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Comment on the Taft-Hartley Act, Title III

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it is probably unnecessary to attempt that drastic a measure. When a government attempts to set itself up as a censor of thought, it teeters on the brink of tyranny.

But it is not impossible to prevent the terrible effects of intolerance. The true solution is legislation to curb abuses by individuals and organizations which deprive others of the freedoms they demand for themselves, coupled with a sincere and determined effort to eradicate through education the ignorance that engenders bigotry. Only by a clear understanding and appreciation of God-given rights and equality and fundamental freedoms can the American nation resolve the problems it faces. True Brotherhood of Man depends upon a recognition of the Fatherhood of God. With our own house in order, we can accept our duties of leadership in democratic action in the world.

B. M. Apker

LABOR LAW—COMMENT ON THE TAFT-HARTLEY ACT, TITLE III.—A fair and just discussion of the Taft-Hartley Act [1] is impossible without a fair determination of the purpose for which it was enacted. The Act itself explains that its purpose is to protect by legal procedures the rights of employees, employers, and the public concerning labor disputes affecting commerce. But to understand fully the basic purpose for this or another law applicable to labor-management relations, we must examine the justification for government activity in the economic sphere.

The purpose of government is to guarantee the common happiness. All agree that a certain amount of material goods are absolutely necessary to the happiness of men. It is the primary purpose of economic activity to produce and distribute these material goods. If the economic forces acted so as to guarantee that amount of material goods requisite to the happiness of all individuals within their sphere, there would be no justification for governmental regulation of economic activity, provided, of course, that all of the other rights of the individual were also guaranteed.

Our nation has embraced the capitalistic system. Therefore, it is the duty of this economic system to guarantee to all individuals within its sphere the production and distribution of material goods relating to their happiness. If the economic system does not guarantee this production and distribution, it is the duty of the government, then, to take the necessary steps in regulating capitalism so that happiness of all will result.

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1 Labor Management Relations Act, 1947, 61 STAT. 120.

It is beyond denial that "free"—that is, *laissez-faire*—capitalism failed to exercise the before-delineated function of the economic system. During the period of rampant industrial expansion of the late Nineteenth and early Twentieth centuries, large segments of the propertyless working classes and the farmers were reduced to economic slavery. The unregulated capitalistic system, which, by its very nature, gives an advantage to the employer [2] had demonstrated its incapacity to serve the wants of human beings. Therefore, since this natural advantage could best be offset by workingmen combined together, for the purpose of presenting their collective grievances, labor unions came into existence. But these, without governmental protection, were placed at a great disadvantage themselves because their activities were looked upon with disfavor by all employers, most courts, and some legislators. Therefore, since the capitalistic system had shown its inability to function properly without being regulated, the government at last stepped in between labor and management and secured to each the right of collective bargaining which is the very life blood of trade unionism.

Legislation which is generally regarded as "favorable to labor" culminated in the National Labor Relations Act, passed in 1935.[3] The policy of this Act—that of encouraging amicable settlements of labor disputes by collective bargaining—is the guiding principle of all governmental interference with labor-management relations.

As long as both parties come to the bargain table in good faith, neither party may be forced to concede any of its positions. The National Labor Relations Board has the power to determine—upon the complaint of either of the parties—whether or not an unfair labor practice is being perpetrated by the other party. The Board has never tried to decide summarily the primary incidents of labor relations. Statutory enactments cannot solve the basic problems of labor and management; to pretend to do so would be to destroy the basis of our free enterprise system. These basic issues must be left to the disputants themselves. The bargaining power of both parties must be equal.

Nevertheless, there are those who reached the conclusion that the scales had swung far in favor of the unions. A series of particularly spectacular strikes, coming upon the heels of the war, stirred up a wave of emotionalism against the unions. The proponents of change in th Wagner Act wrote the Taft-Hartley Act, which is the subject of discus sion here.

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2 ADAM SMITH, WEALTH OF NATIONS Chapter 4, enunciates the fact of employer or master supremacy by the very nature of a capitalistic economy. Whether this is to be considered an inherent weakness in the capitalistic system depends upon the economic philosophy of the individual, but the fact of the advantage can hardly be questioned.

3 49 STAT. 449.

The Taft-Hartley Act has been divided into five titles. Title I [4] and Title II [5] have been discussed in previous issues of the NOTRE DAME LAWYER. We shall discuss Title III.

