THE LIMITATIONS OF THE POWER OF A STATE UNDER A RESERVED RIGHT TO AMEND OR REPEAL CHARTERS OF INCORPORATION.

(Continued from page III.)

III. THE CORPORATION AND THIRD PERSONS.

Contracts entered into between corporations and third persons have not given rise to as much confusion and to as many questionable judicial decisions as the contracts of corporators inter se. This is because such contracts are not embodied in the charters over which the states have reserved the power of amendment or repeal, and there is therefore no seeming identity of these contracts with the corporate charters. Two propositions have been advanced by the courts with general uniformity:

First: The mere fact that the state has reserved the right to revoke or alter a charter of incorporation granted by it gives to it no direct power to alter or impair the contracts entered into between the corporation and third persons.

Second: A corporation which is subject to the reserved power of the state cannot limit the exercise of that power
by entering into contracts with third persons. If the state, where no such contract exist, can enact changes in the corporate charter, it can enforce such changes notwithstanding the fact that it may thereby indirectly be impairing the obligation of such contracts.

The result of the combination of these two propositions is simply that the state can exercise no greater and no less power over corporations because of the existence of outstanding corporate contracts. These contracts are themselves beyond the power of the state to impair, unless it be as an indirect and remote consequence of the state's revocation or amendment of the charter of the corporation in accordance with the power which it had reserved for that purpose.

Let us suppose, by way of illustration, that a state passes an act providing that the fact that an insured person committed suicide shall not constitute a defence to an action on his policy of life insurance, unless suicide was contemplated by the insured at the time of the application for his policy. Under this law an insurance company issues a policy. Subsequently the act of the state is repealed. Can such a repeal be held valid as regards the policy previously issued? If there was no reserved power to give to the state control of the charter of the insurance company, it is clear that such a repeal would effect an impairment of the obligation of the contract entered into between the policy-holder and the company. Would the law be otherwise had such a reserved power existed? Evidently not, for such power could not be construed to give to the state rights which it would not otherwise have possessed over an independent contract.

In Ashuclot R. R. Co. v. Elliot, 58 N. H. 451 (1878), a railroad company was incorporated by the state of New Hampshire in the year 1846, subject to the reserved power of the state to annul or amend its charter. In 1851 it executed a mortgage upon its corporeal property and franchises. Subsequently the legislature of the state passed two acts: one enacting that if this mortgage was not paid

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within a year the mortgagees should succeed to all of the rights of the company, and the other providing that the mortgagees should have the right, upon four weeks' notice being given, to sell the road. The court, per Chief-Justice Doe, held that these acts were unconstitutional and void, because they arbitrarily deprived the railroad company of a property right not granted to it by the state—namely, its equity of redemption in the mortgaged property. What these acts attempted, in addition to the fatal objection to their validity pointed out by the court, was to alter the mortgage contract existing between the company and the mortgagees, and also for this reason the legislation in the case would have been an unjustifiable exercise of the reserved power of the state.

In Bank of the Old Dominion v. McVeigh, 20 Gratt. (Va.) 457 (1871), the question before the court was the constitutionality of an act of the state of Virginia, which authorized anyone indebted to a branch bank of the state situated within the Union lines to pay his debt to the parent bank if the latter was located within the Confederate lines, and vice versa. The purpose of the act, and what it would have accomplished had its validity been sustained, was to enable debts owed to the banks to be paid in depreciated Confederate money. The charter of the bank concerned in the case in question was subject to the reserved power; nevertheless, the court held that the act was void, since it effected an impairment of the obligation of the contract between the banks and their debtors. "It is undoubtedly true," said the court, "that it is in the power of the legislature, under its reserved rights, to alter or amend the charters of banking institutions, or to take them away altogether. But it does not follow that in doing this it may interfere with and abrogate contracts lawfully made under such charters, or disturb rights already legally vested under them in the course of their legitimate business. The legislature did deserve the right to modify and amend the charter of the Bank of the Old Dominion, but it did not and could not reserve the right to alter contracts made under the old charter. All contracts made in pursuance of its charter are
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to be construed with reference to the charter in force at the time they were made. The charter may be changed, but the contracts made under that charter cannot be altered by the legislature."

The soundness of these decisions is beyond doubt, and, so far as known, there has been no judicial departure from the principles which they establish. There are some cases in the books which seem to advocate contrary doctrines, but it is believed that these can all be explained upon other grounds. In some of them the decision proceeds upon the theory that the contract, the impairment of the obligation of which is objected to, did not in fact exist, or else was not as far-reaching in its terms as claimed. In others the
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changes in the contract wrought by the state's amendatory act did not impair its obligation and were such changes as would have been permissible even if no power had been reserved by the state to alter or repeal the charter of the corporation which had entered into the contract.98

Although the trend of authority is thus, very properly, against the allowance to the states of power to alter or impair existing contracts of corporations with third persons under the guise of an exercise of the power to amend the

no contract of subscription had yet been entered into between the company and the qualified county authorities. In State of Maine v. Bohentier, 96 Me. 257 (1902), the defendant had obtained from a medical society a license to practise medicine within the state, the society having been empowered by the state (subject to the reserved power) to grant such licenses. A later act of the legislature, under pain of criminal penalty for disobedience, required all persons to be registered by the State Board of Registration of Medicine and Surgery. The act was held valid, and the defendant, who had failed or refused to register, was convicted under it. If there can be said to have been any contract still existing between the defendant and the society, it did not provide, as, indeed, it could not have provided, against the imposition by the state of additional qualifications for the practice of medicine; it was made subject by implication to the exercise of the police power of the state, and was therefore not impaired by subsequent legislation of that nature. Otherwise than as an exercise of the police power the legislation would, it is believed, have been invalid so far as it purported to be applicable to previous licensees of the society.

