STRATTON, OHIO, U.S.A., is a small community located near the Ohio River, which separates Ohio from West Virginia. It is defined as a village and has a mayor. This small community of fewer than 300 inhabitants suddenly became a center of controversy in 1999 when the authorities there tried to obligate Jehovah's Witnesses, among others, to obtain a permit before visiting the homes of the local people with their Bible-based message.

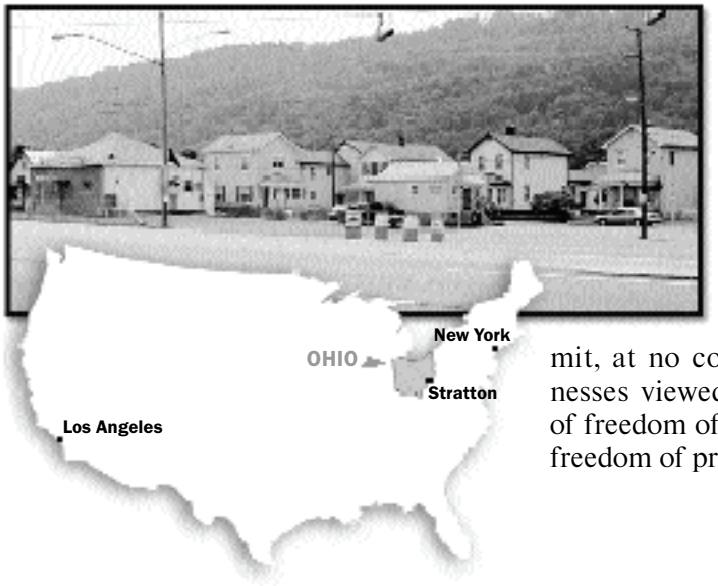
Why is this an important issue? As our account develops, you will see that this type of governmental ordinance and control would effectively limit the free-speech rights of not just Jehovah's Witnesses but all who live in the United States.

THE ISSUE
HOW IT ALL BEGAN

How the Conflict Developed

The residents of Stratton had been visited for years by ministers of the local Wellsville Congregation of Jehovah's Witnesses, who had had problems with a few local officials regarding such house-to-house ministry ever since 1979. In the early 1990's, a local police officer chased a group of Witnesses out of town, stating: "I couldn't care less about your rights."

The matter came to a head in 1998 when the mayor of Stratton personally confronted four of Jehovah's Witnesses. They were driving out of the village after having returned there to speak with residents who had shown interest in having Bible-based discussions. According to one of the women who was confronted, the mayor stated that if they were men, he would put them in jail.



The source of the latest conflict was a village ordinance "Regulating Uninvited Peddling and Solicitation Upon Private Property," which required anyone wishing to engage in door-to-door activity to obtain a permit, at no cost, from the mayor. Jehovah's Witnesses viewed this ordinance as an infringement of freedom of speech, free exercise of religion, and freedom of press. Therefore, they brought a lawsuit

in federal court after the village refused to modify their enforcement of this ordinance.

On July 27, 1999, a hearing was held before a U.S. district court judge for the Southern District of Ohio. He upheld the constitutionality of the village's permit ordinance. Thereafter, on February 20, 2001, the U.S. Court of Appeals for the Sixth Circuit likewise affirmed the constitutionality of the ordinance.

For the issue to be settled, the Watchtower Bible and Tract Society of New York along with the local Wellsville Congregation of Jehovah's Witnesses requested that the U.S. Supreme Court review the case.

