

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice”
Shelton v. Tucker, 364 U.S. 479 (1960)



In holding the ordinances invalid, the Court noted that, **where legislative abridgment of "fundamental personal rights and liberties" is asserted, "the courts should be astute to examine the effect of the challenged legislation.** 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."

308 U.S. at 308 U. S. 161. **In *Cantwell v. Connecticut*, 310 U. S. 296, the Court said that "[c]onduct remains subject to regulation for the protection of society,' but pointed out that, in each case, 'the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom."**

310 U.S. at 310 U. S. 304. Illustrations of the same constitutional principle are to be found in many other decisions of the Court, among them *Martin v. Struthers*, 319 U. S. 141; *Saia v. New York*, 334 U. S. 558, and *Kunz v. New York*, 340 U. S. 290.

[Footnote 4]

The actual holdings in *Adler* and *Beilan*, involving the validity of teachers' discharges, are not relevant to the present case.