



PART OF THE OLD TOWN, FROM PRINCES STREET—1825.

A SHORT HISTORY
OF THE
OLD GREEN MARKETS
AND OF THE
WAVERLEY MARKET

WITH APPENDIX,
HOUSE OF LORDS DECISION
ON THE MARKET CASE

BY
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1906.

DEDICATED TO
THE MEMORY OF OUR
LATE RESPECTED PRESIDENT
JOHN BLACKIE.

EDINBURGH GREEN MARKETS.



IN placing before you a short history of the Waverley Market I do not think that any apology is necessary, for it cannot fail to be of great interest considering how much we owe to its inception and how it came to occupy such a prominent position, and how much many of the present generation of Gardeners owe to the great stand taken by our predecessors, and others still with us, for our rights pertaining thereto. Before entering upon its actual history it will be necessary to revert back a long way and discourse somewhat on former times.

I would like to set forth here that in my subsequent remarks on our Market the name of our late president, Mr John Blackie, cannot but be closely associated, and of whom it can be truly and faithfully

said that he had for this Market and all its frequenters a strong and lively interest, surpassing all in the faithful discharge of his obligations as president for the long period of twenty-five years over the Market Gardeners' Association. It was during his tenure of office that our great fight took place, and we certainly had as president a gentleman who rose to the occasion, courteous to the last degree, but firm. Nor must omission be made to mention the secretary of that time, Mr Thomas Stobie, who had a great amount of correspondence to undertake, and correspondence of a delicate and important nature, which he very ably performed. The committee also strengthened greatly the office-bearers by their unanimity and hearty support. While naturally, therefore, we are mainly interested in our present Market, it cannot fail also to interest us in going a long way further back and tracing all through history the rise and extension to which it has now reached. I am not in a

position, of course, to give details of all the various Markets that have been held from bygone times, and you can hardly look for any complete work from my hands. I will try, as far as my ability goes, to give the outlines of other Markets, and make the subject a readable and interesting one. I shall therefore make a beginning by going back to former days and end with the full facts of our present position in the Waverley Market.

Markets, first of all, according to ancient history, could only be held or obtained by Royal sanction, and this sanction was given, as stated by good authority, for the encouragement of commerce and for the good of the community. When first established, weekly markets were held and likewise fairs, which are said to be more solemn yearly markets, on stated days with extraordinary privileges. These were granted by the sovereign, and being once established, this is important to note, they cannot be encroached upon. Authorities on the

subject agree that the grant of a Market only flows from the Crown, and in a work entitled 'Scotch Legal Antiquities' it shews that the Crown made such grants from a very remote period. Not only were grants given to burghs, but also to private individuals to hold a Market upon their lands. During the sixteenth century, instead of a Market being established by the Crown, this was also done by Act of Parliament. Certain days were appointed for such Markets to be held, and power given to collect tolls and customs. This seems to be inseparable from all Markets, although we see that the system of collecting such has, like other matters, undergone many changes. From this then we see the full importance of the holding of Markets when the Crown, in its days of kingly right, and Act of Parliament recognised such institutions. When law courts were called upon to decide points their duties principally had reference to the planting down of a second Market near to an already existing one,

and when attempts were made to increase the tolls and customs which had hitherto prevailed.

According to history, the magistrates of Edinburgh are grantees from the Crown of the right to hold Fairs and Markets within the burgh.

These Royal grants extend back to the fourteenth century, and terminate with what is called the Golden Charter granted by King James VI. in the year of the Union of the Crowns in 1603. At same time, power or sanction was given the magistrates to hold within the burgh, by Parliament as well, commencing in the reign of King James V. and terminating with the Victorian Statute 1874.

By a charter by King James II., dated in 1447, the King granted to the then Provost, Bailies, Councillors and community of the burgh of Edinburgh to hold Fairs yearly. King James III. specifies the places where the various Markets were to be held. King James IV. in 1507 confirms similar conditions, and in

the year 1555 doubts existed with the magistrates as to whether they could on their own authority change the places that had been appointed by previous charters for holding the Markets, and the ever memorable Queen Mary, when this was laid before her, granted authority to them to change as often as they should think needful and expedient. Then came what is called the Golden Charter by James VI. in the year 1603, which ratified and confirmed all the previous grants of two yearly Fairs and power to hold weekly Markets every Monday, Wednesday and Friday, or any other days the magistrates might deem necessary.

Previous to 1477 there were no particular places for holding the different Markets in the city, and this often caused much personal strife among the citizens. To remedy this evil James the Third, by letters patent, ordained that the markets be held in the following parts of the city, such as Cowgate for the sale of Hay, Straw, &c.; Fleshmarket in High Street

from Niddry's Wynd to Blackfriar's Wynd ; Wood and Timber yards about Greyfriars ; Shoes and Leather about same vicinity ; Cattle Market about the Tron Beams ; Meal, Grain and Corn retailed from the Tolbooth up to Liberton's Wynd, and so on. There is no distinct mention made at this remote period of any Vegetable or Fruit Market, possibly in these fighting times people had no breathing space to grow for such, the earliest record that we seem to have regarding these commodities is in the year 1513, when the common place of sale of Fruit or other stuff, Vegetables as well as other small goods, was at the Market Cross, and other open spaces in or near the Cross, as well as from the houses of the dealers in the High Street. The various kinds are not specifically mentioned, the first culture of the potato for instance dates from the year 1746, and introduced by one Henry Prentice. This seemingly applies to Scotland although we know that in England it appeared much earlier, being

introduced by Sir Walter Raleigh in the reign of Queen Elizabeth.

While no doubt it is interesting to learn that in olden times Markets and all their conditions were viewed by the then existing King or Queen for the good of their subjects, we must come down to closer times and those statutes that were enacted in Queen Victoria's Reign defining the powers of the Magistrates in regard to Markets, giving us an insight as to those powers, and the year 1840 is taken as a first reference. For the benefit of those who may be labouring under false impressions as to the Magistrates' powers it will be of advantage to quote what is termed the 21st section of the Statute, it enacts.

