

U.S. Senator Maria Cantwell

Floor Speech about SCOTUS, Small Business Relief

October 25, 2020

CANTWELL: Mr. President, I come to the floor to defend a woman's right to choose. I am beyond frustrated that this debate is even happening tonight. According to statistics from the Rape, Abuse and Incest National Network, there are over 433,000 victims of rape and sexual assault on average each year in the United States of America. They have found that every 73 seconds, an American is sexually assaulted. And so when someone wants to chip away at the rights of American women to have access to health care, my state is going to take it personally.

My state has codified *Roe v. Wade* into law. They have fought for these rights in a vote by the people of our state in the 1990s. And so a process today that is unfolding here in the Senate where someone wants to roll those rights back and propose a different way of life in the United States of America, we women are going to fight back.

Now, the truth of the matter is the majority of Americans support a woman's right to choose. The majority of states support a woman's right to choose in what their public believes. It is a minority, and a minority on this floor, who does not support that and would love to have a judicial process that shortcuts active debate about the issues of what are in the mainstream views of Americans. These statistics and these issues are fifty—almost fifty years of law about a health care delivery system that allows a woman to make this choice. And as from those statistics I just read you, there are darn good reasons they want to make those choices.

So the fact that people have been out here characterizing this debate and going back in history and talking about all of these things that have happened to previous judicial nominees, yes, yes, there's been a lot of back and forth. But the main point is, the other side of the aisle wants to nominate people who are out of the mainstream view of America. So any of my colleagues who came here and tried to argue that Judge Barrett and her views are in the mainstream, I guarantee you, the judiciary process that we had with the Senate Judiciary Committee definitely did not prove that. And in fact, the President's words and the actions of this body in nominating people whose views are out of the mainstream—because this is fifty years of settled law. And you are trying to override it by putting someone on the Supreme Court who will say otherwise.

But adding insult to injury to this whole process is the fact that we're not really doing our day job. We're not dealing with the economic crisis that's facing America. And, yeah, I'm a little tired—I'm a little tired of that, too. I'm a little tired of every time we have a debate about our economy, whether it was the fiscal cliff, or the big budget deal, or last year's budget deal, or any budget deal, we never can deal with our economy because the other side of the aisle wants an amendment to take away a woman's right to choose and limit it.

I couldn't even get language in the last COVID package to get Boeing workers more training program because the Republicans were so concerned that the definition of a new health

care proposal had to have a Hyde amendment attached to it because otherwise they couldn't support it because it's so Richter scale on our side of the aisle.

Now, I will give my colleagues on the other side of the aisle, there are about ten states that basically have a population that only forty percent, or maybe even less, support a woman's right to choose. So, I get it. That's a hard state to come and represent here if the courts have already determined that this is settled law. It might be hard for you. But the majority of Americans, and the majority of the states, and the courts, have already decided this. But, yes, you're going to continue to pursue judicial nominees that are out of the mainstream of the American people. And you're doing so instead of your day job focusing on the economy of the United States during a COVID pandemic.

So it wasn't surprising that this summer as we were on recess, the Seattle Times said, "what's happening?" Wall Street is flourishing but Main Street is struggling. And basically raised a question while everyone was at home, "what are we going to come do about the economic situation?" So we know we've had tremendous loss, forty percent of restaurants are at risk of remaining closed and remaining closed permanently. We know that one in five small businesses could be closed by 2021, a devastating impact to our economy. And we know that twenty-five percent of those businesses need additional resources to survive.

So all of those things were known, and they were known all summer long, and nobody wanted to discuss them because the other side didn't want to get serious about a robust package. And the package they put on the floor so they could go home and say a week before the election, "here's what we tried to vote on," did not take care of small businesses that got left out, certainly didn't talk about the minority businesses that needed access to capital. The last bill did a decent job of helping businesses who had a connection to a banker. But if you didn't have a connection to a banker, you didn't get as much help.

And so we should have sat down and fixed this. We should have sat down and made sure that we were fixing what needed to be fixed to help our economy in the midst of a COVID pandemic. But no, true to form to the other side of the aisle, it's way more important to go after a woman's right to choose. That's way more important than these economic issues.

Well, Madam President, I am going to tell you that we are not going to lower our voices on the importance of our economy or how important it is to help women. We're not going to sit silently and talk about a minimal economic package to help American businesses. We're going to talk about what American businesses need. And we're going to talk about how we can help protect a woman's right to choose.

Now, the nominee before us—I have listened to many speeches today. She has tremendous intellect. She does have tremendous intellect. Apparently that's a strong suit of the President of the United States. He has strong intellect. And yet, I have seen the most major assault on the rule of law by anybody in an administration in my time in the United States Senate. Throwing out fact-based decisions, not guaranteeing due process, not making sure that we have a freedom of the press, corrupt government officials that they won't even get rid of, not supporting civil rights that should be enforced at the federal level. It is not an issue to be left to the states. The Attorney

General of the United States and the members of this body should enforce the civil liberties of Americans. It is not an issue to ignore, and you certainly don't call out the military when they want to express their opinion and concern about this issue. So the President of the United States has a long record. He's got great intellect, but he has run over the rule of law. And he has set a precedent for other people in his administration also not to follow the rule of law.

