

Sec. 10—Powers Denied to the States

Cl. 1—Treaties, Coining Money, Etc.

general principles which are common to our free institutions, or by particular provisions of the Constitution of the United States.”²⁰⁰⁶

The protection thus thrown about land grants was presently extended, in the case of *New Jersey v. Wilson*,²⁰⁰⁷ to a grant of immunity from taxation that the State of New Jersey had accorded certain Indian lands, and several years after that, in *Dartmouth College*,²⁰⁰⁸ to the charter privileges of an eleemosynary corporation.

In *City of El Paso v. Simmons*,²⁰⁰⁹ the Court held, over a vigorous dissent by Justice Black, that Texas had not violated this clause when it amended its laws governing the sale of public lands so as to restrict the previously unlimited right of a delinquent to reinstate himself upon forfeited land by a single payment of all past interest due.

Corporate Charters: Different Ways of Regarding.—There are three ways in which the charter of a corporation may be regarded. In the first place, it may be thought of simply as a license terminable at will by the state, like a liquor-seller’s license or an auctioneer’s license, but affording the incorporators, so long as it remains in force, the privileges and advantages of doing business in the form of a corporation. Nowadays, indeed, when corporate charters are usually issued to all legally qualified applicants by an administrative officer who acts under a general statute, this would probably seem to be the natural way of regarding them were it not for the *Dartmouth College* decision. But, in 1819 charters were granted directly by the state legislatures in the form of special acts and there were very few profit-taking corporations in the country. The later extension of the benefits of the *Dartmouth College* decision to corporations organized under general law took place without discussion.

Secondly, a corporate charter may be regarded as a franchise constituting a vested or property interest in the hands of the holders, and therefore as forfeitable only for abuse or in accordance with its own terms. This is the way in which some of the early state

²⁰⁰⁶ 10 U.S. (6 Cr.) 87, 139 (1810). Justice Johnson, in his concurring opinion, relied exclusively on general principles. “I do not hesitate to declare, that a State does not possess the power of revoking its own grants. But I do it, on a general principle, on the reason and nature of things; a principle which will impose laws even on the Deity.” Id. at 143.

²⁰⁰⁷ 11 U.S. (7 Cr.) 164 (1812). The exemption from taxation which was involved in this case was held in 1886 to have lapsed through the acquiescence for sixty years by the owners of the lands in the imposition of taxes upon these. *Given v. Wright*, 117 U.S. 648 (1886).

²⁰⁰⁸ *Dartmouth College v. Woodward*, 17 U.S. (4 Wheat.) 518 (1819).

²⁰⁰⁹ 379 U.S. 497 (1965). See also *Thorpe v. Housing Authority*, 393 U.S. 268, 278–79 (1969).