Thus the legislation in the Sinking Fund Cases, 99 U. S. 700 (1888), provided for the establishment by the railroad company of a fund from which to meet its obligations as they matured; this might be justified as merely strengthening and increasing the effectiveness of the contractual obligation between the company and its creditors. So also a creditor may be deprived of a particular remedy for the recovery of his claim, without impairing the obligation of the contract with his debtor, provided that other substantial remedies are left to him. Accordingly the right of attachment as process for starting suit may lawfully be abrogated by the legislature, even though it affect contracts between a corporation and its creditors. Read v. Frankfort Bank, 23 Me. 318 (1843); Bowker v. Hill, 60 Me. 172 (1872). These two cases, however, are of doubtful authority in deciding that such legislation would be valid as to existing attachment liens, which they hold may be dissolved by act of the legislature. This would seem to be the deprivation of a vested property right. Another example of the operation of this same principle is to be found in Robinson v. Gardner, 18 Gratt. (Va.) 509 (1868), where an act of the legislature forbade banks, in making assignments, to create priorities among their creditors. The banks had formerly had that right; but no particular creditor could complain of its abolition because he would have no vested right to the mere chance of obtaining a preference, even if the bank afterwards signified a desire to prefer him; and his contract with the bank cannot be said, therefore, to have been impaired by a law establishing a pro rata distribution of assets among creditors.
charters of such corporations, yet the one limitation upon this general proposition must carefully be remembered—namely, that the state can make any alterations in the charters of corporations which it could otherwise have made under its reserved power, notwithstanding the fact that the corporation may meanwhile have entered into contracts the obligation of which indirectly will be impaired by such amendatory act of the state. If the state has reserved the right to revoke the franchises of the corporation, it may do so, however dire may be the effect of such revocation upon the existing liabilities of the corporation. If the state has granted to the corporation an exemption from state taxation, and the charter of the corporation is subject to the reserved power, the state may, in exercising that power, recall such exemption or other special privileges granted, and thus in various respects increase the burdens of the corporation, although the result of such action may be the inability of the company to pay its outstanding indebtedness. If the state has the reserved right to regulate the tolls and charges of a railroad or other quasi-public corporation, it may employ such power ad libitum, so far as the possibility of any effective objections on the part of creditors is concerned. The corporation has an existence,
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rights, franchises, and privileges which are subject to revocation or change, and it cannot assure to one contracting with it any greater permanency in these rights than it can claim for itself as against the state. It occupies a position analogous to that of a tenant at will, and just as such a tenant cannot mortgage his estate for a greater interest than he himself has therein, so a corporation cannot, by entering into contracts with third persons, secure for itself any additional immunity from the exercise by the state of its reserved power. A person dealing with a corporation knows, or should know, of the precarious tenure of the existence and privileges of the corporation with which he is contracting, and therefore he enters into such contract with his eyes open, and must abide by the consequences of any subsequent legislation of the state which is justified by the reserved power.

"Persons making contracts with a private corporation know that the legislature, even without the assent of the corporation, may amend, alter, or modify their charters in all cases where the power to do so is reserved in the charter or in any general antecedent law in operation at the time the charter was granted. . . . Such contracts made between individuals and the corporation do not vary or in any manner change or modify the relation between the state and the corporation in respect to the right of the state to alter, modify, or amend such a charter, as the power to pass such laws depends upon . . . some reservation made at the time, as evidenced by some pre-existing general law or by an express provision incorporated into the charter. . . . It is a mistake to suppose that the existence of such a contract between the corporation and an individual would inhibit the legislature from altering, modifying, or amending the charter of the corporation by virtue of a right reserved to that

property, it should not, in common honesty, be so used as to destroy or essentially impair the value of mortgages and other obligations executed under express authority of the state. The reserved power has not generally been supposed to authorize the legislature to revoke the contracts of the corporation with third persons, or to impair any vested rights acquired under them." Dissenting Opinion of Mr. Justice Field in re Stone v. Wisconsin, 94 U. S. 18 (1876).
effect . . . if, in view of all the circumstances, the legislature should see fit to exercise that power.”

"It (the reserved power) became, by operation of law, a part of every contract or mortgage made by the company. . . . The share and bondholders took their stock or their securities subject to this paramount condition, and of which they, in law, had notice. If the corporation, by making a contract or deed of trust on its property, could clothe its creditors with an absolute, unchangeable right, it would enable the corporation, by its own act, to abrogate one of the provisions of the fundamental law of the state.”

