

The Afterlife of Anthony Comstock

Abortion, Bodily Autonomy, and Obscenity (1873 - 2023)

<https://cyber.harvard.edu/events/afterlife-anthony-comstock>

Kendra Albert: Hello, everyone. Welcome, we're so excited to be here with y'all, and on this spooky Halloween day. Welcome y'all to our event on The Afterlife of Anthony Comstock. My name is Kendra Albert, I'm the Director of the Initiative for Representative First Amendment, and I'm just gonna get us through a little bit of housekeeping before we get to the fun stuff. There's a couple of logistics, as you probably already have been notified, this event is being recorded, and it will be posted later, and in fact, we'll send out a link to all of y'all, so you can share it with all of your friends, enemies, you know, loved ones, less loved ones, et cetera. You can enable closed captions for yourself at any time, and thank you so much to Glosanda and Tricia, our ASL interpreters for today. If you have questions for our panelists, and we hope that you will, you can use the Q&A box, and if you encounter any technical issues or have problems, you can please send us an email, and I'll drop the email in the chat in a second. Before I sort of, now that those housekeeping items are out of the way, I wanna just take a second to thank our sponsor, the Ford Foundation, and the staff of the Berkman Klein Center for Internet and Society for their support. We're really grateful for all of the work and effort that folks have put in in terms of making sure that we're able to do this event. So what we're gonna do today are fun activities, for the next couple of minutes is to do some greetings from me and Melissa Gira Grant, the co-organizers of ComstockCon. Then for about 35 minutes, we'll hear from our panelists, Jules Gill-Peterson, Whitney Strub, and Gillian Frank. Then we'll have time for Q&A with all of y'all, and then after that, we're gonna take a few minutes, and announce sort of what is ComstockCon, what's the thing that you're all here to see. But before we do any of that, I wanna talk a little bit about who this man is. So those of you who are unfamiliar, oh, this is Anthony Comstock, you know, the person who's afterlife we're here to celebrate or bury. And you might be wondering why we're sort of starting in 1873 for a conversation about abortion that's going on now. So that's because more than 150 years ago, Anthony Comstock, who was a former dry good salesman "Of no conspicuous talents and boundless energy" to quote journalism scholar, Craig LaMay, took up an obsessive campaign to stamp out prostitution, pornography, and contraception. He wasn't content to merely raid New York publishers, or decry those drinking in pubs, that was just a little too local for him. In 1873, he went to Washington, and Anthony Comstock succeeded in convincing Congress to pass a law to ban the mailing of lewd, lascivious, indecent and obscene or obscene materials. The power to enforce this law was in the hands of the postmaster general, a position he was appointed to, and occupied for the rest of his life, ruthlessly enforcing the law he had written, all in the name of suppressing what he called vice. Comstock's work and his law, frankly, are mostly remembered in terms of an attack on indecent literature, or to put it maybe in more modern terms, pornography. But what Comstock considered obscene was much broader. In fact, the Comstock Act's original text applies its provisions to the physical objects associated with abortion and contraception, condoms, for example, as well as speech explaining how to obtain them, or how to use them.

The abortion provisions of the Comstock Act have in fact remained on the books. They're still part of the law, even as the ones restricting contraception were removed. In fact, the coverage of the Comstock Act was expanded in 1996, explicitly applying it to internet services. Even that dangerous expansion was sort of met historically with something of a judicial shrug. Abortion was protected, at least in a legal sense, under Roe, and many of the Comstock Act's speech restrictions have been limited over the years by multiple Supreme Court cases, such as the obscenity cases, Roth and Miller versus California, and the commercial speech case, Bolger v. Youngs Drug Products Co. The breadth of the Act's language, which is very broad, has been historically constrained by judges who interpret it narrowly, often reading the Comstock Act in light of the changing times. But now in the aftermath of the Dobbs decision, and the appointment of a number of partisan conservatives across the federal judiciary, things look a little bit different. The Comstock Act no longer looks like a dead letter law, you know, something that while it's still on the books, is not used or really thought about very much, but rather, it looks like a series of ticking time bombs. In just the last two years, the Comstock Act has been cited as a rationale for restricting access to abortion by district court judges, and a federal court of appeals judge in Texas. And in the hands of judges like these who claim an allegiance to following the text of the law, especially when it suits their politics, this law can be deployed against any number of things, that its author also would've thought of as wickedness. That means that, you know, the Comstock Act is not an academic topic, or merely a historical one. The political and legal actors who built the strategy for Dobbs are well-aware of how it might be used to their advantage.

