

## REPRODUCTIVE RIGHTS IN THE SECOND WAVE: THE LEGACY OF THE PLANNED PARENTHOOD LEAGUE OF CONNECTICUT

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### Abstract

This essay explores the historical context of the reproductive rights movement within second-wave feminism in the United States. It focuses on the pivotal role of the Planned Parenthood League of Connecticut and the landmark Supreme Court case, *Griswold v. Connecticut*. The essay highlights the fight for legal and safe contraceptive use as a starting point for reproductive rights activism. It discusses the leadership of Estelle Griswold and the legislative wins achieved in the 1960s and 1970s. The essay also delves into the ideologies of "sexual politics" and the belief that personal experiences were shaped by social structures and inequalities. It highlights the fight for legal and safe contraceptive use as a starting point for the reproductive rights movement. Additionally, it examines the impact of *Griswold v. Connecticut* in establishing the right to privacy and its implications for the feminist movement. The essay concludes by addressing the ongoing challenges faced by reproductive rights advocates and the significance of this movement for women's rights overall.

### Introduction

During the mid 20th century, a new wave of younger and more radical feminists emerged to challenge the status quo. They fought for "women's liberation" in all forms of life: economic status, legal and political status, sexuality, and reproductive status.<sup>1</sup> However, due to the fact that until the late 1950s the federal government largely kept its hands out of cases involving reproductive rights, it was extremely difficult for any real progress to be made. It was only with the new ideologies of "sexual politics" and the "personal is political" movement that feminists transformed their grassroots campaigns into actual attempts of legislative reform. These movements suggested that personal experiences were the result of social structures and inequalities, and that true equality must be established systematically. This fight for reproductive equality specifically began with the fight for legal and safe contraceptive use. This essay will explore the connections between contraceptives and American politics in relation to the Planned Parenthood League of Connecticut, and its resulting Supreme Court case, *Griswold v. Connecticut*. Paired with the deft leadership of Estelle Griswold, the Planned Parenthood of New Haven specifically paved the way for the first legislative wins for feminists in the 1960s and 1970s, and therefore set the precedent for further advancements in the reproductive rights movement. This includes an attempt to understand the fundamental right to privacy established in *Griswold* and how it has affected the broader feminist movement. The following composition will also discuss the many obstacles the New Haven clinic faced during its trials, and how those obstacles have manifested into current-day challenges.

In order to fully comprehend the new ideologies of feminists, it is also necessary to understand where they came from, and what their arguments were based on. Many of these new feminists were veterans of the civil rights movement and the anti-war campaign, who often met in small groups to discuss their opposition to racism and the war. During these "consciousness raising" meetings, women realized that their grievances were rooted in the

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<sup>1</sup>"Second Wave Feminism Primary Sources & History," Gale, 2023.

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement.>

shared challenges of operating as women in a “man’s world.”<sup>2</sup> Although popular culture and post WWII affluence had glorified the image of the “happy homemaker,” in reality, a vast number of American women worked outside of the home.<sup>3</sup> In fact, by 1954, more women were in the workforce than at the height of the war.<sup>4</sup> These new opportunities invoked a mass awakening in American middle class women, where it was believed that the roles of women had fundamentally changed, and that it was due time the laws reflected that. They translated their anger into radical feminist writings, which further inspired the mass awakening of women. For example, in her piece *The Feminine Mystique*, Betty Friedan argues that the immense dissatisfaction experienced by American women in the 1950s and 1960s was caused by the limited roles and expectations imposed on women by society. For women, fulfillment no longer meant having a husband and children to come home to.<sup>5</sup> The only way to gain true liberation, as many new feminists decided, was through “sexual politics,” a movement focused on women's reproductive and family lives.<sup>6</sup> This era of increased activism for women’s equal rights is known as “second-wave feminism.”