"Nor is the right of the state so to amend or modify the charter abridged or in any manner affected by executory contracts entered into by the company with third persons before the amending act was passed. The Macon Construction Company in dealing with the railroad company was bound to take notice of the general law of the state, under which the right and power were reserved which have been exercised. . . . A corporation in the possession of franchises held at the will of the state cannot hinder the resumption or modification of those franchises by entering into executory contracts with third persons. Nor can that effect be wrought by like contracts between the parties immediately contracting with the corporation and sub-contractors under them. On no contract whatsoever does the amendment now in question have any direct effect. Its only effect upon contracts is incidental, and if they cannot be performed consistently with the alteration in the charter made by the amending statute, their performance, in so far as thus hindered or obstructed, will be excused, the rule of law being that performance of contracts when rendered impossible by act of law stands excused. . . . In so far as this or any other executory contract has been rendered less valuable or profitable to the parties concerned by the legislation in question, that is a consequence which should have been foreseen as possible and which must be accepted by the parties as an incident of the exercise by the legislature of its rightful

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102 Pennsylvania College Cases. 13 Wall. 190 (1871).
103 Pick v. Chicago and Northeastern Railway Co., 94 U. S. 164 (1890).
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legislative power. Surely it cannot rationally be contended that because the alteration of charters with respect to the latitude of the franchises granted may or does operate unfavorably upon executory contracts made by or under the corporations, the charters must remain unaltered in this respect and the reserved power in the legislature be reduced to a power in name only."

When it is said that persons dealing with a corporation do so with actual or constructive knowledge of the reserved power of the state over the charter of the corporation, it must at the same time be borne in mind that this means nothing more than the knowledge of such power as properly can be exercised by the state over the corporations which it has created. The existence, franchises, exemptions, and privileges of the corporation are held by it at the will of the state, and creditors must anticipate the possibility of their revocation. But as the state cannot, under the reserved power, declare a confiscation of the property of the corporation, it is not required of third persons contracting with the corporation that they take the possibility of such future action by the state into their consideration. The state cannot, under the reserved power, limit or regulate the power of the corporation to contract, to any greater extent than such limitation or regulation would be justified as an exercise of the police power in the case of natural persons; therefore one dealing with the corporation need not consider the likelihood of such legislation. For this reason it is believed that the decision rendered by the Federal Supreme Court in the case of the United States v. Union Pacific Railway, 160 U. S. 1 (1895), is open to criticism—at least in the broad language in which the opinion is couched. The facts of the case were that by two successive acts, each of which was made subject to the reserved power, Congress subsidized the Union Pacific Railroad Company, and required it and its allied companies to operate their railroads and telegraph systems for all purposes of travel and communication as continuous lines, without any discrimination

against one another or against third persons. Subsequently the Union Pacific Company entered into an agreement with the Western Union Telegraph Company, whereby the latter was given absolute control of all telegraphic business on the route of the railroad company. Congress thereupon passed an act requiring all railroad companies which had been subsidized by the government, and required in their acts of incorporation to construct and operate telegraph lines, to operate such lines by their own agents; and the act further directed the Attorney-General to institute proceedings to annul and vacate all ultra vires contracts which had been entered into by these railroad companies with other persons or companies. The government accordingly attempted to annul the aforesaid contract between the Union Pacific Company and the Western Union Telegraph Company, and the Supreme Court sustained the government's contention and declared this contract null and void. The court argued that the railroad company had never had the right, under its original act of incorporation, to make such a contract, and, if that be so, the decision reached is unobjectionable. But the court proceeds in its opinion to state that even if the contract was valid when made, Congress could, under its reserved power, require the railroad company itself to exercise its telegraphic franchises, and could thus nullify its pre-existing contract with the Western Union Company. "It is of no consequence that such legislation may defeat the purpose contemplated by the parties, . . . for they contracted and could only have contracted, in view of the possible exercise by Congress of the power expressly reserved by it. . . . We have, therefore, considered the question before us just as if a contract or arrangement between the railroad and a telegraph company for the construction by the latter of a telegraph line on the route of the former expressly recited the provision of the Act of 1862, by which Congress reserved the power, to be exerted at any time, to add to, amend, or repeal the act which authorized such contract or arrangement." Assuming, as the court did assume, that Congress would not have been able to impair the contract had there been in the act of incorporation no
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reservation of the power of amendment or repeal, the case seems to err in its statement, not so much of the doctrines governing the power of a state over contracts between corporations and third persons, as of the amount of control which Congress could exercise over the corporation itself. It is true that whatever power was possessed by the government to legislate with reference to the charter of the Union Pacific Company could be exercised by it notwithstanding the existence of contracts meanwhile entered into between the company and other companies or persons. But the question is, what rights did Congress have over the railroad company? It could repeal its franchises, and had it done this the telegraph company could not have been heard to complain that its contract with the Union Pacific Company was thereby rendered valueless and void. But could the government, as an exercise of the reserved power, compel the railroad company to operate a telegraph system in conjunction with its railroad, and thus nullify any other arrangements it might meanwhile have made with independent telegraph companies? It is submitted that the reserved power clause in the charter of incorporation conferred no such authority, even if it were true that "by its reservation of authority to add to, alter, amend, or repeal the acts in question, whenever it chose so to do, Congress, subject to the limitation that rights actually vested or transactions fully consummated could not be disturbed, intended to keep within its control the entire subject of railroad and telegraphic communication between the Missouri River and the Pacific Ocean, through the agency of corporations created by it, or that had accepted the bounty of the government." If Congress had no power to make the requirements of the railroad company which it sought to exact, it would follow that the telegraph company could not be compelled by these attempted amendments to relinquish its existing contract with the Union Pacific Company, even had that company desired and solicited the amendatory legislation which Congress had enacted.

