Defending and Legally Establishing the Good News

DEFENDING AND LEGALLY ESTABLISHING THE GOOD NEWS

JEHOVAH, the almighty God, has given us, Jehovah's witnesses, the good news of His government of righteousness. This we have received through Christ Jesus, the wonderful Counselor. (Isa. 9:6) He guarantees us freedom to tell the whole world this good news. (Matt. 24:14; John 8:32) Religious fanatics and other zealots who do not agree with us attempt to limit or stop our telling the good news. They contend that it is improper for us to tell it out among the people as did the Lord Jesus and his apostles. They insist that we retreat to a pulpit in a church building or meeting-place. We have declined to retreat, stop or decrease our preaching the good news.

Our opponents, the religious fanatics, desiring to interfere with our business of preaching the good news, 'frame mischief by law.' (Ps. 94:20) They attempt to induce the police and other law-enforcement officers to force us to abandon our God-given service. Some officials have capitulated to the demands of such fanatics and joined them in oppressing us. They have falsely arrested us because we refused to compromise our commission to preach and teach the people about God's kingdom.

This precise oppression in the last days was foretold by the Lord Jesus. He said: "If they have persecuted me, they will also persecute you." (John 15:20) Like opposition and persecution was resisted by the apostles, foremost of whom was the apostle Paul. He said that his fight for freedom to worship Almighty God resulted in his defending and legally establishing the good news. (Read Philippians 1:7.) Similar resistance on an international scale by us, Jehovah's witnesses, to this persecution has resulted and continues to result in our defending and legally establishing the good news throughout all Christendom.

BRIEF PICTURE OF JEHOVAH'S WITNESSES

The name, Jehovah's witnesses, we get from Jehovah. He gives us the name at Isaiah 43:10 (*Am. Stan. Ver.*): "Ye are my witnesses, saith Jehovah." Being God's witnesses requires that we give testimony to others at their homes, publicly on

streets and in meeting-places, and that we explain God's Word to all who will listen. In obedience to this requirement we use all lawful and proper means of preaching. The message we take to the people is primarily oral; in addition thereto we distribute literature explaining God's purposes as expressed in the Bible, publicly upon the streets, highways and byways throughout the inhabited earth.

We are an international society of ministers engaged in preaching the gospel of God's kingdom in the above-described manner under direction of the Watch Tower Bible and Tract Society, which is a religious-charitable, nonprofit corporation organized for that purpose.

The legal Society maintains administrative offices at Brooklyn, New York, from which are directed the world-wide activities of Jehovah's witnesses. The world is divided into geographical divisions according to countries. Branch offices are established in principal countries to care for the work in those lands. Each country is divided into districts; each district is divided into circuits; each circuit is composed of several "companies", a term used to designate the local congregations. Each congregation of ministers systematically preaches to the people in its assigned territory.

PURPOSE OF BOOKLET

The purpose of this booklet is to give advice to all of Jehovah's witnesses, and others who want this truthful information, so that each of us may reflect accurately the holdings of the courts in the democratic lands. Such counsel will help us show to all officials, police and courts that they should allow our work to go unhampered. It is also to aid judges, lawyers and officials to avoid violations of the fundamental law by imposing restrictions contrary to the constitutional guarantees of freedom of speech, press and worship, and law of Almighty God. Consideration of these precepts which have been written into the law of the land by the courts may lead the officials and police to recognize our freedom guaranteed by Jehovah God.

SUPREMACY OF GOD'S LAW

Jehovah God has commanded us to resist the efforts to interfere with our service to him. The duty of every servant of God is not to be overcome by persecution but to throw back the attempts to misapply and wrongfully enforce the laws. Obedience to God is better than sacrifice or compromise with those who oppose our preaching work. (1 Sam. 15:22) God's laws or commandments are supreme. We must keep his commandments.—Rev. 12:17; Mark 12:28-33.

Peter, the apostle, was confronted with a like predicament. The officials ordered Peter and his fellow ministers of Christ

to discontinue their door-to-door and street preaching. He answered that the servant of Jehovah God must obey God rather than men. (Acts 5:29) On a previous occasion, because of the bold proclamation made publicly concerning Jesus by Peter and John, the authorities were enraged. They threatened the apostles and charged them not to speak in the name of Jesus. Refusing to discontinue, Peter and John answered: "Whether it is right in God's sight to listen to you instead of listening to God, do you judge. As for us, what we have seen and heard we cannot help speaking about."—Acts 4:19-21, *Weymouth.*

The bold stand of the apostles established the principle which caused the authors of the Constitution of the United States of America to secure freedom of worship against abridgment. This was so declared by the Supreme Court of the State of Florida in discharging one of Jehovah's witnesses who had been unlawfully denied his liberty in the case of *Singleton* v. *Woodruff, Chief of Police,* 153 Fla. 84, 13 S. 2d 704 (1943). There the court said:

"Freedom of conscience is much older than the Declaration of Rights or the common law. Peter and John first invoked it when they were commanded by the high priest and the Roman rulers to speak and teach no more in the name of God. Acts 4:17-21. So the soil from which it springs like many other cherished precepts of the common law reach back to Hebrew origin and historically reveal why a free press, speech, and religion are in a preferred class, protected by the State and Federal Constitutions and immunized from charge by the State."

That God's law is supreme and may not be subordinated to the law of man is supported by the great English judge, Blackstone, who wrote the leading textbook on the common law of England. Blackstone asserts that the law of God "is, of course, superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately, from this original." —*Blackstone's Commentaries on the Laws of England,* Chase, New York, Baker, Voorhis and Company, 1938, pp. 5-6.

These examples from the law of England and the United States will serve to illustrate a general principle underlying the law of every democratic and enlightened nation, namely, that the citizen is recognized as having a supreme obligation to his Creator and has a right to freedom of speech, press, assembly, conscience, and worship. These fundamental liberties may be protected against police interference by appeals

to the courts. All official efforts to curtail or stop our preaching of the gospel may be resisted in this manner as being contrary to the fundamental law of any nation that is not totalitarian or a police state.

RIGHT TO CLAIM CITIZENSHIP

We have the right and responsibility of insisting on our citizenship rights accorded by the nations. We must assert and rely upon such citizenship rights which guarantee freedom of speech, freedom of press, freedom of assembly, freedom of conscience and freedom to worship Almighty God, in order to protect our field of preaching.

The apostle Paul claimed his Roman citizenship as a refuge against mobsters. (Acts 16:37) When he made his defense at an army barracks in Jerusalem, he claimed his right to freedom of speech to preach publicly to the people. He relied upon his fundamental rights under the law as a Roman citizen.—Acts 22:3, 25, 26.

The Supreme Court of the United States commended the claim of citizenship made by Paul. In *Edwards* v. *California*, 314 U. S. 160, 182; 62 S. Ct. 164, 171; 86 L. Ed. 119, that court said: "The power of citizenship as a shield against oppression was widely known from the example of Paul's Roman citizenship which sent the centurion scurrying to his higher-ups with the message: 'Take heed what thou doest: for this man is a Roman.' I suppose none of us doubts that the hope of imparting to American citizenship some of this vitality was the purpose of the . . . Fourteenth Amendment." Paul's thus fighting faithfully shows clearly that we should never hesitate to claim every citizenship right that may be ours in the country where we preach the gospel.—1 Tim. 6:12.

Our Christian preaching and teaching in the primitive apostolic manner enjoins upon all people obligations of justice, decency, morality and respect for law and order, and belief in God's justice and the hope of the new world, which is a real bulwark against the dangerous and violent political ideologies that teach the overthrow of states and the alteration of the systems by violence. Without such moral precepts as are taught by the Bible and the resultant cooperation of the citizens with the forces of law and order, there would be a great additional burden of law enforcement, prisons and welfare institutions in order to maintain peace and order in the state. The ministry of Jehovah's witnesses makes a real contribution in every state by teaching the people their responsibility to God and has rehabilitated many persons who through lack of proper education have allowed themselves to degenerate mentally and morally.

Jehovah's witnesses are good and law-abiding persons of whatever country they inhabit and they expend their time, energies and money in helping their fellow countrymen to gain a further appreciation of the Word of the Most High. This is a very real contribution which they make wherever they are, and it is eminently proper and just that they should claim and receive all the rights and protection accorded to citizens of any nation.

JEHOVAH'S RECORD OF VICTORY

Court decisions in our cases have been piled high, as it were, stone upon stone, to establish a strong buttress against the rushing torrent of oppression. These precedents stand strong and immovable, like a mountain of victory raised by Jehovah out of the floods of violence and persecution waged against us by religious bigots and fanatics in many lands. Public-spirited men of honesty, justice and courage among the judiciary and other governmental agencies have seen the righteousness of our fight and the need to maintain fundamental liberties and have given us equal protection of the law and shown good administration of government. Thus the righteously disposed officials of the nations of the earth have joined in swallowing up the dragon's illegal oppression and persecution.—Rev. 12:15, 16.

In fact, our way of worship has, in America, been written into the law of the land by the Supreme Court and other courts. To a smaller extent this has been done in other countries. We have, by the help of Jehovah, become proficient at using the treasures of liberty set in the fundamental law of the land of many nations.

CONDITIONS PRECEDENT TO CLAIMING LIBERTY

In order that each one of us may have a part in properly proclaiming the truth we should have a knowledge of the fundamental teachings of the Bible. This is a minimum requirement with which each of us must comply. We are admonished to study to show ourselves approved unto God, rightly handling the Word of truth. (2 Tim. 2:15) This does not mean that we should memorize scriptures and, when called upon to testify concerning God's kingdom of righteousness, repeat them by rote. We should strive to grasp *ideas* from what we hear and read. (1 Pet. 3:15) The details will be remembered in time. By constant use of the "sword of the spirit, which is the word of God", in door-to-door preaching, return visits, conducting Bible studies and public preaching we will acquire the necessary knowledge. Of course, all of us must attend regularly and participate in the study meetings of the congregation and take advan-

tage of the training and instruction provided by the ministry schools.

Have in mind that we shall be brought before "rulers and kings" for the sake of giving testimony concerning the message of God's kingdom, as were Jesus and his apostles in the early church. (Mark 13:9, 13) None can tell when he may be haled before the authorities to give an account of his ministry. It is necessary that we be prepared at any time to make our defense.

Jesus informs us that we need not be overly anxious or perturbed about such appearance, since the holy spirit will guide us. (Mark 13:11) Nevertheless, he also shows us that this direction by the holy spirit will be obtainable only by previous study. (John 14:26; 16:12-15) So we should regularly study the Bible and the Society's publications in order to be efficient ministers. Without such preparation we will fail to give a proper statement for the truth.

AMBASSADORS, BOLD BUT TACTFUL

We are ambassadors for Christ. (2 Cor. 5:20) As such we should act on a high plane of dignity. An ambassador speaks with full authority of his government. He opens his mouth boldly and makes known the position of his government. We therefore ought to speak boldly in behalf of God's Theocratic Government. (Eph. 6:18-20) To speak boldly to a person who requests that we stop preaching does not mean that we should be rude. Even our boldness must be appropriately clothed with courtesy and kindness.

We take heed to our words. We avoid starting arguments with people who do not agree with us, including the police or other officials. We exercise care that we transgress not with our lips. We keep a bridle on our tongue in order that we may maintain tactfulness. (Ps. 39:1; Jas. 3:2-5) Jesus informs us that, when dealing with opponents, we should be as cautious as serpents and as harmless as doves. This holds true whether at the door, in the home, on the street, at the police station or in court. (Matt. 10:16) Regardless of how insulting and offensive a person may be when we are talking to him, or how unreasonable an officer may be, we do not utter all the thoughts in our minds that may be precipitated by such misconduct. (Prov. 29:11) We know that officials and others are often led to anger against us because of misrepresentation. We should be compassionate with them at all times. In a dignified manner becoming an ambassador we turn away their wrath with soft words. Cutting words and acrid language stir up anger and violence. (Prov. 15:1) By avoiding harshness and averting violence we may often assuage trouble. As ambassadors we

should strive to pour oil on the troubled waters and smooth the opposition out of the way with the boldness and dignity that is befitting our lofty office.

UNINVITED CALLING AT THE HOMES NOT IMPROPER

We do not invade the rights of the people by calling from door to door at their homes without invitation. There is an implied invitation made by the law of the land for every minister and missionary to make uninvited calls at the homes of the people. This invitation does not give us the right to stay at a door and refuse to leave when the person to whom we are talking requests us to leave. Moreover, we do not persist in staying at the doors of the people. We quickly pass on to the next door or house when one says he is not interested. We do not remain and argue with him over his lack of interest or his decision not to listen further. —Matt. 10:14.

The police and local tyrants do not have the right to say that we should not call from door to door. This is a decision that must be made by each of the householders called upon and by him alone. Whether we may call from door to door is not for the state or local government or landlord to decide.

While we comply with the order of the householder to leave his door, we refuse to conform to the command of the local authorities to stop calling from door to door. The decision made by the local police often is found not to be what the householder wants. There are literally hundreds of thousands, even millions of householders who welcome our visits at their doors throughout the world. We have a right to accept their welcome expressed by them or implied by law.

STREET PREACHING PROPER

Our preaching publicly on the streets is done orally and by the distribution of literature, usually the magazines *The Watchtower* and *Awake!* When an interested person discusses with us the literature being distributed, we take advantage of the opportunity to explain about God's kingdom and his purposes as found in the Bible. We also use the street method and the door-to-door method of preaching to invite people to attend private meeting-places where Bible discourses are given.

The public streets and the houses are appropriate places to talk to the people and teach them God's Word. As places for preaching the gospel, they are as appropriate as the pulpits. When requested by the police to stop such lawful and God-directed work of preaching, we echo the words of the apostles: "It is necessary to obey God, rather than men." —Acts 5:29, *The Emphatic Diaglott.*

DEALING WITH POLICE

Police and other officers sometimes approach us in our missionary field and demand that we discontinue such activity. The police have no authority in law to support them in making such request. They are driven to resurrect forgotten ordinances and buried laws to satisfy the demands of the clergy to "stop Jehovah's witnesses". If they cannot dig up antiquated ordinances or bylaws, they misapply good laws which forbid commercial selling of merchandise or peddling. We are ministers of the gospel engaged in a noncommercial work which does not come within the terms of peddling laws.

The police usually abandon their efforts to stop or interfere with our work when we explain to them the nature of our preaching activity and inform them that the fundamental laws of the land forbid their interference therewith. A courteous explanation and firm stand taken by us in every nation ordinarily results in the withdrawal by the police of their demands that we stop preaching.

When the police insist that we desist from our work we courteously explain that we are ordained ministers of the gospel. We show that we are *preaching* and not violating the law. We explain that we are associated with other ministers under the direction of the Watch Tower Bible and Tract Society, a charitable, nonprofit Christian organization. We state that we are not selling books but do accept contributions and freewill offerings when we leave literature with the people, which literature is an extension of our oral preaching and a substitute for the oral sermon. We tender to the officer the literature and point out that it is based upon the Bible and is a substitute for the oral sermon. Also we refer the officer to the court decisions contained in this publication wherein our work has been held by the courts to be entitled to the protection of the constitutions against police interference. We call his attention to the decisions holding that arrests and prosecutions of Jehovah's witnesses for preaching the gospel and distributing their Bible literature constitute violations of the fundamental liberties of the citizen. We inform the policeman that we cannot discontinue our preaching work upon his instruction; that if we are arrested such will be in violation of the constitutions and in conflict with the commandments of Almighty God.

ARREST AND APPEARANCE AT POLICE STATION

If the officer places you under arrest and orders you to accompany him to the police station, comply with his request. Do not resist arrest, but obediently accompany him. Do not by force or any other means try to escape from custody. When escorted into the police headquarters and before the superior officer, speak boldly but courteously to him. Explain fully your preaching work as a minister, as you did to the officer who arrested you. Explain why the law does not apply to a minister of the gospel. Show the noncommercial nature of your work and that the literature is composed of printed sermons. Endeavor to persuade the police at the station to call in the attorney for the city. Refer them to the court decisions in this publication that sustain your right to carry on your public witnessing work. Sometimes even after being arrested by the police in the field, you may be discharged by the officer in charge of the station or by the attorney for the city, when they see that your ministerial and missionary work is protected by the law of the land and the court decisions.

HELD FOR TRIAL

Should the police not release you but file charges against you, wait for the law to run its course and do not argue with the police over their decision to prosecute. Immediately, when you learn you are to be prosecuted, request (1) a copy of the complaint, information, summons or warrant and (2) a copy of the ordinance, bylaw, statute or law. If the police cannot supply such, obtain them from the city clerk or other official to whom the police refer you. If you cannot get a copy, ask permission to copy the same yourself.

Request the police to release you on your own promise to return for trial. The police will usually allow you to make your own recognizance or bond without getting bondsmen to sign for your release. If you are not released on your own promise to return, ask for permission to communicate with friends to obtain property owners to make bond for your release. Request them to bring their tax statements, deeds and other title papers to their property so that their bond will be acceptable. If you cannot arrange for bond locally then telegraph the Branch office of the Society about the charge made and your need for bond. Do not put up cash bond if other bonds are available, because it is difficult to get the money returned. If cash is demanded, do not put up the cash yourself. Have some other person deposit the cash in order to avoid having a fine collected from the money.

Before leaving the police station get a copy of the complaint and the ordinance, bylaw or statute under which you are to be prosecuted. Also request the police to adjourn, postpone or continue the trial for at least three weeks to allow time for reporting the matter to the Society. If the request is denied, get the exact time and place that you are required to appear for trial. If you do not have ample time

to mail your report to the Society's Branch office and receive a reply, immediately telegraph the Branch office of the Society, giving the facts about the arrest, what you were doing, the nature of the charge and the kind of law involved, so that timely advice can be furnished you.

CONFISCATION OF PROPERTY

The police have the right, when they place one in jail pending trial, to take from him all valuables and papers for safekeeping. These are to be returned upon release from jail. The authorities have the right to retain, for use as evidence, one or two pieces of literature used at the time of your arrest. Obtain a receipt for all property kept by the police. Your extra literature, bookcase and contents, purse and contents, magazine bag and other personal belongings, however, should be returned to you upon your release. Should the police keep personal property their action is unlawful. Make a vigorous protest and threaten to take legal action against the police to recover such personal property. Go to the judge of the court where your case is to be tried and request him to order the police to return your property.

REPORTING

Immediately after being released you should prepare an *accurate* written report, with typewriter if possible, to the Branch office of the Society. Give all the facts as to what you were doing on the occasion of your arrest, what started the controversy, what the police did in the field and at the police station and what action is expected in the future. With the report enclose a copy of the information, affidavit, summons, complaint or warrant and a copy of the law involved. Enclose, if then available, any newspaper clippings. Give the name of the court where you must appear and the date of trial. Also include the name of the judge and the name and address of the prosecuting attorney. If you live in the United States or any other country where the Society maintains a legal office at its Branch office, request advice on the validity of the law and how to proceed.

The company servant or his assistant (if you are not a pioneer assigned to isolated territory) should aid in making the report and sign it with you. If the report is made promptly you will be able to obtain proper advice as to the procedure to follow in preparing for your trial.

PREPARATION FOR TRIAL

You should prepare for the trial after being released and making the report to the Society's Branch office.

Whether you should employ an attorney or a court stenographer depends entirely on whether there will be a trial

de novo (that is to say, a rehearing of the evidence entirely anew) upon the appeal. Therefore you should immediately determine if the appeal from the trial will be heard in the higher court upon the record made in the first trial or if the evidence will be heard entirely anew, on appeal as though there had been no trial in the court in the first instance. Consult a local lawyer to find out about this immediately after arrest and notify the Branch office of the Society.

If witnesses are to be heard all over again in the trial upon appeal, it is not necessary for you to employ a lawyer or have a court stenographer present at the first trial. But if the hearing upon appeal is a mere review of the testimony taken on the first trial, you should employ a local lawyer and also have a court stenographer come to the trial to take down all of the testimony and make a record of the proceedings. This is necessary so that the higher courts will be able to have the case properly presented to them. Without a lawyer or a court stenographer to take down testimony a proper record will not be made for review in the appellate courts. If a proper record is not made the appeal will fail. It is very important that you get the correct information, in order to determine whether it is necessary to have a court stenographer present at the first trial.

Whether a local lawyer should be engaged to represent you in the first trial depends upon the circumstances. If the legal office of the Society has had an opportunity to consider the report you have sent in, you will be advised whether to employ local counsel.

Where it can be conveniently arranged, it is the desire of the Society to have an attorney of its choice, such as its general counsel or some regular attorney, to work with the local counsel in the trial and appeal of certain important cases. This will be determined by the Society from the report made of the arrest and the case. Accordingly it is important to secure a postponement of the case long enough for the Society to determine whether the general counsel or some district counsel will help in the trial.

If you cannot get advice from the Society's legal office before the time of the trial you must decide whether to employ local counsel to represent you. No attorney will be engaged unless he will agree to assert your fundamental rights of freedom of speech, press and worship and will put the grounds in the record of the trial in harmony with directions from Society's counsel.

You should inform such local attorney that he will be furnished with briefs (written argument) and decisions in similar cases which should reduce the amount of the re-

search work done by the attorney and keep the costs of his preparation to a minimum. Society's counsel will help him on appeal by preparing the printed briefs required for filing and handling the printing of the record. The most effective presentation of the appeal will be insured by such cooperation between local counsel and Society's counsel. If such local counsel cannot be obtained, inform the Society. Counsel for the Society may be in position to recommend some attorney for handling the case.

It is more satisfactory to agree with the local attorney in advance on the fee to be charged or money to be paid him on the basis of the work to be done. Before any large fees are agreed upon, you should write to the Society's Branch office for advice. You do not have authority to obligate the Society for attorney's fees without its prior consent.

Arrange to take to court all of the equipment, including your Bible, you were using at the time of your arrest. The other ministers of the congregation, as well as the associated people of good will, should be informed of the time and place of trial so that they may attend the hearing if they desire to do so.

Members of the congregation who own property and are willing to provide an appeal bond in event of conviction should be requested to attend the trial. These usually will be the bondsmen who have filed appearance bond for you. If you were allowed to go on your own recognizance, be sure to arrange for someone to attend the trial to sign appeal bond. He should bring with him his tax statements and title papers so as to make acceptable bond.

If, by the time the trial occurs, you have not been able to secure satisfactory legal counsel, you should prepare to handle your own case. In cases where suitable counsel cannot be found it is proper to have some capable brother to assist you as a friend in court or agent, which is permitted in most lower courts.

Before the trial you should prepare a paper (known as Motion to Dismiss) for handing to the judge. This you should typewrite on good paper, double-spaced, using only one side of the sheets. If you do not have a typewriter, prepare the document in ink. An original and three copies will be required. The original you will give to the judge at the proper time; another copy you will give to the prosecuting attorney; the third will be sent to the Society when you make your report of the outcome of the trial. Retain one copy for your file.

The Motion to Dismiss which you prepare to take to court for delivery to the judge and prosecuting attorney is as follows:

State [or Province] of [Fill in name of state or province]
County [or District] of [Fill in name of county or district]
City of [Fill in name of city]
[Fill in name of court]

[*Fill in name of complainant*]
Complainant
versus
[*Fill in name of defendant*]
Defendant

MOTION TO DISMISS

Now comes the defendant at the close of all the evidence and moves to dismiss the complaint, for a finding of "not guilty" and for a judgment of acquittal upon the following grounds:

(1) The undisputed evidence shows that the defendant is not guilty as charged in the complaint.

(2) The prosecution has wholly failed to make out a case against the defendant and the evidence shows that the defendant is not guilty of the offense charged.

(3) The defendant is an ordained minister, preaching the gospel of God's kingdom orally and by distributing literature containing Bible sermons, and therefore the law as properly construed does not apply to the activity of defendant.

(4) The law supporting the prosecution can not properly be construed and applied to the circumstances proved in the evidence, because the defendant was merely preaching the gospel and was not engaged in peddling, soliciting or commercial sale of any kind of merchandise.

(5) The law in question as construed and applied to the particular facts and circumstances shown in the evidence is invalid, void and ultra vires because it abridges and denies the rights of freedom of speech, press and worship of Almighty God, contrary to the fundamental law of this country.

(6) The law is invalid because it is not authorized by the enabling statute pursuant to which it has been enacted.

(7) If the law is construed and applied to cover the defendant's activity, then it unlawfully abridges and denies defendant's right of freedom of conscience, freedom to worship Almighty God, freedom of speech and freedom of press, contrary to the *United States Constitution, First and Fourteenth Amendments.*[1]

(8) If the law is construed and applied to cover the defendant's activity, then it unlawfully abridges and denies defendant's right of freedom of conscience, freedom to worship Almighty God, freedom of speech and freedom of press, contrary to the *Constitution of this State.*[2]

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1 If the country where the prosecution is brought has no written constitution, substitute for the words in italics: *fundamental law of this country.* In event your country (other than the United States) has a written constitution substitute for the words in italics the name of the constitution.