Section 301 of the Taft-Hartley Act reiterates the already accepted fact that unions are liable in court actions for violations of any contracts into which they may enter. Any district court of the United States may now, however, assume jurisdiction of a case involving a labor dispute without the ordinary requisites concerning the amount involved or diversity of citizenship. The requirement of the Norris-LaGuardia Act [6] that the liability of labor unions for acts of its agents could only be imputed to the union when there was authorization or ratification by the union has been changed by the Taft-Hartley Act. Now the authorization or ratification is not to be controlling. Mr. Taft has indicated that this provision was included in the Act to render unions liable for wildcat strikes which the unions have neither ordered nor approved. It is, of course, the prerogative of the National Labor Relations Board, in each particular case, to determine whether or not a person acted in the particular circumstances as an agent of the union. This provision, however, will undoubtedly render the agency relationship more readily attachable to the labor union and thus reduce their financial power according to the damages assessed against them for an act they did not direct or approve. Thus we see that more responsibility for labor union members' actions has been placed on the union while many provisions of the Act lessen the control that a union may exercise of its members.

Section 302 of the Act makes any payment of part of the worker's paycheck by an employer to a labor union a crime. This provision is aimed at the "check-off" of union dues, initiation fees and assessments, a system whereby union financial obligations are paid directly from the employer to the labor union. This system may be reinstated if the employee makes a written assignment signifying that he so desires the dues to be taken out of his paycheck and paid directly to the union.

At present writing, many unions are exerting great effort to have all union members make this assignment so that their dues may continue to be checked off. The purported purpose of this provision was to prevent unwilling members from being forced to pay dues against their will. It cannot be doubted, however, that all who reap the benefits of labor union activity should share in the burden of its expense, particularly those who are members. If a member should pay dues, it seems inconsequential how he does so. Forcing unions to create added facili-

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4 Note, 23 NOTRE DAME LAWYER 238 (1948).

5 Note, 23 NOTRE DAME LAWYER 349 (1948).

6 47 STAT. 106 (1932), 29 U. S. C. § 71 (1934).

ties for collecting their dues appears, then, to be merely another method of reducing labor union efficiency.

Section 302 (c) (5) also provides that life, health or accident insurance, or other like pension funds may be created and that the employer may contribute directly to the trust fund provided that the administration of the fund complies with the procedure outlined in this section of the Act.

This section will take added importance in the view of the National Labor Relations Board decision in the *Inland Steel* case in which the Board decided by a four to one decision that pension plans come within the scope of the Taft-Hartley Act which requires both employers and unions to bargain collectively, "with respect to wages, hours, and other terms and conditions of employment." [7] This decision met, of course, with violent disapproval by reactionary *laissez faire* capitalists who immediately claimed it to be another trend toward socialism in American economy. The government of the United States has determined, however, that such old age or emergency security is a necessary requisite to an individual's material happiness. For management and labor without government intervention to provide this requisite material benefit themselves is rather a retention of the free enterprise economic system than a trend toward socialism as claimed. Since it is the role of the economic system to produce and distribute material wealth, these incidents of material security seem to be necessarily within the role of economic activity.

Section 303 of the Act outlaws many secondary boycotts on the part of labor unions and gives to the injured party a right to an action for damages. By virtue of this provision, unions may not engage in strikes or partial work stoppages which have as their objects certain benefits which will indirectly accrue to the unions. Unions may not force other workers or working employers to unionize; they may not force others to discontinue doing business with a third party; they may not force another employer to bargain with a union not certified according to the Taft-Hartley Act; [8] nor may a labor union force an assignment of work by an employer to a particular union or craft.

This section of the Act specifically declares the above secondary boycotts unlawful and gives a right of damages to the party injured by such a boycott. It is to be distinguished from section 8(b)(4) of the Act which makes the same secondary boycotts unfair labor practices, for which the National Labor Relations Board may secure preventative injunctions. An injunction has been issued, however, at the

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[7] Sec. 8 (b) (6) (d).

