

Sawbones 518: Sawbones Classic: History of Abortion

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Justin: Hi everyone, it's Justin McElroy.

Sydnee: And Sydnee McElroy.

Justin: It's Election Day in the States as you're listening to this, if you're listening to this on the first day when we're releasing it. [inhales loudly]

Sydnee: Yes.

Justin: And that's where my breath— That's where my breath is.

Sydnee: So—

Justin: [exhales] It's way down deep in my chest where I can't get it anymore, Syd.

Sydnee: So please, if you haven't already early voted like Justin and I have, please go vote. Please go vote.

Justin: Okay.

Sydnee: Everybody, I just wanted to press to do that.

Justin: And that's kind of the—

Sydnee: Go do that.

Justin: — point of today's episode, right Syd?

Sydnee: Yes. So we talk about a lot things on *Sawbones* that are politically adjacent.

Justin: Yeah.

Sydnee: Areas of science and medicine that have been impacted, positively and negatively, by whatever political beliefs dominate the time and place.

Justin: Mm-hmm.

Sydnee: I think one issue that we have talked about on this show that is definitely... going to be impacted by the results of this election are reproductive rights. We've done an entire episode on the history of abortion care throughout history, but also specifically in the United States, before.

That episode aired back in May of 2022, following the overturning, or the impending overturning of *Roe v Wade*. At that time, we talked about the fact that should this come to pass, that *Roe v Wade* was overturned, there would be many states that would likely ban abortion. But that had not yet happened.

Well, if you are... if you want to know what a... country looks like where you can no longer obtain all reproductive healthcare, like abortion, you can come to our home state of West Virginia. Where, as a result of the overturning of *Roe v Wade*, our state legislature passed such extreme abortion restrictions that abortion is effectively banned in this state.

And even if you can meet the extremely narrow criteria that you would need to in order to obtain an abortion in this state, there is no clinic within the state of West Virginia, no hospital, no healthcare center, no clinic, where you can obtain abortion care. So that is the reality for people in my state of West Virginia, and in many other states throughout the country.

So when we talk about hypotheticals as to what's at stake in this election, I think it's important to know that some people are not existing within the hypothetical. They are living the reality of extreme political policies that restrict our freedoms and our access to basic autonomy over our bodies, and basic healthcare.

So I would encourage you to listen to this episode. Obviously we are going to talk about the history of abortion care, obviously it is a very heavy episode, and so if you are not in a headspace to think about those things right at this moment, you might not want to engage with it right now.

I said this similar warning back when we originally recorded the episode, but I think it is important to know that what is at stake at this election has already come to pass in several states in the US, and a nationwide abortion ban will result in so much unnecessary suffering and death in this country.

And please with that in mind, go vote if you haven't already. And good luck. [scoffs] We'll see you on the other side of today.

Clint: *Sawbones* is a show about medical history, and nothing the hosts say should be taken as medical advice or opinion. It's for fun. Can't you just have fun for an hour and not try to diagnose your mystery boil? We think you've earned it. Just sit back, relax and enjoy a moment of distraction from that weird growth. You're worth it.

[theme music plays]

Justin: Hello everybody, and welcome to *Sawbones*, a marital tour of misguided medicine. I'm your co-host, Justin McElroy.

Sydnee: And I'm Sydnee McElroy.

Justin: Well, it's been uh... quite a few weeks, I would say.

Sydnee: Yes.

Justin: It's been a— Yeah. Been quite a few weeks.

Sydnee: Yeah. I don't think there's a clever way to—

Justin: There's no clever way to—

Sydnee: — get into this topic. We have had a lot of listeners email and... I think requesting something that we have never gone into the history of before on the show, but which is becoming extremely relevant to— I was gonna say, "current history" but that's not a thing. History's in the past. It can't be current.

Justin: Just like— Just now times?

Sydnee: Current events. Modern—

Justin: The present?

Sydnee: The present.

Justin: The present?

Sydnee: Yeah, that's the word.

Justin: The present!

Sydnee: That's the word for current history.

Justin: Current history, yes.

Sydnee: It's the present. Oof. This was a tough one to put together.

Justin: Really.

Sydnee: Yeah.

Justin: Yeah, I can imagine, actually.

Sydnee: So we do want to talk about the history of abortion, specifically in the United States. I will give a little bit of an overview of like ancient history.

Justin: Mm-hmm.

Sydnee: Some different practices and things, for some context of how long some of these methods have been around. And like the desire to seek some way to end a pregnancy has been around since, I mean, as far as I can tell, pregnancy itself.

Justin: Yeah.

Sydnee: But when it comes to like the legal perspective and where we are today, I'm really focusing a lot more on what's going on in the United States, because that's where we live, and things are about to change. I mean, we don't know for sure, but it seems highly likely that things are

about to change dramatically in terms of access to abortion care in this country.