### The Comstock Act and Early Opposition to Birth Control

Before the focus of the reproductive rights movement switched to abortion access, the majority of middle-class American women believed that access to legal and safe contraceptives was the foremost issue. For early feminists, access to contraceptives represented the first step in delinking reproduction from sex, and therefore an opportunity for greater bodily autonomy. The most significant obstacle to the legalization of contraceptives was the Comstock Act, a federal bill passed in 1873.<sup>7</sup> Named after its primary lobbyist, Andrew Comstock, the Comstock Act sparked the passage of several other state laws across the country (collectively known as the Comstock Laws) that outlawed “every obscene, lewd, or lascivious, and every filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed, adapted, or intended for preventing conception or producing abortion.”<sup>8</sup> The consequences for breaking the Comstock Law were steep, with up to a year of jail time and a fine of up to \$5,000.<sup>9</sup> These consequences disproportionately affected lower-income women, who could not afford private physicians, and whose entire livelihoods were destroyed when faced with the ramifications of the Comstock Act. In contrast, affluent women who had access to private physicians could access safe birth control, but even then, the doctors’ advice and the women’s use were still illegal. Although each state had a unique interpretation and statute, they all stated that spreading information on how to regulate reproduction was a crime.

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<sup>2</sup>Wendy Kline, *Bodies of Knowledge: Sexuality, Reproduction, and Women’s Health in the Second Wave* (Chicago: University of Chicago Press, 2010), 13-14

<sup>3</sup>“The Pill and the Women’s Liberation Movement,” PBS, accessed May 14, 2023, <https://www.pbs.org/wgbh/americanexperience/features/pill-and-womens-liberation-movement/>.

<sup>4</sup>Ibid.

<sup>5</sup>Betty Friedan, *The Feminine Mystique* (New York: W.W. Norton & Company, 1963), 3-20

<sup>6</sup>George Brown Tindall and David E. Shi, *America: A Narrative History: Volume 2* (New York, New York: W W Norton & Co, 2010), 1244-1255

<sup>7</sup>Mary Ware Dennet, *Birth Control Laws, Shall We Keep Them, Change Them, or Abolish Them* (New York: Frederick H. Hitchcock, 1926), 9-11.

<sup>8</sup>U.S. Congress. *United States Code: Obscenity, 18 U.S.C. §§ -1464 Suppl. 3 1946.* (1946)

<sup>9</sup>x, *Censorship, and Civil Liberties in the Gilded Age* (S.L.: Picador, 2022), 45-48

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement.>

One early activist against the Comstock Act and its resulting legislation was Margaret Sanger, a sex educator and birth control advocate in the 1920s. Sanger popularized the term “birth control” and opened the first contraceptive clinic in the United States in 1916.<sup>10</sup> However, just nine days after her Brooklyn clinic opened, Sanger and her partners were arrested and fined for breaking New York’s Comstock Laws. Although this Brownsville clinic eventually formed the American Birth Control League, later renamed Planned Parenthood, Sanger failed to overturn any existing contraceptive bans in the country and could not address the root of the issue. Connecticut’s laws specifically remained harsh throughout the early 19th century. According to prominent 1910’s contraceptive activist Mary Dennet, “[Connecticut] has the grotesque distinction of being the only State to penalize the actual utilization of contraceptive information.”<sup>11</sup> Connecticut’s law was considerably harsher than the other states that specifically banned the spread of information on contraceptive use.

Reproductive rights advocates also had the issue of the Catholic Church and its strong anti-contraceptive presence throughout state legislatures. When Planned Parenthood clinics began illegally opening in the 1930s, the birth control controversy became a prominent topic. One journalist commented, “the Catholic Church did not openly enter this controversy, but it was not obliged to; the legislators were fully aware of its position.”<sup>12</sup> During the 1950s, Catholic priests took a more direct approach to anti-contraceptive advocacy; they held anti-birth control sermons, voter registration drives, encouraged parishioners to support anti-contraceptive politicians, and actively campaigned against the entire movement.<sup>13</sup> It should be noted, however, that although the Catholic Church was opposed to “artificial means” of birth control (diaphragms, The Pill, and condoms), it actually endorsed “natural means” of birth control (i.e., the rhythm method) for couples who found it necessary to practice contraception.<sup>14</sup> This is relevant because it explains the church’s specific argument against Planned Parenthood and accounts for the fact that they were not strictly against family planning. Nonetheless, the measures taken by the Catholic Church proved to be successful in Connecticut legislatures. Unsuccessful attempts at amending the Comstocks Laws were often passed in the House but ultimately would fail in the Senate.<sup>15</sup> This was due to the fact that a primarily Protestant constituency elected the House members, whereas Senators tended to be elected by a primarily Catholic constituency.<sup>16</sup> The measures of the Church, in combination with the intensity of the Comstock Laws, relatively discouraged open access to contraceptives, and explain their relative absence beginning in the late 19th century.

