

File No. 39654 Continued.

In the absence of legislation limiting the exercise of franchises once granted the law seems to be well settled that annexation of a territory does not invalidate franchises secured from existing governmental authority prior to the annexation. That principle is upheld by the following authorities:

"If the franchise be granted by the authorities of the municipality, the annexation of the territory in which the franchise is to operate to another municipality, or a change in the form of government of the municipality, does not change the rights of the grantee of the franchise."

Dillon Municipal Corporations, 3rd Volume, P. 2143.

"A valid license granted by a village is not lost by its annexation to a City."

28 Cyc. Page 884, Note 85.

"Such a grant (the right to use the highways for a public purpose, telephone poles, etc.) is one of the property rights in perpetuity unless limited in duration by the grant itself or by a limitation imposed by the general law of the State or by the corporate powers of the municipality."

Owensboro vs. Cumberland Telephone Co., 230 U. S. 58.

The provision in Section 6, Chapter 161 of the Act of 1896, requiring the consent of the County Commissioners of Baltimore County before the Mt. Washington Company could exercise its franchises was clearly a governmental or municipal function within the meaning of the Annexation Act. This governmental or municipal function was exercised by the County Commissioners in the agreement of July 18, 1900, and consequently, I am of opinion, subject to the powers of the City hereinafter expressed, that the Gas Company has the authority covered by the agreement which may now be in Baltimore City. Having ruled that the Company has the power to exercise its franchise, I will now express my opinion as to the rights of the City if the franchise is exercised.

The Company proposes at this time to lay cables or wires, not conduits, under the surface of the streets. It is clear by the provision of paragraph M, Sub-section 26 of Section 6 of Article 4, that if these cables or wires are laid by the Company without conduits and the City should, in the future, determine to enter the territory with conduits, it can require the Gas Company to install its cables in the City's conduits. The purpose of this Charter provision is to establish a