There is an interesting problem which it is conceived may arise in reference to the right of a state, under a re-
served power, to affect contracts entered into between a corporation and third persons, but which, as far as known, has not yet offered itself for adjudication. We have seen that the limitation of the liability of stockholders to corporate creditors is a franchise or privilege granted by the state, and may therefore be regulated by the state under the reserved power, and cases have been cited in which the states did exercise such power by creating or increasing the personal liability of stockholders over and above the fully paid-up value of their stock subscriptions. Suppose, however, that the state were to decrease the liability of stockholders—to say, for example, that their stock should be liable only to the amount already paid in and that there should be no further assessments collected thereon. Would such legislation be valid as against the then existing creditors of the corporation? Theoretically it would seem that the creditors of the corporation knew, or should have known, at the time they first contracted with the corporation that the regulation and extent of the liability of the stockholders were within the uncontrolled discretion of the state, and therefore that any subsequent diminution of such liability was one of the risks assumed by them in dealing with a corporation whose charter was subject to the reserved power. On the other hand it might well be contended that legislation of this nature is for the evident benefit of the corporation, not of the state, and therefore does not come properly within the historic purpose of the reserved power clauses, which were intended to allow the state to make changes in the corporate charter without the assent and even in spite of the dissent of the corporation; it would be in effect the allowance by the state to the corporation of the right to repudiate its debts. It is believed that the courts would not sustain such legislation. A close analogy to the

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106 In the absence of a reserved power there is no doubt that any act decreasing the liability of stockholders, or repealing a statute imposing additional and personal liability upon them, is unconstitutional as to the then existing creditors of the corporation. *Hawthorne v. Calef*, 2 Wall. 10 (1864); *Conant v. Van Schaick*, 24 Barb. (N. Y.) 87 (1857); *McDonnell v. Alabama Gold Life Insurance Co.*, 85 Ala. 401 (1888); *Woodworth v. Bosche*, 61 Kans. 569 (1900).
problem here suggested is to be found in those cases in
which it has been held that the legislature cannot so revoke
the charter of a municipality, or reduce its taxing power
to such an extent, as to impair its ability to pay its existing
indebtedness; nor can it divide a municipality into two
distinct districts without providing for an assumption of
the indebtedness of the municipality by the districts thus
created. The charter of a municipality is subject to the
legislation of the state, unchecked by the provision of the
Constitution forbidding the impairment of the obligation
of contracts, and accordingly is in a position somewhat similar
to that of a private corporation whose charter may, by
proper reservation of the power, be repealed or altered by
the legislature. Ordinarily the state may make changes in
the organization of a city government or in its charter privi-
leges, just as it may in the case of a corporation subject to
the reserved power. But the state, as has been pointed
out, cannot legislate in regard to the charter or powers of
a municipality so as to lessen the security or means of pay-
ment of the claims of creditors. The same principle
would seem to be applicable to legislation lessening the
liability of the stockholders of a corporation to pay its in-
debtedness already contracted, and the courts would prob-
ably, should the occasion arise, refuse to sustain the validity
of an act which palpably would tend to render dealings with
corporations so unsafe as to be practically prohibited.

The question as to how far the state can exercise its
reserved power in limiting the power of a corporation to
contract with third persons has already been considered. It
was pointed out, in criticism of the opinion of the justices

109 Mount Pleasant v. Beckwith, 100 U. S. 514 (1879); Brexis v. City of Duluth, 3 McCrory (U. S.), 219 (1881); Mobile v. Watson, 116 U. S. 280 (1885).
111 Smith v. City of Appleton, 19 Wis. 469 (1865); People v. Common Council of the City of Buffalo, 140 N. Y. 300 (1893), and cases supra.
of the Supreme Court of Maine, 97 Me. 590 (1903), that
the state should have no greater rights in this respect over
corporations than over natural persons, because the power
of a corporation to contract is not a franchise or privilege
which properly can be said to have been granted to it by
the state. In both cases the determining consideration
should be the extent of the police power of the state. There
are several decisions in the reports in which, under the
reserved power, the states have been allowed to enforce acts
forbidding certain kinds of contracts to be entered into by
corporations except with terms specifically required by
the acts—for example, acts providing that if the corporation
should discharge one of its employees with or without cause,
the latter's wages should become at once due and payable,
and if not forthwith paid should be held to continue at the
contract rate until payment was made; \(110\) or acts providing
that the corporation must pay its employees weekly; \(111\) or
prohibiting contracts with employees for the payment of
their wages otherwise than in money. \(112\) These laws have
almost uniformly been sustained, the contention being that
although such restrictions on the power to contract may be
invalid in the case of natural persons, as being a deprivation
of their liberty and property not justified by the police
power of the state, yet the power to contract of corporations
which are subject to the reserved power of the state can be
limited at the will of the legislature, for corporations derive
their right to contract as a privilege from the state, which
therefore may either wholly recall the right, or suffer it to
remain under such limitations and restrictions as the state
may see fit to impose. This argument is manifestly falla-
cious. We have seen that it is only the exemptions and
franchises of a corporation which can be recalled or limited
by the state, and that the right to enter into contracts does
not constitute a franchise of the corporation. If the police

\(110\) Leep v. Railway Co., 58 Ark. 407 (1894); St. Louis, Iron Moun-

\(111\) State v. Brown & Sharpe Manufacturing Co., 18 R. I. 76 (1892);
contra, Brooklyn Coal Co. v. The People, 147 Ill. 66 (1893).

