

Sec. 10—Powers Denied to the States

Cl. 1—Treaties, Coining Money, Etc.

the charter of the second company to be valid on the principle just stated. Justice Story presented a vigorous dissent in which he argued cogently, but unavailingly, that the monopoly claimed by the Charles River Bridge Company was fully as reasonable an implication from the terms of its charter and the circumstances surrounding its concession as perpetuity had been from the terms of the Dartmouth College charter and the ensuing transaction.

The Court was in fact making new law, because it was looking at things from a new point of view. This was the period when judicial recognition of the police power began to take on a doctrinal character. It was also the period when the railroad business was just beginning. Chief Justice Taney's opinion evinces the influence of both these developments. The power of the state to provide for its own internal happiness and prosperity was not, he asserted, to be pared away by mere legal intendments, nor was its ability to avail itself of the lights of modern science to be frustrated by obsolete interests such as those of the old turnpike companies, the charter privileges of which, he apprehended, might easily become a bar to the development of transportation along new lines.²⁰³⁰

The Court has reiterated the rule of strict construction many times. In *Blair v. City of Chicago*,²⁰³¹ decided nearly seventy years after *Charles River Bridge*, the Court said: "Legislative grants of this character should be in such unequivocal form of expression that the legislative mind may be distinctly impressed with their character and import, in order that the privileges may be intelligently granted or purposely withheld. It is a matter of common knowledge that grants of this character are usually prepared by those interested in them, and submitted to the legislature with a view to obtain from such bodies the most liberal grant of privileges which they are willing to give. This is one among many reasons why they are to be strictly construed. . . . The principle is this, that all rights which are asserted against the State must be clearly defined, and not raised by inference or presumption; and if the charter is silent about a power, it does not exist. If, on a fair reading of the instrument, reasonable doubts arise as to the proper interpretation to be given to it, those doubts are to be solved in favor of the State; and where it is susceptible of two meanings, the one restricting and the other extending the powers of the corporation, that construction is to be adopted which works the least harm to the State."²⁰³²

²⁰³⁰ 36 U.S. at 548–53.

²⁰³¹ 201 U.S. 400 (1906).

²⁰³² 201 U.S. at 471, 472, quoting *The Binghamton Bridge*, 70 U.S. (3 Wall.) 51, 75 (1866).