U.S. Supreme Court

Cantwell v. Connecticut, 310 U.S. 296 (1940)

Cantwell v. Connecticut

No. 632

Argued March 29, 1940

Decided May 20, 1940

310 U.S. 296

*APPEAL FROM AND CERTIORARI TO THE SUPREME COURT*

*OF ERRORS OF CONNECTICUT*

# Syllabus

1. The fundamental concept of liberty embodied in the Fourteenth Amendment embraces the liberties guaranteed by the First Amendment. P. 310 U. S. 303.

2. The enactment by a State of any law respecting an establishment of religion or prohibiting the free exercise thereof is forbidden by the Fourteenth Amendment. P. 310 U. S. 303.

3. Under the constitutional guaranty, freedom of conscience and of religious belief is absolute; although freedom to act in the exercise of religion is subject to regulation for the protection of society. Such regulation, however, in attaining a permissible end, must not unduly infringe the protected freedom. Pp. 310 U. S. 303-304.

4. A state statute which forbids any person to solicit money or valuables for any alleged religious cause, unless a certificate therefor shall first have been procured from a designated official, who is required to determine whether such cause is a religious one and who may withhold his approval if he determines that it is not, is a previous restraint upon the free exercise of religion, and a deprivation of liberty without due process of law in violation of the Fourteenth Amendment. P. 310 U. S. 304.

So *held* as it was applied to persons engaged in distributing literature purporting to be religious, and soliciting contributions to be used for the publication of such literature.

A State constitutionally may, by general and nondiscriminatory legislation, regulate the time, place and manner of soliciting upon its streets, and of holding meetings thereon, and may in other respects safeguard the peace, good order and comfort of the community. **[p. 297]** The statute here, however, is not such a regulation. If a certificate is issued, solicitation is permitted without other restriction; but if a certificate is denied, solicitation is altogether prohibited.

5. The fact that arbitrary or capricious action by the licensing officer is subject to judicial review cannot validate the statute. A previous restraint by judicial decision after trial is as obnoxious under the Constitution as restraint by administrative action. P. 310 U. S. 306.

6. The common law offense of breach of the peace may be committed not only by acts of violence, but also by acts and words likely to produce violence in others. P. 310 U. S. 308.

7. Defendant, while on a public street endeavoring to interest passerby in the purchase of publications, or in making contributions, in the interest of what he believed to be true religion, induced individuals to listen to the playing of a phonograph record describing the publications. The record contained a verbal attack upon the religious denomination of which the listeners were members, provoking their indignation and a desire on their part to strike the defendant, who thereupon picked up his books and phonograph and went on his way. There was no showing that defendant's deportment was noisy, truculent, overbearing, or offensive; nor was it claimed that he intended to insult or affront the listeners by playing the record; nor was it shown that the sound of the phonograph disturbed persons living nearby, drew a crowd, or impeded traffic.

*Held,* that defendant's conviction of the common law offense of breach of the peace was violative of constitutional guarantees of religious liberty and freedom of speech. Pp. 310 U. S. 307 *et seq.*

126 Conn. 1; 8 A.2d 533, reversed.

APPEAL from, and certiorari (309 U.S. 626) to review, a judgment which sustained the conviction of all the defendants on one count of an information and the conviction of one of the defendants on another count. The convictions were challenged as denying the constitutional rights of the defendants. **[p. 300]**