

Upon the basis of the above provision, I think if the stock referred to is accepted in good faith to protect the Company's interest, it may be accepted either in payment of or to secure a debt due to the Company, and your question is answered accordingly.

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**LIBRARY, INDIANA STATE: Fair trade law, application and effect as to libraries and books.**

February 14, 1940.

Miss Hazel B. Warren,  
Chief of Extension Division,  
Indiana State Library,  
Indianapolis, Indiana.

Dear Miss Warren:

I have at hand your letter of February 7, 1940, wherein you request an official opinion concerning the provisions of Chapter 17, Acts 1937—commonly known as the Indiana Unfair Trade Practices Act. The questions asked are answered in the same order as presented by your letter.

Your first question, desiring to know whether books are commodities under the provisions of the second section of the act, is answered in the affirmative. In my opinion, a book is a commodity and is included under the terms of the statute in that the unfair trade practices sought to be eliminated by the act are just as applicable to unfair trade agreements in the book publishing and selling business as in any other business in this state.

It is to be noted, however, that the provisions of the act are optional to a seller, wholesaler, or retailer and permit the parties to govern the terms of any or all resales of the commodity covered by the contract. This being the case, if you have not entered into such a contract with a wholesaler or publisher of books, you are not bound by any of the trade practices agreed to by previous contracts between the seller and other persons purchasing and re-selling books. It may be that a publisher who distributes solely by agents will refuse to sell you at a less price than he sells to all jobbers,

wholesalers, or retailers. You have no way to force him to abridge his contract with others so that he may sell to you at a lower figure. However, you are not required to buy his books.

In answer to your second question, it is my opinion that libraries cannot be classified as wholesalers. The general meaning applied to the word "wholesaler" is a person, firm or corporation who buys in large lots of goods and re-sells in smaller lots at a profit. Regardless of the size of your purchases, you are not engaged in the business of selling books, as an examination of the statute will show that the powers and authority granted the Indiana State Library does not include that of engaging in the business or occupation of buying and re-selling books.

Your third question is amply answered by sub-paragraph (b) of Section 5 of the Act, wherein it is provided that the act is not applicable

"when the trade mark, brand, or name is removed or wholly obliterated from the commodity and is not used or directly or indirectly referred to in the advertisement or sale thereof."

Your fourth question is answered in the negative. The word "person" as used in the act is adequately defined and by exclusion a municipal corporation or quasi-municipal corporation would not be included thereunder. Of course, this question makes little difference in the present case because the contracts authorized and legalized by the act are between persons engaged in the manufacturing, jobbing, wholesaling or selling of commodities, in which your department does not engage.