2 Point 8 should be omitted if the prosecution is brought outside the United States, unless the prosecution is brought in a province or district which has a written constitution. In that event substitute for the words in italics the name of the constitution.

WHEREFORE the defendant prays that this court enter a judgment dismissing the prosecution, finding the defendant "not guilty" and acquitting the defendant.

[Signature]

Defendant

APPEAL

The apostle Paul appealed to higher authorities in order to escape persecution and death at Jerusalem. He said: "I appeal unto Cæsar." Also he said: "I stand at Cæsar's judgment seat, where I ought to be judged." (Acts 25:10, 11) His appealing set the pattern for us today. You should not let a decision of a lower court stand against you without review by the appellate courts.

Should the court find you guilty and assess punishment, say to the judge: "I want to appeal this case." Then request the judge to furnish the necessary paper appeal blank and appeal bond blank (if you do not have a lawyer). If he will not help, you should hire a lawyer immediately. You should request the judge to allow you to go free long enough to employ an attorney and prepare your appeal papers. Have the lawyer prepare and file the appeal papers and do what is necessary to complete the appeal and secure your release from jail pending appeal.

In some places the law requires a written notice of appeal to be given to the clerk of the court and to the prosecuting attorney. If this is not done the appeal will fail. The time within which to appeal, in some courts, is very short. For example, in the State of Missouri, the appeal papers must be prepared and filed on the day of conviction. The law varies in each country and state. Check on the time and manner of appeal before the trial, if possible, and always promptly after the conviction. Be sure that an appeal is taken within the time and way required by the local law. If the appeal papers are not prepared and filed in time the case will be lost in the higher court.

Often a copy of the ordinance, bylaw or statute is not included in the record on appeal. If it is not attached you or your lawyer should attach a copy of it to the appeal papers. Be certain that this is done.

The record made by Jehovah's witnesses in the United States proves the importance of appealing to the higher courts all decisions that are adverse. Had the thousands of convictions entered by the magistrates, police courts and other lower courts not been appealed, a mountain of precedent would have piled up as a giant obstacle in the field of worship. By appealing we have prevented the erection of such obstacle. Our way of worship has been written into

the law of the land of the United States and other countries because of our persistence in appealing from adverse decisions.

JURY TRIAL

As a part of our preparation for trial we must determine whether a jury trial is necessary. Most courts allow a jury trial unless it is abandoned by the defendant. Other courts will not grant it unless it is requested by you. Ordinarily it is not necessary for you to have a jury trial. In Bible times cases were decided by the judges. Juries were unknown. While a jury trial is not contrary to the Scriptures, it is usually not necessary to have a jury for our trials. They do not involve disputes in testimony or the facts. For the most part they involve matters of law which are for the decision of the court without a jury. It would be a waste of time and money to have a jury trial, because there would be nothing for the jury to decide. Unless counsel for the Society advises you to obtain a jury, inform the judge that you want your case tried by him without a jury. In event you are advised to have a jury trial, make the demand at the time the case is called for trial.

PREPARING TO TESTIFY

Before your trial you should meet with your lawyer, if one has been employed. If you do not have a lawyer, you should have one of Jehovah's witnesses meet with you to help you prepare for trial. A capable brother can assist you by taking the part of the lawyer. Questions pertinent to the case should be selected from among those listed below and propounded to you by your counsel or friend. At this meeting other witnesses who will be introduced in your behalf should also be present and similarly prepared for the trial.

SUGGESTED QUESTIONS FOR DIRECT EXAMINATION

1. State your name, age, address and occupation.
2. With what group do you preach?
3. Under the direction of what society do you perform your missionary work?
4. What are the chartered purposes of the society that you represent?
5. Who are Jehovah's witnesses?
6. Where did the name "Jehovah's witnesses" originate?
7. Are you an ordained minister?
8. When, where and how were you ordained?
9. What Scriptural authority do you have for your ordination?
10. Where do you preach?
11. Where is your congregation located?
12. How did you get the assignment of your missionary field?
13. Where is your missionary field located?
14. How do you preach the gospel in your assignment?

15. Will you explain fully what you do at the doors of the people and how you present the message?
16. What do you do if the people are not interested?
17. Demonstrate to the Court how you presented the literature to the people at their homes.
18. Do you make back-calls or revisits upon the people after you have called from door to door?
19. How is this back-call work carried on by you?
20. What authority or grounds do you have for preaching from door to door?
21. What practical reasons do you have for not confining your preaching to a pulpit in a building?
22. Do you also preach publicly on the streets?
23. When, where and how is this street preaching done in your missionary field?
24. Demonstrate to the Court how you were offering the literature to the people on the streets.
25. Did you block the sidewalk, cause a crowd to congregate or obstruct entrances to the buildings?
26. Where were you standing on the sidewalk?
27. What did you say to the people who talked to you about the literature you were distributing?
28. What do the contents of the literature relate to?
29. Do you establish Bible studies in the homes of the people?
30. How are Bible studies conducted?
31. How often are Bible studies conducted, and over how long a period of time?
32. In the performance of your preaching work do you act as a minister?
33. Are all the things that you do in your preaching work required of you as a part of your duties as a minister?
34. State the entire conversation that you had with the officer from the time he accosted you until you were taken to the police station.
35. What preaching work were you doing in your missionary field on the day that you were arrested from the time you started preaching until the time of your arrest?
36. What were you doing at the time of your arrest?
37. Will you please produce the literature which you were offering to the people?
38. What happened at the home where you were arrested?
39. Will you please state the full details of all that was said and done by you and the householder from the time you arrived until you departed?
40. Why did you not comply with the command that you stop preaching?

CROSS-EXAMINATION

[Cross-examination means questions asked you, the one on trial, by the opposing attorney. This he does in an effort to weaken or destroy the force of the testimony given.]

Having in mind that you may be subjected to cross-examination and that neither you nor your counsel can anticipate what questions may be propounded, you should be prepared to answer all questions, whether they may be material or

based on prejudice. Some of the questions listed below may be asked of you. For that reason, in preparing for cross-examination, your lawyer or friend should propound them to you:

1. What are the principal doctrines advocated by Jehovah's witnesses and the Society?
2. Isn't it a fact that you did not attend a theological school before you became a minister?
3. Why didn't you go to a college or university?
4. Why didn't you go through a theological ordination ceremony like the clergy?
5. Didn't you ordain yourself?
6. Aren't you the one who determines whether you are ordained?
7. Isn't it a fact that you became a minister overnight and that you merely call yourself a minister without having prepared for the ministry?
8. Do you mean to tell us that you were an ordained minister while yet a child?
9. You do not salute the flag, do you?
10. Tell us why it is that you do not show respect for the flag?
11. You are against the government, are you not?
12. Are you willing to bear arms in defense of your country?
13. In event of an invasion would you bear arms to defend your country?
14. Do you believe in rendering unto Caesar that which is Caesar's?
15. Then why didn't you comply with the law of Caesar in this case?
16. Do you believe in the scripture that says 'Submit yourself unto the higher powers'?
17. Then why didn't you submit to the orders of the higher powers that required you to stop your work in this case?
18. Isn't it a fact that you attack the religions of other people?
19. Isn't it a fact that you are carrying on a hate campaign against other people's religion?
20. Are Jehovah's witnesses allied with the communists?
21. Why didn't you stop going from house to house when ordered to do so?
22. Why didn't you move on when ordered to do so?
23. If each one of Jehovah's witnesses is a minister, then isn't it a fact that you do not have a congregation, but are yourself a mere member of a congregation?
24. Don't you make a profit from the sale of this literature?
25. Don't you support yourself from the profit that you make on the sale of this literature?
26. Don't you sell magazines on the street?
27. If you are not selling, then how do you explain the "5 cents" sign on the magazine bag?
28. What does the literature cost you?
29. What do you get from the people for the literature you distribute?
30. Isn't there a difference between the cost and the amount the people contribute to you?
31. Then you actually do make a profit on the distribution of the literature, do you not?

STUDY FOR TRIAL

Our activities and our ordination are the same throughout the world, even though different countries and different laws are involved. The stand we take for freedom of worship world-wide is based on the same authority, the Bible. From time to time the Society has published articles proving from the Scriptures that our preaching methods are divinely approved, practical and legal. You should carefully review this information as a part of your preparation for trial. See the book *"Let God Be True"*, pages 210-225, 226-242, on "Who Are Jehovah's Witnesses?" and "Salutes and Politics"; the booklets *God and the State* and *Theocracy;* the *Watchtower* magazine, issue of June 15, 1941, on "Covenant Obligations"; issue of February 1, 1943, on "Faith of the Nation Tried"; issue of June 15, 1943, on "New World Ambassadors to the Homes"; issue of January 15, 1944, on "Ordination and the American Courts"; issue of October 15, 1947, on "God's Ministers of Good News", and issue of October 15, 1948, on "Ministers at the World's End" and "What Is There in It for Ministers?"; *Consolation* magazine, issue of May 13, 1942, on "Were You Baptized? and Why?"; issue of March 31, 1943, on "Praise from Youth", and issue of March 1, 1944, on "Ordination—True and False"; and other pertinent articles.

FINAL PREPARATION

Before going to court for the trial the last thing to be done is to check to see that all steps suggested here for proper preparation have been taken. Have you obtained a copy of the law involved and a copy of the charge, complaint or similar paper filed against you; and have you sent a copy of each to the Society, together with a report, and received advice? Have you asked for an adjournment of the case? Have you determined whether a court stenographer and a lawyer should be employed to attend the hearing? Have you prepared the Motion to Dismiss to hand to the judge at the trial? Have you made arrangements for someone to be on hand to sign a bond in event a bond is required? Appreciating that you will be representing the Almighty God when you appear in court, you will leave no stone unturned in properly and fully preparing yourself.

ATTITUDE AT TRIAL

At the trial your attitude should be one of boldness and frankness. You will show respect to the judge presiding and to the prosecuting attorney. It is altogether proper to be respectful and courteous, but improper to show fear of men. Fear of the Lord is the beginning of wisdom, but the fear of man brings a snare. (Ps. 111:10; Prov. 29:25) Remember Jehovah's words to his prophet: "Thou therefore gird up thy loins, and arise, and speak unto them all that I command thee: be not dismayed at their faces, lest I confound thee before them."—Jer. 1:17.

Regard your appearance in court as a friendly visit to an honest person and conduct yourself as if you were making a back-call. Appearing in court is not for the purpose of escaping punishment. It is to inform the court and our adversaries concerning the Kingdom hope of all mankind. Do not be concerned over the punishment or the consequences of being found guilty. "In God I trust without fear. What can man do unto me?" (Ps. 56:11; 118:8, *An Amer. Trans.*) Go to court to give a witness as required by the laws of God and man. Trust in Jehovah for deliverance. (Ps. 34:7; 37:7-9; Isa. 50:7, *Am. Stan. Ver.*) If Jehovah does not deliver from punishment, be assured that it is his will that the case go to a higher court for a further witness.

In many courts all present are required to rise and stand as the judge enters. The Society considers that this does not constitute a violation of God's law. It is an act of respect similar to rising from our chairs to greet one who enters our home. Paul set the example for us to follow when he appeared before kings, rulers, judges and courts. When being heard before the visiting king, Agrippa, he was interrupted by Festus. Paul tactfully said, "most noble Festus." (Acts 26:1-3, 7, 13, 19, 24-26) The use of such words supports the practice in court of addressing the judge presiding with expressions of courtesy and respect such as, "Sir," "May it please the court," "Your honor," and other similar words.

There is no Scriptural objection to taking an oath to testify to the truth. This is called being "sworn in" as a witness. It is an agreement to tell the truth on matters that the court is entitled to know. There are provisions in the law whereby those who have conscientious scruples to thus being sworn in may be excused therefrom and may "affirm" their statements before God.

A proper attitude of kindness and courtesy on the same dignified level that a judge of a court ordinarily exhibits should at all times be kept by us, as ambassadors of God's kingdom of righteousness. Use of tact, kindness, dignity and proper decorum proves us to be true ministers of God.

BEGINNING OF TRIAL AND PROSECUTION'S EVIDENCE

The trial begins by the judge, prosecuting attorney or other officer reading the written charges (complaint, warrant, information, or affidavit) against the defendant. You

are then asked to plead to the charges. The plea of "not guilty" is made before evidence is heard.

The prosecution will first present to the court its evidence. The evidence will usually be testimony from a police officer, householder or person on the street who obtained literature. Ordinarily the evidence will be that literature was distributed in violation of some law. The witnesses for the prosecution will testify what they saw you, the defendant, doing at the time of the alleged offense.

You have the right to cross-examine witnesses that appear against you. This means that you may ask questions of each witness who testifies for the prosecution. Such questions must relate to the previous testimony of the witness. There are no hard and fast rules about cross-examination. Remember not to ask a question of the witness when it is known that the answer will be unfavorable. If a witness testifies to a lie, you may ask him a few pointed questions to establish the falsity of his testimony. Cross-examination should be sparingly and cautiously used. If the witness has told the truth and not omitted anything important to you, do not cross-examine him. Say, "No questions." The scope of examination will depend entirely on the circumstances of the case and the testimony given by the witnesses.

When the final witness has concluded his testimony, the prosecutor will say to the judge: "We rest our case," "We close."

DEFENDANT'S CASE

When the prosecution has finished, you should inform the judge that you desire to submit your witnesses and to give testimony in your own behalf. If you have any witnesses, you should then call them, one by one, to the witness stand.

It may be advisable for you to bring others of Jehovah's witnesses to testify that you are regarded as an ordained minister of the gospel and member of the local congregation, engaged in preaching from door to door as a minister. The witnesses whom you call should be prepared to testify that your congregation is within the homes of the people of good will in your missionary field. Each witness should be prepared to give testimony about your ministry as fully as you do. Each witness should make himself acquainted with all the material that you use in preparation for trial. See pages 15-19 of this booklet.

No witness should be called to the stand to testify without having prepared. As part of the preparation for trial, you or your attorney should have first, before going to court, gone over the testimony of any witnesses you plan to offer and discussed with such witnesses the matters to which they will testify.

DEFENDANT'S TESTIMONY IN HIS OWN BEHALF

Following the testimony of your other witnesses, you should take the witness stand last in your own behalf. This is necessary in order to give a proper witness and testimony concerning your faith and activity. You cannot establish fully your defense of freedom of worship, freedom of speech and freedom of press under the fundamental law unless you take the witness stand and explain fully your side of the case.

If you are represented by a lawyer he should question you concerning your background, training, ordination, missionary work and record of ministry, in addition to what you were doing when you were arrested. He should develop fully what occurred when the police appeared, your conversation with the officers and your reasons why the police should not have arrested you. When you go upon the stand take with you your Bible and the equipment that you had with you for the purpose of preaching at the time of your arrest.

In event you do not have a lawyer, request permission from the judge to allow a friend to question you to develop the facts. If the judge will not permit this, you may make a statement under oath without being questioned. This is like being given the opportunity to give a talk, for which you should be prepared.

Speak conversationally, rather than oratorically. Speak loud enough to be heard, remembering that you are a minister. A minister should always talk loud enough to be heard, regulating his volume according to the size of the audience and the room where he is speaking.

Begin your testimony with a statement (if you are baptized) that you are an ordained minister of Jehovah God. If you have not been baptized state that you are a regular unordained minister. Show that you are one of Jehovah's witnesses, an unincorporated body of missionaries and evangelists, operating in all the principal countries of the earth for the purpose of preaching the gospel of God's kingdom under Christ Jesus as the only hope of the world. Inform the court that the organization and your work are directed by the Watch Tower Bible and Tract Society, a charitable corporation chartered under the laws of Pennsylvania, one of the United States of America, with the following purposes and powers:

"To act as the servant of and the legal world-wide governing agency for that body of Christian persons known as Jehovah's witnesses; to preach the gospel of God's kingdom under Christ Jesus unto all nations as a witness to the name, word and supremacy of Almighty God Jehovah; to print and distribute Bibles and to disseminate Bible truths in vari-

ous languages by means of making and publishing literature containing information and comment explaining Bible truths and prophecy concerning establishment of Jehovah's kingdom under Christ Jesus; to authorize and appoint agents, servants, employees, teachers, instructors, evangelists, missionaries and ministers to go forth to all the world publicly and from house to house to preach and teach Bible truths to persons willing to listen by leaving with such persons said literature and by conducting Bible studies thereon; to improve men, women and children mentally and morally by Christian missionary work and by charitable and benevolent instruction of the people on the Bible and incidental scientific, historical and literary subjects . . ."

State that in your country the work of Jehovah's witnesses is under the immediate direction of the Branch office of the Society, giving the address.

When identifying yourself as one of Jehovah's witnesses, state that Jehovah's witnesses get their name from Jehovah God in the Scriptures. "Ye are my witnesses, saith Jehovah." (Isa. 43:10-12; 44:8, *Am. Stan. Ver.*) "For this cause came I into the world," said Jesus, "that I should bear witness unto the truth. Every one that is of the truth heareth my voice." —John 18:37.

If you do secular work, explain that your primary occupation or vocation is the ministry as one of Jehovah's witnesses and that you engage in secular work during the week to support yourself and to "provide things honest in the sight of all men". (Rom. 12:17; 1 Tim. 5:8) Say that you do such secular work in order to avoid using the ministry as a charge upon the people in your missionary field and the people of good will toward Almighty God. Refer to the secular work performed by the apostles and other Christian ministers. —Acts 18:3, 4; 20:33, 34; 1 Cor. 4:12; 2 Cor. 12:14; 1 Thess. 2:9; 2 Thess. 3:8-10.

Explain your ordination from Jehovah God, which is recognized by your congregation and by the Society. You should be able to give the substance of Isaiah 61:1, 2 (*Am. Stan. Ver.*): "The spirit of the Lord Jehovah is upon me; because Jehovah hath anointed me to preach good tidings unto the meek; he hath sent me to bind up the broken-hearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound; to proclaim the year of Jehovah's favor, and the day of vengeance of our God; to comfort all that mourn."

Inform the court that you have gone through a public ordination ceremony conducted by Jehovah's witnesses under the direction of the Society. Mention that a short Bible talk was given on the significance of consecration and ordination

at the time you were ordained and that thereafter your consecration was publicly symbolized by water immersion. Show that this is the ordination ceremony established by Jehovah's witnesses and the Society and that it is the identical ordination ceremony that the Lord Jesus Christ underwent. Later Jesus appeared in the synagogue and proclaimed his ordination as commanded by Jehovah and referred to the scripture at Isaiah 61:1, 2.

If you have not been baptized (one should be baptized as soon as possible after making his consecration) you are nevertheless entitled to show that you are a regular minister or unordained minister. You preach in the same manner as does the ordained minister and, therefore, you are entitled to the same rights. Tell the court that you are preaching under the direction of the Society and in association with Jehovah's witnesses, but that you have not as yet undergone the ordination ceremony, and that Cornelius and his fellow Gentile believers were ordained with the spirit of God before they were baptized in water.—Acts 10:44-48.

Next, inform the court that you have assigned to you by the Society and the local congregation a definite missionary field. (If you are a pioneer [full-time] minister in an isolated territory the assignment will be direct from the Society.) State that the country has been divided by the Society into many missionary fields; that a large territory is assigned to the congregation (or to you individually if you are a pioneer); and that a portion of the territory assigned to the congregation is assigned to you. Describe your missionary work from house to house, explaining specifically how you carry on the work, and what you say to the people at the doors. Demonstrate to the judge the literature that you used and tell the judge what you said when offering the literature. Inform the judge that if the people were interested you left literature with them and allowed them an opportunity to contribute or make a donation. If some were unable to contribute or did not wish to do so, you should tell the court you gave the literature to such persons free of charge. State that if the people you called on were not interested, you thanked them politely and passed on to the next house.

Tell the court then how you carry on the back-call work and the Bible-study work, calling on a large number of people weekly. These many people constitute the congregation that you serve. You may be able to establish that your congregation is almost as large as or perhaps larger than the congregations of the orthodox clergy. Say that you do not require the congregation to come to you and listen to you preach in a church building, as the clergy do, but that you go to the homes of the people. Show that the work you

do in this manner is solely the work of a minister and is not the type of work done by lay workers and Sunday-school teachers in the orthodox religious organizations.

Inform the court that preaching from house to house is a recognized, Christian method of preaching which stands on the same high level and is entitled to the same recognition by the people as preaching from the pulpit. Show that such method was employed by the Lord Jesus and his apostles. (Luke 8:1; Mark 6:6; Matt. 10:7, 12-14) Jesus instructed his apostles and disciples that if a householder wanted their message they should stay at the home long enough to teach the people, and that if the people in the house were not interested they should "depart out of that house". Tell the court that the apostle Paul stated that he preached "from house to house".—Acts 20:20.

Show that it is necessary to go from house to house in order to reach the people. Although there are many different religious organizations, a very small percentage of the people go to church. Statistics show that in a great many countries more than half of the people do not attend church. This does not mean that the people are not interested in the Bible. Jehovah's witnesses cannot expect all of the people to come to their meeting-places to receive instruction. If we confined our preaching, as the clergy do, to preaching from the pulpits, these people would starve spiritually. Therefore we employ the practical method of going to the people with the message. This we do rather than make the people come to us.

If you are charged with unlawfully preaching publicly upon the streets, explain how you do the work and that this is a proper method of preaching. Show that Jesus and his apostles preached in the public squares, at the seashores, in the market-places and upon the streets, anywhere people congregated or crowds of persons were to be found. Paul said that he taught publicly.—Acts 20:20; 17:17-34.

Demonstrate how the literature was offered upon the street. Emphasize that you stood at an appropriate place along the curb of the sidewalk, not interfering with the passage of pedestrians or blocking doorways or display windows. Repeat the slogans that you used in presentation of the message to the passers-by. Explain precisely what you told the people who were interested in the literature or the message. Show the court the literature that you were using. If you were distributing printed invitations to a Bible lecture, demonstrate how you were handing them to the people. Inform the court that you were not casting the handbills on the sidewalks nor littering the streets, but were offering

them to passers-by and did not release a leaflet until it had been taken from your hand.

Offer into evidence before you leave the witness stand a sample of all the literature distributed or offered by you to the people at the time of your arrest. You should say to the court: "I offer into evidence the following literature:". Then hand to the judge a copy of each book, booklet, magazine and leaflet you offered to the people.

When you offer the literature to the judge, describe its contents and message. Explain that the purpose of Almighty God is to vindicate his name and word by setting up a righteous kingdom which will remove wickedness from the universe and govern the earth righteously. State that the literature presents conclusive evidence that we are living in the "time of the end" of the old world and that the "battle of Armageddon" is imminent. Say that such battle, fought by God and not by Jehovah's witnesses, will result in the end of all wicked and oppressive men and organizations. Following this destruction, God shows in his Word, he will set up his perfect government under the supervision of the great Prince of Peace, and which government shall never be destroyed. Then describe the resulting Kingdom blessings.

CROSS-EXAMINATION OF DEFENDANT

You are not permitted to leave the witness stand immediately after you finish your statement. You are required to remain and submit to questioning by the opposing attorney, called cross-examination. During the cross-examination you should maintain your decorum and answer questions with dignity and calmness. At no time should you become angry. Regardless of how insulting or harsh the prosecutor may be in his questioning, do not respond with anger. A calm and soft word in response to a biting, cutting thrust of the adversary confuses the enemy.

Look the person asking questions straight in the eye, whether it be judge or prosecutor. In other words, keep your "eye on the ball", like a gladiator who never takes his eye off his opponent. Do not gaze around the courtroom, up at the ceiling, down at the floor or at any other person except the questioner.

Do not refuse to answer questions asked by the judge or permitted by the judge to be asked by the prosecutor. Refusal to answer may result in your being held in contempt of court. Refusal to testify does not honor Jehovah's name. Our purpose is to give a witness. We should welcome any questions regardless of how adverse they may be considered. Let the answers be full and to the point. Do not stray into irrelevant matters that have nothing to do with the ques-

tion propounded. Let the answers be responsive. Do not answer a question too quickly, especially if you do not understand the question. There is nothing wrong in stating quickly that you do not understand the question. You may ask the judge to have the lawyer reframe the question so that it can be understood. Perhaps a repetition of the question would enable you to understand its meaning.

