

Question MEE 3 – July 2024 – Selected Answer 1

1. The Contracts Clause of the Constitution provides private contracting parties with some protections in light of government actions that substantially impair the rights and duties of the contracting private parties. To establish a violation of the Contracts Clause when the contracting parties are private, the court must find a substantial impairment of the contractual rights of the private parties. Even where this substantial impairment exists, the state can still enforce its rules where they are substantially related to some important government interest.

First, the court must find that there has been some substantial impairment of the rights of the contracting private parties. This burden has likely been met here, as CarCo has gone from being able to terminate the contract for any purpose to being limited to terminating the contract only for good cause. This is a substantial impairment in what was otherwise a highly valuable contractual right for CarCo.

If that substantial impairment can be demonstrated, the state carries the burden of demonstrating that the potentially unconstitutional governmental action substantially impairing the contractual rights of private parties is substantially related to some important government interest. Though the legislation did substantially impair contractual rights of CarCo, the state is likely to demonstrate that the imposition of such legislation is substantially related to the important governmental interest that the state has in ensuring contracting parties bargain on equal footing. The state has an important interest in the fairness of contracting between commercial parties within its boundaries, and such legislation specifically designed to ensure equal footing in these car contract negotiation is likely substantially related to promoting this important interest. Therefore, even where the contractual rights of private contracting parties have been substantially impaired, which may be the case here, the state should be able to carry its burden of proving the legislation is constitutional.

2. The Equal Protection Clause is potentially violated where state legislation imposes different treatment on groups based on some statutory classification. Where suspect (typically race or nationality) or quasi-suspect classifications (typically gender) are utilized to discriminate between groups of citizens in legislation, the state carries a burden to demonstrate that the classifications are either narrowly tailored to some compelling state interest or substantially related to some important state interest, respectively. Where classifications are not suspect or quasi-suspect, it is the plaintiff who carries the burden of demonstrating that the usage of classifications in the legislation is not rationally related to some legitimate state interest.

In this case, the classification being used is not suspect or quasi-suspect. The legislation merely allows or disallows termination without cause provisions in contracts depending on whether the contract is between an automobile manufacturer and a dealership. Since neither suspect or quasi-suspect classifications are present, the

plaintiff must carry the burden of demonstrating that the legislation is not rationally related to some legit state interest, which is typically an incredibly high bar for plaintiffs to meet. Even in the presence of some indication that the legislation may have been influenced by a dislike of automobile manufacturers, the legislation is not likely to be seen as a violation of the Equal Protection Clause as it is rationally related to the legitimate interest the state has in promoting fairness in these types of contracts. It is therefore unlikely that Statute A will be found to violate the Equal Protection Clause.

3. Substantive due process rights of a party may be violated where the state acts or legislates in manner that substantially infringes upon the fundamental rights of an individual. If fundamental rights of an individual are being infringed upon by legislation, the legislation is typically subject to strict scrutiny. Fundamental rights typically include an individual's privacy rights, their right to vote, their right to interstate travel, and their first amendment rights. When legislation substantially impairs any of those rights, the state must carry the burden of demonstrating that their legislation is narrowly tailored to advancing a compelling state interest. If one of those fundamental rights is not being impaired, the substantiate due process analysis will once again only require that the state legislation have some rational relation to a legitimate interest. It is unlikely that a court will interpret this legislation as being some substantial impairment to the fundamental rights of individuals within the state. CarCo.'s best bet may be to argue that its right to contract is a first amendment right which is being interfered with by this legislation, but a court will likely not find an individual's right to contract as being substantially impaired where that individual is still fully free to contract with the exception of one certain clause in one certain context. It is therefore unlikely that Statute A will be found to violate CarCo's substantive due process rights.

Question MEE 3 – July 2024 – Selected Answer 2

Issue 1: The first issue is whether the application of the State A statute to CarCo's rights under the dealership agreement with the dealer violates the Contracts Clause, because the parties entered into the dealership agreement before the statute was enacted.

The Contracts Clause, as applied to the States through the 14th Amendment, prohibits states from enacting laws or legislation that substantially impairs the contractual rights and obligations of existing contracts. The Contracts Clause does not prohibit the state from enacting any legislation that affects contract rights, but only those that substantially impair existing contract rights. Furthermore, a bill of attainder

prohibits legislation solely to punish one particular entity or to prevent existing behavior by new legislation.