So, I just want to start off by saying that... when we are taught medical ethics in medical school, we are taught like the four basic principles of medical ethics.

And in short, one of them is autonomy, meaning that at the end of the day, whatever I think as like the doctor, or whatever my opinion is, whatever I am offering, my advice, best practice, whatever I think, at the end of the day, the patient has the right, the— You know, it is my ethical duty to protect that right, to them, you know, having autonomy over their own body, and making that decision for themselves.

And, we also have dictated in this country a right to privacy when it comes to those decisions. Specifically medical decisions. I mean, there's a reason I can't tell you all about [chuckles] every patient I see, and what we did. One, because I wouldn't do that. That would be... you know, bad.

Justin: Mm-hmm.

Sydnee: That would violate my own personal ethics. But it would also violate the law. I'm not allowed to do that. So I just want to start off with that is the medical perspective on this issue, and this is a medical history show.

Justin: And I'll start off with the Justin perspective.

Sydnee: I don't really think we need that. [chuckles]

Justin: I— No, on this episode—

Sydnee: I love you. Do you have a uterus?

Justin: No, just on this episode. Listen, y'all. I'm gonna try my best to hang in there, in terms of— Normally I do try to like do the goof parts, and there are certain episodes where that doesn't feel real appropriate.

So if you notice me being a little bit quiet, it's because I'm a person without a uterus who normally does jokes, so... I'm just along, happy to be here.

Sydnee: And I'm not going to— I mean, you can't talk about the history of abortion and abortion law, and pretend that there aren't all these other like religious and spiritual and all these other issues that have come into play because people have them, these feelings and these values and these beliefs. They have impacted the course of history when it comes to who can access abortion.

I'm not going to get— Those are not my areas of expertise. I'm not going to sit here and tell you what every single, you know, religious system of beliefs on Earth feels about abortion, and where those came from. I couldn't— First of all, that— how long would that show be? I can't even tell you. [chuckles]

And secondly, that's not— Again, that's not my area of expertise, and that's not what we're talking about. We're talking about the medical history of abortion.

But I just want to acknowledge that obviously all of those things do come into play, because they impact, again, the procedure itself, and who gets it. Who gets access to abortion. And our laws. Our laws are being impacted by those same belief structures.

So, again, as long as people have become pregnant, at least as long as [sighs] as long as recorded history, we have some evidence that there were people who attempted to induce abortion, either on themselves or on others. Because they did not want to have a child, presumably. For whatever reason. We cannot know—

Justin: Right.

Sydnee: The reasons. The— You can— We can imagine that humans, being human, [chuckles] the reasons are probably similar to what a lot of people would say today. And we find that a lot on this show, I think, that we tend to think of like people of the past as somewhat alien to us.

Justin: Yeah, it's all the—

Sydnee: We're all— it's just human's human. That's what we do. Like, we do the human things, and our reasons and things like of course they have to be set in the context of where and when we live, and who we are

within that society, but more or less we tend to have the same motivations.

The first mention of the practice of abortion that I know of, the Ebers Papyrus from 1550 BCE, and it generally just says— like in terms of what it talks about, it's mentioning that if the father is not involved in the decision-making, there would've been a penalty.

Justin: Hm.

Sydnee: And a lot of this— And this was not true everywhere, I should say, because for a lot of this, when it came to whether or not someone could access abortion, a lot of it was tied up with who would get property if the paternal figure died, or... concerns about infidelity. Like, a lot of it had to do with these sort of patriarchal structures of society. Do you know what I'm saying?

Justin: Yeah.

Sydnee: Like, it was practical from that standpoint, as opposed to like some sort of moral objection, if that makes sense?

Justin: Right, yes, yes.

Sydnee: It had to do with money, and property, and name, and inheritance, and...

Justin: The whole... yeah.

Sydnee: Those sorts of things. The— For many ancient people though, who would've desired to end a pregnancy, the options were not necessarily safe, or effective. Some would engage in some sort of strenuous activity. This is something that is a common theme throughout history.

Justin: Mm-hmm.

Sydnee: Like lift heavy things, carry heavy things, run, jump.

Justin: Basically the inverse of the things they tell you to avoid, or at least have traditionally have told you to avoid when you're—

Sydnee: Well, yes, but even those pieces of advice are somewhat outdated.

Justin: I said tradi— That's what I said. I said traditionally.

Sydnee: You said traditionally.

Justin: You noticed that, right?

Sydnee: That's— Yes, you did. Because, I mean, there are people who run marathons pregnant. I can't imagine doing that myself, but I also can't imagine running a marathon, so—

Justin: So, yes. Right.

