

File No. 11808 Continued.

OPINION.

## LAW DEPARTMENT.

Baltimore, September 14, 1910.

J. Spencer Clarke, Esq.,

Collector,

Water Rents and Licenses.

Dear Sir:-

9467

Your letter of September 9th 1910, in reference to the exaction of a charge of Twenty five (25.00) dollars in the nature of a license fee from all persons selling fruits, etc., from wagons, has been received. I enclose a report thereon from Assistant City Solicitor Wright, which covers the situation. From this report you will perceive that Mr. Wright concludes that Section 50 of Article 41 of the Baltimore City Code of 1906, is a valid exercise of the power by the municipality and covers the situation which you desire to meet.

We have been unable to find any decision in which this Section has been declared invalid, and in the absence of an adjudication we are of the opinion that it is a valid Ordinance.

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Will you bring this to the attention of the delegation. A test case could be made up by some member of the delegation, having a vendor arrested, who sells without license. The case could be tried in the Criminal Court and the validity of the Ordinance determined. If valid, no further Ordinances would be required, but if declared to be invalid, steps could be taken to have the proper Ordinance passed, which would remedy the then existing situation.

Truly yours,

(Signed) Sylvan Hayes Lauchheimer,

Acting City Solicitor.