

Morality.—Legislatures have wide discretion in regulating “immoral” activities. Thus, legislation suppressing prostitution³⁷⁰ or gambling³⁷¹ will be upheld by the Court as within the police power of a state. Accordingly, a state statute may provide that judgment against a party to recover illegal gambling winnings may be enforced by a lien on the property of the owner of the building where the gambling transaction was conducted when the owner knowingly consented to the gambling.³⁷² Similarly, a court may order a car used in an act of prostitution forfeited as a public nuisance, even if this works a deprivation on an innocent joint owner of the car.³⁷³ For the same reason, lotteries, including those operated under a legislative grant, may be forbidden, regardless of any particular equities.³⁷⁴

Vested and Remedial Rights

As the Due Process Clause protects against arbitrary deprivation of “property,” privileges or benefits that constitute property are entitled to protection.³⁷⁵ Because an existing right of action to recover damages for an injury is property, that right of action is protected by the clause.³⁷⁶ Thus, where repeal of a provision that made directors liable for moneys embezzled by corporate officers was applied retroactively, it deprived certain creditors of their property without due process of law.³⁷⁷ A person, however, has no constitutionally protected property interest in any particular form of remedy and is guaranteed only the preservation of a substantial right to redress by an effective procedure.³⁷⁸

Similarly, a statute creating an additional remedy for enforcing liability does not, as applied to stockholders then holding stock, vio-

³⁷⁰ *L'Hote v. New Orleans*, 177 U.S. 587 (1900).

³⁷¹ *Ah Sin v. Wittman*, 198 U.S. 500 (1905).

³⁷² *Marvin v. Trout*, 199 U.S. 212 (1905).

³⁷³ *Bennis v. Michigan*, 516 U.S. 442 (1996).

³⁷⁴ *Stone v. Mississippi*, 101 U.S. 814 (1880); *Douglas v. Kentucky*, 168 U.S. 488 (1897).

³⁷⁵ See, e.g., *Snowden v. Hughes*, 321 U.S. 1 (1944) (right to become a candidate for state office is a privilege only, hence an unlawful denial of such right is not a denial of a right of “property”). Cases under the equal protection clause now mandate a different result. See *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 75 (1978) (seeming to conflate due process and equal protection standards in political rights cases).

³⁷⁶ *Angle v. Chicago, St. Paul, M. & D. Ry.*, 151 U.S. 1 (1894).

³⁷⁷ *Coombes v. Getz*, 285 U.S. 434, 442, 448 (1932).

³⁷⁸ *Gibbes v. Zimmerman*, 290 U.S. 326, 332 (1933). See *Duke Power Co. v. Carolina Envtl. Study Group*, 438 U.S. 59 (1978) (limitation of common-law liability of private industry nuclear accidents in order to encourage development of energy a rational action, especially when combined with congressional pledge to take necessary action in event of accident; whether limitation would have been of questionable validity in absence of pledge uncertain but unlikely).