Melissa Gira Grant: Hi everyone. I'm gonna take it from here for a minute. So Kendra's laid us out through, there's 150 years of Comstock, which takes us to where we are now, and hopefully you're thinking, what should we do about this? We don't have to live like this anymore. The first thing that we wanna say is we, in sort of figuring out how to respond to Comstock, and his revival, it would make sense to avoid repeating the assumptions and the errors of the past, all of which have only helped obscure the lasting power of Comstock. Few things that we'd like to do differently, we no longer want to assume that rights once pronounced fundamental are guaranteed to us forever. And also we can no longer make the mistake of isolating these issues from one another, something that's long been pointed out by many who work in movements for reproductive justice. It simply doesn't represent our whole lives, if we go on separating abortion from so many other forms of bodily autonomy from the fight to end forced sterilization, to the criminalization of sex work. We propose that when you go back to Comstock, as it seems opponents of bodily autonomy are eager to do, this also offers us an opportunity to approach bodily autonomy with a different set of questions, and more importantly, a broader set of commitments to one another. For our purposes, this is where we're starting from today. We assume that the criminalization of abortion is not novel or exceptional, and it's intimately connected to other forms of criminalizing bodily autonomy, we assume that the legal system is just one venue of many for which to ensure abortion access, we know that those engaged in local and regional-based reproductive justice movement work have both the knowledge and the solutions to end the criminalization of bodily autonomy, and we know that true justice and

liberation require collaborative imagining about how to build power, and strengthen communities outside the bounds of the criminal legal system.

So that's a bit about the afterlife of Anthony Comstock so far, we're gonna get much more into it shortly, and it's where we hope, because this is the first time that Kendra and myself have been able to share all of this thinking with you, that we might continue to go in this spirit, and we're very honored that you've joined us, and you're some of the first people to get to go on this journey with us of, hopefully ending the afterlife of Anthony Comstock. Without any further ado, I'd love to welcome our distinguished panel. We have Jules Gill-Peterson, Whitney Strub, and Gillian Frank. And you can learn more about them on our event page here. So I wanna just dive into it, and get a chance to hear from each of our panelists, and then we'll transition into a discussion, and after that, we're gonna have an open Q&A, so just as a reminder, if you have any questions that come up over the course of this, you can drop those in the Q&A box, and we'll come back to them towards the end.

Jules, if you don't mind kicking us off, I'd like to ask you about Comstock as sort of this, he thinks of himself as like the protector of children, of children's innocence, and I think his heirs today are also operating in that mode, but of course, you know, his efforts were never just confined to children, and controlling the lives of children. Can you talk to us a little bit about what role the child plays in Comstockery, and just generally in American conversations about bodily autonomy, what work is the child doing?

Jules Gill-Peterson: Sure, thank you. Hi everybody, this is Jules speaking, I just also want to say thank you all for being here. I'm really thrilled to be a part of this conversation, and also, I guess, no one took the Halloween invitation to dress up as Comstock. I mean, I obviously didn't, but no one else did either, so, you know, maybe a missed opportunity. So yeah, you know, part of why I think it's so helpful to return back to the era in which this law came about, and the larger context in which it arose is that it returns us to matters of the Victorian era. And one reason that might feel sort of counterintuitive is that the loss, particularly of, you know, reproductive rights with the Dobbs decision in 2022 was, as our many civil rights issues often framed with reference sort of to the 1960s, you know, as a moment or the 70s when those rights were codified, and often we hear that right-wing political movements in this country are trying to return the United States to the 1950s. And you know, to whatever extent that's true, I often think that no, it's really about the Victorian era, and it's not even so much a return as a continuance, that we still live in many ways, not just under the shadow of laws passed during the Victorian era, but particularly, and this gets to the question of the child, we live, you know, under the context of a modern state, an administrative state, a police state, that was constructed during the Victorian era into the progressive era in the early 20th century. And it's really that time period to me, as a historian of sexuality that, you know, plays such a pivotal role in understanding the sort of basic building blocks or infrastructure that permit all of the sorts of, you know, really aggressive attacks on people's bodily autonomy that we are experiencing today. And so, but you know, we go back to that era, to this post-reconstruction Victorian state, where seeing the rise of a particular form of Comstockery, a kind of, you know, moral rhetoric around the need to protect certain vulnerable people through aggressive state intervention into free speech, into bodily autonomy, into the

labor market, into the postal system, into so many different aspects of everyday and public and private life. You know, we get to this sort of place, where I would say, yeah, the child, the figure of the child, which in its modern form, actually, is also a product of the Victorian era, really travels with the figure of the imperiled white woman, I think those would be the sort of twin figures for Comstock, these, you know, an endangered vulnerable child, an endangered vulnerable white woman, both which are sort of fictive people, not necessarily real people, sort of an imaginary belonging to this time period, but that have in credible effects on both real children and on women, but part of how the child in particular, I think, begins to function conceptually and politically in this time period that's really helpful for us to pay attention to is the child sort of figures vulnerable innocence as justifying legal, social, and political dependency, which is to say, if someone is vulnerable and innocent, you know, construed as incapable of taking care of themselves, or you know, vulnerable to being corrupted by obscenity or by sex, right? Then it sort of authorizes the state often in that time period through the literal, you know, sort of manifestation of white men's power to intervene and deprive those people of their bodily autonomy. So this is a time period where for instance, children, as they're granted certain types of, you know, rights under the law are also seen their overall no legal and economic standing shrink in a lot of ways compared to what it had been prior in some cases, and we're also then, again, seeing this kind of idea of vulnerable white womanhood as facilitating, you know, state power and particularly male power to regulate and control other people's bodily autonomy, sexuality, speech, freedom of assembly and so on, and so I think really that like the figure of the child deployed in a moral panic, or the figure of the vulnerable white woman deployed in a moral panic over a moral corruption or sexuality, really kind of has this broader function in being presented as apolitical and moral above all, as facilitating the domination of a variety of groups that are, you know, politically unpopular, so it has effects on real children and women, right? But it's also a sort of tool that can be used, right? To associate political enemies, or unpopular political movements, or, you know, religious minorities, or all sorts of people with corruption and obscenity in order to facilitate them being targeted by the state, and policed more aggressively by the state. So I really think it is this Victorian into progressive era moment that sets up this style of statecraft, as much as its legal kind of infrastructure and armature, and that kind of, you know, infrastructure, as you were talking about, Kendra, just hasn't ever gone away. It has been, you know, altered over time, but it never was dismantled, per se, it is almost the cornerstone in some ways of contemporary or modern US statecraft. So we're really kind of getting to the heart of how the state polices people, you know, through their bodies, but also by deploying these particular figures like the imperiled child, or the vulnerable white woman to, you know, basically justify forms of political domination.

