

***GRISWOLD v.
CONNECTICUT***



PHIL 102

Ethics, Politics, & Law

Dr. Jeff Johnson

Spring Quarter 2007

BACKGROUND



- **Connecticut statutes**
 - **53-32**
 - **54-196**
- **ACLU's involvement**
- **The conviction**
- **The appeal**

SUPREME COURT



- **Constitutions**
- **Judicial review**
- **Court mechanics**
- **Opinion of the court (majority opinion)**
- **Dissenting opinions**
- **Concurring opinions**

OPINION OF THE COURT



- **Justice Douglas**
- **Judicial review**
- **Marital privacy**
- **Where in the Constitution?**
- **Penumbra of the Bill of Rights**

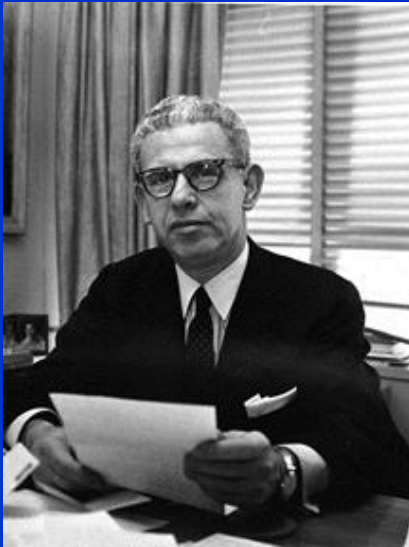
NINTH AMENDMENT



Amendment IX

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

GOLDBERG'S CONCURRENCE



- **Justice Arthur Goldberg**
- **Ninth Amendment**
- **Unenumerated right to (marital) privacy**
- **Radicalness of the strategy**
- **Most support of any of the positions**

FOURTEENTH AMENDMENT



Amendment XIV

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.

WHITE'S CONCURRENCE



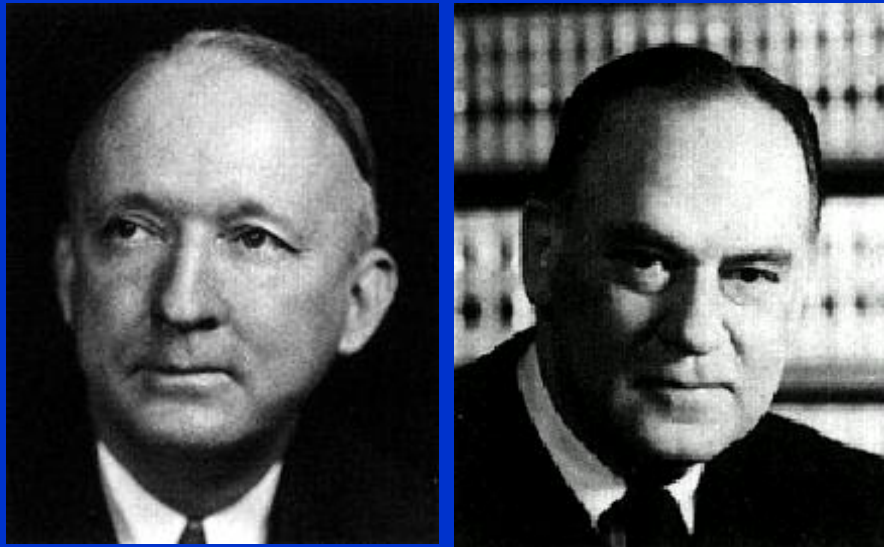
- **Justice Byron White**
- **Due Process Clause of the 14th Amendment**
- **Procedural Due Process**
- **Incoherence of the Connecticut law**
- **Narrow ruling**

HARLAN'S CONCURRENCE



- **Justice Harlan**
- **Substantive Due Process**
- **History of substantive Due Process**
- **Basic liberties in a free society**
- **Privacy and Due Process**

STEWART & BLACK'S DISSENTS



- **Justice Hugo Black**
- **Justice Potter Stewart**
- **Laws are silly, even asinine**
- **Democracies can pass stupid laws**
- **Nothing in the Constitution guarantees a right to marital privacy**

CONSTITUTIONAL INTERPRETATION



- **Plain meaning**
- **Original intent**
 - **Concrete intention**
 - **Abstract intention**
- **Hard cases**
- **Essentially contested concepts**