Sydnee: So there we go. [chuckles]

Justin: Yeah, that is not— that's not saying that much.

Sydnee: That's not— I am not a runner.

Justin: They have marathons at Disney World, and I still would not do one of those.

Sydnee: No, I would not. I would not do that. But—

Justin: Can you imagine Mickey seeing me like that?

Sydnee: But again like these methods would not have been, necessarily, effective, for any reason. I mean, you can run when you're pregnant. But we didn't know that, you know? We didn't understand.

Justin: The baby's like a can of nitrous. You can just use the baby— The baby can give you a boost of energy at the right moment.

Sydnee: Mmm, having been pregnant twice, I would not say that it gave me a boost of energy. [chuckles]

Justin: By boost of energy, I mean pee your pants. [chuckles]

Sydnee: [chuckles] Some turn to the common things of the day, fasting or bloodletting. You know, the things we used sort of for everything.

Because obviously we understood the fact that the fetus was growing somewhere in the abdomen, 'cause we could see that, then some sort of binding or pressure on the abdomen was sometimes used, or tried, or advised.

Justin: To squeeze, or constrain, yeah.

Sydnee: Yes, exactly. There's one text that describes like you could sit over a pot of like steaming onions, or heat. In general heat. Like... putting heat on the abdomen, or hot water, that kind of thing.

Justin: Mm.

Sydnee: Something hot. Hot stones. And again, a lot of this was just simply— It's just kind of laid out plainly as like these are things people do, without much commentary. Like, "Here are some things that you could do."

And this was true throughout a lot of the writings of the ancient Greeks and Romans. Again, the concerns they had about abortion were mainly either one, if it deprived a man of an offspring in which he may have had some interest. [chuckles] A son, I'm assuming.

Justin: Yes.

Sydnee: Someone to inherit property and stuff, so that it wouldn't get handed off to other people.

Justin: An heir!

Sydnee: An heir. Then that would be a reason that you could be punished, or that it could be seen as bad. And even then, I'm not saying everyone was put to death.

But these were reasons why they may advise against it. Or again, just like there was this constant concern about... infidelity, that it was being used as a way to conceal that you had had an extramarital affair.

Justin: Right.

Sydnee: Also, there was this— Soranus writes, who was a Greek physician, wrote that you should not have an abortion if it is— either in the case of infidelity— mainly because then the dude wouldn't get to know. Like, that's the... you know. [chuckles] Or if it's just for concern over loss of your youth and beauty.

Which just— I mean, when we start to think about like the mind of the person with the uterus who may have been seeking this abortion, it's hard to say what was going on, because these are the kind of writings we get. They're from a perspective that is so other.

Justin: Yeah.

Sydnee: Someone who doesn't have a uterus, who can't be pregnant or have an abortion. So the idea that you would want one solely because of a concern about a loss of beauty... I mean—

Justin: It's very dismissive.

Sydnee: Exactly. And again, this was like a constant fear that like people are gonna do that. I am guessing that that wasn't true.

Now, it's interesting, because when you do look to the ancient Greeks, it actually is quite relevant to today in terms of US abortion law, because the Hippocratic Oath was brought up [chuckles] multiple times in *Roe v Wade*.

Justin: Really.

Sydnee: Yes. Justice Blackmun specifically asked several questions related to the oath, and its position on abortion. And I think from reading some of those conversations, it's almost— in the sense that— Which we've done a whole episode on the oath.

Justin: Yeah.

Sydnee: So, the oath is not legally binding.

Justin: No. It's an oath.

Sydnee: [chuckles] And it also isn't what we say today. Like, the original Hippocratic oath is not what we repeat. I mean, the majority of us—

Justin: There's a lot more stuff about Bitcoin these days.

Sydnee: [laughs] Well, it's changed. It's changed. It's been modernized. It reflects the modern practice of medicine. And again, it is more just sort of a guide. It's like an idea of what a doctor should be, as opposed to something binding.

But in the text of the original oath there's the statement, "I will give no deadly medicine to anyone if asked, nor suggest any such counsel, and in like manner I will not give to a woman an abortive pessary." And some people have argued like, "See? Look, in the original Hippocratic oath they're against abortion."

But again, there are a couple things we should note. The original Hippocratic oath also says, "You shall not cut for the stone," which means, "Don't do surgery."

Justin: [laughs]

Sydnee: Because at the time, surgeons were an entirely separate profession, and they were seen by doctors as...

Justin: Unsavory.

Sydnee: Yes, somewhat barbaric. I mean, really. Like it was seen that this was not something that we would do, but that was because surgery usually—

Justin: Back then, it was not great.

Sydnee: It was not great. And so— [chuckles]

Justin: [chuckles]

Sydnee: And so you wouldn't have— So, you know, you can't do surgery in the original Hippocratic oath. You also aren't supposed to charge medical students for teaching them medicine.

