Mary Dennett, Blanche Ames (1878–1961) dedicated her life to social reform, first in the suffrage movement and then, for the next twenty years, as a leader of the birth control movement. Ames kept aloof from both the VPL and the Sangerist wing of the birth control movement to construct her own statewide campaign in Massachusetts. Ames’s relationship to Sanger was comparable to Dummer’s with the women in the Children’s Bureau; unlike Dennett, Ames did not consider herself a rival of, or harbor any personal animosity toward, Sanger. However, she did act as a constructive critic. Like Dennett, she provides an interesting foil for Sanger, as historians can compare the compromises each woman made and evaluate the efficacy and staying power of these choices.

Throughout the interwar years, Ames was simultaneously more cautious and more progressive than her cohorts in both Sanger’s American Birth Control League (ABCL) and Dennett’s Voluntary Parenthood League (VPL). On a personal level, she rejected a purely medical rationale for the use of birth control, yet actively sought the support of physicians in her own state in an effort to de-radicalize and popularize her cause. Ames displayed a progressive commitment to enlarging the scope of the birth control movement to include economic reasons for family limitation—especially once the economic depression of the 1930s brought unprecedented unemployment rates and widespread poverty—while at the same time attempting to gain support for her cause from conservative reformers in her own state, such as Elizabeth Lowell Putnam. These eclectic strategies make the story of the Massachusetts birth control movement important in terms of understanding the diverse tactics and
goals of reproductive reformers in the interwar years. Furthermore, Ames’s choices muddied and defied categorization as she moved through various rhetorical and strategic stages. Therefore, her story illustrates not only the political diversity and creativity this study seeks to uncover, but also the varying degree of success that different political orientations yielded for reproductive reformers.

Ames was born in Lowell, Massachusetts, to a very well-entrenched and prominent New England family. Her father, General Adelbert Ames, served as governor of Mississippi during Reconstruction, and her maternal grandfather (Benjamin F. Butler) served as governor of Massachusetts. Her mother, Blanche Butler, supported women’s suffrage and provided her daughter with a model of a civic-minded and independent woman.

Blanche spent most of her childhood in Lowell and then entered Smith College in 1895. In addition to their activist New England roots,
Ames and Dennett were both talented artists. At Smith, Blanche excelled in art, participated in athletics, and was elected president of her class. One year after graduating from Smith, Blanche married Oakes Ames, an instructor of botany at Harvard University and moved with him to North Easton, Massachusetts. The Ames's had four children.

Oakes and Blanche combined their expertise to create a seven-volume series on orchids, which Blanche illustrated. In addition to working as an illustrator, Blanche was active in civic affairs. Her first political passion was women’s suffrage. As a young woman, Ames had lamented in her diary that, “Men always seem to have the advantage—in dress, in law, in politics—everything. Will the time ever come when it will be equally easy for women to exist?” In 1913, two years before the state legislature passed and submitted to voters a constitutional amendment granting women suffrage, Ames set out to even the score through suffrage work. In this year, she joined the Ways and Means Committee of the Massachusetts Woman Suffrage Association (MWSA). This move launched her impressively active career in the state suffrage movement, which involved her chairing suffrage festivals, organizing open-air rallies, serving as president of her town suffrage league and treasurer of the MWSA, and utilizing her artistic talents to create a series of popular pro-suffrage political cartoons.

As in Dennett’s case, Ames’s experiences in the suffrage movement shaped her political perspective. As a leader of the Massachusetts suffrage movement, Ames had first-hand knowledge of the power of conservative forces in her home state. Massachusetts boasted the first organization opposed to women’s suffrage in the country. Due at least in part to its influence, Ames and her pro-suffrage allies and suffered a devastating defeat in the state suffrage referendum of 1915. In contrast to their colleagues in New York, whose defeat spurred them to new levels of energy, the Massachusetts suffragists all but gave up their statewide campaign after 1915. Ames surely knew that the well-organized antisuffrage forces, made up of conservative politicians and their constituents and a large bloc of Catholic voters, would also spell trouble for the fledgling birth control movement. In this context, the frustrations and peculiar predilections that shaped her birth control work make more sense.

Even before the Nineteenth Amendment had passed, Ames turned her attention to the other feminist cause that would shape her life’s work: birth control. She co-founded the Birth Control League of Massachusetts (BCLM) in 1916, and served as president of the League on and off until her resignation in 1935. Her activity on behalf of the legalization of birth control was marked by a cautious conservatism that was not always compatible with her personal commitments and beliefs. Her activities reflect
the volatile and complex nature of reproductive rights politics in the early twentieth century. Although Ames believed in self-determination and equality for women, the struggle for birth control that she led in Massachusetts for two decades was marked by deference to medical authority and political timidity. Her career illustrates how one's personal views on motherhood and womanhood cannot necessarily be equated with the political strategies and tactics one ultimately utilizes. A resolute feminist, Ames became an expert at compromise who molded her reform campaign to fit her locale.

This chapter will examine Ames's political career in the birth control movement, focusing on the evolution of her ideas and her strategy to make state-level reform a priority over federal reform. Massachusetts holds a unique place in the history of reproductive reform. One of only three states to reject the Sheppard-Towner Act and one of the last states to legalize birth control, Massachusetts provides historians with a clear picture of the political obstacles facing reproductive rights and reproductive health reformers. Citizen activists from prominent families could be found across the political spectrum. Putnam exemplified the elite Brahmin conservatives who created a formidable antisuffrage movement, fought against federal “paternalism,” and decried changing sexual mores. Ames, however, came from an activist family that was just as prominent and wealthy as Putnam’s but boasted generations of liberal activists. Veterans of the Massachusetts suffrage fray, Ames and Dennett took decidedly different routes as they branched out into the birth control movement. Whereas Ames remained steadfast in her focus on state politics, Dennett instead chose to embark on a federal campaign. Both of these strategies resulted in alienation from Sanger and her wing of the movement. Both strategies also necessitated certain tactical maneuvers that have been lost in studies that concentrate on Sanger, but that help round out our understanding of the politics of reproductive reform.

Studying Ames and the BCLM remedies several historical myths: that Sanger was virtually omnipotent in shaping the contours of the American birth control movement (and that understanding the national organizations will provide an adequate portrait of the movement), that the birth control movement was quite distant from related reproductive health reform issues, and that both the medicalization strategy and reliance on judicial review were politically successful. Whereas the previous chapter highlighted the relative success of Sanger’s doctors-only strategy over Dennett’s efforts at clean repeal of the Comstock Laws, this chapter will further contextualize and complicate assessment of the movement. Ames’s career reveals other major fault lines within the birth control movement:
debates over the necessity or efficacy of legislative reform to advance the cause, coalition-building strategies, and—as we have seen with Dennett’s career—the level of commitment to individual rights.

In 1916 a group of prominent Boston citizens formed the Allison Defense Committee in response to the indictment of Van Kleek Allison, a layperson arrested for distributing birth control literature to working women in the North End of Boston. This group soon changed its name to the Birth Control League of Massachusetts (BCLM), and elected Blanche Ames as its president.

The BCLM sought to educate Massachusetts citizens about contraception and work for its legalization. It succeeded in, and maintained a commitment to, the former task to a much greater degree than it did to the latter. The League attracted publicity through public meetings and outreach to state women’s clubs as a result of the conscious effort of activists to follow through on high hopes that birth control would become part of the mainstream female reform agenda. As one of its first projects, the BCLM decided to explore the scope of prohibitions in the state penal code to clear up any confusion about the legality of contraceptive advice, distribution, and use.

Despite the overarching force of the federal Comstock Laws, which categorized birth control information and devices as obscenities to be prohibited by the post office, state statutes varied in degree and intent. Most statutes repressed the flow of information about birth control to some degree. Many states had prohibitions against publishing, advertising, or distributing information on contraception. Colorado specifically forbade the transportation of contraceptives into the state, and Connecticut had a state law that prohibited the use of birth control. In the context of such variation, it was not unusual for state leagues to begin their work on the birth control issue by seeking clarification of the law. This process, however, did not always yield concrete or satisfying answers. This was certainly the case in Massachusetts.

On the basis of legal opinions from prominent lawyers, the League learned that, despite severe prohibitions in Massachusetts, loopholes did exist through which the BCLM might operate. Massachusetts law prohibited the distribution of printed materials related to contraception and the manufacture of any drug or instrument for contraception. However, the League’s lawyer advised its members that there existed no reference in the state penal code to oral information about contraception or any
prohibition against the maintenance of an office where such information could be provided. For league members, this loophole provided some hope that practical work could be accomplished. Soon, however, another lawyer advised the BCLM to proceed with caution. He argued that state statutes contained hidden dangers: “It is true that our statutes have reference to printed and not to oral communication, so that doctors, nurses, and individuals may . . . give oral information. The statute does not prohibit the maintenance of an office where such information may be given, but no printed matter can be circulated giving any “hint” that such information can be had there. Even the name of the League itself on the door or on cards or on letterhead may be deemed to give such a “hint” and therefore be prohibited.”

This somewhat alarmist opinion was written in 1917 by Prescott Hall, a founding member of the BCLM’s executive committee. His words both shaped and mirrored the overwhelming cautiousness that characterized the organization. The League had attracted citizens who were prominent and progressive, but not necessarily interested in breaking the law. In this respect, most members of the BCLM were more akin to Dennett than Sanger in this period: not comfortable with radical tactics, but determined to work for the cause. As we have seen, in 1917 two major models existed for local birth control reformers to follow or reject: Sanger’s radical calls for civil disobedience published in both the Woman Rebel and the BCR and exemplified by her arrest for opening an illegal clinic, and Dennett and the National Birth Control League’s commitment to reforming laws in an “orderly and proper manner.” The BCLM rejected both models as too activist, opting instead to avoid overt confrontation with the law and accommodate itself to the peculiarities of the Massachusetts penal code.

A successful strategy for operating in a way consistent with Massachusetts laws did not evolve for two years. In the interim, the Massachusetts Supreme Court convicted Allison, and the United States entered World War I. The BCLM did not emerge intact from these setbacks. Birth control activists in Massachusetts had to reconceptualize their cause to fit the postwar world and the realities of state laws. Within this context, the birth control movement in Massachusetts, led by an ardent yet pragmatic Blanche Ames, moved in some surprising directions.

