or imposed by or under the authority of a statute we cannot, under the evidence here submitted, perceive that appellee was in any wise an agent of the State of Indiana in and for the collection of the tax imposed by the Liquor Control Act."

In addition to the above authority and the authorities therein cited, it appears to me that the case, after all, becomes quite simple when we consider the fact that the money thus collected by a sale of the article in no sense belongs to the state but goes directly into the treasury of the liquor dealer or wholesaler. It goes into such treasury rather than to the state upon the simple proposition that it at all times belongs to the dealer or wholesaler.

It seems to me, upon the basis of what has been said, it must be apparent that such item should not be deducted from the inventory in making an assessment.

DEPARTMENT OF FINANCIAL INSTITUTIONS: Industrial Loan and Investment Companies, whether eligibility of the director depends upon his ownership of stock.

August 11, 1943.

Hon. A. J. Stevenson, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have your letter of July 28th in which you request an official opinion upon the following question:

"Is it necessary that the directors of an Indiana Industrial Loan and Investment Company be stockholders in such corporation in order to qualify as such directors?"

Upon examination of the pertinent Indiana Statutes, it becomes apparent that an industrial loan and investment company is a financial institution only to a limited extent. In the definition of financial institutions as contained in the original Act and its amendments—the last amendment is Sec-
tion 1 of Chapter 223 of the Acts of 1941 (18-103 Burns' 1933 Supplement)—industrial loan and investment companies are not included. Section 15 of Chapter 181 of the Acts of 1935 (18-3115 Burns' 1933 Supplement), being the Industrial Loan and Investment Company Act, provides that industrial loan and investment companies shall be financial institutions within the meaning of the term as used in Part 2 of the Indiana Financial Institutions Act. Part 2 of the Indiana Financial Institutions Act has to do with the Department of Financial Institutions, its approval of financial institutions, its right to make rules and regulations, and liquidations. The formation of financial institutions and sections with respect to incorporation are in Part 3 of the Financial Institutions Act.

Since it is not provided that an industrial loan and investment company is a financial institution insofar as organization and incorporation are concerned and since Section 4 of the Industrial Loan and Investment Company Act (18-3104 Burns' 1933 Supplement) provides for the organization of such a company under the General Corporation Laws of the state, I am of the opinion that the regulations contained in the Financial Institutions Act with regard to organization, incorporation, and particularly the qualifications of directors are not controlling. Such an interpretation does not conflict with Section 15 of the Industrial Loan and Investment Company Act, which reads as follows:

"The department shall have charge of the organization, supervision, regulation, examination and liquidation of all industrial loan and investment companies to which this act is applicable, to the same extent and in the same manner as it provided for financial institutions in the Indiana Financial Institutions Act, and for such purpose any company to which this act is applicable shall be deemed to be and shall be a financial institution within the meaning of the term as used in Part 2 of the Indiana Financial Institutions Act. The department shall be subject to the same limitations with reference to the disclosure of information as is provided in Section 32 (Sec. 18-229) of the Indiana Financial Institutions Act."

Sec. 18-3115 Burns' 1933 Supplement.
I believe that a proper grammatical interpretation of that section is that the Department shall have charge in the same manner rather than that such companies shall be organized in the same manner.

Since there is no provision in the Industrial Loan and Investment Company Act requiring that a director also be a shareholder, and since the Financial Institutions Act does not control as to that part of the organization of an industrial loan and investment company, we must then look to the General Corporation Law to determine whether it is necessary for the director to hold stock in such corporation. Both by statute and judicial decision, the answer to that question is in the negative—that a director need not necessarily own stock.

Reference is made to Section 9 of Chapter 215 of the Acts of 1929 (25-208 Burns' 1933) wherein it is provided:

"The business of every corporation shall be managed by a board of directors, who need not be shareholders in the corporation unless the articles of incorporation so require, but who shall have such other qualifications as the by-laws may prescribe."

In Wright v. Floyd, 43 Ind. App. 546, the Court said:

"In the absence of a statute or rule of the corporation, a member of a board of directors or trustees does not necessarily have to be a member or shareholder of such corporation."

I am consequently of the opinion that the ownership of shares in such company is not an essential prerequisite to being a director.