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CONSTITUTIONAL LAW—LIMITATION OF CONSTITUTIONAL GUARANTEE OF FREEDOM OF RELIGION

Defendant, a member of Jehovah's Witnesses, entered an apartment house for the purpose of circulating religious pamphlets and publicizing a lecture. A rule, agreed upon orally by the tenants and the landlord, prohibited any visitors from calling upon a tenant unless their names were confirmed and their visits announced from the desk in the lobby. Defendant ignored the rule, was warned, and then was arrested. He was convicted under VA, CODE ANN. §4480 (a) (Michie, 1942) which declares it to be an unlawful trespass "if any person shall without authority of law go upon or remain upon the land or premises of another, after having been forbidden to do so by the owner, lessee, custodian, or other person lawfully in charge or possession of such land." On appeal, *held*, affirmed. The only purpose of the statute is to protect rights of owners or those in lawful charge of property; the statute does not infringe upon freedom of speech, press, assembly, or worship as guaranteed by the Federal and Virginia Constitutions and the Virginia Statute of Religious Freedom, VA. CODE ANN. §34 (Michie, 1942). *Hall v. Commonwealth*, 188 Va. 72, 49 S. E. 2d 369 (1948); certiorari denied, 69 S. Ct. 240 (1948).

A person's right to exercise "religious freedom," which may be manifested by acts, ceases where it overlaps and transgresses the rights of others.¹ 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, aside from reasonable police and health regulations of time and manner of distribution, it must be fully preserved. Accordingly, a state or municipality cannot impose a license tax as a condition to the distribution of religious tracts and pamphlets upon the streets, sidewalks, or other public places.² A municipal ordinance forbidding any person to knock on doors, ring doorbells, or otherwise summon to the door the occupants of any residence for the purpose of distributing to them handbills or circulars, as applied to a person distributing advertisements for a religious meeting, is invalid under the Federal Constitution as a denial of freedom of speech and religion.³ A state statute prohibiting minors from selling magazines, newspapers, or periodicals in public places is not invalid as contravening freedom of religion when applied to the distribution of religious matter by minors.⁴ This is justified under the inherent power of the state to protect the health and safety of its children. A so-called "trespass after warning" statute (similar to the Virginia statute here involved) is constitutionally inapplicable to the streets of a company-owned town,⁵ or those of a village owned by the federal government.⁶ On a set of facts similar to those of the principal

case, except that the prohibition was written into the lease, the Court of Appeals of New York denied that such a regulation violated freedom of speech or worship.⁷ The distinction is made that the regulation is effective only inside the apartment buildings and not on the streets. The regulation is for the protection of private property and the right of privacy. The rule did not absolutely debar these ministers from their visits in the building and their persuasions therein, since such were allowed whenever a tenant so desired and expressed his desire. The inner hallways of an apartment house cannot be regarded in the same light as public streets and cannot be considered places of public assembly. In the words of Mr. Justice Jackson, "The real question is where their rights end and the rights of others begin."⁸ One line is here drawn: there is no right to go beyond the streets and into abutting homes against the wishes of the occupants or owners.

FOOTNOTES

1. See *Jones v. City of Moultrie*, 196 Ga. 526, , 27 S. E. 2d 39, 42 (1943).
2. *Murdock v. Pennsylvania*, 319 U. S. 105 (1943).
3. *Martin v. City of Struthers*, 319 U. S. 141 (1943).
4. *Prince v. Massachusetts*, 321 U. S. 158 (1944).
5. *Marsh v. Alabama*, 326 U. S. 501 (1946).
6. *Tucker v. Texas*, 326 U. S. 517 (1946).
7. *Watchtower Bible and Tract Society v. Metropolitan Life Insurance Co.*, 297 N. Y. 339, 79 N. E. 2d 433 (1948).
8. See *Douglas v. City of Jeannette*, 319 U. S. 157, 178 (1943) (concurring opinion).

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