[8] Title I of the Labor Managements Relations Act, 1947, sets out union certification procedure.

instance of the injured party under section 303, the court determining that the action at law for damages was inadequate and that the prospective damages because of the boycott would be irreparable. This court also upheld the constitutionality of this provision of the Act.[9] This was the first action grounded on section 303 to be presented to a federal court. A subsequent case also upheld the constitutionality of this section outlawing certain secondary boycotts by enjoining a labor union from the picketing of a third party who was doing business with the labor union's disputant.[10]

By outlawing such secondary boycotts, the Taft-Hartley Act has taken tremendous influence from the labor unions in jurisdictions in which courts had recognized the boycott as a legitimate method of enforcing labor's just demands. Unions now are limited greatly in exerting collective pressure on all those members of management who are doing business with an individual with whom the union is disputing. To say that these other businesses dealing with an unfair employer can be of no assistance to the union by refusing to deal with the unfair employer is childish naivete. Secondary boycotts have been considered unlawful, though, prior to the passage of the Taft-Hartley Act, because courts and legislatures have determined that a disinterested third party should be allowed to carry on his business unmolested by outside labor disputes. It is the theory of these courts that concerted action to force a third party to take a particular course of action, the secondary boycott, is not a justifiable means of obtaining eventual economic benefits. These courts do not forbid, of course, the use of direct ostracism of an unfair employer, commonly known as the primary boycott. It is the exertion of force upon a third party coercing him to take a particular course of action against another that is considered objectionable. However, if the labor union is a fully collective society for the benefit of all

[9] Gomez v. United Office and Professional Workers of America, C. I. O., Local 16, et al., 73 F. Supp. 679 (D. C. D. C. 1947). In this case the union had peacefully picketed a Washington, D. C. dance studio to bolster its fight against a New York studio of the same name. The restraining order was issued when it appeared that the amount of the studio's loss of trade resulting from the boycott would be difficult to prove and also that the studio would be injured irreparably.

[10] Dixie Motor Coach Corporation v. Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, et al., 74 F. Supp. 952 (W. D. Ark. 1947). Here the union had called a strike against the Southern Bus Lines, Inc., demanding changes in wages and working conditions. Southern Bus Lines continued to operate their busses while their employees were on strike. In operating their busses, the Southern Bus Lines used the terminal of the plaintiff, Dixie Motor Coach Corporation. The union threatened to picket the plaintiff if he continued to allow the Southern Bus Company to operate their busses from the Dixie Motor Coach Corporation terminal. The plaintiff obtained a permanent injunction against the union forbidding the union to picket the plaintiff's terminal since the picketing was for the purpose of forcing one person, the plaintiff, to discontinue doing business with a third party, the Southern Bus Company.

employees, it is only reasonable to expect that each member of the society will desire to aid his brethren in any feasible manner. It is the role of the courts and legislatures, however, to limit within reasonable bounds those means by which unions effect their mutual benefit. Undoubtedly the freedom of speech, press and assemblage has been curtailed by the outlawing of the secondary boycott. Whether it has been abridged unreasonably; whether the disinterested third party should be insulated from a particular phase of labor-management relations which have had a forceful bearing on labor union effectiveness in the past, must be determined not from a microscopic viewpoint of the particular situation. Rather the legality of boycotts should be considered in reference to the amount of bargaining power a labor union must have to guarantee equality at a collective bargaining table with management. The possibility of ostracism of the bargaining employer by other employers would have a direct bearing on the willingness of said employer to reach an agreement with the labor union. Whether the boycott prerogative is necessary to equalize the bargaining power of labor and management is the question.

The outlawing of labor union jurisdictional disputes appears to be a valid restriction on the scope of union activity. These are problems within the collective employee society itself, the solution of which should not be allowed to interfere with the production or distribution of goods. The just distribution of material goods in relation to the employer is in no manner enhanced by allowing internal labor union problems to disrupt the production of those goods.

However, the broad prohibition which the Taft-Hartley Act places on secondary boycotts appears to be a definite curtailment of possibly necessary incidents of labor union effectiveness.

Section 304 of the Taft-Hartley Act amended section 313 of the Federal Corrupt Practices Act,[11] making it unlawful for any labor organization or corporation to make an expenditure in connection with any election at which candidates for a federal office are to be selected or voted for. The penal sanctions of this section extend also to an officer of a labor organization or corporation who consents to such an expenditure by the organization of which he is an officer. The definite purpose of this provision was to prevent labor unions from expressing their views on federal politics by speeches or through publications supported by union funds. The Political Action Committee of the C. I. O. would have been forced to cease operations unless it could have mustered expense funds from sources outside the union.

