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Constitutional Law--Freedom of Speech, Press and Religion--Exclusion by Property Owner (Watchtower Bible & Tract Society, Inc. v. Metropolitan Life Insurance Company, 297 N.Y. 339 (1948))

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laterally attacking a foreign divorce decree in a civil or criminal proceeding initiated by it where both parties have appeared.[11]

E. V. W., JR.

CONSTITUTIONAL LAW—FREEDOM OF SPEECH, PRESS AND RELIGION—EXCLUSION BY PROPERTY OWNER.—Plaintiffs, members of the Jehovah's Witnesses sect, endeavor to interest people in their tenets by means of leaflets which they distribute, either on the streets or from door to door. They also disseminate their doctrines orally or with the aid of portable phonographs. The defendant, the owner of a housing project known as Parkchester, situated in the Bronx, in New York City, pursuant to authority granted it in its leases with its tenants, adopted a regulation prohibiting any person from entering any of its apartment buildings in order to solicit donations or contributions to any religious or other organization or to distribute pamphlets or tracts without the consent of the manager of the development. Such activities were permitted in the apartment of any tenant who gave his written consent. The plaintiffs attack this regulation as being an infringement upon their constitutional rights of freedom of speech, of the press and of worship.[1] The trial court dismissed the complaint and held that the regulation was reasonable and valid and not in violation of plaintiffs' rights. *Held,* dismissal affirmed. The Bill of Rights does not proscribe the reasonable regulation by an owner of conduct inside his multiple dwelling. *Watchtower Bible & Tract Society, Inc. v. Metropolitan Life Insurance Company,* 297 N. Y. 339, 79 N. E. 2d 433 (1948).

The plaintiffs contend that door-to-door preaching and distribution of bible literature is protected by the Constitution,[2] and such protection extends to multiple as well as single dwellings.[3] Therefore, argue the plaintiffs, this regulation is void, since it abridges fundamental freedoms by expressly prohibiting such door-to-door calls in Parkchester. In the cases cited by the plaintiffs to sustain

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[11] Mr. Justice Frankfurter, in writing the majority opinion in the second *Williams* case left the question, as to the right of a state to attack a foreign divorce decree, rendered in a truly adversary proceeding, open. An answer to that question was not necessary to the decision of the instant case, nor did the court by way of dictum answer it, unless the holding that the Florida decree is conclusive be deemed to preclude the state of Massachusetts as well as the parties. Mr. Justice Frankfurter, by voicing a strong dissent on the ground that the state should not be precluded, apparently felt that the question had been answered.

[1] U. S. CONST. AMENDS. I, XIV, § 1; NEW YORK CONST. Art. I, §§ 3, 8.

[2] Murdock v. Commonwealth of Pennsylvania, 319 U. S. 105, 87 L. ed. 1292 (1943); Martin v. City of Struthers, 319 U. S. 141, 87 L. ed. 1313 (1943).

[3] Marsh v. State of Alabama, 326 U. S. 501, 90 L. ed. 265 (1946); Tucker v. State of Texas, 326 U. S. 517, 90 L. ed. 274 (1946); Hague v. Committee for Industrial Organization, 307 U. S. 496, 83 L. ed. 1423 (1939).

their proposition, there were attempts by local governmental authorities to suppress distribution of literature by members of Jehovah's Witnesses in *public* places, and the various statutes or ordinances were held a form of censorship.[4] The United States Supreme Court has held invalid a ban on the issuance of literature in public places in the companion cases of *Marsh v. State of Alabama*[5] and *Tucker v. State of Texas*,[6] and it reiterated the doctrine that the plaintiffs had a right to distribute their literature upon the streets and to knock on doors abutting the streets.[7] But the real issue here has to do with the fact that title to the sidewalks was not in a municipality, but in others.[8]

In the instant case, the court, after analyzing the above cases, declares that *People v. Bohnke*[9] is still law in New York; and that it does not conflict with the United States Supreme Court, since its prohibition is not on dissemination of information in public places, but in private dwellings when there is objection on the part of the owner to receiving such information.

That a person has a right to distribute religious literature in public is now incontrovertible. But it is also equally clear from the present case and from prior determinations, that the decision as to whether or not one wishes to receive such literature in his household rests primarily upon the homeowner, which, according to the Supreme Court, is where it belongs.[10] The defendant's regulation in the present case accomplishes just that result; and, notwithstanding attacks made upon it, the time-honored maxim that a man's home is his castle continues to remain inviolate.

L. E. M.

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[4] Martin v. City of Struthers, 319 U. S. 141, 143, 144, 87 L. ed. 1313, 1317 (1943). The court in holding a city ordinance invalid said, "The ordinance does not control anything but the distribution of literature, and in that respect it substitutes the judgment of the community for the judgment of the individual householder."

[5] *Supra* note 3.

[6] *Supra* note 3.

[7] Martin v. City of Struthers, *supra* note 2; Jamison v. State of Texas, 318 U. S. 413, 87 L. ed. 869 (1943); Lovell v. City of Griffin, Ga., 303 U. S. 444, 82 L. ed. 949 (1938).

[8] The court determined the case on a previously enunciated doctrine that, regardless of who has the title to streets or parks, they have always been considered as being held in trust for the use of the public.

[9] 287 N. Y. 154, 38 N. E. 2d 478 (1941), *cert. denied*, 316 U. S. 667, 86 L. ed. 1743 (1942). Here, a village ordinance providing that, without the consent of the occupant, no person could enter upon private residential property for the purpose of distributing pamphlets, was held valid. The court said that none of the appellants' rights were infringed upon since the ordinance merely regulated their entry upon private property, and that the Constitution did not guarantee them the right to go freely upon private property when the householder objected.

[10] Martin v. City of Struthers, *supra* note 2.