'That it shall and may be lawful to
'the said Lord Provost, Magistrates
'and Council, and they are hereby
'authorised and empowered to fix and
'ascertain the boundaries and limits of
'the existing Market places as they
'shall find the same to be necessary,

‘to alter the days and hours of holding
 ‘the different Markets, to divide and
 ‘allocate the stands in the same, to
 ‘alter and enlarge the Markets and
 ‘Market places, and altogether to
 ‘change the situation of any of the
 ‘existing Markets, and to substitute
 ‘other Markets in their stead, and to
 ‘establish additional Markets for the
 ‘sale of other articles of produce other
 ‘than those contained in the Schedules
 ‘to this Act.’

Leaving ancient history and coming closer to that Market in which we have a present time interest it is still necessary, as leading up, to go a good bit further back so as to trace the rise to the present day.

Up to (I cannot exactly trace from when) the year 1821, the Fruit and Vegetable Market of Edinburgh was held in Hunter Square, and in part of High Street adjoining the Tron Church. The carts containing produce were ranged on both sides of the Street. This was found

to be very inconvenient all over, to the Gardeners, the people who bought, and the ordinary persons who had to pass along the Street. Acting under the powers granted by Queen Mary, who authorised the Magistrates to fix the Markets at any place they pleased, they therefore did in the year 1821 remove the Market from the High Street, and constructed and enclosed a new Market under and West of the North Bridge. This was not done, however, arbitrarily, the opinion of the then Gardeners was taken, as set forth in a minute of 30th May 1821, the Magistrates at same time passing a set of regulations for the order of business. These regulations seemingly were drawn up by the Gardeners or a Committee of same, the Magistrates by their authority enacting them, and it appears that in after years it was by their authority that all regulations were made. It is quite possible that the various kinds of produce sold in High Street at that time would not be so great as now.

I cannot but mention here, as showing that we have a link with that old Market in High Street, in the form of a letter written by a Mr George Jamieson in the year 1867, when he was eighty-three years old (making the year of his birth 1784), detailing how he brought his first radishes to Edinburgh Green Market in March and April 1810, and his first Fruit as a Market Gardener in the Summer of 1815.

As showing what the Gardeners had to conform to in that High Street Market in this same year, I give an excerpt from a Town Council Minute relative thereto.

‘They would suggest that each Cart
 ‘in backing towards the gutter should
 ‘be stopped at five feet distance from
 ‘the kerb-stone by a bar of wood.
 ‘That a platform of the same breadth
 ‘with the wheels should be laid
 ‘extending from the bar to the kerb-
 ‘stone of the pavement for the purpose
 ‘of leaving a free passage for the water
 ‘run, and upon which platform each

‘Gardener shall be permitted to exhibit
 ‘and sell his Vegetables so as to
 ‘interfere as little as possible with the
 ‘pavement. The bar of wood and
 ‘platform to be provided by the
 ‘Gardener, and the whole arrangement
 ‘to be subject to such further
 ‘regulations as may be found necessary
 ‘or suggested by the practice.’

It is only by comparison that one is enabled to appreciate what is best, and here in the light of present times we cannot but appreciate to the full our present place of business compared with that open Street, where old time Gardeners were exposed to all the various elements, and required to carry about wooden platforms and wooden bars for the proper adjustment of their carts and the conducting of business in some little degree of comfort.

When the Market was discontinued in the High Street it was removed, in the year 1823, to a space under and west of the North Bridge, where it was then fully

established and existed for the long period of forty-six years. It can easily be imagined that during this long period there would arise many events calling for the diligent attention of the Gardeners' Executive. The earliest date of the Minutes recorded in book form is 1836, and from that date to 1853 a great amount of work was attended to by the various Committees—work of an entirely different nature compared with present times. In fact, most of the storm and stress have been undergone by our forefathers in that North Bridge Market, and we are now practically in smooth waters. It would fill a good-sized book to delineate fully all that had to be gone through these seventeen years alone, out of the forty-six that this Market existed. I will just give in review some of the main business that arose at the dates I have mentioned. The paying for stance tickets in 1836 was fixed at Two Shillings and Sixpence. There were practically two distinct Markets, namely, Vegetable and Fruit.

Vegetable stance-holders were charged Two Shillings and Sixpence; the same individual desiring a Fruit stance was charged One Shilling. These charges were reduced on many occasions. In fact, they rose and fell just as the funds rendered necessary. Often they were as low as Sixpence a stance ticket. A large fund at that time did not seem to be desired. The Executive simply lived from the hand to mouth style. An abstract Statement of Funds reads thus:—

July 1st, 1845.

Handed over to new Treasurer . . .	£5	12	3½
Item of expenses up to 11th May current	3	5	9
	<hr/>		
	£2	6	6½

One matter was most faithfully adhered to. That was the paying of the room rent after every Committee Meeting. We find that after the business was over the President instructed the Treasurer to pay such rent, which ranged from One shilling up to Seven shillings and Sixpence and more according to the sitting.

During the period I have mentioned, 1836 to 1853, all General Meetings were

held in the month of May, new stances to be taken up in June. This system prevailed up to 1853 when it was suggested by the President at that time, Mr Alex. Tod, that owing to this being a busy time of year the stances should be drawn early in December, and that the new stances should be occupied first Market day in January. No opposition was taken to this, so a new departure was made and found to work well. Before I leave this period I cannot omit to mention that at a Committee Meeting, held in April 1843, the chairman submitted a motion to the effect that in future no General Meeting of the Market Gardeners should ever be convened in the open air, as the business often was rendered abortive. Needless to say, this was unanimously agreed to. One is not enlightened where these open air Meetings were held. We hear regrets of the passing of the good old times, but in this respect we have advanced.

This was also a period for the Gardeners

presenting petitions to the Magistrates for various improvements, &c. Nothing seems to have been done unless in the shape of presenting memorials. According to the number presented one cannot but think that the Gardeners then were quite experts in this matter. In 1836 one was presented to the Magistrates for improving the area of the Market which had got into holes, and also for the erection of sheds for the better protection of fruits. The Town's finances at that date seem to have been at a very low ebb, for in reply to that petition we find Bailie Sawers, of the then Markets Committee, stating he could only recommend the spending of Five pounds on broken stones to fill up said holes in floor of Market.

