

city's wires free of charge, and that required that conduits be moved at company expense, was constitutional.¹⁹⁷

And, the fact that a state, by mere legislative or administrative fiat, cannot convert a private carrier into a common carrier will not protect a foreign corporation that has elected to enter a state that requires that it operate its local private pipe line as a common carrier. Such a foreign corporation is viewed as having waived its constitutional right to be secure against the imposition of conditions that amount to a taking of property without due process of law.¹⁹⁸

Compulsory Expenditures: Grade Crossings, and the Like.—

Generally, the enforcement of uncompensated obedience to a regulation for the public health and safety is not an unconstitutional taking of property in violation of due process.¹⁹⁹ Thus, where a water company laid its lines on an ungraded street, and the applicable rule at the time of the granting of its charter compelled the company to furnish connections at its own expense to one residing on such a street, due process is not violated.²⁰⁰ Or, where a gas company laid its pipes under city streets, it may validly be obligated to assume the cost of moving them to accommodate a municipal drainage system.²⁰¹ Or, railroads may be required to help fund the elimination of grade crossings, even though commercial highway users, who make no contribution whatsoever, benefit from such improvements.

¹⁹⁷ *Western Union Tel. Co. v. Richmond*, 224 U.S. 160 (1912).

¹⁹⁸ *Pierce Oil Corp. v. Phoenix Ref. Co.*, 259 U.S. 125 (1922).

¹⁹⁹ *Norfolk Turnpike Co. v. Virginia*, 225 U.S. 264 (1912) (requiring a turnpike company to suspend tolls until the road is put in good order does not violate due process of law, notwithstanding that present patronage does not yield revenue sufficient to maintain the road in proper condition); *International Bridge Co. v. New York*, 254 U.S. 126 (1920) (in the absence of proof that the addition will not yield a reasonable return, a railroad bridge company is not deprived of its property when it is ordered to widen its bridge by inclusion of a pathway for pedestrians and a roadway for vehicles.); *Chicago, B. & Q. R.R. v. Nebraska*, 170 U.S. 57 (1898) (railroads may be required to repair viaduct under which they operate); *Chicago, B. & Q. Ry. v. Drainage Comm'n*, 200 U.S. 561 (1906) (reconstruct a bridge or provide means for passing water for drainage through their embankment); *Chicago & Alton R.R. v. Tranbarger*, 238 U.S. 67 (1915) (drainage requirements); *Lake Shore & Mich. So. Ry. v. Clough*, 242 U.S. 375 (1917) (drainage requirements); *Pacific Gas Co. v. Police Court*, 251 U.S. 22 (1919) (requirement to sprinkle street occupied by railroad.). *But see Chicago, St. P., Mo. & O. Ry. v. Holmberg*, 282 U.S. 162 (1930) (due process violated by a requirement that an underground cattle-pass is be constructed, not as a safety measure but as a convenience to farmers).

²⁰⁰ *Consumers' Co. v. Hatch*, 224 U.S. 148 (1912). However, if pipe and telephone lines are located on a right of way owned by a pipeline company, the latter cannot, without a denial of due process, be required to relocate such equipment at its own expense. *Panhandle Eastern Pipeline Co. v. Highway Comm'n*, 294 U.S. 613 (1935).

²⁰¹ *New Orleans Gas Co. v. Drainage Comm'n*, 197 U.S. 453 (1905).