

## Opinion of the Court.

and gas and the right of the owner to take them as an incident of title in fee to the surface of the earth, as said by the Supreme Court of Indiana, is ultimately but a regulation of real property, and they must hence be treated as relating to the preservation and protection of rights of an essentially local character. Considering this fact and the peculiar situation of the substances, as well as the character of the rights of the surface owners, we cannot say that the statute amounts to a taking of private property, when it is but a regulation by the State of Indiana of a subject which especially comes within its lawful authority.

*Affirmed.*

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OHIO OIL COMPANY *v.* INDIANA (NO. 2).

ERROR TO THE SUPREME COURT OF THE STATE OF INDIANA.

No. 83. Argued December 18, 19, 1899. — Decided April 9, 1900.

The judgment below in this case is affirmed for the reasons given in *Ohio Oil Company v. Indiana*, *ante*, page 190.

THIS case was argued with No. 84, *ante*, 190, and by the same counsel.

MR. JUSTICE WHITE delivered the opinion of the court.

The defendant below was sued for the sum of certain penalties imposed by law for allowing gas to escape into the atmospheric air from an oil and gas well. The statute by which the penalties were imposed is the one we have considered and passed on in an opinion this day delivered in *Ohio Oil Co. v. Indiana*, No. 84, of this term. The defendant demurred to the complaint, and when the demurrer was overruled answered. The answer alleged that the statute imposing the penalties was repugnant to the Constitution of the United States, on the same grounds which we have to-day disposed of in the case referred to. From a judgment awarding the penalties,

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which was affirmed by the Supreme Court of the State of Indiana, this writ of error is prosecuted. For the reasons given in case No. 84 the judgment is

*Affirmed.*

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OHIO OIL COMPANY *v.* INDIANA (NO. 3).

ERROR TO THE SUPREME COURT OF THE STATE OF INDIANA.

No. 85. Argued December 18, 19, 1899. — Decided April 9, 1900.

The judgment below in this case is affirmed for the reasons given in *Ohio Oil Company v. Indiana, No. 1, ante*, page 190.

THIS case was argued with No. 84, *ante*, 190, and by the same counsel.

MR. JUSTICE WHITE delivered the opinion of the court.

The Supreme Court of the State of Indiana affirmed a judgment of the trial court, awarding the sum of certain penalties incurred by violating a statute of the State of Indiana which came under our review in case No. 84, this day disposed of. The opinion in that case is conclusive of every question here arising, and for the reasons given in case No. 84, the judgment is

*Affirmed.*