Justin: How 'bout it? [laughs]

Sydnee: And... [laughs]

Justin: How 'bout it, everybody?

Sydnee: I—

Justin: How literally do we want to take this?

Sydnee: I incurred a six-figure debt that would say otherwise.

Justin: Yeah.

Sydnee: So... So we don't exactly follow the oath in a real way. And again, it's changed over times. And all that aside, the text itself is really referencing specifically the use of a pessary.

And what this would have been would have been some sort of like herbal concoction, like paste substance, that would've actually been inserted into the vagina in order to try and induce an abortion.

Justin: Mm.

Sydnee: And the thing about that is it was a very dangerous practice at the time. Of all the methods you could use, this was one of the most dangerous, because a lot of people weren't doing surgical procedures.

Justin: Right.

Sydnee: This was one of the most dangerous you could do, and could result in infection and death. And so—

And this is like echoed throughout history, that a lot of reasons that physicians were advising against abortion had a lot more to do with because they didn't have safe ways to do them at the time, and a lot less to do with some sort of moral grounds.

Now, this will change. But at the time it was very much like, "No, don't do that, because you might kill someone."

Justin: Right.

Sydnee: Much like surgery. "Don't do surgery, you might kill someone." We certainly don't believe that today. [chuckles]

Justin: Right, yeah, yeah, yeah.

Sydnee: So, when you look at the writings of like Soranus, Dioscorides, Hippocrates, Pliny the Elder, all of them advised different ways that one may induce an abortion.

So, there were all kinds of herbal methods, like the oil of common rue, or birthwort, or hellebore. There was a plant called silphium. All of these things were advised as potential things you could take that might terminate a pregnancy.

They also advised something that would eventually be known as the "Lacedaemonian Leap." And this is when you... jump and like touch your feet to your butt. Can you picture what I'm saying?

Justin: Yeah.

Sydnee: Like you jump up in the air.

Justin: I do it many times, every single day.

Sydnee: [chuckles] And this was thought to be a method of inducing an abortion. It is not. And that is a reference to an area of Greece. Like—

Justin: Where that kind of jumping is popular.

Sydnee: I guess. [chuckles] Pliny also—

Justin: Were they— Is that maybe— I mean, it's history, so it could be where they invented that kind of jumping.

Sydnee: Yeah.

Justin: One person could've done it and been like, "Did anybody see that?"

Sydnee: [chuckles] That was—

Justin: “My whole feet touched my butt! Everyone, get over here!”

Sydnee: “Both of my feet!”

Justin: “I invented a new jump!”

Sydnee: Pliny also advised stepping over a viper. Which is a wild sentence. I would never advise stepping over a viper.

Justin: Hey, Pliny? Yeah, I don’t think that that’s a good— that’s one of your worst ones. [chuckles]

Sydnee: Yeah. We know all about Pliny the Elder here, though.

Justin: We know Pliny’s a little shoot-from-the-hip. It’s always nice to see him, but that doesn’t seem particularly helpful.

Sydnee: And it’s interesting, ‘cause if you look into like again like the morality of it, when all of these sort of ancient physicians are writing about abortion, they say that, like—

Basically, it’s kind of put in the same category as other things that you might do that were considered, like... [sighs] from like some sort of spiritual perspective, maybe unclean would be the word that they would use.

So like it’s in the same category as stuff like menstruation, loss of virginity, childbirth itself. Death of a family member. And the reason that we know that is like, for instance, you couldn’t enter the Temple of Athena if you had had an abortion in the last 40 days.

Justin: Mm.

Sydnee: So you had to wait 40 days before you could go into that temple. Similarly— this is like actually one day less than you had to wait if you lost your virginity, or if somebody close to you had died. In those cases, you have to wait 41 days.

Justin: And there's a lot— that's not uncommon, with religious... tracts and groups like tying menstruation and—

Sydnee: Mm-hmm.

Justin: All kinds of those things to like an uncleanness. Like there are certain things that you should not do.

Sydnee: Exactly. So you can't enter the temple now because you have done these things. Or at least you have to wait for a while, and then you'll be clean enough that you can do it again. If you eat cheese you only had to wait one day.

Justin: That— Can you— whoa, okay.

Sydnee: [chuckles]

Justin: That would've been a game changer for me as a kid. Like, "Justin, time for church!" Like, "Aw, [claps] crap. Dang! I did so wanna go praise... praise Jesus today but, like... cheese!"

Sydnee: You just ate cheese.

Justin: "I had pizza this morning, cold pizza! Dang! Guess I gotta stay here and watch *Transformers*. Shoot!"