Another matter which came up for discussion very often at this time was the hours for opening the Market. At one time the opening took place at Eight o'clock all the year round for selling, and this could be carried on all day if necessary. Gradually an earlier hour

crept in and other alterations were effected; but when carts entered Market the goods were not allowed to be taken off until the opening bell was rung. This seems a hardship but such was the custom.

The principal agitation for something new during this time, 1836 to 1853, was for a new Market. Owing to the Railway Company extending their operations, the Gardeners began to be hustled and a desire arose for a new site. A favourite one seemed to be in Princes Street Gardens, to the South of the Scott Monument, and to be covered in. This was in 1845. Petitions were again on the move to the Magistrates regarding this, and after the lapse of a considerable time the reply was given that such a site could not be granted, as Parliament had decreed that this space be made an ornamental garden. Baffled in this, St Andrew Square was mentioned, as also an open space at that time head of Leith Street; but all these suggestions

came to nothing as our history shews, and the Gardeners had to be content with certain alterations on their old site.

The levying of the customs on Market goods was a source of great complaint, and which pressed very heavily on all Gardeners attending Market. A petition was drawn up in 1833 for a reduction, and even four years after redress had not begun. In 1837 a new Municipal Bill for the city was being prepared for Parliament, and the Gardeners took the opportunity of petitioning the then Lord Advocate for their grievances to be adjusted by certain clauses being inserted in said bill, but which does not appear to have been done, for another petition containing one hundred and seven names was drawn up. The support of Mr Duncan M'Laren, Town Councillor at that time, was strenuously solicited for the redress of these petty customs, as also the sympathy and hearty assistance of the then Member of Parliament, Mr Macaulay, which by both gentlemen were very frankly

given, and no doubt proved a source of strength towards the contentions of the Gardeners. It was expressly stipulated that the new rate of custom should be Threepence per cart with horse, half for those drawn by asses, and One halfpenny for a wheel-barrow. These distinctions were not given effect to as the Twopence became the regular charge in course of time.

The entrance to this North Bridge Market was from Canal Street. This street ran almost on the same lines as the present cab entrance to the Waverley Station. This new Market was enclosed with high walls, and stalls were placed on three sides and were occupied by fruit merchants and retail dealers. These stalls were open all day.

This Market was found to be too small to hold the fruit carts in the summer-time and a piece of ground was cleared on the West side, with an entrance into the Vegetable Market, and extended to the foot of what was termed the Little Mound. This extra space was enclosed by a

wooden fence, the fruit having to be carried in for sale, the carts standing outside.

When the North British Railway was first constructed, about the year 1847, the Company acquired the Fruit Market to form part of their Passenger Station. On this being done, land was acquired to the east side of the arches of the North Bridge in the Physic Gardens, and the Vegetable and new Fruit Market were then thrown into one large area, which was enclosed with a high stone wall and gates.

Mention has been made of Canal Street, and it is interesting to quote how it derived its name. When the Union Canal was projected, in the eighteenth century, the plans showed its continuing through the bed of the North Loch, and from there it was proposed to conduct it to Greenside where there was to be an immense harbour, and this to be connected with the sea, so that the New Town of Edinburgh would be converted into a sea-port. This street being made at that time was named Canal Street.

This plan of course was not carried out although it was actually commenced in the year 1776, but how far the work progressed there is no means of knowing. Had this been consummated, instead of the railway running through the valley there would have been witnessed this canal. Reference may be made here to the Little Mound which is now occupied by the Waverley Bridge. This bridge at one time came no further than to give entrance to Canal Street. Beyond this it was simply a dumping ground for excavations from buildings and other refuse, until it was ultimately extended to the foot of Cockburn Street. We see here now the situation of the 1823 Market. At the time of an Act passed in the year 1840, all vegetables were sold by a totally different system from present times. For instance, turnips, carrots and other roots were sold by the hundred, one hundred and twenty being the recognised number, and of all sold by the dozen, twelve was the standard. This hundred business has

passed away. When the dozen rose to fourteen I cannot exactly quote, but all of you will remember the quite recent attempt to revert to the original twelve. This attempt failed absolutely owing to the great want of co-operation among the gardeners. To revert to this old Market under the North Bridge, of course some of you will remember those days, but on the other hand a new generation of Market Gardeners have arisen, and while they may sometimes have grievances against the management of their association by being put out in the cold, they really would have little to complain of had they stood in this old Market with all its discomforts and inconveniences. These were the days without a roof, which also of course has been experienced in our present Market. In these far back times grievances were many and diverse. These seem to be ever present in all communities and our trade or profession have never been exempted from such. In our own day the question of baskets for fruit, &c.

has come up periodically for discussion, and as far back as the year 1828 we find that at a general Meeting of Fruit Growers strong exception was taken against the action of the magistrates at that time with regard to the strawberry baskets. That meeting agreed then that they dispose of their fruit by measure as required by Act of Parliament, but they were strong against the shape of the baskets which was sought to be enforced. They considered themselves entitled to adopt any pattern provided they shall contain legal measure. It appears that at that distant date, 1828, the baskets in question contained a full Imperial quart. Since that time the battle of the baskets has been often fought and I do not know if it can be authentically said on which side victory lies. In the following year, 1829, we find the same fruit growers assessing themselves Three shillings from each grower of strawberries, and Two shillings from each grower of gooseberries or other fruits, and to take advice of counsel regarding the enforcing

of shape and stamping of said baskets. This gave rise to a printed placard entitled 'Caution by the Magistrates,' a copy of which is in my possession, warning those who did not adopt the new basket.

