

and including the first Monday in November, 1933, upon a showing by the applicant as provided by said act of the payment in full of poll taxes for the year 1931, payable in 1932.

FARM, INDIANA STATE: Legality of proposed lease contract between Board of Trustees of Indiana State Farm and commercial orchardist.

May 2, 1933.

Hon. Harry H. Wissel,
Acting Superintendent,
Indiana State Farm,
Greencastle, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion as to the legality of the proposed lease contract between the Board of Trustees of the Indiana State Farm and a commercial orchardist wherein it is provided that the board shall lease its orchard to said commercial orchardist for a period of five years or possibly seven years. The proposed leased contract will also provide that the lessee will take charge of the orchard, furnish all of the spray material, fertilizer, and other needs and take care of all pruning, spraying, tree replacement, and gathering and marketing of crops, the board to receive 25 per cent of the fruit crop each year and the lessee to receive 75 per cent of the fruit crop each year.

The Indiana State Farm was established pursuant to Chapter 236 of the Acts of 1913. Acts of 1913, Chapter 660. Section 4 of said act, which is Section 12432 of Burns' Annotated Indiana Statutes of 1926, among other things, provides for the selection of a site for the farm and for the appointment of the Board of Trustees. Said section further provides that "The Board of Trustees shall organize and shall conduct such institution under the provisions, so far as applicable, of the act approved March 2, 1907, and amendments thereof, being 'an act concerning the names, management and control of the State Benevolent, Reformatory and Penal Institutions, defining the powers of the Board of Trustees, providing campaign assessments, providing penalties and repealing all laws and parts of laws in conflict therewith,' which act and amendments thereof in respect to all the rights, powers and duties of the board and all rights, powers and duties of the superintendent

as well as all other officers and employees shall govern and apply thereto." The act establishing the Indiana State Farm contains no provision except as above set out fixing the powers of the Board of Trustees with respect to the real estate used by the institution. It is necessary therefore to examine the Act of March 2, 1907, referred to above for the purpose of ascertaining the powers of the Board of Trustees. This act comprises Sections 3973-3978 of Burns' Annotated Indiana Statutes of 1926. An examination of the above sections fails to disclose any express authority in the Board of Trustees to lease the real estate acquired for the use of the institution. It is well settled in this state that the powers of public officers are delegated powers and that such officers are limited in their authority to such powers as are expressly given by statute or are necessarily implied from the expressed powers so given. It is likewise true that all who deal with public officers exercising statutory powers and whose authority is limited by statutes are charged with notice of the scope of such officers' authority.

Julian, et al. v. State, 122 Indiana 68, at pp. 72-73;
 State, ex rel., v. Home Brewing Co., 182 Indiana
 75, at pp. 91-93.

It is true that Section 9 of the Act of 1907 above referred to was amended in 1929, but this amendment only serves to emphasize in my opinion the lack of power of the Board of Trustees of the Indiana State Farm to lease its real estate. It will be noted that this amendment, Burns' 1929 Supplement to Burns' Annotated Indiana Statutes 1926, Section 3978, expressly gives to the Board of Trustees of *Indiana State Prison* the power "to dispose of property heretofore forming a part of or used in connection with said prison and no longer needed for such use by leasing any real estate of such character for such period and upon such terms and conditions as the Board may determine * * *". This express grant to the Board of Trustees of Indiana State Prison without the mentioning of the Boards of other benevolent institutions, I think, indicates a lack of power as to such other institutions. It will be noted, too, that this authority granted to the trustees of the Indiana State Prison to lease real estate is limited to the leasing of real estate, which is no longer needed by the board, which I assume is not the case with reference to your orchard property.

I call your attention further to the provisions of Section 11 of the act establishing the Indiana State Farm, which provides that "it shall be the purpose of the state farm to employ the prisoners committed or transferred thereto in work on or about the buildings and farms and in growing produce and supplies for its own use and for the other institutions of the state; in preparation of road material; and in making brick, tile, paving material and such other products as may be found practicable for the use of the state or any municipal subdivision therein and for the proper and healthful employment of such prisoners. Burns' Annotated Statutes of 1926, Section 12440.

In my opinion the plan embodied in the proposed lease does not fulfill the purpose as above expressed. For the reasons given herein I do not think the proposed contract is legal.

MOTOR VEHICLES, BUREAU OF: Whether department may make enforceable regulation requiring applications for registration of motor vehicles for hire to be made at department offices in State House.

May 3, 1933.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you inquire whether under Chapter 153 of the Acts of 1933 you may make an enforceable regulation requiring all applications for registration of motor vehicles for hire as provided therein to be made at the department offices in the State House.

I think the act contemplates that such applications shall be made at the department offices at the State House, even without a regulation to that effect, and that on the other hand it would require a regulation to authorize their receipt at any other place.

In my opinion, therefore, you may require such applications to be made at the department offices at the State House and may refuse to receive them at the branch offices set up by you for the convenience of applicants for the ordinary motor vehicle license.