state department. As to such personnel their compensation period, in my opinion, begins upon their appointment and subsequent commencement of duties after certification by the state department.

It is evident from the foregoing discussion that your first question cannot be answered categorically except as to the county Director. As applied to the county Director the answer is in the affirmative. As applied to the other personnel the answer is dependent upon the facts as to whether the services required of them is incident to the organization or is a service required of them in fulfilment of the duties of the department after certification. If of the first class the answer is in the affirmative; if of the second class the answer is in the negative.

Your second question is answered in the affirmative. You ask that I explain this answer. I think the previous discussion has already explained it. I think services could be paid for prior to certification which are incident to organization. Services, however, which have to do simply with the fulfilment of the duties of the department after certification, such as investigations performed by investigating visitors, could not be paid for until certification by the state department. This, I think, is quite evident since there would be no such duties to perform prior to certification by the state department.

ALCOHOLIC BEVERAGES DIVISION: Manufacturer’s permit—Subsidiary corporation cannot operate under permit of parent corporation but must procure separate permit.

April 17, 1936.

Hon. Paul P. Fry,
Excise Administrator,
Alcoholic Beverages Division,
Indianapolis, Indiana.

Dear Sir:

I have at hand your request for an official opinion upon the following question submitted by you:

"Will a permit issued by the Alcoholic Beverage Commission of Indiana to an Indiana manufacturer of
distilled spirits—whiskey—authorize its subsidiary corporations, domestic, or foreign admitted to do business in the State, to manufacture distilled spirits under the permit thus issued, or must each of such corporations be required to have a permit?”

Section 15, Chapter 226, Acts of 1935, which has to do with the qualification for an issuance of alcoholic spirituous beverages manufacturer's or distiller's permits, contains the following provisions:

“Any person desiring to manufacture for commercial purposes any alcoholic spirituous beverages, shall make application to the commission for a permit to manufacture the same, which application shall be in writing, and verified, on the forms herein authorized to be prescribed and furnished; and thereupon, the commission may, in its discretion, grant such permit, subject to the restrictions of this act, or refuse to grant the same.”

“Such permit may be granted to any corporation organized under the laws of the State of Indiana, or admitted to do business within this state, and which is qualified to obtain the necessary permit and/or license from the United States of America, or any bureau or agency thereof, to own or operate an establishment to manufacture such spirituous beverages.”

“Such permit, however, shall not be issued unless and until there be paid to the said administrator a separate license fee of two thousand dollars ($2,000) in cash, and there be filed with the application for a permit to manufacturers, a surety bond, * * *” (Our italics.)

Section 3, subsection (1), likewise provides as follows:

“The word 'persons,' whenever used in this act, shall be held and construed to mean and include persons, firms and corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee.”

Section 7, subsection (1), provides in part as follows:

“The holder of a permit may not sell, assign or transfer such permit to any other person, except as herein expressly provided * * *”
It seems beyond dispute from the foregoing excerpts taken from the section relating to the issuance of manufacturer's permits and from other sections of the Act, that the permit is a personal privilege granted to the particular person, partnership, corporation or association which makes the application therefor. A subsidiary corporation, regardless of the relationship which may exist by contract or otherwise between itself and its parent corporation or some other corporation nevertheless is a distinct legal entity and likewise a distinct "personal" entity within the meaning of the Alcoholic Beverages Act, entirely separate and distinct from its parent corporation or any other corporation.

In conclusion it is my opinion that a permit issued to a corporation for the manufacture of spirituous beverages in the State of Indiana would not authorize any subsidiary corporation of said permittee to engage in the manufacture of such alcoholic spirituous beverages, unless and until such subsidiary corporation shall, itself, have applied for and received an appropriate permit, upon the payment of a separate license fee.

HOSPITAL, RICHMOND STATE: Sterilization operations require court order. April 17, 1936.

Richard Schillinger, M. D.,
Medical Superintendent, Richmond
State Hospital,
Richmond, Indiana.

Dear Sir:

This is in response to your request of April 11, 1936, which is as follows:

"We are in a quandary to know just how far we may proceed, according to the Acts of 1935, in regard to the sterilization of patients sent to this institution.

"Please find enclosed a copy of a letter sent to us by the Clerk of the Allen Circuit Court of Allen County, Indiana.

"In a number of cases the physicians advise sterilization and the judge decides in the negative; how should we proceed?"