

## U.S. Senator Maria Cantwell

### U.S. Senate Floor Speech on Protecting *Roe v. Wade* and the Women's Health Protection Act

May 10, 2022

[\[AUDIO\]](#) [\[VIDEO\]](#)

**Cantwell:** Mr. President, I ask unanimous consent for the following senators to be permitted to speak prior to the vote, myself, for 20 minutes, for Senator Toomey for 5 minutes, and Senator Brown for 5 minutes.

**Presiding Officer - Markey:** Without objection.

**Cantwell:** I'm not sure I will use all 20 minutes, but you never know on a subject this important and this vital to women and families across America, it may take a little more than a few minutes to talk about this issue. And that is that 70% of Americans believe that we should not overturn *Roe v. Wade* or a woman's right to her own reproductive choice.

This is so critical that 70% of Americans are in agreement. This was part of a Pew Research report, 25% don't agree and about 5% are not sure what they think. But anybody who thinks this is not about settled law or mainstream views in America, is wrong.

It's about almost 50 years of settled law and it is about what mainstream Americans believe are their constitutional rights. And that is why it is so important for us to listen to those Americans and their long-held beliefs, starting with the laws that we got from England and baked into our constitution, the right to privacy.

Yes, people are right, the word privacy isn't mentioned. But it is in various amendments believed to be rights within the Constitution. But we have a Supreme Court made up of men and Ivy League institutions who now discuss a decision, that we really don't know exactly where it came from, this notion that privacy and a woman's right to her own reproductive choice, somehow doesn't allow stare decisis that is predicated on previous law, and somehow, isn't in the Constitution.

Well, I have news for a lot of people, if you have a Supreme Court who's going to take a run, and run from privacy in the Constitution, as this decision does, as this decision does, it barely mentions the case law predicated that made decisions about a woman's right to privacy based on those issues. It's barely mentioned.

Now, I'm sure it's because those justices decided if they had to agree that privacy was really there as a right, which we, as Americans, believe it is, against the government unwarranted search and seizure on you, the government spying on you, the government taking action against you that has not been followed in law.

I spent two years on the Judiciary Committee and I really couldn't believe this. Somebody told me, actually a conservative judge passed this information on. If you ask them whether they believe in *Roe v. Wade* or settled law, they'll tell you, "Oh, yeah, it's been there."

But if you ask them, whether they believe in the rights to privacy enumerated in the Constitution, and do they believe in the penumbra of rights, that basically give us this right, that *Connecticut v. Griswold*, that *Casey v. Planned Parenthood* was decided on. A true, true conservative that wasn't going to uphold the law would tell you they didn't believe in that.

So that's the conundrum. We add a bunch of, "smartest guys in the room," from Ivy League schools who came here and hoodwinked the Senate into saying things like, "alright, we'll follow," or, "I think stare decisis is very important." And yet the same people are bound to put their name on a document that says, "We don't really think there's any strong holding here. We don't think there's any strong case."

Well, there is a case. There is a case for privacy. I remember my first days on the Judiciary Committee, when John Ashcroft, then Attorney General, tried to come before the committee and make light of the fact that the government was spying on Americans.

And when I said to him, Mr. Ashcroft, this is a serious issue. The FBI and others, using software technology to spy into the lives of Americans. He said, "You remind me of a joke." I couldn't I couldn't believe it. I remind him of a joke? And he went on to tell the story about how a little boy sat on Santa Claus' lap and said, "I know whether you've been bad or good." And he says, "Oh, you're not Santa Claus, you're John Ashcroft."

Now he thought this was hilarious. And I reminded him not everybody in America was laughing. And now look at where we are 20 some years later, fast forwarding on the rights to privacy that we have in the United States, and how every day we have to fight for those rights of privacy.

I know the presiding officer knows this, because he's joined me on these issues, particularly as it relates to Children's Online Privacy issues, and so many other issues that this body and this institution is going to have to decide on.

But Americans know, 70% of them agree, that this is a mainstream, settled issue, and now are shocked to find that somehow, somebody is proposing something to overturn it. Mr. President, I'm not even sure people understand.

I just had a conversation with somebody who said, "Oh, you mean, they're going to give some rights to men in determining the pregnancy and some rights for women?" I said, No, they're talking about making abortion illegal. They're talking about passing a law that takes the reproductive rights and choices of women and turn them back into the Dark Ages. This person got it right away. They said, "Who do you want caring for women, someone in a back alley, or a trained healthcare professional?"

That's really what we're talking about here. American healthcare technology has come to the point that women who do not want an unwanted pregnancy can have the choice of a morning after pill, lots of different ways for them to deal with planned and unplanned pregnancies.

