GRISWOLD V. CONNECTICUT

(1965)

**Location:** **Planned Parenthood Birth Control Clinic**

**Facts of the Case**

Griswold was the Executive Director of the Planned Parenthood League of Connecticut. Both she and the Medical Director for the League gave information, instruction, and other medical advice to married couples concerning birth control. Griswold and her colleague were convicted under a Connecticut law, which criminalized the provision of counseling, and other medical treatment, to married persons for purposes of preventing conception.

**Question:**

Does the Constitution protect the right of marital privacy against state restrictions on a couple's ability to be counseled in the use of contraceptives?

**Argument:**

[**Griswold v. Connecticut - Oral Argument, Part 1**](http://www.oyez.org/cases/1960-1969/1964/1964_496/argument-1)

[**Griswold v. Connecticut - Oral Argument, Part 2**](http://www.oyez.org/cases/1960-1969/1964/1964_496/argument-2)

**Conclusion**

**Decision:** 7 votes for Griswold, 2 vote(s) against

**Legal provision:** Due Process

Though the Constitution does not explicitly protect a general right to privacy, the various guarantees within the Bill of Rights create penumbras, or zones, that establish a right to privacy. Together, the First, Third, Fourth, and Ninth Amendments, create a new constitutional right, the right to privacy in marital relations. The Connecticut statute conflicts with the exercise of this right and is therefore null and void.

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| **Griswold v. Connecticut (No. 496)**  **151 Conn. 544, 200 A.2d 479, reversed.** | | | | | | |
| **Syllabus** | **Opinion**  [ Douglas ] | **Concurrence**  [ Goldberg ] | **Concurrence**  [ Harlan ] | **Concurrence**  [ White ] | **Dissent**  [ Black ] | **Dissent**  [ Stewart ] |
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DOUGLAS, J., Opinion of the Court

SUPREME COURT OF THE UNITED STATES

**381 U.S. 479**

**Griswold v. Connecticut**

**APPEAL FROM THE SUPREME COURT OF ERRORS OF CONNECTICUT**

No. 496 Argued: March 29-30, 1965 --- Decided: June 7, 1965

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](http://www.law.cornell.edu/supct-cgi/get-const?amendmentxiv). 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/379/926). [p481]

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](http://www.law.cornell.edu/supct-cgi/get-us-cite/318/44), 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/239/33), where an employee was permitted to assert the rights of his employer; to *Pierce v. Society of Sisters,* [268 U.S. 510](http://www.law.cornell.edu/supct-cgi/get-us-cite/268/510), 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/346/249), 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/262/390); *Adler v. Board of Education,* [342 U.S. 485](http://www.law.cornell.edu/supct-cgi/get-us-cite/342/485); *NAACP v. Alabama,* [357 U.S. 449](http://www.law.cornell.edu/supct-cgi/get-us-cite/357/449); *NAACP v. Button,* [371 U.S. 415](http://www.law.cornell.edu/supct-cgi/get-us-cite/371/415). 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmentxiv). Overtones of some arguments [p482] suggest that *Lochner v. New York,* [198 U.S. 45](http://www.law.cornell.edu/supct-cgi/get-us-cite/198/45), should be our guide. But we decline that invitation, as we did in *West Coast Hotel Co. v. Parrish,* [300 U.S. 379](http://www.law.cornell.edu/supct-cgi/get-us-cite/300/379); *Olsen v. Nebraska,* [313 U.S. 236](http://www.law.cornell.edu/supct-cgi/get-us-cite/313/236); *Lincoln Union v. Northwestern Co.,* [335 U.S. 525](http://www.law.cornell.edu/supct-cgi/get-us-cite/335/525); *Williamson v. Lee Optical Co.,* [348 U.S. 483](http://www.law.cornell.edu/supct-cgi/get-us-cite/348/483); *Giboney v. Empire Storage Co.,* [336 U.S. 490](http://www.law.cornell.edu/supct-cgi/get-us-cite/336/490). 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti) 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 Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmentxiv)s. 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti), 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/319/141), 143) and freedom of inquiry, freedom of thought, and freedom to teach (*see Wiemann v. Updegraff,* [344 U.S. 183](http://www.law.cornell.edu/supct-cgi/get-us-cite/344/183), 195) -- indeed, the freedom of the entire university community. *Sweezy v. New Hampshire,* [354 U.S. 234](http://www.law.cornell.edu/supct-cgi/get-us-cite/354/234), 249-250, 261-263; *Barenblatt v. United States,* [360 U.S. 109](http://www.law.cornell.edu/supct-cgi/get-us-cite/360/109), 112; *Baggett v. Bullitt,* [377 U.S. 360](http://www.law.cornell.edu/supct-cgi/get-us-cite/377/360), 369. Without [p483] 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/357/449), 462 we protected the "freedom to associate and privacy in one's associations," noting that freedom of association was a peripheral [First Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti) 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti) 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/371/415), 430-431. In *Schware v. Board of Bar Examiners,* [353 U.S. 232](http://www.law.cornell.edu/supct-cgi/get-us-cite/353/232), 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 244), and was not action of a kind proving bad moral character. *Id.* at 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/299/353). The right of "association," like the right of belief (*Board of Education v. Barnette,* [319 U.S. 624](http://www.law.cornell.edu/supct-cgi/get-us-cite/319/624)), 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti), its existence is necessary in making the express guarantees fully meaningful. [p484]

