

My conclusion is that Section 15 of Chapter 152 of the Acts of 1935 does not repeal any existing law or the provisions of any existing law relating to the pollution of lakes or streams or relating to the powers and duties of the State Board of Health, but that the Act shall be deemed and construed as ancillary and supplementary thereto. That Chapter 159 of the Acts of 1935 establishes a new board known as the Board of Public Works and Sanitation, which board performs the duties heretofore performed by the Board of Sanitary Commissioners and the Board of Public Works in cities of the first class, under the provisions of Chapter 157 of the Acts of 1917, as amended. That cities of the second class are not affected in any manner by Chapter 159 of the Acts of 1935. That cities of the second class are not prohibited by the provisions of Chapter 152 of the Acts of 1935 from adopting the provisions of Chapter 157 of the Acts of 1917, as amended, and finally, that Chapter 159 of the Acts of 1935 does not apply to cities of the second class who adopted the provisions of Chapter 157 of the Acts of 1917, as amended.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Banks and banking—private banker may sell banking business.

October 22, 1937.

Honorable R. A. McKinley,
 Director, Dept. of Financial Institutions,
 State House,
 Indianapolis, Indiana.

Dear Mr. McKinley:

This will acknowledge receipt of your letter of October 18th, 1937, submitting the following question:

“We will appreciate the benefit of your opinion as to whether or not an individual operating a private bank in this state, under authority of either the Private Banking Act of 1905 or the Private Banking Act of 1907, or both, can legally sell, transfer, or assign such authority to engage in the banking business to another individual.”

In regard to this question, beg to say that our Appellate Court in the recent case of *Lindley v. Seward*, 5 N. E. (2d)

998, has held that a private bank operating under the Act of 1907 is in legal signification a business owned either by an individual or a partnership. If such business is owned and operated by a partnership, such partners may sell their interests in such business, the only limitation upon such transaction being that it requires notice of such change of ownership to be filed with the Auditor of State, and a posting of the name of the new owner in the banking room.

The legislature, in enacting the Act of 1905 as amended by the Act of 1907, only intended to regulate and supervise the business of banking by individuals, partnerships, or unincorporated persons, as it had a right to do under the police power of the state; that it did not intend to abrogate all previous principles of law controlling partnerships, as they existed previous to the passage of said Act, is no longer a debatable question in this state.

Lindley v. Seward, 5 N. E. (2d) 998.

Since there are no limitations in the Act upon the sale of a part or all of a private banking business, I know of no law or rule of construction for bidding such sale.

GOVERNOR'S OFFICE: Whether ownership of stock not exceeding \$10.00 in a county farm bureau co-operative association by members of board of commissioners precludes the acceptance by them of bid of such association for purchase of road machinery when same is lowest and best bid.

October 22, 1937.

Honorable M. Clifford Townsend,
Governor of the State of Indiana,
Indianapolis, Indiana.

My dear Governor:

I have before me your letter requesting an official opinion construing Section 10-3713 of Burns Indiana Statutes Annotated (1933) as applied to the following statement of facts, viz:

The Board of County Commissioners of _____ County, Indiana, having duly advertised for bids for an item of road machinery, upon the opening of such bids, found that the low bidder was the _____ County Farm Bureau Co-operative