In 1919, the same year that Dennett launched her federal lobbying campaign, the advisory board of the BCLM decided to change the name of the organization to the Family Welfare Foundation (FWF). Ames described this shift in a letter to the members of the BCLM, explaining, “During the war it was considered inadvisable to push the work of the League and now, instead of going ahead again along the old lines, it seems
more expedient to organize a new league with a broader, more constructive policy.” Expediency certainly characterized the new FWF. It sought to avoid all controversy and to associate itself with the most respectable causes and classes of people. Not only was the term “birth control” absent from the new name, but these words also never appeared in any literature put out by the FWF. At times, significant creative efforts were taken to soft-pedal the objectives of the Foundation. For example, in one attempt to describe its new function, the FWF claimed that it would “acquire and disseminate knowledge of value to individuals in all their family relationships, especially that of parenthood.” Birth controllers told themselves that the nominal change from the BCLM to the FWF was a legitimate response to the particular legal circumstances in Massachusetts. Looking back years later, though, Ames deemed the conservative climate after the war a primary instigator of this shift. Even at the time, Ames complained that the Foundation’s objectives “were veiled and lacked human interest.” Despite her frustration with the Foundation, however, Ames remained president, and executed the conservative policies formulated by the board.

The broader, “more constructive,” policies of the FWF certainly marked a contrast between what the FWF hoped to accomplish and both Sanger’s and Dennett’s activities. As seen in the previous chapter, whereas Sanger’s early policy emphasized publicity, propaganda, and elements of civil disobedience to test the constitutionality and limits of birth control laws, Dennett worked to launch an unprecedented federal campaign to repeal the offending section of the Comstock Laws. Ames and other members of the BCLM discouraged these tactics in what they considered the more conservative state of Massachusetts. The advisory board looked for ways in which the FWF might “do a real amount of good, both educational and practical, without raising antagonism.” As the board perceived it, raising antagonism did not merely refer to Sanger’s radical rhetoric and tactics, but also included Dennett’s lobbying efforts. The FWF’s intention—“to do a real amount of good”—was both broad and vague, and its tactics reflected this. Under Ames’s tutelage, the FWF dedicated itself to reducing risk and broadening appeal. Like Dennett’s movement away from radical or confrontational tactics, Ames diverged from Sanger in adopting maternalist rhetoric. Less optimistic and perhaps less naïve about political circumstances, Ames sought to hitch her cause to a reliable wagon.

The change of name to the Family Welfare Foundation, however, was not merely a pragmatic response to legal restrictions and a conservative climate. It also represented a sincere attempt on the part of Boston reformers to broaden the scope of both their organization and the birth
control movement itself. Accordingly, after the war we see the first conscious efforts by reformers to associate birth control with more palatable or popular reforms. Mainstream progressive reformers like Dennett and Ames sought to rescue the cause from its marginal obscurity. Like Dennett, Ames attempted to move away from the radicalism associated with sexual and moral implications of birth control. Ames thus designed a campaign that stressed the conservation and quality of life, and the welfare of American families. Due largely to Julia Lathrop’s Children’s Year, one of the few reform issues that successfully spanned the pre- and post-war periods was concern about infant mortality. Infant mortality both fostered and reflected interest in maternal welfare and public health.

The newly formed FWF tried to capitalize on this concern by defining its aims as part of a larger eugenic, child-saving, profamily agenda. Dr. Evangeline Young, a lecturer for the FWF, wrote to various women’s clubs in Massachusetts offering to lecture on one of the following subjects: The Care of Mothers During Pregnancy, How to Have Healthy Babies, Conservation of Child and Maternal Life, Education for Parenthood, and Eugenic Ideals for the American Family. It is unclear from this list whether the subject of contraception would be broached in this series of lectures. Indeed, the list reads as if it could have been a pamphlet series created by the CB, rather than a birth control league.

The FWF was divided into three departments: child welfare, maternal welfare, and general research and public education. The FWF’s stated aims were, “to co-operate with existing organizations, to exclude none of the activities now under way but to include more: instead of emphasizing one single branch or another, as has been done a little here, a little there, in supplying pure milk, instructing mothers in pre- and postnatal care or in organizing Little Mothers’ Leagues, etc., to unify the whole, to make it one broad movement including all and excluding none of the ways to reduce the present waste of the lives of mothers and infants.” Also included in this broad agenda was insurance for mothers at the time of childbirth. Avoiding any mention of contraception, the FWF sought to place birth control in what it deemed a larger, more appropriate context: public health and eugenic campaigns that sought to lower mortality rates of mothers and infants. The Foundation presented an inclusive vision of reproductive reform that seemed more in keeping with the maternal and infant welfare agenda elaborated by the CB than Sanger’s early calls for women’s freedom from bondage.

Evaluating this vision in the context of Dummer’s work on reproductive reform provides an interesting picture of points of agreement and divergence. Dummer and Ames both attempted to bring the issues of
reproductive rights and health together under one rubric, envisioning a holistic movement that supported both mothers and infants. However, Dummer’s inclusion of Mutterschutz ideas meant that her notions of family welfare reflected a challenge to the cultural norms that placed mothers and children in precarious circumstances. Ames’s FWF, like the CB, called for education and dissemination of information on parenting. Rather than challenging norms, Ames championed birth control information as part of the body of knowledge necessary to keep families fit. Like Dennett, Ames sought ways to draw attention away from birth control’s radical potential to liberate women from the burdens of unwanted children. However, unlike Dennett, Ames emphasized how birth control might fit into a larger, more palatable social welfare agenda.

Birth control reformers, like many progressive reformers, hoped that the death and destruction of the war would be followed by a period of social rebirth. Attention to public health, frank discussion of sex and family life, and the final flowering of progressive hopes for government expansion had characterized the war years. Optimism flourished among reformers who felt assured that science and an expanded federal apparatus would conquer poverty, ill health, and unnecessarily high rates of infant and maternal mortality. The FWF appealed to people’s sorrow over loss of life, trying, specifically, to associate the sacrifice of women’s lives with those of soldiers in the public mind. Echoes of both Dummer and Putnam can be found in the Foundation’s literature: “Medieval fatalism... still clouds the popular mind in matters surrounding the deaths of mothers in childbirth, and this feeling is largely due to the fact that while steps have been taken which have lowered the infant death rate considerably in the last decade, nothing whatever has been done to lower the maternal death rate... We made much of our soldiers and well they deserve it; but now that the war is over and we are free from their care, let us take care of the mothers!”13 The FWF attempted to associate birth control with social progress, racial advancement, and public health. However, in the course of this campaign, it failed on two accounts: first, it never gained the support of mainstream social welfare reformers of the CB, and, second, it squashed real birth control activism for almost an entire decade in Massachusetts.

As the FWF tried to reach out to a broader spectrum of the public, its members took pains to disassociate from Sanger. In an effort to soften their original aims by cloaking them in the rhetoric of maternal and infant welfare, members needed to remain distant from the controversy stirred up by Sanger and her colleagues through arrests, civil disobedience, and publicity stunts. Although one might assume that the FWF masked a
more radical agenda because it feared legal ramifications, records show that the Foundation took its new, broadened, and sanitized agenda quite seriously. The Foundation’s attempts to recruit conservative support for its new agenda reflected the genuineness of the FWF’s watered-down aims.

As we have seen, one such figure whom Massachusetts birth controllers sought to court with their revised program was antisuffragist and infant welfare reformer Elizabeth Lowell Putnam. In August 1919, Vera P. Lane, the general secretary of the FWF, wrote to Putnam to detail the changes that had been made in the organization since its initial contact with her in 1916. Lane referred to the Foundation’s “broader more constructive policy” and called her attention to the new name. Putnam never responded to the appeal by the FWF, but its attempt to associate with her makes clear the FWF’s political orientation. Putnam was identified as a possible supporter because she had been president of the American Child Hygiene Association and, by the end of the war, had become quite well known in infant welfare circles due to her innovative experiment in prenatal care. That she vocally decried women’s suffrage and had already expressed her disapproval of birth control seemed less important to the members of the FWF than her commitment to maternalism and her social position.

The FWF’s decision to concentrate on amorphous educational work at the expense of political reform did not go unnoticed or unchallenged from outside state borders. Although Sanger had yet to embark on a federal reform agenda by this time, Dennett displayed concern about the transformation of the BCLM into the FWF.

In June 1919, Dennett wrote a letter imploring the FWF to support her political campaign to reform federal censorship laws. She wrote, “If, as you say, the birth control league is inactive, and your new organization . . . does not feel able to do anything but wish us well with our project for getting our measure passed by Congress, to whom can we look in Massachusetts for active help? . . . Do you not feel that your educational program can be more rapidly accomplished if you help to make rational parenthood more possible by helping to free contraceptive knowledge from the ban?”

The FWF, however, was unwilling to align itself with Dennett’s activities. Ames wanted to remain free of federal political entanglements so as not to aggravate the situation in Massachusetts. Dennett was particularly frustrated with Ames’s strategy. She wrote to an officer of the FWF in 1919 that she “had not heard a word from Mrs. Ames. I have written to her twice. I wish very much she would see the point of concentrating on Congress rather than exclusively on state work. If everybody would only join to get this federal law repealed, the state laws would all go down like
a card house.”16 Dennett then criticized the FWF by frankly stating that, “I cannot help wishing that in the statement of your objects, you had made it a little clearer that Voluntary Parenthood is one of them.”17 Thus, even as Dennett was herself in the midst of avoiding controversy or confrontation in her federal campaign, she opposed the FWF’s decision to virtually abandon its commitment to birth control. She must have also been surprised at the direction the Foundation had taken under Ames’s leadership, for Ames had a reputation as an ardent and energetic reformer.18

FWF Secretary Vera P. Lane did remain in contact with Dennett during this conservative period and even ordered copies of her pro-birth control pamphlet, “Yes-But.” Although Lane’s letter to Putnam characterized the Foundation as leaning toward a conservative policy, she also assured Dennett in a letter that, “I am hoping that there will be some way by which these two organizations (referring to the VPL and the FWF) can cooperate. We are moving a little slowly just now, but hope soon to report progress.”19 Lane went so far as to ask Dennett for any suggestions for bolstering the organization. Only one month earlier, Lane had also written to Margaret Sanger to convey that she hoped to meet with her to discuss the plans of the FWF. Thus, in its effort to increase public support, the FWF succeeded in diluting its aims to the extent that, in 1919, it could simultaneously assure Dennett, Sanger, and Putnam—three reformers with very different political agendas—of its good intentions.

