

# REGULATION THROUGH THE YEARS

By Chenoa Musillo Olson & Sarah Wieking

In order to develop student understanding of arguments for and against the use of contraceptives and abortion as a struggle that has persisted for over a century, we are asking students to draw comparisons and synthesize primary source documents from the late 1800's, the 1970's and 2010's. We will be comparing three types of documents: legislation and court documents, advertisements, and specific group's arguments against abortion. This gives students insight into political, legal, medical, and social perspectives on the same argument in three different time periods.

**Grade and Course:** 11th grade history classroom.

This lesson would be a part of a unit on the long 1960's, meaning a study of the movements of the nineteen sixties extending into the nineteen seventies. The content and documents being used are most appropriate for an 11th grade United States History course.

**Picture:**

*Oral Birth Control Pills.*  
Bryan Calabro  
February 19, 2012



# Generative Question: Should people's bodies be regulated by external authorities?

Critically read the following documents keeping in mind the evolving mentality and arguments of people regarding abortion and birth control. When reading each document think about the similarities and differences between each generation.

Also consider key questions:

1. What is the main argument being made?
2. Who is the intended audience?
3. How does each piece play into society? What is significant about the date in which it was published?
4. To what extent is regulation or de-regulation being argued for?





**THE FEMALE ABORTIONIST.**

## Comstock Law (1873)

AN ACT for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever, within the District of Columbia or any of the Territories of the United States, or other place within the exclusive jurisdiction of the United States, shall sell, or lend, or give away, or in any manner exhibit, or shall offer to sell, or to lend, or to give away, or in any manner to exhibit, or shall otherwise publish or offer to publish in any manner, or shall have in his possession, for any such purpose or purposes, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion, or shall advertize the same for sale, or shall write or print, or cause to be written or printed, any card, circular, book, pamphlet, advertisement, or notice of any kind, stating when, where, how, or of whom, or by what means, any of the articles in this section hereinbefore mentioned, can be purchased or obtained, or shall manufacture, draw, or print, or in any wise make any of such articles, shall be deemed guilty of

# 1973

## GALLERY 1.1 **Roe v. Wade**

Reargued Oct. 11, 1972.

Decided Jan. 22, 1973.

Rehearing Denied Feb. 26, 1973.

See 410 U.S. 959, 93 S.Ct. 1409.

Action was brought for a declaratory and injunctive relief respecting Texas criminal abortion laws which were claimed to be unconstitutional. A three-judge United States District Court for the Northern District of Texas, 314 F.Supp. 1217, entered judgment declaring laws unconstitutional and an appeal was taken. The Supreme Court, Mr. Justice Blackmun, held that the Texas criminal abortion statutes prohibiting abortions at any stage of pregnancy except to save the life of the mother are unconstitutional; that prior to approximately the end of the first trimester the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician, subsequent to approximately the end of the first trimester the state may regulate abortion procedure in ways reasonably related to maternal health, and at the stage subsequent to viability the state may regulate and even proscribe abortion except where necessary in appropriate medical judgment for preservation of life or health of mother.

Affirmed in part and reversed in part.

Mr. Chief Justice Burger, Mr. Justice Douglas and Mr. Justice Stewart filed concurring opinions.

lief and the arguments as to both aspects were necessarily identical. 28 U.S.C.A. § 1253.

### **2. Constitutional Law** ↻42.1(3), 46(1)

With respect to single, pregnant female who alleged that she was unable to obtain a legal abortion in Texas, when viewed as of the time of filing of case and for several months thereafter, she had standing to challenge constitutionality of Texas criminal abortion laws, even though record did not disclose that she was pregnant at time of district court hearing or when the opinion and judgment were filed, and she presented a justiciable controversy; the termination of her pregnancy did not render case moot. Vernon's Ann.Tex.P.C. arts. 1191-1194, 1196.

