contracts still awaiting performance—but this implication was rejected early on for a certain class of contracts, with immensely important result for the clause.

"Impair" Defined.—"The obligations of a contract," said Chief Justice Hughes for the Court in *Home Building & Loan Ass'n v. Blaisdell*,[1972] "are impaired by a law which renders them invalid, or releases or extinguishes them . . . , and impairment . . . has been predicated upon laws which without destroying contracts derogate from substantial contractual rights."[1973] But he adds: "Not only are existing laws read into contracts in order to fix obligations as between the parties, but the reservation of essential attributes of sovereign power is also read into contracts as a postulate of the legal order. The policy of protecting contracts against impairment presupposes the maintenance of a government by virtue of which contractual relations are worthwhile,—a government which retains adequate authority to secure the peace and good order of society. This principle of harmonizing the constitutional prohibition with the necessary residuum of state power has had progressive recognition in the decisions of this Court."[1974] In short, the law from which the obligation stems must be understood to include constitutional law and, moreover a "progressive" constitutional law.[1975]

Vested Rights Not Included.—The term "contracts" is used in the Contract Clause in its popular sense of an agreement of minds. The clause therefore does not protect vested rights that are not referable to such an agreement between the state and an individual, such as the right of recovery under a judgment. The individual in question may have a case under the Fourteenth Amendment, but not one under Article I, § 10.[1976]

Public Grants That Are Not "Contracts".—Not all grants by a state constitute "contracts" within the sense of Article I, § 10. In his *Dartmouth College* decision, Chief Justice Marshall conceded that "if the act of incorporation be a grant of political power, if it creates a civil institution, to be employed in the administration of the

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[1972] 290 U.S. 398 (1934).

[1973] 290 U.S. at 431.

[1974] 290 U.S. at 435. *See also* City of El Paso v. Simmons, 379 U.S. 497 (1965).

[1975] "The *Blaisdell* decision represented a realistic appreciation of the fact that ours is an evolving society and that the general words of the contract clause were not intended to reduce the legislative branch of government to helpless impotency." Justice Black, in Wood v. Lovett, 313 U.S. 362, 383 (1941).

[1976] Crane v. Hahlo, 258 U.S. 142, 145–46 (1922); Louisiana ex rel. Folsom v. Mayor of New Orleans, 109 U.S. 285, 288 (1883); Morley v. Lake Shore Ry., 146 U.S. 162, 169 (1892). That the Contract Clause did not protect vested rights merely as such was stated by the Court as early as Satterlee v. Matthewson, 27 U.S. (2 Pet.) 380, 413 (1829); and again in Charles River Bridge v. Warren Bridge, 36 U.S. (11 Pet.) 420, 539–40 (1837).