

File No. 36404 Continued.

by the Legislature; or was it to be considered in the light of a contract between the State and the Railroad Company, and as such, within the protection of the Federal Constitution, Article 1, Section 10. Without quoting at length the reason of the Court for its finding, suffice it to say that its conclusion was "that the Act of 1878 was not ultra vires, but was within the power of the State to adopt; that when adopted, assented to and acted upon by the Railroad Company * * * * it became an irrevocable contract * * * * and contains all the elements requisite to bringing it within the protection of the Constitution of the United States, Article 1, Section 10". That case exhausted the subject to the year 1916.

CONCLUSION

It remains for me to express an opinion whether the Company, since the decision of this case, has enjoyed or availed itself of "any right, privilege or advantage heretofore granted or conferred by any general or special law", thereby surrendering its exemption. The Court of Appeals has already held that ordinances of the Mayor and City Council of Baltimore granting rights as outlined above, are not within the meaning of the Constitution, and that decision serves, to some extent at least, as a guide in determining what is a "right, privilege or advantage" which must be enjoyed or availed of by the Company in order to work a surrender.

I have examined the Acts, general and special, (legislative as well as municipal), wherein the Railroad Company is involved, and I can find none which would not, in my opinion, fall within the examples used by the Court in the case in 127 Md., and held wholly insufficient, under the Constitutional Amendment of 1891, to create a conclusive presumption of a surrender by the Company of its exemption from taxation.

I must, therefore, go back to the case of State vs. Railroad Company, in 48 Md., and there find the limit of the City's authority, and beyond which it cannot go, to assess real and personal property and securities of the Railroad Company.

That decision declares exempt "such buildings and works