

By the fifth article of the Constitution of the United States it is expressly provided, that the "*constitution &c. &c.*, shall be the *supreme law* of the land, and the judges in every State shall be bound thereby, *anything in the constitution or laws of any State, to the contrary, notwithstanding.*" And by the 2nd section of the 3rd article, "the judicial power shall extend to *all cases in law and equity arising under this constitution,*" &c.

This being so, the duty of this court is plain. It is to ascertain whether, under the decisions of the Supreme Court of the United States the Act of 1784, ch. 37, is a contract which the Legislature could not impair or annul. That it was such, on the principles laid down by the Supreme Court in its interpretation of the meaning of the word "*contract*" as used in the 10th section of the first article of the constitution, in our judgment ought not to admit of a doubt. We content ourselves with a citation of some of the language employed by the highest tribunal known to the country.

The leading and controlling case on this subject is that of the Dartmouth College vs. Woodward, reported in the 4th volume of Wheaton, commencing at page 518. This case was argued at great length and with rare ability. The judgment pronounced in it has been the settled law of the land ever since. In that case the charter of the college had been granted by the Crown in the year 1769. Subsequently, the State of New Hampshire passed certain acts whereby the charter was altered, principally by increasing the number and altering the mode of the *appointment* of trustees, and creating a board of overseers. This was done without the assent of the corporation.

On such a case, *Chief Justice Marshall* in delivering the opinion of the court said: "It can require no argument to prove, that the circumstances of this case constituted a contract. An application is made to the crown for a charter to incorporate a religious and literary institution. In the application, it is stated that large contributions have been made for the object, which will be conferred on the corporation, as soon as it shall be created. The charter is granted, and on its faith the property is conveyed. *Surely in this transaction every ingredient of a complete and legitimate contract is to be found.*" Having determined that the charter was a contract, in the broad sense of that term, he proceeds to inquire, whether it be *such* a contract as is *protected by the constitution?* He distinguishes between *private* and *public* corporations; and says: "If the act of incorporation be a grant of political power, if it create a civil institution to be employed in the administration of the government, or if the funds of the college be public property, or if the State of New Hampshire, as a government, be alone interested in its transactions, the subject is