Federalist, No. 81. Cf. *Principality of Monaco v. Miss.* (1934) 292 U. S. 313. This is certainly a true statement of the principle of governmental immunity from suit.

Unquestionably, Congress cannot be required to provide remedies against the Government upon its "contracts". And yet in the *Sinking Fund Cases* (1878) 99 U. S. 700, 718, the court said: "The United States cannot any more than the states interfere with private rights . . . and are *as much bound* by their contracts as individuals. . . . All this is indisputable." See Burdick, *Law of the Constitution* (1922) p. 413; *U. S. v. Mo. Pac. R. Co.* (1921) 256 U. S. 51. The statement is absurd upon its face. The courts, having distinguished between the right and the remedy, repeatedly confuse the concepts of the moral and the legal right. What the court meant was that the United States and the individual are *as much bound* "in foro conscientiae" only. It is obvious that the individual alone is bound "in foro legis."

Since the obligation of the United States on its contracts is only a moral obligation, the *right*, the extinction of which by Congress is now said to constitute a deprivation of property under the Fifth Amendment, is at most a possibly ill-founded expectancy that Congress will discharge the sovereign conscience. Even assuming the infallible integrity of Congress in the performance of these duties, the fact of judicial unenforceability, apart from statute, emasculates the legal obligation. The Fifth Amendment has not been construed to cast affirmative duties upon Congress in this regard.

The decision is explainable only in the light of the Court's views of sound public policy. The opinion in the principal case lends substance to the legally empty right against the sovereign in a situation where a remedy has once been afforded, in order to circumvent the logical consequence of the rule that immunity from suit is a sovereign prerogative. Thus a debit on the conscience of Congress miraculously becomes property within the meaning of the Fifth Amendment. This theory, however deliriously illogical, has a method in its madness. It represents a signal triumph of pragmatic thought over medieval doctrines and syllogistic formulae, and vindicates the cogent epigram of Justice Holmes that "a page of history is worth a volume of logic." A. J. B., '36.

CONSTITUTIONAL LAW—CONTRACT CLAUSE—EMERGENCY—EXEMPTION OF INSURANCE BENEFITS FROM JUDICIAL PROCESS.—Defendant, beneficiary of a life insurance policy, was indebted to plaintiff on a judgment for rent. Subsequently insured died, a writ of garnishment was served on the proceeds of the policy, and was dismissed pursuant to the provisions of an Act of the Legislature of Arkansas (Act 102, Laws of 1933), passed after the service of the writ, that all moneys payable to residents as beneficiaries of life and accident insurance should be exempt from seizure under judicial process for payment of any debt by contract or otherwise. *Held:* Reversed, the law being an impairment of the obligation of contracts under Art. I, sec. 10 of the U. S. Constitution, and remanded for reinstatement of the writ. *W. B. Worthen Co. v. Thomas* (1934) 292 U. S. 426.

The majority opinion, after reaching the conclusion that the effect of the statute is to hinder the enforcement of the contractual obligation, negatives the contention that it can be sustained as a valid exercise of emergency powers by distinguishing it from the legislation upheld in the Minnesota Mortgage case, *Home Building and Loan Association v. Blaisdell* (1934) 290 U. S. 398. The use in that case of the reserved power of the State to protect the vital interests of its people was guarded by reasonable conditions, appropriate to the emergency, while the Arkansas law is not limited in amount, time or circumstances. This distinction is repudiated by Mr. Justice Sutherland, speaking for the four judges who, after dissenting in the *Blaisdell* case, concur specially here. His short opinion simply denies that any law, however hedged about with conditions, can validly weaken the obligation of a contract because of an emergency.

Nothing on the face of the statute under consideration hints at any limitation on the broad relief it purports to grant save a general clause, typical of many appended to recent legislation, reciting economic conditions and declaring an emergency. Nevertheless, the absence of a time limit alone would not appear to be a fatal objection. Power remains in the courts to declare a law, once sustained, inoperative when the factors which justify it cease to exist. *Abie State Bank v. Bryan* (1931) 282 U. S. 765; *Chastleton Corp. v. Sinclair* (1924) 264 U. S. 543; *People ex. rel. v. Title Mortgage Guarantee Co.* (1934) 264 N. Y. 69, 190 N. E. 153; but see *Vanderbilt v. Brunton Piano Co.* (1933) 111 N. J. L. 596, 169 Atl. 177. While benefits of any size are exempted under the Arkansas Statute, so mortgages in any amount fall under the provisions of the Minnesota Act. True, as the Court says, income would be withdrawn from creditors by investment in insurance, but the attractiveness to a defrauding debtor of such a scheme is open to doubt, and the fact that abuse of its provisions is possible does not determine that a law is unconstitutional. *O'Gorman and Young v. Hartford Fire Insurance Co.* (1931) 282 U. S. 251; *Lindsley v. Natural Carbonic Gas Co.* (1911) 220 U. S. 61. Nevertheless, the distinction between the instant and the *Blaisdell* case might be based not only on the general tenor of the latter law but on the more fundamental ground that it provides a judicial hearing in each case to determine the necessity for the application of the act. The statute treated in the instant case is automatic. Undeserving as well as deserving beneficiaries are exempt. And, further, such exemption laws have almost uniformly been held invalid in the past. *Bank of Minden v. Clement* (1920) 256 U. S. 126; note (1934) 92 A. L. R. 1384 and cases cited.

In any event, the principle seems to be established that the test for this type of State police legislation is one of reasonable relation, under appropriate safeguards, to the end sought. See Jacobs, 11 N. Y. U. L. Q. Rev. 499, 533. Unsettled questions are the determination of the existence of an emergency in future less obvious cases by legislative declaration, judicial notice, or the introduction of evidence; and the number and extent of limitations in time, amount or classification necessary to constitute reasonableness.

T. S. M., '36.