Melissa Gira Grant: Thank you so much for that. Yeah, I think going back to this moment in time, like we start to see the beginnings of that system, of social control, whether that's public or private parts of our lives, being claimed by the state, as something they have a vested interest in, but not something that's political, because of course, this is just the common sense protection of innocent children, and also the innocent white woman, I'm glad you brought that in, as well. It's super critical to this. We are going to turn now, we're moving through history a little bit, now we're coming sort of into the 20th century, we're gonna turn to Whit. Whit, it is often assumed that all these anti-obscenity laws, Comstock and others, that this is the regime of the

Victorian era, or of the past, or something we've even left in like maybe the pre-60s 20th century, that this is like, part of how we actually get to the present is to, you know, abandon, or be better than, or more sophisticated than this anti-obscenity Victorian sort of regime. But as Kendra and also Jules have pointed out, there are ticking time bombs still within our legal system, and other structures of social control that allow Comstock's regime to still be live, and to pose dangers. And I'm wondering if you can talk us through sort of how those ticking time bombs, some of what those ticking times bombs are, and how they are still with us today, maybe particularly as it comes to issues of queer expression, which even though Comstock may have not put it in those terms, is obviously part of the group that he's talking about.

Whitney Strub: Yeah, absolutely. Just to preface my comments, it's such an honor to be here, and I tried to get in the festive spirit, although my head is blocking, I am actually haunted by Anthony Comstock, who's traps for the young lurks behind my head, but unfortunately I blocked my camera pretty poorly here. So that's my Halloween spirit. And one other thing, I do feel very obligated to say, because I think a lot of people tuned in out of interest in censorship, if people are concerned about censorship, to my mind, it's just worth saying out loud, that I think the most urgent censorship crisis facing us today is the censorship of Palestinian voices, and critics of Israel, who are literally being state-suppressed by the state at various points, and I really hope that anybody here who is concerned about Comstock's legacy and censorship will get involved at the very grassroots local level, maybe writing letters to your school board, which I think needs to hear from us. But to turn my attention to Anthony Comstock, yeah, I guess I, you know, in five minutes, I've got about two things I'll try to say, one of which is, you know, picking up on, like Kendra and Jules have both alluded to the continuing relevance of Comstock, when the second book I wrote as a scholar was, it's called "Obscenity Rules", and it's a history of Roth versus United States, the 1957 Supreme Court case that essentially codified the Comstock law into judicial doctrine, it's still binding today. And when I was doing my research, if you read Roth v. U.S., William Brennan, who's the lead author, he says, "In light of this history, it is apparent that the unconditional phrasing of the First Amendment was not intended to protect every utterance." And I really, I took umbrage at that when I was reading it, I mean, at that point I already had a PhD in US history, I'd already written a book on censorship battles, you know, I had no excuse to be quite so naive, but it was still a little shocking to have to confront such a direct reputation of what seems to be pretty categorical language in the First Amendment, but over time, you know, immersing myself in the sources and the case law precedent, I had to confess, he was right. You know, it's not a comfortable truth for those of us who support free speech, but Brennan was absolutely correct that there is no American legal or political tradition of unfettered free speech, you know, go back to the 1790s, and the Alien and Sedition Act, go through the suppression of Abolitionist voices in the 19th century, et cetera, et cetera. The red scare in 1919, you know, that is the American political and legal tradition is censorship. And when you put it in those terms, you know, it's worth thinking just about the continuing relevance of Roth, because we've never really come close to getting rid of the Comstock Act. The Roth case was decided six-three, in 1973 when they reheard some of the basic arguments, in the Miller v. California case, that turned into a five-four split, and that's as close as we've ever come, right? Right now, if the Comstock Act went to the Supreme Court on its fundamental premises, I mean, I think it would be a nine-zero sweep in favor of it, I don't think there's one sitting justice who

would vote to overturn it, and I don't think there's, you know, more than a random handful of politicians at the national level who would overturn it. So we're stuck with Comstock at least for the foreseeable political future, I think, and going to Melissa's question about ideology, and the kind of current threats, you know, deeply baked into the Comstock Act, I think, and of judicial interpretations, I mean, is a real targeting of queer and otherwise deviant sexualities. So when you see Moms for Liberty going after gender queer, for instance, you know, that's built on a long legacy that runs back through Jerry Falwell in the 80s, Anita Bryant in the 70s, Citizens for Decent Literature in the 60s, and all the way back to Comstock, and for the sake of time, sorry, I obviously five minutes is tough to compress oneself to, just very, very briefly to end, I mean, I think the central formal mechanism of Obscenity Law as it's been administered for the past century or so, is the concept of prurient interests. That's the legal lever that the Supreme Court set up in 1957, which is still binding, and basically the determinative quality, and that's never been a definable term, right? I mean, Brennan defined it in a footnote with series of synonyms, itching, longing, uneasy with desire, morbid lascivious, I mean these are all just loaded ideological terms, which structurally set this up to target queer expression in particular, and that's probably just a ball thrown in the air that I think we can pick up in the discussion. So I'll turn things over to Gill Frank, but yeah, thanks for having me, and I look forward to continuing the conversation.