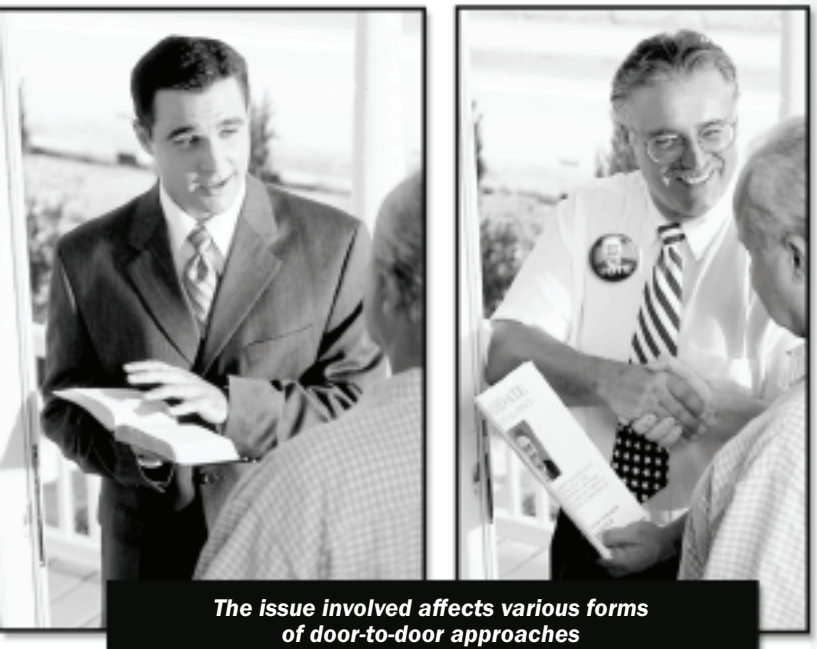
THE SUPREME COURT ACCEPTS THE CASE

IN RECENT YEARS, the Supreme Court has annually accepted for formal written opinions some 80 to 90 cases out of more than 7,000 requests—a little over 1 percent!

In May 2001, Jehovah's Witnesses filed their Petition for a Writ of Certiorari (permission to review the case) to the Supreme Court, asking: "Are religious ministers engaged in a Scripturally based centuries-old practice of communicating their religious beliefs from door to door constitutionally equivalent to peddlers of merchandise, subject to the prior restraint of obtaining municipal permission to speak about the Bible or offer Bible-based literature at no cost?"

On October 15, 2001, Watchtower's Legal Department was notified that the U.S. Supreme Court had accepted *Watchtower*

Photograph by Franz Jantzen, Collection of the Supreme Court of the United States



The issue involved affects various forms of door-to-door approaches

Bible and Tract Society of New York, Inc., et al. v. Village of Stratton et al. for review!

The Court limited its acceptance of the case to a specific freedom of speech issue, that is, whether the First Amendment's protection of free speech includes the right of people to speak to others about a cause without first having to identify themselves to some governmental authority.

Now the case would have to be argued orally in front of the nine justices of the U.S. Supreme Court. The Witnesses would have their lawyers; and the Village of Stratton, its opposing team. How would matters turn out in that forum?

WHAT IS THE FIRST AMENDMENT?

"AMENDMENT I (THE ESTABLISHMENT OF RELIGION; FREEDOM OF RELIGION, SPEECH, PRESS, ASSEMBLY, PETITION) Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." —*The U.S. Constitution.*

"The First Amendment is the basis of the democratic process in the United States. The First Amendment forbids Congress to pass laws restricting freedom of speech, of the press, of peaceful assembly, or of petition. Many people consider freedom of speech the most important freedom and the foundation of all other freedoms. The First Amendment also forbids Congress to pass laws establishing a state religion or restricting religious freedom." (*The World Book Encyclopedia*) Interestingly, in *Cantwell v. Connecticut,* 310 U.S. 296 (1940), a landmark decision also involving Jehovah's Witnesses, the U.S. Supreme Court ruled that the First Amendment's guarantees preclude not just "Congress" (the federal government) but also local authorities (state and municipal) from passing laws that would unconstitutionally infringe on First Amendment rights.

THE FIRST HURDLE
ORAL ARGUMENT BEFORE THE SUPREME COURT

Chief Justice Rehnquist

THE DATE SET for the oral argument before Chief Justice William Rehnquist and eight associate justices of the Supreme Court was February 26, 2002. The interests of Jehovah's Witnesses were represented by a team of four attorneys.

The lead attorney for the Witnesses opened his argument with an attention-grabbing introduction: "It's 11:00 Saturday morning in the Village of Stratton. [He then knocked three times on the lectern.] 'Good morning. In light of recent events, I've made a special effort to come to your door to speak to you about what the Prophet Isaiah has referred to as something better. That's the good news Christ Jesus spoke about, the good news of the Kingdom of God.'"