### **The Planned Parenthood League of Connecticut and Its Advocacy for Contraceptive Use**

However, the Planned Parenthood League of Connecticut continued to fight against these obstacles in the 1930s, and supervised clinics opened up in Hartford, Stamford, Danbury,

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<sup>10</sup>Jean H. Baker, *Margaret Sanger: A Life of Passion* (New York: Hill & Wang, 2011), 115.

<sup>11</sup>Dennett, *Birth Control Laws*, 10.

<sup>12</sup>Defeat in Connecticut, *Outlook & Independent*, April 15, 1931, at 518.

<sup>13</sup>Mary L. Dudziak, “Just Say No: Birth Control in the Connecticut Supreme Court Before *Griswold v. Connecticut*” *Iowa Law Review*, Vol. 75 (1990), 928

<sup>14</sup>Carol Flora Brooks, “The Early History of the Anti-Contraceptive Laws in Massachusetts and Connecticut,” *American Quarterly* 18, no. 1 (1966), <https://doi.org/10.2307/2711107>, 3

<sup>15</sup>Dudziak, “Just Say No,” 930

<sup>16</sup>*Ibid.*

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement>.

Westport, and Waterbury under the notion that the Comstock laws were unenforceable.<sup>17</sup> They functioned primarily in low-income communities and served over 9000 working-class women during their combined years in operation.<sup>18</sup> However, in 1939, the Waterbury clinic was raided by law enforcement, and the volunteer staff and nurses were all arrested. Their case went to the Supreme Court of Connecticut, where it was determined that the Comstock Laws remained constitutional. According to the official opinion of the case, the Comstock Act would have to be challenged on the federal level for changes to the state laws to be made. To avoid future raids and arrests, Planned Parenthood decided to close all of the clinics in Connecticut, effectively leaving thousands of women without access to safe birth control.

However, after nearly a 20-year hiatus, Estelle Griswold and the Planned Parenthood League of Connecticut decided to re-challenge the state's Comstock Law. After partnering with Dr. Lee Buxton (chairman of the Yale Medical School Department of Obstetrics and Gynecology) and civil rights attorneys Catherine Roraback and Fowler Harper, Griswold filed a complaint on behalf of four married couples in 1958.<sup>19</sup> The four sets of plaintiffs included Jane Doe, who had suffered a stroke after her first pregnancy resulting in a stillborn baby and her partial paralyzation; Pauline and Paul Poe, who had three children born with multiple congenital abnormalities resulting in their deaths; Harold and Hannah Hoe who had genetic mutations that led to their doctor advising against childbirth, and the Trubek couple, who felt that they were not emotionally and financially ready to have children.<sup>20</sup> This case, known as *Poe v. Ullman*, eventually reached the Supreme Court, where Justice Felix Frankfurter dismissed the case because it involved the threatened and not actual application of the Connecticut law.<sup>21</sup> Since the plaintiffs had not actually been arrested or convicted of any crimes, the case was deemed "unripe." In the 5-4 opinion, Justice John Marshall Harlan's dissent stated that the plaintiff's "most substantial claim...is their right to enjoy the privacy of marital relations."<sup>22</sup> In this dissent, which was three times the length of Frankfurter's majority opinion, Harlan was basically advising Harper and Roraback to attack the Comstock Laws from another angle. This case was decided in 1961, the same year that Griswold and Dr. Buxton decided to challenge the statute one final time by opening another Planned Parenthood clinic in New Haven. Since *Ullman* has been dismissed based on the fact that nobody had actually broken the law, Griswold and Dr. Buxton found that the only way to fight the courts was by deliberately and consciously breaking the Comstock Laws. The clinic primarily focused on distributing contraceptives, performing safe examinations on women, and supplying lifestyle advice to wives and families.<sup>23</sup> It also offered a 24-hour service line for women experiencing side effects of the newly released birth control pill, Enovid.<sup>24</sup> According to Griswold, "it was such a surprise, the room was filled with patients on the