By the fall of 1919, the FWF had requested that its name be taken off the list of birth control organizations named in the Birth Control Review.20 It also decided to make a “gift” of five thousand copies of Dennett’s “Yes-But” to Sanger, relieved that she was “glad to take them off your hands.”21 The conservative political climate also encouraged resignations. For example, legal advisor Prescott Hall had complained to Ames in the spring of 1919 that the Foundation’s lecturer Dr. Young was in the habit of breaking the postal laws with the literature she sent. He warned that the people on the advisory board shunned association with lawbreakers and would resign if Young could not be kept in line. By October, Hall resigned as vice president and chair of the executive committee. His defection to the ranks of the anti-immigration movement in order to keep out “those who most need birth control after they enter the country” reveals the challenges Ames faced in holding together a rather eclectic group of reformers. In February 1920, the FWF informed its members that it was terminating all activities. It would be eight years until birth control supporters in Massachusetts were once again contacted in an effort to regroup along yet another set of guidelines and strategies.
Years later, Ames would reflect on the virtual inactivity and stagnation of the Massachusetts birth control movement in these years immediately following the war, disassociating herself from the conservative trend. She said, “After the rejoicing over winning the vote . . . the members of the birth control league scattered. It was hard to arouse interest in birth control work; the treatment of radicals during the war and the attitude of officials under Mayor Curley’s governorship made people cautious. Finally the conservatives prevailed and the League changed its name. . . . But its program roused little interest, contributions lagged, attendance at meetings was not enough to secure a quorum. The Foundation became inactive.”22 Ames’s recollections reveal that she was personally frustrated with postwar trends, though she continued her leadership during this period. She faced external political repression and internal pressure toward conservatism. These two forces would continue to shape her career throughout the interwar years, forcing her to compromise and conciliate until she could no longer tolerate the politics of the League.

The FWF episode is significant for three reasons. First, it illustrates the relatively conservative orientation of many rank-and-file birth control activists when compared to the publicity stirred up by Sanger and the ambitious federal program launched by Dennett. Second, it highlights the desire of at least some birth controllers to identify themselves as materialists, rather than feminists; that is, to view birth control as a means to shore up families and save the lives of mothers and babies rather than as a strategy to liberate women. Finally, the disappointing results of this episode point to yet another strategy gone awry. The fact that, by the 1920s, birth controllers had yet to design successful reform strategies contextualizes Sanger’s and Dennett’s various attempts to overcome political and cultural obstacles.

Birth control reformers in Massachusetts were not the only ones who experienced setbacks during the 1920s. The ABCL and its affiliates made unsuccessful attempts to change the state laws in New York, Connecticut, and Pennsylvania during this decade. Sanger’s biographer has asserted that on a national level, the movement “advanced only tentatively through the 1920s.”23 Among other things, this decade witnessed the failure of Dennett’s and Sanger’s federal reform campaigns; Sanger’s resignation from the ABCL; the rejection of birth control as an issue by both the League of Women Voters and the National Women’s Party; and several instances of police raids, arrests, and censorship.24 One major lesson birth controllers learned during this frustrating decade was the importance of coalition building. The 1920s marked a period of stagnation for a movement that reached out to social welfare reformers, social workers, feminists,
and maternalists. All of its advances rejected, the movement would soon turn to another group—medical professionals—that inspired it to reinvent itself once again.

Throughout the 1920s, Ames continued her political activities to a minor degree while focusing her energy on botanical illustration, which was the other major interest in her adult life. During these years, while on hiatus from the birth control movement, Ames worked with her husband to finish their major work in the field of economic botany, “Ames Charts of Economic Plants.” Ames continued to receive correspondence during the 1920s from the American Birth Control League, the Massachusetts League of Women Voters, The Women’s Committee for World Disarmament, the International Women’s Suffrage Alliance, the Bryn Mawr Summer School for Women Working in Industry, and the Young Women’s Christian Association. As was the case for many female reformers in the postwar, postsuffrage period, Ames’s political life faltered and atomized in the 1920s just as she achieved a great deal of personal success in her field as an illustrator. According to Joan Jensen and Lois Scharf’s examination of the women’s movement in the interwar years, this pattern was a common one for accomplished women in this era.25

The BCLM Reincarnated: Courting Doctors

The next burst of birth control activity in Massachusetts was inspired by the arrest of Dr. Antoinette Konikow in February 1928 for giving a lecture on “sex hygiene.” Specifically, Konikow was charged with exhibiting contraceptive devices. A revolutionary socialist, purported abortionist, and contributor to radical periodicals, Konikow had questionable associations that could have easily led members of the defunct FWF to disregard her problems with the law. However, despite Konikow’s radical orientation and affiliations, above all she was a physician. This fact would make all the difference to her potential supporters in Massachusetts. Although Konikow was acquitted one month after her arrest, birth control supporters formed a defense fund that ultimately turned into the second incarnation of the Birth Control League of Massachusetts, with Blanche Ames again acting as president. That this latest victim of the Massachusetts penal code was a physician fit nicely with the emerging medical orientation of the birth control movement. Dr. Konikow’s arrest allowed the BCLM to resurrect itself as the champion of a new movement for physicians’ rights, thereby perpetuating its tendency to avoid the feminist implications of birth control.
By 1928 the national movement for the legalization of birth control had undergone many changes since Margaret Sanger burst onto the scene in 1914 with her first issue of the *Woman Rebel*. One year after the FWF folded, the controversy between Sanger and Dennett erupted with the resignation of Dennett from the board of directors of the *Birth Control Review*. This move was inspired by Sanger's decision to begin a campaign for legislation that would ensure the legality of contraceptive advice and use only under the supervision of a physician. As the previous chapter has shown, this controversy heated up in 1924 when Sanger began working toward the passage of a federal law that would exempt doctors from the laws prohibiting the dissemination of birth control–related information and materials. Her decision was partially based on the fact that, throughout the 1920s, attempts at state reform were still largely unsuccessful. Sanger reasoned, like Dennett had earlier, that setting a precedent on the federal level would speed the reform process. By the mid-1920s, Sanger decided that public opinion had been significantly enlightened about the issue of birth control and that physicians could be persuaded to join in an effort that ensured their monopoly over the dissemination of contraceptives.

One month after Dr. Konikow's arrest in Massachusetts in 1928, Sanger resigned as president of the ABCL to devote her full attention to transforming the federal law along these lines. By 1929, she formed and led the National Committee of Federal Legislation for Birth Control. Sanger's clout ensured that most state leagues would acclimate to this new strategy, which emphasized federal legislation and a solely medical rationale for the use of birth control. In Massachusetts, however, reformers would reject the former and support the latter, thereby choosing Sanger over Dennett in support for doctors-only legislation but rejecting both women's attempts at prioritizing federal reform.

Sanger's strained relationship with the medical community in the 1920s and 1930s has been well documented by other historians. Although never willing to give up control over the movement to physicians, once she began fighting for doctors-only legislation, she acknowledged that she needed the support and the clout of the medical profession. In 1929, police raided Sanger's Maternity Research Council, a New York clinic attempting both to provide contraceptive services to women under the legal exception recognized by Judge Crane in Section 1145 of the New York penal code, and to conduct a study of birth control practices and their safety and efficacy. Two doctors and two nurses were arrested, and case records of 150 patients were confiscated. This incident motivated the medical profession—at least in New York—to protest against misuse of the state police power and infringement upon the confidentiality of the
physician-patient relationship. What followed was a power struggle between Sanger and New York doctors to control the direction of the movement that saw Sanger simultaneously fighting for doctors-only legislation and remaining committed to a birth control movement that endorsed eugenic, social, economic, and personal rationales for its use. In Massachusetts, on the other hand, birth controllers actively sought the alliance of doctors and then subordinated themselves to their wishes.

One month after the BCLM was reestablished, Ames wrote to the VPL asking for a copy of Dennett's book, *Birth Control Laws*. The new organization had decided to tackle legislative reform, at least on the state level, and needed Dennett’s work to eliminate any misconceptions about the restrictions it faced. Indeed, the BCLM would spend most of its time in the first two to three years of its revitalization collecting information and legal opinions on Massachusetts' birth control statutes. The continuities, which ran through the first BCLM, the FWF, and now the second incarnation of the BCLM, lay in cautiousness over law breaking and commitment to tackling state rather than federal reform.

The new BCLM differed from past efforts in two significant ways: first, in defining birth control as a physician's issue rather than a maternalist one, and, second, in deciding to reform rather than accommodate itself to state laws. These changes were based on three important factors: the particularities of the Massachusetts legal code, the gradual decrease in the level of opposition to birth control among the medical community at large, and Sanger's move in these directions (medicalization and legislative reform). Birth control activists in Massachusetts were cautious but savvy political actors who responded to their environment and acknowledged the ebb and flow of political fortunes. Whereas in the years immediately following World War I the FWF sought to gain approval by associating itself with the more “respectable” causes of infant and maternal welfare and eugenics, by the late 1920s the Children’s Bureau had faced the devastating loss of Sheppard-Towner as well as efforts to cut its funding, remove it from the Department of Labor, and collapse it into the U.S. Public Health Service. The power and respectability that birth controllers sought through alliances seemed now to lay with the organized medical community. According to one historian, “Nothing could bring greater prestige to contraception than to have it associated with the triumphant magic of medical science.”

Despite Ames's decision to proceed along the same lines as Sanger did (that is, working to secure physicians' right to prescribe birth control to their patients), she remained unwilling to reach beyond state borders. For this reason, the BCLM announced that it would sever its official association with the ABCL “until methods of approach become more nearly
identical." In an account of the three organizations working for birth control in Massachusetts, Ames made sure to distinguish between the ABCL, the BCLM, and Sanger’s National Committee on Federal Legislation. She argued that each organization was independent and had a different scope, overlapping with the others only in terms of membership. While the ABCL was a national organization and the National Committee worked on federal legislation, Ames claimed that her own organization was, “absorbed with problems peculiar to Massachusetts; its methods of work are those suited to conservative Massachusetts people.” Thus, Ames resolved to accommodate her movement to the particularities of the political climate.

Massachusetts birth control reformers faced political challenges beyond those posed by the strict legal code prohibiting access to birth control information and materials. Throughout the 1910s and 1920s, an unlikely coalition of old-stock Republicans and Catholic conservatives rejected a number of significant progressive initiatives, including Sheppard-Towner, education reform and consolidation, and the Child Labor Amendment. According to Massachusetts historian Joseph Huthmacher, “In their opposition to centralization and control, newer American Catholics found themselves aligned with economic conservatives who also deprecated expansion of government power.” Thus, Roman Catholics echoed people like Putnam and her friends in the state house in railing against federal maternity aid and compulsory physical education programs; they feared that these programs would open the door to sex hygiene instruction and birth control propaganda for both children attending public schools and their mothers. In this difficult climate, Ames’s decision to concentrate on the peculiarities of Massachusetts politics, thereby distancing her group from the federal campaign, makes tactical sense.

According to legal opinions delivered after the revitalization of the League, the state penal code—while not providing a simple exemption for physicians (as found in New York’s Section 1145)—lent itself to an interpretation that could exempt physicians from prohibitions regarding birth control. One of the BCLM’s new legal advisors, C. R. Clapp, argued that, “all the niceties of definition are needless if we can say that a physician may in good faith disregard the words of the statute if the health of his patient requires such advice in the same way that he may lawfully perform an abortion—flatly and unconditionally forbidden by statute.” Clapp was aware, however, that abortion and birth control might not be interpreted as completely analogous in the strictest legal sense. In the case of abortion, if a woman’s life was in danger and she was pregnant, there existed no other option for medical treatment. In the case of birth control,
however, Clapp argued that “the condition to be guarded against need not arise if the parties concerned abstain from acting.” In contrast to performing an abortion, offering birth control represented a way to “avoid the consequences of an act not yet performed.” He warned the League that judges might interpret the laws in a number of different ways depending on the circumstances of each case. Clapp’s opinion convinced the League that physicians could not rely on judicial review and, therefore, it began to organize its first campaign for legislative reform.