\(112\) Shaffer & Munn v. Union Mining Co., 55 Md. 74 (1880).
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Power is sufficient to enable the state to limit the right of a natural person to make contracts of the kind above outlined,—as to which the decisions in the various jurisdictions are not in harmony.—it will allow such legislation similarly in the case of corporations, whether there be a reserved power of amendment or not. If, on the other hand, the limitation be held invalid in the case of natural persons, it is likewise invalid in the case of corporations. The reserved power does not enter into the question, for it does not extend to control of the right of corporations to make contracts with other corporations or persons. When it is attempted to make acts of this kind applicable to contracts previously entered into between corporations and their employees, the legislation is doubly objectionable: it is an interference with the right of the corporation to contract, which is an undoubted property right, and it also involves the impairment of the obligation of all such pre-existing contracts.

This completes our survey of the extent of the power of states over corporations whose charters are granted under a reserved power of revocation or amendment. Whether these reservation clauses would have come into existence had the doctrine of the police power and the other limitations upon the Dartmouth College decision originated earlier in our constitutional history cannot, of course, be predicated. That, properly construed, they form a helpful part of our constitutional and statute laws, by rendering corporations subject to state and therefore to popular control, is undoubted. But it is just as clear that, improperly extended in their scope, they have been construed to give to the legislatures of the states in many cases an amount of power over corporations which is dangerously inconsistent with American theories of the sanctity of property and of contract rights—a power which renders investments in the stock of corporations unsafe because subject to legislative whims and tyranny, and calling, therefore, it is submitted, for a careful revision of prevailing judicial tendencies in this important subject of state and federal jurisprudence.
APPENDIX.

RESERVED POWER CAUSES IN THE LATEST CONSTITUTIONS, CODES, AND STATUTES OF THE STATES.

ALABAMA.


The legislation shall pass . . .
general laws under which corporations may be organized and corporate
powers obtained, subject, nevertheless, to repeal at the will of the legis-
lation; and shall pass general laws under which charters may be altered
or amended. . . . The charter of any corporation shall be subject to
amendment, alteration, or repeal under general laws.”

Idem, § 238: “The legislature shall have the power to alter, amend or
revoke any charter of any corporation now existing, and revocable at
the ratification of this Constitution, or any that may be hereafter
created, whenever, in its opinion, such charter may be injurious to the
citizens of this State; in such manner, however, that no injustice shall
be done to the stockholders.”

ARKANSAS.

Constitution of 1874, Art. XII, § 6: “Corporations may be formed
under general laws, which laws may, from time to time, be altered or
repealed. The General Assembly shall have the power to alter, revoke
or annul any charter of any corporation now existing, and revocable at
the adoption of this Constitution, or any that may be hereafter
created, whenever, in its opinion, such charter may be injurious to the
citizens of this State; in such manner, however, that no injustice
shall be done to the corporators.”

Statutes of 1894, Ch. XLVII, Art. II, § 1358: “The General Assembly
may at any time, for just cause, rescind the powers of any joint-stock
corporation created pursuant to the provisions of this act, and pre-
scribe such mode as may be necessary or expedient for the settlement
of its affairs.”

CALIFORNIA.

Constitution of 1879, Art. XII, § 1: “Corporations may be formed
under general laws, but shall not be created by special act. All laws
now in force in this State concerning corporations, and all laws that
may be hereafter passed pursuant to this section, may be altered from
time to time or repealed.”

Codes and Statutes of 1886; Civil Code, Div. I, Part IV, Title I, Ch. III,
Art. III, § 384: “The legislature may at any time amend or repeal this
part, or any title, chapter, article, or section thereof, and dissolve all
corporations created thereunder; but such amendment or repeal does
not nor does the dissolution of any such corporation take away or
impair any remedy given against any such corporation, its stockholders
or officers, for any liability which has been previously incurred.”
COLORADO.

Constitution of 1876, Art. XV, § 3: "The General Assembly shall have the power to alter, revoke or annul any charter of any corporation now existing, and revocable at the adoption of this Constitution, or any that may be hereafter created, whenever, in its opinion, such charter may be injurious to the citizens of the State; in such manner, however, that no injustice shall be done to the corporators."

Statutes of 1891, Ch. XXX, Div. I, § 634: "The General Assembly may, at any time, alter, amend or repeal this act, and shall at all times have power to prescribe such regulations and provisions as it may deem advisable, which regulations and provisions shall be binding on any and all corporations formed under the provisions of this act."

CONNECTICUT.

Act of June 22, 1903, § 43: "All acts creating or authorizing the organization of corporations, or altering the charters of corporations previously existing, which have been or shall be passed by the General Assembly, and the charters of all corporations heretofore granted, and under which no corporations have been organized, shall be subject to alteration, amendment, and repeal at the pleasure of the General Assembly, unless otherwise expressly provided in such acts; but no such amendment or repeal shall impair any remedy against any corporation, or against its officers, directors, or stockholders, for any liability which shall have been previously incurred."

DELAWARE.