Melissa Gira Grant: Excellent, thank you so much. And I just wanna let folks know, Kendra dropped a link in with some more context around what's remarks on the suppression of speech around Palestine and Gaza, and you can watch an event that they did two weeks ago ([*Correction from the IfRFA team, this event was in 2021](#)), getting more into that. I think we're gonna keep moving forward in time as we come to you, Gil. You know, our modern sexual regime is clearly carved out against this whole past of Comstock laws. Even if we don't think about them as often as we ought to, they are there, lurking, ghost-like, and not so ghost-like. Bringing us up to abortion, which I'm glad we're sort of like inverting this and coming back to abortion with all of that laid out, can you talk to us a bit about how efforts to restrict information and access to sexual and reproductive healthcare played out in this context in the past, and maybe what that can tell us about the future we are entering?

Gillian Frank: Thank you so much, Melissa, for having me at this amazing gathering, and thank you also Kendra Albert for organizing this. This is Gillian speaking. I'm so excited to build off of Jules' and Whit's work, both of whom I've admired for a long time. So let me begin by offering a guiding premise. Comstock laws in the years immediately before *Roe v. Wade* worked to uphold medical scarcity, and also information scarcity. Medical and information scarcity worked hand in glove to make abortion costly, stigmatized, more dangerous, and inaccessible for many. So I want us to think of Comstock laws and their enforcement, not as ubiquitous, not as all-consuming, but as producing medical and information deserts that were dotted with oases. The daunting task if you were in a desert, was to know how to locate the medical oases, and to find a way to get there safely. In that spirit, and to think about how the revitalization of Comstock might impact the present, I don't wanna make my starting point the 19th century, but the 1960s, and early 1970s. In those transformative years, state-level enforcement of abortion restrictions still relied upon many Comstock laws, which were the state level laws that mirrored in

accentuated federal laws. Now, these laws operated not just locally, but against the growing number of countries and US states that permitted abortion. The aim of these laws increasingly became to stop illegal abortions within state lines, but also to curb the flow of information, and to stem the persistent medical migration across national and state borders. So let's just take a quick step back. So Comstock laws and Comstock-type laws usually forbade the practice of abortion itself, but also forbade advising, aiding, abetting, or assisting women to what they called procure miscarriage, and they likewise banned the circulation and distribution of material that gave in the words of Florida's law, this was replicated elsewhere, as well, but I'm just quoting them for the purposes of clarity. "Any advice, direction, information, or knowledge that may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child." These laws targeting both medical resources and information had a chilling effect. So even as an energized and broad-based set of coalitions pushed for abortion law reforms in the 60s and 70s, many abortion seekers remained unable to answer basic questions. And these abortion seekers ranged from the very poor to the wealthy. Comstock laws were a dragnet. And so these women and abortion seekers in general couldn't answer questions like, how can I end my pregnancy? Where can I obtain an abortion? How will I get there? Can I trust the provider? Can I afford the procedure, and what do I do if something goes wrong? So despite the ongoing enforcement of many Comstock laws, abortion referral services and providers continue to appear. Now, these services and providers, some of them were motivated by profit, many by compassion, sought to break the information choke hold of Comstock laws by directing women to providers. And in doing so, they tried to answer the questions I just detailed above. Now, for these referral services, no detail was too small, the more meticulous the agency, the more meticulous the detail. But if the devil was in the details, and getting seekers from medical deserts to medical oases, so too was the magnification of legal transgressions. The act of aiding through providing information became targeted by police, by prosecutors, by politicians. So I wanna suggest that information doesn't exist in isolation, it exists in chains, both formal and informal. Informal chains were often known as grapevines, and they were harder to regulate, the more formal services, the more formal information services needed visibility to get the word out about their existence, they needed to advertise, and even advertising your existence to provide information that second degree of separation too was criminalized. So these services depended upon helping women get all sorts of knowledge, are you actually pregnant? Where do you go? Which provider? How do you travel? What's the safest route? So early on, and again, I'm trying to connect information and the movement from medical deserts to oases, services would send abortion seekers to providers abroad, places like Mexico, Japan, and England, where it was either unregulated or legal. By the late 60s and early 70s, as many states had liberalized their laws, domestic travel increased. And we're talking about hundreds of thousands of people moving across borders. On the eve of Roe, there still remained informational and medical deserts, even as the proliferation of services and information providers continued to flood these arid areas. So whether you sent abortion providers at home or abroad, politicians, police and prosecutors targeted these providers and information brokers, and they relied on Comstock laws to do so, and charged these folks with conspiracy to commit abortion with aiding and abetting. They targeted advertisements, they targeted newspapers, they targeted billboards. And the success record of these efforts was mixed, the closer you get to Roe, increasingly judges were willing to see such laws as violating the First Amendment as being