In November 1929, BCLM secretary Mary East sent a letter to members providing them with the latest news regarding the League’s agenda: “The work of the BCLM is processing quietly but steadily. Its chief effort at the present time is to get the medical profession as a whole behind the movement. When the League is strong enough and the demand of physicians general enough the League will go to the legislature to make the law clear and explicit in favor of physicians.” Massachusetts doctors did not remain “behind the movement” for long. While both the first BCLM and the FWF addressed their propaganda and educational campaigns to Massachusetts citizens and, in particular, to women who were club members, the new league targeted physicians as the most significant group to recruit to the cause. This orientation would have important consequences for the League throughout the 1930s. Its first priority was to make doctors aware of the ambiguities in the state penal code regarding the prescription of contraceptive materials. Next, it imagined that outraged physicians would lead a charge in the legislature to clarify the laws so that they might practice medicine properly.

Unfortunately, conditions in Massachusetts foisted a legislative campaign on the League before it considered itself ready. Only two months after East had described the BCLM as proceeding quietly and implied that it was not yet strong enough to take on the state legislature, a maverick representative from western Massachusetts introduced a birth control bill in the lower house of the state legislature. East described the situation as an emergency taking place in the form of a legislative battle that “has been thrust upon us.” Representative W. Taylor Day of Great Barrington had introduced a bill of his own initiative to encourage the dissemination of birth control information by physicians. East claimed that, as the bill was presently worded, “it may make conditions worse rather than better.” Day’s actual petition asked that “the Department of Public Health be authorized to register physicians for the purpose of disseminating contraceptive information among married persons,” thereby not straying far from the BCLM’s stated goals. However, the League considered Day’s bill too confrontational, worrying that it would open the
floodgates of opposition it sought to quell through its quieter activities. The League wished to avoid any reference to birth control, envisioning a reformed state law that would refer only to physicians' rights to treat their patients without state interference. Ultimately, the BCLM and its physician allies succeeded in persuading Representative Day to withdraw the bill without a hearing. The reformers argued in their annual report that it "seemed wiser to make a fresh start next year than to try to substitute a bill." Thus, by 1930 birth controllers in the state of Massachusetts had yet to make any effort to reform the laws prohibiting the exhibition and dissemination of birth control. Their inactivity throughout the 1920s, however, only served to put them on par with other state leagues, as no state birth control battles were won during this entire decade.

Beginning in 1930, the BCLM made numerous focused efforts to reach out to doctors, offer them support, and recruit them into the League. In her annual report, for example, East wrote that 250 doctors attended a meeting at Ames's home to hear Dr. Robert Dickinson speak on the medical aspects of birth control. At this meeting, "It was voted . . . that a committee of doctors be appointed to find the best procedure under the present law by which contraceptive information could be given for adequate reasons." Thus, the League decided to defer to doctors not only in regard to the best methods of contraception, but also in the arena of politics and strategy. This decision would alter the face of the Massachusetts birth control movement throughout the remainder of the interwar years and beyond.

In 1931 the BCLM and a group of Massachusetts physicians initiated a short-lived and unsuccessful legislative campaign to clarify the exemption of physicians from birth control prohibitions along the lines of the New York state penal code. At the first meeting of the newly established doctors' committee of the BCLM it was decided that physicians would be more comfortable giving contraceptive information to their patients under a modified law, rather than having to rely on favorable judicial interpretation of the existing statutes. The Massachusetts Doctors' Bill of 1931 did not specifically ask that physicians be registered by the Department of Public Health (as Day's bill had done), but petitioned, simply, "to remove the uncertainty in the minds of physicians and their legal advisors as to whether under the existing laws physicians, hospitals, medical schools, etc. are restricted in giving treatment prescriptions and instruction for the protection of health and prevention of disease." Ames played an integral part in formulating the role the League would play in relation to the Doctor's Bill of 1931. She claimed, first and foremost, that the bill was a doctors' bill and should not be directly associated
with the BCLM or the birth control movement at large. She also argued that the bill, as designed by physicians, was a conservative measure attempting merely to clarify the law to avoid the risk of prosecution, rather than creating new legislation. Like East, she advised birth controllers to work quietly in a supportive role to the physicians.

Both East and Ames often used the word “deference” to describe the nature of their relationship to the physicians they had brought into the fray. Ames counseled moderation, imploring birth control reformers to allow doctors to determine publicity, and to avoid religious issues and the criticism of any groups during the duration of the legislative campaign. She argued that birth control propaganda—which she defined as naturally including feminist and economic arguments for the use of contraceptives—should be laid aside for the moment in favor of the more palatable arguments for physicians’ legal rights and maternal and infant health.42

That Ames believed in a broader reform agenda on a personal level only accentuates the extent to which her alliance with physicians constituted a deliberate political strategy. In a letter whose purpose was to gather support for the state Doctors’ Bill, Ames explained the scope and aim of the legislation in this way: “Of all legislation petitioned for in recent years, this is the most vital to women,—not vital in a figurative sense, but vital as a matter of life and death to hundreds of married women yearly in this state. The bill is a conservative measure restricting itself entirely to medical issues. General birth control considerations, the economic, the eugenic, the social betterment lie outside its scope. Its purpose is to prevent physical suffering, disease and death.”43 Ames used seasoned tactics, appealing to people’s respect for physicians and their concern for the health of mothers while downplaying the radical associations of the birth control movement. She went on to argue that, “the Doctors’ Bill simply makes it possible for married women to get effective contraceptive advice when necessary from physicians, than whom there is no more responsible group.”44 Ames consciously cultivated the appeal of better medicine and better babies in order to make a greater impact than Dennett’s concurrent arguments for civil liberties.

Whether or not Ames truly believed in the correctness, compassion, and responsible nature of the medical profession, she held out this ideal to the public in her efforts to fortify and enhance the respectability of the movement. She used the tactic of praising physicians for their heroism and chivalry in their efforts to save and improve women’s lives precisely in order to convince them to do so. For example, she wrote that, “There is evidenced in the Doctors’ Bill an outstanding act of chivalry that should
not go unrecorded. Their petition proves their disinterestedness. They have nothing to gain, on the contrary the preventive measures advocated tend to reduce the number of cases in their care. Thoughtful women all over the State are grateful to them for their unselfish help. The BCLM's acceptance of the chivalry of Massachusetts physicians involved elaborate courting rituals, including traditional "feminine" subservience and deference. An alliance with physicians placed the League in a precarious position whereby gaining the trust and support of doctors meant waiving the "right" to criticize or challenge the noble profession. Ames had to maintain a delicate balance, having at once to court doctors' attention to the issue and then to praise them for their leadership in the struggle. Her plan to exempt physicians from prohibitions regarding birth control required the development of a self-fulfilling prophecy through which Ames projected, provoked, and then graciously accepted physicians' leadership.

In the campaign for the Massachusetts Doctors' Bill, the BCLM eventually questioned once again even the use of the term "birth control" in publicity pamphlets, leaflets, and letters. East wrote to Ames in January 1931 with worries that, if the BCLM used the term "birth control" in a leaflet about the Doctors' Bill, "It will look like one and the same thing and we have taken pains to try to make them look different."

The hearing on the Doctors' Bill (now called Senate Bill No. 43) began at the state house in February 1931. What transpired at the hearings took its supporters by complete surprise. Birth control reformers had falsely begun to believe that, by siding with medicine, science, and public health, they would avoid the turmoil of both religious and political embroilments. This did not turn out to be true. Despite careful strategizing to make the true intent of the Doctor's Bill virtually unrecognizable, the opposition, especially Catholic opposition, recognized the threat and mobilized accordingly.

As Dennett had done on Capitol Hill, Ames placed most, if not all, of the blame for the defeat of the bill on Catholic opposition. In a form letter she wrote immediately after the hearing, Ames's anger and frustration are evident:

We have all been troubled by the fear that this Catholic threat to our free institutions would materialize if Catholics were given positions of power in our government, but never before in so short a time have events developed in such irrefutable sequence as in this case of opposition to the Doctors' Bill. The opportunity was there to read this bill with understanding of its medical nature, but the Roman Church chose to consider it a birth control measure and condemn it on the grounds of degeneracy.
One year before the hearings, Pope Pius XI had codified the Catholic position on birth control in his encyclical “Of Chaste Marriage.” In this document, the Pope reinforced prohibitions against infidelity, birth control, divorce, and abortion, thereby disassociating the Roman Catholic church from the liberalizing trends of the Anglican church, the Federal Council of the Churches of Christ in America, and segments of the Jewish community.48

In addition to giving the League a glimpse of the strength of Catholic opposition, the defeat of the Massachusetts Doctors’ Bill temporarily shook the faith of the BCLM in the power of the medical profession to overcome all obstacles. According to Linda Gordon, the BCLM learned that “no matter how decorous and conservative the League’s arguments for birth control, they could not escape redbaiting and other forms of scurrilous attack.”49

The defeat also uncovered tensions within the organization over its conservative tendencies, for some members now saw this conservatism as an ineffective political strategy. In April 1931, for example, a member resigned from the BCLM over a disagreement about strategy and authority. He had wished to publicize the names of those who signed the petition to pass Senate Bill No. 43, but was rebuffed by the League’s board of directors. He responded by criticizing league officers for “always err(ing) on the side of squeamishness.”50 Ames responded to this resignation with a defense of the decision makers in the BCLM, based on the difficulty of their position. After all, she argued, “Senate bill number 43 was in fact a doctors’ bill and not a general birth control measure and their wishes had to be considered in every move we made if we were to be of real help to them and to maintain their confidence in us.”51 If there was squeamishness in the League’s position, Ames claimed that it could be explained as a “squeamish regard for the point of view of the physicians.”52 Ames’s answer to the disgruntled member revealed her recognition of the tendencies he complained about, but an unwillingness to break free from the League’s obligations. These tensions continued to plague the League throughout the 1930s, making it less capable of handling an increasingly bleak political situation.

Ultimately, the BCLM’s affiliation with physicians continued in spite of the defeat of Senate Bill No. 43. Ames counted herself among the conservatives who endorsed this policy. In 1931, she wrote to the supporters of the bill to assure them that her organization “stands ready to carry on and cooperate with the doctors in every legal effort to bring help to sick women who may be victims of death and disease if deprived of medical aid.”53 Thus, Ames continued to make her organization available to
Massachusetts’s doctors. She also continued to remind physicians that there existed no restriction against giving oral information about birth control in the hope that, while the laws were in the process of changing, women in Massachusetts could obtain the information and contraception they needed from their doctors. Thus, Ames found herself navigating her organization through treacherous waters as she had done in the immediate postwar years, again counseling pragmatism over boldness. However, new legal and economic considerations would soon embolden Ames, offering her an opportunity to bring her political agenda closer to her personal beliefs.