### **3. Courts** ↻383(1), 385(1)

Usual rule in federal cases is that an actual controversy must exist at stages of appellate or certiorari review and not simply at date action is initiated.

### **4. Action** ↻6

Where pregnancy of plaintiff was a significant fact in litigation and the normal human gestation period was so short that pregnancy would come to term before usual appellate process was complete, and pregnancy often came more than once to the same woman, fact of that pregnancy provided a classic justification for conclusion of nonmootness because of termination.

#### Picture:

Womens Lib 1970 WashingtonDC  
Library of Congress  
August 26, 1970

**Tap to enlarge.** Then read this excerpt of the court decision on the Supreme Court case: **Roe v. Wade.** Read until the section labeled "Syllabus."



Please consider these two amendments in discerning the former supreme court case, *Roe v. Wade*.



Picture:  
Victorian Postcard  
20th century  
<https://commons.wikimedia.org/wiki/File:VictorianPostcard.jpg>

**Ninth Amendment:** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people

**Fourteenth Amendment: Section 1.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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 to any person within its jurisdiction the equal protection of the laws.

The lower courts based their decision off of the ninth amendment, and the supreme court based its decision off of the fourteenth amendment.

# Mid 18th Century

**Advertisement:** Mrs. Bird, Female Physician To the Ladies- Madame Costello (1842)

Two advertisements from the New York sun newspaper. Mrs. Bird is selling pills that treat menstrual irregularity. Madame Costello is offering to help women who are wanting to be treated for "obstruction of their monthly periods"

[Ad:](#) New York sun. [New York, New York], Feb. 24, 1842. , "Mrs. Bird, female physician To the Ladies--Madame Costello," Sovereign Body History Project , accessed November 23, 2015,

**M**RS. BIRD, Female Physician, where can be obtained Dr. Vandenburg's Female Renovating Pills, from Germany, an effectual remedy for suppression, irregularity, and all cases where nature has stopped from any cause whatever. Sold only at Mrs. Bird's, 83 Duane st, near Broadway. n24 3m\*

**T**O THE LADIES—Madame Costello, Female Physician, still continues to treat, with astonishing success, all diseases peculiar to females. Suppression, irregularity, obstruction, &c., by whatever cause produced, can be removed by Madame C. in a very short time. Madame C's medical establishment having undergone thorough repairs and alterations for the better accommodation of her numerous patients, she is now prepared to receive ladies on the point of confinement, or those who wish to be treated for obstruction of their monthly periods. Madame C. can be consulted at her residence, 34 Lispenard st, at all times.— All communications and letters must be post paid.

n2f 1m\*

## Advertisement: French Periodical Pills- Warranted to have the desired effect in all cases (1845)

Dr. L. Monroe's advertisement for "French periodical pills" in the Boston daily times newspaper. For regulating "the monthly turns of females." The advertisement suggests that "ladies married should not take them if they have reason to believe they are enciente, as they are sure to produce a miscarriage."

Enciente: pregnant, with child.

- [Ad](#): Boston Daily Times. [Boston, Mass.] : George Roberts, 1845 January 6, p. 4, column 6. (bound volume no. 8256)., "French periodical pills - Warranted to have the desired effect in all cases," Sovereign Body History Project , accessed November 23, 2015,

### FRENCH PERIODICAL PILLS.

Warranted to have the desired effect in all cases.

**T**Hese Pills contain a portion of the only article in the whole materia medica, which can regulate the system and produce the monthly turns of females that can be taken, without hazarding life, and this article is not to be found in any of the pills or nostrums which are pictured forth so largely in the papers of the day. It has frequently occurred that the unhappy patient has by the use of these pills and nostrums given nature such a shock that they have never since enjoyed health, and they never can. It seems that they are got up and advertised merely for the object of making money, regardless of the consequences, and the readers are usually considered beneath responsibility, by all who know them.