However, when a question is asked, do not hesitate unduly or delay as though making a choice between two answers. Undue delay may seem to indicate to the judge fabrication or equivocation. You do not want to leave such false impression. Rather than take time to consider the exact meaning of a question that is not immediately understood, it is better to say quickly that you do not understand the question. If you do not hear the question distinctly, you should not guess at it. Say that you did not hear the question and request that it be repeated. Guessing at a question may result in embarrassment.

If your training as a minister is attacked by a question on cross-examination show that you were trained in the most efficient ministry schools in the world, the Society's ministry schools. Show that the school is conducted in a manner similar to the tutorial and discussion groups used in the most modern universities. Explain that there are regular courses in Bible study, comparative theology, public speaking, Bible history, etc., with set courses and portions for home study, in addition to the regular discussion groups. Show also that you, as a minister, continue to study regularly *after* your ordination as well as before. Do not leave the impression that you merely leave your secular employment one day, pick up a Bible and say: "Henceforth, I am a minister." That does not happen in reality; hence proper explanation of your training for the ministry should be given.

If questioned about lack of a theological certificate of ordination, show that Jehovah's witnesses have earthly evidence of their ordination but not as a rule in printed form. Jehovah's witnesses do not believe that having an ordination certificate signed by a bishop or other ecclesiastical authority can make a man a minister and true servant of God. One who really is a minister can prove it by his works in the ministry, by his back-calls, his years of faithful service and his assistance to his brethren. (1 Tim. 4:6) The true proof of one's ordination is his ministry, as stated by Paul: "Do we begin again to commend ourselves? or need we, as some others, epistles of commendation to you, or letters of commendation from you? Ye are our epistle written in our hearts, known and read of all men: forasmuch as ye are manifestly declared to be the epistle of Christ ministered by us, written not with ink, but with the spirit of the living God; not in tables of stone, but in fleshy tables of the heart." —2 Cor. 3:1-3; see also *An American Translation.*

Do not attempt to hide the facts if questioned about income from the distribution of literature. Attempting to hide the fact that you fail to make enough money from distribution of literature to support yourself in the ministry may give rise to a wrong impression on the part of the judge. If a question is asked about the refusal to salute the flag or claim for exemption from bearing arms as a minister, answer quickly and fully, giving the reasons. In order to properly prepare to answer the questions, you should have reviewed the book *"Let God Be True"*, pages 226-239.

If you are asked whether you are against the government or are engaged in subversive activity, promptly answer, "No." Be prepared with an explanation of the answer. You may be required to explain the advice of Jesus concerning rendering to Caesar the things that are Caesar's. (Matt. 22:21; Mark 12:17) See *"Let God Be True"*, pages 239-242.

Care should be taken to state properly the position of Jehovah's witnesses in relation to the law of the land. It is not claimed that general laws do not apply to Jehovah's witnesses. They do apply and Jehovah's witnesses are glad to abide by them. A lawyer or doctor, however, cannot be forced to obtain a license as a plumber or engineer. A doctor is not a plumber and does not have to be licensed as such. Similarly a minister is not a peddler and does not have to get a license as such. If he left the ministry and went into the commercial business of selling perfume, he would then be in business and would have to obtain a business license, regardless of his faith. The point is that we are engaged in a lawful, noncommercial activity of preaching the gospel, and therefore we cannot be forced to get a license applicable to a completely different kind of work. This distinction should be made to avoid giving the impression that one does not feel bound by the law because he is one of Jehovah's witnesses.

You may be asked whether you are carrying on a "campaign of hate" or attacking other people because of their religion. Your answer should be, "No." Jehovah's witnesses love all people regardless of their religious affiliation. We demonstrate our love by calling from house to house and preaching publicly. This matter is fully explained in *"Let God Be True"*, pages 221, 222.

If the judge asks, or permits the prosecutor to ask, whether Jehovah's witnesses are allied with communism, answer emphatically, "No!" Point out that Jehovah's witnesses have never been allowed to operate in communist Russia. Em-

phasize that in every country where communism has control of the government Jehovah's witnesses have been quickly banned. In communistic countries Jehovah's witnesses have been put in labor camps and concentration camps or executed because of their refusal to give up their faith and hail communism. We believe in and advocate worship of God. Communism is against the worship of God. Communism puts the state above God. We put God above the state, including the communistic or police state.

In democratic lands, such as the United States of America, the false charges that Jehovah's witnesses are allied with communism have been thoroughly investigated by the governments. The list of subversive organizations and communist-dominated or -controlled organizations prepared by the Department of Justice at the instance of the president of the United States does not include Jehovah's witnesses or the Watch Tower Bible and Tract Society. This is an official finding by the United States government that Jehovah's witnesses are not communistic.

On December 15, 1949, commandant of the United States Marine Corps wrote the following letter from which can be plainly seen that Jehovah's witnesses are not allied with communism or any subversive organization:

DEPARTMENT OF THE NAVY

HEADQUARTERS UNITED STATES MARINE CORPS

WASHINGTON 25, D. C.

[SEAL]

In Reply Refer to
DB-1094-pt1
15 December, 1949

Mr. Hayden Covington
117 Adams Street
Brooklyn 1, New York

My dear Mr. Covington:

I have read with great care your letter of 23 November 1949 in which you point out that the Marine Corps made a grave error in stating that Jehovah's Witnesses was associated with communism. I am convinced that the statement made in Enclosure (B) of Marine Corps Memorandum #55-49 concerning Jehovah's Witnesses is totally without foundation and I regret most exceedingly that it was published.

I have ordered the discussion "Communism in the United States" (Enclosure (B) to Marine Corps Memorandum #55-49), revised so as to eliminate all reference to Jehovah's Witnesses and I shall direct that all copies presently existing which contain such reference be destroyed.

In addition, I am causing a memorandum to be prepared which will be issued by this Headquarters and will receive the same distribution given Marine Corps Memorandum #55-49. This memorandum will state that the reference made to Jehovah's Witnesses in Enclosure (B) of Marine Corps Memorandum #55-49 was completely unfounded, that it was made without proper information, under an entire misapprehension as to the facts, and that this Headquarters regrets that this unfortunate statement was published. The preparation of this memorandum is being expedited in order that it may be promulgated to the service at an early date.

Please convey to your clients, Watch Tower Bible and Tract Society and Jehovah's Witnesses, my sincere regret for the publication of the lamentable reference to them. If there is any other action which may be taken by this Headquarters, please do not hesitate to inform me.

Sincerely yours,

C. B. CATES

C. B. CATES
General, U. S. Marine Corps
Commandant of the Marine Corps

Jehovah God has given us the truth. We have nothing to hide and nothing to be ashamed of. We are glad to give to every man an answer for the hope that is within us. Explain things simply and carefully in terms that persons unfamiliar with the organization can understand. Most men have a background of other orthodox denominations, and the altogether different *Theocratic* organization must be carefully explained so that they can see the distinction.

As an ambassador of the kingdom of God, you should consider all questions asked by the judge or the prosecutor as an opportunity to explain about the Kingdom that is mankind's only hope.—1 Pet. 3:15; Mark 13:9.

MOTION TO DISMISS

It is of utmost importance that a motion to dismiss be filed. In fact, the rights of freedom of speech, press and worship cannot be preserved and reviewed in the higher courts unless the motion to dismiss, in writing, is made. Therefore, at the close of the defendant's case and when you step down from the witness stand, you should state to the court: "May it please the court, I have a motion which I desire to read and submit to the court." Attempt to read the motion aloud. If this is not permitted, hand the motion to the judge and request him to file it with the papers and read it before deciding the case. (See pages 13-14, this booklet.)

In support of the motion to dismiss you should hand to the judge such court decisions as are appropriate which have

been sent to you by counsel for the Society. Also, if you do not have a lawyer, you should hand to the judge this booklet. Direct his attention to the parts of the Memorandum of Law which relate to the charge made against you and which you have marked. If you have a lawyer he may use the booklet in briefing and arguing the case.

PRELIMINARY JUSTIFICATION FOR WORLD-WIDE USE OF UNITED STATES COURT DECISIONS

Our international preaching activity has been opposed by world-wide persecution. This has resulted in the imprisonment of thousands of Jehovah's witnesses. In democratic lands we have found, as a refuge from tyranny, the courts of the land. The foremost court to render aid by extending the constitutional shield of protection to Jehovah's witnesses is the Supreme Court of the United States.

In the United States of America literally hundreds of other courts have rendered decisions in thousands of cases holding our preaching methods to be legal. We have available in the United States more court decisions covering all the preaching activity of Jehovah's witnesses than in any other nation on earth. The constitutional treasures of freedom of speech, press and worship have been unlocked by us in the United States and, as a result of the court decisions under the constitutional guarantee of freedom of speech, press, assembly, conscience and worship, the way and method of Jehovah's witnesses have been written into the law of that land.

The United States is one of the leading liberal and democratic nations of the world. Other liberal nations of the Western world have, along with the United States, joined in the United Nations covenant to guarantee human rights. All are therefore bound to preserve these rights, and the court decisions in the United States, where the issues have been thoroughly litigated, should be helpful and persuasive precedent to assist courts and judges in other nations where our ministry may be in question.

Some lawyers and judges who read this booklet may say that the opinions quoted herein from American cases are not helpful in deciding the instant case. Some may say, for example, that judgments of the Supreme Court of the United States which are founded fundamentally on the United States Constitution are of little value in England, France, South Africa or some other country where the system of law is quite different and the United States Constitution does not apply.

It is recognized that American decisions are not *binding* and do not force the judges to the same conclusions in countries outside the United States, yet there can be no question that they are of *persuasive* value and should be used to assist the courts in reaching a reasonable conclusion. Judges of every land must render decisions in harmony with justice, especially when the legal questions raised by the cases are without precedent in their country, where the cases of Jehovah's witnesses are being tried. It is the function of counsel to provide for the court whatever legal beacons he can find when it is necessary for the court to sail in uncharted waters of the law of his country.

The Supreme Court of the United States is the most powerful court in the world, in that it can even overrule the United States government and declare Acts of Congress, as well as of the state legislatures, to be invalid. On that court have sat some great legal minds. It is recognized virtually world-wide as a leading judicial tribunal. Even though its decisions may not be binding in other countries, the principles of logic as applied to law and undisputed facts are universal. Therefore, in so far as the reasoning and arguments adopted by the Supreme Court of the United States are applicable to cases in other jurisdictions, they should be persuasive.

By way of illustration, attention is drawn to the decision in *Murdock* v. *Pennsylvania*, 319 U. S. 105 (1943). A minister of Jehovah's witnesses was convicted of peddling without a license. When the case was before the court, the record was examined and the court determined that the conviction of the minister as a peddler was a "distortion of the facts of record". While the American constitutional law may not be applicable in other countries, the finding on the facts that the ministerial activity of Jehovah's witnesses is not a commercial business, and the reasoning and argument whereby that conclusion was reached, could be used by any judge where the same question must be decided.

The reasoning of the *Murdock* decision was adopted by the Supreme Court of Berne, Switzerland, in the case against Geutz, one of Jehovah's witnesses. That court, like the Supreme Court of the United States, held that the missionary-evangelistic work of Jehovah's witnesses is not subject to taxation as a commercial business. The *Murdock* case was also quoted with approval in the Canadian (Quebec) case of *Odell* v. *Trepanier* (1949) 95 Can. Cr. Cases 241. Other Canadian judges have also drawn extensively from American law and principles in cases involving Jehovah's witnesses where their own law had no guiding precedents. The Court of Appeals of Ontario in *Donald* v. *Board of Education*, (1945) Ontario Reports 518, followed the "flag salute case" (*West Virginia State Board of Education* v. *Barnette*,

319 U. S. 624). See also the decision by the Saskatchewan Court in *Rex* ex rel. *Mackie* v. *Naish* (1950) 1 W. W. R. 987, 97 Can. Cr. Cases 19, and the decision by the Supreme Court of Canada in *Boucher* v. *The King* (1950) 96 Can. Cr. Cases 48, (1950) Supreme Court Reports (Canada) —, applying principles announced by the Supreme Court of the United States in cases of Jehovah's witnesses.

In the *Boucher* case the Canadian Supreme Court allowed the American authorities to be extensively quoted during argument and in the brief. Many of the American principles appear in the opinion of the court.

In most countries Jehovah's witnesses have had to actually help the judges write the law relating to civil liberties, a field where there are no decisions locally to help the judges. By their stand for the right to preach they have established living, practical applications and precedents to what were formerly only theoretical rights. This has been true even in the United States, where the constitution guarantees certain rights but very few cases had ever sought to enforce them until the persecution of Jehovah's witnesses started.

The same lack of precedents in the matter of civil rights is found in almost all other countries. Lawyers and judges who deal with these subjects should not resent or refuse to draw from the experience of the American courts which have previously considered the same issues. Following such decisions will aid the police and other officials of such courts in making a pattern of liberty in their courts very similar to that of the United States of America. Unhesitatingly make use of the decisions of the courts of the United States in other liberal nations.

MEMORANDUM OF LAW

I

The courts have held that preaching from door to door is legal although literature is incidentally distributed.

The house-to-house method employed by Jehovah's witnesses in preaching the gospel is supported by the highest authority, the first minister of Christianity, Christ Jesus. He preached from house to house.

There is a practical need for ministers to make uninvited calls from door to door. Millions of people do not belong to any church. A very great many who do belong to some religion do not attend such religion's church services. Such people would be famished for a hearing of the Word of God were it not for the voluntary charitable calling at their doors by Jehovah's witnesses, who supply them with Bible instruction.

The courts have held that the fundamental law of the land

implies an invitation in behalf of a householder to Jehovah's witnesses to call at his home without previous invitation. In the United States the courts have generally recognized the principle that "an invitation may be implied from dedication, customary use, or enticement, allurement or inducement to enter". *Nezworski* v. *Mazanec,* 301 Mich. 43, 59, 2 N.W. 2d 912 (1942); *Brown* v. *Michigan Ry. Co.,* 202 Mich. 280, 168 N. W. 419 (1918); *Evans* v. *Sears, Roebuck & Co.,* 104 S.W. 2d 1035, 1039 (1937).

As a matter of custom and usage, there is always an implied invitation for one to rap at the door of another, to state his business. As said by the Kentucky court, "where a householder does not externally manifest in some way his desire not to be molested by solicitors, the latter may take custom and usage as implying consent to call." *City of Mt. Sterling* v. *Donaldson Baking Co.,* 287 Ky. 781, 785, 155 S.W. 2d 237 (1941). See also *Prior* v. *White,* 132 Fla. 1, 180 S. 347 (1938), where it is said: "It has been held that a license may be implied to enter the house of another at usual and reasonable hours, and in a customary manner, for any of the common purposes of life." Accord *Lakin* v. *Ames,* 64 Mass. 198, 220, and cases there cited.

It is impossible to carry on door-to-door evangelism if the opportunity to discuss with the householder the message offered is denied by a revocation of the invitation impliedly extended by law to Jehovah's witnesses to call at the homes of the people.

Laws or regulations prohibiting, either expressly or impliedly, door-to-door or house-to-house calls by itinerant ministers who distribute Bible literature, are unconstitutional and void because they abridge the right of freedom of press and freedom of worship. "Ordinances absolutely prohibiting the exercise of the right to disseminate information are, *a fortiori, invalid.*" *Jones* v. *Opelika,* 316 U. S. 584, 595-596, 62 S. Ct. 1231, 1238, 86 L. Ed. 1691. This was a statement by Mr. Chief Justice Stone in his dissenting opinion when the case was decided adversely to Jehovah's witnesses in 1942. This dissenting opinion was adopted as the opinion of the court, following a reargument, when the majority decision was reversed in 1943. *Jones* v. *Opelika,* 319 U. S. 103, 63 S. Ct. 890, 87 L. Ed. 1290. See also *Jamison* v. *Texas,* 318 U. S. 413, 63 S. Ct. 669, 87 L. Ed. 869; *Schneider* v. *New Jersey,* 308 U. S. 147, 60 S. Ct. 146, 84 L. Ed. 155; *Thornhill* v. *Alabama,* 310 U. S. 88, 60 S. Ct. 736, 84 L. Ed. 1093; *Carlson* v. *California,* 310 U. S. 106, 60 S. Ct. 746, 84 L. Ed. 1104; *Near* v. *Minnesota,* 283 U. S. 697, 51 S. Ct. 625, 75 L. Ed. 1352, all holding that laws prohibiting the distribution or sale of literature are unconstitutional and void.

Preaching by Jehovah's witnesses from door to door has been held by the Supreme Court of the United States to stand on the same high, preferred level as does pulpit preaching. In declaring unconstitutional a city ordinance, in *Murdock* v. *Pennsylvania*, 319 U. S. 105, 108-109, 110, 63 S. Ct. 870, 872-873, 87 L. Ed. 1292 (1943), the court said:

Petitioners spread their interpretations of the Bible and their religious beliefs largely through the hand distribution of literature by full or part time workers. . . .

The hand distribution of religious tracts is an age-old form of missionary evangelism—as old as the history of printing presses. It has been a potent force in various religious movements down through the years. This form of evangelism is utilized today on a large scale by various religious sects whose colporteurs carry the Gospel to thousands upon thousands of homes and seek through personal visitations to win adherents to their faith. It is more than preaching; it is more than distribution of religious literature. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of religious activity occupies the same high estate under the First Amendment [to the United States Constitution] as do worship in the churches and preaching from the pulpits. It has the same claim to protection as the more orthodox and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press. .

We only hold that spreading one's religious beliefs or preaching the Gospel through distribution of religious literature and through personal visitations is an age-old type of evangelism with as high a claim to constitutional protection as the more orthodox types.

In another case involving one of Jehovah's witnesses, *Martin* v. *City of Struthers*, 319 U. S. 141, 145, 146-147, 63 S. Ct. 862, 864-865, 87 L. Ed. 1313 (1943), the Supreme Court of the United States, in discharging the defendant, said:

For centuries it has been a common practice in this and other countries for persons not specifically invited to go from home to home and knock on doors or ring doorbells to communicate ideas to the occupants or to invite them to political, religious, or other kinds of public meetings. Whether such visiting shall be permitted has in general been deemed to depend upon the will of the individual master of each household, and not upon the determination of the community. . .

While door to door distributers of literature may be either a nuisance or a blind for criminal activities, they may also be useful members of society engaged in the dissemination of ideas in accordance with the best tradition of free discussion. The widespread use of this method of communication by many groups espousing various causes attests its major importance. . . . Many of our most widely established religious organizations have used this method of disseminating their doctrines, and laboring groups have used it in recruiting their members. The federal government [of the United States], in its current war bond selling campaign, encourages groups of citizens to distribute advertisements and circulars from house to house. Of course, as every person acquainted with political life knows, door to door campaigning is one of the most accepted techniques of seeking popular support, while the circulation of nominating papers would be greatly handicapped if they could not be taken to the citizens in their homes. Door to door distribution of circulars is essential to the poorly financed causes of little people.

Freedom to distribute information to every citizen wherever he desires to receive it is so clearly vital to the preservation of a free society that, putting aside reasonable police and health regulations of time and manner of distribution, it must be fully preserved.

Mr. Justice Murphy, concurring with the majority of the Supreme Court of the United States in the case of *Martin* v. *City of Struthers*, 319 U. S., at page 150, 63 U. S., at page 867, added:

"Preaching from house to house is an age-old method of proselyting, and it must be remembered that 'one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place.' *Schneider* v. *State, supra*, p. 163."

In the case of *Schneider* v. *New Jersey*, 308 U. S. 147, 164, 60 S. Ct. 146, 152, 84 L. Ed. 155 (1939), referred to by Mr. Justice Murphy, in discharging one of Jehovah's witnesses, the Supreme Court of the United States said:

"As said in *Lovell* v. *City of Griffin, supra* [303 U. S. 444, 58 S. Ct. 666, 82 L. Ed. 949], pamphlets have proved most effective instruments in the dissemination of opinion. And perhaps the most effective way of bringing them to the notice of individuals is their distribution at the homes of the people."

The preaching activity of Jehovah's witnesses reaches not only those millions of persons who depend almost entirely upon Jehovah's witnesses to bring them spiritual food. Additionally it reaches at their homes millions of people who belong to religious organizations but who 'sigh and cry because of the abominations' committed in Christendom. (Ezek. 9:4; Isa. 61:1-3) Jehovah's witnesses have answered the need of these people by bringing them printed sermons at their homes, which meets their convenience.

It is just as important to have Jehovah's witnesses going from door to door preaching so as to maintain the morale of these millions as it is to preserve the morale of those who attend some orthodox religious services. How would these persons who do not attend any church be comforted in their sorrow and obtain spiritual sustenance unless some missionary evangelist brought it to them at their homes? Few, if any, of the orthodox religious clergy call from door to door upon the people to render spiritual instruction. They expect the people to come to their church edifices. Millions of persons would have no spiritual instruction if it were not for Jehovah's witnesses who serve them in their homes.

It is submitted that door-to-door preaching activity should be held to be legal and that Jehovah's witnesses should be

declared not to be law violators by reason of their door-to-door preaching.

II

The courts have held that the preaching of Jehovah's witnesses upon the streets orally and by distribution of magazines and other Bible literature is a proper method of preaching which is protected by law.

Jehovah's witnesses must make use of the streets in order to preach the gospel as Jesus Christ and His apostles did. There are a large number of people who can never be reached at their homes. Others during the day are away from their homes and do not return until late at night. Their absence from home while Jehovah's witnesses carry on door-to-door preaching or their inability to be reached makes it necessary for Jehovah's witnesses to offer their literature upon the streets where such persons are likely to see them.

The Supreme Court of the United States has declared that the streets are necessary and proper places for Jehovah's witnesses to preach the gospel and to distribute their Bible literature.

But, as we have said, the streets are natural and proper places for the dissemination of information and opinion; and one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place. [*Schneider* v. *New Jersey*, 308 U. S. 147, 163, 60 S. Ct. 146, 151-152, 84 L. Ed. 155 (1939)]

But one who is rightfully on a street which the state has left open to the public carries with him there as elsewhere the constitutional right to express his views in an orderly fashion. This right extends to the communication of ideas by handbills and literature as well as by the spoken word. [*Jamison* v. *Texas*, 318 U. S. 413, 416, 63 S. Ct. 669, 672, 87 L. Ed. 869 (1943)]

Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens. [*Hague* v. *C. I. O.*, 307 U. S. 496, 515, 59 S. Ct. 954, 964, 83 L. Ed. 1423 (1939)]

It is submitted that the preaching activity of Jehovah's witnesses through the street distribution of Bible literature and printed invitations is a proper method of preaching the gospel and should be protected by law.

III

The courts have held that taking of money contributions by Jehovah's witnesses while preaching the gospel and distributing literature incidental thereto does not deprive them of the protection of the fundamental law accorded to ministers of the gospel.

The contributions received by Jehovah's witnesses for the literature distributed by them are no more subject to commercial laws than are the donations received by the religious clergymen who preach from the pulpit. No one can say that money put into the contribution plate passed among a religious congregation is payment for the sermon. The transaction does not amount to a sale. The clergyman cannot be required to obtain a permit or pay a license tax before he enters a pulpit simply because contributions are requested. The clergyman cannot be deprived of his rights because some misinformed person is of the opinion that the contributor "bought" the sermon or the minister "sold" the sermon to him.

There is no difference between the contributions received by Jehovah's witnesses while distributing literature and those collected by the clergyman in the church building. Jehovah's witnesses carry their sermons to the people upon the streets and at their homes. The taking of money contributions following the placements of literature does not constitute selling in the commercial sense of the word. Not every activity that involves a 'monetary incident' is commercial or merchandising. Dissemination of ideas is expensive, if appreciative hearing is secured. No missionary effort, whether religious or political, or the activity of Jehovah's witnesses, can be run without money. It is proper and necessary to receive contributions to help defray the cost of such dissemination; for if literature were always required to be given away free of charge or a permit fee paid, the Four Freedoms would be very short-lived.

To confuse the commercial business of selling fruit, vegetables, dry goods, etc., with the kind of activity carried on by Jehovah's witnesses disregards major distinctions which separate charitable activity from sales in "five and ten cent stores", the political party from "Wall Street". What Jehovah's witnesses do is the very opposite of commercialism, retail business, retail sales, or peddling goods, wares or merchandise. With the work of Jehovah's witnesses, there is no gainful activity directed toward private profit. "Peddling" and "business" mean to have an "object of gain, or benefit for private advantage". These elements are absent in the work of preaching the gospel as done by Jehovah's witnesses. The transactions are not for profit or livelihood either to Jehovah's witnesses or to the benevolent publishing corporation, Watch Tower Bible and Tract Society. The commodity —literature—is not commercial, the way of working is not commercial, and the purpose or objective is not commercial. No "business" could survive under such a plan on such basis as conducted by Jehovah's witnesses. The work of Jehovah's witnesses is essentially preaching. The literature contains

information and opinion. The receiver gets a written message to support the oral message he has heard.