So what I find so challenging about Judge Barrett's record and the issues before us is that women's issues, and these issues that we face that are so important for us to getting done, are about a woman's access to health care. I can't even imagine going back to *Connecticut v. Griswold*, a time when we had to fight just to have contraception. That's what the privacy rights were all about. It was about a Court that decided and found in our constitution that in multiple places, there are a penumbra of rights that give a privacy right to a woman to control her own body. And those privacy rights are about my constitutional rights. There are about what is guaranteed to me in the constitution. And it's about us finding out whether a nominee is going to hold them up, and particularly at a time when we've had almost fifty years of laws that have protected those rights. But people want to have a rushed thirty-day session, beginning to end, speed court nominee-ing in the Mansfield room, instead of hearing from groups and organizations about their concerns on this nominee. And that is just not good for our overall system. It's not good for the issues that we face moving forward, and it is certainly not good for women in the United States of America.

So I do not appreciate the rush to confirm Judge Barrett. Now, given my state, yes, my state codifying *Roe v. Wade* into statute in 1990 makes a pretty active person who wants to see a judiciary that upholds that. And I want to see and understand where this nominee is. But anyone who comes to the floor and says that she is in the mainstream views of Americans, when we know what her views have been in opposition to *Roe v. Wade*, and as I said, having *Connecticut v. Griswold* be a correctly-decided decision. Even Justices Thomas and Alito, and Roberts have said it was correctly decided. Judge Barrett is out of the mainstream by not saying that. And she's been critical of the *Affordable Care Act* and its issues that we want so much to cover preexisting conditions. She refused to say whether Medicare and Social Security were constitutional.

And this issue of same-sex marriage, where two in three Americans support this, and refusing to say whether she thinks the *Lawrence v. Texas* decision, which struck down a law criminalizing consensual gay sex was correctly decided, these are issues about whether we're going to move forward as a nation with laws that people have come to expect, that they've planned their lives around.

There are health care institutions all across the United States, even in states that don't fully support a woman's right to choose, that are delivering health care to women. And we're going to start down a process of taking those away? And then some people who represent the other side of the aisle, states that are at fifty or sixty percent support of a woman's right to choose, they're going to rationalize in their head that "oh, well somehow I don't know where exactly Judge Barrett is going to be on this issues, or I didn't get a confirmation that she truly believes that they are settled law, and I believe in the penumbra rights of the constitution."

Because when you say you believe in the penumbra of rights in the constitution, you're saying you believe in my constitutional rights to privacy. You say you believe I have the right to make my own health care decisions. So, with a few days before the election and a Supreme Court case in *California v. Texas* where the ACA and other health care decisions are going to be on the table, it is not good enough to not understand the judicial philosophy of this nominee and whether that is in the mainstream views of people in the United States of America. Too much is at risk. Too much that we deserve to know the answers to.

I'm glad my colleague from Delaware brought up Justice Ginsburg's quote, because that says it all. Everybody keeps saying, "well, she didn't have to say anything. She didn't take notes. She's all good. She didn't have to say anything, that's not what it's all about." That's not what Judge Ginsburg said. Judge Ginsburg told people exactly what she believed. She told people that she believed in a woman's right to choose. She told people, as my colleague from Delaware said, that these issues are too important to a woman.

So I don't understand why, when Justice Ginsburg basically would clarify what she believed, why Judge Barrett won't clarify what her judicial philosophy is. It's worth reading again. Justice Ginsburg said, "The decision whether or not to bear a child is central to a woman's life, to her well-being, to her dignity. It is a decision she must make for herself, and when government controls that decision for her, she is being treated as less than a full human responsible for her own choices."

These women, and all women, these women who have been the subject of the most heinous acts, and all women, deserve to make their own health care choices. And we in this body should not be making this decision at this moment. We should be taking care of our COVID problem and moving forward with solutions that will help the American people and let them respond to this issue.

This issue will continue. And I just ask my colleagues to think about what has already happened with the Affordable Care Act. Those states who didn't want to support the Affordable Care Act, didn't support the Affordable Care Act, later after it passed, came and then implemented it. Came and made the switch and covered more people under Medicaid. Just a few states just recently. So what you're really doing is holding your states back from access to health care.

Eventually, as I said, the majority of states do support a woman's right to choose from the general public. Eventually this will be settled with every state supporting this. The question is, how long are you going to hold up the health care choices of people in the United States? I ask my colleagues to turn down this nomination. I ask my colleagues to stop nominating people who are out of the mainstream of American views on health care that are so important to their daily lives.

I thank the President, and I yield the floor. Mr. President, I yield my remaining post-cloture time to the democratic leader.

