

Griswold v. Connecticut

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Appellant Griswold is Executive Director of the Planned Parenthood League of Connecticut. Appellant Buxton is a licensed physician and a professor at the Yale Medical School who served as Medical Director for the League at its Center in New Haven -- a center open and operating from November 1 to November 10, 1961, when appellants were arrested.

They gave information, instruction, and medical advice to *married persons* as to the means of preventing conception. They examined the wife and prescribed the best contraceptive device or material for her use. Fees were usually charged, although some couples were serviced free.

The statutes whose constitutionality is involved in this appeal are §§ 53-32 and 54-196 of the General Statutes of Connecticut (1958 rev.). The former provides:

"Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."

Section 54-196 provides:

"Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender."

The appellants were found guilty as accessories and fined \$100 each, against the claim that the accessory statute, as so applied, violated the Fourteenth Amendment. The Appellate Division of the Circuit Court affirmed. The Supreme Court of Errors affirmed that judgment. 151 Conn. 544, 200 A.2d 479. We noted probable jurisdiction. 379 U.S. 926. [Page 381 U. S. 481](#)

We think that appellants have standing to raise the constitutional rights of the married people with whom they had a professional relationship. *Tileston v. Ullman*, [318 U. S. 44](#), is different, for there the plaintiff seeking to represent others asked for a declaratory Judgment. In that situation, we thought that the requirements of standing should be strict, lest the standards of "case or controversy" in Article III of the Constitution become blurred. Here, those doubts are removed by reason of a criminal conviction for serving married couples in violation of an aiding-and-abetting statute. Certainly the accessory should have standing to assert that the offense which he is charged with assisting is not, or cannot constitutionally be, a crime.

This case is more akin to *Truax v. Raich*, [239 U. S. 33](#), where an employee was permitted to assert the rights of his employer; to *Pierce v. Society of Sisters*, [268 U. S. 510](#), where the owners of private schools were entitled to assert the rights of potential pupils and their parents, and to *Barrows v. Jackson*, [346 U. S. 249](#), where a white defendant, party to a racially restrictive covenant, who was being sued for damages by the covenantors because she had conveyed her property to Negroes, was allowed to raise the issue that enforcement of the covenant violated the rights of prospective Negro purchasers to equal protection, although no Negro was a party to the

suit. *And see Meyer v. Nebraska*, [262 U. S. 390](#); *Adler v. Board of Education*, [342 U. S. 485](#); *NAACP v. Alabama*, [357 U. S. 449](#); *NAACP v. Button*, [371 U. S. 415](#). The rights of husband and wife, pressed here, are likely to be diluted or adversely affected unless those rights are considered in a suit involving those who have this kind of confidential relation to them.

Coming to the merits, we are met with a wide range of questions that implicate the Due Process Clause of the Fourteenth Amendment. Overtones of some arguments [Page 381 U. S. 482](#) suggest that *Lochner v. New York*, [198 U. S. 45](#), should be our guide. But we decline that invitation, as we did in *West Coast Hotel Co. v. Parrish*, [300 U. S. 379](#); *Olsen v. Nebraska*, [313 U. S. 236](#); *Lincoln Union v. Northwestern Co.*, [335 U. S. 525](#); *Williamson v. Lee Optical Co.*, [348 U. S. 483](#); *Giboney v. Empire Storage Co.*, [336 U. S. 490](#). We do not sit as a super-legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions. This law, however, operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation.

The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parents' choice -- whether public or private or parochial -- is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the First Amendment has been construed to include certain of those rights.