Relying on Judges/Defying Sanger

When the League obtained a new legal opinion that interpreted the state penal code in a very favorable way, it changed courses once again. In 1932, legal counselor Murray F. Hall argued that it followed logically from decided cases that, “A physician is justified in giving contraceptive advice for the purpose of saving life, safeguarding health or preventing disease.” He went on to claim that a physician “may give such advice whenever the condition of the patient would warrant the performance of a therapeutic abortion if she were pregnant or would justify sterilization.” Hall’s opinion convinced Ames and the executive board that the BCLM could rely on favorable interpretations of existing state laws rather than trying to engage in a difficult legislative battle. After the disappointing experience in the state house only one year earlier, Ames was relieved that the League would not be forced to go head-to-head with conservative legislators and Catholic activists.

Hall’s opinion was quite encouraging in that it offered the most favorable interpretation of the state penal code that the BCLM could have hoped for. He went so far as to assert that state statutes, “do not purport to regulate in any way the practice of physicians and should not be held to apply to physicians who are in the bona fide practice of their professions.” The BCLM took heart and decided to give up its legislative efforts, instead working to promote the novel (and as yet untested) idea that physicians could legally prescribe contraceptives to their married patients for health reasons in the state of Massachusetts. In a letter to league members, Ames described this new work as simply giving Massachusetts physicians “further confidence.” This work was not so simple, however, and doctors turned out to be a harder sell than the BCLM anticipated. Only one year before, the BCLM had convinced physicians that they
needed clarification of state laws to practice medicine without fear of prosecution. Now the League reversed its position and tried to convince these same physicians that the present laws presented no danger to them.

One of the ways the BCLM attempted to give physicians more confidence to prescribe birth control was by downplaying the legal prohibitions against this practice in its propaganda. Ames expressed concern that physicians were not aware of their rights and were being bullied into silence by the specter of the federal Comstock Laws. This worry represented a complete reversal for Ames, as her earlier public relations strategy had emphasized the peculiar disadvantage under which Massachusetts physicians worked. For example, in a letter from the fall of 1931, Ames had asserted, “Massachusetts mothers lack the medical protection which is available in over forty other states. Massachusetts physicians are handicapped in giving aid which would preserve the health and often save the lives of their patients.” By 1932 Ames changed her tune and argued that “physicians throughout the nation have been led to believe erroneously that contraceptive aid to their patients is illegal under state statutes and court decisions.” Ames now asserted that doctors’ fear of prescribing birth control was based on a misinterpretation of the law. She claimed that, “if physicians can be made to realize that the giving of such aid in the bona fide practice of their profession is definitely not illegal, the greatest obstacle confronting us will be removed,” thereby dismissing Comstock and state statutes as obstacles.

In complete contrast to both Sanger and Dennett (and her own earlier convictions), Ames came to argue that neither federal nor state laws constituted a real threat to Massachusetts physicians. This position was to become a point of contention between Ames and Sanger throughout the 1930s. Specifically, Ames criticized Sanger for overestimating the power of the Comstock Law to control physicians, overgeneralizing from the national case and thereby discouraging doctors in her own state from prescribing birth control. In a letter to Sanger, Ames argued, “It is not a correct conception of reality under the present circumstances to ignore all the Federal Court decisions and the Postal Rulings . . . and put in print that there are no exceptions under Sections 211, 245, 311, 312, of the U.S. Penal Code.” In a speech before the Chicago Woman’s City Club, Ames made a similar argument: “The legal situation in Massachusetts has been generally misunderstood. The statutes are not clear in wording. They have been misinterpreted, and false statements of their meaning have been printed in important works on birth control with many harmful results.” The critical reference to important printed works on birth control can only have meant Dennett’s Birth Control Laws (published in 1926), which certainly
painted the Massachusetts picture as bleak. Thus, Ames's decision in 1932 to rely on judicial review alienated her from Dennett as well as Sanger.

Because of Ames's resentment of Sanger's overzealous and supposedly misdirected propaganda campaign, she refused to cooperate with her campaign to reform federal legislation. In a 1934 letter to Sanger, Ames argued that recent letters between the BCLM and postal authorities “confirm our belief that the federal statutes hold only within their scope prohibitions of unworthy actions based on unworthy motives.”62 She claimed that Sanger interpreted the federal law in the strictest manner and that judicial interpretations were likely to be more liberal and take intent into consideration. Despite what historians have portrayed as Sanger’s almost mystical authority over birth control reformers in the interwar years, Ames and her league directly challenged Sanger’s justification for tackling federal legislative reform.

As I interpret these rulings . . . they show that those are mistaken who maintain that no exemptions exist under the present wording of the Federal Statutes . . . Court decisions, plus medical practice, plus popular education, have created rights and privileges under the law which could easily be lost through legislative tinkering with the Federal Statutes and might make it necessary to undertake legislative changes in the state laws. For Massachusetts that is an impossible task.63

Thus, Ames no longer viewed Sanger’s federal efforts as compatible with her own, but, rather, as a direct, if unwitting, threat. The BCLM now disassociated itself not only from Sanger’s federal campaign, but from legislative reform at the state level as well.

Hall’s opinion had convinced Ames that women in Massachusetts as well as women throughout the nation could place their health and their families in the hands of sympathetic doctors and judges. This opinion gave the League the strength to stand up to Sanger and even question her judgment. In this same letter dated May 1934, the author (probably East) asked, “Doesn’t some way open by which you can get out of this Federal legislation jam? Is there anything we can do to help? Mrs. Ames and I would like to be with you one hundred percent but if you feel you have to keep pegging away at the federal legislation in its present form, how could we be so?”64

Sanger reacted furiously to Ames’s and East’s challenge to her authority. She mocked their optimism and naïveté and charged them with expecting her to “lay down arms and be satisfied with a flimsy ruling based on the case of a venereal man and a tubercular woman.”65 The
Massachusetts women countered that their criticism was “not against changing the Federal Statutes wisely, but is directed against the form and content of your amendment on the grounds that it is restrictive of our existing liberties and could be a source of oppression in the future.”

Ames was convinced that interpretations of existing state laws would prove more permissive than Sanger’s proposed federal legislation. Ames’s two points of contention with Sanger were, first, Sanger’s use of what Ames deemed “scare tactics” to make physicians unduly anxious about prescribing birth control, and, second, Sanger’s assumption that her reform strategy would work for everyone. Ames objected to the federal bill Sanger supported because it limited the receipt and distribution of contraceptive materials to physicians and licensed clinics. According to Ames, “Licenses are issued by the states and it is highly improbable that we could secure a license for such a clinic in this state.”

Thus, Sanger’s focus on federal matters was read as insensitivity to the situation in the state of Massachusetts. In addition, Ames claimed that Sanger advanced conflicting arguments. As Ames saw it, on the one hand, Sanger argued that clinics were illegal under present laws; on the other, she actively solicited funds for the opening of clinics. Ames even implied that she was less than confident of Sanger’s integrity when she pointed out that Sanger never accounted for funds she received. Therefore, the BCLM would offer no further money to her organization.

Ames’s growing rift with Sanger developed out of a new confidence bolstered by legal opinions and court decisions that provided evidence that Comstock was surmountable.

The rulings I obtained were necessary for us to prove to our physicians and advisors that these statutes and others you have sent out are not in conformity with the law nor the customary practice of Postal Authorities, and that neither the physicians nor their hospitals and clinics need fear Federal interference. I maintain that misinformation about the law, rousing false fear among the medical fraternity is detrimental to the work of birth control and of vital danger.

Ames’s criticism of Sanger echoed the earlier words of Mary Dennett. Dennett had also rejected Sanger’s early rhetoric as alienating and antagonistic to politicians. Moreover, Dennett decried Sanger’s tendency toward the dramatic, arguing that Sanger’s desire for personal aggrandizement meant that she characterized every situation as grave and every scuffle as a great battle. Years later, Ames found fault with Sanger’s “rousing false fears” among the physicians whose confidence she sought to bolster.
Both women charged Sanger with making a political situation worse through her confrontational style.

Continuing its policy since its first incarnation in 1916 of following the path of least resistance and avoiding controversy, the BCLM now had at its disposal a legal opinion to reinforce its trepidation regarding legislative reform. But by the mid-thirties the BCLM had worked itself into a problematic situation. Dominated by conservative members who wanted the League to maintain its association with physicians and avoid legislative activity, it still faced the reticence of Massachusetts doctors to make this cause their own. Understandably, many physicians were likely suspicious of the assurances offered by the League, as they reflected such a marked contrast from its earlier propaganda. Trouble with physicians and with Sanger forced the League to reformulate its agenda once again by the mid-thirties. With the depression raging and the very survival of women and children at stake, Ames fashioned a new agenda designed to get birth control information and materials into the hands of the women in her state.

The Depression: Clinics, Courts, and the Resignation of Ames

Instead of undertaking political reform and grappling proactively with reticence among Massachusetts physicians to carry out research or a legislative campaign, the BCLM embarked on new strategies in the 1930s. Relying on Hall’s opinion that assumed the legality of physician-supervised birth control dissemination, and responding to the great misery produced by the economic depression, Ames convinced the League to open up birth control clinics in Massachusetts. These “Mothers’ Health Offices” (MHOs) would be places where married women could receive contraceptive advice and materials for medical reasons under the supervision of licensed physicians. The new commitment to clinics was ripe with ironies and unintended consequences. Initiated by a conservative state league in the face of inauspicious political circumstances, the clinics would ultimately radicalize and derail the movement in Massachusetts: they would encourage reformers to push for a broader set of indications for legitimate use of birth control in the face of women’s real needs as clinic patients, and they would provoke judicial test cases that placed the state of Massachusetts in the unenviable position of being the sole state that prohibited physicians from prescribing birth control to their patients.

Ames was moved by the depression to abandon her long-standing commitment to conservatism and marketing birth control solely as a medical
issue. Like many birth control reformers in the 1930s, she began to use economic arguments to promote her cause. However, important distinctions existed between those who promoted birth control as a measure of fiscal conservatism and those who promoted it as a way to mitigate human suffering. Ames was aligned with the latter group, while many other powerful members of the BCLM and the ABCL were aligned with the former.70

In the early 1930s Ames, for the first time, acknowledged publicly the economic advantages of birth control. Rather than promoting birth control as a panacea that would make social welfare expenditures unnecessary, Ames sought cooperation with New Deal agencies. In 1934, for example, Ames sent three hundred letters to directors of various welfare committees offering them the names of doctors who would provide contraceptives “for medical reasons and . . . for economic reasons because of the existing emergency.”71 Ames wanted birth control to become a part of the nation’s relief and welfare efforts and complained when the League was not allowed to participate in the Emergency Relief Drive because officials “felt that our organization is ‘of a somewhat different character.’”72 This response, although typical, was particularly frustrating to Ames who, since 1916, had taken great pains to promote birth control as a mainstream and respectable social welfare cause.