unconstitutionally vague, but what remained fairly consistent, and this is one of the things where the past feels very present, was a willingness of authorities to marshal Comstock, to ban advertisements about abortion providers, to ban abortion referral services, to send undercover agents pretending to be pregnant people, to survey and disrupt these services, to monitor providers, to raid the offices, not just of the providers themselves, but of activists and information brokers of all stripes to extradite folks across state lines to face prosecution. So in our present, when Texas, Oklahoma, Alabama and so on are continuing to tighten their grip on abortion access, not only by banning the procedure, but by having statutes that specify aiding and abetting, offering information, that too is a criminal act, by incentivizing people to basically snitch on, or survey and report those who share the information, what we're seeing is a magnification of state power, and return to the idea that in order to stop travel, to break up the information chains that still connect our growing medical deserts to the remaining medical oases, these are all becoming more precarious, even before Comstock has been raised from the dead. Thanks y'all for listening.

Kendra Albert: Wow. I mean, I'm sort of a little bit, just sitting here in, this is Kendra, in awe of the sort of collective brilliance we've been able to bring together, and sort of having my own sort of shocked moment of not knowing where to start. So thank you so, but I'll start by thanking Gil, Jules and Whit, and just if y'all wanna turn your cameras on, so we can sort of start the kind of broader panel of discussion. There's so much to chew on in all of your remarks, and it actually makes me think a little bit about sort of the amendment to the Comstock Act in 1996 to include internet services, which, you know, in light of everything that you've said, that it was passed as part of a child protection law, that the sort of very explicit goal was to kind of restrict information, you know, and this sort of weird relationship to kind of the sort of idea of free speech, as total, like I'm sort of reconceptualizing that moment, which can seem aberrational from the rest of the history of Comstock, as actually just fitting right in, right? So I think that was my sort of takeaway from all of your remarks. But I'm gonna just ask a couple of questions, but I encourage folks if they have questions for our panelists to please go ahead and feel free to throw them into the Q&A. So one thing I wanna sort of get all of y'all's wisdom on is sort of this idea that we kind of introduced a little bit in the beginning, which is these two divergent histories, right? The history, the story of Comstock with regard to abortion, and the story of Comstock with regard to obscenity. Now of course, they're not actually different stories, but the Comstock had largely fallen out of conversations about abortion, even despite what you've been talking about Gil, in terms of this very real effect of Comstock and the mini Comstocks at the state-level on what was happening. So what are we to make of those, like that sort of narrative of this split, of the anti-abortion versus anti-obscenity mission of Comstock, when especially because clearly, he did not see those as divergent. How do y'all think about that as a narrative that's come to be part of how we understand what happened?

Whitney Strub: Sure, I'll jump in just quickly, Whit here. I mean, one thing that comes to mind, I don't think this is a complete explanation by any means, I'm just thinking on my feet here, but I mean, you certainly see a divergence in judicial decisions beginning around I'd say the 1930s in particular with, you know, increasing legitimization of contraception in particular in the federal courts, and I think maybe part of the mechanism that leads to that divergence is that, how do to

put this, I mean the use is sort of medicalized and also social scientific rhetoric benefits the expanded liberalism around contraception in that era, whereas it's actually used to repress pornography, because, you know, there's this groundswell of sort of pop science analysis, particularly around, you know, causing sexual deviance and juvenile delinquency, and so in that sense, you know, that's clearly the era of the empowered expert discourse, right? I mean, and from everything, you know, from national economic policy, down to the administration of sexuality. And so I think that cuts in slightly different ways in that era, in ways that do, you know, create these diverging paths to the point that, you know, Comstock stays relevant with pornography, and becomes decreasingly relevant for reproductive rights. That's not, again, not a complete analysis, but I think a starting point maybe,

Jules Gill-Peterson: Well, to pick up on that, this is Jules, maybe on the political end too, we could also start to look at the segmenting of political movements, and social movements, not just in the sense of separate issues, but actually in the legacy and impact of respectability politics of many different varieties, so the sort of segmenting by aligning with the liberal state, as we get to certainly the mid-century, the segmenting of different interests and putting interests as opposable when really the Comstock infrastructure doesn't construe them that way, so the medicalization of abortion, that version, right? As sort of segmented from a reproductive justice framework, but you know, you could think about the way that then, you know, mobilizing against pornography, or against gay rights, you know, could become a kind of wedge, and in sort of bargaining with the state to get its blessing for a really tightly regulated form of, say, abortion by sort of selling out or sacrificing the obscenity side of the equation, I think that might be one of the places, where trans politics fit into this conversation, the sort of prehistory, to the way that obviously access to the means of transition are so bound with access to abortion and reproductive, you know, means of managing your own life as well, where the, you know, sort of bargain with the blessing of medicalization did nothing to create any kind of actual meaningful, let alone even really legal right to transition in any particular way, and so now it's so easy to see, you know, a bunch of state laws operating in the same sort of mode as the anti-abortion laws, but targeting trans people. So some of that happens on our understanding of political mobilization around both sexuality, gender, bodily autonomy, and censorship.