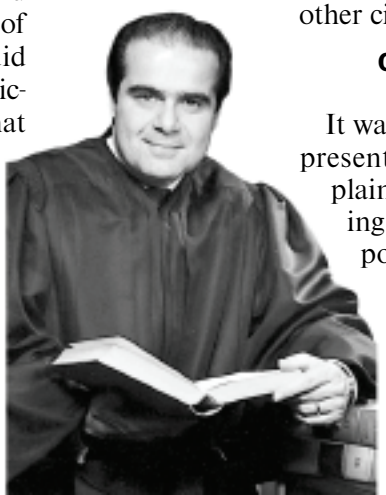
He continued: "It is a criminal act to go from door to door in the Village of Stratton and deliver that message unless one has first obtained a permit from the village to do so."

'You Don't Ask for Money?'

Justice Stephen G. Breyer raised some pointed questions for the Witnesses. He asked: "Is it the case that your clients don't ask for any money, not a penny, and [that] they don't sell Bibles, and they're not selling anything, all that they do is say, 'I want to talk to you about religion'?"

The attorney for the Witnesses answered: "Your Honor, the record is absolutely clear, in the Village of Stratton, Jehovah's Witnesses did not ask for money. In other jurisdictions the record is equally clear that sometimes they will mention a voluntary donation. . . . We are not seeking a solicitation of funds. We're merely seeking to talk to people about the Bible."

Justice Breyer



Justice Scalia

Government Permission Needed?

Justice Antonin Scalia perceptively asked: "Isn't your position that you don't have to go to the mayor and ask for permission to talk to a neighbor about something that's interesting?" The Witnesses' attorney replied: "We don't believe that this Court should sanction a regulation of a Government that requires one citizen to get a license to speak to another citizen at that citizen's home."

Change of Arguments, Change of Mood

It was now time for the Village to present its case. Lead counsel explained Stratton's ordinance, saying: "Stratton is exercising its police power when it seeks to protect the privacy of its res-

Rehnquist: Collection, The Supreme Court Historical Society/Dane Penland; Breyer: Collection, The Supreme Court Historical Society/Richard Strauss; Scalia: Collection, The Supreme Court Historical Society/Joseph Lavenburg

idents, when it seeks to deter crime. The no canvassing or soliciting on private property ordinance simply requires preregistration and the carrying of a permit during the course of the door-to-door activity."

Justice Scalia went immediately to the heart of the matter when he asked: "Do you know any other case of ours [the Supreme Court] that has even involved an ordinance of this breadth, that involves solicitation, not asking for money, not selling goods, but even, you know, 'I want to talk about Jesus Christ,' or 'I want to talk about protecting the environment?' Have we had a case like that?"

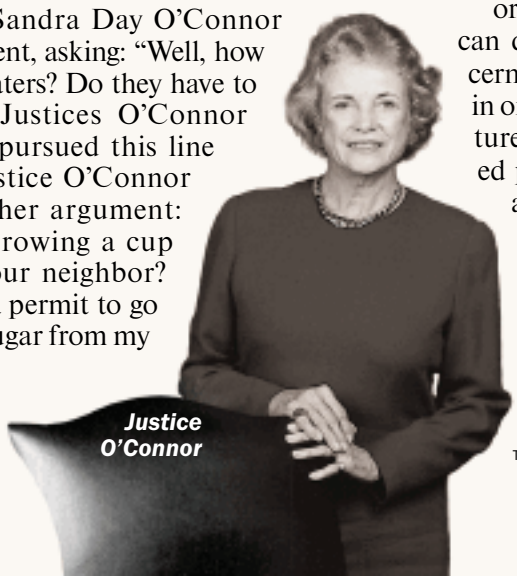
Justice Scalia continued: "I don't even know of such cases, over two centuries." To which Chief Justice Rehnquist quipped: "You haven't been around that long." That provoked laughter in the courtroom. Justice Scalia pressed his argument: "The breadth of this thing is novel to me."

A Beautiful Idea?

Justice Anthony M. Kennedy asked a pointed question: "You think it's a beautiful idea that I have to ask the Government for permission before I go down the block, where I don't know all of the people, [and] I say, I want to talk to you because I'm concerned about the garbage pick-up, because I'm concerned about our Congressman, whatever. I have to ask the Government before I can do that?" He added, "It's astounding."

