hurdle. In a similar manner, the free exercise clause was not designed to eliminate all "incidental burdens felt by persons in petitioners' position." In dissents to both cases, Justice William O. Douglas pointed to the sincerity of both litigants and thought that the law weighed too heavily on the right of conscience.

See also *Conscientious Objection to Military Service; Neutrality, Religion; Wall of Separation; Welsh v. United States (1970).*

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Ginsberg v. New York (1968)

In *Ginsberg v. New York,* 390 U.S. 629 (1968), the Supreme Court upheld a harmful to minors, or "obscene as to minors," law, affirming the illegality of giving persons under seventeen years of age access to expressions or depictions of nudity and sexual content for "monetary consideration."

New York Penal Law 484-h prohibited selling "knowingly . . . any picture . . . which depicts nudity . . . and which is harmful to minors" to persons under the age of seventeen. Judge Fuld of the Nassau County District Court had convicted Sam Ginsberg, who owned a small convenience store in Long Island, New York, where he sold "adult magazines" and was accused of selling them to a sixteen-year-old boy on two occasions. The judge found that the pictures in the magazines met the depiction of nudity established as harmful to minors in *Bookcase, Inc. v. Broderick* (N.Y. 1966). Ginsberg was also held accountable for the fact that he was aware of the boy's age and of the magazines' nudity and alleged obscene content and potential harmfulness. Although Ginsberg claimed that the state of New York did not have the power to limit the freedom of speech and press, he did not deny the harmfulness of obscenity to minors or the ability of the state to draw the line at seventeen.

Ginsberg referred to several successful First Amendment challenges that had overturned a statute arguing that it violated freedom of speech: *Meyer v. Nebraska* (1923) struck down a statute "forbidding children to learn German"; *Pierce v. Society of Sisters* (1925) upheld the right of parents to send children to private school; and *West Virginia State Board of Education v. Barnette* (1943) held that students could not be required to salute the American flag against their religious convictions. These cases did not, however, persuade the Court.

Justice William J. Brennan Jr. countered with a number of cases that supported obscenity laws. These included the landmark decisions in *Roth v. United States* (1957), in which Brennan wrote that "obscenity is not within the area of protected speech or press"; *Prince v. Massachusetts* (1944), establishing that "the power of the state to control the conduct of children reaches beyond the scope of its authority over adults"; *Memoirs v. Massachusetts* (1966), establishing definitions and characteristics of obscenity and the ability of the legislature to adapt to circumstances and change these definitions; and *Redrup v. New York* (1967), establishing the presentation and sale of magazines depicting nudity to persons older than seventeen as lawful. *Ginsberg*'s impact is reflected in that nearly every state continues to have some form of harmful to minors law on its books.

See also *Brennan, William J., Jr.; Harmful to Minors Laws; Memoirs v. Massachusetts (1966); Obscenity and Pornography; Redrup v. New York (1967); Roth v. United States (1957).*

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Ginsburg, Ruth Bader

The second woman to serve on the Supreme Court, Ruth Bader Ginsburg (1933–) has consistently interpreted the establishment clause of the First Amendment to provide for a high degree of separation of church and state. She has also been a steadfast opponent of gender bias throughout her career.

Born in Brooklyn, New York, Ginsburg graduated from Cornell University in 1954. In 1959 she earned a law degree from Columbia University, where she finished first in her class. One of her professors recommended her for a clerkship with Justice Felix Frankfurter, who said he was not ready to hire a female law clerk. When gender bias denied her a pro-