapter 81 and particularly section 1, subdivision (a) thereof, which subdivision defines the term “intangible” or “intangibles,” discloses that said section does not use the term “lease” specifically. The only terms used which might apply to or define the term “lease” are “written contracts for the payment of money” and “certificates or other instruments evidencing an interest in property.”

The question, therefore, presents itself whether or not the legislature intended that the terms “written contracts for the payment of money” and “certificates or other instruments evidencing an interest in property” would include the term “lease.”

It will be noted that the legislature did include as intangibles “mortgages,” “chattel mortgages,” “bills of sale,” and