Justice Kennedy

Then Justice Sandra Day O'Connor joined the argument, asking: "Well, how about trick-or-treaters? Do they have to get a permit?" Justices O'Connor and Scalia both pursued this line of reasoning. Justice O'Connor introduced another argument: "How about borrowing a cup of sugar from your neighbor? Do I have to get a permit to go borrow a cup of sugar from my neighbor?"



Justice O'Connor

Are the Witnesses Canvassers?

Justice David H. Souter asked: "Why are Jehovah's Witnesses covered? Are they canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services? They're none of those, are they?" The Village's counsel quoted the ordinance at length and added that the lower court had defined Jehovah's Witnesses as canvassers. To this, Justice Souter rejoined: "So you have a very broad definition of canvassers, if it includes Jehovah's Witnesses."

Justice Souter

Justice Breyer then quoted the dictionary definition of a canvasser to show that it did not apply to the Witnesses. He added: "I haven't read anything in your brief that says what the purpose is for requiring these people [Jehovah's Witnesses] who are not interested in money, not interested in selling, not even interested in votes, to go to the city hall and register. What's the city's purpose?"

The "Privilege" of Communication

The Village then argued that "the city's purpose is to prevent annoyance of the property owner." He clarified further that it was to protect the residents from fraud and criminals. Justice Scalia quoted the ordinance to show that the mayor can demand further information concerning the registrant and his purpose in order "to accurately describe the nature of the privilege desired." He added pointedly: "The privilege of going about to persuade your fellow citizens about one thing or another —I just can't understand that."

Justice Scalia again pressed: "So should you require everybody who rings a doorbell to get

Kennedy: Collection, The Supreme Court Historical Society/Robin Reid; O'Connor: Collection, The Supreme Court Historical Society/Richard Strauss; Souter: Collection, The Supreme Court Historical Society/Joseph Bailey

Courtroom interior
Photograph by Franz Jantzen, Collection of the Supreme Court of the United States

fingerprinted at city hall before [he] can ring a doorbell? That minor risk of a crime occurring is enough to require everybody who wants to ring a doorbell to register at city hall? Of course it isn't."

Residents Protected?

With his 20 minutes expired, counsel for the Village handed over the argument to the solicitor general for the state of Ohio. He argued that the no-solicitation ordinance protected the residents from visits by a stranger, "certainly an uninvited person, [who] is here on my property . . . and I think the village is entitled to say, 'We're concerned about that kind of activity.'"

Justice Scalia then observed: "The village is saying even those people who welcome Jehovah's Witnesses, they're sitting there lonely, they would love to talk to somebody about anything, and these people [Jehovah's Witnesses] still have to go register with the mayor to get the privilege of ringing their doorbell."

"A Very Modest Restriction"

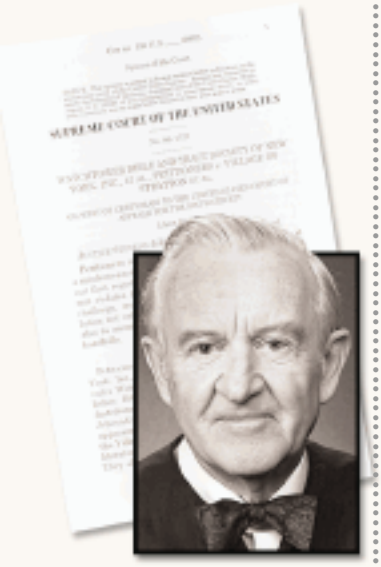
During the questioning Justice Scalia made a powerful point when he said: "We can all stipulate that the safest societies in the world are totalitarian dictatorships. There's very little crime. It's a common phenomenon, and one of the costs of liberty is to some extent a higher risk of unlawful activity, and the question is whether what this is directed at stops enough unlawful activity to be worth the cost of requiring the privilege of ringing somebody's doorbell." Then the solicitor general responded that "it's a very modest restriction." Justice Scalia countered that it was so modest that "we can't find a single case reporting a single municipality that has ever enacted an ordinance of that type. I don't think that's modest."

Finally, under pressure from one of the justices, the solicitor general had to admit: "I'd be hesitant to say you can have an outright ban on ringing doorbells or knocking." On that note, his argument ended.