Gillian Frank: Yeah, and I'll just dovetail and build upon what both Whit and Jules have said is that it's not so much that the histories are divergent, we can draw a lot of connections between them, and both Jules and Whit are right to point to the legal decisions and movement politics, both of the respectability, but also the jurisdiction, but also in the way in that many historians have been siloed in telling the stories. And so that, you know, we can look back to Gayle Rubin, and see her conceptualizing the modern sexual regime through Comstock and connecting queer rights, obscenity, abortion and seeing these as deeply interconnected and theorizing them, but there are historians of obscenity and pornography, there are historians of abortion or reproduction, there are historians of contraception, there are trans historians, and in the ways in which we focus our energy in order to tell local stories, and bring them to light, sometimes I think we lose sight of the broader edifice. And so part of, and I so appreciate what Melissa and Kendra are doing today, is to bring these into conversation, as a mode of thinking about how obscenity was used to regulate information about abortion, how abortion itself was considered

obscene in its representations on what could be shown on television. These overlapping histories continued well beyond their actual legal pursuits, and the ways in which we tell the story separately. So I'm loving the synthetic conversation in that regard.

Kendra Albert: Well, I always appreciate an answer that praises me. That's the, this is Kendra, the best kind of answer now, but thank you all so much, and I think that that's, each of you kind of hit on a different sort of aspect of why the stories have been portrayed as diversion. I wanna actually pick up on one of the questions in the Q&A which I think also aligned with something that I think I'm really curious about, which is a little bit about sort of the role of religion and the religious right. So one question that I kind of, you know, if I'm gonna put it in its more provocative form, you know, my question is, is the alliance defending freedom the new Anthony Comstock, right? You know, how does Comstock, and the sort of more broadly, the kind of movement he represented, I don't wanna make this literally only solely about him, although we didn't aim the event after him, how does that relate to kind of this broader kind of broader religious movements, broader movements towards questions about kind of morality, separation of church and state, and yeah, happy to start with whoever wants to jump in on that one.

Gillian Frank: I'll jump in on religion, and I'll be taking off. So I'm not an expert about the ADF per se, and I appreciate the question in the Q&A, and I wanna sort of flag right away, as we talk about religion, we should always be thinking about religions, plural, and to see that Comstock and his particular brand of Protestantism didn't exist in a void, that he was deeply contested almost immediately by people from across Protestant denominations and Jewish denominations, and so the legacy of Comstock is quite complicated when it comes to sort of religious pursuit. Protestants, mainline Protestants in particular in alliance with reformed Jews and conservative Jews pushed hard almost immediately to challenge the restrictions of information about contraception, abortion came significantly later. The debate about pornography and religion is something that needs to be mined a lot further, the story that we've told generally has been a story of religion and repression. But I wanna just draw one broad arc, which is to say that if we think about Comstock in a religious setting, we need to see it as one that was an intra- and inter-religious debate, protestants arguing with Protestants, Jews arguing with Jews, everyone arguing with Catholics to some extent, and Catholics arguing with each other. And so it's very important to sort of, I'm just gonna leave it at this move away from capital are religion in this particular moment, but to move specifically to which religious interests and which particular beliefs are getting actualized both in the past and at this particular moment. And what we're seeing now is a conservative Catholic and Evangelical belief that is profoundly anti-gay, anti-abortion and wants to, and the debate on contraception is unsettled amongst these groups. And so I'm gonna leave that on the table. Well, oh, sorry Jules, go ahead.

Jules Gill-Peterson: Well, just very briefly, this is Jules. I was going to say, if there are some contrast to be drawn, they might have to do with political history, and particularly the, you know, and actually a sort of a different relationship to state power, right? Comstock is emerging in the Victorian era, you know, moving into the progressive era, where there is a sort of, you know, widespread kind of movement across political spectrum to grow the arms of the state to create the modern administrative state, whereas thinking about the new House Speaker in particular,

right? We're talking about a yeah, particular, right? Kind of, you know, bargain between Evangelical, a certain brand of Evangelical Christians and some Catholics around abortion, but more broadly, you know, an extremist kind of political faction that takes a very particular kind of anti-state, in theory, anti-government, right? Approach to authoritarianism, that also styles itself as the opponent of liberalism, right? And that seems to be like as sort of disingenuous as that opposition actually is, one reason it matters to me to point it out, right? Is the ADF plays off of that foil, certainly, but then like actual liberal political actors also benefit from the supposed opposition that they, you know, between themselves, and the far right, when in many ways they might agree on basic premises of restricting individual liberty and extending state power through the regulation of gender and sexuality, they just like strongly disagree on the degree to which it's acceptable to go there. So there are some interesting contrasts and differences, and you know, it also strikes me that, you know, the ADF isn't the only organization, so perhaps many, many, many Comstocks, which is a disturbing thought, but go ahead, Whit, sorry to have interrupted you.

