

File No. 26014 Continued.

when ordered to do so by the Assistant Market Master, and then set up, as one of his defenses, that such use of the street obstructed free access to Brager's store, which seriously interfered with the business thereof.

In speaking of the right of the City to use the street for such purposes, the Court said, at page 626:

"We think the City has the clear right, in the exercise of the police power delegated to it by the Legislature, to erect market stalls on Eutaw street within the limits of Lexington Market and to authorize and license the use of said stalls in accordance with the regulations and to the extent prescribed by the ordinance to which we have referred. Such use of the street in question is a reasonable exercise of the power conferred upon the Mayor and City Council of Baltimore to erect, etc., markets and market stalls within the City, and is not a violation of its duty to the public or to the property owners abutting on said street in respect to its control over the streets.

An abutting owner has the unquestioned right to the use of the street as a means of ingress and egress, etc., but that right is subject to such reasonable use of the street, not inconsistent with its maintenance as a public highway, as may be necessary for the public good and convenience and does not seriously impair his right."

The market days of Belair Market are laid down in Article 23, Section 112, of the City Code of 1906, as follows:

Tuesday and Friday, and Saturday evenings.

Section 113 of the same Article provides that the market hours at Belair shall begin at daylight and end at eleven o'clock in the forenoon during the months of October, November, December, January, February and March, and begin at six o'clock a. m. and end at half past ten o'clock in the forenoon during the remainder of the year, and for the Saturday evening market the market hours shall begin at three o'clock and end at eleven o'clock.

Section 57 of Article 23 of the City Code of 1906 provides that:

"And no wagon, cart or other carriage, loaded with wood, stone, brick, hay, dirt, lime or lumber, or merchandise of any kind, no empty wagon, cart or other carriage, and no hackney carriage shall be drawn or placed in the limits of either of the markets during market hours on market days\*\*\*\*\*and any person or persons obstructing the streets within the limits of the several markets, at any time not designated by law as the market hours of such market, shall forfeit and pay a fine of five dollars."

From the above Ordinances and the decision in the Burkett case, it is clear that the City has a right to lease street stalls