The French Periodical Pills are the result of the combined knowledge and experience of some of the oldest and most distinguished physicians of Europe, and have been used by females embracing the gentility and most of the nobility of France, for the last twenty-three years. To eulogize their virtues would not add to their merits. We will only say TRY THEM, and if they do not prove to be what they are here represented to be, your money shall be refunded.

They contain no medicine detrimental to the constitution, but restore all debilitated constitutions to their wonted energy and healthfulness by removing from the system every impurity.

The only precaution necessary to be observed is ladies married should not take them if they have reason to believe they are enciente, as they are sure to produce a miscarriage, almost without the knowledge of the patient, so gentle yet active are they,

All letters to be directed to DR. L. MONROE, U. S. Agent and Importer, No 58 Union street, Boston.

N. B. The above Pills can only be obtained at 58 Union street, all sold elsewhere in Boston, are counterfeit, and only calculated to deceive.

N. B. Full directions accompanying the Pills. 

3 w\* d 11

## 20th Century ads:

**"That's right boys...  
I'm on the pill!"**

says  
**Annette Funicello**  
Starring in—"Beach Blanket Bingo"  
and also "How to Stuff a Wild Bikini"  
AMERICAN TRANSITIONAL PICTURES



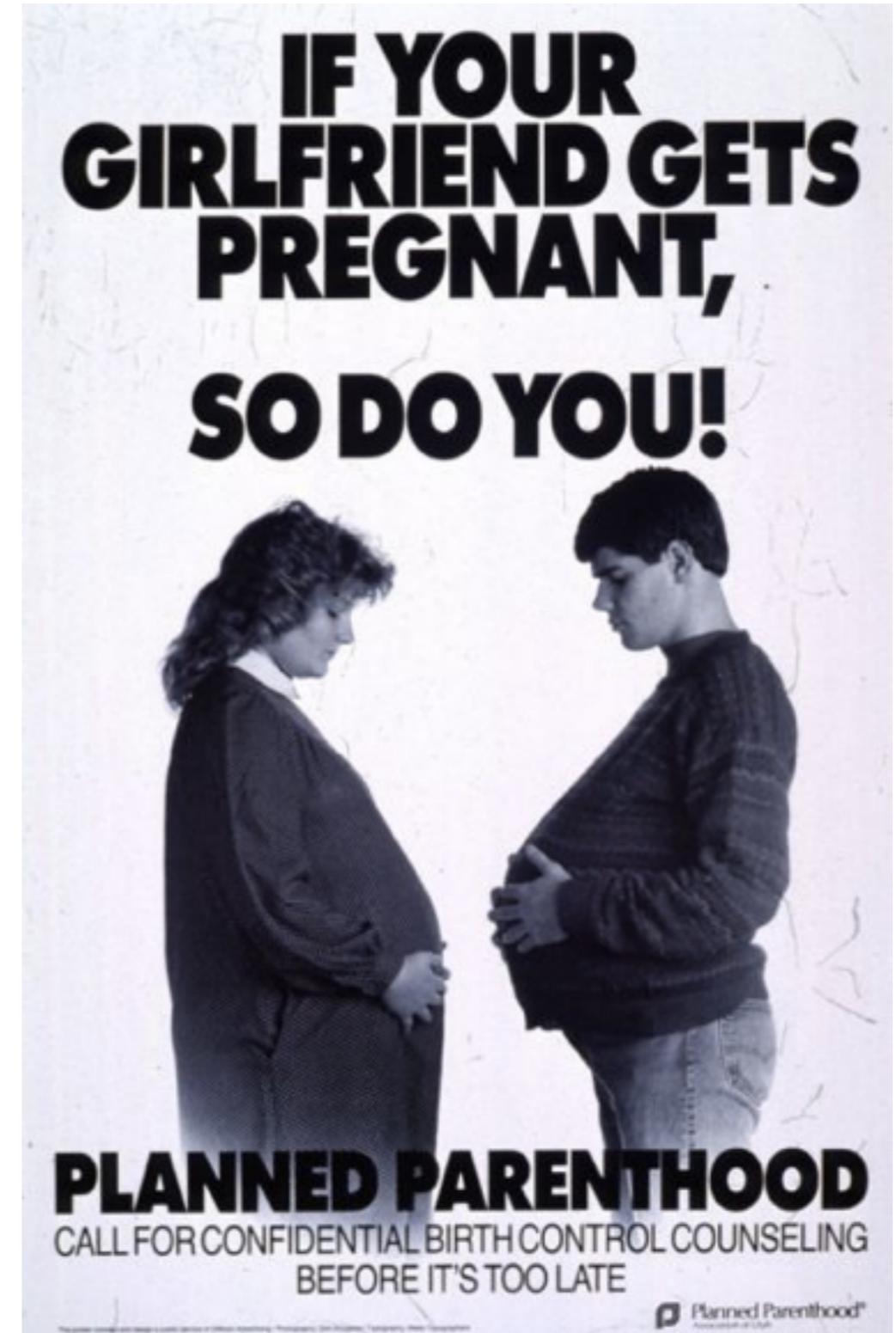
**YASMIN®**

ASK YOUR DOCTOR ABOUT  
**YASMIN**  
ON YOUR NEXT VISIT!

**Bayer Healthcare**  
77 Belfield Road  
Toronto, Ontario | M9W 1G6

Picture

**IF YOUR  
GIRLFRIEND GETS  
PREGNANT,  
SO DO YOU!**



**PLANNED PARENTHOOD**  
CALL FOR CONFIDENTIAL BIRTH CONTROL COUNSELING  
BEFORE IT'S TOO LATE

 **Planned Parenthood®**  
AMERICAN BRANCH OF U.S.A.

Picture

# AMA Report on Criminal Abortion (1859)

*Although no draft of the Report on Criminal Abortion has been located, the unanimous approval of Horatio's March effort probably indicates slight changes at most from the following final version read at the convention in Louisville in May, 1859 and published later that year in the Transactions of the American Medical Association.*

The heinous guilt of criminal abortion, however viewed by the community, is everywhere acknowledged by medical men.