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<sup>17</sup>Estelle Griswold, interview by Jeanette B. Cheek, Fort Myers, Florida, March 17, 1976, interview XI, transcript, Schlesinger Library, Harvard Radcliffe Institute, Cambridge, MA., 31-32

<sup>18</sup>Ibid. (interview)

<sup>19</sup>Jill Lepore, "To Have and to Hold: Reproduction, Marriage, and the Constitution," *The New Yorker*, May 18, 2015, <https://www.newyorker.com/magazine/2015/05/25/to-have-and-to-hold>

<sup>20</sup>Dudziak, "Just Say No," 930

<sup>21</sup>"Poe v. Ullman." Oyez. Accessed May 10, 2023. <https://www.oyez.org/cases/1960/60>.

<sup>22</sup>Lepore, "To Have and to Hold."

<sup>23</sup>Roy Mersky, Compiler; Jill Duffy, Compiler. *Documentary History of the Legal Aspects of Abortion in the United States: Griswold v. Connecticut*, (Littleton, CO, Fred B. Rothman Publications, 2001), 20-21

<sup>24</sup>Estelle Griswold, interview by Jeanette B. Cheek, transcript, 40

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement>.

fourth day.”<sup>25</sup> Evidently, for the working class women of Connecticut, the New Haven Planned Parenthood was the first time women could actually make decisions about their own bodies. For them, since childbearing and pregnancy were roles strictly carried out by women, it only seemed right that women would have control over the decision to give birth. However, Griswold and Buxton’s goals were again challenged when just ten days after the clinic’s opening, two Connecticut detectives came to inspect the clinic. They were following up on a complaint from James Morris, a Catholic resident of West Haven. According to Morris, “a Planned Parenthood Center is like a house of prostitution. It is against the natural law which says marital relations are for procreation and not entertainment.”<sup>26</sup> On November 10, 1961, Estelle Griswold and Dr. Lee Buxton were arrested and fined on account of distributing birth control.<sup>27</sup>

### **Griswold v. Connecticut and the “Privacy Argument”**

Believing that their only avenue for national reform was through the Supreme Court, Griswold and Buxton willingly cooperated with their arrest to bring the case to higher legislation.<sup>28</sup> According to Griswold, when law enforcement arrived at the clinic, “[she] gave [them] a sample of every contraceptive [they] had and loaded [them] up with a bag full of them, and gave [them] literature.”<sup>29</sup> Although neither Griswold nor Buxton necessarily wanted to be arrested, they felt that their actions were not actually crimes and that they were therefore innocent. The only way for Planned Parenthood to truly be able to help women and legalize access to contraceptives would be to attack the Comstock Act on a legislative level. According to a publicity pamphlet published by Planned Parenthood at the time of their arrest, “the league must go into action regardless of all legal costs. We know that the people of Connecticut stand by their principles and support us in ours. This decision must be fought until we get a final and clear-cut decision from the U.S. Supreme Court.”<sup>30</sup> During their state trials, the clinic employed an approach different from any trials in the past, and aptly brought up real women who had been recently fitted with diaphragms to testify against the Comstock laws.<sup>31</sup> They challenged the statute on the due process grounds of the 14th Amendment and the freedom of speech grounds of the First Amendment.<sup>32</sup> For Griswold, the decision to overrule the state statutes was an easy one. Nonetheless, their case was dismissed in both the Appellate Division of the Circuit Court and the Supreme Court of Connecticut, rendering their case seemingly hopeless. It wasn’t until the clinic employed Thomas Emerson, a Yale law professor and prominent First Amendment scholar, that the Planned Parenthood League of Connecticut took on a new course.

