

- PEDDLERS LICENSE :** (1) Merchant who takes merchandise from one farm sale to another to sell at auction must have peddler's license.
- (2) Auctioneer's license necessary, if facts warrant, under Chapter 111, R. S. 1929.

December 28, 1938



Honorable Joe. H. Miller
Representative
Carroll County
Carrollton, Missouri

Dear Mr. Miller:

In reply to your letter of December 22d relative to the opinions rendered by this Department based on the business conducted by Dickson Brothers of your city, we recall that this was a very perplexing question. The writer wrote the opinion on June 7, 1933, mentioned in your letter. Later a further request was made by the then Prosecuting Attorney of Carroll County and an opinion was rendered, as stated in your letter, on May 10, 1937, to Honorable Richard H. Musser, Prosecuting Attorney, Warrensburg, Missouri, in which the activities of the Dickson Brothers was discussed and in which the opinion of the writer was overruled and the following conclusion reached:

"It is, therefore, our opinion that the persons mentioned in your letter come within the definition of a 'peddler' as defined by the statutes, and required to secure a license as required by Chapter 96, R. S. Mo. 1929."

You may consider the opinion written by Assistant Attorney-General Hewitt as the official opinion of this Department. Therefore, in answer to your question No. 1, under the opinion written by Mr. Hewitt, it would appear that they could be compelled to purchase a peddler's license.

With reference to your question No. 2, relating to an auctioneer's license, Chapter 111 of the Revised Statutes

of 1929, Sections 13718 to 13742, inclusive, deals with public auctioneers. It appears that this chapter has never been enforced and is now obsolete. We note that the present Revision Commission of the Legislature makes the following reference to Chapter 111:

"Sections 13718 to 13742, inclusive; no change. However, it has been suggested by one member of the Commission who examined this chapter that it be repealed because it is obsolete."

However, as the statutes now remain they have not been expressly repealed and the fact that they may be obsolete or have not been in force does not repeal them or wipe them out from our consideration. Therefore, if the operations of the Dickson Brothers constitute facts which would come within the purview of the auctioneers' statute, then they should buy auctioneer's license to sell their products.

Yours very truly,

OLLIVER W. NOLEN
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

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