

began to show a greater willingness to defer to legislative judgment as to the wisdom and need of such enactments.

The significance of *Senn*¹³⁰ was, in part, that the case upheld a statute that was not appreciably different from a statute voided five years earlier in *Truax v. Corrigan*.¹³¹ In *Truax*, the Court had found that a statute forbidding injunctions on labor protest activities was unconstitutional as applied to a labor dispute involving picketing, libelous statements, and threats. The statute that the Court subsequently upheld in *Senn*, by contrast, authorized publicizing labor disputes, declared peaceful picketing and patrolling lawful, and prohibited the granting of injunctions against such conduct.¹³² The difference between these statutes, according to the Court, was that the law in *Senn* applied to “peaceful” picketing only, whereas the law in *Truax* “was . . . applied to legalize conduct which was not simply peaceful picketing.” Because the enhancement of job opportunities for members of the union was a legitimate objective, the state was held competent to authorize the fostering of that end by peaceful picketing, and the fact that the sustaining of the union in its efforts at peaceful persuasion might have the effect of preventing *Senn* from continuing in business as an independent entrepreneur was declared to present an issue of public policy exclusively for legislative determination.

Years later, after regulations protective of labor allowed unions to amass enormous economic power, many state legislatures attempted to control the abuse of this power, and the Court’s new-found deference to state labor regulation was also applied to restrictions on unions. Thus, the Court upheld state prohibitions on racial discrimination by unions, rejecting claims that the measure interfered unlawfully with the union’s right to choose its members, abridged its property rights, or violated its liberty of contract. Because the union “[held] itself out to represent the general business needs of employees” and functioned “under the protection of the State,” the

¹³⁰ 301 U.S. 468 (1937).

¹³¹ 257 U.S. 312 (1921).

¹³² The statute was applied to deny an injunction to a tiling contractor being picketed by a union because he refused to sign a closed shop agreement containing a provision requiring him to abstain from working in his own business as a tile layer or helper.