Sydnee: And in addition, abortions were sort of accepted, generally for most cultures. And again, this is a generalization. Everything is different, again, depending on like the culture, the religious tradition in that part of the world, who you were within the structure of that society.

Justin: Mm-hmm.

Sydnee: What your reasonings were. But they were sort of accepted prior to what was called quickening. Which, the quickening... This is not a *Highlander* thing. [chuckles]

Justin: Way to cut me off at the pass, or cut me off at the neck, I guess. *Highlander*?

Sydnee: Yeah.

Justin: Ehh?

Sydnee: Huh. Basically around 20 weeks when you can first feel the movement of the fetus.

Justin: Okay.

Sydnee: That was called the quickening. And at the time, because we didn't— before we had like ultrasounds and could understand what was happening. I mean, we've talked about this a lot, about pregnancy and childbirth on the show before. We had some really wild ideas of what was going on in there, going on in the uterus.

Justin: That actually tracks with the *Highlander* fiction. Whenever Duncan McCloud beheads another *Highlander*, he does actually become... pregnant.

Sydnee: [chuckles] I don't—

Justin: That's actually in there.

Sydnee: I've never seen the show, but I don't think that's what happens.

Justin: Yeah, no, no, no. Every time he kills somebody he gets... pregnant, so he has to take a little break.

Sydnee: There was— [chuckles]

Justin: Before he can do another one.

Sydnee: There was some idea that that is when... something becomes alive. The quickening. Like this was— because you could feel movement, this was indicative of like life.

Justin: Life.

Sydnee: And so prior to that, this is fine. After that, there could be penalties. Or at least like nobody would do it, was kind of the thought.

But again, there was still not a completely safe way to do it either at this point in history. We have a lot of things that may or may not work, a lot of things that may have been harmless, some things that were very harmful. But no sure way.

Now, this is really going to change, as especially as we move into the 19th century. And specifically as we move into the US, this is when a lot of things that have to do with abortion begin to change. And I'm gonna talk to you about that.

Justin: Okay.

Sydnee: Right after we go to the Billing Department.

Justin: Let's go.

[transition music plays]

[ad break]

Justin: Alright, Syd. We're moving over stateside, or at least we're headed that way.

Sydnee: Yes. So, there were— Like I said, there was no completely safe way to ensure an abortion. There were a variety of herbal preparations that were sometimes effective, sometimes not.

Surgery was a huge risk. There was no anesthesia at this point. There were not sterilization methods. So a surgical abortion, no matter who did it or where you did it, could result in death. So a lot of doctors just didn't, right? Because they didn't know how to do it safely.

Justin: The risk, yeah.

Sydnee: You know, so they just avoided it. And at the time, again, this would have fallen in line with the idea that you wouldn't have done any surgery... unless it was absolutely necessary, because you knew that the surgery might well kill the person.

And it would've been, considering that almost all physicians were male, and that— Well all, and then almost all as we move into this time period.

It would've been highly unlikely that a cis male physician would have understood why a patient would have come to him and said, "This abortion is medically necessary for me." You know what I mean?

Justin: Right.

Sydnee: They would not have seen those reasons. Anything that has to do with like mental health or any sort of social pressures, or running from domestic violence, anything like that would not have fallen into what they're talking about. They mean like death is imminent.

Justin: Right, right, right.

Sydnee: So this would really inform like this push back against abortion in the 19th century, because if doctors won't do it, who is doing it? Well like midwives were still— some, not— I don't mean all. But like there were midwives who would do it.

And then there were other, usually lay providers or female providers, who were willing to train and learn and do these procedures, and help people with this processes, who were not doctors. And doctors did not like that. They didn't like the idea that there were people who were practicing medicine who weren't physicians.

Justin: Yeah. That's why you got so upset about that gem store that just opened up in Huntington.

Sydnee: [chuckles]

Justin: Because like how dare they? They're cutting into your profit margins.

Sydnee: Right. That's always— You know me. I'm so big with my profit margins. [chuckles]

Justin: [chuckles]

Sydnee: So there was— And this was, again, in line with this time of medicine, there was a lot of professionalization of medicine.

Justin: Yes.

Sydnee: Like physicians were trying to like clamp down on who could call themselves a doctor and who could practice medicine.

Justin: We're sneaking up on the FDA.

Sydnee: Yes.

Justin: Early 19— very early 1900's where a lot of this stuff starts to become codified, and you see a lot of push to legitimize doctors. Which, legitimizing always, in at least in terms of medicine, I think legitimizing almost always... becomes othering certain groups that you— like, that don't fall in line with your standards. There's people who are excluded, right?

Sydnee: Oh yeah. Absolutely. And we've talked about that on the show. 'Cause it's a nuanced area.

Justin: Yeah.

