**Sutherland vs. Hughes and Sutherland**

**Sutherland in Euclid**

"Regulations, the wisdom, necessity, and validity of which as applied to existing conditions are now uniformly sustained, a century ago, or even half a century ago probably would have been rejected as arbitrary and oppressive."

"and in this there is no inconsistency, for, while the meaning of constitutional guarantees never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operations. In a changing world it is impossible that is should be otherwise."

**Justice Hughes in Blaisdell 573**Emergency does not create power. Emergency does not increase granted power or remove or diminish the restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the federal government and its limitations of the power of the States were determined in the light of emergency, and they are not altered by emergency. What power was thus granted and what limitations were thus imposed are which have always been, and always will be, the subject of close examination under our constitutional system.

While emergency does not create power, emergency may furnish the occasion for the exercise of power. 'Although an emergency may not call into life a power which has never lived, nevertheless emergency may afford a reason for the exertion of a living power already enjoyed.'.. The constitutional question presented in the light of an emergency is whether the power possessed embraces the particular exercise of it in response to particular conditions . . When the provisions of the Constitution, in grant or restriction, are specific, so particularized as not to admit of construction, no question is presented. Thus, emergency would not permit a state to have more than two Senators in the Congress, or permit the election of President by a general popular vote without regard to the number of electors to which the States are respectively entitled, or permit the States to 'coin money' or to 'make anything but gold and silver coin a tender in payment of debts.' But, where constitutional grants and limitations of power are set forth in general clauses, which afford a broad outline, the process of construction is essential to fill in the details. That is true of the contract clause. The necessity of construction is not obviated by [290 U.S. 398, 427]   the fact that the contract clause is associated in the same section with other and more specific prohibitions. Even the grouping of subjects in the same clause may not require the same application to each of the subjects, regardless of differences in their nature

**Justice Sutherland in Blaisdell p. 575**

A provision of the Constitution, it is hardly necessary to say, does not admit of two distinctly opposite inter- [290 U.S. 398, 449]   interpretations. It does not mean one thing at one time and an entirely different thing at another time. If the contract impairment clause, when framed and adopted, meant that the terms of a contract for the payment of money could not be altered in invitum by a state statute enacted for the relief of hardly pressed debtors to the end and with the effect of postponing payment or enforcement during and because of an economic or financial emergency, it is but to state the obvious to say that it means the same now. This view, at once so rational in its application to the written word, and so necessary to the stability of constitutional principles, though from time to time challenged, has never, unless recently, been put within the realm of doubt by the decisions of this court.

**Sutherland dissenting in West Coast Hotel**

p 827 book

It is urged that the question involved should now receive fresh consideration, among other reasons, because of 'the economic conditions which have supervened'; but the meaning of the Constitution does not change with the ebb and flow of economic events. We frequently are told in more general words that the Constitution must be construed in the light of the present. If by that it is meant that the Constitution is made up of [300 U.S. 379 , 403]   living words that apply to every new condition which they include, the statement is quite true. But to say, if that be intended, that the words of the Constitution mean today what they did not mean when written-that is, that they do not apply to a situation now to which they would have applied then-is to rob that instrument of the essential element which continues it in force as the people have made it until they, and not their official agents, have made it otherwise.