Deciding that their current argument was too broad for the courts to agree, Emerson drew from the 3rd, 4th, 5th, and 9th Amendments and narrowed their defense to the clear question of

<sup>25</sup>Estelle Griswold, interview by Jeanette B. Cheek, transcript, 34

<sup>26</sup>Diane Zimmerman, “Who Put the Right in the Right of Publicity?,” *DePaul Journal of Art, Technology & Intellectual Law* 9, no. 31 (1998), 80-81

<https://doi.org/https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1304&context=jatip>.

<sup>27</sup>David Bollier, *Crusaders & Criminals, Victims & Visionaries : Historic Encounters between Connecticut Citizens and the United States Supreme Court*. (Hartford, Conn.: Office Of The Attorney General, 1986) 127-129

<sup>28</sup>Ibid.

<sup>29</sup>Estelle Griswold, interview by Jeanette B. Cheek, transcript, 34

<sup>30</sup>“*The Door Was Open! Will You Help to Open It Again?*” (Planned Parenthood League of Connecticut, Inc., New Haven, CT., 1961)

<sup>31</sup>Estelle Griswold, interview by Jeanette B. Cheek, transcript, 36

<sup>32</sup>Mersky and Duffy, *Documentary History of the Legal Aspects of Abortion in the United States: Griswold v. Connecticut*, 6

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement>.

the right to privacy. According to him, “[the right to privacy] is a regulation that touches upon individual rights: the right to protect life and health, the right of advancing scientific knowledge, and the right to have children voluntarily.”<sup>33</sup> This idea was first defined in 1890 by Louis Brandeis and Samuel Warren in a law-review essay, where it was described that a violation of the right to privacy was any “intrusion upon the domestic circle.”<sup>34</sup> With this, the right to privacy effectively decided that a “woman’s home” lay outside the sphere of politics and that reproductive health was a “home” issue rather than a political one.<sup>35</sup> For the Supreme Court, it was more of a question of which amendment specifically alluded to this right and whether birth control should remain a “home” issue. In four separate opinions, Justices Goldberg, Warren, and Brennan all agreed that a right to privacy could be found in the 9th and 14th Amendments; Justices Harlan and Justice White believed that this right could be found in the Due Process Clause of the 14th Amendment, and Justices Black and Stewart found that the right to privacy could not be found in any amendment of the Constitution.<sup>36</sup> However, the main opinion, written by Justice William Douglas, “found that Bill of Rights amendments to the Constitution have ‘penumbras’ or shadows, associated with their guarantees,” in reference to no explicit mention of the right to privacy.<sup>37</sup> It was a win-lose decision: married couples could now legally access contraceptives, but it was also established that birth control was a “private matter” that should remain in the homes of women.

### ***Griswold’s Precedent and the Response of the United States***

During its trial and after its passage, *Griswold v. Connecticut* attracted widespread attention from the national press and women across America. According to Thomas Emerson, one of the lead attorneys of *Griswold*, “Even some of the justices’ wives came down to listen to the oral arguments.”<sup>38</sup> Women from across the country tuned in for the results of this case, and it seemed that there was a general understanding among politicians that it would be monumental in determining the future of privacy in reproductive rights. Although *Griswold* did not have a revolutionary effect on affluent women with private physicians, the decision significantly affected lower-income families, who could now legally access Planned Parenthood Clinics and contraceptives. The decision was also a source of inspiration and empowerment for women; if they could succeed at legalizing contraceptives, then they could reach more radical goals too. According to Estelle Griswold, when her clinic was reopened in 1965, “close to 40” women had received help in the first ten days, and almost 75 new patients had scheduled appointments for the following three weeks.<sup>39</sup> Paired with the second wave of feminism in the 1960s and 1970s, *Griswold v. Connecticut* marked the beginning of an era of increased freedom and civil rights for women across the country. It set the foundation for more radical feminist ideas rooted in the constitutional right to privacy. When the *Griswold* decision was announced, Emerson stated, “the word from Washington was that it was a far-reaching decision. That gave us a great feeling

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<sup>33</sup>Mersky and Duffy, *Documentary History of the Legal Aspects of Abortion in the United States: Griswold v. Connecticut*, 11

<sup>34</sup>Lepore, “To Have and to Hold.”

