

corder would preserve the interest.³³⁶ The statute provided no notice to owners of interests, however, save for its own publication; nor did it require surface owners to notify owners of mineral interests that the interests were about to expire.³³⁷ By a narrow margin, the Court sustained the statute, holding that the state's interest in encouraging production, securing timely notices of property ownership, and settling property titles provided a basis for enactment, and finding that due process did not require any actual notice to holders of unused mineral interests.³³⁸ The state "may impose on an owner of a mineral interest the burden of using that interest or filing a current statement of interests" and it may similarly "impose on him the lesser burden of keeping informed of the use or nonuse of his own property."³³⁹

Health, Safety, and Morals

Health.—Even under the narrowest concept of the police power as limited by substantive due process, it was generally conceded that states could exercise the power to protect the public health, safety, and morals.³⁴⁰ For instance, an ordinance for incineration of garbage and refuse at a designated place as a means of protecting public health is not a taking of private property without just compensation, even though such garbage and refuse may have some elements of value for certain purposes.³⁴¹ Or, compelling property owners to connect with a publicly maintained system of sewers and enforcing that duty by criminal penalties does not violate the Due Process Clause.³⁴²

There are few constitutional restrictions on the extensive state regulations on the production and distribution of food and drugs.³⁴³

³³⁶ With respect to interests existing at the time of enactment, the statute provided a two-year grace period in which owners of mineral interests that were then unused and subject to lapse could preserve those interests by filing a claim in the recorder's office.

³³⁷ The act provided a grace period and specified several actions which were sufficient to avoid extinguishment. With respect to interests existing at the time of enactment, the statute provided a two-year grace period in which owners of mineral interests that were then unused and subject to lapse could preserve those interests by filing a claim in the recorder's office.

³³⁸ Generally, property owners are charged with maintaining knowledge of the legal conditions of property ownership.

³³⁹ 454 U.S. at 538. The four dissenters thought that some specific notice was required for persons holding before enactment. *Id.* at 540.

³⁴⁰ *See, e.g.,* *Mugler v. Kansas*, 123 U.S. 623, 661 (1887), and the discussion, *supra*, under "The Development of Substantive Due Process."

³⁴¹ *California Reduction Co. v. Sanitary Works*, 199 U.S. 306 (1905).

³⁴² *Hutchinson v. City of Valdosta*, 227 U.S. 303 (1913).

³⁴³ "The power of the State to . . . prevent the production within its borders of impure foods, unfit for use, and such articles as would spread disease and pestilence, is well established." *Sligh v. Kirkwood*, 237 U.S. 52, 59–60 (1915).