Its frequency - among all classes of society, rich and poor, single and married - most physicians have been led to suspect; very many, from their own experience of its deplorable results, have known. Were any doubt, however, entertained upon this point, it is at once removed by comparisons of the present with our past rates of increase in population, the size of our families, the statistics of our foetal deaths, by themselves considered, and relatively to the births and to the general mortality. The evidence from these sources is too constant and too overwhelming to be explained on the ground that pregnancies are merely prevented; or on any other supposition than that of fearfully extended crime.

The causes of this general demoralization are manifold. There are three of them, how-

*The committee appointed in May, 1857, to investigate the subject of Criminal Abortion, with a view to its general suppression, have attended to the duty assigned them, and would present the following report:*

Acquired from:  
[www.abortionessay.com](http://www.abortionessay.com)

# SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH DECLARATION ON PROCURED ABORTION (1974)

The Supreme Pontiff Pope Paul VI ratified on June 28, 1974

1. The problem of procured abortion and of its possible legal liberalization has become more or less everywhere the subject of impassioned discussions. These debates would be less grave were it not a question of human life, a primordial value, which must be protected and promoted. Everyone understands this, although many look for reasons, even against all evidence, to promote the use of abortion. One cannot but be astonished to see a simultaneous increase of unqualified protests against the death penalty and every form of war and the vindication of the liberalization of abortion, either in its entirety or in ever broader indications. The Church is too conscious of the fact that it belongs to her vocation to defend man against everything that could disintegrate or lessen his dignity to remain silent on such a topic. Because the Son of God became man, there is no man who is not His brother in humanity and who is not called to become a Christian in order to receive salvation from Him.

