

The First Amendment of the U.S. Constitution provides

"Congress shall make no law . . . abridging . . . the right of the people . . . to petition the government for redress of grievances."

The Georgia Constitution, Article I. The Bill of Rights,

Section I. Rights of Persons, Paragraph IX. Right to assemble and petition, provides that

"The people have the right . . . to apply by petition or remonstrance to those vested with the powers of government for redress of grievances."

U.S. Supreme Court

PRUNEYARD SHOPPING CENTER ET AL. v. ROBINS ET AL.

447 U.S. 74 (1980) * No. 79-289.

Argued March 18, 1980, Decided June 9, 1980.

Soon after appellees had begun soliciting in appellant privately owned shopping center's central courtyard for signatures from passersby for petitions in opposition to a United Nations resolution, a security guard informed appellees that they would have to leave because their activity violated shopping center regulations prohibiting any visitor or tenant from engaging in any publicly expressive activity that is not directly related to the center's commercial purposes. Appellees immediately left the premises and later filed suit in a California state court to enjoin the shopping center and its owner (also an appellant) from denying appellees access to the center for the purpose of circulating their petitions. The trial court held that appellees were not entitled under either the Federal or California Constitution to exercise their asserted rights on the shopping center property, and the California Court of Appeal affirmed. The California Supreme Court reversed, holding that the California Constitution protects speech and petitioning, reasonably exercised, in shopping centers even when the center is privately owned, and that such result does not infringe appellants' property rights protected by the Federal Constitution.

Held

1. This case is properly before this Court as an appeal under 28 U.S.C. 1257 (2). A state constitutional provision is a "statute" within the meaning of 1257 (2), and in deciding that the State Constitution gave appellees the right to solicit signatures on appellants' property, the California Supreme Court rejected appellants' claim that recognition of such a right violated their "right to exclude others," a fundamental component of their federally protected property rights. Pp. 79-80.

2. State constitutional provisions, as construed to permit individuals reasonably to exercise free speech and petition rights on the property of a privately owned shopping center to which the public is invited, do not violate the shopping center owner's property rights under the Fifth and Fourteenth Amendments or his free speech rights under the First and Fourteenth Amendments. Pp. 80-88.

(a) The reasoning in *Lloyd Corp. v. Tanner*, 407 U.S. 551 - which [447 U.S. 74, 75] held that the First Amendment does not prevent a private shopping center owner from prohibiting the distribution on center premises of handbills unrelated to the center's operations - does not ex proprio vigore limit a State's authority to exercise its police power or its sovereign right to adopt in its own constitution individual liberties more expansive than those conferred by the Federal Constitution. And a State, in the exercise of its police power, may adopt reasonable restrictions on private property so long as the restrictions do not amount to a taking without just compensation or contravene any other federal constitutional provision. Pp. 80-81.

(b) The requirement that appellants permit appellees to exercise state-protected rights of free expression and petition on shopping center property does not amount to an unconstitutional infringement of appellants' property rights under the Taking Clause of the Fifth Amendment, appellants having failed to demonstrate that the "right to exclude others" is so essential to the use or economic value of their property that the state-authorized limitation of it amounted to a "taking." *Kaiser Aetna v. United States*, 444 U.S. 164, distinguished. And there is no merit to appellants' argument that they have been denied property without due process of law, where they have failed to show that the due process test whereby the challenged law must not be unreasonable, arbitrary, or capricious and the means selected must have a real and substantial relation to the objective to be obtained, is not satisfied by the State's asserted interest in promoting more expansive rights of free speech and petition than conferred by the Federal Constitution. Pp. 82-85.

(c) Nor have appellants' First Amendment rights been infringed by the California Supreme Court's decision. The shopping center by choice of its owner is not limited to the personal use of appellants, and the views expressed by members of the public in passing out pamphlets or seeking signatures for a petition thus will not likely be identified with those of the owner. Furthermore, no specific message is dictated by the State to be displayed on appellants' property, and appellants are free to publicly dissociate themselves from the views of the speakers or handbillers. *Wooley v. Maynard*, 430 U.S. 705; *West Virginia State Board of Education v. Barnette*, 319 U.S. 624; and *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, distinguished. Pp. 85-88.

23 Cal. 3d 899, 592 P.2d 341, affirmed.