Act of March 17, 1903, § 140: "This act may be amended or repealed at the pleasure of the legislature, but such amendment or repeal shall not take away or impair any remedy against any corporation under this act, or its officers, for any liability which shall have been previously incurred. This act, and all amendments thereof, shall be a part of the charter of every such corporation, except so far as the same are inapplicable and inappropriate to the objects of such corporation."

Note: The Constitution of 1831 contained a clause reserving to the legislature power to alter and repeal charters, but there is no such provision in the Constitution of 1897.

FLORIDA.

Note: There does not seem to be any reservation of power in the legislature to alter or revoke charters, either in the Constitution or general statutes of the state.

GEORGIA.

Civil Code of 1895, Title II, § 188b: "In all cases of private charters hereafter granted the State reserves the right to withdraw the franchise, unless such right is expressly negatived in the charter."
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IDAHO.
Constitution of 1889, Art. XI, § 2: “Any such general law [for the organization of corporations] shall be subject to future repeal or alteration by the legislature.”
Idem., § 3: “The legislature may provide by law for altering, revoking, or annulling any charter of incorporation existing and revocable at the time of the adoption of this Constitution, in such manner, however, that no injustice shall be done to the corporators.”
Rev. Statutes of 1887, Part II, Title IV, Ch. I, § 264r: “The legislature may at any time amend or repeal this title or any chapter, articles, or section thereof, and dissolve all corporations created thereunder; but such amendment or repeal does not, nor does the dissolution of any such corporation, take away or impair any remedy given against any such corporation, its stockholders or officers, for any liability which has been previously incurred.”

ILLINOIS.
Act of April 18, 1872, § 9: “The General Assembly shall, at all times, have power to prescribe such regulations and provisions as it may deem advisable, which regulations and provisions shall be binding on any and all corporations formed under the provisions of this act.”

INDIANA.
Act of March 9, 1901: “This act [for the organization of corporations] may be repealed or amended at the discretion of the legislature.”

IOWA.
Constitution of 1857, Art. VII, § 12: “Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations . . . by a vote of two-thirds of each branch of the General Assembly.”
Code of 1897, Part I, Title IX, Ch. I, § 1619: “The articles of incorporation, by-laws, rules, and regulations of corporations hereafter organized under the provisions of this title, or whose organization may be adopted or amended hereunder, shall, at all times, be subject to legislative control, and may be, at any time, altered, abridged, or set aside by law, and every franchise obtained, used, or employed by such corporation may be regulated, withheld, or be subject to conditions imposed upon the enjoyment thereof, whenever the General Assembly shall deem necessary for the public good.”

KANSAS.
Constitution of 1859, Art. XII, § 1: “Corporations may be created under general laws, but all such laws may be amended or repealed.”

KENTUCKY.
Constitution of 1891, Bill of Rights, § 3: “Every grant of a franchise, privilege or exemption shall remain subject to revocation, alteration or amendment.”
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Statutes of 1854, Ch. LIX, § 1987: "All charters and grants of or to corporations, or amendments thereof, enacted or granted since the fourteenth of February, 1856, ... shall be subject to repeal at the will of the General Assembly, unless a contrary intent be therein plainly expressed; provided, that whilst privileges and franchises so granted may be repealed, no repeal shall impair other rights previously vested."

LOUISIANA.

Civil Code of 1870, § 447: "A corporation legally established may be dissolved by an act of the legislature, if they deem it necessary or convenient to the public interest; provided, that when the act of incorporation imports a contract on the faith of which individuals have advanced money or engaged their property, it cannot be repealed without providing for the reimbursement of the advances made, or making full indemnity to such individuals."

Note: For a construction of this proviso, see Asylum v. New Orleans, 105 U. S. 362 (1881).

MAINE.

Constitution of 1870, Art. IV, § 14: "However formed, they [i.e., corporations] shall forever be subject to the general laws of the state."

Revised Statutes of 1903, Title IV, Ch. XLVII, § 2: "Acts of incorporation passed since March 17, 1831, may be amended, altered or repealed by the legislature, as if express provision therefor were made in them, unless they contain an express limitation."

MARYLAND.

Constitution of 1867, Art. III, § 48; par. 2: "All charters granted, or adopted in pursuance of this section, and all charters heretofore granted and created, subject to repeal and modification, may be altered, from time to time, or be repealed; provided, nothing herein contained shall be construed to extend to banks, or the incorporation thereof."

Public General Laws of 1888, Art. XXIII. § 85: "Every corporation formed under the provisions of this article, shall be subject to any and all provisions and regulations which may hereafter, by any change in or amendments of the laws of this State, be made applicable to such corporation."

MASSACHUSETTS.

Revised Laws of 1902, Title XL, Ch. CIX, § 3: "Every act of incorporation passed after the eleventh day of March in the year 1831 shall be subject to amendment, alteration or repeal by the General Court. All corporations which are organized under general laws shall be subject to such laws as may be hereafter passed affecting or altering their corporate rights or duties or dissolving them. ... Such laws of amendment, alteration or repeal, or such dissolution shall not take away or impair any remedy which may exist by law ... against the corporation, its members or officers, for a liability previously incurred."
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MICHIGAN.

Constitution of 1850, Art. XV, § 1: "All laws passed pursuant to this section [referring to the incorporation of companies] may be amended, altered or repealed."

Idem, § 8: "The legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house, nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations."

