

Congress of the United States

Washington, DC 20515

July 18, 2024

President Joseph R. Biden Jr.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden:

As Co-Chairs of the Congressional Freethought Caucus and Founders of the Stop Project 2025 Task Force, we respectfully ask you to issue a pardon and an apology to any Americans whose fundamental rights were unjustly violated in the past by an unconstitutional application of the Comstock Act of 1873.

The Comstock Act is a set of Victorian-era laws that ban the distribution of anything “obscene, lewd, lascivious, indecent, filthy or vile,” including items used “for producing abortion, or for any indecent or immoral purpose.” Anthony Comstock and others attempted to use the law to restrict abortion and contraception as well as literary, artistic, political and scientific works that dared to discuss women’s rights, reproductive freedom, queer liberation, and other causes that offended the puritanical sensibilities of its enforcers. The Comstock Act was also wielded as a weapon against opponents of the law who advocated for its repeal.

As you know, the Comstock Act was used to prosecute freethinking publisher DeRobigne Mortimer “D.M.” Bennett, who was sentenced to 13 months of hard labor in 1879 for mailing an anti-marriage pamphlet that advocated for women’s bodily autonomy. Emma Goldman was hounded, silenced, and incarcerated for speaking out in favor of contraception. Ida Craddock was charged multiple times for distributing writings on women’s rights and sexual relations between husband and wife; she was re-arrested in 1902 after serving a three-month prison sentence, convicted, and died by suicide before serving her five-year sentence in a federal penitentiary. Anna Trow Lohman also died by suicide rather than facing trial for distributing birth control and abortifacients.

Law enforcement and the U.S. Postal Service also classified any content about homosexuality as inherently obscene, which led to the censoring and criminalization of many Americans who distributed content relevant to the LGBTQ+ community, advocated for gay rights, or even sent a love letter to a same-sex partner. As late as 1960, Herman Lynn Womack was imprisoned for publishing magazines that catered to gay male audience, which is a case that ultimately was appealed to the Supreme Court and reversed in *MANual Enterprises, Inc. v. Day*.

Thankfully, over the course of the 20th century, the Supreme Court largely overturned most of the Comstock Act through landmark decisions on free speech, abortion, and birth control. However, many of these decisions have been eroded and attacked by the Supreme Court and the dark history of persecution leaves a lasting scar on our constitutional republic. MAGA activists are now working to resuscitate this near-dormant law to advance their far-right agenda. We urge you to issue a proclamation to rectify these past injustices and to send a clear message that your

administration stands against cynical efforts to dust off this obsolete and unconstitutional law to undermine Americans' individual liberties.

Today, in the wake of the devastating *Dobbs* decision to overturn *Roe*, anti-abortion extremists are scheming to strip women nationwide of their reproductive freedom by enforcing a radical interpretation of this zombie law. The Project 2025 agenda includes a detailed blueprint for a future Republican president to impose a backdoor national abortion ban with a stroke of the pen by willfully misapplying this antiquated and unconstitutional statute. It lays the groundwork for Trump, or another president, to effectively ban abortion in every state by circumventing Congress and overriding state protections. In the [words](#) of Jonathan Mitchell, a leading anti-abortion crusader who has represented Trump before the Supreme Court, “[w]e don’t need a federal ban when we have Comstock on the books.”

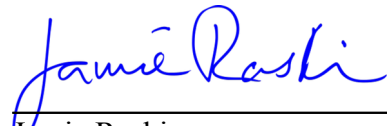
As Members of Congress, we strenuously oppose this planned and aggressive misinterpretation of the law. Congress, federal courts, and the Department of Justice have uniformly concluded that Comstock does not apply to lawful abortions. This view was clearly outlined in an [Office of Legal Counsel Memo](#). However, we fear that a future administration hostile to reproductive freedom could attempt to overturn this precedent and revive and misuse Comstock to deny all women their rights without congressional action.

To eliminate this dormant threat to reproductive freedom, we are working to repeal language in the Comstock Act that could be weaponized to ban the distribution of any medicine, equipment, or other materials related to abortion, birth control, IVF, or sexual and reproductive health. But even if Congressional Republicans continue to block Democrats' commonsense efforts to safeguard reproductive rights and personal freedom, we urge you to issue a pardon and apology to Bennett, Goldman, Craddock and any others who were unjustly convicted under the Comstock Act. It is never too late to right past wrongs. This proclamation would affirm the principles that are central to American freedom and establish a precedent that such repressive actions should be avoided in the future. It would also clearly demonstrate that your administration stands against any efforts in the past, present or future to weaponize the Comstock Act against Americans' individual rights to free speech and reproductive autonomy.

Sincerely,



Jared Huffman
Member of Congress



Jamie Raskin
Member of Congress