

Sec. 3—Legislative, Diplomatic, and Law Enforcement Duties of the President

sional limitations than of revised judicial opinion.⁷⁵⁰ It should be noted that in 1947 Congress authorized the President to seek injunctive relief in “national emergency” labor disputes, which would seem to imply absence of authority to act in situations not meeting the statutory definition.⁷⁵¹

With regard to the power of the President to seek injunctive relief in other situations without statutory authority, there is no clear precedent. In *New York Times Co. v. United States*,⁷⁵² the government sought to enjoin two newspapers from publishing classified material given to them by a dissident former governmental employee. Though the Supreme Court rejected the Government’s claim, five of the six majority Justices relied on First Amendment grounds, apparently assuming basic power to bring the action in the first place, and three dissenters were willing to uphold the constitutionality of the Government’s action and its basic power on the premise that the President was authorized to protect the secrecy of governmental documents. Only one Justice denied expressly that power was lacking altogether to sue.⁷⁵³

The President’s Duty in Cases of Domestic Violence in the States

See Article IV, § 4, Guarantee of Republican Form of Government, and discussion of “Martial Law and Domestic Disorder” under Article II, § 2, cl. 1.

The President as Executor of the Law of Nations

Illustrative of the President’s duty to discharge the responsibilities of the United States in international law with a view to avoiding difficulties with other governments was the action of President Wilson in closing the Marconi Wireless Station at Siasconset, Massachusetts, on the outbreak of the European War in 1914, the company having refused assurance that it would comply with naval censorship regulations. Justifying this drastic invasion of private rights, Attorney General Gregory said: “The President of the United States

⁷⁵⁰ Thus, the Chief Justice noted that “we agree” that the debates on Norris-LaGuardia “indicate that Congress, in passing the Act, did not intend to permit the United States to continue to intervene by injunction in purely private labor disputes.” Of course, he continued, “whether Congress so intended or not is a question different from the one before us now.” 330 U.S. at 278.

⁷⁵¹ 61 Stat. 136, 155 (1947), 29 U.S.C. §§ 176–180. Cf. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), with regard to the exclusivity of proceeding.

⁷⁵² 403 U.S. 713 (1971).

⁷⁵³ On Justice Marshall’s view on the lack of authorization, see 403 U.S. at 740–48 (concurring opinion); for the dissenters on this issue, see *id.* at 752, 755–59 (Justice Harlan, with whom Chief Justice Burger and Justice Blackmun joined); see also *id.* at 727, 729–30 (Justice Stewart, joined by Justice White, concurring).