And yet this institution wants to tell them, by this Supreme Court, that they don't have a privacy right, that it doesn't exist, that *Connecticut v. Griswold*, which, if you think about it, Mr. President, was about contraception, was really about whether women at the time had the right to have contraception and planned pregnancies.

I know the presiding officer knows about all this time period, because we both come from big families. So we know all about big families. And all of a sudden, in that decision in *Connecticut v. Griswold* while the right to privacy, the penumbra of rights within the Constitution was determined to say that women had the right to control their bodies and have contraception.

The fact that this is not the basis of upholding the law after almost 50 years. I can't even explain how unbelievable that somebody would not fully discuss and cite. And if they don't believe in the penumbra, but I'm guessing the reason why they don't want to believe and discuss the penumbra of rights is because they know darn well we live in an age and time in which privacy needs utmost protection. And individuals need people like us to be voting for things that are going to protect individuals' rights and privacy in the era of big government of big corporations of undue intrusions. And yes, even on your own health care. We need a protection.

So we're now here talking though, about overturning these rights that affect the health care lives of women. We're not talking about the health care of men. We're not sitting here. I can't tell you how many times in the last 15 years that I've been here, that every budget decision, you know, every major almost going over the fiscal cliff when John Boehner was the Speaker.

Oh, if we didn't have a vote to get rid of a woman's right to choose, every budget issue down to the last wire is always about whether you're going to get rid of a woman's right to choose. It's been the fight of the other side of the aisle all along to try to say they are going to control women's bodies and women's health care choices.

So we know that that you're not going to get rid of abortions if you pass this law. You're not going to get rid of them. When we passed *Connecticut v. Griswold*, and *Casey*, that is when we basically went down the road of making sure that women weren't killed in back alley abortions. So we actually saved lives of women. And we started getting people to take care of planned pregnancies and make progress of having people on contraception.

So we're not going to get rid of abortions by listening to this Supreme Court or passing something. They will happen, it will go back to any back alley approach or other issues, to try to deal with it.

So I asked my colleagues, what are you thinking when you are advocating for a return to pre-*Roe*? What exactly do you think is going to happen in the United States of America? I can tell you, you're going to leave women without the ability to control their own bodies, without the ability for them and their doctor to make decisions.

So many of these issues are about that woman and her doctor making a decision. It's not, you know, we make laws to deal with the parameters and the exception to the rule. This is a process by which we have laid out what we think is reproductive healthcare choice, and then directed people to deal with their physician on these issues.

But the other side would like to take these issues into the extreme and say that women have gone too far on their own health care choices. And I guarantee you, there's many times where it is a decision between the life of the mother and the life of a child. And we really want government making that decision? Or do we want the physician and the individual woman making that decision?

So I asked my colleagues, do you believe the right of privacy exists within the Constitution? Or are you like the Supreme Court? You don't want to base decision, you don't believe in the decisions of previous Supreme Court justices? You don't think they have solid standing because you don't believe that privacy is a long held view of the United States. I guarantee you it is fundamental to who we are as a country. And it is fundamental to who we are today and why individual women should have that right and have that protection.

But people aren't even thinking about the broader impacts. Secretary Yellen testified today, quote, "eliminating the right of women to make decisions about when and whether to have children would have very damaging effects on the economy and would set women back decades. *Roe v. Wade* enabled many women to finish school and increase their earning potential," end quote.

No one's even talked about exactly how this would work. I'm confused about how it would work in state by state. I'll also tell you, this Supreme Court, really, I don't even know what to say about it, except for when I interviewed one of the Supreme Court justices, who I'm pretty sure is making this decision, I said this is very important to the State of Washington, because the people of the State of Washington have voted to make *Roe v. Wade* the law of our state.

And he said, "Oh, Senator, Senator, you're mistaken." I said I'm mistaken about my state, about what happened? He said, "you mean your legislature voted?"

I said, "No, sir. The people in my state voted by initiative in the 90s to codify these rights into our state law, because that is what the people of my state believe."

So the arrogance of this court, you can see, continues not to listen to the views of 70% of Americans. Now, I believe that you should be able to ask justices what their judicial opinion and philosophy is, they should tell you. If these justices did not believe that this was the law

of the land and should be upheld, if they didn't believe in these rights and privacy, they should have told everybody clearly.

But it is hardly in the mainstream view of Americans. So tomorrow we'll have a chance to say whether we believe in these privacy rights. Whether we believe in a woman's reproductive choices. Whether we believe that 50 years, just about 50 years and 70% of the American people are worth listening to.

I would listen and pass this legislation tomorrow because I guarantee you, if it's not just this privacy right, why are you going to trust them on any other privacy decision in the future if they're not going to be fighting to uphold your privacy rights on women's reproductive health?

I thank the President and I yield the floor