Sydnee: All of this is nuanced, which is hard to communicate sometimes. But there were people who were definitely doing harm, right? Like, we've talked about this how many times on the show? Like, snake oil salespeople who are doing harm, who were taking advantage of people and giving them things that could harm them or at the very least were ineffective.

But then there were just people with different perspectives or providing other services who were excluded from the practice of medicine just because they didn't fit into what the majority of doctors thought a doctor should be like.

And so that would probably exclude a lot of people based on race, or gender, or what— religious beliefs, whatever. Which is true for a lot of sectors of society. So in 1821, Connecticut became the first state to restrict abortion. After quickening, you could not have an abortion.

Justin: Mm.

Sydnee: And again, a lot of this was because doctors were saying, "We can't do this, and the people who are doing it, in our mind, are bad

people. They're criminals. So don't do them. Just ban them. Just don't do them."

What would follow was a push from the American Medical Association, from the AMA. It was largely one figure within the AMA, a gynecologist named Horatio Storer, who really lobbied strongly and created a whole organization of physicians within the AMA to lobby against abortion.

First it was based on safety, again. But it grew into this moral argument, that you shouldn't do it, and also it harmed the person who was having the abortion performed, that it would make the person "deranged" was the word used, to have this performed.

Justin: Mm.

Sydnee: Which I think is sort of like the underpinnings of the arguments that people will try to use today, that everyone who has an abortion performed regrets it. I think this is like the beginning of that.

Like, some sort of like inherent emotional instability that would prevent you from being able to have this procedure without, you know, suffering mental illness-type consequences.

So— But the other thing, the other thing that was part of this argument, and we're in like the mid-1800's at this point... a big part of it was that in the US, there was a lot of immigration.

And some of these doctors were arguing that if we start allowing specifically white Americans to have abortions, if we are allowing this to happen, we will be replaced by immigrants who are coming to our country.

Which, yes, that is Replacement Theory. That is part of this push against abortion, was the idea that we cannot allow white people to access this care. And I think it's really important to point to these aspects of the movement that would eventually, you know, end abortion access for a while in this country, was that— the same thing that sadly you are hearing echoed even today, in the year 2022 in the United States.

Justin: Yeah.

Sydnee: Which of course is a racist theory. I don't think I need to say that, but—

Justin: There, you said it.

Sydnee: There it is. [chuckles] So between this campaign, and then some of the things again we've talked about on the show before. There was the Comstock act of 1873, which made it illegal to send something that was, quote, "obscene" through the mail or across state lines, which would've— anything related to birth control, anything related to abortion care.

Justin: Right. Right, right, right.

Sydnee: Anything like that would've been considered obscene. And so that greatly limited like the ability for people to access this stuff.

And then the Pure Food and Drug Act of 1906, which made it illegal to sell anything that would— the word was "a deleterious effect" on a person, and this was seen to include inducing an abortion. So if you took a medicine and it caused you to, you know, miscarry, then that would've been a deleterious effect, according to this law. So, you know, that.

So by 1910, there were restrictions in pretty much every state. By 1967 it would be a felony in every state, so you can see the... the shift of that movement.

Justin: And there was never any abortions ever again.

Sydnee: But I think— Well, no. You know that's not true. And I think that's the important thing to note is that we lived in a t— We didn't live. There was a time in this country where abortions were completely illegal. It did not stop abortions.

Between some secret sort of kitchen table surgical procedures and very cleverly marketed herbal preparations, abortions continued. And I think that's one— We've talked a lot on this show about patent medicines, and specifically how many patent medicines were marketed for like quote, "female complaints."

Justin: Mm-hmm.

Sydnee: We've even talked about something called Lydia Pinkham's Vegetable Compound. Do you remember that?

Justin: Yeah, for sure.

Sydnee: Lydia Pinkham's Vegetable Compound was considered one of the early secret abortifacient-like medications.

Justin: Sorry, what was that word again?

Sydnee: Because it contained— Something that would induce an abortion. Because it contained some herbal ingredients that were thought to do that.

Justin: Hmm.

Sydnee: So a lot of these medicines that were targeted—

Justin: An off-label use, I am assuming?

Sydnee: Well, the way that they would get around this is that they would put things, warnings, on the package.

Justin: Ohhh.

Sydnee: To not use this if you were pregnant, because it could induce a miscarriage. And so these warnings... were actually advertisements. People knew what they were doing.

Justin: Oh.

Sydnee: It was a warning. "Don't take this if you're pregnant," but that was exactly why. And they would use words like, "It will restore regularity." What they're talking about is menstrual regularity.

Justin: Mm.

Sydnee: It will return your periods, meaning you will no longer be pregnant. But again, a lot of them were just generally "female complaints" is how the wording on the packaging would have been. And

as some— if you were someone who was seeking something to induce an abortion, you may— you would understand. That's what that was.