In the case of *Murdock* v. *Pennsylvania,* 319 U. S. 105, 111, 63 S. Ct. 870, 874, 87 L. Ed. 1292 (1943), the Supreme Court of the United States said, in answer to the argument made against Jehovah's witnesses, that

> the mere fact that the religious literature is "sold" by itinerant preachers rather than "donated" does not transform evangelism into a commercial enterprise. If it did, then the passing of the collection plate in church would make the church service a commercial project. . . . It should be remembered that the pamphlets of Thomas Paine were not distributed free of charge. It is plain that a religious organization needs funds to remain a going concern. But an itinerant evangelist, however misguided or intolerant he may be, does not become a mere book agent by selling the Bible or religious tracts to help defray his expenses or to sustain him. Freedom of speech, freedom of the press, freedom of religion are available to all, not merely to those who can pay their own way. As we have said, the problem of drawing the line between a purely commercial activity and a religious one will at times be difficult. On this record it plainly cannot be said that petitioners were engaged in a commercial rather than a religious venture. It is a distortion of the facts of record to describe their activities as the occupation of selling books and pamphlets.

The Supreme Court of the United States, in discharging another of Jehovah's witnesses, said, in the case of *Follett* v. *Town of McCormick, South Carolina,* 321 U. S. 573, 574, 575, 576-577, 64 S. Ct. 717, 718, 719, 88 L. Ed. 938 (1944):

> Appellant was convicted of violating an ordinance . . . which provided: " . . . the following license on business, occupation and professions to be paid by the person or persons carrying on or engaged in such business, occupation or professions within the corporate limits of the Town of McCormick, South Carolina: Agents selling books, per day $1.00, per year $15.00." Appellant is a Jehovah's Witness and has been certified by the Watch Tower Bible & Tract Society as "an ordained minister of Jehovah God to preach the gospel of God's kingdom under Christ Jesus." He is a resident of McCormick, South Carolina, where he went from house to house distributing certain books. . . .
>
> . . . It was not clear from the records in the *Opelika* and *Murdock* cases to what extent, if any, the Jehovah's witnesses there involved were dependent on "sales" or "contributions" for a livelihood. But we did state that an "itinerant evangelist" did not become "a mere book agent by selling the Bible or religious tracts to help defray his expenses or to sustain him." 319 U. S. p. 111. Freedom of religion is not merely reserved for those with a long purse. Preachers of the more orthodox faiths are not engaged in commercial undertakings because they are dependent on their calling for a living. Whether needy or affluent, they avail themselves of the constitutional privilege of a "free exercise" of their religion when they enter the pulpit to proclaim their faith. The priest or preacher is as fully protected in his function as the parishioners are in their worship. . . .
>
> But if this license tax would be invalid as applied to one who preaches the Gospel from the pulpit, the judgment below must be reversed. For we fail to see how such a tax loses its constitutional infirmity when exacted from those who confine themselves to their own village or town and spread their religious beliefs from door to door or on the street. The protection of the First Amendment is not restricted to orthodox religious practices any more than it is to the expression of orthodox economic views. He who makes a profession of evangelism is not in a less preferred position than the casual worker.

Newspapers, magazines and other periodicals are sold daily on the streets and elsewhere in every community in the world. Money is received by each distributor. The newspaper industry is a profitable one and many have grown wealthy through it. Its sponsors are entitled to all the guarantees of freedom of the press, even though they do gain great wealth. Those that do good, such as Jehovah's witnesses, by constantly and continuously bringing printed matter on subjects of great importance to the attention of the public through press activity likewise are entitled to let willing recipients of the information aid in keeping the good work alive and going by contributing a small sum with which to print and distribute more such literature. It is absurd to contend that one must go bankrupt by forced free distribution of literature in order to receive the "free press" protection of the law. If such theory be sustained, then receiving money for literature would allow censorship, taxation, prohibition and every sort of abridgment. Certainly the law does not intend to so limit the freedom. Such a reprehensible contention, if permitted to take root, would mean the death knell to freedom of the press. Acceptance of money by Jehovah's witnesses is a means to an end, that is to say, further proclamation of the message of God's kingdom.

The Superior Court of the State of Pennsylvania, in a case where one of Jehovah's witnesses was discharged, styled *Commonwealth* v. *Reid,* 144 Pa. Super. 569, 20 A. 2d 841 (1941), said:

> The historical reference to "pamphlets" in that opinion [*Lovell* v. *City of Griffin,* 303 U. S. 444] and in other opinions of that Court (*Schneider* v. *State* (Town of Irvington), *supra,* p. 164; *Thornhill* v. *Alabama,* 310 U. S. 88, 97; *Grosjean* v. *American Press Co.,* 297 U. S. 233, 245-250, etc.) is not limited to "pamphlets" which are distributed without cost. Every student of history knows that the "pamphlets" referred to by Chief Justice Hughes in his opinion, and by Mr. Justice Sutherland in the *Grosjean* case, were not for the most part circulated *gratis,* but were distributed to subscribers or sold. They "were the immediate predecessors of weekly newspapers . . . Under Queen Anne pamphlets arrived at a remarkable degree of importance. Never before or since has this method of publication been used by such masters of thought and language. Political writing of any degree of authority was almost entirely confined to pamphlets. If the Whigs were able to command the services of Addison and Steele, the Tories fought with the terrible pen of Swift." *Encyclopædia Britannica,* Vol. 20, Pamphlets, pp. 659, 660. "The pamphlet is popular as an instrument of religious or political controversy in times of stress. It is relatively inexpensive to the purchaser and to the author or the publisher, it can be more

timely than a book bound in cloth or leather, and it gives author and readers the maximum benefit of freedom of the press." *The Columbia Encyclopedia*, "Pamphlet."

It is submitted that the taking of money contributions by Jehovah's witnesses following the distribution of literature to people from house to house or upon the streets in no way deprives them of their rights. It is not wrong for Jehovah's witnesses to resist lawfully in court the efforts of those who prosecute them for violation of local ordinances regulating or prohibiting peddling, soliciting or commercial selling.

IV

The courts have held the activity of Jehovah's witnesses to be exempt from the application of laws regulating, taxing or controlling business, selling or peddling, because they are not peddlers and are not selling.

The Supreme Court of Louisiana, in releasing one of Jehovah's witnesses, said, in the case of *Semansky* v. *Stark, Sheriff*, 196 La. 307, 199 S. 129 (1940):

It appears that Peter J. Semansky, the plaintiff and appellant, was a member of an organization known as the Watch Tower Bible and Tract Society, and as such certified by the Society to be one of "Jehovah's witnesses", a minister of the gospel. . . .

The plaintiff was distributing and selling books and pamphlets, propagating, and disseminating the doctrines of the religious sect of which he was a member and a minister. From a reading of the . . . Act it would appear that it does not contemplate transactions of this nature. . . . We cannot see how the transactions herein could in any wise be considered as competition to merchants engaged in the sale of merchandise. The distribution and sale of the books and pamphlets involved herein are in the nature of disseminating the doctrines and principles of this sect. . In view of the nature of these transactions we are of the opinion that the Legislature did not intend to require those engaged in disseminating the doctrines and principles of any religious sect, either by the distribution, or sale, of books or pamphlets pertaining to such, to pay a peddler's license, or to classify them as peddlers.

At a later date, the same court in the case of *Shreveport* v. *Teague*, 200 La. 679, 8 S. 2d 640 (1942), in discharging one of Jehovah's witnesses, said:

Relator is an ordained minister of a religious sect known as "Jehovah's witnesses" and is a member of an organization called the "Watch Tower Bible and Tract Society".

On January 6th and 20th, 1942, he was going from house to house in the City of Shreveport preaching the gospel, as he understood it, by means of his spoken word and also by playing various Biblical records on a phonograph with the approval of the householder. As an incident to his preachings, he was also distributing printed books, pamphlets and leaflets which set forth his views as to the meaning of the Biblical prophecies. . . .

The fact that relator, as an incident to his preachings, attempts to sell literature which is conformable with his religious beliefs does not alter the nature of his profession or make him a solicitor, hawker or itinerant merchant. Relator does not insist upon the payment of a contribution in consideration of the delivery of the printed pamphlets or other literature he distributes. He testified that he tries to prevail upon the householder to give a contribution, but that in case the householder is unwilling or unable to do so, he will nevertheless deliver the literature provided the householder promises to read it. . . .

It is clear to us, from an examination of the ordinance under consideration, that the purpose for which it was enacted was to protect the householders of Shreveport from annoyance and disturbance by solicitors, peddlers, etc., who are engaged in the business of selling merchandise for their livelihood. Relator cannot, by any stretch of judicial interpretation, be placed in the category of a peddler, hawker or solicitor since it is perfectly plain that he did not enter the premises of any of the householders in Shreveport "for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same, . . . "

To hold otherwise, we would be compelled to attribute to the City Council of Shreveport the intention of declaring that the visitation into homes (without previous invitations) by priests and ministers of all religious denominations, accompanied by the sale of Biblical literature, constitutes a nuisance and a misdemeanor. This we will not do. . . .

The same deduction is applicable to the case at bar. The fact that the relator preaches his religious views from house to house and distributes literature in support of his beliefs for which he obtains contributions, does not render him amenable to the provisions of an ordinance which forbids the visitation (without request) in and upon private residences by solicitors, peddlers, etc., for the purpose of soliciting orders for the sale of goods or for disposing of or peddling the same.

The Supreme Court of South Carolina also exonerated one of Jehovah's witnesses in a similar case, *State* v. *Meredith*, 197 S. C. 351, 15 S. E. 2d 678 (1941):

The defendant, Thomas Meredith, belongs to a religious society or organization called "Jehovah's witnesses", and was tried and convicted in a Magistrate Court in Beaufort County on a charge of violating Section 7120 of the Code of 1932. . . .

Under the conceded facts of this case, the "sale" of the book by the defendant was merely collateral to the main purpose in which he was engaged, which was to preach and teach the tenets of his religion. And in our opinion it is not peddling, as that word is usually construed, nor a violation of the statute, for a minister, under the circumstances shown here, to visit the homes of the people, absent objection, and as a part of his preaching and teaching to offer to sell or sell religious literature explanatory of his faith, where no profit motive is involved. The sale of his books and pamphlets, as heretofore pointed out, was merely incidental to the chief purpose of the defendant,—which was the spreading of his religion.

The New York Court of Appeals, in *People* v. *Barber*, 289 N. Y. 378, 46 N. E. 2d 329 (1943), discharged one of Jehovah's witnesses, saying:

The defendant, a member of a religious sect known as "Jehovah's

witnesses", rang the door bell of the house where a police officer of the town of Irondequoit lived, and when the officer came to the door, the defendant took several books out of a satchel and "held them out" towards the police officer. . . .

The defendant earns his living by working as a laborer for a contractor. In his spare hours and on Saturdays and Sundays he distributes Bibles and religious books and tracts. . . .

. . . We may not impute to a legislative body an intent to adopt a statute or ordinance which might be used as an instrument for the destruction of a right guaranteed by the Constitution which executive and legislative officers of government, no less than judges, are sworn to maintain. For that reason an ordinance or statute should be construed when possible in manner which would remove doubt of its constitutionality, and possible danger that it might be used to restrain or burden freedom of worship or freedom of speech and press. . . .

. . "It may seem to some that appellant's activities were of such a character that, at this critical period in world history, the Courts and the Bar need not be particularly concerned with their repression. But, if appellant's activities involved the exercise by him of fundamental rights guaranteed by the Federal and State Constitutions, the violation of those rights cannot be disregarded as of trivial consequence. Each case of denial of rights to an individual or to a small minority may seem to be relatively unimportant, but we know now, more surely than ever before, that callousness to the rights of individuals and minorities leads to barbarism and the destruction of the essential values of civilized life."

In freeing Jehovah's witnesses in the case styled *Commonwealth* v. *Akmakjian*, 316 Mass. 97, 55 N. E. 2d 6 (1944), the Supreme Judicial Court of Massachusetts said:

The defendants in these twenty-four cases were complained of for violation of the provision of . . . the ordinances of the city of Newburyport. . . .

We are of opinion that the case is largely governed in principle by *Commonwealth* v. *Richardson*, 313 Mass. 632, 638 [48 N. E. 2d 678], in which we said, in part, that ordained ministers of Jehovah's witnesses who were going from house to house to spread the teachings of their religious faith could not be found properly to come within the category of "peddlers or agents or canvassers," and that it had "been held in many cases [citing authorities] that ordinances regulating the conduct of such persons cannot be extended to cover the activities of ministers who go about on the streets or from house to house preaching or distributing or selling literature relating to their faith." . . .

It must be taken as settled that the defendants cannot be held properly to be hawkers or peddlers within the meaning of the ordinance.

President Judge de Haller of the District Court of the Canton of Vaud in Switzerland on the 22nd day of February, 1950, ruled in favor of Ummel and Reichenbach, Jehovah's witnesses. He held that the Commercial Trading Law of Switzerland which requires a license for peddling did not apply to the door-to-door preaching by Jehovah's witnesses. He said that

it is not possible to compare the activity of the accused ones with peddling without interpreting extensively the provisions of the law on

commercial activity and thus infringing on the freedom of faith and of cults. For these reasons, the police tribunal frees Andree Ummel and Elsy Reichenbach of any and all penalty, the cost being charged to the state.

The Minister of Economic Affairs of Belgium, concerning the work of the Watch Tower Society and Jehovah's witnesses, ruled on March 11, 1950, in a letter to Lawyer Van Gelder as follows:

Following your intervention in the matter of the non-profit association, The Watch Tower Bible and Tract Society, concerning the offering for sale and the sale of Bibles, I have the honor to inform you, that as long as the association and its members do not work for pecuniary gain, the administration will not consider this type of activity as coming under the regulation governing peddling.

It is submitted that laws requiring the payment of taxes, the obtaining of permits and submitting to other regulations by commercial merchants and peddlers do not properly apply to the preaching activities of Jehovah's witnesses, including the placing of literature and acceptance of money contributions, because they are not peddlers.

V

The courts have held that laws which forbid outright or prohibit entirely door-to-door and street preaching and distribution of literature by Jehovah's witnesses are invalid.

In *Hague* v. *C. I. O.*, 307 U. S. 496, 59 S. Ct. 954, 83 L. Ed. 1423 (1939), the Supreme Court of the United States held unconstitutional and void an ordinance which forbade any person to "distribute or cause to be distributed or strewn about in a street or public place any newspapers, paper, periodical, book, magazine, circular, card or pamphlet."

The Supreme Court of the United States also held invalid ordinances of Boston, Massachusetts, Milwaukee, Wisconsin, and Los Angeles, California, which prohibited the distribution of literature upon the streets, in the case of *Schneider* v. *New Jersey*, 308 U. S. 147, 60 S. Ct. 146, 84 L. Ed. 155 (1939). In *Jamison* v. *Texas*, 318 U. S. 413, 416, 417, 63 S. Ct. 669, 672, 87 L. Ed. 869 (1943), the conviction of one of Jehovah's witnesses was reversed by the Supreme Court of the United States. The ordinance involved forbade completely the handing, scattering or throwing of any handbills, circulars, cards or other type of literature upon the public streets of Dallas, Texas. Mr. Justice Black, speaking for the court, said:

The right to distribute handbills concerning religious subjects on the streets may not be prohibited at all times, at all places, and under all circumstances. . . .

The state . . . may not prohibit the distribution of handbills in the pursuit of a clearly religious activity merely because the handbills invite the purchase of books for the improved understanding of the

religion or because the handbills seek in a lawful fashion to promote the raising of funds for religious purposes.

The Oklahoma Criminal Court of Appeals released, on application for writ of habeas corpus, four of Jehovah's witnesses from custody, in Ex parte *Winnett*, 73 Okla. Cr. 332, 121 P. 2d 312 (1942). In that case Jehovah's witnesses had been convicted under an ordinance of the city of Shawnee, Oklahoma, which prohibited the distribution of any literature upon the streets. The court, among other things, said:

In their petition for the writ issued herein it is alleged that they were each by complaint filed in municipal court charged as follows: "Did unlawfully commit the offense of circulating literature on the streets of the City of Shawnee, Okla., against the peace and dignity of the City of Shawnee, and against the ordinance of said City . . ."

. . . the ordinance in question is unconstitutional and void, and as enforced against petitioners amounts to a denial of freedom of speech and freedom of the press and freedom of religious rights guaranteed by the Constitution and protected against state infringement by the Fourteenth Amendment to the Constitution of the United States.

The Supreme Court of Florida has held to be invalid ordinances which forbid completely the distribution of literature upon the streets or from place to place. These cases are *Hough* v. *Woodruff*, 147 Fla. 299, 2 S. 2d 577 (1941) and *Wilson* v. *Russell*, 146 Fla. 539, 1 S. 2d 569 (1941). These decisions were in favor of Jehovah's witnesses, who were released from custody after conviction under the ordinances.

Various courts of the United States have also held to be absolutely void and unconstitutional ordinances or laws which completely forbid the distribution of literature on the streets and sidewalks of a restricted area of a city, such as in the business district or the congested area of a city. This was the holding of the Oklahoma Criminal Court of Appeals in Ex parte *Walrod*, 73 Okla. Cr. 299, 120 P. 2d 783 (1941). This case also involved one of Jehovah's witnesses. He was discharged upon application for writ of habeas corpus. The ordinance of the city of Stillwater, Oklahoma, made it unlawful for any person "to pass, distribute or deliver, or cause the same to be done, of advertising matter, printed or written bills or circulars, advertising devices and reading matter on the streets and sidewalks of the congested business district of the City of Stillwater, Oklahoma, and said congested business district is defined as being the territory included from Fifth avenue to Eleventh avenue and between Hudson Street and Lewis Street." The court concluded:

Considering the questions presented in the light of the First and Fourteenth Amendments to the Constitution of the United States, and the decisions thereon pronounced by the Supreme Court of the United States, which decisions are final and conclusive and to which all state tribunals must yield, it follows that the ordinance in question is unconstitutional and void.

The Georgia Court of Appeals, in *Jones* v. *Moultrie*, 72 Ga. App. 282, 33 S. E. 2d 561 (1945), discharged one of Jehovah's witnesses charged with violation of an ordinance forbidding the distribution of literature upon the sidewalks of the business district between certain hours on Saturday. The court said:

Thus where the defendant is charged with the violation of such ordinance and the proof shows the dissemination of his religious belief, through the distribution of religious literature, by selling and offering it for sale at the prohibited time and place in question, and the undisputed evidence showed his distribution of such literature did not interfere with the traffic, nor with the safety, comfort, or convenience of the public, in the use of such highway, he would not be guilty of violating such ordinance.

The same court vindicated another of Jehovah's witnesses who had been convicted under a similar ordinance in the case styled *Burns* v. *Carrollton*, 72 Ga. App. 628, 34 S. E. 2d 621 (1945). In that decision the court said:

The ordinance here in question forbids the sale of any goods, wares, merchandise, pamphlets between the hours of 10 a.m. and 9 p.m. on certain designated sidewalks. . . . Such ordinance should be applied in the interest of all as a regulation of the streets to protect and insure the safety, comfort, or convenience of the public, and as not intending to deny "Jehovah's Witnesses," a religious sect, or any other religious sect, the right to disseminate religious beliefs through the distribution of literature, which is protected under the constitutional guaranty of freedom of religion; such application saves the ordinance from collision with the Federal constitution.

It is submitted that any law, bylaw, ordinance or statute which forbids outright the distribution of literature from door to door or upon the streets within a city or even in a part of the city is invalid when applied to the ministerial activity of Jehovah's witnesses.

VI

The courts have held that bylaws, ordinances and statutes that allow door-to-door and street preaching by Jehovah's witnesses only upon permit from some official are invalid and unconstitutional.

The Supreme Court of the United States freed one of Jehovah's witnesses from a conviction under an ordinance requiring the obtaining of a permit from the city manager of the city of Griffin, Georgia. The court held the ordinance to be unconstitutional. Speaking through Chief Justice Hughes, in *Lovell* v. *Griffin*, 303 U. S. 444, 451, 452-453, 58 S. Ct. 666, 669, 82 L. Ed. 949 (1938), the Supreme Court said:

The ordinance prohibits the distribution of literature of any kind at any time, at any place, and in any manner without a permit from the City Manager.

We think that the ordinance is invalid on its face. Whatever the motive which induced its adoption, its character is such that it strikes

at the very foundation of the freedom of the press by subjecting it to license and censorship. . . .

The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets. These indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest. The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion. . . .

The ordinance cannot be saved because it relates to distribution and not to publication. "Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation, the publication would be of little value." Ex parte *Jackson,* 96 U. S. 727, 733. . . .

As the ordinance is void on its face, it was not necessary for appellant to seek a permit under it. She was entitled to contest its validity in answer to the charge against her. *Smith* v. *Cahoon,* 283 U. S. 553, 562.

Later the Supreme Court of the United States discharged another of Jehovah's witnesses convicted in the Town of Irvington, New Jersey, for distributing literature from door to door without having obtained a permit. The Supreme Court declared the ordinance invalid. Mr. Justice Roberts, speaking for the Supreme Court, in *Schneider* v. *New Jersey,* 308 U. S. 147, 160, 162, 163, 164, 60 S. Ct. 146, 150, 151-152, 84 L. Ed. 155 (1939), said:

Municipal authorities, as trustees for the public, have the duty to keep their communities' streets open and available for movement of people and property, the primary purpose to which the streets are dedicated. . .

This court has characterized the freedom of speech and that of the press as fundamental personal rights and liberties. The phrase is not an empty one and was not lightly used. It reflects the belief of the framers of the Constitution that exercise of the rights lies at the foundation of free government by free men. It stresses, as do many opinions of this court, the importance of preventing the restriction of enjoyment of these liberties. . . .

. . . Mere legislative preferences or beliefs respecting matters of public convenience may well support regulation directed at other personal activities, but be insufficient to justify such as diminishes the exercise of rights so vital to the maintenance of democratic institutions. . . .

The Los Angeles, the Milwaukee, and the Worcester ordinances under review do not purport to license distribution but all of them absolutely prohibit it in the streets, and, one of them, in other public places as well. . . .

. . . We are of opinion that the purpose to keep the streets clean and of good appearance is insufficient to justify an ordinance which prohibits a person rightfully on a public street from handing literature to one willing to receive it. . . .

. . . As we have pointed out, the public convenience in respect of cleanliness of the streets does not justify an exertion of the police power which invades the free communication of information and opinion secured by the Constitution.

It is suggested that the Los Angeles and Worcester ordinances are valid because their operation is limited to streets and alleys and leaves persons free to distribute printed matter in other public places. But,

as we have said, the streets are natural and proper places for the dissemination of information and opinion; and one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place.

While it affects others, the Irvington ordinance drawn in question . . . , as construed below, affects all those, who, like the petitioner, desire to impart information and opinion to citizens at their homes. . . .

As said in *Lovell* v. *City of Griffin, supra,* pamphlets have proved most effective instruments in the dissemination of opinion. And perhaps the most effective way of bringing them to the notice of individuals is their distribution at the homes of the people. On this method of communication the ordinance imposes censorship, abuse of which engendered the struggle in England which eventuated in the establishment of the doctrine of the freedom of the press embodied in our Constitution. To require a censorship through license which makes impossible the free and unhampered distribution of pamphlets strikes at the very heart of the constitutional guarantees.

In *Cantwell* v. *Connecticut,* 310 U. S. 296, 303, 304-305, 306, 307, 60 S. Ct. 900, 903-905, 84 L. Ed. 1213 (1940), the convictions of other of Jehovah's witnesses, under a state statute which forbade the solicitation of funds for a religious organization without having previously registered and obtained a permit from a state official to determine whether or not the cause represented in the solicitation was a religious, charitable or philanthropic cause, were reversed. The Supreme Court, among other things, said:

We hold that the statute, as construed and applied to the appellants, deprives them of their liberty without due process of law in contravention of the Fourteenth Amendment. . . .

The appellants urge that to require them to obtain a certificate as a condition of soliciting support for their views amounts to a prior restraint on the exercise of their religion within the meaning of the Constitution. The State insists that the Act, as construed by the Supreme Court of Connecticut, imposes no previous restraint upon the dissemination of religious views or teaching but merely safeguards against the perpetration of frauds under the cloak of religion. Conceding that this is so, the question remains whether the method adopted by Connecticut to that end transgresses the liberty safeguarded by the Constitution. . . .

