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High Court Upholds Validity Of Cuba's Property Seizures

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The Supreme Court ruled yesterday that it will not examine the legality under international law of the actions through which the Cuban government seized assets owned by United States citizens.

The Court said in an 8-to-1 decision that such expropriation decrees of foreign governments must be accepted as valid by American courts unless there is a treaty or a similar agreement covering controlling legal principles.

The decision came in a test case resulting from efforts of the Cuban National Bank to collect \$175,000 for the sale of American-owned sugar seized in Cuba by Fidel Castro's government in 1960.

About 50 similar cases, involving several million dollars, are pending in courts throughout the nation. Under the decision, Cuba will get legal title to the money but it will have little immediate use for it. The Treasury Department has

blocked transfer of such funds outside the country.

The Court's opinion was written by Justice John M. Harlan with only Justice Byron R. White dissenting.

The case, the most important one in international law to come before the Supreme Court in many years, involved the extent to which American courts can refuse to enforce the laws of other countries that depart from principles of international law.

The Justice and State Departments had joined with attorneys for the Cuban Government in arguing for the decision the Court reached.

The issue got to the Supreme Court this way:

In 1960, Farr, Whitlock & Co., a New York commodity broker, contracted to buy sugar from a Cuban company largely owned by U.S. citizens. While the sugar was being loaded for shipment to Morocco, the Cuban government seized it. Farr, Whitlock later sold the sugar and both the former American owners

and the Cuban government claimed the proceeds.

A Federal court in New York awarded the money to the American owners on the grounds that the Cuban expropriation decree violated international law in that it discriminated against U.S. citizens, was retaliatory in nature and failed to provide adequate compensation.

The Supreme Court said that because of what is known as the "act of state doctrine" the lower court never should have considered the validity of the Cuban decree.

Justice Harlan said the Court rested on the "classic American statement" of that doctrine by Chief Justice Melville W. Fuller in 1897. Fuller wrote then:

"Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory. Redress of grievances by reason of such acts must be obtained

through the means open to be availed of by sovereign powers as between themselves."

Justice Harlan said this doctrine rests neither on the Constitution or on international law but on the separation of powers and the relationship between the courts and the President's power to conduct foreign relations.

He noted that the State Department and the President seek to obtain compensation for nationalized assets through diplomatic channels or, perhaps, through economic sanctions. "If the political branches are unwilling to exercise their ample powers to effect compensation," Justice Harlan said, "this reflects a judgment of the national interest which the judiciary would be ill-advised to undermine indirectly."

Taking note of the contention that international law would be strengthened by a different result, Justice Harlan said the nations of the world sharply disagree on how expropriation decrees should be carried out. He pointed out

that neither the Communists nor the newly developing nations agree with the views of the older Western nations on such things as proper compensation.

Justice White said he was dismayed that the Court had declared the application of international law beyond the competence of American courts in this kind of case. He called it a "backward looking doctrine" which is to be applied here more rigidly than in any other civilized country.

White said the Federal courts ought to be free to ap-

ply all existing law to cases that come before them.

The \$175,000, which had been held in escrow in New York, now will be transferred to the blocked Cuban account unless further court action is taken.