Before finally quitting some of the leading incidents in this old Market, I may revert here to the system of collecting the customs or dues which prevailed in the year 1837, and for many years after, this was certainly in the light of present times very exacting, so much so that some carts paid 3/- to 4/-, and of a minute and laborious nature. Of course, we are apt to think that all things that do not conform to our own ideas are absurd. As an illustration, from a letter dated 1837 we find that a clause was drafted in the interests of the Gardeners as to the levying of the various customs, it is certainly in marked contrast to the stated sum handed to the Market Officer at the present day. This clause, then, reads as follows, the sums to be levied

in name of custom on the following articles of Agricultural and Horticultural produce shall be as under:—

For every	Imperial Boll of Potatos,	One	halfpenny
„ „	Bushel of Apples, Pears,	„ „	
„ „	Gallon of Strawberries,	-	One farthing
„ „	Gallon of Gooseberries, Rasps or Currants,	- „ „	
„ „	Dozen Apricots, Peaches, or Great Plums,	- - „ „	
„ „	Melon	- - - -	„ „
„ „	Dozen Large Cucumbers,	„ „	
„ „	Imperial Peck Small Cucumbers,	- - -	One penny
„ „	Thousand Asparagus	-	Two-pence
„ „	Imperial Boll of Peas in cod	„	

The collection of these customs on various articles devolved upon what is termed a tacksman, and said customs were publicly roused for the city to the highest bidder, this system was ultimately abolished, and a uniform rate of two-pence on each cart, no matter its contents, was instituted.

At the time this system of collecting dues or customs was in vogue, the tacksman was allowed a half-hour for this purpose, and during this half-hour no selling was allowed. After this system

of collecting was done away with the half-hour still remained, whereby no sales could take place, and it is rather curious to note that under the Presidency of Mr James Tod in 1842 and after, a Petition was got up by the Gardeners to the Magistrates praying that this half-hour be done away with and the public admitted with the carts, and selling to forthwith begin, as this petition goes on to say, that if the public are detained half an hour the Market became an absolute crowd, preventing purchasers and sellers doing anything in comfort. Something is to be said for this, at the present time there is no doubt that what was taken exception to then prevails. There is a rush of buyers on a busy morning and for a time great confusion for all concerned, the hour at present allowed is for the laying down and arranging all produce, and it may be a matter for argument which system is the best. It is very strange how often history repeats itself. During the reign of the tacks-

man, with the half-hour for collecting and when he was abolished, some of the Gardeners were fined in small sums for infringing the rule by selling as if this system still obtained. All of you will remember that this matter of selling before the proper time was quite recently brought up by the Town. Although no prosecutions took place, the enforcement seems to have been thought unworkable.

As mentioned before, grievances existed in this, what may be termed, the old Market, and it was almost inevitable that a certain amount of friction could not be absent with the various Town Officials, but one is always impressed by the strong interest shown by the various Office-bearers towards the Gardeners whom they directly represented; nothing was left undone that would conduce to their comfort, either by accomodation or the removal of irregularities. For instance in 1865 the Railway Company, without notice of any kind, fenced off a strip of the inside of Green Market, cutting off

at one fell swoop forty-five stances. This certainly caused great confusion, and naturally gave rise to an indignant protest. Another instance may be given. Those who remember the old Market know that it was in close proximity to the Fish Market at that time (in fact the Wholesale and Retail Fish Markets were held in same place, and Gardeners had to remove whether sold or not by ten o'clock), we find a strong protest made on account of Fish being put down in the Market during the hours of sale. This was very prevalent and no wonder it was a cause of continued complaint from the Gardeners. These instances are only mentioned to show that our fore-fathers had to be warring against adverse circumstances. Other instances could be multiplied, but these will suffice.

One important extract from an old record deserves quotation, dated 11th June 1839. Previous to this the Gardeners and Stall Holders assessed themselves 1d. per cart per week to pay the Superintendent of

the Market, but at this date petitioned the Corporation to be freed of this. The Corporation 'agreed that this regulation be rescinded, but that in consequence of their ceasing to pay the Officer they should no longer have control over him, but recommended that the Council appoint an efficient Officer at 12/- per week.'

It may be thought that I have dilated too much on what is past and done with long ago, and that we are mainly concerned with the present, but who does not like to read ancient history, and more especially the history of those Markets that are part and parcel of, one can truly say, our daily lives; and before I leave that old Market that was under the North Bridge, where greater discomforts and more inconveniences were 'tholed' by our forefathers, and a few, a very few, of the present generation, than were ever experienced when transplanted to what is now known as the Waverley Market. I desire to give here full credit, and to pay a first tribute to those Gardeners

who held office during those times. One cannot go through our old Minute Books and Letters without at once recognising that they were continually imbued with the desire to have everything done for the welfare of the community they represented. These men have long since passed away, let us see to it then that we do not fall behind.

I now come to the Market in which we are immediately concerned. As the development of the North British Railway Company took place, they required the ground on which the Market was held at the bridges, and after various negotiations an arrangement was come to between them and the Corporation under which the Railway Company were authorised to take the site of the Market, and on the other hand they agreed to give other ground belonging to them for a new Vegetable Market. This arrangement was confirmed by Parliament and passed in the year 1866. Six years previous to this, however, the Railway Company sought to

obtain compulsory powers to acquire this old Market space for the enlargement of their business. The Corporation opposed their bill and contended that the Company should only get this space by providing a new and equally convenient Market-place. This contention was given effect to by Parliament. Without going into all the minute details between the Corporation and the Railway Company, it is only necessary to say that in November 1865 an agreement was at last entered into that the whole site of the old Market under the bridges be given up, and in lieu thereof a new Market be substituted lying along the south side of Princes Street.

The necessary works were proceeded with, and in 1869 the new Market was completed and handed over to the Corporation and the old Market handed over to the Railway Company.

This new Market on our entry was uncovered, the floor being paved with granite setts, and with setts set up a few inches from the level for placing the cart

wheels to, the stances at that time running across the Market from North to South. It was not until the year 1878 that the present system of numbering the stances on floor of Market took place. Uncovered the Market remained from 1869 to 1874. It became evident that the convenience and comfort of the public and of the gardeners attending would be greatly increased if it were covered over. Another Act of Parliament was therefore obtained in the year 1874 entitled the 'Edinburgh Markets and Customs Act.' One clause of this Act read 'that it is expedient that powers be obtained to cover in, in a suitable manner, the said Market so as to improve it for public use,' &c.

