LIEUTENANT GOVERNOR: Department of Commerce.
Division of Public Health. Salary of Board of Sanitary
Commissioners during construction of sewage plants.

April 12, 1938.

Hon. W. H. Frazier,
Director, Department of Commerce and Industries,
Division of Streams and Water Pollution,
State House,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your recent letter asking for an interpretation of a provision in Section 2 of Chapter 157 of the Acts of 1917. This chapter has to do with public sanitation and the prevention of the pollution of water courses. Originally, the Act applied only to cities of the first class but the Act was amended in 1921 so as to be applicable to cities of the second class. Acts of 1921, Chapter 258, page 768.

The particular provision of which you ask an interpretation is as follows:

"The members of such board of sanitary commissioners, not including the city civil engineer, shall each be paid a salary at the rate of three thousand six hundred dollars per annum during the period of actual construction, and six hundred dollars per annum thereafter. Such board may employ a consulting engineer or engineers or engineering company to design a sewage disposal plant or plants or to report on plans prepared under the direction of said board of sanitary commissioners, and it may employ such other engineers, chemists, bacteriologists, surveyors, attorneys, inspectors, clerks, laborers and other employees as it may deem necessary to carry out the provision of this Act, and shall have power to fix and regulate the compensation to be paid them or any of them: *"

Your question is:

"I would like your opinion as to whether or not the phrase 'period of actual construction' would include the active three to six months period before the contractors
actually begin work, and thus permit a salary rate of $3,600.00 per annum during that period."

Chapter 157 of the Acts of 1917 created a Department of Public Sanitation in certain cities which was put under the control of a board of three members to be known as the Board of Sanitary Commissioners. This board is given exclusive control of the building and management of sewage disposal plants connecting sewers and other works constructed under the provisions of the Act. The commissioners have authority to design and let contracts for and construct sewage disposal plants, or other structures in connection therewith and then to operate such plants.

I am of the opinion that the words "period of actual construction" in the above provision should not be limited to that period of building when the actual work on the plant structure is under progress. It is provided in Section 7(1) that the Board shall cause to be prepared maps, plans, specifications and drawings with full detail and descriptions for the proposed sewage disposal plant. From a consideration of Chapter 157 of the Acts of 1917 and the amendment of 1921, I believe the Legislature intended that the duties of the Board of Sanitary Commissioners should cover two periods, first, a time when the sewage disposal plant and works connected with it are under construction, and second, the period after the plant has been completed and the duties of the Board would be simply to control the operation of the plant.

It is a matter of common knowledge that the designing and drawing up of plans and deciding on methods of construction are of the utmost importance in a work of this nature. This work, preliminary to actual building, possibly requires more expert attention and skill than the actual building after the plans and specifications are turned over to the contractor.

It is my opinion, therefore, that the language "during the period of actual construction" was intended to include the active period of planning, drawing up specifications and adopting methods before the contractor's actually began building.

The $600.00 per annum salary "thereafter" refers to the period after the plant is completed and the Board has control of its operation.