<sup>35</sup>Ibid.

<sup>36</sup>Byrnes.

<sup>37</sup>Ibid.

<sup>38</sup>Andi Reardon, “Griswold v. Connecticut: Landmark Case Remembered.” *The New York Times*. May 28, 1989. <https://www.nytimes.com/1989/05/28/nyregion/griswold-v-connecticut-landmark-case-remembered.html>.

<sup>39</sup>Byrnes.

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement>.

of elation.”<sup>40</sup> To him, it was a victory for the feminist movement. In addition to solidifying the right to birth control for married couples, *Griswold v. Connecticut* also set precedents for several other landmark cases in the realm of reproductive rights. The ideas birthed in *Griswold* followed up in cases such as *Eisenstadt v. Baird* in 1972 when the Court extended the right of privacy to unmarried minors seeking birth control, *Roe v. Wade* in 1973, which held that “the right of privacy first recognized in *Griswold* is broad enough to encompass a woman's decision whether or not to terminate her pregnancy,” and *Carey v. Population Services International* in 1977, which held that it was unconstitutional for states to restrict the advertisement of contraceptives.<sup>41</sup> It was clear that *Griswold* was the new backbone of the reproductive rights movement.

As the feminist movement grew, however, the argument for privacy grew weaker and began to be questioned by both activists and politicians.<sup>42</sup> According to Emerson, “there are members on the Court who believe you can't create a constitutional right of privacy because the Constitution doesn't mention one. It's not totally accepted as a valid deduction from the Constitution even now. In fact, you might one day have a Court which says that creating the right to privacy was a mistake.”<sup>43</sup> In the 21st century, political and judicial interpretations of *Griswold* have changed, along with the belief in the precedent of a right to privacy. With *Dobbs v. Jackson Women's Health Organization* in 2022, the Supreme Court found that the reasoning of *Griswold v. Connecticut* was, in fact, a “mistake” and could not be applied to abortion, signifying the change in ideologies after the case's decision. The majority opinion of *Dobbs*, written by Justices Samuel Alito and Clarence Thomas, stated, “in future cases, we should reconsider all of this Court's substantive due process precedents, including *Griswold*, *Lawrence*, and *Obergefell*,” thereby putting into question the legitimacy of the “privacy” argument in terms of women's reproductive rights.<sup>44</sup> Justice Thomas added that “because any substantive due process decision is ‘demonstrably erroneous,’ we have a duty to ‘correct the error’ established in those precedents.”<sup>45</sup> This argument claims that the right to privacy cannot be found in the Constitution and that every case that has used its reasoning is void. *Dobbs* effectively overturned *Roe v. Wade* and halted the radical legislative reforms that began with *Griswold v. Connecticut* in 1965.

### Contemporary Arguments Against *Griswold* and the Emergence of a New Argument

Even more recently, the right to access contraceptives has been challenged, and women's bodily autonomy is slowly being chipped away. In Texas, for example, a controversial law has recently ruled that birth control clinics require parental consent for minors to access contraceptives.<sup>46</sup> This law directly nullifies the 1970 Title X program, which was created to provide affordable birth control and reproductive healthcare to those who would not normally be

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<sup>40</sup> Tierney Sneed, “Supreme Court's Decision on Abortion Could Open the Door to Overturn Same-Sex Marriage, Contraception and Other Major Rulings | CNN Politics,” CNN (Cable News Network, June 24, 2022), <https://www.cnn.com/2022/06/24/politics/abortion-ruling-gay-rights-contraceptives/index.html>.

<sup>41</sup> *Ibid.*

<sup>42</sup> Byrnes.

<sup>43</sup> Sneed.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> Eleanor Klibanoff, “Federal Court Ruling May Prevent Texas Teens from Getting Birth Control without Parental Permission.” The Texas Tribune. December 21, 2022.

<https://www.texastribune.org/2022/12/21/texas-title-x-teens-birth-control/>.