Harkening back to the rhetoric of the immediate postwar period, Ames began to call attention to the obvious links between fertility control and maternal and infant health. However, in this period, state-sponsored social welfare programs were growing rather than shrinking; Ames’s more confident tone reflects this context. In a letter asking for contributions for the League’s MHOs, Ames capitalized on concerns about high maternal mortality rates: “The Birth Control League is the only organization which seeks to lessen Massachusetts’ share of these appalling losses by control of the original cause, that is, through the postponement of pregnancy until the mother’s health is adequate for the task of pregnancy and labor.”73 Ames tried to encourage the public to view birth control as a part of a larger relief effort. In the face of rejection by federal relief agencies, Ames argued that birth control “gets at the root of many of the evils that you are helping to combat at much greater expense through the charitable agencies.”74 Thus, she linked past and present concerns and rhetoric—promoting birth control as a maternalist cause and touting its economic benefits.

Part of the problem the BCLM faced in seeking inclusion in national welfare programs was strong opposition by Katharine Lenroot, the chief of the CB. After the passage of the Social Security Act in 1935, the
Bureau regained some of the authority and power it had lost in the late 1920s when Sheppard-Towner was deprived of its appropriations. Now the Bureau would be responsible for administering Title Five of the Social Security Act. Based to a large degree on Sheppard-Towner, Title Five provided federal funds for maternal and child health services. Although the Bureau had itself conducted innovative studies that proved the direct association between infant mortality and number of children, space between children, and family income, it had remained—mostly for political reasons—opposed to birth control. According to one of her employees in the Bureau, Lenroot objected to the Bureau’s taking on the “extra hazards involved in the acceptance of its programs by administratively assuming responsibility for an activity which is . . . controversial. . . .” Thus, the birth controllers found themselves unable to rely on the most powerful, female-run federal bureau to initiate a program that promised to substantially lower maternal and infant mortality. Ironically, this decision on the part of the Bureau was based on the same kind of political pragmatism and timidity that had shaped the policies of the BCLM since its creation in 1916.

Ames clearly saw birth control as a way to improve the circumstances of people’s lives, rather than merely a way to save money. In contrast to some in her cohort Ames’s compassion for poor women was never overshadowed by her fear of the growth of the “dependent classes.” In a letter to women welfare directors she wrote, “These times must make you realize only too clearly the tragedy that the conception of another child would bring to the unemployed mother upon whose shoulders falls the support of the family. These women, haunted by the fear of another pregnancy, are entitled to instruction in the control of contraception. They have a right to it.” Far from leading her to condemn the irresponsible spike in the number of welfare babies, the depression encouraged Ames to define birth control as a right of women. This shift in perspective moved her further away from the conservative posture she had struck for many years as president of the League.

Both Ames and Dennett became more “rights-oriented” as the mainstream movement began to embrace eugenics, fiscal conservatism, and population control in the 1930s and 1940s. Ames’s commitment to the right of all classes of married women to obtain birth control led to a major conflict with her colleagues in the larger movement and in her own league. As with Dennett, her emerging “rights orientation” underscored violations of individual rights so characteristic of the movement in the 1930s.

On January 5, 1935, the Boston Transcript ran an advertisement for the BCLM that read:
TAXPAYERS! Nearly a quarter of a million children were born last year to families entirely supported by you through public relief. Our organization exists to help those parents have only those many children as they can support. Will You Help Us Do This Preventive Work? Contributions may be sent to our office. . . .

Ames was so disturbed by the implications of such publicity that she resigned as president of the League later that year. Writing to the executive committee of the BCLM, she launched a serious critique of the advertisement:

The advertisement in the hands of . . . any opponent of birth control is a weapon with which we can be attacked again and again. In it, our appeal for support is not based on broad humanitarian motives, but is based on the motive of saving money alone. . . . it implies coercion: it may be interpreted to mean restriction of birth by abortion, or sterilization. Voluntary regulation of conception is our idea, isn’t it?

Cornelia James Cannon, the League’s vice president, mounted a strong defense of the advertisement in which she ignored Ames’s important distinction between a coercive and a voluntary program. In the face of this, Ames clarified her objections to the advertisement. Her objections fell into two categories: first, the advertisement misstated economic facts, and, second, it distorted the true aims of the League. Claiming that nearly one-quarter of a million children were being entirely supported by Massachusetts taxpayers was a gross oversimplification and overgeneralization. Ames argued that depression records were so at variance as to make reliable statistics impossible to find. In addition, she objected that their organization existed to help parents have only as many children as they want, or want to support, rather than “as many as they can support,” as the advertisement read. Ames stated her position more fully to Cannon when she wrote, “The object we seek goes through the medical, beyond the economic aspects even, and strives to protect the personal freedom of the individual to get adequate contraceptive aid, and to leave her free from control by self-appointed judges who seek to determine for her what are proper motives.” Ames’s disavowal of the “self-appointed judges” of women could have had various referents: federal and state judges, Roman Catholics, physicians, welfare workers, or even middle-class and elite birth control reformers who sought control over the reproductive choices of poor women. This letter marked the first time Ames officially stated—even within her own organization—that she advocated contraceptive use
for purely personal reasons. Within four years, she had made a huge leap from advocating a purely medical agenda to one that encompassed economic and individual indicators for family planning. While throughout the teens and twenties her nascent boldness could be surmised in her writings and the observations of others, the economic crisis and the League’s response to it had made it manifest. She had moved from consciously limiting the parameters of the movement for pragmatic reasons to allowing her ethical commitments to guide her positions outside the mainstream.

Like Dennett, Ames objected to being associated with racist eugenists who sought to sterilize the “unfit” and encourage the birth rate among the “correct” classes of people. She had witnessed the national movement deteriorate into “a conservative program of social control,” through which the middle classes could be spared the expense and discomfort of living among undesirables by limiting their fertility.80 Linda Gordon has argued that the 1920s and 1930s witnessed “birth controllers’ conversion to eugenics and their desertion of feminism.”81 Most historians agree that this tendency was clearly evident in the ABCL and among state leagues as well. For example, the Pennsylvania Birth Control Federation printed an even more straightforward advertisement in the mid-1930s that actually calculated the state’s cost of keeping alive an unwanted child for three weeks. The headline read, “Nobody Wanted Jimmy ... But He Was Born Anyhow ... And Died Three Weeks Later.” It went on to say that neither Jimmy’s parents nor his community wanted him but that, after adding the cost of prenatal care, hospital costs, and burial costs, the dead infant cost the taxpayers of Pennsylvania over $300.82 Ames’s reaction to the advertising campaign in 1935 must be seen in the context of this national trend. Always conscious of the connections between maternal and infant welfare and birth control, Ames remained dedicated to a movement that championed reproductive reform rather than fiscal conservativism.

In a letter to members of the BCLM written three weeks after the publicity controversy, Ames would not let the incident rest:

That advertisement was open to fair criticism on several grounds. In the first place it did not do justice to the true motives of the League, because it was an appeal to Taxpayers as a class on the basis of protecting their pocketbooks, rather than an appeal to all citizens on the basis of rendering genuine service to all our people, rich and poor, taxpayers and non-taxpayers.83

Ames also objected to the “harsh and inhumane” emphasis of the piece. She feared that the public might get the impression that the League
“aimed at denying parents the joys and compensations of parenthood merely because they are poor.”

Ames’s decision to distance herself from the right wing of the birth control or eugenics movement by emphasizing voluntary family limitation did not represent a full turning away from her commitment to practical politics. The publicity controversy of 1935 also brought to the surface some tensions in the BCLM regarding the constitution of the League as it related to authority and decision making. A combination of these two issues led Ames to resign as the League’s president in 1935.

In contrast to the position she took regarding the controversial advertisement, when it came to the working of the League Ames found herself pitted against a group whom she perceived as being “full of revolutionary ideas.” Angered that the ad was published without her knowledge or approval, Ames worried about a lack of structure in the League and came down squarely on the side of law and order. She wrote,

I understand the restlessness of an ardent spirit curbed by old rules and old promises or contracts. But these contracts are actualities. Our agreements with doctors, the Mothers Health Office, and our League Members are binding on us... Now if certain members of the Executive Committee or members of the League don’t feel that they can subscribe to the Constitution and the contracts existing between the League and its Advisory Board, its doctor members and League members, then those members should withdraw and form the kind of new organization that does suit them... in which they can do just as they please.

Ames reminded League members that they were “tied hand and foot by binding agreements with other groups—ministers, doctors, professors, Advisory Council, etc” and that these groups needed to be consulted before the BCLM moved in new and potentially damaging directions.

As Ames was beginning to broaden her own view of legitimate indications for the use of birth control, her relations with Sanger and her own league became strained. On the one hand, she continued to fight vigorously in her own state against dramatic propaganda that would dissuade physicians from cooperating with the League. On the other hand, she complained to Sanger that her federal bill would amount to a medical monopoly over birth control information and that it left out economic or social reasons for family limitation. In a letter to Sanger in June 1934, Ames made clear her personal trepidation regarding reliance on the medical community, a dependency that she took pains to cover up among Massachusetts birth control reformers:
Under your proposed amendment we would be as much at the caprice of
the doctors and their medical associates as we have been in the past. We still
would be apologizing supplicants on the medical doorstep... An organized
campaign by the doctors and one determining vote at their annual meeting
could put out of the reach of women all contraceptive aid in that commu-
nity. Men and women would be deprived by Federal amendment of receiv-
ing by mail ... any knowledge or materials on contraception from any
source other than doctors. Freedom of access to scientific discoveries should
not be made by statute the property of the medical profession alone. Such
an arrangement smacks of the privileges accorded to the ‘medicine man’ of
old.87

Indeed, as this letter illustrates, by the mid-1930s Ames’s position
regarding federal legislation was closer to Dennett’s than to Sanger’s. As
the previous chapter has shown, this shift of opinion was shared by oth-
ers in the movement who were increasingly attracted to Dennett’s formul-
ation of the issue rather than Sanger’s. Ames’s evolving position grew out
of her increasing concern for women’s health during the crisis of the Great
Depression as well as optimism engendered by that same crisis. Ames’s
optimism regarding the eventual acceptance of birth control, however, did
not extend to Dennett’s faith that relief would come through the legisla-
tive process.