Compiled Laws of 1897, Title IX, Part XXVII, Ch. CCXXX, § 20: "Every act of incorporation passed since the twentieth day of April in the year 1839, or which shall be hereafter passed, shall, at any time, be subject to amendment, alteration or repeal at the pleasure of the legislature: provided, that no act of incorporation shall be repealed, unless for some violation of its charter or other default, when such charter shall contain an express provision limiting the duration of the same."

MINNESOTA.

General Statutes of 1894, Ch. XXXIV, Title II, § 2837: "This act [relating to corporations not having the right of eminent domain] may be altered or amended at the pleasure of the legislature, but not so as to divest or impair any right of property acquired under the same."

MISSISSIPPI.

Constitution of 1890, Art. IV, § 88: "The legislature shall pass general laws . . . under which corporations may be created, organized, and their acts of incorporation altered, and all such laws shall be subject to repeal or amendment."

Idem, Art. VII, § 178: "The legislature shall have power to alter, amend or repeal any charter of incorporation now existing and revocable, and any that may hereafter be created, whenever, in its opinion, it may be for the public interest to do so; provided, however, that no injustice shall be done to the stockholders."

MISSOURI.

Note: In the revised statutes of 1845 and 1855 (Art. I, Ch. XXXIV, § 7) there was a provision that "the charter of every corporation that shall hereafter be granted by the legislature shall be subject to alteration, suspension and repeal in the discretion of the legislature," but no such provision exists in the latest revision, that of 1889.

MONTANA.

Constitution of 1889, Art. XV, § 3: "The legislative assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this Constitution, or which may be hereafter incorporated, wherever in its opinion it may be injurious to the citizens of the state."
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Civil Code, Div. I, Part IV, Title I, Ch. I, Art. I, § 394: “Every grant of corporate power is subject to alteration, suspension or repeal, in the discretion of the legislative assembly.”

NEBRASKA.

Constitution of 1875, Art. XIII, § 1: “All general laws passed pursuant to this section [relating to incorporation of companies] may be altered from time to time, or repealed.”

NEVADA.

Constitution of 1864, Art. VIII, § 1: “Corporations may be formed under general laws, and all such laws may, from time to time, be altered or repealed.”

Act of March 16, 1903, § 113: “This act may be amended or repealed at the pleasure of the legislature, but such amendment or repeal shall not take away or impair any remedy against any corporation under this act, or its officers, for any liability which shall have been previously incurred; this act and all amendments thereof shall be a part of the charter of every such corporation except so far as the same are inapplicable and inappropriate to the objects of such corporation.”

NEW HAMPSHIRE.

Public Statutes of 1891, Title XX, Ch. CXLVIII, § 19: “The legislature may at any time alter, amend or repeal the charter of any corporation or the laws under which it was established, or may modify or annul any of its franchises, duties and liabilities; but the remedy against the corporation, its members or officers, for any liability previously incurred, shall not be impaired thereby.”

NEW JERSEY.

Constitution of 1844, Art. IV, § 7, par. II: “The legislature . . . shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.”

Act of April 21, 1896, § 4: “The charter of every corporation or any supplement thereto or amendment thereof shall be subject to alteration, suspension, and repeal, in the discretion of the legislature, and the legislature may at pleasure dissolve any corporation.”

Idem, § 5: “This act may be amended or repealed at the pleasure of the legislature, and every corporation created under this act shall be bound by such amendment; but such amendment or repeal shall not take away or impair any remedy against any such corporation or its officers for any liability which shall have been previously incurred; this act and all amendments thereof shall be a part of the charter of every corporation heretofore or hereafter formed hereunder, except so far as the same are inapplicable and inappropriate to the objects of such corporation.”
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NEW YORK.

Constitution of 1864, Art. VIII, § 1: "All general laws and special acts passed pursuant to this section [relating to the incorporation of companies] may be altered from time to time or repealed."

Act of 1895, Ch. 672: "The charter of every corporation shall be subject to alteration, suspension and repeal, in the discretion of the legislature."

NORTH CAROLINA.

Constitution of 1868, Art. VIII, § 1: "All general laws and special acts passed pursuant to this section [relating to the incorporation of companies] may be altered from time to time or repealed."

Act of March 11, 1901, § 6: "The charter of every corporation, or any supplement thereto or amendment thereof, shall be subject to alteration, modification, amendment or repeal, in the discretion of the legislature, and the legislature may at pleasure dissolve any corporation."

Idem, § 7: "This act may be amended or repealed at the pleasure of the legislature, and every corporation shall be bound by such amendment; but such amendment or repeal shall not take away or impair any remedy against any such corporation, or its officers; for any liability which shall have been previously incurred; this act and all amendments thereof shall be a part of the charter of every corporation heretofore formed, or hereafter formed hereunder, except so far as the same are inapplicable and inappropriate to the objects of such corporation."

NORTH DAKOTA.

Constitution of 1889, Art. VII, § 13: "The legislative assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

Revised Code of 1895, Ch. XI, Art. I, § 2851: "Every grant of corporate power is subject to alteration, suspension, or repeal in the discretion of the legislative assembly."

OHIO.

Constitution of 1851, Art. XIII, § 2: "Corporations may be formed under general laws, but all such laws may, from time to time, be altered or repealed."

OREGON.