This provision of the Act was declared unconstitutional on March 15, 1948, in the District Court of the United States for the District of

11 43 STAT. 1074 (1925), 2 U. S. C. § 251 (1934).

Columbia.[12] District Judge Ben Moore held that the portion of the Act forbidding labor unions to sustain expenses in expressing their political views was an unconstitutional abridgment of freedom of speech, freedom of the press, and freedom of assemblage.

In this case, the government pressed its criminal charges against the C. I. O. and Philip Murray on the basis of section 304 of the Taft-Hartley Act. Mr. Murray, obviously in defiance of this provision, had written an editorial in the *C. I. O. News,* a publication sustained by labor union funds, expressing union views concerning an impending federal congressional election. The government conceded that the Taft-Hartley provision abridged rights of individuals as guaranteed by the First Amendment, but contended that Congress had the power to abridge these rights because of its interest and control of elections and therefore Congress was acting within its constitutional power in enacting section 304. Judge Moore brushed this contention aside by stating that the constitutional rights of free speech and a free press in elections could only be abridged when a grave abuse calculated to create serious public danger existed or was impending. No such situation existed merely because labor unions were expressing their political views through labor union publications. In fact, the public has an important right to hear both sides of a political issue through the presses; a right which the Taft-Hartley Act sought to abridge. Judge Moore explained that the majority of any collective group expresses the ideas of the group, and the fact that a certain minority might hold conflicting views was no sound basis to abuse the constitutional guarantee of free speech, a free press, and the freedom of assemblage. Thus this section of the Taft-Hartley Act, which would have seriously impaired the efficiency of labor unions in attracting public audience for their views, seems to be no longer the law of the land.

Section 305 makes strikes by government employees unlawful and provides penalties of loss of employment and loss of civil service status by the employee so striking. There seems to be no justifiable objection to such a provision under present circumstances. Employment by the government is a privilege for which the government should have the right to designate reasonable conditions of acceptance. The government occupies a different position as employer than does management generally. The distinction between their relative positions is the important differentiating feature. The guarantee of employee rights against management lies in part in the strike. Both the employee and the public can protect their rights against the state by voting in a new government. No such guarantee, obviously, exists for the employee of private management.

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12 United States v. Congress of Industrial Organizations, 16 L. W. 2452 (D. C. D. C. 1948).

It seems reasonable, then, for the government to demand that it be allowed to carry on its delegated sovereign functions devoid of the possibility of a paralyzing strike. This provision of the Act, of course, does not prevent any individual employee acting as an individual to quit his job at his pleasure and seek his material gain in that part of the economic sphere where he is guaranteed the right to strike, or rather, where he should be guaranteed the right to strike. An overwhelming majority of laborers make their livings from private enterprise, and for this reason their right to strike must be protected. For them no alternative exists. This alternative seems conclusive of the reasonableness of section 305.

Since the publication in the NOTRE DAME LAWYER of comments on Title I and II of the Taft-Hartley Act, labor-management relations have raised many interesting questions pertaining to those sections of the Act. In this comment we will endeavor to discuss a few of the recent National Labor Relations Board rulings and court decisions applicable thereto.

By a two-to-one decision, a statutory three judge court sitting in the District of Columbia upheld the validity of the filing of the non-communist affidavit as a requirement for Board benefits. In the case[13] presented to the court, the Maritime Union, among other plaintiffs, sought to enjoin the enforcement of the affidavit requirement provision of the Labor Management Relations Act which would deny the union recognition by the Board. All the judges upheld the validity of the financial statement requirement, but a serious question arose concerning the constitutionality of the requirement of filing a non-communist affidavit as an abridgment of the First Amendment guarantee of the freedom of speech. Both the majority and the dissent agreed that the filing of a non-communist affidavit could be, in the broad requirement of section 9 (h) of the Taft-Hartley Act, an abridgment of the First Amendment. Both agreed that conditions giving rise to a justifiable abridgment of free speech must be of such a nature that to speak or to refrain from speaking would present a menace to the welfare of the nation.

Without referring to the lengthy opinion of the majority, fraught with dicta, nor to the juridical analysis of the problem expressed by the dissent, it seems fair to state that the clash of views between the majority and the dissent arose over a question of the type of evidence which the court required to make a constitutional determination.