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](http://www.law.cornell.edu/supct-cgi/get-us-cite/367/497), 516-522 (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the [First Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmenti) is one, as we have seen. The [Third Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmentiii), 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmentiv) 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmentv), 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](http://www.law.cornell.edu/supct-cgi/get-const?amendmentix) 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 Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmentv)s were described in *Boyd v. United States,* [116 U.S. 616](http://www.law.cornell.edu/supct-cgi/get-us-cite/116/616), 630, as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life." [\*] We recently referred [p485] in *Mapp v. Ohio,* [367 U.S. 643](http://www.law.cornell.edu/supct-cgi/get-us-cite/367/643), 656, to the [Fourth Amendment](http://www.law.cornell.edu/supct-cgi/get-const?amendmentiv) as creating a "right to privacy, no less important than any other right carefully an 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/341/622), 626, 644; *Public Utilities Comm'n v. Pollak,* [343 U.S. 451](http://www.law.cornell.edu/supct-cgi/get-us-cite/343/451); *Monroe v. Pape,* [365 U.S. 167](http://www.law.cornell.edu/supct-cgi/get-us-cite/365/167); *Lanza v. New York,* [370 U.S. 139](http://www.law.cornell.edu/supct-cgi/get-us-cite/370/139); *Frank v. Maryland,* [359 U.S. 360](http://www.law.cornell.edu/supct-cgi/get-us-cite/359/360); *Skinner v. Oklahoma,* [316 U.S. 535](http://www.law.cornell.edu/supct-cgi/get-us-cite/316/535), 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](http://www.law.cornell.edu/supct-cgi/get-us-cite/377/288), 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The [p486] 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 Amendment**](http://www.law.cornell.edu/supct-cgi/get-const?amendmentv)s run almost into each other.

***Griswold v. Connecticut***, 381 [U.S.](http://en.wikipedia.org/wiki/United_States_Reports) [479](https://supreme.justia.com/us/381/479/case.html) (1965),[1] was a [landmark case](http://en.wikipedia.org/wiki/Landmark_case) in which the [Supreme Court of the United States](http://en.wikipedia.org/wiki/Supreme_Court_of_the_United_States) ruled that the [Constitution](http://en.wikipedia.org/wiki/Constitution_of_the_United_States) protected a [right to privacy](http://en.wikipedia.org/wiki/Privacy_laws_of_the_United_States). The case involved a [Connecticut](http://en.wikipedia.org/wiki/Connecticut) law that prohibited the use of [contraceptives](http://en.wikipedia.org/wiki/Contraception). By a vote of 7–2, the Supreme Court invalidated the law on the grounds that it violated the "right to marital privacy".

