BANKING DEPARTMENT: Interpretation of section 47 of "An act concerning financial institutions."

March 1, 1933.

Hon. Luther F. Symons,
Bank Commissioner,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter of February 27th in regard to section 47 of "An act concerning financial institutions", approved February 24, 1933, said section being one of the emergency sections which went into effect upon the signing of said act.

Your specific question is as follows:

"The department would respectfully inquire whether in your opinion the subject company may legally be reopened under the laws cited therein."

This question refers to the following letter from the St. Joseph Loan and Trust Company of South Bend, Indiana:

"The St. Joseph Loan and Trust Company of South Bend, Indiana, is a trust company organized under the general laws of the State of Indiana. It has banking powers and has been exercising such powers for many years.

"On the morning of February 18, 1933, at 9:33 a.m., pursuant to a resolution passed by its board of directors, the trust company closed its doors and ceased to do a banking business. Your department was immediately notified of the action of the board of directors and of the fact that the trust company had ceased to do a banking business. On the evening of that day your department took charge of the trust company and began making an examination of its affairs.

"It is our opinion, based upon advice, that subsection (a) of section 47 of the recent act of the general assembly applies to our situation. The facts recited above show that your department has taken possession of the business and property of the trust company and that the trust company has been closed.

"Therefore, we believe your department has power to surrender the possession of the trust company for the purpose of permitting it to resume business."
“We also believe that your department has the power to prescribe whatever conditions may, in your judgment, be necessary and requisite to the reopening and the continuing of the business of the trust company.  “We therefore respectfully ask that an order be issued authorizing the St. Joseph Loan and Trust Company to resume business.”

In my opinion, subsection (b) of section 47 of the act applies to the situation outlined in the letter referred to and not subsection (a). Legislation is to be construed in a prospective, rather than a retrospective manner. The legislature specifically referred to a financial institution such as the subject company in subsection (b) as having been closed “pursuant to any other law of the state enacted prior to the passage of this act.” There is no reference to banks closed under prior laws in subsection (a). It is my opinion further, that inasmuch as the subject company wishes to freeze its old deposits, the only manner in which it can be done, is under the subsection (b) and in the manner provided therein. It is my opinion that subsection (a) would not apply to that situation, even if closed under the new law.

PHARMACY, BOARD OF: Duties of board of pharmacy under law governing issuance of licenses to registered pharmacists.

March 9, 1933.

Hon. Oscar E. Russell, Secretary,
State Board of Pharmacy,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter requesting an opinion as to the rights and duties of the board under the law governing the issuance of licenses to registered pharmacists.

Section 13836 of Burns 1929 Supplement to Burns Annotated Indiana Statutes of 1926, provides in part as follows:

“To be a registered pharmacist, he shall pass a satisfactory examination before said board and shall produce and file such evidence as is satisfactory to said board of having served four years in a store or pharmacy where physicians' prescriptions are compounded.”