4. Charged with the promotion and the defense of faith and morals in the universal Church,[2] the Sacred Congregation for the Doctrine of the Faith proposes to recall this teaching in its essential aspects to all the faithful. Thus in showing the unity of the Church, it will confirm by the authority proper to the Holy See what the bishops have opportunely undertaken. It hopes that all the faithful, including those who might have been unsettled by the controversies and new opinions, will understand that it is not a question of opposing one opinion to another, but of transmitting to the faithful a constant teaching of the supreme Magisterium, which teaches moral norms in the light of faith.[3] It is therefore clear that this declaration necessarily entails a grave obligation for Christian consciences.[4] May God deign to enlighten also all men who strive with their whole heart to "act in truth" (Jn. 3:21).

11. The first right of the human person is his life. He has other goods and some are more precious, but this one is fundamental - the condition of all the others. Hence it must be protected above all others. It does not belong to society, nor does it belong to public authority in any form to recognize this right for some and not for others: all discrimination is evil, whether it be

founded on race, sex, color or religion. It is not recognition by another that constitutes this right. This right is antecedent to its recognition; it demands recognition and it is strictly unjust to refuse it.

12. Any discrimination based on the various stages of life is no more justified than any other discrimination. The right to life remains complete in an old person, even one greatly weakened; it is not lost by one who is incurably sick. The right to life is no less to be respected in the small infant just born than in the mature person. In reality, respect for human life is called for from the time that the process of generation begins. From the time that the ovum is fertilized, a life is begun which is neither that of the father nor of the mother, it is rather the life of a new human being with his own growth. It would never be made human if it were not human already.

20. These arguments and others in addition that are heard from varying quarters are not conclusive. It is true that civil law cannot expect to cover the whole field of morality or to punish all faults. No one expects it to do so. It must often tolerate what is in fact a lesser evil, in order to avoid a greater one. One must, however, be attentive to what a change in legislation can represent. Many will take as authorization what is perhaps only the abstention from punishment. Even more, in the present case, this very renunciation seems at the very least to admit that the legislator no longer considers abortion a crime against human life, since murder is still always severely punished. It is true that it is not the task of the law to choose between points of view or to impose one rather than another. But the life of the child takes precedence over all opinions. One cannot invoke freedom of thought to destroy this life.

27. There will be no effective action on the level of morality unless at the same time an effort is made on the level of ideas. A point of view - or even more, perhaps a way of thinking - which considers fertility as an evil cannot be allowed to spread without contradiction. It is true that not all forms of culture are equally in favor of large families. Such families come up against much greater difficulties in an industrial and urban civilization. Thus in recent times the Church has insisted on the idea of responsible parenthood, the exercise of true human and Christian prudence.

Such prudence would not be authentic if it did not include generosity. It must preserve awareness of the grandeur of the task of cooperating with the Creator in the transmission of life, which gives new members to society and new children to the Church. Christ's Church has the fundamental solicitude of protecting and favoring life. She certainly thinks before all else of the life which Christ came to bring: "I have come so that they may have life and have it to the full" (Jn. 10:10). But life at all its levels comes from God, and bodily life is for man the indispensable beginning.

