be resorted to in deciding this question. The purpose of the Act obviously was to encourage good behavior and discipline in the various penal institutions concerned, by offering a reward in the way of diminution of sentence. This purpose of the Act would be frustrated, at least in part, if prisoners confined at the time the Act became effective were not placed on an equal basis with prisoners thereafter incarcerated, with respect to the amount of diminution granted for each separate consecutive year of the original sentence. It seems reasonable to believe that such a situation would breed dissatisfaction, and would tend to discourage, rather than encourage, discipline and good behavior.

In my opinion, prisoners already in confinement when the "good time" law became effective, should be granted such diminution of time on their unexpired sentences as is provided in the table for the respective consecutive years or parts of years of their entire original sentences which they will be serving thereafter.

AUDITOR OF STATE: Motor vehicle fuel—Sales and carriage of fuel from other states by motor carriers.

December 23, 1936.

Hon. Laurence F. Sullivan,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Sir:

This is in response to your request for an opinion on certain provisions of the Motor Vehicle Fuel Tax Law. Your inquiry is as follows:

"W. H. Barber Company, 3650 S. Homan Avenue, Chicago, Ill., has been requested by this Department to become a bonded and licensed dealer of motor vehicle fuel in Indiana. The Barber Company is really a brokerage concern, buying motor fuel from The Globe Oil and Refining Company at Lamont, Illinois, and selling it to bonded and licensed dealers in Indiana. However, the contracts of such sales are consummated in the State of Illinois and the deliveries are then made by
transport truck to Indiana concerns, the latter paying the four cent tax levied on gasoline.

"The Barber Company has no investment whatever within this State and not being a dealer there is no bond covering any violation of payments of motor vehicle fuel tax. There is no way for this Department to check these shipments except to take the word of Barber."

From this statement, it appears that the sale of motor vehicle fuel which leads to your inquiry, is not made in the State of Indiana, and is, therefore, an interstate transaction which may not be legally restricted or unduly burdened by Indiana laws or regulations.

Wright v J. R. Watkins Co. et al., 86 Ind. App. 695.

I understand that the delivery of fuel in Indiana referred to is not to be made by a common carrier but by the Barber Company by means of its own motor vehicle trucks.

The statute contains the following provisions as to reports from carriers of motor vehicle fuel:

"On or before the fifteenth day of each month, every resident agent or employee of every railroad company, every street, suburban or interurban company, every pipe line company, every water transportation and every other common carrier and every person transporting motor-vehicle fuel as defined by this Act, to points within the state of Indiana, who has the custody of books and records showing the receipts of motor-vehicle fuel delivered to a consignee in this state, whether for storage, use, sale or distribution shall report all such deliveries of motor-vehicle fuel to the auditor of state on forms prescribed by him. Such reports shall cover monthly periods and shall state the month for which the report is made; shall show the name of the consignor, the name and address of the person, firm or corporation to whom the deliveries of motor-vehicle fuel have actually and in fact been made, the name and address of the originally named consignee if the motor-vehicle fuel has been delivered to
a person, firm or corporation other than the originally named consignee, the point of delivery, the date of delivery and the number and initials of each car, if shipped by rail, and the number of gallons of motor-vehicle fuel delivered; if delivered by any other means or in any other manner, the quantity of each shipment and delivery in gallons, the date delivered, the name of the person, firm or corporation to whom delivered, the point of delivery, the name of the boat or barge, if delivered by water, and, if delivered by other means, the manner in which such delivery is made."

Section 47-1513, Burns Indiana Statutes Annotated, 1933.

Attention is called to the words italicized by me that "every person transporting motor-vehicle fuel ***, to points within the state of Indiana, who has the custody of books and records showing the receipts of motor vehicle fuel delivered to a consignee in this state ***, shall report all such deliveries *** to the auditor of state," etc. This language, in my opinion, shows that the legislature intended to require and by the language does require reports on the delivery of all such fuel regardless of the character of the carrier; and I believe that the Barber Company and its agents or employees who make deliveries in Indiana are required to keep books and make the reports provided for by the Section of the law above set out. There is an element of police power that must be considered in connection with the enforcement of the Motor Vehicle Fuel Tax Law, and the reports appear to be reasonable and proper in order for your department to effectively enforce the statute.

There is a Section of the statute which provides that a wholesaler of the fuel may assume liability for making such reports and paying the fees on gasoline to be sold in the state (Burns Indiana Statutes Annotated, 1933, Section 47-1508), but I do not understand that you expect the Barber Company to avail itself of this provision.

However, because of the interstate character of the business, my opinion is, that your department is not authorized to require the Barber Company to procure a dealers' license and to give a bond before it is permitted to make deliveries
in Indiana of gasoline, or other motor vehicle fuel, sold by it in Illinois.

DEPARTMENT OF FINANCIAL INSTITUTIONS: Retail Installment Sales Act—Relation of same to interstate transactions.

December 28, 1936.

Mr. R. A. McKinley,
Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

"Section 9 of the Retail Installment Sales Act reads in part that 'No retail seller may sell, assign and transfer any retail installment contract to any person other than a licensee under this Act,' and Section 11 reads in part that 'No person shall purchase retail installment contracts from a retail seller doing business in this state or engage in the business of purchasing retail installment contracts from retail sellers doing business in this state or, unless a bank or trust company, makes loans to a retail seller doing business in this state on the security of retail installment contracts or engage in the business of making loans to retail sellers in this state on the security of retail installment contracts unless the department has licensed such person to do such business and has issued to the person a written instrument evidencing the license as in this Act provided.'"

You submit the following question:

"How do these above quoted parts of the statute apply to the following situations, assuming that the assignee of any of the contracts is properly licensed?

"(1) Indiana dealers selling to neighboring state residents, the transaction or sale actually occurring outside of Indiana."