<https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism#:~:text=The%20second%20wave%20feminism%20movement.>

able to access it.<sup>47</sup> U.S. District Judge Matthew Kacsmaryk found that the program denies a parent “a fundamental right to control and direct the upbringing of his minor children.”<sup>48</sup> This sentiment evidently challenges the right to privacy established in *Griswold*, by stating that the privacy of minors is overruled by the power of parents. Activists in Northern Texas hope to overturn this ruling on the basis of equality for both young and low-income women.<sup>49</sup> Further undoing the progress of the Planned Parenthood League of Connecticut, the Comstock Act has recently been revived by anti-abortion groups to block the ability to mail Mifepristone, a drug used by women for over half of U.S. abortions.<sup>50</sup> According to Lorie Chaiten, a senior staff attorney at the American Civil Liberties Union's Reproductive Freedom Project, these anti-abortion groups have only been emboldened through the decisions of *Dobbs* and of Texas, and are trying to use the Comstock Act to reexamine long-settled questions of reproductive rights.<sup>51</sup>

Although the opinions of several Supreme Court justices have changed over time and much of the legislation from the second wave of feminism has been overturned, the fight for reproductive rights has only become more assertive, only now with a foundation on equality rather than privacy. According to feminist legal theorist Catharine MacKinnon, “A right to privacy looks like an injury got up as a gift... what we need is not privacy but power.”<sup>52</sup> With this, MacKinnon challenges Brandeis’s and Warren’s idea of marital privacy. She is saying that reproductive rights are, in fact, a political issue and should not be hidden by the facade of privacy. The new wave of feminist activists understand that the fight for reproductive rights is about much more than just privacy; it also encompasses the arguments of gender equality and bodily autonomy. This shift is also reflected in recent efforts to pass the Women’s Health Protection Act of 2021, which aims to protect women’s access to abortion, regardless of gender identity or socioeconomic situation.<sup>53</sup> The bill recognizes that reproductive rights, including access to birth control, are essential to gender equality. Although this bill does not necessarily bring up any new concepts about reproductive health, it reflects the revolutionary idea that women cannot fully exercise their autonomy and make informed personal decisions without legal access to reproductive care.

## Conclusion

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<sup>47</sup>“Title X: Affordable Birth Control and Reproductive Health Care.” n.d. *Planned Parenthood*  
<https://www.plannedparenthoodaction.org/issues/health-care-equity/title-x#:~:text=Title%20X%3A%20The%20Nation>

<sup>48</sup>Sneha Dey and Eleanor Klibanoff. “Texas Family Planning Clinics Require Parental Consent for Birth Control Following Court Ruling.” *The Texas Tribune*. January 3, 2023.  
<https://www.texastribune.org/2023/01/03/title-x-federal-court-ruling-birth-control/>.

<sup>49</sup>*Ibid.*

<sup>50</sup>Matthew Perrone, “What Does the Comstock Act, a Law from the 1870s, Have to Do with Abortion Pills?,” *PBS*, April 8, 2023,  
<https://www.pbs.org/newshour/politics/what-does-comstock-act-a-law-from-the-1870s-have-to-do-with-abortion-pills>.

<sup>51</sup>Sarah McCammon, “Why Anti-Abortion Groups Are Citing the Ideas of a 19th-Century ‘Vice Reformer,’” *NPR*, April 18, 2023, <https://www.npr.org/2023/04/18/1170371877/abortion-pill-mifepristone-judge-comstock>.

<sup>52</sup>Lepore, “To Have and to Hold.”

<sup>53</sup>“Text - H.R.3755 - 117th Congress (2021-2022): Women's Health Protection Act of 2021.” February 28, 2022.  
<https://www.congress.gov/bill/117th-congress/house-bill/3755/text>.

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Through the Planned Parenthood League of Connecticut's impact on Supreme Court cases, American women have gained countless protections over their private lives— whether or not to have children, when to have children, how to raise children, whom to marry, and with whom to have intimate sexual relationships. Although the foundation of the reproductive rights movement has changed and therefore challenged the reasoning behind the case, the doctrine still stands: the Planned Parenthood of New Haven's impact on the legalization of birth control has given women across the United States autonomy over their own bodies and changed the way Americans think about reproductive health.

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