opposition to the will of their creator," the state.[48] However, state officers are acknowledged to have an interest, despite their not having sustained any "private damage," in resisting an "endeavor to prevent the enforcement of statutes in relation to which they have official duties," and, accordingly, may apply to federal courts "to review decisions of state courts declaring state statutes, which [they] seek to enforce, to be repugnant to the [Fourteenth Amendment of] the Federal Constitution . . . ."[49]

"Property" and Police Power.—States have an inherent "police power" to promote public safety, health, morals, public convenience, and general prosperity,[50] but the extent of the power may vary based on the subject matter over which it is exercised.[51] If a police power regulation goes too far, it will be recognized as a tak-

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[48] City of Pawhuska v. Pawhuska Oil Co., 250 U.S. 394 (1919); City of Trenton v. New Jersey, 262 U.S. 182 (1923); Williams v. Mayor of Baltimore, 289 U.S. 36 (1933). *But see* Madison School Dist. v. WERC, 429 U.S. 167, 175 n.7 (1976) (reserving question whether municipal corporation as an employer has a First Amendment right assertable against a state).

[49] Coleman v. Miller, 307 U.S. 433, 445, 442, 443 (1939); Boynton v. Hutchinson Gas Co., 291 U.S. 656 (1934); South Carolina Highway Dep't v. Barnwell Bros., 303 U.S. 177 (1938). The converse is not true, however, and the interest of a state official in vindicating the Constitution gives him no legal standing to attack the constitutionality of a state statute in order to avoid compliance with it. Smith v. Indiana, 191 U.S. 138 (1903); Braxton County Court v. West Virginia, 208 U.S. 192 (1908); Marshall v. Dye, 231 U.S. 250 (1913); Stewart v. Kansas City, 239 U.S. 14 (1915). *See also* Coleman v. Miller, 307 U.S. 433, 437–46 (1939).

[50] This power is not confined to the suppression of what is offensive, disorderly, or unsanitary. Long ago Chief Justice Marshall described the police power as "that immense mass of legislation, which embraces every thing within the territory of a State, not surrendered to the general government." Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 202 (1824). *See* California Reduction Co. v. Sanitary Works, 199 U.S. 306, 318 (1905); Chicago B. & Q. Ry. v. Drainage Comm'rs, 200 U.S. 561, 592 (1906); Bacon v. Walker, 204 U.S. 311 (1907); Eubank v. City of Richmond, 226 U.S. 137 (1912); Schmidinger v. Chicago, 226 U.S. 578 (1913); Sligh v. Kirkwood, 237 U.S. 52, 58–59 (1915); Nebbia v. New York, 291 U.S. 502 (1934); Nashville, C. & St. L. Ry. v. Walters, 294 U.S. 405 (1935). *See also* Penn Central Transp. Co. v. City of New York, 438 U.S. 104 (1978) (police power encompasses preservation of historic landmarks; land-use restrictions may be enacted to enhance the quality of life by preserving the character and aesthetic features of city); City of New Orleans v. Dukes, 427 U.S. 297 (1976); Young v. American Mini Theatres, 427 U.S. 50 (1976).

[51] Hudson Water Co. v. McCarter, 209 U.S. 349 (1908); Eubank v. Richmond, 226 U.S. 137, 142 (1912); Erie R.R. v. Williams, 233 U.S. 685, 699 (1914); Sligh v. Kirkwood, 237 U.S. 52, 58–59 (1915); Hadacheck v. Sebastian, 239 U.S. 394 (1915); Hall v. Geiger-Jones Co., 242 U.S. 539 (1917); Panhandle Co. v. Highway Comm'n, 294 U.S. 613 (1935). "It is settled [however] that neither the 'contract' clause nor the 'due process' clause had the effect of overriding the power of the state to establish all regulations that are reasonably necessary to secure the health, safety, good order, comfort, or general welfare of the community; that this power can neither be abdicated nor bargained away, and is inalienable even by express grant; and that all contract and property [or other vested] rights are held subject to its fair exercise." Atlantic Coast Line R.R. v. City of Goldsboro, 232 U.S. 548 (1914).