

**PURDUE UNIVERSITY: Trustee of Purdue University,  
compensation of for traveling expenses.**

Hon. Edward C. Elliott, President,  
Purdue University,  
Lafayette, Indiana.

May 3, 1937.

Dear Doctor Elliott:

I have your letter in which you ask my opinion as to the following facts:

What expenses Dr. Kathryn McHale is entitled to as a Trustee of Purdue University while in actual service of the University, Dr. McHale's legal residence being in Logansport, Indiana.

Section 5 of the Acts of 1921 reads as follows:

"Trustees of such University shall receive when in actual service of the University six dollars (\$6.00) per diem, and ten cents (10c) per mile for traveling expenses."

It is my opinion it is the intention of the law that the Trustees of the University be allowed the above mentioned expenses when in actual service of the University to and from their legal residence; and, Logansport, Indiana, being the legal residence of Dr. Kathryn McHale, it is my opinion that she would be entitled to her per diem and expenses as set out above, from her legal place of residence of Logansport, Indiana, to the University, or elsewhere, when upon actual service for the University. Of course, outstate traveling expense of Trustees of the University must have approval of the Governor.

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**FINANCIAL INSTITUTIONS, DEPARTMENT OF: Auto-  
mobiles, repossession; chattel mortgages on auto repos-  
session; title to automobile on repossession.**

Mr. Homer O. Stone, Supervisor,  
Division of Small Loans,  
Department of Financial Institutions,  
Indianapolis, Indiana.

May 3, 1937.

Dear Sir:

I acknowledge request from you dated April 26, 1937, for an opinion on the following question:

"Can a small loan licensee, operating under the Petty Loan Act, being chapter 125, Acts of 1917, as amended by chapter 154, Acts of 1933, repossess an automobile listed as security on a chattel mortgage without the formality of foreclosure or replevin, if the chattel mortgage used provides for such action? If such repossession can be made is it possible for the licensee to secure a clear title on the repossessed car from the Automobile License Department by filing the regular repossession certificate provided by such Department?"

Chapter 125, Acts of 1917, as amended by chapter 154, Acts of 1933, provides, among other things, as follows:

"No licensee shall take any confession of judgment or any power of attorney, \* \* \*" (See Sec. 18-3003, Burns Indiana Statutes Annotated, 1933.)

The phrase "confession of judgment," when applied to your question, pertains to confession of judgment of foreclosure of a mortgage or confession of judgment in replevin.

It is true that many instruments used by licensees and mortgagees have therein such phrases as "waiver of foreclosure proceedings as fixed by statute," etc., and "waiver of replevin proceedings," etc., as fixed and designated by statute. These and similar expressions, however, do not set aside the clear intent of the legislature. The legislature again expressed itself in the following language:

"No mortgage of household goods which may be executed after this Act shall take effect shall authorize the mortgagee to sell such mortgaged property and any provision *in any such mortgage giving the power of sale shall be void. But every sale of household goods to satisfy the mortgage thereon shall be under a judicial proceeding, in which such mortgage shall be foreclosed in the Circuit or Superior Court.*" (See Sec. 51-201, Burns Indiana Statutes Annotated, 1933.)

The statute on replevin is found in Burns Indiana Statutes Annotated, 1933, Sec. 3-2701 to and including Sec. 3-2713. The legislature in enacting the replevin law again set out the statute that is to be followed.

Any other proceeding than as specified by the statute for the repossession of an automobile or any personal property listed as security on a chattel mortgage would be without and beyond the specific terms of the statute, and, since both the proceedings of foreclosure of a mortgage and proceedings for replevin of property, when applied to your question, involves the question of title to the goods on which there is a lien of any kind, it follows that a proceeding other than is provided by statute would fail to secure for the reposessor a clear title.

My conclusion is that the Small Loan Act does not change the statutory proceedings for repossessing an automobile listed as security on a chattel mortgage; that if repossession is made by the holder of the mortgage or lien in a manner other than as provided by statute, the Automobile License Department of the State of Indiana could not issue a clear title on the repossessed car.

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**PUBLIC INSTRUCTION, SUPERINTENDENT OF: School-books, retail price, whether percentage limitation on price forbids treatment of more than one-half cent as an additional cent.**

May 3, 1937.

Hon. Grover VanDuyne,  
Assistant Superintendent of  
Public Instruction,  
State House,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to section 28-613 of Burns Indiana Statutes Annotated, 1933, and requesting an official opinion with respect to said section in answer to the following question:

“When the retail price is computed on the basis as herein provided by statute and the result contains the fraction of a cent above one-half of a cent, may the dealer legally collect one cent in lieu of this major fraction of a cent?”

The section referred to is as follows:

“It shall be unlawful for any retail dealer in text-books, or any firm, corporation or person to sell any