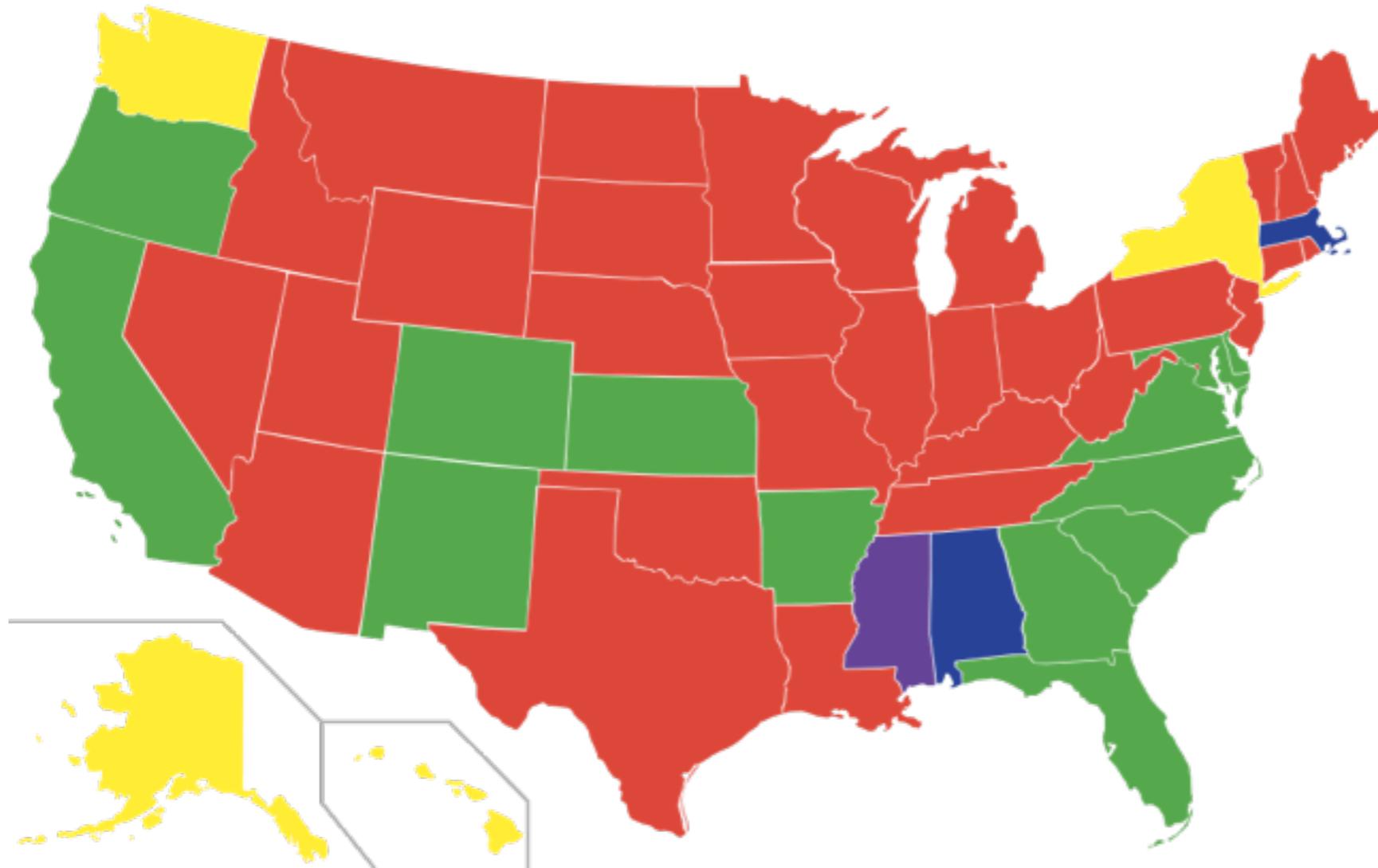
**Watch the following video and analyze at the following picture:**

INTERACTIVE 1.1 *Merinda Advertisement (2008)*



Acquired from: <http://studentsforlife.org/texas-capitol-activism/>

# Abortion Laws in the U.S. before Roe v. Wade



## Key:

- Illegal (30)
- Legal in case of rape (1)
- Legal in case of danger to woman's health (2)
- Legal in case of danger to woman's health, rape or incest, or likely damaged fetus (13)
- Legal on request (4)

## Map:

Map of US abortion laws pre-1973  
Lokal\_Profil  
March 12, 2007

# Procedure:

1. Students read and annotate the five documents
2. While reading you should consider the following questions:
  - ii. How have the arguments against abortion and birth control changed? How have they stayed the same?
  - iii. How do the advertisements evolve to match the needs of women and society in the different time periods?
  - iv. In what ways has the legislation regarding women's bodies changed over time?
3. Predict what the next phase of advertisements, legislation, and movements about birth control and abortion will be. Use evidence from the documents to support your answer.
4. Students will write an argument for or against the use of abortion and birth control using the arguments utilized in the documents and their knowledge of the late 1800's, 1970's, and present day.
  - iii. Students are asked to consider different restrictions and limitations of their argument.