. . A statute authorizing previous restraint upon the exercise of the guaranteed freedom by judicial decision after trial is as obnoxious to the Constitution as one providing for like restraint by administrative action. . . .

. . But to condition the solicitation of aid for the perpetuation of religious views or systems upon a license, the grant of which rests in the exercise of a determination by state authority as to what is a religious cause, is to lay a forbidden burden upon the exercise of liberty protected by the Constitution.

The Supreme Court of the United States discharged another of Jehovah's witnesses convicted of soliciting orders and selling books without a permit from the mayor of Paris, Texas. This was in the case of *Largent* v. *Texas,* 318 U. S. 418, 420, 422, 63 S. Ct. 667, 668, 669, 87 L. Ed. 873 (1943), where the court said:

Appellant's evidence shows . . . the Watch Tower Bible and Tract Society [is] an organization incorporated for the purpose of preaching the Gospel of God's kingdom. The Society is an organization for Jehovah's Witnesses, an evangelical group, founded upon and drawing inspiration from the tenets of Christianity. The Witnesses spread their teachings under the direction of the Society by distributing the books and pamphlets obtained from the Society by house to house visits. . . .

Upon the merits, this appeal is governed by recent decisions of this Court involving ordinances which leave the granting or withholding of permits for the distribution of religious publications in the discretion of municipal officers. . . . The mayor issues a permit only if after thorough investigation he "deems it proper or advisable." Dissemination of ideas depends upon the approval of the distributor by the official. This is administrative censorship in an extreme form. It abridges the freedom of religion, of the press and of speech guaranteed by the Fourteenth Amendment.

It is submitted that any law, bylaw, ordinance or statute which requires a permit before literature can be distributed or preaching done by Jehovah's witnesses, or which forbids such preaching by distribution without such permit, is invalid and unlawfully abridges fundamental liberty.

VII

The courts have held that any law, bylaw, ordinance or statute which provides for the payment of a tax for the privilege of distributing literature or preaching from door to door and upon the streets, is invalid.

The leading case in the United States of America, where the requirement of payment of a tax for a license or privilege of preaching the gospel or distributing literature from door to door has been declared unlawful, is *Murdock* v. *Pennsylvania,* 319 U. S. 105, 112-113, 114, 115, 117, 63 S. Ct. 870, 875, 876, 877, 87 L. Ed. 1292 (1943). In that case Jehovah's witnesses were convicted for failure to pay the license tax. Upon review by the Supreme Court of the United States, that court held the law requiring the payment of the license tax unconstitutional. Among other things, the Supreme Court said:

It is contended, however, that the fact that the license tax can suppress or control this activity is unimportant if it does not do so. But that is to disregard the nature of this tax. It is a license tax—a flat tax imposed on the exercise of a privilege granted by the Bill of Rights. A state may not impose a charge for the enjoyment of a right granted by the federal constitution. Thus, it may not exact a license tax for the privilege of carrying on interstate commerce (*McGoldrick* v. *Berwind-White Co.,* 309 U. S. 33, 56-58), although it may tax the property used in, or the income derived from, that commerce, so long as those taxes are not discriminatory. *Id.,* p. 47 and cases cited. A license tax applied to activities guaranteed by the First Amendment would have the same destructive effect. It is true that the First Amendment, like the commerce clause, draws no distinction between license taxes, fixed sum taxes, and other kinds of taxes. But that is no reason

why we should shut our eyes to the nature of the tax and its destructive influence. The power to impose a license tax on the exercise of these freedoms is indeed as potent as the power of censorship which this Court has repeatedly struck down. . . . It is a flat tax levied and collected as a condition to the pursuit of activities whose enjoyment is guaranteed by the First Amendment. Accordingly, it restrains in advance those constitutional liberties of press and religion and inevitably tends to suppress their exercise. . . .

The fact that the ordinance is "nondiscriminatory" is immaterial. The protection afforded by the First Amendment is not so restricted. A license tax certainly does not acquire constitutional validity because it classifies the privileges protected by the First Amendment along with the wares and merchandise of hucksters and peddlers and treats them all alike. Such equality in treatment does not save the ordinance. Freedom of press, freedom of speech, freedom of religion are in a preferred position. . . .

The judgment in *Jones* v. *Opelika* [316 U. S. 584, 62 S. Ct. 1231, 86 L. Ed. 1691] has this day been vacated. Freed from that controlling precedent, we can restore to their high, constitutional position the liberties of itinerant evangelists who disseminate their religious beliefs and the tenets of their faith through distribution of literature.

Some of the highest courts of the states of the United States have ruled in favor of Jehovah's witnesses on this point. The Supreme Court of Vermont in *State* v. *Greaves,* 112 Vt. 222, 22 A. 2d 497 (1941), discharged several of Jehovah's witnesses convicted of failure to pay license tax. The court said:

As applied to the facts in this case this ordinance makes no provision regulating the manner of carrying on the business of peddlers within Rutland City. The respondent [Elva Greaves] having paid $10 and so obtained a license would then have been free to peddle these magazines in the City of Rutland at any time, in any place, and in any manner, wholly unrestricted by any provision in the ordinance. In short, her freedom to peddle these magazines there would be as complete as though the ordinance did not exist. To enforce the terms of this ordinance under the circumstances of this case would be to compel the respondent to pay a fee of $10 in order that she might avail herself of a privilege secured to her by the United States Constitution. Also that this requirement of the ordinance, if enforced here, would operate as a restraint upon the circulation of the magazine in question is too plain to need further discussion. . . . It follows that as applied to the facts here this ordinance cannot be justified as a valid regulation.

The Supreme Court of Illinois released one of Jehovah's witnesses convicted of failing to pay a license tax for the privilege of preaching the gospel in *Blue Island* v. *Kozul,* 379 Ill. 511, 41 N. E. 2d 515 (1942). The court said that a person could not be compelled to "purchase, through a license fee or a license tax, the privilege freely granted by the constitution". The court, in part, said:

The ordinance is not regulatory. As applied to the facts in this case, the ordinance makes no provision regulating the manner of carrying on the business of peddlers in the city of Blue Island. The defendant's

right to a license on the payment of the required fee or tax was absolute. If the defendant paid the $25 for a year, or $4 for a day and so obtained the license she would then have been free to peddle the magazines in the city of Blue Island during the paid license period at any time, in any place and in any manner, wholly unrestricted by any provision in the ordinance. Her freedom to peddle the magazines would then be as complete as though the ordinance did not exist. The ordinance is purely a fee or tax measure, and under the circumstances in this case its effect is to compel the defendant to pay a fee or tax of $25 per year or $4 per day to exercise a privilege freely guaranteed to her by the constitution of the United States as well as by the constitution of this State. That this ordinance as applied to the facts in this case would operate as a restraint upon the circulation of the magazines in question is self-evident. If the defendant should be unable to pay the required fee or tax, circulation and distribution on the streets of Blue Island was prohibited and denied.

The Kentucky Court of Appeals freed one of Jehovah's witnesses, in the case of *Seevers* v. *City of Somerset*, 295 Ky. 595, 175 S. W. 2d 18 (1943). In that case the witness, Seevers, had been convicted of failing to obtain a license and pay the required tax. The court reversed the conviction and wrote as follows:

The sect to which appellant belongs, Jehovah's witnesses, take literally God's command "Go ye into all the world, and preach the gospel to every creature". She testified that her preaching was done by the aid of the phonograph and by the written distribution of "God's Word". To some this may be a strange manner in which "to spread the gospel". . . . However strange this form of "preaching" may seem to those accustomed to receive the holy word from the pulpit, it occurs to most persons when they stop to think that almost since the printing press was invented colporteurs have been engaged in evangelizing the world by the distribution of religious tracts. . . .

. . God created man in His image and from that time hence man has been busy creating God in his image and prescribing dogmas and rituals by which God may be worshiped. The authors of the Federal Constitution knew how prone men are to impose their religious beliefs upon their brethren and to tolerate no other form of worshiping God except their own. Therefore in their wisdom, they wrote in the First Amendment, "Congress shall make no laws respecting an establishing of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press. . . . " . . . If the tax laid by the ordinance before us were allowed to stand, various cities in the several states could suppress not only the dissemination of new religious ideas, but also religious minorities. . . .

I agree with the conclusions reached by a majority of my brethren, but rather than being forced to that decision by the Supreme Court in the *Murdock* case, I freely, voluntarily and even joyously follow its holding that religious freedom prevails in this land although to me the ritual practiced appears unorthodox, to say the least, as perhaps it does to the vast majority of our citizens.

It is submitted that the requirement by law, statute, by-law or ordinance that Jehovah's witnesses pay a tax as a condition precedent to exercising their privilege of preaching the gospel of God's kingdom is invalid.

VIII

The courts have held that ordinances, bylaws or statutes that forbid Jehovah's witnesses the privilege of calling at the doors or the homes of the people without being previously expressly invited to call are unreasonable and invalid.

The requirement of express prior consent of the householder before calling finds its genesis in the famous ordinance of Green River, Wyoming, from which laws requiring prior consent get their name. This kind of law, generally known as the "Green River" law, has been held void and unconstitutional by many courts in the United States.

The leading cases of the various jurisdictions making this holding are here cited:

City of Orangeburg v. *Farmer*, 181 S. C. 143, 186 S. E. 783 (1936); *Jewel Tea Co.* v. *Town of Bel Air*, 172 Md. 536, 192 A. 417 (1937); *Prior* v. *White*, 132 Fla. 1, 180 S. 347 (1938); *White* v. *Town of Culpeper*, 172 Va. 630, 1 S. E. 2d 269 (1939); *City of McAlester* v. *Grand Union Tea Co.*, 186 Okla. 487, 98 P. 2d 924 (1940); *City of Columbia* v. *Alexander*, 125 S. C. 530, 119 S. E. 241 (1923); *Real Silk Hosiery Mills* v. *City of Richmond, California*, 298 F. 126 (1924); Ex parte *Maynard*, 101 Tex. Cr. R. 256, 275 S. W. 1070 (1924); *New Jersey Good Humor, Inc.* v. *Board of Commissioners*, 124 N. J. L. 162, 11 A. 2d 113, 114 (1940); *Jewel Tea Co.* v. *City of Geneva*, 137 Neb. 768, 291 N. W. 664 (1940); *Hague* v. *C. I. O.*, 101 F. 2d 774, 307 U. S. 496, 59 S. Ct. 954, 83 L. Ed. 1423 (1939); *City of Mount Sterling* v. *Donaldson Baking Co.*, 287 Ky. 781, 155 S. W. 2d 237 (1941); Ex parte *Faulkner*, 143 Tex. Cr. R. 272, 158 S. W. 2d 525 (1942).

When applied to the activity of Jehovah's witnesses from door to door the "Green River" ordinance has been held to be an unconstitutional abridgment of the civil rights. See *Zimmerman* v. *Village of London, Ohio*, 38 F. Supp. 582 (1941), and *Donley* v. *Colorado Springs*, 40 F. Supp. 15 (1941). This same type of ordinance, in *Shreveport* v. *Teague*, 200 La. 679, 8 S. 2d 640 (1942), was construed not to apply to the door-to-door missionary work of Jehovah's witnesses. In one case where this type of ordinance was applied to Jehovah's witnesses, it was held to be invalid on its face. *DeBerry* v. *La Grange*, 62 Ga. App. 74, 8 S. E. 2d 146 (1940). The Georgia Court of Appeals in this case merely went along the path, fixed by many other court decisions, which concludes that the "Green River" type of law is void on its face and unenforceable, even against door-to-door calls for commercial purposes.

In *Donley* v. *Colorado Springs*, 40 F. Supp. 15 (1941), an ordinance that made it unlawful to enter upon the premises of another without previous invitation of the householder, when applied to the apostolic house-to-house preaching of Jehovah's witnesses, was declared unconstitutional and void by the United States District Court of Colorado. In that case the court relied upon the decision in *Zimmerman* v. *London*,

38 F. Supp. 582 (1941), which declared unconstitutional an ordinance that made it unlawful to go upon the premises of another uninvited for the purpose of vending and distributing merchandise. The court said:

> Therefore the question was squarely presented, as here, of the validity of an arrest for distributing printed material on private property without the invitation of the owner or occupant, and the court was required to determine whether or not a restriction of that character violated the Federal Constitution.
>
> The court [in the *Zimmerman* case], in a memorandum opinion filed April 25, 1941, held the ordinance imposed what amounted to a virtual prohibition upon such distribution and interfered with the "free and unhampered distribution of pamphlets", which the Supreme Court in *Lovell* v. *City of Griffin* (*supra*), and *Schneider* v. *The State* (*supra*), held was a violation of freedom of speech and freedom of the press, protected by the First Amendment from infringement by the Congress, and by the Fourteenth Amendment from infringement by state action. . . .
>
> We therefore conclude the plaintiffs [Jehovah's witnesses] are entitled to relief on two grounds. First, that the plaintiff, a minister of the Gospel, is not within the definition of the ordinance. And, secondly, that as applied to him and his calling and the acts complained of, its enforcement deprives him of rights and privileges secured by the Constitution of the United States.

It is submitted that the requirement by law that one obtain express consent or show previous invitation to call before going to the doors of the people is unreasonable and invalid.

IX

The courts have held that a landlord does not have the right to demand that Jehovah's witnesses stop calling on his tenants and cannot legally order Jehovah's witnesses to leave the halls of an apartment house or the sidewalks and doorsteps of a private housing project.

There is no distinction in the law between the rights of persons living in single homes and those living in multiple dwellings or apartments. The residents of multiple dwellings or apartments have as many constitutional rights as do the residents of single dwellings. It is a mere matter of distance between the tenants' living quarters. In the case of an apartment building the space between adjacent families' quarters is a matter of inches. In the case of a privately-owned tract with residences and homes situated thereon the property is used for the very same purpose as is the tract on which an apartment building is situated. In both cases the tract provides homes for a group of people.

Since the distinction between apartment houses and smaller residences is a distinction without a difference, a landlord does not have the right to order Jehovah's witnesses to stop calling on his tenants living in apartment houses.

The argument that the halls of the apartment building have not been thrown open to the "public" for meetings like the public streets and parks is false. The analogy is factitious. It is not necessary that the means of ingress and egress to a door be dedicated and opened to the public generally to make such passages available to one preaching the gospel from door to door under the guarantees of the constitution. Indeed no private sidewalk that leads over the yard or lawn of any dwelling has been dedicated for public purposes. Yet it has never been argued that one making use of such private sidewalk or paths can be deprived of his constitutional right of going from door to door distributing literature purely because such places have not been opened up to the public. Since it is not necessary to have private sidewalks and paths dedicated to the public in order to make them available to carry on door-to-door work at single dwellings, it is not necessary to show that the hallways of apartment buildings have been dedicated to the public before using them for the same purposes.

This question was considered and answered favorably to Jehovah's witnesses by the Supreme Court of the United States in *Tucker* v. *Texas*, 326 U. S. 517, 518-519, 520, 66 S. Ct. 274, 275, 90 L. Ed. 274 (1946). The court, in setting aside the conviction of one of Jehovah's witnesses, said through Mr. Justice Black:

> The appellant was charged in the Justice Court of Medina County, Texas, with violating Article 479, Chap. 3 of the Texas Penal Code which makes it an offense for any "peddler or hawker of goods or merchandise" willfully to refuse to leave premises after having been notified to do so by the owner or possessor thereof. . . .
>
> The facts shown by the record need be but briefly stated. Appellant is an ordained minister of the group known as Jehovah's witnesses. In accordance with the practices of this group he calls on people from door to door, presents his religious views to those willing to listen, and distributes religious literature to those willing to receive it. In the course of his work, he went to the Hondo Navigation Village located in Medina County, Texas. The village is owned by the United States under a Congressional program which was designed to provide housing for persons engaged in National Defense activities. . . . According to all indications the village was freely accessible and open to the public and had the characteristics of a typical American town. The Federal Public Housing Authority had placed the buildings in charge of a manager whose duty it was to rent the houses, collect the rents, and generally to supervise operations, subject to over-all control by the Authority. He ordered appellant to discontinue all religious activities in the village. Appellant refused. Later the manager ordered appellant to leave the village. Insisting that the manager had no right to suppress religious activities, appellant declined to leave, and his arrest followed. . . .
>
> It follows from what we have said that to the extent that the Texas statute was held to authorize appellant's punishment for refusing to refrain from religious activities in Hondo Village it is an invalid abridgment of the freedom of press and religion.

In a companion case, the Supreme Court of the United States discharged another of Jehovah's witnesses and held that she had been improperly convicted of trespass for refusing to leave the sidewalks of Chickasaw, a privately-owned town. In the case, styled *Marsh* v. *Alabama*, 326 U. S. 501-502, 503-504, 505, 506, 507-508, 509, 66 S. Ct. 276, 277, 278, 279, 280, 90 L. Ed. 265 (1946), Mr. Justice Black, speaking for the Supreme Court, said:

In this case we are asked to decide whether a State, consistently with the First and Fourteenth Amendments, can impose criminal punishment on a person who undertakes to distribute religious literature on the premises of a company-owned town contrary to the wishes of the town's management. . .

Appellant, a Jehovah's Witness, came onto the sidewalk . . . , stood near the post-office and undertook to distribute religious literature. In the stores the corporation had posted a notice which read as follows: "This is Private Property, and Without Written Permission, No Street, or House Vendor, Agent or Solicitation of Any Kind Will Be Permitted." Appellant was warned that she could not distribute the literature without a permit and told that no permit would be issued to her. She protested that the company rule could not be constitutionally applied so as to prohibit her from distributing religious writings. When she was asked to leave the sidewalk and Chickasaw she declined. The deputy sheriff arrested her and she was charged in the state court with violating Title 14, Section 426 of the 1940 Alabama Code which makes it a crime to enter or remain on the premises of another after having been warned not to do so. . . .

Had the title to Chickasaw belonged not to a private but to a municipal corporation and had appellant been arrested for violating a municipal ordinance rather than a ruling by those appointed by the corporation to manage a company-town it would have been clear that appellant's conviction must be reversed. . . . Our question then narrows down to this: Can those people who live in or come to Chickasaw be denied freedom of press and religion simply because a single company has legal title to all the town? For it is the State's contention that the mere fact that all the property interests in the town are held by a single company is enough to give that company power, enforceable by a state statute, to abridge these freedoms.

We do not agree that the corporation's property interests settle the question. . . . Ownership does not always mean absolute dominion. The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it. . . .

. . Whether a corporation or a municipality owns or possesses the town the public in either case has an identical interest in the functioning of the community in such manner that the channels of communication remain free. As we have heretofore stated, the town of Chickasaw does not function differently from any other town. . . .

Many people in the United States live in company-owned towns. These people, just as residents of municipalities, are free citizens of their State and country. Just as all other citizens they must make decisions which affect the welfare of community and nation. To act as good citizens they must be informed. In order to enable them to be properly informed their information must be uncensored. There is no more reason for depriving these people of the liberties guaranteed by the First and Fourteenth Amendments than there is for curtailing these freedoms with respect to any other citizen.

In *Commonwealth* v. *Richardson*, 313 Mass. 632, 48 N. E. 2d 678 (1943), there was a conviction of Jehovah's witnesses who refused to leave an apartment building when directed to do so by the building superintendent. Jehovah's witnesses continued to call from apartment to apartment and were arrested by an officer on complaint of the superintendent. The Massachusetts Supreme Judicial Court set aside the conviction and declared the rights of Jehovah's witnesses, saying:

Whether the defendants entered the common passageways of the building in question in violation of the statute depends upon the extent of the control of the landlord thereof, and that of the respective tenants. It is settled that, when a landlord lets property to be occupied by several tenants, although he retains for certain purposes control of the common doorways, passageways, stairways and the like, he grants to his tenants a right of way in the nature of an easement, appurtenant to the premises let, through those places that afford access thereto. . . . This is necessarily so since "the grant of any thing carries an implication, that the grantee shall have all that is necessary to the enjoyment of the grant, so far as the grantor has power to give it." *Salisbury* v. *Andrews*, 19 Pick. 250, 255. It is also settled that this easement extends to the members of the tenant's family and to all his guests and invitees. . . .

. . . we are of opinion that upon the evidence no other finding properly could be made than that, in gaining admission to the inner corridors or halls where the apartments in question were located, the defendants were at least licensees of the respective tenants who afforded them the opportunity to enter and state their mission. In *Lakin* v. *Ames*, 10 Cush. 198, 220, the court said: "there are cases . . . where the law will imply a license, in the absence of any proof of direct authority, from the necessities of individuals and the usages of the community. Thus it has been held that the entry upon another's close, or into his house, at usual and reasonable hours, and in a customary manner, for any of the common purposes of life, cannot be regarded as a trespass." "A license may be implied from the habits of the country." *McKee* v. *Gratz*, 260 U. S. 127, 136.

It is submitted that Jehovah's witnesses have a right to call from door to door in private housing projects and apartment buildings and that it is for the person called upon to determine whether Jehovah's witnesses have the right to call, remain at the door or leave. This decision cannot be made by the landlord or a private corporation that may own the community where the tenants being called upon reside. Accordingly, Jehovah's witnesses cannot be convicted of trespass for carrying on their door-to-door missionary work over the protests of landlords and other private persons.

X

The courts have held that the refusal by Jehovah's witnesses to leave private premises when ordered to do so by landlords does not constitute disorderly conduct and breach of the peace.

In the case of *People* v. *Ludovici*, 13 N. Y. S. 2d 88 (1939), the court held that inasmuch as one of Jehovah's witnesses spoke in an ordinary tone of voice and no noise, alarm, consternation or disorder resulted, the public was not disturbed and the statute not violated. Westchester County Judge Coyne said:

The parties approached were not interested. They immediately told defendant so and requested her to leave. Instead of departing, she lingered. Much to their justified discomfort and annoyance she persisted in her efforts to convince them. It appears, however, that defendant spoke only in an ordinary tone of voice, and while her visits were most untimely and unwelcome, there was no noise, alarm, consternation or disorder. The public was not disturbed, nor could it have been under any reasonable interpretation of the proven facts. Consequently, there was no breach of the peace.

In *People* v. *Guthrie*, 26 N. Y. S. 2d 289 (1939), all of the acts claimed to constitute the offense of disorderly conduct took place within the walls of a private home. The court held that the acts and language referred to do not constitute disorderly conduct when uttered or committed at a place and under circumstances not public in character. Even if the conduct of a person be one of those named in the disorderly conduct law, it must occur at a place and under circumstances which are public in character.

In *People* v. *Reid*, 180 Misc. 289, 40 N. Y. S. 2d 793 (1943), one of Jehovah's witnesses persisted in preaching the gospel from door to door in an apartment house. Madison County Judge Campbell decided that there was no disorderly conduct because the building was not a public place.

In *People* v. *Simcox*, 379 Ill. 347, 40 N. E. 2d 525 (1942), Jehovah's witnesses were freed by the Illinois Supreme Court from a charge under a statute which made it unlawful for any person to "present or exhibit in any public place in this state any lithograph, moving picture, . . . or sketch, which publication or exhibition portrays depravity, criminality, unchastity, or lack of virtue of a class of citizens, of any race, color, creed, or religion which said publication or exhibition exposes the citizens of any race, color, creed or religion to contempt, derision, or obloquy or which is productive of breach of the peace or riots . . . " It was held that the distributing of literature, which attacked other people's religion, from door to door was not disorderly conduct because such places were not public places.

In *Minnesota* v. *Korich*, 219 Minn. 268, 17 N. W. 2d 497 (1945), the Minnesota Supreme Court had before it a conviction of one of Jehovah's witnesses for violating the disorderly conduct ordinance of Minneapolis in that he went from door to door in an apartment building contrary to the wishes of the caretaker. The court said:

The evidence fails to sustain defendant's conviction under the ordinance. The test applied in *State* v. *Zanker*, 179 Minn. 355, 229 N. W. 311 . . . is applicable here . . . :

" . . . conduct is disorderly in the ordinary sense when it is of such nature as to affect the peace and quiet of persons who may witness the same and who may be disturbed or provoked to resentment thereby. The probable and natural consequence of the conduct is the important element."

Was defendant's conduct, in the light of the foregoing test, "of such nature as to affect the peace and quiet" of the persons witnessing it so as to "be disturbed or provoked to resentment"? We think not. Defendant was proceeding in a quiet and orderly manner when he was suddenly confronted by the caretaker, who grasped him by the shoulder and demanded: "Didn't I tell you to . . . get out and stay out?" Without raising his voice, defendant requested the caretaker to remove his hands, and then, in a calm and courteous manner, stated that he was a minister of the gospel and that the building rule against solicitors did not apply to him. None of the tenants appeared to testify that they had been disturbed by defendant or that he had acted improperly in addressing them. When the police officers appeared, he again calmly explained that he considered himself a clergyman, . . . In a peaceful manner, he accompanied the officers to the station. His calmness and courtesy may have been annoying to the caretaker as well as to the police officers, but such annoyance does not justify a finding of disorderly conduct. Not every annoyance is born of culpable conduct. No commotion or disturbance is shown to have been caused by defendant. There is nothing in the evidence to show that the reasonable tendency of defendant's actions was to arouse anger to the extent that a disturbance or a breach of the peace would result.