When the change of sites took place the customs and dues exacted under Act of Parliament from Gardeners and Fruit Merchants (there is no mention at this time of Florists, seemingly they had not been born then, but they have made rapid strides since) was at the rate of Twopence each day for each stand or area. Before

the opening of the new Market, the Corporation conferred with the Committee of the Gardeners as to increase the rate of custom seeing that an improved Market had been obtained, and suggesting that the Twopence be raised to Sixpence. This was agreed to by the Gardeners at a General Meeting held on 4th March 1869, and the increased customs were voluntarily paid by all the Gardeners and merchants selling produce, (with the exception of three or four) from the year 1869 to 1874, when the Customs Act was passed giving the Corporation power to levy.

In that same 1874 Act in the 8th regulation it is stated that the stands shall be allotted by the Gardeners and other frequenters amongst themselves at such times and according to such arrangement as shall from time to time be made by them, or a committee of their number, subject to the approval or under the direction of the Markets Committee of the Town Council. So far as the

management of the allocation of stands is concerned, this has been and still is very much in the hands of the Gardeners themselves. What is termed the Markets Committee of the Town Council do not interfere with this matter, although about the year 1890 they threatened to take this subject into their own hands.

At the time of entry the whole of the ground floor was not available for stances. There were, principally on the north side under the present gallery, stalls which were rented and occupied for business as a retail Market more or less all the year round. These stalls of course were used for the sale of fruits and vegetables. In course of time this system passed away and the whole of that space occupied by these stalls was thrown in to be utilised as market stances. The circle at west end, now exclusively occupied by Florists, was taken up by an Aquarium. This was done away with previous to the year 1890, and after considerable negotiations with the then Town Council, this space was

also given in for stance-holders on condition that we gave up at east end two stances for the purpose of a Police Station. So we see that as time wore on the whole of the ground floor fell to be utilised for stances. This arrangement is of comparatively recent date.

In the year 1877 the placing of an Aquarium by the Corporation was first set on foot, and a threatened interdict to prevent any of the ground floor being taken up was not very heartily entered into by the Gardeners, only forty-five stance-holders signing the circular in favour, and consequently at a meeting held in November 1877 the matter was allowed to drop, as it was held at that time that a very reasonable exchange was being made, the stalls that I have mentioned as being under the north gallery fell more or less out of occupancy, and the Corporation were agreeable to find space for the stall-holders outside the main entrance at foot of present lane, thereby leaving the space under the north

gallery clear for stances, providing the Gardeners gave up the west end for said Aquarium. This of course was agreed to, and as I have stated previously, this Aquarium in turn fell also to be removed.

It will be interesting to my readers to state here that the area of the Market is fully one acre and a quarter. This space, compared with some of the famous Markets in Europe and other parts of our own country, is simply a speck, and I may be allowed a little digression by giving some details of other Markets. For instance, Covent Garden in London which occupies the site of a Convent Garden, the change of the letter 'n' taking place two or three hundred years ago, and in digging for the foundation a curious find was made in the shape of human bones, which clearly showed that there had been the convent burial ground. This Market has increased to three times the size it was twenty-five years ago. Ours is stationary and cannot be enlarged. Covent Garden is credited with being the most wonderful

fruit and flower Market in the world.

Another great Market may be mentioned. This is in Paris, and strange to say it also has been erected on what was a vast burial ground, so vast that half of the population of Paris was interred. In 1785 this cemetery was closed and the bones removed to the catacombs, and the vacant ground converted into a Market. This great Market is a vast structure of iron and covers an area of twenty-two acres. Some idea of the amount of business transacted in it may be gathered from the fact that fifteen thousand vehicles are employed to bring the goods, and that five hundred thousand francs per day are realised in the wholesale Market alone. Brussels, Lisbon, Amsterdam and Rome may also be mentioned as possessing famous Markets. To return, we see then that up to the year 1874 the Gardeners paid as customs Sixpence per cart for the privilege of obtaining a new Market. Still they were not content, something else was wanting.

The floor was good enough but there was no roof. This, to complete the comfort, was absolutely necessary, so overtures were made to the Corporation for the covering in of the Market, at same time offering to pay largely increased custom and also to agree to a poll-tax or entrance duty to be levied from each person.

The Corporation took the matter up after making minute enquiries into the financial aspect of the question, but, Act of Parliament must come in again, we see that not a step can be taken without consulting this all-powerful body. The result of all the negotiations, then, was that a Bill was passed, and the work of covering in the Market was thereafter carried out. I need hardly mention that the increased custom then agreed upon was 1/- per cart, and 2/- per lorry on entry, and the institution of the penny poll-tax. It is of note to quote here that after the Market had been, one may say, fully completed by its being covered in, the Corporation wished a certain bye-

law inserted among the others to the effect that 'The Market house shall be 'used for such purposes other than Market 'purposes for such time and on such 'conditions as to admission or otherwise 'as shall from time to time be determined 'by the Magistrates and Council.' The Gardeners naturally opposed this attempt to obtain such extreme power, and this proposed bye-law was dropped. One can easily see that if this bye-law had been confirmed by the Sheriff we had not a leg to stand on, and would have been at the complete mercy of the Corporation. I have avoided going into figures so far, but may mention that the cost of covering in the Market was £30,834, the Corporation advanced a certain sum, the rest was borrowed on mortgage by them. At that time a considerable source of revenue was derived from the institution of the penny poll-tax; and the increased custom paid by the Gardeners as well as from Market entertainments, which has greatly increased with the march of years,

so much so, that the Gardeners thought they were justified in asking for a reduction of the dues. This was set in motion and given effect to by the Corporation on 10th January 1899, to come in force the August following.

I am afraid that I may be wearying my readers, and must prepare for the beginning of the end, and, like the lady's postscript, it will prove to be the most interesting, at least so far as time has gone.