The majority took the view that the court could take judicial notice of the "facts of current history" along with the congressional determina-

[13] National Maritime Union of America v. Herzog, 16 L. W. 2502 (D. C. D. C. 1948).

tion that communist activity in labor unions was insidious to the general welfare, and with no evidence offered to the court on that subject whatsoever, decide whether an abridgment of free speech by Congress was justifiable. The dissent did not agree on this point, but felt that a determination of the danger of communistic union activity to the general welfare demanded that the court so determining should be presented with evidence from which a conclusion could be made. The word of Congress was not to be accepted on this point. The dissent felt that, were evidence not required, Congress would be at liberty, by merely making an affirmation of a fact, to flout constitutional rights with impunity. It was the duty of the court, it was said, to make its own separate, independent determination of fact if it were to speak as an independent court. Thus, the dissent argued, since no evidence was offered as to the relative danger of communism to the general welfare, the guarantee of the First Amendment must stand.

In the highly publicized United Mine Workers coal strike the stunning power of the Taft-Hartley Act completely to subjugate unions is conclusively demonstrated. When a pension plan agreement was not carried out by the coal operators, union leader John L. Lewis informed his union members that the contract had been violated and that the miners were free to work or not as they pleased. A general mining stoppage immediately occurred. Acting under the provisions of the Taft-Hartley Act, most probably inserted in the Labor Management Relations Act for this exact situation, the President appointed a board to investigate the stoppage. The board was to determine whether the inactivity would be inimical to the general national welfare.

Acting on the board's report, the government obtained a restraining order prohibiting the strike. The stoppage continued; Mr. Lewis claimed that he had called no strike and explained that miners do not work under broken contracts. Later a pension agreement was reached between the operators and Lewis. However Judge Goldsborough, of the United States District Court for the District of Columbia, found that the restraining order had been violated in that the union was guilty of continuing a strike after the issuance of the prohibition.[14] The contention of Lewis that he had called no strike was by-passed when the Judge ruled that any union functioning as a union must be held responsible for mass actions of its members. The Judge declared that Lewis' telegrams to the union locals contained code messages indicating that a strike was called. The heavy penalties, along with an eighty day Taft-Hartley statutory injunction[15] influenced Lewis to urge his miners

[14] United States v. International Union, United Mine Workers of America, 16 L. W. 2515 (D. C. D. C. 1948).

[15] The eighty-day injunction is authorized under the National Emergency section of the Taft-Hartley Act, Sec. 206-210.

back to work again. The right to engage in a strategic strike was thus completely abridged as far as the United Mine Workers were concerned. The provisions of the Taft-Hartley Act wound the miners in a web of futility.

Judge Goldsborough, in issuing the statutory injunction, upheld the constitutionality of the applicable provisions of the Taft-Hartley Act. The court pointed out that an injunction to prevent a strike has never been held to be a deprivation of the liberty of speech nor does it constitute involuntary servitude. Presumably, indicated the judge, an inhabitant of an exclusively mining town can choose to work, starve, or move himself and his family to a new locality.

Undoubtedly a peaceful method of preventing national economic emergencies which result from basic industrial strikes must be found. However, to ignore completely the rights of labor in benefiting the public is hardly just. It has been suggested that this problem might be solved by declaring these basic industries public utilities. Some such governmental action appears inevitable if collective bargaining in basic industries proves futile.

Numerous other incidents of the use of the injunction have occurred recently by virtue of the Taft-Hartley Act, preventing labor union activity when the unions have attempted to enforce their demands.[16] The Act entangles the unions in injunctions, court costs, attorney fees, and new National Labor Relations Board requirements. These demands reduce severely the efficiency of labor unions in carrying out their purpose of protecting labor. The Taft-Hartley Act has been congratulated recently by many devotees of big business because of its success in quieting the labor seas, particularly in its rapid termination of the coal strike. Usually these settlements have been brought about by labor unions withdrawing their demands in the face of the tremendous legal power of the Taft-Hartley Act. To continue to press their demands only to reach eventual failure in the courts causes many unions to capitulate immediately. For this quiescence the Taft-Hartley Act has been complimented as being the instrumentality of settling the disputes. We would indicate that there exists an infinite difference in the meaning of the word *settle* and the word *suppress.*

Returning now to our original premise, we see that the primary purpose of an economic system is the production and distribution of wealth. Wealth, however, is not an end, but a means to the end of the happiness of all. Wealth is not held absolutely, but as a steward-

[16] United States News and World Reports, April 16, 1948.

ship for Him Who created the wealth.[17] We noted that before the rise of strong labor unions, this wealth was far from properly distributed. No valid argument can exist that the pro-labor legislation of the thirties did not assist in a more just distribution of this wealth. We are of the opinion that whatever ills, if any, labor unions have brought to this country, one of them was not the change they brought about in the distribution of material goods.

