

Sec. 10—Powers Denied to the States

Cl. 1—Treaties, Coining Money, Etc.

instances, one law involving the government's own contractual obligation and the other affecting private contracts.²¹⁰⁴ A finding that a contract has been "impaired" in some way is merely the preliminary step in evaluating the validity of the state action.²¹⁰⁵ But in both cases the Court applied a stricter-than-usual scrutiny to the statutory action, in the public contracts case precisely because it was its own obligation that the State was attempting to avoid and in the private contract case, apparently, because the legislation was in aid of a "narrow class."²¹⁰⁶

The approach in any event is one of balancing. "The severity of the impairment measures the height of the hurdle the state legislation must clear. Minimal alteration of contractual obligations may end the inquiry at its first stage. Severe impairment, on the other hand, will push the inquiry to a careful examination of the nature and purpose of the state legislation."²¹⁰⁷ Having determined that a severe impairment had resulted in both cases,²¹⁰⁸ the Court moved on to assess the justification for the state action.

In *United States Trust*, the Court ruled that an impairment would be upheld only if it were "necessary" and "reasonable" to serve an important public purpose. But the two terms were given restrictive meanings. Necessity is shown only when the state's objectives could not have been achieved through less dramatic modifications of the contract; reasonableness is a function of the extent to which alteration of the contract was prompted by circumstances unforeseen at

tices Rehnquist and Stevens joined both opinions of the Court. Of the three remaining Justices, who did not participate in one or the other case, Justice Blackmun wrote the opinion in *United States Trust* while Justice Stewart wrote the opinion in *Spannaus* and Justice Powell joined it.

²¹⁰⁴ *United States Trust* involved a repeal of a covenant statutorily enacted to encourage persons to purchase New York-New Jersey Port Authority bonds by limiting the Authority's ability to subsidize rail passenger transportation. *Spannaus* involved a statute requiring prescribed employers who had a qualified pension plan to provide funds sufficient to cover full pensions for all employees who had worked at least 10 years if the employer either terminated the plan or closed his offices in the state, a law that greatly altered the company's liabilities under its contractual pension plan.

²¹⁰⁵ 431 U.S. at 21; 438 U.S. at 244.

²¹⁰⁶ 431 U.S. at 22–26; 438 U.S. at 248.

²¹⁰⁷ 438 U.S. at 245.

²¹⁰⁸ 431 U.S. at 17–21 (the Court was unsure of the value of the interest impaired but deemed it "an important security provision"); 438 U.S. 244–47 (statute mandated company to recalculate, and in one lump sum, contributions previously adequate).