Vermont held that the legislature of that state had the right, in furtherance of the public safety, to require chartered companies operating railways to fence in their tracks and provide cattle guards. In a matter of this nature, said the court, corporations are on a level with individuals engaged in the same business, unless, from their charter, they can prove the contrary.[2026] Since then the rule has been applied many times in justification of state regulation of railroads,[2027] and even of the application of a state prohibition law to a company that had been chartered expressly to manufacture beer.[2028]

***Strict Construction of Charters, Tax Exemptions.***—Long before the cases last cited were decided, the principle that they illustrate had come to be powerfully reinforced by two others, the first of which is that all charter privileges and immunities are to be strictly construed as against the claims of the state, or as it is otherwise often phrased, "nothing passes by implication in a public grant."

The leading case was *Charles River Bridge v. Warren Bridge*,[2029] which was decided by a substantially new Court shortly after Chief Justice Marshall's death. The question at issue was whether the charter of the complaining company, which authorized it to operate a toll bridge, stood in the way of the state's permitting another company of later date to operate a free bridge in the immediate vicinity. Because the first company could point to no clause in its charter specifically vesting it with an exclusive right, the Court held

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[2026] Thorpe v. Rutland & Burlington R.R., 27 Vt. 140 (1854).

[2027] Thus a railroad may be required, at its own expense and irrespective of benefits to itself, to eliminate grade crossings in the interest of the public safety, New York & N.E. R.R. v. Bristol, 151 U.S. 556 (1894), to make highway crossings reasonably safe and convenient for public use, Great Northern Ry. v. Minnesota ex rel. Clara City, 246 U.S. 434 (1918), to repair viaducts, Northern Pacific Railway v. Duluth, 208 U.S. 583 (1908), and to fence its right of way, Minneapolis & St. Louis Ry. v. Emmons, 149 U.S. 364 (1893). Though a railroad company owns the right of way along a street, the city may require it to lay tracks to conform to the established grade; to fill in tracks at street intersections; and to remove tracks from a busy street intersection, when the attendant disadvantage and expense are small and the safety of the public appreciably enhanced Denver & R.G. R.R. v. Denver, 250 U.S. 241 (1919).

Likewise the state, in the public interest, may require a railroad to reestablish an abandoned station, even though the railroad commission had previously authorized its abandonment on condition that another station be established elsewhere, a condition which had been complied with. Railroad Co. v. Hamersley, 104 U.S. 1 (1881). It may impose upon a railroad liability for fire communicated by its locomotives, even though the state had previously authorized the company to use said type of locomotive power, St. Louis & S.F. Ry. v. Mathews, 165 U.S. 1, 5 (1897), and it may penalize the failure to cut drains through embankments so as to prevent flooding of adjacent lands. Chicago & Alton R.R. v. Tranbarger, 238 U.S. 67 (1915).

[2028] Beer Co. v. Massachusetts, 97 U.S. 25 (1878). *See also* Fertilizing Co. v. Hyde Park, 97 U.S. 659 (1878); Hammond Packing Co. v. Arkansas, 212 U.S. 322, 345 (1909).

[2029] 36 U.S. (11 Pet.) 420 (1837).