Labor's position under this social legislation bettered its economic position and took from capital much of the unequal strength with which it had previously coerced labor. Management's position under the Wagner Act based on its natural advantage, did not deteriotate as to deprive it of its just share of the fruits of production. If there were ills in the labor-management relation, they did not exist in the field of distribution.

But the Taft-Hartley Act, which was enacted for the avowed purpose of disrupting the bargaining power balance then existent, tends to return management's supremacy at the bargaining table. It so hamstrings labor's right to strike, to control its labor union members and to effect efficiently its role as a guarantee of individual rights that the guarantee no longer exists. As was stated in previous comments on the Act in the NOTRE DAME LAWYER, all provisions of the Act, taken together, decrease union efficiency.

We see, particularly, that Title III is constructed in this same manner. Each section removes power from labor unions or burdens them in efficient operation. This cannot but reduce their bargaining power at labor-management discussions. The correction of labor union ills did not require the reduction of union ability to guarantee labor's rights. The return to the natural unbalance with the employer in the position of former advantage cannot help but be inferred from an analysis of the Taft-Hartley Act. Those licenses of *laissez-faire* capitalism allowed to the employer are once again returned in the guise of the protection of employer rights.

To descend to particulars is to quibble over terms. Labor attacks these capitalistic incidents as licenses, management claims them as rights. But the over-all effect as to the production and just distribution of wealth guaranteed under the Wagner Act, threatens to be destroyed with the return of employer supremacy under the Taft-Hartley

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17 POPE LEO XIII, ON THE CONDITION OF LABOR.

18 In subsequent issues, the NOTRE DAME LAWYER intends to review the Taft-Hartley Act further.

Act. If labor unions possess ills, their bargaining power for justice must not be taken from them to cure these ills lest we revert to the economic slavery of the past.

To pretend to suggest the solution to the labor-management problem would be presumptuous indeed. Amicable and just adjustment of differences by both labor and management is the only real solution to the problem. Be this solution but an empty platitude, it is at least an ideal for which both groups, labor and management, should strive.

Thomas F. Broden

CRIMINAL PROCEDURE — POST-CONVICTION HEARINGS — THE ILLINOIS SITUATION.—Illinois criminal procedure in the matter of post-conviction hearings has recently been labeled by the Supreme Court of the United States as a "procedural labyrinth made up entirely of blind alleys." [1] Composing the labyrinth are the so-called alleys of "writ of error," "habeas corpus" and the "statutory motion in the nature of the common law writ of error coram nobis." These are the Illinois state remedies available when an accused has supposedly been convicted by a state court in deprivation of a right guaranteed by the Constitution. It is the charge of the United States Supreme Court, however, that the remedies are available in theory only. Grounding the charge is the court docket record for the terms 1944, 1945 and 1946 which reveals the disproportionate number of petitions for certiorari to review Illinois' refusals to grant relief, and frequently to grant even a hearing.[2]

So that this procedural difficulty may be understood, it is well to examine the factual situation which prompted the Supreme Court's admonition. In 1925, petitioner, Tony Marino, was arraigned in open court on charge of murder. At the time he was eighteen years old, had been in this country only two years, and did not understand the English language. He was advised of the meaning of the plea of guilty through interpreters, one of whom was the arresting officer. The common law record recited that petitioner signed a statement waiving jury trial and pleading guilty. The waiver was not in fact signed by him

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1 Mr. Justice Rutledge concurring in Marino v. Ragen, ... U. S. ...., 68 S. Ct. 240, 92 L. Ed. 203 (1947).

2 "During the last three terms we have been flooded with petitions from Illinois alleging deprivation of due process and other constitutional rights. Thus in the 1944 term out of a total of 339 petitions filed *in forma pauperis*, almost all by prisoners, 141 came from Illinois; in the 1945 term 175 of 393 were from Illinois; and in the 1946 term, 322 out of 528 came from that state." Mr. Justice Rutledge concurring in Marino v. Ragen, ...U. S....., 68 S. Ct. 240, 242 (1947).