

File No. 5357 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, October 8, 1906.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

3848 As requested by your favor of October 3rd, I have considered the right of the Maryland Telephone and Telegraph Company to consolidate with the Baltimore Electric Power Company, in view of the provisions of Ordinance No. 76, approved May 11, 1904.

The Maryland Telephone and Telegraph Company has received from the Legislature the grant of the right to use the streets of Baltimore City for conducting the electric light and power business.

See Acts 1892, Ch. 467
Acts 1900, Ch. 227
Brown vs. Md. Telephone Co. 101 Md. 574.

3849 By Ordinance No. 76, approved May 11, 1904, the City conferred authority upon the company to use the streets for the electric light, heat and power business. Section 5 of this ordinance provides as follows:

"That among the other terms and conditions to which the grant hereby made is to be subject is the condition that the grantee shall not consolidate with any other corporation engaged in the electric light, heat or power business in Baltimore City".

In order to conduct the electric light business, it was necessary for the Maryland Company to construct a plant and power house. The Maryland Company had, however, two mortgages outstanding, and could not borrow the money with which to build its electric light plant upon a

3850 incorporated by interests allied with the Maryland Company on October 5, 1904. This company was formed under the general law, with power to conduct an electrical business, to hold property in connection therewith, etc. It was expressly provided in the charter that the company's powers were subject to Code 1888, Article 23, Sections 111 and 254 (now Code 1904, Article 23, Sections 143 and 366).

By virtue of the sections last named, the Baltimore Electric Company, like all other similar corporations formed under the general law, is prohibited from using the streets of the City for the electrical business without first obtaining a special grant from the Legislature, and also the assent of the City.