Although the [Bill of Rights](http://en.wikipedia.org/wiki/United_States_Bill_of_Rights) does not explicitly mention "privacy", Justice William O. Douglas wrote for the majority that the right was to be found in the "penumbras" and "emanations" of other constitutional protections. Justice [Arthur Goldberg](http://en.wikipedia.org/wiki/Arthur_Goldberg) wrote a concurring opinion in which he used the [Ninth Amendment](http://en.wikipedia.org/wiki/Ninth_Amendment_to_the_United_States_Constitution) to defend the Supreme Court's ruling. Justice [John Marshall Harlan II](http://en.wikipedia.org/wiki/John_Marshall_Harlan_II) wrote a concurring opinion in which he argued that privacy is protected by the [due process](http://en.wikipedia.org/wiki/Due_process) clause of the [Fourteenth Amendment](http://en.wikipedia.org/wiki/Fourteenth_Amendment_to_the_United_States_Constitution). Justice [Byron White](http://en.wikipedia.org/wiki/Byron_White) also wrote a concurrence based on the due process clause.

Two Justices, [Hugo Black](http://en.wikipedia.org/wiki/Hugo_Black) and [Potter Stewart](http://en.wikipedia.org/wiki/Potter_Stewart), filed dissents. Justice Black argued that the right to privacy is to be found nowhere in the Constitution. Furthermore, he criticized the interpretations of the Ninth and Fourteenth Amendments to which his fellow Justices adhered. Justice Stewart called the Connecticut statute "an uncommonly silly law" but argued that it was nevertheless constitutional.

Since *Griswold*, the Supreme Court has cited the right to privacy in several rulings, most notably in [*Roe v. Wade*](http://en.wikipedia.org/wiki/Roe_v._Wade), 410 U.S. 113 (1973), where the Court ruled that a woman's choice to have an [abortion](http://en.wikipedia.org/wiki/Abortion) was protected as a private decision between her and her doctor. For the most part, the Court has made these later rulings on the basis of Justice Harlan's [substantive due process](http://en.wikipedia.org/wiki/Substantive_due_process) rationale. The *Griswold* line of cases remains controversial, and has drawn accusations of "[judicial activism](http://en.wikipedia.org/wiki/Judicial_activism)" by many conservatives.

Prior history

*Griswold v. Connecticut* involved a [Connecticut](http://en.wikipedia.org/wiki/Connecticut) law that prohibited the use of "any drug, medicinal article or instrument for the purpose of preventing conception." Although the law was passed in 1879, the statute was almost never enforced. Attempts were made to test the constitutionality of the law; however, the challenges had failed on technical grounds.

In [*Tileston v. Ullman*](http://en.wikipedia.org/wiki/Tileston_v._Ullman) (1943), a doctor and mother challenged the statute on the grounds that a ban on contraception could, in certain situations, threaten the lives and well-being of patients. The Supreme Court dismissed the appeal on the grounds that the plaintiff lacked [standing](http://en.wikipedia.org/wiki/Standing_(law)) to sue on behalf of his patients. A second challenge to the Connecticut law was brought by a doctor as well as his patients in [*Poe v. Ullman*](http://en.wikipedia.org/wiki/Poe_v._Ullman) (1961). However, the Supreme Court again voted to dismiss the appeal, on the grounds that the case was not [ripe](http://en.wikipedia.org/wiki/Ripeness). It held that, because the plaintiffs had not been charged or threatened with prosecution, there was no actual controversy for the judiciary to resolve. Thus, the Connecticut statute had evaded judicial review until *Griswold v. Connecticut*.

In *Poe*, Justice [John Marshall Harlan II](http://en.wikipedia.org/wiki/John_Marshall_Harlan_II) filed one of the most citeddissenting opinions in Supreme Court history. He argued, foremost, that the Supreme Court should have heard the case rather than dismissing it. Thereafter he indicated his support for a broad interpretation of the due process clause. He famously wrote, "the full scope of the liberty guaranteed by the Due Process Clause cannot be found in or limited by the precise terms of the specific guarantees elsewhere provided in the Constitution. This 'liberty' is not a series of isolated points pricked out in terms of the taking of property; the freedom of speech, press, and religion; the [right to keep and bear arms](http://en.wikipedia.org/wiki/Right_to_keep_and_bear_arms); the freedom from unreasonable searches and seizures; and so on. It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints." On the basis of this interpretation of the due process clause, Harlan concluded that the Connecticut statute violated the Constitution.

