

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.

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 VanDyyn,
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

school text-book adopted by the State Board of School book commissioners, or by any county board of education, board of school trustees, or board of school commissioners, at a price exceeding the net wholesale or net contract price, plus twenty (20) per cent of the net wholesale or net contract price of such book; and such dealer or agent shall pay all transportation charges."

Burns Indiana Statutes Annotated, 1933, Sec. 28-613.

The method set up in the statute for obtaining the maximum lawful retail price of a book is to add to the net wholesale or net contract price twenty per cent of the net wholesale or net contract price of the book. Ordinarily, in commercial transactions wherein a fraction of a cent is involved, if the fraction is less than one-half, it is disregarded, if it is more than one-half, it is treated as an extra cent. Applying the same principle to a practical construction of the above statute, it would seem that if the sum of the net contract price or net wholesale price and twenty per cent of the same results in a fraction of a cent above one-half, the retailer would be authorized to treat the same as one cent.

The answer to your question is in the affirmative.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Installment sales, meaning of term "purchase price" in repossession sales.

May 4, 1937.

Hon. F. M. Call, Supervisor,
Division of Installment Finance,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of May 3, in which you submit the following question:

"Section 17 of the Uniform Conditional Sales Act reads in part as follows:

'If the buyer does not redeem the goods within ten days after the seller has retaken possession, and