

File No. 1180B Continued.

OPINION.

## LAW DEPARTMENT.

Baltimore, September 13, 1910.

Sylvan Hayes Lauchheimer, Esq.,  
Deputy City Solicitor.

Dear Sir:-

I beg to reply to your favor of the 9th inst., referring to me a letter of the same date from J. Spencer Clarke, Collector of Water Rents and Licenses.

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Mr. Clarke asked that an Ordinance be prepared requiring hawkers and peddlers selling fruits and vegetables and other merchandise, from wagons, to pay a license fee, and indicated that the Ordinance now in the City Code has been declared invalid. I can find no decision to this effect. There is, however, in the Code of P.G.L., Art. 56, Secs. 38 and 39, a provision to the effect that no person other than the grower or manufacturer shall sell goods, wares or merchandise within this State, without first obtaining a license. This license is to be issued by the Clerk of the Court of Common Pleas of Baltimore City or by the Clerk of the Circuit Court for the County in which such sales will be made. It is further provided that -

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"A license to offer for sale, issued by the said Clerk of the Court of Common Pleas or by the Clerk of the Circuit Court for any county, shall be good and sufficient as a license to offer for sale in every part of the State; provided that such license shall not authorize the holder thereof to open or carry on any stall or fixed place of business, for such selling or offering for sale, in any other city or county than the city or county in which such license shall be issued."

This Section would appear to authorize a person licensed in one county to make sales in any part of the State, provided he does not carry on his business in a fixed place outside of the county in which his license has been issued.

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The Court of Appeals, in *Salfner vs. the State*, (84 Md., 299), construed this Section of the Code as meaning that licensees in one county may sell in other counties, by sample, when deliveries are subsequently made, but cannot carry about their goods in a wagon or cart beyond the limits covered by their licenses. In other words, the Court held that sales from a wagon constituted selling in a fixed place of business.

Art. 41, Sec. 50, p. 1215, of the City Code, contains an Ordinance