It is submitted that the activity of Jehovah's witnesses in calling from house to house and from door to door in private apartments and private housing projects, contrary to the wishes of the landlord, does not amount to public breach of the peace or disorderly conduct.

XI

The courts have held that preaching by Jehovah's witnesses and the distribution of the literature, as well as the contents thereof, do not violate the laws of the various nations forbidding sedition and subversive activity.

The Supreme Court of the United States, in *Taylor* v. *Mississippi*, 319 U. S. 583, 589-590, 63 S. Ct. 1200, 1203-1204, 87 L. Ed. 1600 (1943), held that the distribution of literature and the speaking of words that explain the reason why Jehovah's witnesses do not participate in worldly controversy and wars between nations, and why they cannot salute the flag of the United States, cannot be made the basis of a conviction under a sedition statute which prohibits the distribution of

literature which tends to create disloyalty and causes an attitude of stubborn refusal to salute the flag. In that case the Supreme Court said:

If the state cannot constrain one to violate his conscientious religious conviction by saluting the national emblem [*West Virginia State Board of Education* v. *Barnette,* 319 U. S. 624, 63 S. Ct. 1178, 87 L. Ed. 1628], then certainly it cannot punish him for imparting his views on the subject to his fellows and exhorting them to accept those views.

Inasmuch as Betty Benoit was charged only with disseminating literature reasonably tending to create an attitude of stubborn refusal to salute, honor, or respect the national and state flag and government, her conviction denies her the liberty guaranteed by the Fourteenth Amendment. Her conviction and the convictions of Taylor and Cummings, for advocating and teaching refusal to salute the flag, cannot be sustained.

The last mentioned appellants were also charged with oral teachings and the dissemination of literature calculated to encourage disloyalty to the state and national governments. Their convictions on this charge must also be set aside.

The statute as construed in these cases makes it a criminal offense to communicate to others views and opinions respecting governmental policies, and prophecies concerning the future of our own and other nations. As applied to the appellants it punishes them although what they communicated is not claimed or shown to have been done with an evil or sinister purpose, to have advocated or incited subversive action against the nation or state, or to have threatened any clear and present danger to our institutions or our government. What these appellants communicated were their beliefs and opinions concerning domestic measures and trends in national and world affairs.

Under our decisions criminal sanctions cannot be imposed for such communication.

In *McKee* v. *Indiana,* 219 Ind. 247, 37 N. E. 2d 940 (1941), the Indiana Supreme Court held that the distribution of literature by Jehovah's witnesses did not violate a sedition statute designated as the Riotous Conspiracy Statute and "Criminal Syndicalism" Act. It held that the distribution did not advocate or incite the overthrow of the government by force and violence.

In *Beeler* v. *Smith,* 40 F. Supp. 139 (1941), the United States District Court for the Eastern District of Kentucky held that the activity and literature distributed by Jehovah's witnesses were not in violation of the Kentucky sedition statute.

More recently the Supreme Court of Canada, in *Boucher* v. *The King,* (1950) 96 Can. Cr. Cases 48, ruled in favor of Jehovah's witnesses in a case involving a prosecution in the Province of Quebec, Canada, under the charge of sedition. Mr. Justice Rand, in his judgment filed in the Supreme Court of Canada, among other things, said, p. 73:

The incidents as described, are of peaceable Canadians who seem not to be lacking in meekness, but who, for distributing, apparently without permits, Bibles and tracts on Christian doctrines; for conducting religious services in private homes or on private lands in Christian fellowship; for holding public lecture meetings to teach religious truth as they believe it of the Christian religion; who, for this exercise of what has been taken for granted to be the unchallengeable rights of Canadians, have been assaulted and beaten and their Bibles and publications torn up and destroyed, by individuals and by mobs . . .

The conduct of the accused appears to have been unexceptionable; so far as disclosed, he is an exemplary citizen who is at least sympathetic to doctrines of the Christian religion which are, evidently, different from either the Protestant or the Roman Catholic versions: but the foundation in all is the same, Christ and his relation to God and humanity. . .

. . . but it is not challenged that, as they allege, whatever they did was done peaceably, and, as they saw it, in the way of bringing the light and peace of the Christian religion to the souls of men and women. To say that is to say that their acts were lawful.

The Supreme Court of South Africa, in *The Magistrate, Bulawayo* v. *Kabungo,* 1938 S. A. Law Reports 304-316, held that the literature of Jehovah's witnesses did not violate the Sedition Act of Southern Rhodesia. The court ordered all of the literature belonging to Jehovah's witnesses and that had been seized and detained by the magistrate returned because it was proper for distribution and did not violate the sedition laws.

The High Court of Australia, in *Adelaide Company of Jehovah's Witnesses, Inc.,* v. *The Commonwealth,* (1943) 67 C. L. R. 116, 124, ruled in favor of Jehovah's witnesses and against The Commonwealth. The court held that the Commonwealth had unlawfully declared the Adelaide Company of Jehovah's Witnesses, Inc., and the unincorporated association of persons known as Jehovah's witnesses a subversive organization and prejudicial to the official prosecution of the war. The court held that Jehovah's witnesses were not engaged in any seditious enterprise or engaged in publishing or printing literature which was seditious within the meaning of the criminal law of Australia. The court held that the Order-in-Council, banning Jehovah's witnesses in Australia, was illegal and *ultra vires.* In discussing the guarantee of freedom of worship in the Australian Constitution, Chief Justice Latham, speaking for the court, said, in part:

. . . it should not be forgotten that such a provision as s. 116 [free exercise of religion] is not required for the protection of the religion of a majority. The religion of the majority of the people can look after itself. Section 116 is required to protect the religion (or absence of religion) of minorities, and, in particular, of unpopular minorities.

It is sometimes suggested in discussions on the subject of freedom of religion that, though the civil government should not interfere with religious *opinions,* it nevertheless may deal as it pleases with any *acts* which are done in pursuance of religious belief without infringing the principle of freedom of religion. It appears to me to be difficult to maintain this distinction as relevant to the interpretation of s. 116. The section refers in express terms to the *exercise* of religion,

and therefore it is intended to protect from the operation of any Commonwealth laws acts which are done in the exercise of religion. Thus the section goes far beyond protecting liberty of opinion. It protects also acts done in pursuance of religious belief as part of religion.

It is submitted that neither Jehovah's witnesses, nor literature published and distributed by them, nor their preaching activity violates the sedition laws of the nations. They are definitely not subversive, being engaged in preaching the gospel of God's kingdom in the same manner as did Jesus and his apostles.

XII

The courts have held that, notwithstanding the fact that the literature published and distributed by Jehovah's witnesses attacks the doctrines of the orthodox clergy and their religions as false and contrary to the Word of God, laws, bylaws, ordinances and statutes forbidding their preaching and distribution of their literature are unconstitutional and void.

Christ Jesus and his apostles challenged the correctness of the orthodox religion of their day. They said that the doctrines of the clergy were false. Throughout history there have been dissenters who have protested against the false doctrines of the established religions. In democratic lands every person within the country has the right to state publicly his disagreements with the religion of the majority. He may attack the doctrines of the clergy which he believes to be false.

In *Cantwell* v. *Connecticut*, 310 U. S. 296, 309, 310, 60 S. Ct. 900, 905, 906, 84 L. Ed. 1213 (1940), the Supreme Court of the United States held that one of Jehovah's witnesses could not be convicted for playing a phonograph record which "embodies a general attack upon all organized religious systems as instruments of Satan and injurious to man" and "singles out the Roman Catholic Church for strictures couched in terms which naturally would offend not only persons of that persuasion, but all others who respect the honestly held religious faith of their fellows." The Supreme Court, through Mr. Justice Roberts, said:

> In the realm of religious faith, and in that of political belief, sharp differences arise. In both fields the tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader, as we know, at times, resorts to exaggeration, to vilification of men who have been, or are prominent in church or state, and even to false statement.

In *Murdock* v. *Pennsylvania*, 319 U. S. 105, 115, 116, 63 S. Ct. 870, 876, 87 L. Ed. 1292 (1943), Mr. Justice Douglas said:

> Considerable emphasis is placed on the kind of literature, which petitioners were distributing—its provocative, abusive, and ill-mannered character and the assault which it makes on our established churches

> and the cherished faiths of many of us. . . . But those considerations are no justification for the license tax which the ordinance imposes. Plainly a community may not suppress, or the state tax, the dissemination of views because they are unpopular, annoying or distasteful. If that device were ever sanctioned, there would have been forged a ready instrument for the suppression of the faith which any minority cherishes but which does not happen to be in favor. That would be a complete repudiation of the philosophy of the Bill of Rights.

In *Martin* v. *City of Struthers*, 319 U. S. 141, 150, 63 S. Ct. 862, 866-867, 87 L. Ed. 1313 (1943), Mr. Justice Murphy, concurring, said: "Repression has no place in this country. It is our proud achievement to have demonstrated that unity and strength are best accomplished, not by enforced orthodoxy of views, but by diversity of opinion through the fullest possible measure of freedom of conscience and thought."

It is submitted that the fact that the contents of the literature distributed by Jehovah's witnesses may attack as false the doctrines of orthodox religions is not ground for prohibiting its distribution.

XIII

The courts have held that Jehovah's witnesses have the right to refuse to salute the flag and to explain orally or distribute literature giving reasons why they do not salute and they may not be denied their legal rights because of such refusal to salute.

Jehovah's witnesses respect the flag of every nation where they reside. They refuse to salute it because to do so requires them to violate their covenant obligation with Jehovah God. In Exodus 20:3-5, Almighty God forbids his people to ascribe salvation to any other god, or to an image or likeness. To salute the flag of any nation is to do an act of obeisance to the flag which attributes to it salvation in violation of such Scriptural command.

Jehovah's witnesses do not teach others not to salute the flag. They do not encourage others not to salute it. If others choose to salute, that is their affair. Jehovah's witnesses believe it would be wrong to prevent others from saluting. They merely claim for themselves the right to refuse to salute the flag of any nation.

Jehovah's witnesses respect the flag and the things for which it stands. They have valiantly fought on the "home front" in many lands for liberty for which the flag stands, namely, freedom of speech, press, conscience and worship of Almighty God, and they push these fights through the courts so as to maintain these liberties for all.

On June 14, 1943, the Supreme Court of the United States reversed its notorious decision of June 3, 1940, in *Minersville* v. *Gobitis*, 310 U. S. 586, 60 S. Ct. 1010, 87 L. Ed. 1375, when it rendered its decision in *West Virginia State Board of Edu-*

cation v. *Barnette*, 319 U. S. 624, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943), and held that the school board did not have the right to expel from school and deny education to children of Jehovah's witnesses who refuse to salute the flag. In that case the court said:

To sustain the compulsory flag salute we are required to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what is not in his mind. . . .

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. . .

The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intelligently and spiritually diverse or even contrary will disintegrate the social organization. . . . When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. . . .

We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.

The decision of this Court in *Minersville School District* v. *Gobitis*, and the holdings of those few *per curiam* decisions which preceded and foreshadowed it are overruled, and the judgment enjoining enforcement of the West Virginia Regulation is affirmed. 319 U. S. at pp. 634, 638, 641-642, 63 S. Ct. at pp. 1183, 1185, 1186, 1187.

Based on the decision of the Supreme Court of the United States in the *Barnette* case, the Supreme Court of Colorado, in *Zavilla* v. *Masse*, 112 Colo. 183, 147 P. 2d 823 (1944), held that a school board's rule requiring that school children must pledge allegiance to the flag of the United States, or suffer expulsion, was inapplicable to children of Jehovah's witnesses. The court said, among other things:

Unauthorized expulsion from school under our laws, constitution and decisions, deprives them of a civil right. In the instant case plaintiffs were denied the civil right to attend the public schools because of their opinion that it is a violation of one of God's commandments to salute the flag, and their consequent refusal to do so. They contend that their opinion concerning this matter is, in the constitutional sense, a religious opinion, and we think their contention is supported by our Constitution and laws. . . .

. . . As a matter of elementary psychology, it is apparent that compelling the expression of a sentiment not felt or the doing of an act that it is feared will subject the actor to punishment hereafter, will not only fail to create and foster respect for the compelling authority, but will engender a sentiment of rebellion against it. It is not, as we believe, a trespass on the legislative function that enacts or authorizes the promulgation of a rule having such an effect, admittedly establishing a method or means only of obtaining an objective that can and has been otherwise attained, to declare that such rule is an unwarranted invasion of the constitutional guarantee of liberty and a guarantee against the deprivation of civil rights and privileges by reason of one's opinions concerning religion, and to hold that as to these plaintiffs the rule is not enforceable

The Court of Appeals of Ontario, Canada, followed the decision of the Supreme Court of the United States in the celebrated *Barnette* case, in *Donald* v. *Board of Education* (1945) Ontario Reports 518. There the court protected the right of Jehovah's witnesses to refuse to salute the flag. Mr. Justice Gillanders, speaking for the court, said:

Perhaps those who framed the regulations so providing never considered that any well-disposed person would object to its inclusion in their programme on religious grounds. There is no doubt that the teachers and the school board, in the case now being considered, in good faith prescribed the ceremony of the flag salute only with the thought of inculcating respect for the flag and the Empire or Commonwealth of Nations which events of recent years have given more abundant reason than ever before to love and respect. If I were permitted to be guided by my personal views, I would find it difficult to understand how any well-disposed person could offer objection to joining in such a salute on religious or other grounds. To me, a command to join in the flag salute or the singing of the national anthem would be a command not to join in any enforced religious exercise, but, viewed in proper perspective, to join in an act of respect for a contrary principle, that is, to pay respect to a nation and country which stands for religious freedom, and the principle that people may worship as they please, or not at all.

But in considering whether or not such exercises may or should, in this case, be considered as having devotional or religious significance, it would be misleading to proceed on any personal views on what such exercises might include or exclude. Although various cases in the United States dealing with questions arising out of the flag salute are not binding here, and are not concerned with the legislation here being considered, I desire respectfully to adopt a portion of what was said by Mr. Justice Jackson in his interesting opinion in the case of *West Virginia State Board of Education et al.* (1943), 319 U. S. 624, at 632: . .

That certain acts, exercises and symbols at certain times, or to certain people, connote a significance or meaning which, at other times or to other people, is completely absent, is a fact so obvious from history, and from observation, that it needs no elaboration.

The fact that the appellants conscientiously believe the views which they assert is not here in question. A considerable number of cases

in other jurisdictions, in which a similar attitude to the flag salute has been taken, indicates that at least the same view has been conscientiously held by others. The statute, while it absolves pupils from joining in exercises of devotion or religion to which they, or their parents, object, does not further define or specify what such exercises are or include or exclude. Had it done so, other considerations would apply. For the Court to take to itself the right to say that the exercises here in question had no religious or devotional significance might well be for the Court to deny that very religious freedom which the statute is intended to provide.

It is submitted that Jehovah's witnesses have the legal right to refuse to salute the flag of any nation, and to explain to others the reason why they refuse to salute the flag. They also have the right to print literature explaining why they do not salute the flag. They may not be prosecuted or penalized for refusal to salute the flag, for teaching their children that it is improper to salute or for explaining to others why they and their children do not salute the flag.

XIV

The courts have held that Jehovah's witnesses have the right to hold public meetings in municipal or local parks, public squares and other public assembly places; and, in order to make the voice of the speaker heard by his audience, sound amplifying devices may be used.

Jehovah's witnesses may not be required to obtain a permit from the local authorities before meeting or speaking to an assembly in a public park. The Supreme Court of the United States has held that public parks have been used since time immemorial as places of public assembly and that people cannot be denied the right to meet, or citizens refused the right to speak, to those assembled at such public places. *Hague* v. *C. I. O.*, 307 U. S. 496, 59 S. Ct. 954, 83 L. Ed. 1423 (1939).

The Supreme Judicial Court of Massachusetts, in *Commonwealth* v. *Gilfedder*, 321 Mass. 335, 73 N. E. 2d 241 (1947), had before it a case involving several persons who held meetings and made talks on the Boston Common, a park, without permission from the mayor. The defendants were charged with violating the law requiring a permit before a meeting could be held. The court said:

A series of recent decisions by the Supreme Court of the United States has, as we read the cases, established the proposition that the exercise of these rights [speech, press and assembly] cannot be wholly precluded in public places such as streets and parks by sweeping general prohibitions and cannot be subjected to the requirement of permits the granting of which is not governed by binding rules adequate to insure the exercise of the rights under reasonable conditions. [Citing cases] Some of these decisions relate to the distribution of printed matter in streets and ways, but it seems plain that in respect to general principles no distinction can be drawn between the right to distribute printed matter and the right of public speech or between the exercise of those rights in public streets and their exercise in public parks. . . .

Our conclusion that the portions of the ordinance and of the rules here challenged are unconstitutional on their faces is in accord with our own recent decision in *Commonwealth* v. *Pascone*, 308 Mass. 591, where we held invalid on its face an ordinance forbidding the display by a pedestrian [one of Jehovah's witnesses] on the street without a permit of a placard, show card, or sign.

The Supreme Court of the United States, in *Saia* v. *New York*, 334 U. S. 558, 559, 560, 561, 562, 68 S. Ct. 1148, 1149, 1150-1151, 92 L. Ed. 1574 (1948), held that Jehovah's witnesses had the right to use electrical sound equipment to amplify lectures on Bible subjects given in a public park. Saia was prosecuted under an ordinance which forbade the use of electrical sound equipment in a public place without a permit from the chief of police. The Supreme Court said:

We hold that §3 of this ordinance is unconstitutional on its face, for it establishes a previous restraint on the right of free speech in violation of the First Amendment which is protected by the Fourteenth Amendment against State action. To use a loud-speaker or amplifier one has to get a permit from the Chief of Police. There are no standards prescribed for the exercise of his discretion. The statute is not narrowly drawn to regulate the hours or places of use of loud-speakers, or the volume of sound (the decibels) to which they must be adjusted. The ordinance therefore has all the vices of the ones which we struck down in *Cantwell* v. *Connecticut*, 310 U. S. 296; *Lovell* v. *Griffin*, 303 U. S. 444; and *Hague* v. *C. I. O.*, 307 U. S. 496. . . .

Loud-speakers are today indispensable instruments of effective public speech. The sound truck has become an accepted method of political campaigning. It is the way people are reached. Must a candidate for governor or the Congress depend on the whim or caprice of the Chief of Police in order to use his sound truck for campaigning? Must he prove to the satisfaction of that official that his noise will not be annoying to people?

The present ordinance would be a dangerous weapon if it were allowed to get a hold on our public life. Noise can be regulated by regulating decibels. The hours and place of public discussion can be controlled. But to allow the police to bar the use of loud-speakers because their use can be abused is like barring radio receivers because they too make a noise. The police need not be given the power to deny a man the use of his radio in order to protect a neighbor against sleepless nights. The same is true here.

Any abuses which loud-speakers create can be controlled by narrowly drawn statutes. When a city allows an official to ban them in his uncontrolled discretion, it sanctions a device for suppression of free communication of ideas. In this case a permit is denied because some persons were said to have found the sound annoying. In the next one a permit may be denied because some people find the ideas annoying. Annoyance at ideas can be cloaked in annoyance at sound. The power of censorship inherent in this type of ordinance reveals its vice.

The mere fact that objections may be made to the use of public parks by Jehovah's witnesses is no reason for forbidding their use of the parks. That unlawful elements of a

city or rabble rousers may threaten to do violence to the meeting of Jehovah's witnesses is no justification for denying them the right to enter a park, or give a public speech therein. This was the holding of the United States Court of Appeals for the Eighth Circuit in *Sellers* v. *Johnson,* 163 F. 2d 877 (1947). There the court condemned the conduct of the mayor of Lacona, Iowa, and the county sheriff. Those officials blockaded the highways leading into the town and barricaded the park to keep out Jehovah's witnesses because of threats that a mob would invade the park and do violence to Jehovah's witnesses. The court said:

While we do not question the good faith of the Mayor or the Sheriff in concluding that the best and easiest way to maintain peace and order in Lacona on September 15 was to blockade the roads leading into the Town, we are convinced that evidence of unconfirmed rumors, talk, and fears cannot form the basis of a finding of the existence of such a clear and present danger to the State as to justify a deprivation of fundamental and essential constitutional rights. We think that is particularly true in a situation where no effort whatever was made to protect those who were attempting lawfully to exercise those rights. There is no evidence that it was beyond the competency of the Sheriff and the Mayor to secure enough peace officers to police the park on September 15. The fact that the Sheriff was able to deputize approximately 100 persons to assist him in blockading the highways leading into Lacona militates against any inference that he would have been unable to preserve law and order in Lacona on September 15. The record shows that the Mayor did not exercise the authority given him by the Town Council to deputize peace officers.

The only sound way to enforce the law is to arrest and prosecute those who violate the law. The Jehovah's witnesses were at all times acting lawfully, and those who attacked them, for the purpose of preventing them from holding their religious meeting on September 8, were acting unlawfully and without any legal justification for their conduct. . . .

Our conclusion is that the plaintiffs [Jehovah's witnesses] are entitled to a decree declaring: (1) that they and others of Jehovah's witnesses have the right to hold religious meetings in the public park in the Town of Lacona, Iowa, without molestation and without securing the permission of the Town Council; (2) that the resolutions of the Town Council purporting to require the plaintiffs and others of Jehovah's witnesses to obtain a permit to use the park for religious meetings, and purporting to deny them such a permit, are unconstitutional, void and unenforceable; (3) that the Jehovah's witnesses are entitled to be protected in the exercise of their constitutional rights of freedom of assembly, speech and worship; (4) that the action of the Sheriff, sponsored by the Mayor, in blockading public highways leading into the Town of Lacona, for the purpose of preventing the Jehovah's witnesses from holding a meeting in the public park on September 15, 1946, constituted an unlawful deprivation of the constitutional rights of the Jehovah's witnesses.

It is submitted that Jehovah's witnesses have the right to hold public meetings in public parks, squares, commons and other public assembly places and may use electrical sound

equipment to amplify the voice of the speaker in such places.

XV

The courts have held that Jehovah's witnesses have the right to use public buildings and school auditoriums for the holding of public meetings.

While public buildings, auditoriums and school facilities may not, as in the case of public parks, be used by Jehovah's witnesses without a permit, the law does allow the school boards and other public officers, having control over such buildings, to permit their use by Jehovah's witnesses. This may be done even though there is no special law covering the matter. Since it is necessary for Jehovah's witnesses to obtain permits to make use of such buildings, it is altogether proper that applications be made in writing for such use.

The very purpose of public buildings is to serve the public. These structures are dedicated to the public welfare of all the people. Meetings which are for the enlightenment and education of the people of a community are in keeping with the purpose for which the buildings are dedicated.

The use of a public building or school auditorium for holding public meetings may not be denied because the school authorities or public officials object to the doctrines or beliefs of Jehovah's witnesses. The mere fact that the majority of the community may oppose the work of Jehovah's witnesses does not justify the denial of a school auditorium or public building to Jehovah's witnesses.

The California Supreme Court compelled the San Diego Unified School District to allow Kenneth Danskin and other persons to use the school auditorium for the purpose of holding a public meeting. In *Danskin* v. *San Diego Unified School District,* 28 Cal. 2d 536, 171 P. 2d 885 (1946), the court held that the Civic Center Act allowed citizens to use every public school building for educational, political and economic meetings. The court said:

The state is under no duty to make school buildings available for public meetings. . . . If it elects to do so, however, it cannot arbitrarily prevent any members of the public from holding such meetings. (*Missouri* ex rel. *Gaines* v. *Canada,* 305 U. S. 337, 349 [59 S. Ct. 232, 83 L. Ed. 208]; see *Marsh* v. *Alabama,* 326 U. S. 501 [66 S. Ct. 276, 280, 90 L. Ed. 265].) Nor can it make the privilege of holding them dependent on conditions that would deprive any members of the public of their constitutional rights. A state is without power to impose an unconstitutional requirement as a condition for granting a privilege even though the privilege is the use of state property. . . .