During rebuttal, the Witnesses' attorney pointed out that the ordinance had no verification mechanism. "I can go to the village hall and say, 'I'm [So-and-so],' and get a permit and go from door to door." He also pointed out that the mayor has the power to refuse to issue a permit to a person who says that he is unaffiliated with an organization. "We believe that this is manifestly exercise of discretion," he said and added: "I respectfully suggest that our [Jehovah's Witnesses'] activity indeed lies at the heart of the First Amendment."

Shortly after this, Chief Justice Rehnquist closed the oral arguments, saying: "The case is submitted [to the Supreme Court]." The whole process had taken just over an hour. How important that hour was would be shown in the written judgment that was announced in June.

SUPREME COURT RULES FOR FREEDOM OF SPEECH



Justice Stevens

Stevens: Collection, The Supreme Court Historical Society/Joseph Bailey

THE DECISIVE DAY came on June 17, 2002, when the Supreme Court published its written opinions. What was the decision? Newspaper headlines told the story. *The New York Times* proclaimed: "Court Strikes Down Curb on Visits by Jehovah's Witnesses." *The Columbus Dispatch* of Ohio stated: "High Court Invalidates Permit Requirement." *The Plain Dealer* of Cleveland, Ohio, simply said: "Solicitors Don't Need OK From City Hall." The Op/Ed page of *USA Today* proclaimed: "Free Speech Wins."

The lower-court decisions against Jehovah's Witnesses were reversed by a vote of 8 to 1! The official 18-page Opinion of the Court was written by Justice John Paul Stevens. The decision was a sweeping reaffirmation of the First Amendment protection accorded the public ministry of Jehovah's Witnesses. In its review the Court explained that the Witnesses did not apply for a permit because they claim that "they derive their authority to preach from Scripture." Then the Court quoted the testimony cited in their brief: "For us to seek a permit from a municipality to preach we feel would almost be an insult to God."

The Opinion of the Court stated: "For over 50 years, the Court has invalidated restrictions on door-to-door canvassing and pamphleteering. It is more than historical accident that most of these cases involved First Amendment challenges brought by Jehovah's Witnesses, because door-to-door canvassing is mandated by their religion. As we noted in *Murdock v. Pennsylvania*, . . . (*1943*), the Jehovah's Witnesses 'claim to follow the example of Paul, teaching "publicly, and from house to house." Acts 20:20. They take literally the mandate of the

"JEHOVAH'S WITNESSES HAVE DONE IT AGAIN"

Charles C. Haynes, senior scholar and director of education programs at the First Amendment Center, wrote the above words on the Freedom Forum Web site, under the title "The Freedom of Faith." Haynes continued: "Last week [the Witnesses] chalked up their 48th Supreme Court victory—an extraordinary line of cases that have significantly expanded First Amendment protections for all Americans." He cautioned: "Remember this: If the government can restrict the freedom of one faith, it has the power to restrict the freedom of any faith—or all faiths. . . . Of course, people have a right not to listen—and to close the door. But the government shouldn't have the authority to decide who gets to knock on the door. So two cheers for the Supreme Court."

Haynes concludes: "We all owe the Jehovah's Witnesses a debt of gratitude. No matter how many times they're insulted, run out of town, or even physically attacked, they keep on fighting for their (and thus our) freedom of religion. And when they win, we all win."

THE SUPREME COURT DECISION —WHAT THE PRESS SAID

Chicago Sun-Times

■ **"Court Backs Jehovah's Witnesses; Door-to-Door Ministry Doesn't Require a Permit**

In a life of knocking on doors as Jehovah's Witnesses, [the Witnesses] always believed they had God behind them. Now they have the U.S. Supreme Court, as well."—***Chicago Sun-Times,*** June 18, 2002.

USA TODAY
NO. 1 IN THE USA

■ **"Free Speech Wins**

The next time some Jehovah's Witnesses interrupt your dinner, you might consider thanking them. In gritty dedication to their religious principles, this out-of-the-mainstream denomination of scarcely 1 million members [in the United States] has probably done more than any other institution to secure freedom of speech for individual Americans. . . .

"For the Witnesses, going to the high court is a familiar routine. In more than two dozen cases over 65 years, they've effectively fought against the tyranny of the majority."—***USA TODAY,*** June 18, 2002.