In 1935, just as Ames began to waffle in her position regarding the
power of the medical profession, economic and personal indicators for
birth control use, and the distinction between state and federal strategies,
she resigned as president of the BCLM. A major reason for her resigna-
tion was the publicity controversy that pitted her authority against other
members of the executive board. She had been the leader of the birth con-
trol movement in Massachusetts since its inception in 1916. Problems like
the one engendered by the advertisement in the Transcript called into
question her ability to lead the movement. In addition, Ames’s disagree-
ments with Sanger continued, as did her discomfort with the increasing
influence of eugenic, population control, and anti–New Deal sentiment in
the birth control movement. She was unable to face the conundrum she
herself had created, that is, how to mesh her political decision to promote
birth control on the coattails of the powerful medical profession with her
own strong belief in the broader implications of the movement. Indeed,
the struggle to find a solution to this particular puzzle would continue to
plague the BCLM throughout the 1930s.

Abandoning the frustrating and complex arena of legislation, the
League began the work of establishing clinics.88 Ames saw this effort as a
way to work with and under the direction of physicians while also expanding the number of married women who would be eligible to receive birth control information. She explained this strategy in a letter to a fellow member. “Four years ago,” she wrote, “the doctors tried to introduce an amendment to these sections of the law which would make clear the right of physicians to advise. Like most attempts to change such section of law by legislative action, it failed. It was then decided to open a MHO, where advice would be given under this more liberal interpretation of the law.”

Ames went on to say that, to date, Sanger’s clinics and the BCLM’s own MHOs still demanded medical indications to disseminate birth control. Ames committed herself to changing this policy to include economic indications, arguing that, “As yet poverty is not accepted as a medical indication at our Health Offices. The entire Board thinks it should be and every effort is being made to bring our doctors and lawyers to this point of view.”

This development in the BCLM mirrored the ABCL during the same period, as both organizations turned toward creating clinics as a less controversial and more effective strategy than attempting legislative reform.

Inspired by the economic suffering brought on by the depression, birth controllers exhibited a renewed interest in practical action and provisional strategies. The move to establish clinics also reflected a growing recognition that legislative reform was not only time-consuming, but hadn’t yielded any positive results in approximately twenty years. Thus, both political and economic circumstances shaped new tactics. Massachusetts reformers, like their national counterparts, sought the path of least resistance to get birth control materials into the hands of American women.

By 1936 the BCLM had clinics in Brookline (1932), Springfield (1934), Worcester (1935), and Salem (1936). By the end of the next year, three more opened in Boston’s South End, New Bedford, and Fitchburg. These achievements came in the wake of the *U.S. v. One Package* decision in 1936, and the endorsement of birth control by the AMA in 1937. In *U.S. v. One Package*, Judge Hand of the U.S. Circuit Court of Appeals sustained the ruling of the District Court that birth control literature and devices imported for use by physicians were not restricted by federal obscenity statutes. Hand ruled that it was not the purpose of federal statutes to interfere with conscientious medical practices. When the U.S. Attorney General announced that the government would rest its case, the decision became, in effect, the law. After the *One Package* decision, the U.S. Treasury Department issued instructions to customs authorities to admit birth control supplies addressed to physicians.

In 1937 the AMA finally recognized birth control as a legitimate part of medical practice. This admission manifested itself in the coordination
of the ABCL and Sanger’s Clinical Research Bureau into a united Birth Control Federation of America. According to one historian, the AMA had little choice by the end of the 1930s but to accept birth control so that it could control its dissemination. “Demand for contraceptives outstripped the supply of medical knowledge and gave rise to a huge birth control industry riddled with quackery and dishonesty,” and, therefore, doctors found it necessary to proceed with research and dissemination. By the end of the 1930s, with federal court cases decided in their favor and the acceptance of birth control by the AMA, birth control reformers felt confident that their worries could be put to rest. Indeed, it seemed that birth control was finally becoming an acceptable and accepted practice, at least among married couples. While most birth controllers were satisfied with these victories, Dennett and Ames remained critical of the restrictions that American women seeking to control their fertility still encountered. Incidents in Massachusetts in the late 1930s would make clear the extent of the limitations placed on the dissemination and use of birth control.

Post-Ames’s Presidency, Post–One Package Events in Massachusetts

By 1937, armed with new confidence, members of the BCLM were prepared “to make every effort to broaden the classification of women who may be accepted in Health Offices.” With the AMA and the federal government on its side, and with no end in sight to the economic depression, the BCLM began to believe that it could stretch the law in order to accommodate economic reasons for family limitation. Although the League’s lawyer did not believe that birth control reformers could rely on favorable interpretation of statutes in the case of dissemination based on economic factors, one member wrote, “It is difficult for me to believe that we would not get a favorable decision for a case of this sort.” No one in the BCLM could have anticipated the setbacks that visited the movement in Massachusetts in the summer of 1937.

In June 1937, police raided the BCLM’s North Shore MHO. They confiscated all records and charged Dr. Lucile Lord Heinstein, a nurse, and two social workers with exhibiting, advertising, and selling birth control. In July all four were indicted in the District Court of Salem, where Judge Sears ruled that it was indeed illegal for physicians to provide birth control information to ill, married women. The case was appealed to the Superior Court of Essex County in the fall of 1937. The BCLM believed that the Superior Court would “not sustain a ruling which does not recognize that
the Massachusetts law aims at indecency and is not intended to interfere
with a medical practice approved by the AMA.95 By October, however,
Superior Court Judge Wilford Gray upheld the earlier conviction and
found all four MHO workers guilty of selling and giving away articles for
contraception. In its press release, the BCLM tried to sound optimistic. It
argued that Judge Gray was sympathetic to the defendants and therefore
released them and imposed a minimum fine of $100 apiece. The League
felt confident that the next step, appealing the case before the Supreme
Court of Massachusetts, would bring successful results. Judge Gray had
implied that he did not wish to take the authority and responsibility for
interpreting the statutes in question in a new way, for this duty was more
properly in the purview of the Supreme Court or the legislature.96 Before
the case came to the Supreme Court in 1938, two other MHOs were
raided in Brookline and the South End.

When the appeal to the Superior Court failed to bring positive results,
the BCLM attempted to re-engage the activism of doctors around the
issue of their professional rights and privileges. It sent a letter to members
of the Massachusetts Medical Society in October 1937 informing them
of "a grave situation" that had arisen in Massachusetts. They were told that
physicians' rights had been violated, "First, in the seizure and holding of
confidential medical records by the police; second by police interference
with the right of physicians to practice medicine in accordance with
accepted methods."97 The BCLM urged physicians to endorse an
enclosed statement of protest in the hope that, as in the case of New York
in 1929, concerted protest by physicians would be "of great value in estab-
lishing the fact that contraception was a part of sound medical practice
rather than an indecency."98

The situation in Massachusetts did arouse the interest and concern of
physicians at large. When the MHO workers were first found guilty in
July, an editorial appeared in the New England Journal of Medicine. This
editorial argued that the prohibitions in Massachusetts were no more
drastic than the federal Comstock Laws, which the U.S. Circuit Court of
Appeals had already interpreted as exempting doctors in the One Package
decision one year earlier. Therefore, there should be no question that
physicians were not lawbreakers when they administered or offered con-
traceptive materials to save lives or to promote the health of their patients.
The editorial went on to argue that the AMA "has expressed itself only in
regard to relation of physician and patient," and that its approval of con-
traception should not "be construed as favoring the use of such measures
for the solution of social problems."99 The author then praised the BCLM
in particular for advocating these conservative goals and methods. He
claimed that, because birth control reformers in Massachusetts “have apparently respected this limitation to medical indications, . . . they are entitled to the sympathy and support of the medical profession in their present legal difficulties.” Thus, Ames’s steadfast counsel to the League to uphold its commitments to physicians and defer to their judgment seemed to have paid off. In its time of crisis, the BCLM could rely on the medical profession for support.

The clinic raids and indictments seemed to catalyze not only support but also opposition to birth control in Massachusetts. In October, for instance, Leslie Hawkridge and Caroline Davis of the BCLM were found guilty by the Municipal Court of Boston for distributing written information as to where contraceptive information might be obtained. Ironically, as the rest of the nation began to trust that the movement had passed through its most trying stages, reformers in Massachusetts were just beginning to face the consequences of a conservative political climate and their miscalculations in political strategy. The BCLM found itself at the mercy of what seemed to be the only courts in the country that were willing to prosecute physicians for disseminating birth control for health reasons.

In May 1938, Judge C. J. Rugg of the Massachusetts Supreme Court also found the defendants at the North Shore MHO guilty. His opinion, in Commonwealth v. Gardner, illustrates the problem with relying on favorable judicial interpretation rather than legislative reform. The Supreme Court of Massachusetts ruled that the “sale of contraceptives to married women, even on prescription of a physician and for the preservation of life and health according to sound and generally accepted medical practice, is a violation of G.L. (Terr. Ed.) c. 272, and 21.” The defendants claimed that they were acting on their attorneys’ advice that the statute in question did not apply to articles intended for the use of contraception “upon prescription by a duly qualified physician when necessary for the preservation of life or health according to sound and generally accepted medical practice.” Rugg countered that the terms of the statutes in question were “plain, unequivocal and peremptory.” He went on to add, “They contain no exceptions. They are sweeping, absolute, and devoid of ambiguity. They are directed with undeviating explicitness against the prevention of conception by any of the means specified. It would be difficult to select appropriate legislative words to express the thought with greater emphasis.” Rugg argued that, if the legislature had so wished, it could have easily expressed its intention to provide exemptions or exceptions to the law, as it did in the state of New York, where “physicians are permitted by statute to prescribe contraceptives under limited and defined circumstances.” Unlike the case in New York, Rugg
argued that there was no evidence to indicate that the Massachusetts legislature had intended to exempt physicians from its prohibitions regarding birth control and it was the duty of the judicial branch to uphold the intention of lawmakers. Rugg went so far as to claim that, “We think such an exception cannot be read into our statute by judicial interpretation. Our statute must be interpreted and enforced as enacted. . . . The relief here urged must be sought from the law-making department and not from the judicial department of government.” With this last sentence, Rugg undermined what had been the BCLM’s political strategy for almost two decades. He told reformers that the relief they sought would have to come from the legislature, not the courts.

The Gardner decision took the BCLM by surprise. It had relied on the exemption of physicians from birth control prohibitions, as had reformers nationally and in other states. All across the country, birth control reformers had discontinued their activities after U.S. v. One Package, confident that old laws would now be interpreted in new ways to accommodate modern sensibilities and economic realities. Only in Massachusetts did the strategy seem to be backfiring. In a press release immediately following Justice Rugg’s ruling, the League stated,

The adverse decision of the Massachusetts Supreme Court in the Birth Control case will come as a shock to hundreds of citizens interested in human welfare and public health. The court was given the opportunity to free physicians from doubt as to whether a law clearly aimed at obscenity and immorality should prevent them from legitimate use of a branch of medicine approved by the highest medical authorities....Contraception in the hands of the medical profession is accepted by laws in most civilized countries of the world except those under dictatorship....Only in Massachusetts have the rights of physicians been attacked, and in failing to except the practice of medicine from indecency laws the Supreme Court has lost a chance to bring Massachusetts abreast of a more Enlightened world.

