

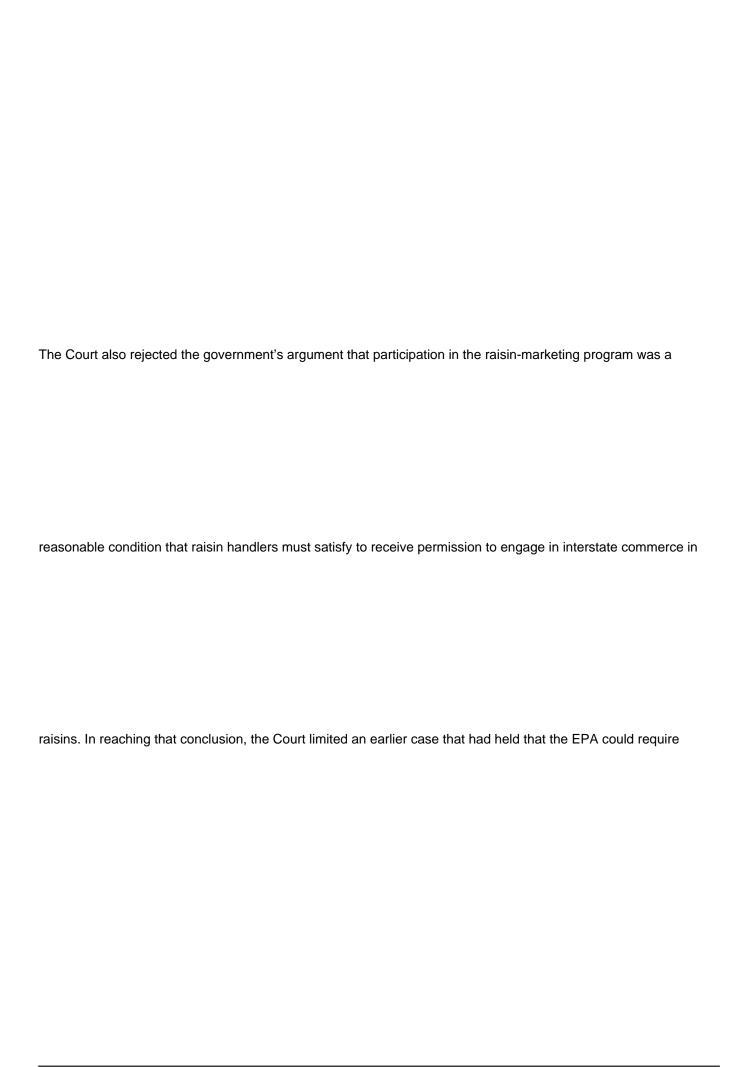
the federal government. The government then "disposes" of the surrendered raisins in a variety of ways that do not
affect the market price for domestic raisins. For example, the government may sell the raisins to foreign
governments, give them to schools, or even physically destroy them. The government uses proceeds from this
raisin disposal to cover the expense of administering the program. If any additional funds remain, they are

distributed to the raisin handlers on a pro-rata basis.
Petitioners were raisin farmers who argued that the raisin program was an uncompensated taking of their private
property, in violation of the Fifth Amendment. In the decision below, the Ninth Circuit disagreed, holding that

although the government has a "categorical" duty to pay just compensation when it takes physical possession of
privately owned real property, this categorical duty did not apply to personal property such as crops. Additionally,
the Ninth Circuit held that the categorical duty to pay compensation did not apply because the raisin handlers
retained one contingent property interest in the surrendered raisins: The right to a possible share in any proceeds

from the government's raisin disposal.
In an opinion by Chief Justice Roberts, the Supreme Court reversed. Tracing the history of the protection of
agricultural crops and other personal property from government seizure back to the Magna Carta, the Court

rejected the notion that the Fifth Amendment provides less protection to real property than to personal property.
The Court also held that the government could not avoid the categorical duty to pay just compensation by providin
a contingent future interest in the proceeds from the raisin disposal. The Court emphasized that the value of that
contingent interest was doubtful, as it was entirely dependent on the government's discretion.



pesticide producers to disclose trade secrets in exchange for a permit to sell their products. The Court explained
that "[s]elling produce in interstate commerce, although certainly subject to reasonable regulation, is not a
special governmental benefit that the Government may hold hostage, to be ransomed by the waiver of
constitutional protection. Raisins are not dangerous pesticides; they are a healthy snack."



alue at the time of the taking.
stice Thomas filed a concurring opinion to express his continuing opposition to <i>Kelo v. New London</i> , 545 U.S.
9 (2005), which had established that the Fifth Amendment imposes little or no restraint on the uses for which

government may seize private property.	
Justice Breyer, joined by Justices Ginsburg and Kagan, concurred in part an	d dissented in part. Justice Breyer's
opinion agreed that a taking had occurred but objected to the Court's decidir	ng whether the benefits of the raisin

program should be deducted from the just compensation that was owed to raisin handlers. He argued that the case
should be remanded to the Ninth Circuit for full briefing and consideration of that issue.
Justice Sotomayor dissented in full, arguing that no categorical taking had occurred because the raisin handlers

retained the right to the proceeds from the raisin disposal.
This case is important for businesses operating in highly regulated industries. It confirms the vitality of the
distinction that the Supreme Court has drawn between physical seizures of property, which are subject to a per se

takings rule, and regulatory restrictions on the use of property, which are subject to a balancing	ງ test. It also clarifies
that although reasonable regulation may be constitutional, the right to engage in commerce or	to make use of
personal property is not merely a governmental benefit subject to the plenary authority of regula	ators.