### **Reflection - Chenoa Musillo Olson**

Writing my chapter for the book has been an interesting exercise in finding sources and being selective in choosing sources accessible to my students. Collecting resources is every historians' favorite pass time.

Exposing students to primary documents is an exciting way to allow students to be historians. I also found that it is a skill that will need to be developed in students: to be able to read a document and discern the important parts. I would hope to use document based lessons as often as possible. I would also like to use primary documents as a means to learn how to analyze literature.

As far as turning it into a book, I found it to be a long, tedious process that ultimately produced a lesson that will be exciting to look back on. The process of turning something into a book is a long process that requires a lot of time and tech savvy. I hope to use this as an assignment for my students in the future.

### **Reflection - Sarah Wieking**

Designing a DBL was an intricate process. It spanned over several weeks and involved many steps. There were many struggles but also many rewarding moments that accompanied the process.

The first dilemma was in deciding on a topic. I cannot even remember the first topic that I selected because it was hardly intriguing. Then it was a working progress once my partner and I decided to create a lesson on abortion and birth control regulation throughout history.

The next issue was finding the documents. It was really a struggle to select the documents, advertisements, and laws that were appropriate for the topic and that would accomplish our goals. After that, sometimes we discovered the perfect document but then it was difficult to find the full document from a reliable source.

And finally there was the technological struggle. Once we found the documents and advertisements, deciding what we wanted students to accomplish was easy. However, iBooks author and tying it all together in a project was another story entirely. Adding a new page in the middle of my chapter was a huge hassle because it shifted all of the text out of order. It took a few hours to honestly even figure out how to work with the program and how to simply add documents, pictures, and texts.

However, in the end it looked really great and we were able to successfully get it done. It was a fun experience diving into one topic and asking potential students to find connections, make comparisons, and form arguments based on our selections. I mostly just hope that once I am a teacher it will be easier to find the primary documents I need.



FROM EXPLORING  
HISTORY: VOL III

Available free at [iTunes](#)

This eBook is a collaborative project of Peter Pappas and his Fall 2015 Social Studies Methods Class [School of Education](#) ~ University of Portland, Portland Ore.

Graduate and undergraduate level pre-service teachers were assigned the task of developing an engaging research question, researching supportive documents and curating them into a DBQ suitable for middle or high school students.

For more on this class, visit the course blog [EdMethods](#)  
For more on this book project and work flow tap [here](#).

## Chapters in chronological order

1. *Finding Egyptian Needles in Western Haystacks*  
by Heidi Kershner
2. *Pompeii* by Caleb Wilson
3. *Samurai: Sources of Warrior Identity in Medieval Japan*  
by Ben Heebner
4. *The Declaration of Independence* by David Deis
5. *Reconstruction in Political Cartoons*  
by EmmaLee Kuhlmann
6. *Regulation Through the Years*  
by Chenoa Musillo Olson / Sarah Wieking
7. *Battle of the Somme* by John Hunt

8. *The Lynching of Leo Frank* by Jeff Smith
9. *The Waco Horror* by Alekz Wray
10. *The Harlem Renaissance* by Monica Portugal
11. *A Date of Infamy* by Mollie Carter
12. *Anti-Vietnam War Imagery* by Felicia Teba
13. *Examining the Ongoing Evolution of American Government* by Eric Cole

**Peter Pappas, editor**

**School of Education ~ University of Portland**

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Cover image: Door knocker

Amsterdam NL Photograph by Peter Pappas