v. Kansas,[78] rather than presume the relevant facts, the Court sustained a statewide anti-liquor law based on the proposition that the deleterious social effects of the excessive use of alcoholic liquors were sufficiently notorious for the Court to be able to take notice of them.[79] This opened the door for future Court appraisals of the facts that had induced the legislature to enact the statute.[80]

Mugler was significant because it implied that, unless the Court found by judicial notice the existence of justifying fact, it would invalidate a police power regulation as bearing no reasonable or adequate relation to the purposes to be subserved by the latter—namely, health, morals, or safety. Interestingly, the Court found the rule of presumed validity quite serviceable for appraising state legislation affecting neither liberty nor property, but for legislation constituting governmental interference in the field of economic relations, especially labor-management relations, the Court found the principle of judicial notice more advantageous. In litigation embracing the latter type of legislation, the Court would also tend to shift the burden of proof, which had been with litigants challenging legislation, to the state seeking enforcement. Thus, the state had the task of demonstrating that a statute interfering with a natural right of liberty or property was in fact "authorized" by the Constitution, and not merely that the latter did not expressly prohibit enactment of the same. As will be discussed in detail below, this approach was used from the turn of the century through the mid-1930s to strike down numerous laws that were seen as restricting economic liberties.

As a result of the Depression, however, the *laissez faire* approach to economic regulation lost favor to the dictates of the New Deal. Thus, in 1934, the Court in *Nebbia v. New York* [81] discarded this approach to economic legislation. The modern approach is exemplified by the 1955 decision, *Williamson v. Lee Optical Co.*,[82] which upheld a statutory scheme regulating the sale of eyeglasses that favored ophthalmologists and optometrists in private professional

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[78] 123 U.S. 623 (1887).

[79] 123 U.S. at 662. "We cannot shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety, may be endangered by the general use of intoxicating drinks; nor the fact . . . that . . . pauperism, and crime . . . are, in some degree, at least, traceable to this evil."

[80] The following year the Court, confronted with an act restricting the sale of oleomargarine, of which the Court could not claim a like measure of common knowledge, briefly retreated to the doctrine of presumed validity, declaring that "it does not appear upon the face of the statute, or from any of the facts of which the Court must take judicial cognizance, that it infringes rights secured by the fundamental law." Powell v. Pennsylvania, 127 U.S. 678, 685 (1888).

[81] 291 U.S. 502 (1934).

[82] 348 U.S. 483 (1955).