It is rather curious to note that the Vegetable Markets, or as they were termed Green Markets in olden times, have more or less been selected as suitable sites by entertainers for Shows, Menageries, &c., and although we do not have exactly Menageries, still, we are sometimes not far removed. We have more or less, year in year out, history repeating itself, and it appears as if the Gardeners will be always fated to be subject to every wind that blows when a large Hall is required for entertainments on a large scale. The

old Market under the Bridges was used by various Menagerie Managers, and when we removed to the New Market we were followed by them there, as also Flower Shows, Christmas Club Shows, Bicycle Tournaments and Dog Shows. All these are familiar to most of us, and the space was granted by the Corporation to these entertainers, and the Gardeners without being consulted had to accommodate themselves as best they could, although not exactly excluded from the Market House.

The well-known phrase, 'even a worm will turn,' was exemplified in the memorable year, for us, April 1882; when the Corporation granted the whole of the Market for the purpose of holding a Fishery Exhibition. In consequence of which the Gardeners were obliged to stand on the Waverley Bridge and contiguous to for three weeks, namely from the 7th to 30th April. The crisis had come at last, and perhaps it is as well it did come, for no doubt it cleared

the air, as it were, and made our position stronger than ever it had been. The Corporation maintained that it was within their power, considering such a National Exhibition, while the Gardeners insisted that they had an absolute right to use the Market during market days and hours. The Corporation contended that the Market area included Waverley Bridge and adjoining Streets, and that they were quite within their right.

No other course was open but that it meant a fight in the Law Courts, and which course was almost unanimously agreed to. Our late esteemed President, Mr John Blackie, backed by a strong Committee at that time, and eagerly supported by the rank and file, set the machinery of the law to work.

It is a longish story, and would weary you to go into all the minute details, because it was well and hardly fought. It will be sufficient for me to say that we won very nearly all along the line. The first shot went against us, namely, by

the Lord Ordinary, Lord Fraser at that time. He held that no case had been made out by us for the interdict sought. Our second attack was better, we reclaimed to the First Division of the Court of Session, under Lords Shand, Mure, Deas and the Lord President, with the result that our cause was upheld by all with the exception of Lord Deas. But we were not done yet. The Corporation in its seeming powerfulness could not rest under this castigation, and they carried the matter to the Highest Tribunal of the land, the House of Lords.

We were now on our defence, and to our honour be it said, we rose to the occasion and routed the enemy. To do ourselves full justice, and in order to show that we did not desire to come into severe conflict with the Corporation, it is in this sketch absolutely necessary to state the steps we took to avoid a conflict.

Before ever the case entered the law courts, the Gardeners desired to come to an arrangement which would prevent

the establishment of such a precedent. The Corporation, however, held that they were entitled to let the Market at their pleasure without consulting the stance-holders, and on eminent counsel being consulted, they gave it as their opinion that the Corporation were wrong.

The Gardeners' Committee even at that time agreed to recommend that at great sacrifice to themselves they go outside, providing that the Town Council simply ask that they do so. This very reasonable proposal was not fallen in with, and at a General Meeting of the Gardeners held shortly after, it was unanimously resolved to present a Note of Suspension and Interdict. The Corporation took alarm and the Lord Provost's Committee invited a small deputation from the Gardeners' Committee to consider the question. It has to be admitted that the Gardeners were placed in rather an awkward position, as the success of the Fishery Exhibition was endangered, and the Gardeners in no

way desired to have the name of this, and again they had their own future position to consider. Even at the eleventh hour they would have vacated the Market willingly if the Corporation had simply had the grace to ask. This they would not do.

Meanwhile a certain agreement was come to, and to make the subject totally clear, will be as brief as possible. The agreement was as follows:—

‘ The Gardeners to vacate the Market,
 ‘ covered sheds to be erected by Council
 ‘ on bridge as a temporary Market-place,
 ‘ (Gardeners ultimately did not desire
 ‘ this) Interdict be not proceeded with,
 ‘ and that the questions raised be
 ‘ settled by the Court of Session in
 ‘ what may be termed a friendly way.’

The Court of Session settled this, and it was a distinct breach of agreement by the Corporation taking the matter to the House of Lords. This was protested against by the Gardeners in the form of a Memorial.

The result I have already given you, and we now know its importance to us. Litigation, as is well known, is slow and three years elapsed before the matter was settled. It established a right that we cannot be put out of said Market arbitrarily. We can go out of our own free will, and have done so in cases of important public functions. But the Gardeners were generous in the hour of victory, and for the information of present-day Gardeners and others, I will quote (and consider that it is very important) a clause of a Minute of the Gardeners' Committee held 20th March 1886, under the secretaryship of the late Mr Thomas Stobie.

' The chairman then reported to the
' Meeting the decision of the House of
' Lords in regard to the late law case
' and congratulated the Committee on
' their success. After a good deal of
' discussion, it was agreed to grant the
' use of the Market on special occasions
' for special objects, and the Committee

‘ would recommend to the Market
 ‘ Gardeners and other frequenters that
 ‘ they, the Committee, obtain power to
 ‘ do so.’

Your Committees in recent times have acted on this, and in a certain degree are committed to what has been done by former Committees.

In 1890 another attempt was made to wrest the Market from the Gardeners by the Railway Companies, North British and Caledonian—the former for the purpose of enlarging and improving the Waverley Passenger and Goods Station, the latter to acquire it compulsorily for the site of a station in their scheme for tunnelling Princes Street. The Gardeners were again put on the alert by these actions. This time they had the Corporation on their side. In the end, both schemes fell through and the Market was preserved. The opposing of these two Bills before Parliament cost the Town £5000 and the Gardeners £250.

This then is our position up to

present times, and I do not think I can go much further, but I cannot close without some little comment. It is sad to think that out of the 102 Gardeners and stance-holders who upheld the cause at that time fully 60 have passed away. In going over the list, one cannot but come across names that have held a high place in our Market and in their business. It is inevitable that in the march of time men will be called away, and there were many that could be called stalwarts, and names to conjure with, who ever had the interests of the body they represented at heart. Let us, their successors, see to it then that we may be imbued with the same spirit, and that there prevail not a too selfish disposition, but that we always try to impart a lively interest to what is good for the community among which we are directly placed.

