

CASEBRIEFS

The Understanding Video Lecture
Series™

**Contracts Clause, Ex Post Facto,
and Bill of Attainder**

Contracts Clause of Article I

The “Contracts Clause”: “No State shall ... pass any ... law impairing the Obligation of Contracts.”

- Mainly requires state not to change contract law surrounding its own contracts. So a state cannot easily wriggle out of a government contract that was enforceable when made.
Example: State can't easily dishonor obligation to pay off its bonds.

Bills of Attainder

- Art. I prohibits “Bills of Attainder.” Bill of Attainder (B.A.) is a legislative act that “applies either to named individuals or to easily ascertainable members of a group” so as to “punish them w/o a judicial trial.”

For Example.....

In State X, Gov. Blue (Dem.) is unpopular, voted out of office. GOP-controlled legislature now, in retaliation, passes statute: “Former Gov. Blue may not hold any state appointive office until 2020.”

Compare with....

New statute: “Any lawyer convicted of misdemeanor DUI is suspended for 6 mos.”
Comes about b/c of high-profile DUI case of L, prominent lawyer. Not a B.A.: doesn’t single out named or few, easily ascertained, individuals. Also, essentially regulatory, not punitive.

Ex Post Facto

An ***ex post facto law*** (generally meaning AFTER) is a law that retroactively changes the legal consequences (or status) of actions that were committed, or relationships that existed, before the enactment of the law.

This is NOT allowed

Criminal Law

- It may criminalize actions that were legal when committed; it may aggravate a crime by bringing it into a more severe category than it was in when it was committed; it may change the punishment prescribed for a crime, as by adding new penalties or extending sentences; or it may alter the rules of evidence in order to make conviction for a crime likelier than it would have been when the deed was committed.