domain open to state regulation.[1473] These cases proceeded upon a distinction drawn by Justice Douglas. "Picketing by an organized group is more than free speech, since it involves patrol of a particular locality and since the very presence of a picket line may induce action of one kind or another, quite irrespective of the nature of the ideas which are being disseminated. Hence those aspects of picketing make it the subject of restrictive regulations."[1474] The apparent culmination of this course of decision was the *Vogt* case, in which Justice Frankfurter broadly rationalized all the cases and derived the rule that "a State, in enforcing some public policy, whether of its criminal or its civil law, and whether announced by its legislature or its courts, could constitutionally enjoin peaceful picketing aimed at preventing effectuation of that policy."[1475] Although the Court has not disavowed this broad language, the *Vogt* exception has apparently not swallowed the entire *Thornhill* rule.[1476] The Court has indicated that "a broad ban against peaceful picketing might collide with the guarantees of the First Amendment."[1477]

Public Issue Picketing and Parading.—The early cases held that picketing and parading were forms of expression entitled to some First Amendment protection.[1478] Those early cases did not, however, explicate the difference in application of First Amendment prin-

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[1473] Giboney v. Empire Storage & Ice Co., 336 U.S. 490 (1949) (upholding on basis of state policy forbidding agreements in restraint of trade an injunction against picketing to persuade business owner not to deal with non-union peddlers); International Bhd. of Teamsters v. Hanke, 339 U.S. 470 (1950) (upholding injunction against union picketing protesting non-union proprietor's failure to maintain union shop card and observe union's limitation on weekend business hours); Building Service Emp. Intern. Union v. Gazzam, 339 U.S. 532 (1950) (injunction against picketing to persuade innkeeper to sign contract that would force employees to join union in violation of state policy that employees' choice not be coerced); Local 10, United Ass'n of Journeymen Plumbers v. Graham, 345 U.S. 192 (1953) (injunction against picketing in conflict with state's right-to-work statute).

[1474] Bakery & Pastry Drivers Local v. Wohl, 315 U.S. 769, 776–77 (1942) (concurring opinion).

[1475] International Bhd. of Teamsters v. Vogt, 354 U.S. 284, 293 (1957). *See also* American Radio Ass'n v. Mobile Steamship Ass'n, 419 U.S. 215, 228–32 (1974); NLRB v. Retail Store Employees, 447 U.S. 607 (1980); International Longshoremens' Ass'n v. Allied International, 456 U.S. 212, 226–27 (1982).

[1476] The dissenters in *Vogt* asserted that the Court had "come full circle" from *Thornhill*. 354 U.S. at 295 (Justice Douglas, joined by Chief Justice Warren and Justice Black).

[1477] NLRB v. Fruit & Vegetable Packers, 377 U.S. 58, 63 (1964) (requiring—and finding absent in NLRA—"clearest indication" that Congress intended to prohibit all consumer picketing at secondary establishments). *See also* Youngdahl v. Rainfair, 355 U.S. 131, 139 (1957) (indicating that, where violence is scattered through time and much of it was unconnected with the picketing, the state should proceed against the violence rather than the picketing).

[1478] Hague v. CIO, 307 U.S. 496 (1939); Cox v. New Hampshire, 312 U.S. 569 (1941); Kunz v. New York, 340 U.S. 290 (1951); Niemotko v. Maryland, 340 U.S. 268 (1951).