

File No. 26014 Continued.

This letter, I understand, has been referred to you by the Comptroller for an opinion.

This is not the first time this matter has been brought to my attention. About a week or ten days ago, I appeared at the Traffic Court with Mr. Wilkinson, who has charge of Belair Market, for the purpose of conducting an investigation as to the use by Mr. Faistenhamer of that portion of Forrest Street in front of his premises, and included within the limits of Belair Market, by his teams during market hours. Mr. Faistenhamer was not arrested, but was simply summoned before the Court to show cause why he should not be charged with violating the City Market Ordinances. A consultation was held by Mr. Faistenhamer, Mr. Solter, Mr. Wilkinson and myself at which Mr. Faistenhamer agreed not to drive his teams through Forrest Street at Belair Market during market hours. Mr. Solter then said that he would take up with the City Comptroller the question of blocking access to Mr. Faistenhamer's property by market stalls after market hours. This he has done in his letter of the 6th instant addressed to the Comptroller.

It seems that that portion of Forrest Street, opposite the business house occupied by Mr. Faistenhamer, is leased by the City for the purpose of market stalls and is so used. Mr. Faistenhamer complains that at all hours during market days access to his premises is blocked. The questions presented in this matter have been before the Court of Appeals and decided in favor of the City in the case of State v. s. Burkett, 119 Md. 609, in which case Burkett was indicted for obstructing a stall and stand on Eutaw Street in front of Brager's store by placing a wagon and cart within the lines of the stall and refusing to remove said obstruction when ordered to do so by the Assistant Market Master and Clerk of Lexington Market. The stall was clearly within the limits of the Market, as it is admitted that the stall in front of Mr. Faistenhamer's place of business is within the limits of Belair Market. The plea in the Burkett case admitted that he placed the horse and wagon on Eutaw Street, within the lines of the stand and stall held by a lessee or licensee of the Mayor and City Council of Baltimore, and that he refused to remove the same