

**OPINION
47-173**

April 28, 1947 (OPINION)

LIVESTOCK

RE: Sales Ring License

This will acknowledge your letter of April 23, 1947.

From your letter it appears that a sales ring was constructed for the public auction of cattle only and was built in conjunction with the railroad stockyards and operated for several years until about two years ago when license was refused because of irregularities on the part of the operator. It now appears that George Remillong of Dickinson has purchased the sales ring premises and wants to secure a license. You ask whether under section 2 of Regulation 3 of the Livestock Sanitary Board, revised and adopted November 2, 1946, you as executive officer are in position to make any recommendation to the Public Service Commission for the license requested by Mr. Remillong.

The regulation referred to reads as follows;

No recommendations to the Public Service Commission for license shall be made for the operation of livestock sales rings connected with any railroad stockyards after February 1, 1945, except those previously established."

The question arises whether or not this particular sales ring, under the above quoted regulation, was "previously established" so as to enable you, or the Livestock Sanitary Board, to make recommendations to the Public Service Commission that license be issued to Mr. Remillong.

"Previously", according to Webster's New International Dictionary, means "beforehand; antecedently."

"Previous", as an adjective, means "going before, esp. in time; earlier; preceding; as previous arrangements; also antecedent; prior."

The word "established", according to Webster's New International Dictionary, is defined as: "Made stable or firm; fixed or secured in some way." The word "establish" is defined in various ways, but the fifth meaning given seems to be applicable here, to wit: "To set up in business; to place advantageously in a fixed condition."

It seems that the phrase in the regulation "previously established" would indicate that the regulation does not prohibit recommendation to the Public Service Commission of this particular sales ring, because it has been previously established as such, although it has not been continuously licensed. "Previously established" seems to mean that it had prior existence as a sales ring, and does not convey the thought that the prior existence as a sales ring must have been continuous up to the present time.

It is difficult to know just what was meant by the phrase, but as interpreted, according to the definition in the dictionary, it would convey the thought that it had existence at a prior time and was formerly fixed and stable. The mere fact that it has not been used for the last couple of years would not do away with its previous establishment as a sales ring, but merely go to the operation of it as such. If it had been the intent and purpose of the regulation to eliminate all recommendations by you or the Livestock Sanitary Board to the Public Service Commission for the licensing of sales rings connected with any railroad stockyard after February 1, 1945, the regulation should have indicated that in more appropriate language. For instance, if the regulation had read after the words February 1, 1945, "except those previously established and in continuous operation" the thought would have been more clear.

It is the opinion of this office that the regulation you refer to does not prevent the Livestock Sanitary Board from making recommendations to the Public Service Commission to license this sales ring, although connected with a railroad stockyard, since it has been used as such and was therefore previously established as such.

NELS G. JOHNSON

Attorney General