The press release continued by emphasizing the important role that family limitation could play in relieving the suffering of ill health and poverty. It ended on a dramatic note by underscoring the isolation of Massachusetts: “This decision will confirm the general opinion that we, here, are living in the dark ages.”

In response to Judge Rugg’s decision, the BCLM organized a conference to discuss the possibility of an appeal to the U.S. Supreme Court. The conference participants included the highest officers and the lawyers of the BCLM, along with Sanger and the attorney for the ABCL. The
conference report announced a unanimous vote to appeal to the U.S. Supreme Court. The attorneys advised reformers that the case could get to the Supreme Court “on the grounds that in forbidding physicians to give contraceptives to sick women our statute violates the Fourteenth Amendment of the Federal Constitution, which read that no state shall ‘deprive any person of life, liberty, or property without due process of law.’”108 It was also determined that an amicus curiae brief would be filed on behalf of physicians “to argue solely against the infringement of the right of physicians which Justice Rugg’s decision permits.”109

In October 1938, the U.S. Supreme Court dismissed the appeal in the Massachusetts birth control case on the grounds that it failed to raise a substantial federal question. The BCLM now found itself in a formidable predicament. A memorandum in November summed its difficult situation as follows:

As a result of the raids on the League’s MHOs in 1937, and the subsequent refusal of the U.S. Supreme Court . . . to consider the constitutionality of the Massachusetts statute, all clinics are closed and all doctors are “legally” prohibited from giving mothers contraceptive materials. The general consensus seems to show first, that there is little hope of having the law re-interpreted . . . ; second, there is little chance of getting the legislature itself to amend the law because it is so predominantly Catholic; and third, public opinion is not thoroughly aroused to permit much hope . . . to getting the law amended by having the issue placed on the ballot.110

Thus, at every turn the BCLM encountered daunting obstacles. The League was running out of options and pessimism hung over the future of the movement in Massachusetts. One league officer recommended the initiation of an intensive education campaign directed toward the general public and the organization of doctors and laypeople in an effort to amend the present laws. Recommended procedures included the initiation of new court cases, a media campaign that would include newspapers, magazines, radio, speeches, meetings, films, and dramatized skits to educate the public, and, finally, a Citizens’ Committee for Birth Control made up of outstanding members of the community. While court cases were still considered an option, this memo also recommended that a petition be initiated in 1940 in support of the right to vote on whether to amend the present law. In order to accomplish this end, the Citizens Committee would have to get at least 25,000 signatures on a petition to put pressure on representatives.

At the Eighteenth Annual Meeting of the ABCL in January 1939, Mrs. Caroline Davis of the BCLM stated that “this Commonwealth
holds the unenviable position of being the only one of the forty-eight states in which an old indecency statute has been interpreted as forbidding physicians to avail themselves of an accepted medical procedure.”

Birth controllers were not the only group concerned about the unenviable position of the Commonwealth. In January 1939, the New England Journal of Medicine again ran an editorial that commented on the sorry state of affairs in Massachusetts. The author claimed that Massachusetts was the only state that interfered with medical advice and practice. He argued that, “These rulings affect not alone marital happiness, the health of women and the well-being of children, but even more fundamentally, they strike at the right of the individual physician to use his knowledge for the benefit of his patients.”

By March 1939, the BCLM announced a new outlook and yet another “rebirth” of the League. Just as, twenty years earlier, it sent notice to its members of its decision to become the Family Welfare Foundation, it now claimed once again that, “We have outgrown our old work.” The League simultaneously evoked a feeling of optimism about future endeavors and pointed to the futility of its old agenda in the face of state laws and judicial decisions that have “turned back the clock of preventive medicine by fifty years.” The League was once again attempting to rally public opinion by broadening the scope of its agenda. It would do so by focusing on the public health benefits of contraception, or “By making apparent the lack of medical contraception in an otherwise well-rounded health program, we will bring home to the citizens of Massachusetts the fact that only in this state are mothers denied this vital aid in planning for tomorrow’s children.”

One month after the declaration of its rebirth, the BCLM announced its new name, “The Massachusetts Mothers’ Health Council.” This new organization planned to “educate our fellow citizens to see that a sound public health program must begin at the beginning—with the birth of healthy children to well mothers.” Since World War I, then, the birth control campaign in Massachusetts had come full circle.

Its new public health agenda brought certain advantages. Worries about the spread of venereal disease and the public acceptance of condoms ultimately came together to work on behalf of the beleaguered Massachusetts birth control movement. In 1940, the BCLM and the married women of Massachusetts received long-awaited relief in the form of the decision of the state supreme court in Commonwealth v. Corbett. With Justice Rugg no longer on the bench, the Supreme Court reversed its decision in Commonwealth v. Gardner and read an exemption into Sections 272 and 12 of the state penal code. Lewis Corbett, a pharmacist, had been
found guilty in the superior court of violating the statutes in question for selling condoms. Corbett appealed his case to the state supreme court. Two years earlier, the Supreme Court had argued that it was not the job of the judicial branch of government to determine public policy. Now, however, Justice J. Lummus argued that, although it was clear that “the public policy of the Commonwealth . . . is offended by the sale of articles intended to prevent conception, . . . it does not appear to be any part of the public policy . . . to permit venereal disease to spread unchecked even among those who indulge in illicit sexual intercourse.” Thus, Lummus argued that it could not be proven that the defendant knew the condoms were to be used for illegal purposes, but, rather, was aware that they may well have been used in an effort to check the spread of disease. Lummus’ interpretation of the statutes in question allowed for ambiguity and raised the question of intent to the degree that it would be difficult to prosecute sellers and disseminators of birth control in the Commonwealth. He completely reversed the earlier decision when he stated that “If our analysis of the language of the statute before us shows it to be less stringent than is desired, the remedy must be sought in the Legislature.” Thus, the Corbett decision put the burden of legislative reform on the shoulders of opponents of contraception rather than supporters. With this decision, the situation in Massachusetts began to resemble that of other states. Five years later, the Mothers’ Health Council became part of the national planned parenthood movement, renaming itself for the last time the Planned Parenthood League of Massachusetts.

After resigning the presidency of the League, Ames continued to work for the legalization of birth control and for her holistic vision of reproductive reform. From the late 1940s through the early 1950s, Ames became a central figure in the controversy surrounding the fate of the New England Hospital for Women and Children (NEH). This hospital, created in 1863 to train women physicians and offer patients the opportunity to be treated by women, had fallen upon hard times by the 1940s. According to one historian, the hospital was “feminist in its conception and practice [and] flourished as the women’s movement progressed.” As revenues fell, however, hospital administrators and funders recommended that men be added to hospital staff. The objective was ostensibly to help the hospital make a “transition from a special institution to a general community hospital staffed by men and women.”

As a member of the hospital’s board of directors, Ames was one among a vocal minority that opposed the hiring of male doctors. She sought to continue the tradition of this unique women’s health care institution, and worried that opening doors to male doctors would necessarily close some
doors to women physicians. Challenges to the NEH continued and, in 1953, a report on improving hospital services recommended a merger with another area hospital. Ames interpreted this recommendation as another threat to the sanctity of this institution. At seventy-five years of age, she succeeded in staving off the merger and was elected president of the board of directors in the process.

Ames's dedication to preserving the NEH underscores the temerity of her reform spirit. By the 1950s, she was a seasoned veteran of battles in Massachusetts's politics. While women's suffrage and the legalization of birth control suffered from peculiarly vehement opposition in her home state, Ames had lived to see the success of both movements. Furthermore, her dedication to preserving the hospital illustrates the centrality of her commitment to women's health. As the NEH was acclaimed for its obstetrical and pediatric units, Ames's interest in its survival followed in the footsteps of her pioneering, if frustrating, work in the birth control movement. Although ostensibly a reproductive rights activist, her political career revolved around a commitment to reproductive health as well.

Ames's activities in the BCLM provide an example of the variety of ways birth control reformers attempted to frame their cause during the interwar years. A feminist and a pragmatist, Ames had to accommodate her league to the prevailing political climate in order to keep her movement viable. Distinguishing her state campaign from Sanger's and Dennett's national efforts, Ames struggled (not always successfully) to design a sustainable and suitable movement for Massachusetts. The overarching themes of the Massachusetts birth control movement—political pragmatism, deference to physicians, and the lack of success associated with these two carefully designed strategies—provides an interesting context for understanding Sanger's and Dennett's achievements, choices, and failures. For example, Sanger's shift toward a doctors-only strategy can be judged differently when compared to the BCLM's failures. In fact, the history of the BCLM shows that Sanger's efforts to negotiate the tricky terrain of coalition politics with physicians were ultimately rather savvy and successful, as Sanger never abdicated authority to the medical professionals to the same degree Ames did as president of the BCLM. The fate of the BCLM also sheds light on Dennett's clean repeal strategy. In light of the obstacles the League faced, we can see both the potential benefits as well as the unrealistic nature of Dennett's vision. While Dennett's strategies sought to evade the messiness and unpredictability of judicial interpreta-
tion, they required a legislative campaign and level of public acceptance of birth control that could not be counted on.

The case of the state league illustrates the various ways that reproductive reformers reacted to an unfriendly political climate with varying degrees of success. It also shows how different interpretations of the significance of birth control led reformers to publicize and strategize differently, creating alliances and associations that would greatly influence the shape and style of their movement. The BCLM’s immediate postwar change to the Family Welfare Foundation represented a significant, but virtually ignored, political strategy among birth control reformers in the interwar years, as the league struggled to define its cause as an issue of life and death for women and children. The FWF envisioned a comprehensive reproductive reform agenda that included birth control among other maternal and infant welfare issues. However, birth control was never accepted among mainstream maternal and child welfare reformers, despite aggressive efforts on the part of some birth control reformers to completely revamp their rhetoric and strategies. Once birth control reformers in Massachusetts realized that neither other reproductive reformers nor the general public accepted this characterization of themselves, they moved, like Sanger, to advance their cause through the power of the organized medical community. Ames’s career has shown that these decisions and shifts represented thoughtful political strategies as much as ideological reformulations of the issue.

Despite her constant strategical maneuvering, in an important sense, Ames’s position remained fixed over the years; that is, she maintained a consistent commitment to the health and well-being of mothers and babies. Although political and legal circumstances would impel the use of varied tactics over the years—associating with maternalist causes, avoiding legislative activity on first the federal and then eventually the state level, asking for the leadership of physicians, relying on favorable court decisions, and opening medically supervised clinics—Ames began and ended her career in the birth control movement with a plea for the protection of women’s lives. The trajectory of her activism, in its mutability and cohesion, illustrates the integral connection between issues of reproductive health and reproductive rights.