By *Pierce v. Society of Sisters*, *supra*, the right to educate one's children as one chooses is made applicable to the States by the force of the First and Fourteenth Amendments. By *Meyer v. Nebraska*, *supra*, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read (*Martin v. Struthers*, [319 U. S. 141](#), [319 U. S. 143](#)) and freedom of inquiry, freedom of thought, and freedom to teach (*see Wiemann v. Updegraff*, [344 U. S. 183](#), [344 U. S. 195](#)) -- indeed, the freedom of the entire university community. *Sweezy v. New Hampshire*, [354 U. S. 234](#), [354 U. S. 249-250](#), [354 U. S. 261-263](#); *Barenblatt v. United States*, [360 U. S. 109](#), [360 U. S. 112](#); *Baggett v. Bullitt*, [377 U. S. 360](#), [377 U. S. 369](#). Without [Page 381 U. S. 483](#) those peripheral rights, the specific rights would be less secure. And so we reaffirm the principle of the *Pierce* and the *Meyer* cases.

In *NAACP v. Alabama*, [357 U. S. 449](#), [357 U. S. 462](#) we protected the "freedom to associate and privacy in one's associations," noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, we held, was invalid "as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association."

Ibid. In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, we have protected forms of "association" that are not political in the customary sense, but pertain to the social, legal, and economic benefit of the members. *NAACP v. Button*, [371 U. S. 415](#), [371 U. S. 430-431](#). In *Schwartz v. Board of Bar Examiners*, [353 U. S. 232](#), we held it not permissible to bar a lawyer from practice because he had once been a member of the Communist Party. The man's "association with that Party" was

not shown to be "anything more than a political faith in a political party" (*id.* at [353 U. S. 244](#)), and was not action of a kind proving bad moral character. *Id.* at [353 U. S. 245-246](#).

Those cases involved more than the "right of assembly" -- a right that extends to all, irrespective of their race or ideology. *De Jonge v. Oregon*, [299 U. S. 353](#). The right of "association," like the right of belief (*Board of Education v. Barnette*, [319 U. S. 624](#)), is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. Association in that context is a form of expression of opinion, and, while it is not expressly included in the First Amendment, its existence is necessary in making the express guarantees fully meaningful. [Page 381 U. S. 484](#)

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. *See Poe v. Ullman*, [367 U. S. 497](#), [367 U. S. 516-522](#) (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment, in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner, is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment, in its Self-Incrimination Clause, enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Fourth and Fifth Amendments were described in *Boyd v. United States*, [116 U. S. 616](#), [116 U. S. 630](#), as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life." * We recently referred [Page 381 U. S. 485](#) in *Mapp v. Ohio*, [367 U. S. 643](#), [367 U. S. 656](#), to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." *See* Beaney, *The Constitutional Right to Privacy*, 1962 Sup.Ct.Rev. 212; Griswold, *The Right to be Let Alone*, 55 Nw.U.L.Rev. 216 (1960).

We have had many controversies over these penumbral rights of "privacy and repose." *See, e.g., Breard v. Alexandria*, [341 U. S. 622](#), [341 U. S. 626](#), [341 U. S. 644](#); *Public Utilities Comm'n v. Pollak*, [343 U. S. 451](#); *Monroe v. Pape*, [365 U. S. 167](#); *Lanza v. New York*, [370 U. S. 139](#); *Frank v. Maryland*, [359 U. S. 360](#); *Skinner v. Oklahoma*, [316 U. S. 535](#), [316 U. S. 541](#). These cases bear witness that the right of privacy which presses for recognition here is a legitimate one.

The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the use of contraceptives, rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms."

NAACP v. Alabama, [377 U. S. 288](#), [377 U. S. 307](#). Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The [Page 381 U. S. 486](#) very idea is repulsive to the notions of privacy surrounding the marriage relationship.

We deal with a right of privacy older than the Bill of Rights -- older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

Reversed.

* The Court said in full about this right of privacy:

"The principles laid down in this opinion [by Lord Camden in *Entick v. Carrington*, 19 How.St.Tr. 1029] affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employes of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offence; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offence -- it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of that judgment. In this regard, the Fourth and Fifth Amendments run almost into each other." 116 U.S. at [116 U. S. 630](#).