Supplementary Material

Chapter 8: The New Deal and Great Society Era – Separation of Powers

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United States v. Belmont, 301 U.S. 324 (1937)

A Russian company, Petrograd Metal Works, deposited funds in a private New York bank, August Belmont & Co. In 1918, the government of the Soviet Union dissolved the company and nationalized its property. The United States government refused to recognize the Soviet Union as the legitimate government of Russia until the Franklin Roosevelt administration in 1933. A few years later the United States and the Soviet Union reached an agreement to settle all claims between the two countries, and the funds held by Belmont were assigned to the U.S. government. Belmont refused to release the funds, and the U.S. government sued in federal district court. The trial court determined that the assignment had been made but that the public policy of New York barred the confiscation of property within the state, and thus the Soviet government did not have valid rights that could be assigned. The district court dismissed the suit, and the circuit court affirmed that ruling. The U.S. government appealed to the Supreme Court, which reversed the lower courts. In an opinion by Justice Sutherland, the Court emphasized the broad authority of the president to enter into such international agreements and the supremacy of such presidential actions over any contrary state policies.

Why might the courts be reluctant to question diplomatic agreements? Could they avoid those difficulties by deferring to the policies of a state government? Why would an executive agreement supersede state policies? Why should a president not be required to win Senate ratification for a treaty to give international agreements a legal status? What constraints might exist on executive agreements? What are the domestic limits on the president's foreign affairs powers?

JUSTICE SUTHERLAND, delivered the opinion of the Court.

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First. We do not pause to inquire whether in fact there was any policy of the State of New York to be infringed, since we are of opinion that no state policy can prevail against the international compact here involved.

This court has held . . . that every sovereign state must recognize the independence of every other sovereign state, and that the courts of one will not sit in judgment upon the acts of the government of another, done within its own territory.

. . . . This court [has] held that the conduct of foreign relations was committed by the Constitution to the political departments of the government, and the propriety of what may be done in the exercise of this political power was not subject to judicial inquiry or decision; that who is the sovereign of a territory is not a judicial question, but one the determination of which by the political departments conclusively binds the courts; and that recognition by these departments is retroactive and validates all actions and conduct of the government so recognized from the commencement of its existence. "This principle," we said, "that the conduct of one independent government cannot be successfully questioned in the courts of another is as applicable to a case involving the title to property brought within the custody of a court, such as we have here . . . in which claims for damages were based upon acts done in a foreign country, for it rests at last upon the highest considerations of international comity and expedience. To permit the validity of the acts of one sovereign State to be reexamined and perhaps condemned by the courts of

another would very certainly 'imperil the amicable relations between governments and vex the peace of nations.'" . . .

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We take judicial notice of the fact that coincident with the assignment set forth in the complaint, the President recognized the Soviet Government, and normal diplomatic relations were established between that government and the Government of the United States, followed by an exchange of ambassadors. The effect of this was to validate, so far as this country is concerned, all acts of the Soviet Government here involved from the commencement of its existence. The recognition, establishment of diplomatic relations, the assignment, and agreements with respect thereto, were all parts of one transaction, resulting in an international compact between the two governments. That the negotiations, acceptance of the assignment and agreements and understandings in respect thereof were within the competence of the President may not be doubted. Governmental power over internal affairs is distributed between the national government and the several states. Governmental power over external affairs is not distributed, but is vested exclusively in the national government. And in respect of what was done here, the Executive had authority to speak as the sole organ of that government. The assignment and the agreements in connection therewith did not, as in the case of treaties, as that term is used in the treaty making clause of the Constitution (Art. II, § 2), require the advice and consent of the Senate.

A treaty signifies "a compact made between two or more independent nations with a view to the public welfare." . . . But an international compact, as this was, is not always a treaty which requires the participation of the Senate. There are many such compacts, of which a protocol, a modus vivendi, a postal convention, and agreements like that now under consideration are illustrations. . . .

Plainly, the external powers of the United States are to be exercised without regard to state laws or policies. The supremacy of a treaty in this respect has been recognized from the beginning. . . . And while this rule in respect of treaties is established by the express language of cl. 2, Art. VI, of the Constitution, the same rule would result in the case of all international compacts and agreements from the very fact that complete power over international affairs is in the national government and is not and cannot be subject to any curtailment or interference on the part of the several states. Compare *United States v. Curtiss-Wright Export Corp*. (1936). In respect of all international negotiations and compacts, and in respect of our foreign relations generally, state lines disappear. As to such purposes the State of New York does not exist. Within the field of its powers, whatever the United States rightfully undertakes, it necessarily has warrant to consummate. And when judicial authority is invoked in aid of such consummation, state constitutions, state laws, and state policies are irrelevant to the inquiry and decision. It is inconceivable that any of them can be interposed as an obstacle to the effective operation of a federal constitutional power. Cf. *Missouri v. Holland* (1920). . . .

Second. The public policy of the United States relied upon as a bar to the action is that declared by the Constitution, namely, that private property shall not be taken without just compensation. But the answer is that our Constitution, laws and policies have no extraterritorial operation, unless in respect of our own citizens. *United States v. Curtiss-Wright Export Corp*. What another country has done in the way of taking over property of its nationals, and especially of its corporations, is not a matter for judicial consideration here. Such nationals must look to their own government for any redress to which they may be entitled. . . .

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Judgment *reversed.*

JUSTICE STONE, joined by JUSTICE BRANDEIS and JUSTICE CARDOZO, concurring.

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