

FILE NO. 72807

December 31, 1940

Honorable Howard W. Jackson,
Mayor of Baltimore,
City Hall,
Baltimore, Maryland.

Dear Mr. Mayor:

On August 27, 1940, you wrote me in regard to the letter addressed to you on the same date by the Honorable Robert F. Stanton, Police Commissioner, and a letter to you dated May 6, 1940, from the Lech Raven Association in regard to the use of Lech Raven Boulevard for inter-State and other long-haul trucks.

I have withheld my reply to you in regard to the questions raised by Judge Stanton and the Association pending the collection by Walter L. Braun, Traffic Engineer of the Police Department, of certain information in regard to the practice of other cities in connection with the restriction of the use of streets and highways by trucks. Mr. Braun has completed his investigation and yesterday submitted the information which he has been able to collect in regard to this matter.

Judge Stanton in his letter to you suggests that the City, under the power granted it by the Home Rule Amendment to the Constitution of Maryland, may prohibit the passage of trucks on certain designated streets. Section 3, however, of Article 11A of the Constitution (Home Rule Amendment) provides that all local laws enacted by the Mayor and City Council of Baltimore, as provided in the Amendment, "shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said Local Law and any Public General Law now or hereafter enacted, the Public General Law shall control." The Court of Appeals of Maryland, in Gaither vs. Jackson, 147 Md. 665, held that although the City had power, by virtue of the Home Rule Amendment and the City Charter, "to license, tax and regulate all businesses, trades, vocations or professions," nevertheless the Mayor and City Council could not pass an ordinance which, in effect, repealed a Public General Law providing for the appointment by the Governor of auctioneers in the City and for the payment by these auctioneers of license fees to the State.

Article 56, Section 145 of the Annotated Code of Maryland (Fleck's Edition) provides that the sections of Article 56, dealing with motor vehicles, are