Shortly after the *Poe* decision was handed down, [Estelle Griswold](http://en.wikipedia.org/wiki/Estelle_Griswold) (Executive Director of the [Planned Parenthood](http://en.wikipedia.org/wiki/Planned_Parenthood) League of Connecticut) and Dr. C. Lee Buxton (a physician and professor at the [Yale School of Medicine](http://en.wikipedia.org/wiki/Yale_School_of_Medicine)) opened a birth control clinic in [New Haven, Connecticut](http://en.wikipedia.org/wiki/New_Haven,_Connecticut), in order to test the contraception law once again. Shortly after the clinic was opened, Griswold and Buxton were arrested, tried, found guilty, and fined $100 each. The conviction was upheld by the Appellate Division of the Circuit Court, and by the [Connecticut Supreme Court](http://en.wikipedia.org/wiki/Connecticut_Supreme_Court). Griswold then appealed her conviction to the Supreme Court of the United States. Griswold argued that the Connecticut statute against the use of contraceptives was countered by the 14th Amendment, which states, "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law...nor deny any person the equal protection of the laws," (Amendment 14 Section 1). The U.S. Supreme Court concluded that the Connecticut Statute was unconstitutional.

Subsequent jurisprudence

Later decisions by the court extended the principles of *Griswold* beyond its particular facts. [*Eisenstadt v. Baird*](http://en.wikipedia.org/wiki/Eisenstadt_v._Baird) (1972) extended its holding to unmarried couples, whereas the "right of privacy" in *Griswold* only applied to marital relationships. The argument for *Eisenstadt* was built on the claim that it was a violation of the Equal Protection Clause of the Fourteenth Amendment to deny unmarried couples the right to use contraception when married couples did have that right (under *Griswold*). Writing for the majority, Justice Brennan wrote that Massachusetts could not enforce the law onto married couples because of *Griswold v. Connecticut*, so the law worked "irrational discrimination" if not extended to unmarried couples as well.

The reasoning and language of both *Griswold* and *Eisenstadt* were cited in support of the Court's result in [*Roe v. Wade*](http://en.wikipedia.org/wiki/Roe_v._Wade) (1973). The decision in *Roe* struck down a Texas law that criminalized aiding a woman in getting an abortion. The Court ruled that this law was a violation of the Due Process Clause of the Fourteenth Amendment. The law was struck down, legalizing abortion for any woman for any reason, up through the first trimester, with possible restrictions for maternal health in the second (the midpoint of which is the approximate time of fetal viability), and possibly illegal in the third with exception for the mother's health, which the court defined broadly in [*Doe v. Bolton*](http://en.wikipedia.org/wiki/Doe_v._Bolton).

[*Lawrence v. Texas*](http://en.wikipedia.org/wiki/Lawrence_v._Texas) (2003) struck down a Texas state law that prohibited certain forms of intimate sexual contact between members of the same sex. Without stating a standard of review in the majority opinion, the court overruled [*Bowers v. Hardwick*](http://en.wikipedia.org/wiki/Bowers_v._Hardwick) (1986), declaring that the "Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual." [Justice O'Connor](http://en.wikipedia.org/wiki/Sandra_Day_O%27Connor), who wrote a concurring opinion, framed it as an issue of [rational basis review](http://en.wikipedia.org/wiki/Rational_basis). [Justice Kennedy](http://en.wikipedia.org/wiki/Justice_Kennedy)'s majority opinion, based on the liberty interest protected in the [due process clause](http://en.wikipedia.org/wiki/Due_process_clause) of the [Fourteenth Amendment](http://en.wikipedia.org/wiki/Fourteenth_Amendment_to_the_United_States_Constitution), stated that the Texas anti-sodomy statute touched "upon the most private human conduct, sexual behavior, and in the most private of places, the home," and attempted to "control a personal relationship that . . . is within the liberty of persons to choose without being punished." Thus, the Court held that adults are entitled to participate in private, consensual sexual conduct. While the opinion in *Lawrence* was framed in terms of the right to liberty, Kennedy described the "right to privacy" found in *Griswold* as the "most pertinent beginning point" in the evolution of the concepts embodied in *Lawrence.*[2]