

Supreme Court Upholds Ban on Travel to Cuba

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The Supreme Court upheld yesterday the right of the Government to deny Americans permission to travel to Cuba.

In a 6 to 3 opinion for the Court, Chief Justice Earl Warren said that the Secretary of State "has justifiably concluded that travel to Cuba . . . might involve the Nation in dangerous international incidents . . ."

The Constitution does not require the Secretary to validate passports for such travel, Warren said. Although the Constitution protects the right to travel within the United States, he said, there are limits even here.

" . . . that freedom does not mean that areas ravaged by

flood, fire or pestilence cannot be quarantined . . ." to insure the public welfare, he said. "So it is with international travel."

Warren emphasized his point by noting that the Cuban missile crisis of 1962 occurred only two months before the filing of the complaint in the case decided yesterday.

Application Rejected

The case was brought by Louis Zemel, a Middlefield, Conn., ski resort operator whose application to go to Cuba was rejected. He said the purpose of his trip was "to satisfy my curiosity about the state of affairs in Cuba and to make me a better informed citizen."

Warren wrote that "the prohibition of unauthorized entry into the White House diminishes the citizen's opportunities to gather information he might find relevant to his opinion of the way the country is being run, but that does not make his entry . . . a First Amendment right."

The Court held that authority for the Executive to refuse to allow travel to Communist Cuba is granted by the Passport Act of 1926, which says that passports may be granted "under such rules as the President shall . . . prescribe for and on behalf of the United States. . . ."

Part of Liberty

In a 1958 case the Court held that "the right to travel is a part of the 'liberty' of which the citizen cannot be deprived without due process of law under the Fifth Amendment."

However, Warren said "the

fact that a liberty cannot be inhibited without due process of law does not mean that it can under no circumstances be inhibited."

The opinion went on to say that the requirements of due process must take into account "the extent of the necessity for the restriction." In this context, Warren noted the State Department's judgment "that a major goal of the Castro regime is to export its Communist revolution to the rest of Latin America."

In a dissent, Justice Arthur J. Goldberg agreed that Congress has the power to impose area restrictions on travel, but contended that the power has not been exercised. "Moreover, I do not believe that the Executive has inherent authority to impose area restrictions in time of peace," he said.