The convictions or affiliations of one who requests the use of a school building as a forum is of no more concern to the school administrators than to a superintendent of parks or streets if the forum is the green or the market place. The ancient right to free speech in public parks and streets cannot be made conditional upon the permission of

a public official, if that permission is used as an "instrument of arbitrary suppression of free expression." (*Hague* v. *C. I. O.*, 307 U. S. 496, 516 [59 S. Ct. 954, 83 L. Ed. 1423]; In re *Porterfield, ante*, 28 Cal. 2d 91 [168 P. 2d 706].) It is true that the state need not open the doors of a school building as a forum and may at any time choose to close them. Once it opens the doors, however, it cannot demand tickets of admission in the form of convictions and affiliations that it deems acceptable. Censorship of those who would use the school building as a forum cannot be rationalized by reference to its setting. School desks and blackboards, like trees or street lights, are but the trappings of the forum; what imports is the meeting of the minds and not the meeting place.

The very purpose of a forum is the interchange of ideas, and that purpose cannot be frustrated by a censorship that would label certain convictions and affiliations suspect, denying the privilege of assembly to those who held them, but granting it to those whose convictions and affiliations happened to be acceptable and in effect amplifying their privilege by making it a special one. . . .

The privilege of using a school building as a public forum is one too valuable to be given lightly or lightly taken away. It is also too valuable lightly to be received. It can be lost to the whole community if some persons or groups abuse it frivolously, maliciously, or dangerously. The state must be on the alert for any clear and present danger to the community, sensitive to the warning signals, the ambiance in which a forum is planned, the atmosphere that envelops it. It cannot look with equanimity upon those whose words or actions have already left in their wake a trail of violence.

The Court of Appeals of the Republic of the Philippines for the First Division, in the case of *The People of the Philippines* v. *Fernandez et al.*, G. R. No. 1128-R, 1948 Lawyers Journal 295, ruled that Jehovah's witnesses had the right to use government buildings in Lingayen, Philippines, on November 9-11, 1945, for assembly purposes.

Jehovah's witnesses were indicted and prosecuted for trespass for refusing to vacate the buildings after being notified by the mayor of Lingayen to do so. The court held that the use of property by Jehovah's witnesses, although a religious group holding a religious meeting on public property, did not constitute a violation of the constitutional inhibitions against use of public property for the support of a religious organization. The court said:

Aside from the fact that the religious character of the "Witnesses of Jehovah" and of their convention, as well as the holding thereof, are merely assumed or taken for granted, we are not satisfied that the constitutional provision relied upon by the prosecution inhibits the use of public property for religious purposes, when the religious character of such use is merely incidental to a temporary use which is available indiscriminately to the public in general.

In this connection, it should be noted that the Sison Auditorium was open for lease to the public, upon payment of the corresponding fees, and that the Province of Pangasinan allowed the Witnesses of Jehovah to use the premises, not because they presumably constituted a religious organization or intended to hold a convention allegedly of a religious

nature, but in consideration of the fees paid by said organization, as any other person or entity could have done so. . . .

Hence, we are not prepared to hold that failure or refusal to comply with an order, to vacate said property, issued, without a court proceeding, by a municipal mayor—which, if forcibly executed, would constitute an illegal act, for which the mayor and the municipal government might be held civilly responsible in damages—would constitute the crime aforementioned.

It is submitted that Jehovah's witnesses have the right to use public buildings and school auditoriums for the holding of public meetings.

XVI

The courts have held that children of Jehovah's witnesses cannot be taken away from their parents because they have been taught not to salute the flag and to preach as Jehovah's witnesses; and a parent may not be divorced, lose the custody of his children or have his legal rights taken from him because he is one of Jehovah's witnesses and has taught his children to believe and practice as Jehovah's witnesses.

Courts have consistently held that children of Jehovah's witnesses cannot be taken away from their parents because they refuse to salute the flag or have been taught by their parents to do so.

Reynolds v. *Rayborn*, 116 S. W. 2d 836 (Texas Civil Appeals, 1938); In re *Lefebvre*, 91 N. H. 382, 20 A. 2d 185 (1941); In re *Jones*, 175 Misc. 451, 24 N Y. S. 2d 10 (1940); In re *Reed*, 262 App. Div. 814, 28 N. Y. S. 2d 92 (1941); *Commonwealth* v. *Johnson*, 309 Mass. 476, 35 N. E. 2d 801 (1941); *Stone* v. *Stone*, 16 Wash. 2d 315, 133 P. 2d 526 (1943); *Bolling* v. *Superior Court for Clallam County*, 16 Wash. 2d 373, 133 P. 2d 803 (1943).

Courts have also ruled that parents of the children could not be prosecuted for contributing to delinquency of their children who had been taught it was wrong to salute the flag.

In re *Latrecchia*, 128 N. J. L. 472, 26 A. 2d 881 (1942); *People* v. *Sandstrom*, 279 N. Y. 523, 18 N. E. 2d 840 (1939); *Kansas* v. *Smith*, 155 Kan. 588, 127 P. 2d 518 (1942); *People* v. *Chiafreddo*, 381 Ill. 214, 44 N. E. 2d 888 (1942); *Commonwealth* v. *Conte*, 154 Pa. Super. 112, 35 A. 2d 742 (1944).

In *Reynolds* v. *Rayborn*, 116 S. W. 2d 836 (Texas Civil Appeals, 1938), the mother made application to the court to take the custody of the child away from the father, one of Jehovah's witnesses. She claimed that because the father had brought the child up to be one of Jehovah's witnesses and permitted it to refuse to salute the flag she, as the divorced mother, was to be preferred over the father to have custody of the child. The Texas Court of Civil Appeals held that the father, although teaching the child to be one of Jehovah's witnesses, was entitled to the custody of the child. The court held that Jehovah's witnesses were fit parents to have custody of their children. The court said:

History is replete with the bigotry, intolerance, and dogmatism of religious sects, and the pages thereof are strewn with martyrs who died for their faith. The divergence in creeds, the evils growing from a union of church and state, and the conflicts for supremacy waged between the two were studied and considered by the colonial pioneers who established the independence of these United States. They profited by peoples whose experiences in government had failed, as well as by the achievements of those whose governments had been more successful, and to avoid the griefs and disasters arising from the bigotry and religious intolerance of the preceding ages, they provided in our fundamental laws, Amendment 1 of the Constitution of the United States, that the "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." . . .

The flag is emblematic of the justice, greatness and power of the United States—these, together, guarantee the political liberty of the citizen, but the flag is no less symbolic of the justice, greatness, and power of our country when they guarantee to the citizen freedom of conscience in religion—the right to worship his God according to the dictates of his conscience. . .

However much we may disagree with or disapprove their religious beliefs, the failure of appellant, because financially unable, to supply greater comfort and pleasure for his daughter, together with their refusal to salute the flag, do not constitute a sufficient cause to adjudge the father disqualified and unfitted to have the care, custody, and control of his minor daughter.

Lettie Stone, one of Jehovah's witnesses, was divorced and her children taken from her by the courts of the State of Washington at the instance of Mack Stone, her husband, because she taught the children to be faithful as Jehovah's witnesses and by reason thereof they refused to salute the American flag. She appealed to the Supreme Court of Washington. That court, in the case of *Stone* v. *Stone*, 16 Wash. 2d 315, 133 P. 2d 526 (1943), held that she, although one of Jehovah's witnesses, was a fit and proper person to have the control of the minor children of the marriage. The court said:

Appellant is a member of "Jehovah's witnesses", and apparently has been a member for some time. As such member, Mrs. Stone gives about five and three-quarters hours a week to the organization, distributing its literature from house to house, in which work she is usually accompanied by James, the five year old son. It does not appear that in doing this work she neglects her home or her family; in fact, we think all the testimony is to the effect that she maintains a good home, and that all the children of school age have attended school regularly, and are above the average of children in that community. . . .

Jehovah's witnesses has existed since about 1878, and as we understand it, its members' refusal to salute the flag is not because they do not honor the flag, but because of an honest conviction, based upon their interpretation of the Bible, that saluting the flag is making it an image of the power to which one looks for salvation, and that to salute such an image ignores Almighty God, from whom alone salvation proceeds. Jehovah's witnesses do not teach any violation of the laws of the state which are in harmony with God's laws, but if the law of the state is in direct violation of God's law, they will obey God's law first and all the time. . . .

We do not doubt the right of the state to suppress religious practices dangerous to morals, and presumably those also which are inimical to public safety, health and good order, but so far as appears from the testimony in this case, the teachings of Jehovah's witnesses cannot, in our opinion, be classed in any one of these categories.

We cannot find in the record any testimony which would justify the court in finding that this mother is unfit to have the care and custody of her children, because of her religious beliefs, or that the children, if left with her, will be reared in an atmosphere of disloyalty to their country or its institutions.

The Third District Court of Appeals for California, in *Cory* v. *Cory*, 70 Cal. A. 2d 563, 161 P. 2d 385 (1945), held that one of Jehovah's witnesses, Kathleen B. Cory, had been illegally and unconstitutionally denied the custody of her children because she had reared them as Jehovah's witnesses. Her husband, who obtained the divorce, had been granted by the trial court the sole custody of the children. The Court of Appeals ruled in favor of Kathleen B. Cory and reversed the decision against her. The court said:

The conclusion seems inescapable that appellant has been deprived of the custody of said children solely because she is a Jehovah's Witness, and, in the opinion of the trial court, the beliefs of the followers of that faith are inimical to the welfare of their children because they do not salute the flag and are unwilling to fight for their country. If it is right to take these children from their mother's custody for the reasons stated, then by the same course of reasoning we must conclude that it would be right and proper to deprive all Jehovah's Witnesses of custody of their offspring lest they become disloyal citizens. Also it would seem to follow that the teachings of this group should be prevented by the state as inimical to the public welfare. . . .

. . . Differ as we may, and we might say, as most of us do, as to the wisdom and soundness of the reasoning of plaintiff and her fellow Witnesses, it is not for courts to say that her religious convictions and those of her associates are necessarily such as to jeopardize the interests of their children. . . .

We think that in this case the trial court—probably because of his own intense patriotism and loyalty to his country in time of war . . . lost sight of the constitutional provisions which guarantee religious freedom to all, and, in depriving this mother of the custody of her children because of her religious convictions, has deprived her of a constitutional right which she may not be compelled to exercise only conditionally, and in so doing has exceeded the bounds of wise judicial discretion.

It is submitted that Jehovah's witnesses are proper persons to have custody of and raise their children. They cannot be held as unfit parents because they teach their children to be Jehovah's witnesses or allow their children to refuse to salute the flag. The courts may not divorce Jehovah's witnesses and break up their parental right over their children because of their conscientious belief and practice in harmony with God's law.

XVII

Child labor laws cannot lawfully be used to stop Jehovah's witnesses from permitting their children to preach and assist in preaching the gospel of God's kingdom through distribution of literature.

The New Hampshire Supreme Court, in *State* v. *Richardson*, 92 N. H. 178, 27 A. 2d 94 (1942), involving one of Jehovah's witnesses who was assisted in preaching the gospel and distributing Bible literature by a small child, held inapplicable the following statute: "Whoever employs any child, and whoever permits or suffers any child under his control as parent, guardian or otherwise, to be employed or to work in violation of any of the foregoing provisions" of the State labor laws, shall be guilty of a criminal offense. The court said:

It is thought that the activity in which the boy under the defendant's leadership was engaged is not within the tenor and spirit of the prohibition of sales in public places. His service was not fairly to be classified as a business enterprise or as work, in the ordinary sense of words. To use a common expression, he was not exploited to help as a source of family income and material resources or to promote the defendant's financial welfare. Any exploitation of the boy was for other than pecuniary ends. He was performing a service under his mother's auspices, and the few cents he received were no impaction on the controlling religious character of his service, so as thereby to transform it into one of employment or work. The money-making feature of his service is too insignificant to receive notice as a factor modifying a strictly religious engagement into one with business attributes.

It is submitted that children of Jehovah's witnesses may engage in preaching the gospel publicly and laws prohibiting child labor may not be invoked against the children or their parents.

XVIII

Jehovah's witnesses are recognized as ministers constituting a legal religious organization; and the Watch Tower Society, because of its religious status, has been found by the state and federal governments of the United States to be exempt from the payment of taxes.

General Lewis B. Hershey, the director of Selective Service, United States of America, had for determination the ministerial status of Jehovah's witnesses in 1942. After considering all the facts, he found that Jehovah's witnesses and the Watchtower Bible and Tract Society are recognized as a religious organization. He said, among other things:

FACTS: Jehovah's Witnesses claim exemption from training and service and classification in Class IV-D as duly ordained ministers of religion under Section 5 (d), Selective Training and Service Act of 1940 . . .

Section 5 (d): "Regular or duly ordained ministers of religion

. . . shall be exempt from training and service (but not from registration) under this Act." . . .

Question.—May Jehovah's Witnesses be placed in Class IV-D as regular or duly ordained ministers of religion exempt from training and service?

Answer: 1. The Watchtower Bible and Tract Society, Inc., is incorporated under the laws of the State of New York for charitable, religious, and scientific purposes. The unincorporated body of persons known as Jehovah's Witnesses hold in common certain religious tenets and beliefs and recognize as their terrestrial governing organization the Watchtower Bible and Tract Society, Inc. By their adherence to the organization of this religious corporation, the unincorporated body of Jehovah's Witnesses are considered to constitute a recognized religious sect.—Vol. III Opinion No. 14, National Headquarters, Selective Service System, November 2, 1942.

On April 3, 1943, General Hershey made his Second Report of the Director of Selective Service to the president, which was published in a book entitled *Selective Service in Wartime* (Government Printing Office, Washington, 1943). In that report to President Roosevelt, he said, in part, with respect to the definition given by National Headquarters to the vocation of ministers of religion:

The principle was extended to persons who were not, in any strict sense, ministers or priests in any sacerdotal sense. It included Christian Brothers, who are religious, who live in communities apart from the world and devote themselves exclusively to religious teaching; Lutheran lay teachers, who also dedicate themselves to teaching, including religion; to the Jehovah's Witnesses, who sell their religious books, and thus extend the Word. It includes lay brothers in Catholic religious orders, and many other groups who dedicate their lives to the spread of their religion." (page 241)

In discharging one of Jehovah's witnesses from the custody of the Selective Service System, the United States Court of Appeals for the Seventh Circuit, in *Hull* v. *Stalter*, 151 F. 2d 633 (1945), said:

Relator alleged that at the time of his registration and at the time of his final classification, the proof submitted by him to the Selective Service System showed that he was exempt as a minister of religion under § 5 (d) of the Selective Training and Service Act of 1940, as amended, in that he was a duly ordained minister of Jehovah's Witnesses and the Watchtower Bible and Tract Society, constituting a recognized religious organization under the Act. . . .

Much is said in the briefs both complimentary and derogatory to Jehovah's Witnesses. With this argument we are not concerned. Whatever a draft board or a court, or anybody else for that matter, may think of them is of little consequence. The fact is, they have been recognized by the Selective Service System as a religious organization and are entitled to the same treatment as the members of any other religious organization. . . .

. . . The Selective Service System has even more broadly defined the term "regular minister of religion." Under the heading, "Special Problems of Classification" (*Selective Service in Wartime*, Second Re-

port of the Director of Selective Service, 1941-42, pages 239-241), it is stated:

"The ordinary concept of 'preaching and teaching' is that it must be oral and from the pulpit or platform. Such is not the test. Preaching and teaching have neither locational nor vocal limitations. The method of transmission of knowledge does not determine its value or effect its purpose or goal. One may preach or teach from the pulpit, from the curbstone, in the fields, or at the residential fronts. He may shout his message 'from housetops' or write it 'upon tablets of stone'. He may give his 'sermon on the mount', heal the eyes of the blind, write upon the sands while a Magdalene kneels, wash disciples' feet or die upon the cross. . . . He may walk the streets in daily converse with those about him telling them of those ideals that are the foundation of his religious conviction, or he may transmit his message on the written or printed page, but he is none the less the minister of religion if such method has been adopted by him as the effective means of inculcating in the minds and hearts of men the principles of religion. . . . To be a 'regular minister' of religion the translation of religious principles into the lives of his fellows must be the dominating factor in his own life, and must have that continuity of purpose and action that renders other purposes and actions relatively unimportant." . . .

. . . We have serious doubt that there was any justification for the Board's refusal originally to classify relator in 4-D. Whatever be thought, however, of the Board's original action in this respect, there can be no question but that subsequent proof conclusively demonstrated that he was entitled to such classification.

Such being the situation, the Board abused its discretion in its refusal to so classify him. Its action was arbitrary and unauthorized. The order discharging relator is AFFIRMED.

In 1941 the United States District Court for the Northern District of Texas, in *Borchert* v. *Ranger*, 42 F. Supp. 577, in enjoining local officials from interference with the door-to-door and street preaching of Jehovah's witnesses in four Texas towns said that Jehovah's witnesses constituted a recognized religion under the United States Constitution. In part the court said:

In the disposition of this case I must look to the facts alleged and established, not to mere opinions of the pleader. Though it is not binding upon the mentality of these plaintiffs, I hold their faith constitutes a religion under our Constitution and under all definitions found in dictionaries and in the decisions of the courts of this country; also that preaching such religion orally, by phonographs, the distribution of pamphlets, or printed sermons, carrying information or opinions about it to others, is a legitimate exercise of such religion . . .

By orders of the commissioner of Internal Revenue, United States Treasury Department, under dates of November 9, 1934, March 22, 1935, April 24, 1935, April 23, 1938, September 1, 1942, and June 17, 1946, Watchtower Bible and Tract Society, Inc. (a New York corporation) and Watch Tower Bible and Tract Society (a Pennsylvania corporation), were held to be entitled to exemption from the making of income tax returns under the Federal Internal Revenue Act because

such societies were charitable corporations engaged in religious activity. A similar ruling has been made in favor of the Society by the British government in England and in Canada. Copies of these orders are available in letter form to anyone who has reason for obtaining them upon request in writing addressed to the Society (legal office) at 124 Columbia Heights, Brooklyn 2, New York.

Watch Tower Bible and Tract Society and Watchtower Bible and Tract Society, Inc., have been declared exempt also from the payment of taxes on real estate owned and used by them for carrying out the chartered purposes of the societies because such societies are benevolent and engaged in religious activity. *Watch Tower Bible & Tract Society* v. *Allegheny City, Pa.*, 14 Dist. 695 (1905); *Peoples Pulpit Association* [name changed by law to Watchtower Bible and Tract Society, Inc.] v. *Purdy*, New York Supreme Court, Kings County, May 1, 1915, affirmed (New York Supreme Court, Appellate Division, Second Department) 170 App. Div. 950 (1915).

Real estate owned and used by congregations of Jehovah's witnesses as places of assembly, called "Kingdom Halls", have been declared entitled to the benefit of church exemptions from the payment of real estate taxes. *Syracuse Center of Jehovah's witnesses, Inc.*, v. *City of Syracuse*, 163 Misc. 535, 297 N. Y. S. 587 (New York Supreme Court, Onondaga County, July 7, 1937).

It is submitted that the Watch Tower Society and Jehovah's witnesses are a legal religious organization and that their representatives engaged in preaching the gospel are legally recognized as ministers of religion, which entitles them to all privileges accorded to all religious organizations and ministers.

XIX

The courts have held that the performance of secular work by Jehovah's witnesses does not deny them the right to their status as ministers of religion.

The earliest ministers of Christianity performed secular work to maintain themselves in their ministry. It is quite common in many parts of the earth today to find ministers of religion who regularly and customarily preach on their Sabbath day while doing secular work during the week. All that is required, to claim that one is a minister of religion, is that he teach and preach *regularly and customarily*. Jehovah's witnesses do just that.

Some of Jehovah's witnesses are full-time ministers. Others are part-time ministers who preach and teach on weekends, week-days and at nighttime. The sum total of their preaching and teaching usually equals and often exceeds the

actual time devoted to the ministry by the orthodox clergy, many of whom preach only on their Sabbath day.

The apostle Paul regularly performed secular work during his ministry, although his primary occupation was preaching "publickly, and from house to house". (Acts 20:20) He spent much time in tent-making, so as to earn money and thus avoid being a charge upon those to whom he preached. (1 Thess. 4:10-12; 2 Thess. 3:7-12) Peter and other apostles were fishermen, while regularly and customarily performing their duties as apostles. (Matt. 4:18-21; Mark 1:16, 19; John 21:2, 3) Luke was a physician. (Col. 4:14) Jesus had been a carpenter. (Mark 6:3) He and his apostles were called "unlearned and ignorant" by the orthodox clergy who did not work.—Acts 4:13; John 7:15.

The only way the preaching job could be successfully done in the early days of the settlement of the United States was said to be "by the preaching and teaching, under Episcopal direction, by laymen deriving their support from their own secular labors." *The Missouri Valley and Lay Preaching*, Wharton, 1859, New York, p. 18.

"The church has always been more successful in winning kingdoms for her Christ, when she has adopted just this lay preaching method. . . . The whole church a royal priesthood, and so the whole church a preaching church, that is the New Testament ideal." *Lay Preaching* (Secretary's Annual Report), Hoyt, American Baptist Publication Society, 1869, New York, p. 21.

The English Court of Appeals held that the conscription law of that country, passed during World War I, should be given an interpretation so as to include a part-time minister of unorthodox Strict Baptist Church. (*Offord* v. *Hiscock*, 86 L. J. K. B. 941) In that case the person held to be a minister was a lawyer's secretary (known as a solicitor's clerk) during six days of the week. He was invited to preach on one occasion and it appeared that he was satisfactory, so he was engaged as the minister. In that case Viscount Reading said: "I have come to the conclusion that there is an absence of any evidence from which the Justices could draw the conclusion that he had not brought himself within the exception to the statute enforcing military service. In my view it is clear that he had determined to devote himself to the ministry."

Under the Canadian National Selective Service Mobilization Regulations the Supreme Court of Saskatchewan held that a registrant was entitled to exemption from all training and service as a minister of religion. (*Bien* v. *Cooke*, (1944) 1 W. W. R. 237) There the minister spent six days a week farming. No special educational requirements were necessary. All that was required was that he satisfy the general

secretary, who was a railroad engineer, that he believed the New Testament, and that he met the necessary moral requirements.

The United States Court of Appeals for the Second Circuit, in *Trainin* v. *Cain*, 144 F. 2d 944 (1944), held that the regular performance of secular employment was not incompatible with the claim for exemption as a regular minister of religion: "While the two positions are not mutually exclusive, and a validly draft-exempt minister of religion could still maintain a legal practice on the side, the existence of the latter can be taken into consideration in determining whether registrant is in fact a regularly practicing minister."

The Supreme Court of Alabama, during the Civil War, said in respect to this matter that a minister of religion includes a minister belonging to a sect of religionists who perform ministerial labor gratuitously and rely on secular employment as a means of subsistence. Ex parte *Cain*, 39 Ala. 440, 441.

Thousands of urban ministers in the United States and other countries enjoy large incomes from their ministry. Many more thousands of rural ministers of the orthodox religions are forced to engage in farming and other occupations during the week so as to preach in the pulpit on their Sabbath day. Likewise the performance of secular work by Jehovah's witnesses does not negative their fitness to preach the gospel of God's kingdom.

It is submitted that performance of secular work by Jehovah's witnesses does not prevent their claiming all the benefits that the clergy who perform no secular work claim under the law.

XX

The courts have held that laws prohibiting work on Sunday, commonly called "Blue Laws", are not applicable to the preaching activity of Jehovah's witnesses done on Sundays.

Laws prohibiting work on Sundays are designed to reach commercial work and menial labor. The laws are designed to protect the Sabbath day. Sunday is commonly dedicated as a day of worship and prayer. The work of Jehovah's witnesses is preaching. It is a work of charity and necessity. The Lord Jesus Christ preached on the Sabbath day. So also do Jehovah's witnesses. This preaching is a work of necessity, which removes it from the prohibition of Sunday laws. The principal purpose of the Sunday laws is to protect worship on Sunday. The manner of preaching by Jehovah's witnesses is their way of worship. Even though their work may be unorthodox it is preaching and within the exception of the Sunday laws prohibiting labor.

Sunday laws prohibit buying and selling but do not pro-

hibit preaching a sermon and receiving a donation by the preacher. They do not prevent a missionary from preaching by means of distribution of printed Bible sermons and receiving therefor contributions. The courts have held that the work of Jehovah's witnesses in distributing their literature is not selling and therefore their work does not come within the prohibition of the Sunday laws. The Supreme Court of Iowa, in *Iowa* v. *Mead,* 230 Iowa 1217, 300 N. W. 523 (1941), reversed the conviction of four of Jehovah's witnesses for violating the Sunday law of Iowa. The court said:

The information charged that on Sunday, December 8, 1940, appellants did desecrate the Sabbath in this: "That they did go from door to door in the city of Clinton, knocking on the doors and ringing doorbells, arousing persons early in the morning to the disturbance of private families: That they did sell and attempt to sell literature on Sunday" in violation of Code Section 13227. . . .