Whitney Strub: No, not at all. I mean, I think this kind of dovetails off of what both of you have said. Whit here. Yeah, just really briefly, I mean, I do think there's a remarkable organic continuity in the organizations from Anthony Comstock, all the way through the ADF, I mean if you, you know, if you look at the genealogy of the alliance, depending freedom, it goes back into focus on the family, it goes into the people who were on the Meese Commission in the 80s, and I mean those people form the National Center on Sexual Exploitation, which is a mutation of morality and media, which partly, you know, again, just this genealogy goes directly back, you know, it's not figurative or metaphorical, I mean the personnel are zero degrees of separation from one another, you know, as the organizational form morphs, and I think probably in addition to what everything that Gil and Jul said, I mean, and this is maybe so obvious that nobody said it, but it bears saying, I mean, one centerpiece of this from Comstock through the ADF is that, you know, using state sanctioned sexual morality as a white racial project. I mean, I think that's a very heavy and obvious through line that does, you know, put these, all of these organizations into 150-year-genealogy that is, you know, extraordinarily continuous, and we could say more about that, but I'll clear the way for more questions.

Melissa Gira Grant: I am just needing like a second to just like assimilate everything. This is Melissa, sorry, there's chaos happening, Brooklyn. You know, a lot of the questions that people have put in the Q&A box are about technology and the internet, so I'm gonna try to like put some of them together in a way and hope that this touches on as many of them as we can in the time that we have. So Kendra and I, this is sort of like our origin story, you know, is like looking at how the Comstock Act was essentially dragged into the 1990s with the Communications Decency Act. The way that the postal service operated for Comstock becomes applied to the way that the internet is going to look at quote unquote obscenity, and all of these other issues under that umbrella. What peril does that leave us in in this moment? You know, some of the things people brought up were like TikTok not allowing abortion networks and services to advertise, and the ways that that impacts the way people get information. Gil, if you wanna take that piece, and also the ways that, you know, this disrupts information networks that people need to share the information even informally, whether that's around abortion, whether that's

around sex work, whether that's around trans health, I think, you know, this is sort of the boon and the doom of the internet is these networks are now like really easy for people who might want to shut them down to do so, with levers of power, that we didn't necessarily think applied to all these things once, you know, when abortion was legal. So anyone wants to jump in on that, we're gonna take about, oh, I don't know, seven minutes to do Q&A, and then if you guys wanna stick around, we have a little debut of the whole Comstock conference to share with y'all.

Jules Gill-Peterson: Well, just to kick us off on answering this question, this is Jules speaking, I mean I'm not an expert in, you know, studying the internet, but it strikes me that, you know, the peril is vast, and to some extent, difficult to conceptualize, in part because of the vast scale and form of data mining, digital surveillance and digital infrastructure that have just arisen. You know, even since the Communications Decency Act was passed, it's sort of like, I don't know, in my armchair engagement with case law on, you know, on social media and young people's use of the internet, and obscenity, it feels like it's too easy to, or it can be too tempting to be sort of glib and make fun of judges not understanding how the internet works, or making fun of how Congress members don't understand how the internet works at hearings, but in reality, it actually speaks to how pervasive and in many ways, difficult to conceptualize, and how intangible digital surveillance is, so there's certainly sort of classic questions of censorship in terms of, you know, flows of information, but I think if we look at the example of the targeting of sex workers in particular in the last 10 years, but certainly since the passage of the laws that get abbreviated as SESTA and FOSTA, whose full titles I unfortunately can never remember, in any case, you could see there how, you know, a historical movement towards utilizing the internet as a part of sex work, you know, in the 1990s, and early 2000s completely reshaped the industry in a lot of ways, but then the utilization of obscenity law and the passage of these new laws to shut down digital infrastructure to, you know, go after and utilize people's, you know, internet footprints, right? As part of prosecutions in particular have not only led to shutting down a whole bunch of parts of the internet, making it incredibly difficult for sex workers, it is also, you know, in many ways made a lot of that work more dangerous. So it's a classic example of where the supposed protection here, right? A moral panic around particularly trafficking, right? Actually in particular just ends up harming the very people supposedly it is designed to protect. It just seems to me that that infrastructure, right? I feel like part of the way I'm understanding it is it's all laying in weight, it's probably being utilized on a local scale by police departments and prosecutors, but in particular, it seems to me that one of the big political struggles that is shaping up right now is that you have all of the state surveillance system that has grown up in the last 20 or 30 years, and then there's no other than a mass movement that forms who is supposed to oppose that, it's not going to be private Silicon Valley tech corporations, right? Those are not gatekeepers of public interest, their track record is abysmal, right? Already, and it feels like nevertheless, that seems to be the kind of public narrative I see certainly in like political media, it's like very much the White House versus you know, tech CEOs like that's, there's only a lose-lose, you know, kind of equation forward there. So those are just some of my perceptions, but like I said, I feel like I'm one of these people who's just trying to think about my own learning curve, and, you know, both analytically, and then politically for movements, right? That are really concerned about this. I know there's a bill, you know, pending in Congress right now that, you know, is supposed to protect young people online that a lot of trans activists are very worried could be

utilized just to completely shut down trans people's use of the internet or, you know, it would work in exactly this kind of way, targeting speech associated with trans people or trans topics. And that's a really concerning escalation, right? And so again, the way that like the sponsor of that bill can't answer questions about that thoughtfully, to me seems like really to their advantage, of not an example of their foolishness.

