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Cuban Nationalization: The Demise of Foreign Private Property by **Michael W. Gordon**

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BOOK REVIEWS

CUBAN NATIONALIZATION: THE DEMISE OF FOREIGN PRIVATE PROPERTY. Michael W. Gordon. William S. Hein & Co., Inc., Buffalo, N.Y. 1976 pp. 244, \$27.50. L. of C. 76-17458.

Reviewed by Rafael C. Benitez*

After nearly sixteen years of almost total estrangement, the United States and Cuba now appear disposed to seek a friendlier *modus vivendi*. Whether the present evidence (direct diplomatic talks on fishing rights) will constitute the first of a series of cumulative steps leading to normalization of relations between the two countries, or just one more isolated incident in their bilateral relations, better be left to that infallible prognosticator — time. But, U.S.-Cuban relations are a current topic to which considerable attention is being given, among others, by government officials, businessmen and academicians. Michael W. Gordon, Professor of Law of the University of Florida, is in the last group and his *Cuban Nationalization: The Demise of Foreign Private Property* is evidence of his continued interest in a subject on which he has already written authoritatively in the *Santa Clara Lawyer* and the *Lawyer of the Americas*, both articles appearing in 1973.

Professor Gordon takes a novel approach to the subject of Cuban expropriation of private property. In essence he attempts to illustrate the process of expropriation of foreign private property, primarily that owned by U.S. entrepreneurs, in the context of the Cuban stage of development existing in 1959, and to *raise* the question of whether the public interest of Cuba was served by the massive “expropriations” of the Castro government.

He carries out his mission well. He begins by tracing U.S.-Cuban political and economic relations prior to the 1959 revolution, making very clear the deep involvement and pervasive influence of the United States in the political and economic life of Cuba prior to the Castro take over. He develops his main theme by effecting a comparison between various sectors of Cuban life in 1957 and 1958 and the same sectors

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twelve years later in search of "those features requisite to national life satisfaction," so as to provide a basis upon which the reader "may make his own judgment as to whether the first dozen years of Castro's rule has provided greater satisfaction of wants to a larger percentage of the population." Thus, the reader is left free to draw his own conclusion, but at the end Professor Gordon leaves no doubt where he stands. Concretely, he concludes that the "total nationalizations in Cuba have undoubtedly not served the public interest," and that "it does not appear that the vast nationalization and dislocations of the past dozen years were necessary to achieve the goals of primary importance to the revolutionary government." Further, he believes that the goals of the revolution could have been achieved in a briefer period without major dislocations and the total destruction of Cuba's economic relationship with the United States. This was possible, in his opinion, through nationalizations of basic industries with the source of agreed upon compensatory payments being the profits of the industry concerned over a period of years.

As a prominent legal scholar, Professor Gordon does not ignore the legal dimension in his study. One chapter deals in depth with the Cuban nationalizations under international law; another covers the leading cases on expropriated property claims against Cuba in U.S. courts, i.e., *Sabbatino* and *First National City*. The absence of *Dunhill* is understandable given the date of publication of his study; likewise understandable—for the same reason—is the absence of specific reference to the *Foreign Sovereign Immunities Act* (1976).

Professor Gordon has made one more significant contribution in the areas of inter-American law and inter-American relations. Specifically, his book is of value to those now wrestling with the "Cuban problem." Obviously, it has the benefit of hindsight—the events which took place in the twelve years subsequent to 1959—but, if it is too late in the case of Cuba it nevertheless can serve to illumine those governments who, in this age of interdependence, are thinking of massive uncompensated expropriations to achieve their visions of social justice.