

388 U. S.

June 12, 1967.

TANNENBAUM *v.* NEW YORK.

APPEAL FROM THE COURT OF APPEALS OF NEW YORK.

No. 993. Decided June 12, 1967.

18 N. Y. 2d 268, 220 N. E. 2d 783, appeal dismissed.

*Osmond K. Fraenkel* and *Stanley Fleishman* for appellant.

*Frank S. Hogan* for appellee.

*Horace S. Manges* for the American Book Publishers Council, Inc., as *amicus curiae*, in support of appellant.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed as moot.

MR. JUSTICE BRENNAN would reverse the judgment of the lower court.

MR. CHIEF JUSTICE WARREN, dissenting.

I dissent from the dismissal of this appeal as moot for the reasons stated in my dissent in *Jacobs v. New York, ante*, p. 431. In my view, the question presented by this case is extremely important and requires a decision on the merits by this Court. I would note probable jurisdiction and set the case for argument.

MR. JUSTICE DOUGLAS dissents. (See dissent set forth in *Jacobs v. New York, ante*, at 436.)