Gillian Frank: I'll just add on one thing, Jules, thank you for that. That was so great, I wanna think a little bit about information hierarchy, moving a little bit about away from the act of policing and surveillance to thinking about what can be shown and what can't be, but also the ways in which search engines organize information. And that's a big part of the contemporary story now, which is different from in the past in some ways, like taking up space in a billboard was fraught, literally it was criminalized to advertise abortion in certain states on billboards, and there was a lot of cases about that, especially in the 70s, after New York legalized, same with inches of column on a newspaper or a magazine, or taking out an advertisement in the back pages. These were the sort of old ways of thinking about it, right now it's about which website shows up first, if you type in abortion services, is it going to be an actual provider, that gives a range of options in medical services or is it going to be someone who's an advocate to move you away from it. And you can see them competing for space at the bottom of like paid promoted results in Google's search engine. So a lot of the current debate right now is, as much as it is whether you can advertise on Facebook or TikTok for abortion services, or not, the question is also, even in a sort of quote unquote free information market, it's already being structured based upon which dollars and revenue is going into it, and the decisions of who is structuring the algorithm. And I think, I don't know enough about that, but in terms of how the sausage gets made there, but I do know that the sort of information hierarchy is actively being shaped, and that is something I think that we need to sort of have our fingers off.

Whitney Strub: Well and maybe, since I know we're running out of time, this is Whit here, just a very, very final comment, to root it back to Comstock. I think in all of the debates of the last say half century, we sort of lost sight of Comstock, you know, in the wake of Roe v. Wade, there was an entire new legal apparatus chipping away at abortion rights that wasn't fundamentally premised on the 1873 Act, and when it comes to obscenity, and, you know, sex on the internet, we've really focused in recent years on financial regulation, corporate regulation, you know, what is Tumblr doing, what is Facebook doing, what are the credit card companies doing, and I think that left us a little unprepared, you know, for this sort of resurgent Comstock fundamentalism, in which, you know, state attorney generals are directly invoking the Comstock Act again to attempt, you know, unsuccessfully so far, but to curtail, you know, medical abortion materials, and also Moms for Liberty is directly calling for the criminal prosecution under obscenity law of school librarians, you know, those are new escalating tactics that I think probably is a conversation to pick up on, but it really is, you know, I think a sort of Comstock Renaissance on the right that we really do need to historicize, but also combat, and the very last thing I'll say is that, I mean, I think civil libertarians made a terrible decision in the 20th century to go with the marketplace of ideas as a model for governing free speech, when democracy is in the streets, and the right understands that, you know, Moms for Liberty is astroturfed, but they

are showing up at school board meetings in a way that I think, until very, very recently, we have not been, and we need to be. So that would be my kind of action item call for folks on the call.

Melissa Gira Grant: That's incredible, and I regret to move us along, but I will say to everyone, if you have like a burning question in your mind, like hold it, take a second to write it down, we are gonna come back to you, this is just the beginning of what are gonna be some months of preparing for a conference. So we would like you to just take a sec, write down the question, and then we're gonna tell you a little bit about our conference. One of the questions in the Q&A if you have a burning thought that I love, is, "What unifying chant would you scream if you were leading multiple intersecting bodily freedom movements gathered to finally excise Comstock's ghost?" So just like chew on that one for a few minutes, for a few months, we will be coming back to you. Kendra, do you wanna take it from here?

Kendra Albert: Sure. So we're, you know, some of us at least are academics, which means when we confront a seemingly unsolvable problem, the thing that we wanna do is in fact throw a conference, so perhaps the thing that we would scream into the void to excise Comstock's ghost is ComstockCon, and this is sort of what we're hoping to announce. We're really, really excited about it, it's gonna be both an in-person and online opportunity to connect, co-organized by me and Melissa, hosted by the Initiative for Representative First Amendment. And we're hoping to basically have a convening that's sort of inspired by the conversation we're having, right? The fallout from Dobbs, attacks on bodily autonomy, and to do exactly what Gil was saying, to sort of bring some of the folks who think about this out of their silos into conversation with each other. So bringing together organizers, historians, attorneys, journalists, artists, writers, and you know, everybody else, or people who are many of those things at the same time, to trace the connections between the Comstock Act, its political context, and how it constrains our present.

Melissa Gira Grant: This is Melissa again. So yeah, Kendra and I've been cooking this up between us, we've also been gathering people in to be part of putting this on with us, and that's what we're hoping to do today as well, if you would like to contribute in some way to ComstockCon, please email us, our email address is at ComstockCon.com, you can find it there. One thing that I wanna highlight is we have an incredible advisory committee, who has been working with us for a few months now, those are folks who are leading voices in movements for bodily autonomy defined broadly, reproductive justice, sex worker rights, disability justice, trans justice, justice for criminalized survivors. And so far, those folks are Danielle Blunt, Renee Bracey Sherman, Gillian Frank, Jules Gill-Peterson, and Andrea Grimes, and we look forward to also folding in thoughts, and ideas, and inspirations, and anarchic art from anybody here who wants to be part of this effort. What we imagine our goal, our dream here is to build a constituency, as broad, and as interconnected as all those people that Anthony Comstock sought to harm. And we hope that you will join us in that.

Kendra Albert: Amazing. Thank you so much to all of our panelists, to our ASL interpreters, to my colleague Jasjot at IfRFA, we're really grateful to all of y'all for joining us, and we'll see you in the springtime, and we hope to chat with you sooner. Thanks, everybody.

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