And now to conclude. I have endeavoured to place before you a few facts that may not be generally known among us, and have also avoided, as far

as possible, points of controversy, names of individuals with whom we were naturally brought into contact, so that nothing in this little history may cause offence.

This little work could have been greatly enlarged had I gone over minutely the various correspondence that referred to matters which were continually arising between the various Committees, and also other business that arose relative to the welfare or otherwise of our Association; but I only wished to lay before you a sketch of the various Markets our forefathers have passed through, and, more minutely, the leading features of the one we now enjoy.

It can easily be imagined that during this great law case a vast amount of evidence was led on both sides relating to the particular circumstances attending the disturbance of occupancy of the old Markets, &c. Of course all these details could not very well be given in a summary such as this. There was a good deal done in the two Courts of Session, and

it is certainly interesting to read the various opinions of the judges belonging to these Courts, but the climax is not reached until we have the final opinion of the House of Lords, and for the benefit of those who are interested in this it has been thought necessary to add their final judgment after four days' hearing on the subject. Their Lordships being the Lord Chancellor, Lord Halsbury, Lord Watson and Lord Fitzgerald.

APPENDIX.

SCOTTISH APPEAL.

(*Fourth Day.*)

THE LORD PROVOST, MAGISTRATES AND
COUNCIL OF EDINBURGH. *v.* JOHN
BLACKIE AND OTHERS.

(Before the Lord Chancellor, Lord Halsbury,
Lord Watson and Lord Fitzgerald.)

HOUSE OF LORDS, Thursday. — Their Lordships gave judgment in this appeal to-day, which, as previously stated, arose out of an application on the part of the market-gardeners to have it decided that the Corporation of Edinburgh had not the power to exclude them from the covered portion of the Waverley Market during market days and market hours. A majority of the Judges in the Court below decided in favour of the gardeners, although admitting that the Corporation might have the power to exclude the gardeners from the market during market days and market hours, provided it was not for such a period as to cause material inconvenience.

The LORD CHANCELLOR, who delivered the leading judgment, said some questions appeared to have been raised which had weight in the mind of one of the Judges in the Court below as to the competency of such an action as this. That matter was not seriously contested, and he thought it was clear that the decision of their Lordships, though in a former action, completely covered a case such as this, and established that it was competent for those who had

been in the use of a right to bring an action when that right was interfered with, and to obtain a declaration establishing the right for which they contended; therefore, if the allegations in the summons were made out, he thought there could be no question that this action well lay. Their Lordships had therefore to consider whether the allegations in the summons had been established. From a very early period the Corporation of Edinburgh enjoyed the rights of market in various streets for the sale of various commodities—amongst others, that of fruit and vegetables. So it remained down to 1840. In that year an Act was passed for the abolition of petty customs, which, for the first time, limited and regulated the changes that might be made by the Corporation for the use of the market-place by those who frequented it. This condition of things continued till 1860, but between that year and 1866 various statutes were passed, and an agreement was entered into having reference to the taking by the North British Railway for the purpose of their railway certain portions of the market area. In the view which he took it was unnecessary to go in detail into the effect of these statutes or the agreement, beyond stating generally that the Railway Company, in respect of their taking a portion of the market area for the purpose of the railway, were bound to substitute in the place of what they took a market area, and to construct—so far, at all events, as the previous market area had been matter of construction—a substitute for that which they took. He preferred to base his judgment exclusively, however, on the statute of 1874, and on what he thought

to be the true construction of that statute. For that purpose it was necessary to see what was the state of things existing at the time that statute was passed. It was necessary to examine the language of the statute of 1874 and see whether it did not change the position of affairs and create in the Corporation duties and obligations in respect of the market-place which had not existed down to that date. The Act of 1874 recited in the preamble that "the Corporation of Edinburgh possess a fruit and vegetable market-place, situated in the parish of St Andrews and City and Royal Burgh of Edinburgh, and it is expedient that powers shall be acquired to cover, in a suitable and convenient manner, the said market-place, and to improve and better adapt the same for public use and for the accommodation of parties using the same, and to acquire compulsorily any rights of property, privileges, or servitudes which would interfere with the said objects." He entertained no doubt that the words "market-place" in the statute meant that enclosed space, and not the entire market area within the area in which it was lawful to hold a market. By section 8 it was enacted that "the Corporation may cover in, in a suitable and convenient manner, the fruit and vegetable market-place, and improve and better adapt the same for the purposes of such market and for the accommodation of parties using the same and of the public, and may make such internal and other arrangements in regard to stands, stalls, and shops as to them may seem suitable, provided always that the ground floor only of such market-place shall be used for such fruit and vegetable market, and that all vacant portions of such

market-place, whether on the ground floor or above the same, and all vacant and unlet stands, stalls, or shops in or on such market-place may be let or used by the Corporation for such purposes and for such rents or rates as to them shall seem proper." Then, again, later on a poll-tax was, for the first time, created on every person entering the market, even though they did so for the purpose of purchase and not for sale. There again, he thought it would be difficult to contend that the "market-place" was used in any other than the sense he had suggested. Those circumstances, he could not but think, threw light upon the construction to be put upon section 8, and when the latter part of that section was considered, he thought it was intended to point to a distinction between the covered-in area and that portion of the ground floor required for the purpose of a market-place during market hours, and the rest of the area and even that area itself in other than market hours. According to the contention of the appellants it was open to the Corporation, after the enactment passed to allocate to sellers of fruits and vegetables in any part of the market area as before. The argument of the Solicitor-General for Scotland went that length, and he thought that view was perfectly logical, because he (the Lord Chancellor) saw great difficulty in any construction of the section which would meet the views of the appellants and yet fall short of that contention; but he thought, when the terms of the enactment and the circumstances of this additional tax were taken into consideration, it was impossible to come to the conclusion that the Corporation was intended to have the power to