CarCo, an automobile manufacturer located in State A, entered into contracts with several State A automobile dealers, where the dealers had the right to sell cars made by CarCo. The contracts, 10-years in length, gave CarCo the absolute right to terminate the dealer's rights upon 60 days' written notice. Two years ago, CarCo announced that it planned to terminate agreements with rural dealers in many states and to encourage potential buyers in rural areas to use CarCo's website to purchase cars, as this would result in significant cost savings for CarCo.

Therefore, the statute was enacted after the State A legislature learned that CarCo intended to terminate agreements with rural dealers. Specifically, some members of the state legislature privately expressed anger that automobile manufacturers were terminating agreements with rural dealers and thought the statute was a good way to "get back at them." The statute provided that, "an automobile manufacturer shall not, without good cause, terminate any contractual rights of a dealer located in a county with a population of less than 1,000. This provision applies to contracts entered into both before and after the effective date of this statute." As a result, a rural dealer sued CarCo for their attempted termination of the dealership agreement.

Here, this statute would be a violation of the Contracts Clause. First and foremost, this statute was intended specifically to impair CarCo's rights. This statute was not incidentally passed without intention to affect any rights. This statute was specifically passed to prevent CarCo from doing what they were legally and contractually entitled to do. Secondly, language from legislators proves that this statute was enacted as a punishment to "get back" at CarCo. A bill of attainder, as we see here, is not permitted to be passed to get back at any group or entity, nor is allowed to be passed solely to prevent someone from doing something out of animus. Next, this statute was additionally passed to impede past contracts. Had this statute been passed only to prevent future terminations from occurring, there might be a different showing. However, this goes back in time and impairs the rights of already existing contracts. Furthermore, the legislature has not previously regulated agreements between automobile manufacturers and dealers, and State A's highest court has held that the state common law did not generally limit the enforceability of contract-termination provisions. Thus, the State A statute is a violation of the Contracts Clause.

Issue 2: The second issue is whether the State A statute violates the Equal Protection Clause, because it allegedly discriminates between automobile-dealership agreements and contracts involving other products with similar provisions that allow termination without cause.

The Equal Protection Clause, as applied to the States through the 14th Amendment, prevents one group from being discriminated against. If one group or class is being explicitly discriminated against, the court assesses whether this discrimination is

allowed or not. Here, this statute is specifically passed and applicable only to automobile manufacturers. The statute allows any other agreements and contracts by businesses to terminate without cause. However, automobile manufacturers are specifically treated differently, and not allowed to discriminate without cause.

The next inquiry therefore is what right, if any, is being discriminated against. If a fundamental right was being discriminated against, then strict scrutiny would apply. Fundamental rights include free speech, the privacy rights (including the right to procreate, the right to raise your family), and the right to interstate travel. Furthermore, strict scrutiny would be applied if this was against a suspect class, such as race, alienage, or national origin. As none of these apply, we next assess whether intermediate scrutiny is applicable. Intermediate scrutiny applies to quasi-suspect classifications such as gender or legitimacy.

Because no discrimination is occurring based on either of these two, intermediate scrutiny does not apply. Anything else is assessed under rational basis. Here, CarCo would have to show that State A's statute is not rationally related to any legitimate governmental/state interest. Here, they would fail to show that. While there was animus involved with the passing of this statute, this statute was also passed with the following legislative purpose: "This Act addresses the imbalance of bargaining power between automobile manufacturers and dealers. We find that if the parties were able to freely bargain on an equal footing, their agreements would contain a provision allowing termination only for good cause." Here, State A has a legitimate state interest of protecting the "little guys," or, protecting dealers from the imbalance of bargaining power against manufacturers. As we saw, CarCo insisted upon this termination provision, and has never entered into a dealership agreement without this provision. Furthermore, they have consistently refused to omit this provision. Therefore, the dealers have an unequal bargaining power, and most likely feel that they can not proceed with the agreement, which they most likely really need, without including the termination clause.

Therefore, CarCo's claim of violation of Equal Protection Clause will fail, as they won't be able to show that the State did not have a rational relationship to the legitimate state interest of protecting unequal bargaining power.

Issue 3: The last issue is whether the State A statute violated CarCo's substantive due process rights.

Substantive due process is a fundamental right. There, as applied by the 14th Amendment, no state may deprive a person of life, liberty, or property without due process of law. CarCo asserts that State A's statute, which requires them now to only be able to terminate agreements for a showing of good cause, violates their due process rights. Substantive due process is a violation against a specific person, not necessarily a class of persons. Here, as we analyzed above, there is no fundamental right being violated. CarCo does not have a fundamental right to free termination or

freedom of contract, as there is no such thing. Therefore, the court will assess whether or not a violation of CarCo's substantive due process rights occurred using a rational basis standard. There, CarCo would have to show that State A's statute which denies free termination (requiring good cause only for termination) is not rationally related to a legitimate state interest. Here, CarCo would not be able to do that. Requiring that if the parties are able to freely bargain on open footing, they can only terminate for good cause, could be shown to be rationally related to the legitimate state interest of protecting smaller companies from unequal bargaining power. Therefore, this requiring of good cause shown is not a violation of CarCo's substantive due process rights.

