union was deemed to have forfeited the right to claim exemption from legislation protecting workers against discriminatory exclusion.[133]

Similarly, state laws outlawing closed shops were upheld in *Lincoln Federal Labor Union v. Northwestern Iron & Metal Company* [134] and *AFL v. American Sash & Door Co.*[135] When labor unions attempted to invoke freedom of contract, the Court, speaking through Justice Black, announced its refusal "to return . . . to . . . [a] due process philosophy that has been deliberately discarded. . . . The due process clause," it maintained, does not "forbid a State to pass laws clearly designed to safeguard the opportunity of nonunion workers to get and hold jobs, free from discrimination against them because they are nonunion workers." [136]

And, in *UAW v. WERB*,[137] the Court upheld the Wisconsin Employment Peace Act, which had been used to proscribe unfair labor practices by a union. In *UAW*, the union, acting after collective bargaining negotiations had become deadlocked, had attempted to coerce an employer through calling frequent, irregular, and unannounced union meetings during working hours, resulting in a slowdown in production. "No one," declared the Court, can question "the State's power to police coercion by . . . methods" that involve "considerable injury to property and intimidation of other employees by threats." [138]

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[133] Railway Mail Ass'n v. Corsi, 326 U.S. 88, 94 (1945). Justice Frankfurter, concurring, declared that "the insistence by individuals of their private prejudices . . . , in relations like those now before us, ought not to have a higher constitutional sanction than the determination of a State to extend the area of nondiscrimination beyond that which the Constitution itself exacts." Id. at 98.

[134] 335 U.S. 525 (1949).

[135] 335 U.S. 538 (1949).

[136] 335 U.S. at 534, 537. In a lengthy opinion, in which he registered his concurrence with both decisions, Justice Frankfurter set forth extensive statistical data calculated to prove that labor unions not only were possessed of considerable economic power but by virtue of such power were no longer dependent on the closed shop for survival. He would therefore leave to the legislatures the determination "whether it is preferable in the public interest that trade unions should be subjected to state intervention or left to the free play of social forces, whether experience has disclosed 'union unfair labor practices,' and if so, whether legislative correction is more appropriate than self-discipline and pressure of public opinion. . . ." Id. at 538, 549–50.

[137] 336 U.S. 245 (1949).

[138] 336 U.S. at 253. *See also* Giboney v. Empire Storage & Ice Co., 336 U.S. 490 (1949) (upholding state law forbidding agreements in restraint of trade as applied to union ice peddlers picketing wholesale ice distributor to induce the latter not to sell to nonunion peddlers). Other cases regulating picketing are treated under the First Amendment topics, "Picketing and Boycotts by Labor Unions" and "Public Issue Picketing and Parading," *supra*.