

Leafletting, Handbilling, and the Like.—In *Lovell v. City of Griffin*,¹⁵²⁴ the Court struck down a permit system applying to the distribution of circulars, handbills, or literature of any kind. The First Amendment, the Court said, “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.”¹⁵²⁵ State courts, responding to what appeared to be a hint in *Lovell* that prevention of littering and other interests might be sufficient to sustain a flat ban on literature distribution,¹⁵²⁶ upheld total prohibitions and were reversed. “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 We are of the 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. Any burden imposed upon the city authorities in cleaning and caring for the streets as an indirect consequence of such distribution results from the constitutional protection of the freedom of speech and press.”¹⁵²⁷ In *Talley v. California*,¹⁵²⁸ the Court struck down an ordinance that banned all handbills that did not carry the name and address of the author, printer, and sponsor; conviction for violating the ordinance was set aside on behalf of one distributing leaflets urging boycotts against certain merchants because of their employment discrimination. The basis of the decision is not readily ascertainable. On the one hand, the Court celebrated anonymity. “Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all [I]dentification and fear of reprisal might deter perfectly peaceful discussions of public matters of importance.”¹⁵²⁹ On the other hand, responding to the city’s defense that the ordinance was aimed at providing a means to identify those responsible for fraud, false advertising, and the like, the Court noted that “the ordinance is in no manner so lim-

¹⁵²⁴ 303 U.S. 444 (1938).

¹⁵²⁵ 303 U.S. at 452.

¹⁵²⁶ 303 U.S. at 451.

¹⁵²⁷ *Schneider v. Town of Irvington*, 308 U.S. 147, 161, 162 (1939). The Court noted that the right to distribute leaflets was subject to certain obvious regulations, *id.* at 160, and called for a balancing, with the weight inclined to the First Amendment rights. *See also* *Jamison v. Texas*, 318 U.S. 413 (1943).

¹⁵²⁸ 362 U.S. 60 (1960).

¹⁵²⁹ 362 U.S. at 64, 65.