

every prisoner confined in said prison upon an indeterminate sentence, whose minimum term of sentence has expired, shall be given an opportunity *to appear before such board and apply* for his release upon parole, or for an absolute discharge * * *." (My italics.)

Section 12389, Burns' Annotated Indiana Statutes, Revision of 1926, being section 5 of the same Act of 1897, provides:

"If it shall appear to said board of commissioners of paroled prisoners, *from a report by the warden of such prison, or upon an application by a convict* for release on parole as hereinbefore provided * * * the board of commissioners may authorize the release of such applicant upon parole * * *." (My italics.)

It seems clear, from the language of these two sections, that the legislature contemplated that an application first be made by or in behalf of the convict for a parole or discharge before it should become *mandatory* for the board to consider his case. However, by virtue of section 12389, *supra*, the board is given the discretion to grant a parole or discharge either on the strength of a favorable report from the warden "*or upon application by a convict.*" (My italics.)

It is my opinion that, until application for parole has been made by or in behalf of the prisoner, the board may exercise its own discretion as to whether or not it will consider such prisoner's case.

AUDITOR OF STATE: Gasoline tax—whether auditor is authorized to pay expenses incidental to meeting of North American gasoline tax conference.

August 25, 1933.

Hon. Floyd E. Williamson,
Auditor of State,
State Capitol Building,
Indianapolis, Indiana.

Dear Mr. Williamson:

I am in receipt of your request for an official opinion upon the following matter.

You state that it has been the practice in the administration of the gasoline tax law that once a year the representatives of the gasoline tax departments of the several states meet at some selected place and confer upon the various questions which arise in the collection of gasoline excise taxes of the various states in order to work out any state problems, and arrive at agreements for the administration of the state gasoline tax law and of other states. Toward this end, the several states have formed an organization known as the North American Gasoline Tax Conference.

You state that on September 5th, 6th and 7th, that this conference will meet in Indianapolis for the purpose of discussing important questions involved in the administration of the gasoline tax laws of Indiana, particularly those laws relating to the collection of taxes on vehicles traveling between this state and other states.

You also state in your letter that the State of Indiana and the gasoline tax department will be put to certain expenses, such as providing places for meetings and other incidental costs of such conference, and you desire to know whether or not you are permitted under the law to pay such incidental expenses in connection with said conference.

It is provided by section 10186 Burns Annotated Indiana Statutes (Revision of 1926), that:

“The auditor of state is hereby authorized to employ such clerical assistants as may be necessary to carry out and administer the provisions of this act, and to prepare and print such blanks, forms, reports, receipts and *any and all other things which may be necessary to provide for the administration of this act, and to pay any and all expenses so incurred out of the state gasoline fund.*” (My italics.)

Under the above provision, it is my opinion, that the auditor of state is authorized to pay all necessary expenses in the administration of the act.

It seems to me that the working out of interstate agreements for the collection of the tax is most certainly a necessary part of the administration of this act and, therefore, I believe it is proper for the auditor of state to pay the necessary expenses incurred in the holding of the conference of the several states.