Question MEE 3 – July 2024 – Selected Answer 3

1. Does the state A statute violate the contracts clause as applied to CarCo?

The contracts clause of the constitution protects existing contracts between parties from being substantially impaired by state or congressional action, absent a substantial governmental interest.

Here, the statute significantly impairs CarCo's rights under its existing contracts with the car dealerships, because it effectively nullifies their termination provision. This termination provision was not a trivial part of the contract; the ability of CarCo to terminate is very important to maintaining its profitability and protecting its risk for dealerships that perform poorly. This is further emphasized by the fact that CarCo refuses to enter into agreements without this provision.

Thus, the statute substantially impairs CarCo's rights under an existing, long term(10 year) contract with the dealer in state A. Additionally, the state has demonstrated no substantial interest in protecting rural car dealers. State's generally do have legitimate interest in protecting local economies, but here, there's no showing of fact to demonstrate the need for this statute and if there are nay more narrowly tailored alternatives.

2. Does the state A statute violate the Equal Protection clause?

The equal protection clause guarantess that similarly situated people have "equal protection under the laws." This clause is incoporated to the states via the due process clause of the 14th amendment. It applies only to state action. Effectively, this means that certain classes of people cannot be discriminated against by state action.

Generally, there must be a showing of discriminatory intent (either the statute is facially discriminatory or there is evidence of discriminatory intent) and disparate impact.

The level of scrutiny applied to the statute depends on what class is being discriminated against. If the class is 'suspect'-typically by race, religion, gender, or citizenship (if by a state)-then strict scrutiny applies, which means the statute must serve a compelling state interest and be narrowly tailored to serve that interest. This level of scrutiny typically results in the law being struck down. If the class is 'quasi-suspect'-typically gender or legitimacy, then intermediate scrutiny applies, in which the statute must serve a substantially related to an important state interest. The burden of proof for these two levels of scrutiny is on the government. For all other classes, rational basis review applies, in which the challenger must establish the law is not rationally related to a legitimate state interest.

Here, CarCo argues that the statute impermissibly discriminates against businesses engaged in automobile transactions, compared to businesses not engaged in such transactions or contracts. "Businesses engaged in automobile contracts" is likely not a suspect class, since commercial entities are not typically the type of plaintiffs the equal protection class was designed to protect. Additionally, the automobile industry, and other commercial industries in general, are typically subject to significant state and federal regulation already, and certain businesses are treated more stringently than others all the time, because states have a rational interest in regulating the markets for certain goods.

As such, rational basis scrutiny likely applies here, which means the law will likely be upheld by a court. However, even applying the rational basis test itself yields the same result-states have a legitimate interest in protecting rural economies and auto dealers, and preventing manufacturers like CarCo from reneging on their contracts at will with such rural dealers is rationally related to that interest.

Thus, even though the statute has evidence of discriminatory intent (the legislature saying it wants to 'get back' at manufacturers like CarCo), the statute on its face discriminating against automobile manufacturers, and the disparate impact caused, the statute is still likely to meet constitutional muster because rational basis applies to discrimination against non suspect/quasi suspect classes.

3. Does the State A statute violate CarCo's substantive due process rights?

Substantive due process refers to the idea that there are certain fundamental rights that are implied in the constitution, that exist despite not being enumerated or specifically listed. For example, the right to privacy, the right to travel, the right to associate, the right to vote, and the right to raise one's own children are considered fundamental rights that, if limited in any substantial way, such limitation will be subject to strict scrutiny and most likely struck down. Generally, a fundamental right must have some sort of historical root in the constitution, or through the history and traditions of the US.

Here, the ability of an automobile manufacturer to terminate a contract without good cause, at will, is a very niche and attenuated right. Such a right likely will not be considered fundamental, as contracts, especially commercial contracts involving automobiles, have historically been subject to state and federal regulation. Even though State A's legislature has not previously legislated such agreements, such agreements are subject to general commerce clause powers of the federal government, and there's no provision in the constitution that even implies a fundamental right to have certain bargaining power in contracts. Thus, any regulation against this right will likely again, be subject to rational basis review, and therefore upheld.