Constitution of 1857, Art. XI, § 2: "All laws passed pursuant to this section [relating to the incorporation of companies] may be altered, amended, or repealed, but not so as to impair or destroy any vested corporate rights."
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PENNSYLVANIA.

Constitution of 1874, Art. XI, § 10: "The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the Commonwealth, in such manner, however, that no injustice shall be done to the corporators."

Act of April 29, 1874, § 4: "The General Assembly reserves the power to revoke or annul any charter of incorporation granted or accepted under the provisions of this act, whenever in the opinion of the said Assembly it may be injurious to the citizens of this Commonwealth, in such manner, however, that no injustice shall be done to the corporators or their successors."

RHODE ISLAND.

General Laws, 1896, Title XIX, Ch. CLXXVII, § 22: "Every corporation hereafter created shall be subject to the provisions of this chapter, and its charter or articles of association may be amended or repealed at the will of the General Assembly."

SOUTH CAROLINA.

Constitution of 1895, Art. IX, § 2: "The General Assembly shall provide by general laws . . . for the organization of all corporations hereafter to be created, and any such law so passed, as well as all charters now existing, or hereafter created, shall be subject to future repeal or alteration."

Code of 1902, Part I, Ch. XLVII, § 1842: "It shall be deemed a part of the charter of every corporation created under the provisions of any general law, and of every charter granted, renewed or amended by act or joint resolution of the General Assembly (unless such act or joint resolution shall, in express terms, declare the contrary), that such charter, and every amendment and renewal thereof, shall always remain subject to amendment, alteration or repeal by the General Assembly."

SOUTH DAKOTA.

Constitution of 1890, Art. XVII, § 9: "The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revocable at the taking effect of this Constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this State, in such a manner, however, that no injustice shall be done to the corporators."

Revised Code of 1903, Civil Code, Div. II, Part III, Title II, Ch. III, Art I, § 308: "Every grant of corporate power is subject to alteration, suspension, or repeal in the discretion of the legislature."

TENNESSEE.

Constitution of 1870, Art. XI, § 8: "The General Assembly shall provide by general laws for the organization of all corporations hereafter
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created, which laws may, at any time, be altered or repealed; and no such alteration or repeal shall interfere with, or divest, rights which have become vested."

Code of 1884, Part I, Title IX, Ch. III, Art. I, § 1699: "The powers conferred on any company incorporated hereunder shall be subject to repeal or amendment at the will of the legislature."

TEXAS.

Constitution of 1876, Art. I, § 17: "All privileges and franchises granted by the legislature or created under its authority, shall be subject to the control thereof."

Revised Statutes of 1895, Title XXI, Ch. II, Art. DCL: "All charters, or amendments to charters, under the provisions of this chapter, shall be subject to the power of the legislature to alter, reform or amend the same."

UTAH.

Constitution of 1895, Art. XII: "All laws relating to corporations may be altered, amended or repealed by the legislature."

VERMONT.

Statutes of 1894, Title XXI, Ch. CLXIV, § 3686: "Acts creating, continuing, altering or renewing a corporation or body politic, hereafter passed by the General Assembly, may be altered, amended or repealed as public good requires."

VIRGINIA.

Constitution of 1902, Art. XII, § 154: "... Such general laws may be amended or repealed by the General Assembly; and all charters and amendments of charters now existing and revocable, or hereafter granted or extended, may be repealed at any time by special act."

Act of May 21, 1903, Ch. 1, § 61: "This act or any part thereof may be amended or repealed at the pleasure of the General Assembly, and every corporation created under this act shall be bound by such amendment; but such amendment or repeal shall not take away or impair any remedy against any such corporation or its officers for any liability which shall have been previously incurred; this act and all amendments thereof shall be a part of the charter of every corporation formed hereunder, except so far as the same are inapplicable and inappropriate to the objects of such corporation."

WASHINGTON.

Constitution of 1889, Art. XII, § 1: "All laws relating to corporations may be altered, amended, or repealed by the legislature at any time."

WEST VIRGINIA.

Code of 1891, Ch. LIII, § 8: "The right is hereby reserved to the legislature to alter any charter or certificate of incorporation hereafter
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granted to a joint-stock company, and to alter or repeal any law applicable to such company. But in no case shall such alteration or repeal affect the right of the creditors of the company to have its assets applied to the discharge of its liabilities, or of its stockholders to have the surplus, if any, which may remain after discharging its liabilities and the expenses of winding up its affairs, distributed among themselves in proportion to their respective interests."

WISCONSIN.

Constitution of 1848, Art. XI, § 1: "All general laws or special acts enacted under the provisions of this section [relating to the organization of corporations] may be altered and repealed by the legislature at any time after their passage.

Revised Statutes, 1898, Part I, Title XIX, Ch. LXXXV, § 1768: "The legislature may at any time limit or restrict the powers of any corporation organized under any law, and for just cause annul the same, and prescribe such mode as may be necessary for the settlement of its affairs."

WYOMING.

Constitution of 1889, Art. X, § 1: "All laws relating to corporations may be altered, amended or repealed by the legislature at any time when necessary for the public good and general welfare."

Revised Statutes, 1899, Div. II, Title IV, Ch. I, § 3052: "The legislature may, at any time, alter, amend or repeal this title, but such amendment or repeal shall not take away or impair any remedy given against, or in favor of, any such corporation, its stockholders or officers, for any liability which shall have been previously incurred."

Horace Stern.