

Court Voids an Anti-Contraceptive Law

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WASHINGTON, March 22 — The Supreme Court ruled today that a state could not outlaw the distribution of contraceptives to single persons when birth control devices are legally available to married couples.

In a 4-to-3 decision, the Court declared unconstitutional Massachusetts's 93-year-old law that authorized prison terms of up to five years for persons who sold or gave birth control devices to unmarried persons.

The ruling is expected to have minimal direct impact upon state laws, because only Wisconsin has a similar law applying to unmarried persons only.

The Supreme Court ruled in 1965 that states could not make it illegal to make contraceptives available to married persons, and many states that had anti-contraceptive laws subsequently repealed them.

16 States Have Laws

A spokesman for Planned Parenthood—World Population in New York said today that as of last September, 34 states had no anti-contraceptive law. Of the remaining 16 states, Massachusetts's and Wisconsin's laws are unconstitutional under today's ruling and the archaic statutes of three other states — Louisiana, Nebraska and Pennsylvania—are widely considered to be unconstitutionally vague. They outlaw "secret drugs or nostrums," which is considered an inexact description of modern contraceptives.

Today's decision did not remove the authority of states to limit the distribution of contraceptives to physicians or druggists. Thus it apparently will not affect New York's law, which says that only doctors and druggists can dispense contraceptives and that druggists

cannot sell them to persons under 16 years of age. According to Planned Parenthood, similar laws exist in Arkansas, Idaho, Minnesota, Montana, New Jersey, Oregon and Texas.

The three other states that regulate contraceptive sales — Maryland, North Dakota and South Dakota — only prohibit vending machine sales.

Baird Conviction Invalidated

The decision today overturned the conviction of William R. Baird, a 39-year-old birth control crusader from Valley Stream, L. I., who received a three-month jail sentence for giving an unmarried woman a packet of vaginal foam after he lectured at Boston University in 1967. The state courts upheld his conviction, but the United States Court of Appeals for the First Circuit struck down the law.

Justice William J. Brennan Jr., the only Roman Catholic on the Supreme Court, wrote the opinion today affirming the Court of Appeals.

He rejected the state's argument that the law was a proper exercise of the state's power to discourage fornication and to protect people from harmful products. Justice Brennan noted that this could not have been the state's real purpose, because the law leaves married persons exposed to both.

He concluded that when the state respected married people's right of privacy, it denied single people equal protection of the laws by treating them differently.

"If the right of privacy means anything," he said, "it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the

decision whether to bear or beget a child."

Mr. Baird called the decision "a great victory for the people of Massachusetts and the nation, a victory which shows the population crisis has finally been recognized by our Government."

Justices William O. Douglas, Thurgood Marshall and Potter Stewart joined Justice Brennan in the opinion.

Justices Byron R. White and Harry A. Blackmun joined in overturning Mr. Baird's conviction, but they did not join the majority opinion. They said that if Mr. Baird had given away birth control pills they would have upheld the conviction under the state's power to control harmful products. But they said there was no proof that vaginal foam was harmful.

The lone dissenter against overturning the conviction was Chief Justice Warren E. Burger. He said the state had acted properly in punishing Mr. Baird "for dispensing medicinal material without a license."

Justices Lewis F. Powell Jr. and William H. Rehnquist did not participate because they were not on the Court when the case was argued.

In another case today the Court overturned, 5 to 4, a Texas rape conviction because the defendant's prior convictions, which were unconstitutional because he had not been represented by counsel, were introduced in an attack on his credibility at the subsequent rape trial. Justice Stewart wrote the prevailing opinion. Justices Douglas, Brennan, Marshall and White concurred.

The dissenters were Chief Justice Burger and Justices Blackmun, Powell and Rehnquist.

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