

Post 3/27/65

High Court Hears Case On Travel Curb Powers

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The Government's chief attorney told the Supreme Court yesterday that the power of the State Department to restrict travel of U.S. citizens to Cuba was a "vital part of this country's foreign policy."

Opposing attorneys argued, however, that such passport restrictions were a violation of a citizen's constitutional right to travel freely and the

"very antithesis of an open society."

The right-to-travel case, involving issues of statutory and constitutional law, was argued before the Court for two hours. The court will issue a written opinion later.

Travel Barred in 1962

The case involved Louis Zemel, a Middlefield, Conn., resident who was denied validation of a passport for travel to Cuba in 1962 as a tourist. Zemel stated that his purpose was to "SATISFY MY CURIOSITY ABOUT THE STATE OF AFFAIRS IN Cuba and to make me a better informed citizen."

A special three-judge Federal court in Hartford, Conn., ruled last March 2 that the State Department had the right to deny the passport. Zemel appealed to the Supreme Court.

For the Government, Solicitor General Archibald Cox told the Court that the power to restrict travel to other countries rested on at least two foundations—a 1962 Passport Act and the "inherent power of the Executive to conduct foreign policy."

Cox cited numerous instan-

ces when the Government imposed restrictions on travel abroad during the Civil War, during World War I, during the 1930s on travel to Ethiopia, Spain and China, and again during World War II and the Korean War. He noted that the power was never challenged in the past.

Interpretation Challenged

Cox said restrictions on general travel to Cuba, imposed by the State Department in January, 1961, were done in concert with other countries as a key part of an agreement to combat Cuban Communist "infiltration and subversion" in Latin America.

Leonard B. Boudin, attorney for Zemel, claimed that the 1926 Act and the immigration acts did not provide for prohibition of travel by U.S. Citizens to certain areas or countries.

Further, he argued that since the laws provided no specific standards, it would amount to an "ineligible delegation of congressional powers" for the Executive to assume rights to issue "area restrictions" on travel of citizens abroad.