the due process clause of the Fourteenth Amendment means, of course, that the *Cruikshank* limitation is no longer applicable.[1590]

The Hague Case.—Illustrative of this expansion is *Hague v. CIO*,[1591] in which the Court, though splintered with regard to reasoning and rationale, struck down an ordinance that vested an uncontrolled discretion in a city official to permit or deny any group the opportunity to conduct a public assembly in a public place. Justice Roberts, in an opinion that Justice Black joined and with which Chief Justice Hughes concurred, found protection against state abridgment of the rights of assembly and petition in the Privileges and Immunities Clause of the Fourteenth Amendment. "The privilege of a citizen of the United States to use the streets and parks for communication of views on national questions may be regulated in the interest of all; it is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience, and in consonance with peace and good order; but it must not, in the guise of regulation, be abridged or denied."[1592] Justices Stone and Reed invoked the Due Process Clause of the Fourteenth Amendment for the result, thereby claiming the rights of assembly and petition for aliens as well as citizens. "I think respondents' right to maintain it does not depend on their citizenship and cannot rightly be made to turn on the existence or non-existence of a purpose to disseminate information about the National Labor Relations Act. It is enough that petitioners have prevented respondents from holding meetings and disseminating information whether for the organization of labor unions or for any other lawful purpose."[1593] This due process view of Justice Stone's has carried the day over the privileges and immunities approach.

Later cases tend to merge the rights of assembly and petition into the speech and press clauses, and, indeed, all four rights may well be considered as elements of an inclusive right to freedom of expression. While certain conduct may still be denominated as either petition[1594] or assembly[1595] rather than speech, there seems

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[1590] DeJonge v. Oregon, 299 U.S. 353 (1937); Hague v. CIO, 307 U.S. 496 (1939); Bridges v. California, 314 U.S. 252 (1941); Thomas v. Collins, 323 U.S. 516 (1945).

[1591] 307 U.S. 496 (1939).

[1592] 307 U.S. at 515. For another holding that the right to petition is not absolute, *see* McDonald v. Smith, 472 U.S. 479 (1985) (the fact that defamatory statements were made in the context of a petition to government does not provide absolute immunity from libel).

[1593] 307 U.S. at 525.

[1594] *E.g.*, United States v. Harriss, 347 U.S. 612 (1954); Eastern R.R. Presidents Conf. v. Noerr Motor Freight, 365 U.S. 127 (1961); BE & K Construction Co. v. NLRB, 536 U.S. 516 (2002).

[1595] *E.g.*, Coates v. City of Cincinnati, 402 U.S. 611 (1971).