FINANCIAL INSTITUTIONS, DEPARTMENT OF: Banks, private—Must close business within 20 years from date of organization; Section 10 of Article 11 of Indiana Constitution applies.

June 8, 1936.

Mr. Edward H. DeHority,
Supervisor Banks and Trust Companies,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue in response to the following inquiry:

"Do the provisions of Section 10 of Article 11 of the State Constitution of Indiana apply to a private bank organized and existing under either the Act of 1905 or the Act of 1907 governing the organization and regulation of private banks?"

I must respond to your inquiry in the affirmative.

In the address to the people, formulated by the members of the Convention at the completion of their labors and reported in the Journal of the Convention of 1851 at page 970, we find that the identical language contained in Section 10 of Article 11 of the Constitution of Indiana is used.

However the section as reported to the committee on revision, arrangement and phraseology was as follows:

"Every company authorized by special act of incorporation to issue bills or notes to circulate as money, and every association organized under a general banking law, shall be required to close up its business within twenty years from the time such company or association shall have been organized."


This Section as reported to the convention by the committee on revision, arrangement and phraseology was in substantially the same language as that which now appears in Section 10 of Article 11 of the Constitution of the State of Indiana, and reads as follows:

"Every bank or banking company shall be required to cease all banking operations within twenty years
from the time of its organization, and promptly there-
after to close its business."

Journal of the Constitutional Convention, page 959.

From this historical background of Section 10 of Article
11 we gather that it was not the intention of the Consti-
tutional Convention to circumscribe the provisions of this Sec-
tion within the narrow limits of being applicable only to in-
corporated companies. This is evidenced in that in the first
draft of the section the Convention was so strongly imbued
with this spirit that it provided that the section should apply
to associations. Further it is significant that the committee
charged with the duty of expressing the intention of the
Constitutional Convention reported the Section back in such
a manner that it embraced not only banking companies but
all banks; and it is also significant that the language which
would have led to the conclusion that only incorporated com-
panies and associations were to be dealt with was eliminated
and a broad generic term substituted.

It is significant to note that the history of the decade im-
mediately preceding the Constitutional Convention and the
public policy which undoubtedly gave rise to the insertion of
the language of Section 10 of Article 11 into the Constitution
of the State leads one to the conviction that such public policy
could only be achieved if the provisions of the Section were
applicable not only to incorporated bodies but to all banks
operating within the State.

HEALTH, DIVISION OF PUBLIC: Indigents—Payment of
water bill by township trustee.

Verne K. Harvey, M. D.,
Director, Division of Public Health,
State House Annex,
Indianapolis, Indiana.

June 8, 1936.

Dear Sir:

This is in answer to your recent request for an opinion
based upon the following inquiry: