

Sec. 10—Powers Denied to the States

Cl. 1—Treaties, Coining Money, Etc.

gaming, cock-fighting, horse-racing or public masquerades, and that companies should be formed for the purpose of carrying on these practices. . . .” Would the legislature then be powerless to prohibit them? The answer returned, of course, was no.²⁰⁸²

The prevailing doctrine was stated by the U.S. Supreme Court: “It is the settled law of this court that the interdiction of statutes impairing the obligation of contracts does not prevent the State from exercising such powers as are vested in it for the promotion of the common weal, or are necessary for the general good of the public, though contracts previously entered into between individuals may thereby be affected. . . . In other words, that parties by entering into contracts may not estop the legislature from enacting laws intended for the public good.”²⁰⁸³

So, in an early case, we find a state recording act upheld as applying to deeds dated before the passage of the act.²⁰⁸⁴ Later cases have brought the police power in its more customary phases into contact with private as well as with public contracts. Lottery tickets, valid when issued, were necessarily invalidated by legislation prohibiting the lottery business;²⁰⁸⁵ contracts for the sale of beer, valid when entered into, were similarly nullified by a state prohibition law;²⁰⁸⁶ and contracts of employment were modified by later laws regarding the liability of employers and workmen’s compensation.²⁰⁸⁷ Likewise, a contract between plaintiff and defendant did not prevent the state from making the latter a concession that rendered the contract worthless;²⁰⁸⁸ nor did a contract as to rates between two railway companies prevent the state from imposing different rates;²⁰⁸⁹ nor did a contract between a public utility company and a customer protect the rates agreed upon from being superseded by those fixed by the state.²⁰⁹⁰ Similarly, a contract for the conveyance of water beyond the limits of a state did not prevent the state from prohibiting such conveyance.²⁰⁹¹

²⁰⁸² *Myers v. Irwin*, 2 S. & R. (Pa.) 367, 372 (1816); *see*, to the same effect, *Lindenmuller v. The People*, 33 Barb. (N.Y.) 548 (1861); *Brown v. Penobscot Bank*, 8 Mass. 445 (1812).

²⁰⁸³ *Manigault v. Springs*, 199 U.S. 473, 480 (1905).

²⁰⁸⁴ *Jackson v. Lamphire*, 28 U.S. (3 Pet.) 280 (1830). *See also* *Phalen v. Virginia*, 49 U.S. (8 How.) 163 (1850).

²⁰⁸⁵ *Stone v. Mississippi*, 101 U.S. 814 (1880).

²⁰⁸⁶ *Beer Co. v. Massachusetts*, 97 U.S. 25 (1878).

²⁰⁸⁷ *New York Cent. R.R. v. White*, 243 U.S. 188 (1917). In this and the preceding two cases the legislative act involved did not except from its operation existing contracts.

²⁰⁸⁸ *Manigault v. Springs*, 199 U.S. 473 (1905).

²⁰⁸⁹ *Portland Ry. v. Oregon R.R. Comm’n*, 229 U.S. 397 (1913).

²⁰⁹⁰ *Midland Co. v. Kansas City Power Co.*, 300 U.S. 109 (1937).

²⁰⁹¹ *Hudson Water Co. v. McCarter*, 209 U.S. 349 (1908).