And a lot of them contained things like pennyroyal was very common. Pennyroyal tea has— I mean, that has been like a mainstay of these sort of herbal attempts to induce miscarriage. And hellebore, ergotin, Spanish fly was a common ingredient.

All of these things, if you saw them on the package, this would have been a sign to you, the buyer, "Okay, I know what this is for." But they were skirting all of the FDA requirements by putting it as a warning.

in addition to these things, a lot of desperate patients turned to all kinds of very dangerous methods at home. Attempts to physically end the pregnancy with procedures at home, with candles, with curling irons, with spoons, with catheters, injecting water in the uterus. People still tried things like exertion, like exercise. Um... Like a controlled fall down a flight of stairs.

Which you see— And I mean, you see these things like in memes now. Like, but this is where it comes from, because these were the things that weren't just tried, but were passed on from person to person as like, "Here is something you can do if you're in a bad situation and you don't know what else to do."

It's— It is hard to say, you know, like if you look back statistically— 'cause you don't hear this number, right? Like I don't hear people saying, "Do you know how many people definitely died from attempting—"

Justin: [quietly] It's impossible to know.

Sydnee: It's impossible to say.

Justin: [quietly] Impossible.

Sydnee: It's impossible. But we know, we have estimates that tell us how many tens of thousands to hundreds of thousands of people will not receive abortion care who desire it, should *Roe v Wade* be overturned. We know those numbers, and so from that we can extrapolate that there were a lot of people who were probably seeking this care and were trying these dangerous methods.

There was one example that became sort of one of the... biggest motivating stories of the abortion rights movements that would happen in the US in the '60s and into the '70s, sort of... I don't want to say ending with *Roe v Wade*, 'cause obviously it didn't end, but culminating perhaps in that case.

There was an example that was well known about a young woman named Gerri Santoro who was 29, she had left her husband, had to flee her husband for domestic violence. She already had two children. She had become pregnant with a new— like, a coworker, after leaving her husband.

And her husband was going to come to visit the children, and she was afraid of him if he found out that she had become pregnant, what he might do. So, fearing for her life, she attempted, with her significant other, attempted a self-induced surgical abortion in a hotel room, and died from this procedure.

And this was sort of a, uh... I would highly advise, if you decide to look into this case further, be very careful. Because the image that accompanies like any article you want to read about this case, was used a lot in the rallies for abortion rights, and it was the police photo that was taken when they found her.

And I would highly advise you not to seek that out unless you know what you're about to encounter. [holding back tears] And personally, I don't think anybody wants to see that. But, um... but it is evocative. And heartbreaking.

And it was important at the time to share these stories, and to tell people the reality that banning abortion doesn't end abortion. It just ensures that people die while they're having abortions.

Sorry. It was... not something I was prepared for. [sniffs]

Justin: Mm-hmm.

Sydnee: So this is why I'm warning you. So in 1973, a woman in Texas who would be known as Jane Roe— That is not her actual name, but that was the name used in the case. Sought an abortion, couldn't have one

because of the laws in Texas. The result of this is *Roe v Wade*. Wade was the Attorney General in Texas. [sniffs]

So they sued to get an abortion. Texas took it to the Supreme Court when they lost, and eventually the right for people in the US to access an abortion was codified by the Supreme Court. I think it's interesting, the opinion was released to *Time Magazine* and was actually published in *Time Magazine* just before it was released.

Justin: Oh really?

Sydnee: It was not a leak. I know there's a lot of talk about leaks. But this was not actually a leak. It was intentionally sent to *Time*, and they were supposed to release their decision before *Time* went to publication, so it would follow right after the decision was released. But somebody got delayed. So I think it's kind of interesting. It ran on newsstands before it was formally presented by the court. [sniffs]

Justin: Wow.

Sydnee: And that was the law, until now. So assuming that the leaked opinion isn't changed in some way before it is formally released, which I don't... I don't have any reason to think it would— I am not a legal scholar. I don't know.

But abortion will be up to the states. That is what this means. It doesn't mean that abortion is immediately banned in the United States. It means that state-by-state laws will determine whether or not a person can access abortion care. And in many states, including West Virginia, it will just immediately become illegal. It will be a felony.

In some states they're targeting the person who accesses the care. In some states they target the doctor who performs the abortion. There will be some states that may have certain exceptions. This was true back when these laws were first enacted, for rape, or for incest, or for, you know, life of the pregnant person. Others won't have any exceptions.

And... in some cases, people who don't want to have children will be forced to give birth. And in some cases, people will just drive or fly to wherever they can access that care, because they have the means, the privilege, the, you know, ability to do so.

And in other cases, people will do exactly what we just recounted. They will do exactly what they've always done, which is seek a possibly unsafe, possibly deadly method to induce an abortion. [sniffs] Because it is the only means they have for survival.