It is contended by the state that the calling upon householders after 10 a.m. on Sunday for the purpose of propagandizing appellants' religious views by spoken and printed words constituted "disturbing a private family." . . .

The state also contends the distribution of the booklets and occasional receipt of the sum of ten cents constituted "selling property" within the prohibition of the act. However, appellants were not engaged in selling booklets. The alleged sales were merely incidental and collateral to appellants' main object which was to preach and publicize the doctrines of their order. . . . We do not think the statute contemplates that the distribution of booklets of this nature and under these particular circumstances constitutes desecrating the Sabbath.

It is submitted that laws prohibiting labor on Sunday are not applicable to the work done by Jehovah's witnesses in preaching and taking Bible literature to the homes of the people.

XXI

State or municipal officials in the United States who persist in arresting Jehovah's witnesses under ordinances and laws of the type above described which have been held invalid by the Supreme Court of the United States violate the Federal Civil Rights Act.

The Federal Civil Rights Act makes it a felony punishable by fine and imprisonment to conspire to deprive a person of his rights or to molest or interfere with the exercise of his civil rights. 18 U. S. C. §§ 241, 242. See also 8 U. S. C. §§ 41, 42, 43, 47 and 49.

Any official or private person conspiring with an official to interfere wrongfully with the exercise of civil rights by Jehovah's witnesses under the color of any law of any state in the United States of America which has been declared unconstitutional by the Supreme Court of the United States is liable for imprisonment and payment of fine in the federal courts pursuant to the provisions of the Civil Rights Act.

The Supreme Court of the United States, in *Screws* v. *United States,* 325 U. S. 91, 104-105, 65 S. Ct. 1031, 1037, 89 L. Ed. 1495, said:

Take the case of a local officer who persists in enforcing a type of ordinance which the Court has held invalid as violative of the guarantees of free speech or freedom of worship. Or a local official continues to select juries in a manner which flies in the teeth of decisions of the Court. If those acts are done willfully, how can the officer possibly claim that he had no fair warning that his acts were prohibited by the statute? He violates the statute not merely because he has a bad purpose but because he acts in defiance of announced rules of law. He who defies a decision interpreting the Constitution knows precisely what he is doing. If sane, he hardly may be heard to say that he knew not what he did. Of course, willful conduct cannot make definite that which is undefined. But willful violators of constitutional requirements which have been defined, certainly are in no position to say that they had no adequate advance notice that they would be visited with punishment. When they act willfully in the sense in which we use the word, they act in open defiance or in reckless disregard of a constitutional requirement which has been made specific and definite. When they are convicted for so acting, they are not punished for violating an unknowable something.

Martin L. Catlette, a deputy sheriff of Nicholas County, West Virginia, and Bert Stewart, chief of police of Richwood, West Virginia, were convicted of violating the Civil Rights Act in conspiring to deprive Jehovah's witnesses of their rights to preach the gospel and explain their conscientious refusal to salute the American flag. The United States Court of Appeals for the Fourth Circuit, in rejecting the appeal of Catlette, among other things, said in *Catlette* v. *United States,* 132 F. 2d 902 (1943):

An information was filed against Martin Louis Catlette, Deputy Sheriff of Nicholas County, West Virginia, and Bert Stewart, Chief of Police of Richwood, West Virginia, in the United States District Court for the Southern District of West Virginia, for alleged violations of 18 *U. S. C. A.* §§ 52, 550. . . .

Section 52 [now section 242], Title 18, U. S. C.:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000, or imprisoned not more than one year, or both." . . .

It is quite obvious in the instant case, however, that Catlette took very active and utterly unwarranted steps to subject his victims to affirmative indignities. It is equally clear that these indignities were inflicted on the victims solely by reason of their membership in the religious sect known as Jehovah's witnesses, and their practices founded on their beliefs, particularly their refusal, on religious grounds, to salute the flag of the United States. This, we think, very clearly brings Catlette within the prohibitions of the federal Constitution and the federal criminal statutes set out above.

It is submitted that officials may not, under color of law, conspire to interfere with the exercise of civil rights by Jehovah's witnesses, and when they so do they are guilty of a violation of the Federal Civil Rights Act, subjecting the officials to fine and imprisonment.

XXII

The courts have held in favor of Jehovah's witnesses in other miscellaneous circumstances.

A

The courts have held that Jehovah's witnesses have the right to advertise public meetings with placards on automobiles or by carrying placards on the sidewalks.

Nebraska v. *Hind,* 143 Neb. 479, 10 N. W. 2d 258 (1943)
New York v. *Kieran,* 26 N. Y. S. 2d 291 (1940)
Commonwealth v. *Anderson,* 308 Mass. 370, 32 N. E. 2d 684 (1941)

B

The courts have held that Jehovah's witnesses have the right to defend themselves when attacked by one who objects to their distribution of Bible literature.

City of Gaffney v. *Putnam,* 197 S. C. 237, 15 S. E. 2d 130 (1941)
Rex ex rel. *Atkinson* v. *Montague,* (1950) 97 Can. Cr. Cases 29 (County Court, Haldimand County, Ontario, September 14, 1949)

C

The courts have held that distribution by Jehovah's witnesses of their literature does not constitute a violation of the laws forbidding the blocking of sidewalks.

City of Olathe v. *Lauck,* 156 Kan. 637, 135 P. 2d 549 (1943)
New York v. *De Cecca,* 29 N. Y. S. 2d 524 (1941)
New York v. *LoVecchio,* 56 N. Y. S. 2d 354 (1945)
Pool v. *Texas,* — Tex. Cr. R. —, 226 S. W. 2d 868 (1950)

D

Jehovah's witnesses cannot be discriminated against and dismissed from civil service appointment because of belief and practice as Jehovah's witnesses.

Morgan v. *Civil Service Commission of New Jersey,* 131 N. J. L. 410, 36 A. 2d 898 (1944)

E

Jehovah's witnesses may not be forced to serve on juries, contrary to their claim for exemption from jury service as ministers of the gospel.

United States v. *Hillyard,* 52 F. Supp. 612 (E. D., Wash., 1943)

F

Persistence by Jehovah's witnesses in their right to preach the gospel, notwithstanding the insistence by a police officer that they discontinue preaching, does not constitute unlawfully resisting an officer.

City of Monroe v. *Ducas,* 203 La. 971, 14 S. 2d 781 (1943)

G

Jehovah's witnesses cannot be required to have commercial licenses on their automobiles used in their preaching activity, inasmuch as such use of automobiles is not a commercial use.

Ex parte *Carter,* 143 Tex. Cr. R. 46, 156 S. W. 2d 986 (1941)

PRINTED DECISIONS

The decisions hereinbefore cited and quoted are only a few of the thousands of decisions that have been rendered by the courts in favor of Jehovah's witnesses. Some of these decisions are printed. A list of printed decisions in the leading cases appears in this booklet as Appendix (pages 89-93). Jehovah's witnesses and their attorneys and any judge or lawyer may obtain copies of these printed opinions and others that are available. These will be sent to any attorney, judge or any of Jehovah's witnesses who needs them in order to help settle a dispute over the right of Jehovah's witnesses to carry on their preaching work. Printed decisions may also be submitted to the judge in support of the motion to dismiss, along with a copy of this booklet. To obtain copies of these opinions write the Society (legal office) at 124 Columbia Heights, Brooklyn 2, New York.

FINES

The apostles in ancient times did not pay fines. Today Jehovah's witnesses follow the course of the apostles when convicted for refusing to stop preaching the gospel. If the court fines upon conviction, an appeal should be taken. An appeal or an appeal bond should prevent the collection of a fine until the case is decided by a higher court.

If the appeal is lost, then, instead of paying the fine, discharge it by going to jail, if allowed to do so by law. Remember that you are sent forth by Jehovah God to be his witness. If it is his will that you go to prison and there give further testimony after failing on appeal, that should be done joyfully. Trust in Jehovah for protection, like the proph-

ets and apostles who likewise suffered. Christ endured persecution himself and left some behind to be filled up by us in this day. (Phil. 1:29; Col. 1:24; 2 Tim. 1:8) It is a blessed privilege to have a small part in the vindication of Jehovah's name by maintaining integrity. Preaching the gospel faithfully, regardless of opposition, we will prove Satan to be a liar.

REPORTING FOLLOWING TRIAL

When the trial is completed, make a full report to the Society immediately. The report should include a summary of the evidence given, a statement of the ruling of the court and the reasons stated by the judge for the decision. State whether the decision was "Guilty" or "Not guilty". If the decision was in writing, send a copy. The amount of the fine or imprisonment, if any, should be mentioned. Report what steps have been taken to appeal. Also inform the Society's Branch office of the time allowed on appeal for preparing the record, filing of briefs and appearance in the higher court by you or your attorney.

MOBS

In recent years we (Jehovah's witnesses) have been cruelly attacked and viciously mobbed by religious fanatics and intolerant persons. These outbursts of violence have occurred especially in Europe, Quebec and various parts of the United States. Mr. Justice Murphy of the Supreme Court of the United States, in *Prince* v. *Commonwealth*, 321 U. S. 158, 176, 64 S. Ct. 438, 447-448, 88 L. Ed. 645 (1944), wrote as follows: " . . . Jehovah's witnesses are living proof of the fact that even in this nation, conceived as it was in the ideals of freedom, the right to practice religion in unconventional ways is still far from secure. Theirs is a militant and unpopular faith, pursued with a fanatical zeal. They have suffered brutal beatings; their property has been destroyed; they have been harassed at every turn by the resurrection and enforcement of little-used ordinances and statutes. See Mulder and Comisky, 'Jehovah's Witnesses Mold Constitutional Law,' 2 Bill of Rights Review, No. 4, p. 262."

The violence and bloodshed experienced by Jehovah's witnesses does not deter us. It proves our faithfulness to Almighty God. The Lord Jesus Christ declared that inasmuch as he was persecuted, his followers should expect like treatment. (John 15:20) The demonized persecution of Jehovah's witnesses is proof that we are on the side of Jehovah God and against the Devil.

Take courage from the experience of the faithful men of old. Lot's visitors were mobbed (Gen. 19:4-10); Joshua and

Caleb were threatened with stoning by a mob (Num. 14:6-10); Christ was mobbed. (Luke 4:14-30; 22:47-54; 23:1, 2) In Jerusalem and elsewhere the apostles were mobbed, beaten and foully persecuted by the demonized populace who, like their "father the devil", took the law into their own hands. Stephen was mobbed and killed by stoning. (Acts 7:54-60) Many times Paul was mobbed. (Acts 13:50; 14:19; 17:2-7; 19:28-41; 21:26-36; 2 Cor. 11:24-26) "The whole world lies in the power of the evil one."—1 John 5:19, *Weymouth.*

Threat of mobs and actual violence should not stop the proclamation of the gospel message. Often these threats are mere bluffs. When surrounded by a mob, insist that you are preaching the gospel of God's kingdom as commanded in God's Word, the Bible, and that if they harm you, your blood will be upon their heads. (Jer. 26:14, 15) When faced with such trouble remember the counsel of the Scriptures written for your strength for such a crisis and trust entirely in Jehovah for deliverance. (Josh. 1:9; 2 Chron. 20:15, 17; Ps. 29:11; Isa. 26:3, 4; 50:7; Ezek. 33:8, 9; Phil. 1:27-29, *Am. Stan. Ver.*) If the mob does not disband after an effort to reason with them, move away and try to avoid the mob. If forced to use self-defense, do so. (See *The Watchtower*, September 15, 1939.) There is no need to arm yourself beforehand or after hearing of the threats of violence and go about looking for trouble.

In places where mob violence repeatedly occurs, it is advisable to alternate the time for doing witness work so as to avoid the mobsters. If conditions continue so as to warrant a drastic change, you should communicate with the Society for instructions.

When threatened with mob violence, do not allow the officials to permit anarchy to take control of the community. Immediately call upon the state, provincial and local officials, such as the governor, mayor, sheriff and local prosecutor, to provide adequate protection. If necessary identify the mobsters and officials and gather evidence to prosecute the mobsters for violating local and state laws. The city and county governments should also be notified that if they allow the mobsters to do injury to you or damage your property you will hold the city and county governments, together with the delinquent officials, liable in damages.

You should call attention of the government of the country where the mobs occur by notifying such agencies as the Department of Justice (Civil Rights Section) of the federal government of the United States about the matter, with request to take action against the officials, law violators and mobsters under the federal criminal laws.

In the United States the federal government has power to prosecute, convict, imprison or fine persons (including

public officials) who conspire to injure, intimidate or threaten any citizen in the exercise of any right guaranteed by the constitution or laws of the United States. This is under Section 241, Title 18 of the United States Code. See *Catlette* v. *United States,* 132 F. 2d 902 (1943), at page 79 of this booklet.

Local officials who fail to provide adequate protection may be liable to prosecution under Title 18, Section 241, as well as Section 242 of the United States Code, which makes anyone liable to criminal prosecution and punishment who, under color of any state law, deprives another person of any rights guaranteed or protected by the Supreme Court of the United States.

When the local officials take no steps to protect you against mob violence or when they connive with or permit assaults by mobsters, you should make a report of all the facts to the Branch office of the Society, giving names of as many persons as possible who participated in the mob. Also you should send the names of the officials who failed to give protection or who were in collusion with the mobsters. Send in any available photographs of the mobsters and officials involved.

In the United States three copies of this report should be prepared and sent to the Society for forwarding to the Department of Justice at Washington, D.C., with request that the federal government take action against the delinquent officials as well as the mobsters who caused injury to Jehovah's witnesses and their property.

DAMAGE SUITS

Often one of Jehovah's witnesses may feel that because he has been mistreated or injured by loss of his liberty through wrongful imprisonment as a result of preaching the gospel he should bring a damage suit. Damage suits to redress the deprivation of liberty lost as a result of preaching should not be instituted except in unusual cases. No damage suit involving arrest growing out of preaching the gospel should be brought without first submitting the facts to the Society and receiving instructions as to what course to take.

Personal injury and other damages sustained by a person in his private business, such as while driving an automobile or taking care of other personal matters, are not included within this advice. That is entirely a personal matter and does not involve the Society. What action is to be taken in such cases is for the individual involved alone to decide.

PERSONS INVOLVED IN COURT CASES

Before a pioneer or other person who is involved in a lawsuit or prosecution arising from the witness work moves from that territory, he should communicate with the Society and explain that he is involved in legal action pending in his territory. If moving will not jeopardize the case or the person can return for trial without undue expense and inconvenience, the Society will consent to his moving. Before such change is made, however, it is best that consent be obtained from the Society's Branch office.

AVOIDING DIFFICULTIES BY TACTFULNESS

Apartment Houses

In working office buildings, apartment houses, private housing projects, trailer camps and tourist camps, government reservations, company towns, and other similar places, we should exercise great tact and discretion. At all times we should be polite and courteous. We should not cause disturbance by persistence at the doors of the people or by loud talking. We should avoid prolonged arguments with managers or caretakers of such places.

When you are commanded to stop calling from door to door in an apartment building or similar place you should try to explain your legal right to call from door to door. If, after you attempt to do so, the one in charge insists on your leaving, you should decide for yourself whether you want to leave and return at a later date. Whether you want to remain or return later to avoid the caretaker is for you to determine. If there is no opportunity to settle the right to work in the building at a later date, it would be your privilege to say whether you will remain and continue calling from door to door to force the controversy into the courts.

Often disputes over the right to call from door to door result in disturbances which lead to calling the police. This can sometimes be avoided by your gracefully withdrawing and returning at another time. If the one in charge of the building threatens to do physical violence it is much better to retreat for the time than to remain. Should he attempt to do violence you might be "framed" in a fighting case which might be very difficult to defend.

Hotels

Hotels stand on an entirely different legal basis than do apartment buildings. The owner of an apartment house does not have an absolute right to exclude Jehovah's witnesses and prevent our calling from door to door. A hotel operator may do so because he is on a different basis. He is not a

mere landlord; he is an innkeeper. People who reside in a hotel do not have the same rights as do tenants in an apartment building. Residents of hotels are guests. The hotel is very much like a private institution, such as a private club or a fraternity house. We do not have an absolute right to call upon the guests. If the manager of the hotel insists that the work be discontinued, the issue should not be forced as with the owner of an apartment building. When we are requested to leave a hotel we should depart without waiting until the one in charge calls the police.

Sound Devices

For many years sound devices have been used by Jehovah's witnesses at conventions, in halls for assemblies and at open-air meetings. We have also used them to advertise public meetings by extending invitations to attend, by calling attention to the distribution of literature upon the streets by Jehovah's witnesses and by making announcements.

The Society does not now request the use of sound devices on the streets. It is up to each individual congregation to decide for itself whether to use the sound-cars or sound equipment on the public streets of the towns in its territory. If sound devices are used on the streets (as distinguished from the parks), then certain important considerations should be taken into account.

Sound equipment should not be used on the streets unless and until the congregation has determined what are the local laws in respect to such use. Then, before using the sound-car, send in to the Society copy of the ordinance or local law governing the use of sound devices. Counsel for the Society will advise you as to whether the law should be complied with and, if so, to what extent and under what circumstances.

While a law requiring a permit before a sound device can be used in a park may be unconstitutional and an abridgment of freedom of speech and worship, it is, nevertheless, not advisable to make use of a sound device at a public meeting in a park without first ascertaining what are the local laws in respect to the use of sound devices in the park. Copies of these laws should be sent in to the Society. Counsel can then advise you as to their validity and to what extent they should be complied with before you proceed to use the sound-amplifying device.

Parks and Public Auditoriums

If the local officials will give unconditional and unrestricted permits to Jehovah's witnesses to use the public parks, public auditoriums or public schoolhouses for the holding of

assemblies or public meetings, then an application in writing should be made for such facilities. If the congregation does not know how to make an adequate application the Society will be glad to assist in preparing a proper application.

In event the local officials will not grant satisfactory or unrestricted use of the public facilities, then, before forcing the issue into the courts, you should bring the matter to the attention of the Society. Send along with your report a copy of the rules and regulations, ordinances or bylaws of the officials having control. Counsel for the Society will then advise you whether the regulation should be complied with and to what extent.

If the local authorities will grant permission to use a park, auditorium or schoolhouse for assembly or public meeting purposes on a basis satisfactory to you, then go ahead and apply for the facilities without communicating with the Society.

Public Street Preaching

We have the absolute right to preach publicly upon the streets. This right was employed by the Lord Jesus and his apostles. From time immemorial the streets have been used as a place for public discussion by anyone who desired to make use of them. The fact that you have an absolute right to use the streets to preach does not give you the prerogative of abusing the right. You should not block the sidewalk. It is not appropriate to stand in the middle of the sidewalk. You should not block doorways or display windows. The appropriate place to stand in the distribution of handbills and literature is near the curb facing the building or the passers-by, or else slowly move along the sidewalk with the other pedestrians and offer the literature to whomever you meet.

If a crowd gathers around you and this tends to block the passageway, move along and away from the crowd if ordered to do so by a policeman. If you are standing on the sidewalk and a crowd has not gathered as a result of your distribution of literature and the passageway of the sidewalk remains open, then there would be no obligation on your part to move when ordered to do so by the officer or any other person such as a storekeeper. In order to avoid gathering a crowd it would, however, be advisable to move a short distance or walk back and forth along the sidewalk rather than stand still. Standing still when a crowd gathers may cause or give rise to a false charge that you blocked the sidewalk.

CONCLUSION

We, Jehovah's witnesses, do not ask the officials for special favors or to themselves violate the law for us. We merely request that the officials treat us as the officials themselves desire to be treated in similar circumstances. Practicing such policy of fairness, the officers will not misuse their good offices to aid and abet the religious fanatics and clergy who oppose the good news. The police and officials should, therefore, administer equal justice under the law. Equal administration of the law requires them to find, as have the judges quoted from in this booklet, that Jehovah's witnesses are a legal organization of ministers and missionaries whose preaching activity is entirely lawful, entitling us to all the benefits enjoyed by the clergy under the law. The officials should, therefore, accord to us the same protection from persecution that is granted by law to the clergy of the popular and orthodox religious organizations. As required by law, they would then treat us as they treat their own clergy.

Equality in dealing with us, Jehovah's witnesses, and allowing us full freedom of worship granted by the fundamental law will avoid disturbances in the community or trouble for the state and for us. Granting such freedom, moreover, will bring blessings to the officials from Jehovah God. We desire that all the officials with whom we deal learn a course of action that will mean escape from adverse judgment by Jehovah God. For permitting us freedom to preach from door to door and publicly upon the streets the officials are promised by Christ Jesus that they will receive this favorable consideration: "Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me. . . . And these shall go away . . . into life eternal." (Matt. 25:31-46) In thus granting us equal protection of the laws, the officials will join us in the defending and legally establishing of the good news.—Phil. 1:7.

Respectfully submitted,

HAYDEN C. COVINGTON, Lawyer

124 Columbia Heights
Brooklyn 2, New York

General Counsel for Jehovah's witnesses
and Watch Tower Bible and Tract Society

APPENDIX

This booklet does not include all the cases adjudicating the rights of Jehovah's witnesses to preach. A multitude of other decisions were not discussed. The outstanding or principal cases are listed below. These decisions invalidate or hold inapplicable to the work of Jehovah's witnesses laws or the construction and application of laws to prohibit—

(1) Literature or speech attacking and criticizing religion;
(2) Knocking on doors or ringing doorbells;
(3) Preaching in apartment houses against the wishes of the manager;
(4) Truancy of children and delinquency of parents where children were expelled from school for refusal to salute flag;
(5) Child labor by children of Jehovah's witnesses who distribute literature;
(6) Peddling, soliciting, hawking and commercial selling of goods, wares and merchandise;
(7) Disturbance or breach of the peace, disorderly conduct, or being a disorderly person;
(8) Annoyance and malicious vexation;
(9) Loitering on streets and blocking sidewalks;
(10) Door-to-door calling or preaching;
(11) Refusal to participate in a school flag salute ceremony;
(12) Preaching from door to door or on the streets of a company-owned or privately-owned town or in a housing project;
(13) Calling at homes or from door to door without previous invitations to visit;
(14) Street distribution of literature, handbills and printed invitations;
(15) Preaching without payment of a fee;
(16) Preaching without payment of a license tax;
(17) Speaking or holding a meeting in a park without a permit;
(18) Carrying placards or advertisement on person or on automobiles;
(19) Preaching without registering business with police;
(20) Distribution in a zoned area or on a restricted street where work prohibited but allowed elsewhere;
(21) Selling without complying with the sales tax laws;
(22) Use of school buildings for public meetings;
(23) Speech or literature against the government or which is called seditious;
(24) Commercial work on Sunday contrary to the sabbath laws;
(25) Trespass on real property of another;
(26) Distribution without approval of or a permit from a local or state official;
(27) Use of a sound-amplifying device in a public park by a speaker without a permit;
(28) One of Jehovah's witnesses from keeping children and property when sued by a departing husband or wife.

Following the citations of decisions listed below are numbers in bold type in parentheses which indicate the nature of the case and what the court held. To determine the ruling or holding, find in the above list the number which corresponds to the number in bold type below, following the citation. In cases where the court has granted an injunction against the officials, stopping them from interfering with Jehovah's witnesses, the word "injunction" appears in parentheses. An asterisk (*) before the name of a case indicates that Jehovah's witnesses were not involved.

1. Adelaide Company of Jehovah's witnesses, Inc. v. the Commonwealth of Australia
   67 C. L. R. 116 (1943) (**23**)
2. Archer v. First Criminal Judicial District Court of the County of Bergen
   10 N. J. Misc. 1159, 162 A. 914 (1932) (**7, 9,** door to door)
3. Barnette v. West Virginia State Board of Education
   47 F. Supp. 251 (S.D., W.Va., 1942) (**11,** injunction)
4. Beaufort, City of, v. Rickenbaker
   197 S. C. 431, 15 S. E. 2d 677 (1941) (**7,** door to door)
5. Beeler v. Smith
   40 F. Supp. 139 (E.D., Ky., 1941) (**23,** injunction)
6. Berry v. City of Hope
   205 Ark. 1105, 172 S. W. 2d 922 (1943) (**16, 6**)
7. Blue Island, City of, v. Kozul
   379 Ill. 511, 41 N. E. 2d 515 (1942) (**16, 6,** street)
8. Bolling v. Superior Court for Clallam County
   16 Wash. 2d 373, 133 P. 2d 803 (1943) (**11, 4**)
9. Borchert v. City of Ranger
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