

There are no terms or conditions imposed in these acts which indicate any intention on the part of the legislature to abrogate any rights, powers, or privileges already enjoyed by these corporations by their acceptance of these acts. It was competent for the legislature, if it saw fit to do so, to make a gift to any existing corporation of lands, rights, powers, or privileges either with or without limitations or conditions. It is written of our first parents that they were tempted and fell, but with the temptation they had the admonition that "in the day that thou eatest thereof thou shalt surely die." No such warning was given with the temptations and benefits offered by these enactments. They appear to be gifts to be had as free as Divine salvation. Charters of corporations are usually *ex gratia*, but they have their compensations. These new states were desirous of enlisting capital in the building of railroads, and thus developing their resources, and increasing their taxable wealth. It is not necessary to decide how far the additional powers given the corporation by these acts may be subject to the control of the legislature by general legislation, under article 12 of the constitution; sufficient for that when the legislature shall undertake to exercise that authority. It was considered and held by the supreme court of Kansas in *State v. Missouri Pac. Ry. Co.*, 33 Kan. 189, 5 Pac. 772, that such additional rights are subject to modification, amendment, or repeal. It must not be supposed that this corporation is in no manner answerable to the laws of the state. Such as affect the remedy only, and those that come under the police power of the state, are as applicable to this corporation as to any other. *Stone v. Mississippi*, 101 U. S. 816.

For the reasons above given, there is no justification in law for the order of injunction asked for, and it must be denied. It is so ordered, to which order the complainant at the time duly excepted.

---

FOWLER et al. v. JARVIS-CONKLIN MORTG. TRUST CO.  
(MORGAN, Intervener).

(Circuit Court, S. D. New York. September 22, 1894.)

**EQUITY PRACTICE—INTERVENTIONS—RECEIVERSHIP SUITS—CORPORATIONS.**

In a suit in which a receiver has been appointed for a corporation, the court will not permit separate interventions by individual stockholders, with the consequent multiplication of papers and requests for separate allowances of costs and attorney's fees; but, where there are dissensions among the stockholders, each separate group will be secured a separate hearing.

Petition of intervention filed by Henry P. Morgan in the suit of Benjamin M. Fowler, J. G. Zachry, and Elizabeth Garnet against the Jarvis-Conklin Mortgage Trust Company.

Jas. G. Janeway, for the motion.

W. S. Pearce, opposed.

LACOMBE, Circuit Judge. This action was brought by complainants in behalf of themselves and all other stockholders and creditors

who might choose to become parties to the suit and contribute to the expense thereof. Complainants are creditors as well as stockholders. The petitioner Morgan is a stockholder, but not a creditor, and asks to be made a cocomplainant in the original bill, and to have separate notice of all motions, proceedings, orders, etc. Apparently, he wishes to appear by separate solicitor and counsel. As he is the first petitioner whose rights as a stockholder are not complicated with his rights as a creditor, he may take an order allowing him to intervene, and directing all parties to give him such notice, whenever any of the proceedings may affect his rights. It must, however, be understood that the court cannot tolerate a separate intervention by each separate stockholder, with an interminable multiplication of papers, and requests for separate allowances of costs and counsel fees at the close of the receivership. The interests of all stockholders are alike, and should be presented and attended to without marshaling a host of different lawyers, all advocating the same relief, although, if it becomes apparent that there is dissension among the stockholders as to the conduct of the proceedings, each separate group of them will be secured a separate hearing. The granting of this motion, therefore, will not by itself entitle petitioner to any individual allowance for costs or counsel fee at the close of the case.

Petitioner has also filed an affidavit of Elijah Coffin, dated September 15, 1894, containing charges against Jarvis and Conklin, now receivers of the corporation, founded upon transactions occurring before their appointment, with a "request" that, upon such affidavit, the motion heretofore made by Elizabeth Garnet to remove the receivers may be granted. As this affidavit was never served upon the receivers, nor any notice of petitioner's "request" given to them, it must be dismissed. Nor can the affidavit of Coffin be considered on Garnet's motion, as it was not prepared till after argument, and does not comply with the instructions of the court that all additional affidavits of petitioner Garnet must be confined to new matter set out in the answering affidavits of receivers.

---

CORLISS et al. v. E. W. WALKER CO. et al.

(Circuit Court, D. Massachusetts. November 19, 1894.)

No. 3,152.

1. PUBLICATION OF PORTRAIT—PHOTOGRAPHER'S CONTRACT.

It is a breach of contract and violation of confidence for a photographer to make unauthorized copies of a customer's photograph.

2. SAME—PRIVATE AND PUBLIC CHARACTERS.

A private individual may enjoin the publication of his portrait, but a public character cannot, in the absence of breach of contract or violation of confidence in securing the photograph from which the publication is made.

3. SAME—"PUBLIC CHARACTERS"—INVENTORS.

One who is among the foremost inventors of his time is a "public character," within the above rule.