And I think it's important to note, that as I already sort of, you know, said, this will largely affect people who are living in poverty, or people who don't— Not even people living in poverty. People who just don't have the money, the means, to not go to work and drive somewhere else, or to get a plane ticket and fly somewhere else, depending on where you are.

Justin: Right.

Sydnee: Not— I mean, you don't have to be, you know, living below the poverty line to be in a position where like an unexpected plane ticket and hotel stay is a huge expense.

Justin: [quietly] Of course, yeah.

Sydnee: And then of course, like all of these injustices, it will disproportionately affect Black people, Indigenous people, people of color, who are always affected more strongly by these sorts of restrictions on our rights and autonomy. I think that this is about a right to autonomy. It's about a right to privacy.

And there's been a lot of talk about that too, and I think you could have many conversations about if we sort of decide in the United States that we don't have a right to privacy when it comes to these decisions, that the government is allowed to enter into our homes, and enter into our exam rooms, and enter into our surgical suites, and tell us what we can do with our bodies, that the ramifications of that for other areas of life... There's a lot to say about that.

I mean, you know, whether we're talking about birth control, or we're talking about who we're allowed to marry or, you know, who knows what else that could have an effect on?

There are all kinds of medical procedures that the government could decide you can access, or treatments that the government decide you can access or not access. And I think that an argument that the Constitution

didn't originally... guarantee us, literally a right to abortion, well the Constitution didn't give me a right to vote.

Justin: Right.

Sydnee: And the Constitution didn't recognize the personhood of a Black American. So I don't think that that necessarily [scoffs] holds up. And we seem to have accepted that in many other realms.

But, uh... The majority of Americans don't want to see *Roe v Wade* overturned. The majority of West Virginians, which I only say because we are seen as one of the, um... one of the states that would be... very anti-choice, but the majority of West Virginians don't want to see *Roe v Wade* overturned. [sniffs]

So I think that... if you personally believe that it is not okay for whatever reason to have an abortion, banning abortion won't stop it. It will just make it very unsafe.

There are programs that would make it easier for people to have children, on their own timeline. And, you know, when they desire to. We could make sure that everybody has access to birth control and to family planning education.

We could make sure that, you could provide paid family leave for people so that they know when they have a child they don't have to miss work, and they can still pay the bills and, you know, feed their other children that they have, because a lot of people who seek this care already have children.

We could pay people a living wage. We could make sure that everybody has access to healthcare so they don't have to worry about "How am I going to go to the doctor, and take my kids to the doctor? And what are we— you know, go to the dentist, and go to the eye doctor." And all the other things that become such giant hurdles for families. We could make sure that having a child is feasible if you want to.

Justin: Mm-hmm.

Sydnee: Um... But, at the end of the day, I deeply value my autonomy and my privacy. And I believe most Americans do too.

Justin: [quietly] I agree. Um... you know, it's interesting. We did the baby formula episode last week. And that is food to keep babies alive. And just this past week, with the Infant Formula Supplemental Appropriations Act, which was to make it easier for those babies to be fed, 192 Republicans voted against it.

That's gonna do it for this week on *Sawbones*. Thank you so much for listening. Um... [sighs] hang in there. I don't know. I don't know. Vote?

Sydnee: Well—

Justin: [sighs] I don't know.

Sydnee: No, the one thing I'll say is that, um... [sighs] It is imperative that we increase the knowledge of access to safe abortion. And by the way, I didn't even talk about [sniffs] the fact that there is medicine that you can take, too.

Like it is not always surgical anymore. That we have a medical therapy as well that is a pill. So I know we've been focused a lot on the surgery, but that should be noted. And that— again, there's so much history in this topic, you could do a hundred episodes and still not cover everything there is to say about it.

But I think that what is gonna be really imperative is to remember that getting people who desire this care, helping them access it in a safe way, has got to be, for those of you who think "How can I help? What can I do?" that is what you can do.

Returning to these other methods that were unsafe and that resulted in harm cannot be what people feel forced to do. We have to provide a safe way to get people to the care.

If we can't give the care to them where they live, then they need to get to where the care is, and we have to work on systems— And there already are systems like this, by the way. There are huge articles on like organizations that do just that.

But that has to be where the focus is. We cannot return to the days of...
[pause] I don't even want to say it. [holding back tears] We just can't.
We can't go back to that.

Justin: Thanks to The Taxpayers for the use of their song "Medicines" as the intro and outro of our program, and thanks to you for listening. Until next time, my name is Justin McElroy.

Sydnee: I'm Sydnee McElroy.

Justin: And as always, don't drill a hole in your head.

[outro theme music plays]

[ukulele chord]

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