has, however, at various times demonstrated a substantial reluctance to have important questions of public law, especially regarding the validity of legislation, resolved by such a procedure.[529] In part, this has been accomplished by a strict insistence upon concreteness, ripeness, and the like.[530] Nonetheless, even at such times, several noteworthy constitutional decisions were rendered in declaratory judgment actions.[531]

As part of the 1960s hospitality to greater access to courts, the Court exhibited a greater receptivity to declaratory judgments in constitutional litigation, especially cases involving civil liberties issues.[532] The doctrinal underpinnings of this hospitality were sketched out by Justice Brennan in his opinion for the Court in *Zwickler v. Koota*,[533] in which the relevance to declaratory judgments of the *Dombrowski v. Pfister*[534] line of cases involving federal injunctive relief against the enforcement of state criminal statutes was in issue. First, it was held that the vesting of "federal question" jurisdiction in the federal courts by Congress following the Civil War, as well as the enactment of more specific civil rights jurisdictional statutes, "imposed the duty upon all levels of the federal judiciary to give due respect to a suitor's choice of a federal forum for the hearing and decision of his federal constitutional claims."[535] Escape from that duty might be found only in "narrow circumstances," such as an appropriate application of the abstention doctrine, which was not proper where a statute affecting civil liberties was so broad as to reach protected activities as well as unprotected activities.

Second, the judicially developed doctrine that a litigant must show "special circumstances" to justify the issuance of a federal injunction against the enforcement of state criminal laws is not appli-

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(1982). Earlier, in Great Lakes Dredge & Dock Co. v. Huffman, 319 U.S. 293 (1943), the Court had reserved the issue but held that considerations of comity should preclude federal courts from giving declaratory relief in such cases. *Cf.* Fair Assessment in Real Estate Ass'n v. McNary, 454 U.S. 100 (1981).

[529] *E.g.*, Ashwander v. TVA, 297 U.S. 288 (1936); Electric Bond Co. v. SEC, 303 U.S. 419 (1938); United Public Workers v. Mitchell, 330 U.S. 75 (1947); Eccles v. Peoples Bank, 333 U.S. 426 (1948); Rescue Army v. Municipal Court, 331 U.S. 549, 572–573 (1947).

[530] United Public Workers v. Mitchell, 330 U.S. 75 (1947); Poe v. Ullman, 367 U.S. 497 (1961); Altvater v. Freeman, 319 U.S. 359 (1943); International Longshoremen's Union v. Boyd, 347 U.S. 222 (1954); Public Service Comm'n v. Wycoff Co., 344 U.S. 237 (1952).

[531] *E.g.*, Currin v. Wallace, 306 U.S. 1 (1939); Perkins v. Elg, 307 U.S. 325 (1939); Ashwander v. TVA, 297 U.S. 288 (1936); Evers v. Dwyer, 358 U.S. 202 (1958).

[532] *E.g.*, Baggett v. Bullitt, 377 U.S. 360 (1964); Keyishian v. Board of Regents, 385 U.S. 589 (1967); Turner v. City of Memphis, 369 U.S. 350 (1962); Powell v. McCormack, 395 U.S. 486 (1969). *But see* Golden v. Zwickler, 394 U.S. 103 (1969).

[533] 389 U.S. 241 (1967).

[534] 380 U.S. 479 (1965).

[535] Zwickler v. Koota, 389 U.S. 241, 248 (1967).