spirit and purpose thereof, the former construction will prevail. It follows that, considering the equities herein, the statute can only import evidence of the intention of the legislature that the Act operate prospectively.

Considering the foregoing, it is my opinion that the tuition charges for the school year 1938-1939, will be governed by the 1935 Act, and that beginning with the next school year, the amendment will be operative.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Retail Installment Sales Act, interpretation; whether retail seller may act as insurance seller, making benefits greater than the amount allowed by department.

April 6, 1939.

Hon. Ross H. Wallace, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Mr. Wallace:

I have before me your letter which, in part, is as follows:

"Section 10 of the Retail Installment Sales Act provides in part that 'No licensee shall enter into any agreement with any retail seller regarding the purchase of any retail installment contract whereby the retail seller shall receive, directly or indirectly, any benefit from or part of any amount collected or received from any retail buyer, as a finance charge or as the cost of the insurance to the retail buyer, in excess of an amount fixed and determined by the department and no licensee shall directly or indirectly pay any part of the amount collected as a finance charge or retail buyer's cost of insurance to any retail seller on any retail installment contract purchased from him in excess of the amount so fixed; and the department shall fix such maximum amount which may be so paid * * *.' The Department of Financial Institutions, by General Order, has fixed the maximum benefit herein above referred to at 2 per cent of the principal balance on new merchandise and 5 per cent of the principal balance on used merchandise."
You submit the following question:

"Suppose for example that the retail seller becomes a properly licensed insurance agent, entitled to receive the commission on insurance which he may write on retail installment sales contracts. If these contracts were sold to licensees under the Retail Installment Sales Act, would you construe the receipt of such insurance commissions by the retail seller over and above the maximum benefit permitted by General Order as being a violation of the above quotation from the statute?"

I think the answer to this question is in the negative. The theory underlying the provision of section 10 above referred to is that the retail seller should receive his profit entirely out of the selling transaction and should not be permitted to participate in the benefits growing out of the financing of the transaction beyond the limits provided by the department in its order. However, if the retail seller is himself a licensed insurance agent authorized to write automobile insurance, I do not think the Act can be construed so as to prohibit him from receiving the commissions which would accrue to him by virtue of that service.

In other words, the Retail Installment Sales Act of 1935 does not, in my opinion, prohibit a retail seller from entering into any other kind of business, one of which kinds of business might be the insurance business. If the arrangement made is obligatory that the retail buyer should procure insurance from the retail seller, I can see some reason to support legislation which would prohibit such a thing, but I do not believe this Act has done so. Your question is, therefore, answered in the negative.