allocate to any part of the market area the sellers of fruit and vegetables, and thus to exclude them from the market-place, in respect of which higher charges were, from time to time, to be made for them, and in respect to which a poll-tax was created, to which all entering the market-place were liable. No doubt, under this section large powers of discretion were reposed in the Corporation as regarded all parts of this building which were not on the ground floor and the vacant parts of the ground floor, by which he understood the parts not used or needed. The discretion of the Corporation, as to its use, was absolute so far as regards even the market-place, except in market hours. He thought the discretion given was absolute, but when he came to consider that portion of the area required for the market during market hours and market days, then he did not think that the Corporation had discretion to divert that part of the building to uses during market hours other than the market uses, however beneficial they might consider these uses to be in the interests of the public. It appeared to him, therefore, that subsequent to the passing of the statute the public had rights different from the rights which existed before, just in the same way as they were subject, in the use of the market, to burdens to which they were not subjected before. Putting that construction upon the statute which he had expressed to their Lordships it followed that, in his view, the respondents in this case were entitled to maintain this action of declarator, and were entitled to the interdict which they claimed. It was contended that the construction of section 8 was to be in some respect limited by

the provisions of section 26, which provided that "nothing in this Act contained shall affect the right and power of the Corporation to fix, alter, and regulate the markets and market-places, and to establish additional markets." The section referred mainly to the Act of 1840. By the 21st section of that Act it was provided that "it shall, or may, be lawful for the Lord Provost and the Town Council to fix certain boundaries and limits to the existing market-places, as they shall find the same to be necessary, to enlarge market and market-places, to change the place of any existing market and substitute another market instead." Then, by the 22nd section, power was given to make regulations for the better government of the different markets. Giving full effect to that section, and conceding that all the powers which were defined in section 21, or following sections, of the Act of 1840 were kept in full force by section 26, it did not appear to him, any way, to affect or control the plain construction of section 8 of the Act 1874, to which he had already called attention. The interlocutor of the learned Lords in the Court below was prefaced by certain considerations which, perhaps, were not strictly a part of the determination of the case, but were rather the considerations or views which had led to that determination. Amongst these was the feeling that it was within the power of discretion of the appellants to allow the said covered-in market-place or house, including the ground floor, to be used for the purpose of public interest or utility at such times as the same were not required for the purposes of the market, and even to allow such use on market days, and

during the ordinary market hours, on special occasions, for such length of time as may not cause material or serious inconvenience to the pursuers and other persons frequenting the same, always providing on such occasions temporary accommodation suitable to the circumstances as a substitute for such covered market or house." The appellants had contended that, inasmuch as that allowed to the Corporation a certain discretion to exclude from the use of the market house during market hours, that the matter was one entirely of discretion, and that there was no abuse of discretion in the exclusion, during the period complained of, in this case. No objection appeared to have been taken on the part of the respondents to that limitation of the rights of the public or to the declaration of the rights of the Corporation contained in that view, and there was no cross appeal in respect to it. Therefore it was not necessary to express any view upon that part of the interlocutor. There was no cross appeal to make any alteration in the terms of the interlocutor. The final declaratory part of the interlocutor was in the following terms, in which he thought their Lordships would agree—"That it is beyond the powers and discretion of the defenders to exclude the pursuers and other members of the public from the use of the said markets or house for so long a period as three weeks continuously, assigning only unenclosed ground on part of the public streets, in the neighbourhood of the said covered-in market place, or house, as the site or place for holding the ordinary public fruit and vegetable market." Therefore, when they came to the actual finding it appeared to be in terms to which

no exception could be taken. As no appeal had been taken by the plaintiffs against that part of the interlocutor, he did not think the rights of the public could be in any way affected by their Lordships simply affirming the interlocutor of the Court below. On the whole, he had come to the conclusion that the judgment of the Court below was substantially correct, and he moved that it be affirmed, and that the appeal be dismissed with costs.

Lord WATSON said the argument put forward on behalf of the appellants was that notwithstanding the provisions of the Act of 1874, the Corporation possessed the same powers as under the original charters to change and alter the site of the market places, but a decision on that question did not affect the present case. Under the Act of 1874 the Corporation got a statutory right of rating which they did not formerly possess, and it appeared to him to be matter of reasonable implication that the statutory power of rating involved a corresponding right on the part of the respondents to have and enjoy, during market hours, the benefit of the improvements made in terms of the Act. He could find nothing in the Act to warrant any other inference. He did not think it was within the power or the discretion of the appellants to exclude the respondents and other frequenters of the market from the ground floor of the market house, and in lieu thereof, to assign them some part of the surrounding streets. He therefore agreed with the majority of the Judges of the First Division in thinking that the exclusion of the respondents for three successive weeks constituted a substantial infringement of their right. He did not

doubt that the appellants acted in the belief that they had the power to exclude the respondents, and that they were stimulated by a desire to improve one of the great national industries, but the importance of the object they had in view had no relevancy to the present case. The Act of 1874 provided that the primary use of the ground floor was to be for the exclusive purpose of a fruit and vegetable market, and no interference with the primary use could be justified on the ground of expediency. That being his view, he felt bound to express his dissent from the second part of the interlocutor of the Court below, which affirmed the discretion of the appellants "to allow the use of the area in question for the purpose of further use and utility on market days, and during ordinary market hours, for such a length of time as should not cause material and serious inconvenience." In his opinion, the appellants had no such power which could be justly described as discretionary. They had no power to exclude the public from the use of the market during ordinary market hours, and whatever amounted to such an exclusion was an invasion of the public right, and the right of a member of the public to participate in that use would not in any degree depend upon his ability to prove that his exclusion would cause him material and serious inconvenience. As there was no cross appeal, it was unnecessary that their Lordships should give a judicial opinion upon that part of the interlocutor. Therefore, the only course open was to affirm the interlocutor; but their affirmance of that part on which there had been no cross appeal could not be held as constituting a *res judica* on the part of any

member of the public who was not a party to this application.

Lord FITZGERALD and Lord HALSBURY concurred.
The appeal was dismissed with costs.

Counsel for the Appellants—The Lord Advocate and the Solicitor General. Agents—Mr White Millar, S.S.C., Edinburgh, and Mr John Graham, Westminster.

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