into constitutionally enforceable limitations upon government.[73] The consequence was that the states in exercising their police powers could foster only those purposes of health, morals, and safety which the Court had enumerated, and could employ only such means as would not unreasonably interfere with fundamental natural rights of liberty and property. As articulated by Justice Bradley, these rights were equated with freedom to pursue a lawful calling and to make contracts for that purpose.[74]

Having narrowed the scope of the state's police power in deference to the natural rights of liberty and property, the Court proceeded to incorporate into due process theories of *laissez faire* economics, reinforced by the doctrine of Social Darwinism (as elaborated by Herbert Spencer). Thus, "liberty" became synonymous with governmental non-interference in the field of private economic relations. For instance, in *Budd v. New York*,[75] Justice Brewer declared in *dictum*: "The paternal theory of government is to me odious. The utmost possible liberty to the individual, and the fullest possible protection to him and his property, is both the limitation and duty of government."

Next, the Court watered down the accepted maxim that a state statute must be presumed valid until clearly shown to be otherwise, by shifting focus to whether facts existed to justify a particular law.[76] The original position could be seen in earlier cases such as *Munn v. Illinois*,[77] in which the Court sustained the legislation before it by presuming that such facts existed: "For our purposes we must assume that, if a state of facts could exist that would justify such legislation, it actually did exist when the statute now under consideration was passed." Ten years later, however, in *Mugler*

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[73] Loan Ass'n v. Topeka, 87 U.S. (20 Wall.) 655 (1875). "There are . . . rights in every free government beyond the control of the State. . . . There are limitations on [governmental power] which grow out of the essential nature of all free governments. Implied reservations of individual rights, without which the social compact could not exist . . . ."

[74] "Rights to life, liberty, and the pursuit of happiness are equivalent to the rights of life, liberty, and property. These are fundamental rights which can only be taken away by due process of law, and which can only be interfered with, or the enjoyment of which can only be modified, by lawful regulations necessary or proper for the mutual good of all. . . . This right to choose one's calling is an essential part of that liberty which it is the object of government to protect; and a calling, when chosen, is a man's property right. . . . A law which prohibits a large class of citizens from adopting a lawful employment, or from following a lawful employment previously adopted, does deprive them of liberty as well as property, without due process of law." *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36, 116, 122 (1873) (Justice Bradley dissenting).

[75] 143 U.S. 517, 551 (1892).

[76] *See* Fletcher v. Peck, 10 U.S. (6 Cr.) 87, 128 (1810).

[77] 94 U.S. 113, 123, 182 (1877).