Scriptures, "Go ye into all the world, and preach the gospel to every creature." Mark 16:15. In doing so they believe that they are obeying a commandment of God.' "

The Opinion then quoted again from the 1943 case: "This form of religious activity occupies the same high estate under the First Amendment 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." Quoting a 1939 case, the Opinion stated: "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."—Italics theirs.

The Court then made a significant observation: "The cases demonstrate that efforts of the Jehovah's Witnesses to resist speech regulation have not been a struggle for their rights alone." The Opinion explained that the Witnesses "are not the only 'little people' who face the risk of silencing by regulations like the Village's."

The Opinion went on to state that the ordinance "is offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so. . . . A law requiring a permit to engage in such speech constitutes a dramatic departure from our national heritage and constitutional tradition." The Opinion then spoke of "the pernicious effect of such a permit requirement."

Threat of Crimes

What about the view that the permit is a safeguard against burglars and other criminals? The Court argued: "Despite recognition of these interests as legitimate, our precedent is clear that there must be a balance between these interests and the effect of the regulations on First Amendment rights."

The Court's Opinion continued: "It seems unlikely that the absence of a permit would preclude criminals from knocking on doors and engaging in conversations not covered by the ordinance. They might, for example, ask for directions or permission to use the telephone, . . . or they might register under a false name with impunity."

Harking back to decisions of the 1940's, the Court wrote: "The rhetoric used in the World War II-era opinions that repeatedly saved petitioners' [Watch Tower Society] coreligionists from petty prosecutions reflected the Court's

evaluation of the First Amendment freedoms that are implicated in this case."

What was the Court's conclusion? "The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. *It is so ordered.*"

Thus, the end of the matter was, as stated in the *Chicago Sun-Times,* "Court Backs Jehovah's Witnesses," and that by a majority of 8 to 1.

What of the Future?

How have Jehovah's Witnesses in the nearby Wellsville Congregation viewed this victory in the Supreme Court? There certainly is no reason to boast about it at the expense of the inhabitants of Stratton. The Witnesses harbor no ill will toward the good people of the village. Gregory Kuhar, a local Witness, said: "This court case was not something that we wanted to do. The ordinance in itself was just wrong. What we did was not just for us, but for everyone."

The facts show that the Witnesses have gone out of their way not to provoke the local people. Gene Koontz, another Witness, explained: "The last time we preached in Stratton was March 7, 1998—well over four years ago." He added: "I was personally told that I would be arrested. We've had a lot of reports during the years of police threatening us with arrest. Then when we asked to see the ordinance in print, we never got an answer."

Koontz added: "We would rather have good relations with our neighbors. If some do not want us to visit them, we respect that decision. But there are others who are friendly and who welcome a conversation about the Bible."

Gregory Kuhar explained: "We didn't pursue this case to antagonize the people of Stratton. We simply wanted to establish legally our freedom of speech under the Constitution."

He continued: "Eventually, we hope to go back to Stratton. I'd be happy to be the first one to knock on a door when we return. In accordance with Christ's command, return we must."

The outcome of "Watchtower v. Village of Stratton" has had far-reaching effects. After learning of the Supreme Court decision, a number of U.S. municipal officials recognized that local ordinances could no longer be used to restrict the evangelizing work of Jehovah's Witnesses. To date, door-to-door preaching difficulties have been resolved in approximately 90 communities in the United States.

San Francisco Chronicle

■ **"Door-to-Door Soliciting Ruled Constitutional Right. Decision a Victory for Jehovah's Witnesses**

The U.S. Supreme Court ruled Monday that politicians, religious groups, the Girl Scouts and others have a constitutional right to go door-to-door promoting their causes without first getting permission from local officials."***—San Francisco Chronicle,*** June 18, 2002.

Star Tribune

■ **"Supreme Court: You Can't Keep Jehovah's Witnesses, Girl Scouts From Knocking**

WASHINGTON—The Constitution protects the right of missionaries, politicians and others to knock on doors without first getting permission from local authorities, the Supreme Court ruled today. . . .

"By a vote of 8 to 1, the court reasoned that the First Amendment right to free speech includes the entitlement to take a message directly to someone's door."***—Star Tribune,*** Minneapolis, June 18, 2002.