

Kim:

Welcome back to #SistersInLaw with Joyce Vance, Barb McQuade, and me, Kimberly Atkins Stohr. Jill is away this week and we already miss her. Today, we'll be talking about the January 6th committee's last summer hearing and the missing Secret Service text messages. We'll also talk about legislation filed in Congress to protect the right to access contraceptives, marry who you love and to stop another January 6th. And finally, we'll talk about Fulton County, DA Fani Willis, and her investigation into Trump world heating up. And as always, we look forward to answering your questions at the end of the show. But first, I want to chat about something that happened just as we gathered to record this podcast. One, Steven Kevin Bannon was convicted of contempt of Congress for refusing to provide documents and testimony to the January 6th committee. What do you guys think about that, Barb?

Barb:

I'm just going to applaud just, well done jury.

Joyce:

Strike one for the rule of law, right?

Barb:

For sure. There is zero defense here. He had some baseless arguments about executive privilege that were never appropriate in this case. The judge ruled he couldn't use them and it really came down to, could he understand that he had a deadline? And then in closing argument, did you guys hear this yet? He offered about four different theories that, well, he thought it was negotiable and who knows if that's even a real subpoena, we never had Benny Thompson come in and verify that's his signature. If you go into that, that's pretty weak. But kudos to the jury for seeing through the garbage. Because from time to time, you get a hung jury, all it takes is one.

And I think that this could be a good signal for bringing criminal charges against Trump and company. If they'd lost this one, it could have had a deterrent effect on bringing charges against Trump. But I think winning this one kind of emboldens them like, all right, we can convince juries in this day and age.

Kim:

So is he going to go to jail? What's going to happen?

Joyce:

He will go to jail. He was convicted of two counts. The statute, he was convicted under two USC 192 is a misdemeanor, but it carries a mandatory minimum of 30 days. And we were debating before we started the show, will he have to serve one 30 day sentence or two 30 day sentences? I think, and I hope that the answer is two 30 day sentences, one for each count of conviction. And, of course, the judge can consider the federal sentencing guidelines and issue a sentence that's higher or lower, depending on what factors about the criminal conduct the judge finds to be the most compelling.

Kim:

So what do you think this means for the other people who are also facing contempt charges, did stuff just get real, Barb?

Barb:

Well, for Peter Navarro, I'd be looking at a guilty plea. Maybe he can even get some cooperation credit if he wants to come in and spill the tea, as they say. But I think it is a very good thing for Congress as an institution that if you float a subpoena and you think you don't have to show up guess again, because you can be criminally prosecuted and go to jail and remember mandatory minimum of 30 months. So he's not getting a walk, he's not getting probation. He's going to do at least 30 days here and maybe more.

Kim:

Wow, wow. That's really something. Any other thoughts, Joyce?

Joyce:

I think this is important. We spend a lot of time really obsessing about whether the rule of law works in Trump world. I know that this isn't Trump himself, but this is a sign that justice comes. It might be a little bit slow and it can be very frustrating. But I look at this as the first step in a good long walk for lady justice.

Kim:

Well, I hope that, that is the case and I look forward to more justice being needed out in the days and weeks ahead.

Barb:

Kim, I know you're always trying to do things to save our planet. It's big and small. Have you tried Blueland? What do you think of them?

Kim:

I really love Blueland. In fact, every sink in our house has hand soap from Blueland. Every cleaning product I use is from Blueland because we really are trying to be very mindful of not using unnecessary plastics and with Blueland, they're on a mission to eliminate single use plastics by reinventing home essentials that are good for you and the planet. Blueland's innovative tablet refill solution takes up to 10 times less space than traditional bottles and their powerful formulas keep your home clean and smelling amazing.

Joyce:

My husband is the recycling guru in our house. We're all committed, but for Bob, it's sort of like a religion. He breaks down boxes, has a whole bunch of separate cabinets for storing everything. So I had ordered some new Blueland, the sink bottles. I love the sink soap. You never run out, it's great. And I took it into him because the box says, "Refilling is the new recycling." So now he's as into Blueland as I am. And the idea is simple. You just grab one of the beautiful forever bottles, fill it with warm water, drop in the tablet and get cleaning. Refills start at just \$2. And you don't have to buy a new plastic bottle every time you run out. You can set up a subscription. So you never run out of the products you use the most and save even more when you buy in bulk.

Barb:

From cleaning sprays to hand soap to... come on guys, you know it's in my contract that I never have to utter certain words, including the word toilet. So I'm going to say bathroom cleaner with laundry toilets.

Kim:

Tablet is great.

Barb:

All Blueland products are made with ingredients you can feel good about. Try their clean essentials kit, which has everything you need to get started. Blueland products come in refreshing signature senses like Iris Agave, Fresh Lemon and Eucalyptus Mint. And for a limited time, their hand soap is getting a summer upgrade with three refreshing new scents, Strawberry Rhubarb, Citrus Patchouli and Coconut Palm.

Kim:

I will say, as someone who hates scrubbing toilets, that toilet cleaning tablet is amazing. So I will say toilet all day.

Barb:

Awesome, better you than me.

Kim:

And right now you can get 15% off your first order when you go to blueland.com/sisters. That's 15% off your first order of whatever you order, including the toilet tablets. Any Blueland product at blueland.com/sisters, that's blueland.com/sisters. Or look for the link in our show notes.

Barb:

This week marked the eighth hearing of the January 6th committee and the last one for now. Liz Cheney did announce that there would be more in September, which was tantalizing. So, I guess, we'll just call Thursday nights hearing the season finale and what a finale it was. This hearing focused on what was happening at the White House during the attack on the Capitol. And it was riveting. I just wanted to ask each of you about some of the new facts that we learned that you thought was significant. Kim, what was one fact that you heard last night that you thought was significant?

Kim:

One thing I like about these hearings is that even when you think, and I certainly do that, I have a good sense about what happened overall, and I'm not sure what new I can learn, they find these little details that just drive home, just how perilous that day was. And I think the testimony from members of Vice President, Mike Pence's security detail saying not only how they had to scramble to try to protect them, but that they were fearing for their own lives, including some were sending messages to their family members saying goodbye because they thought they may not make it out of that circumstance. That just really hammers home so much.

For us, we know people who are in that building on that day and we know how perilous it is, but I think if the passage of time, the horror of it can sometimes fade and just bringing that right back to the fore was just really, really important. And I also just really appreciated the way that they focused the fact that after President Trump tweeted his tweet, attacking Mike Pence, how that really served as a

flashpoint. The crowd reacted to that. It was really clear that he understood what was happening and that the effect was a direct effect from what he was doing and not doing. So I just thought that, that was really, really riveting.

Barb:

I was really struck by that too. Our friend, Tim Hafe former U.S. attorney for the Western District of Virginia is the general chief council to the committee. You occasionally see him sitting behind Liz Cheney or asking some questions in these videos. And I just think what a masterful job by him and his team. Somebody had to look at hours and hours and hours of this stuff to be able to come up with these snippets, to put this narrative together. And I thought the same, Kim, like wow, that's super powerful to get these video and audio of the way it landed at the capital. I thought that was really important. Joyce, how about you? What's one new fact that you heard that you thought was significant?

Joyce:

Well, I've got one, but first I want to say that like Kim, I thought that the Secret Service video, the way that they overlaid the video with the radio traffic was, really struck me. I'm one of those prosecutors who had the great, good fortune to do cases early on with some really fine Secret Service agents. As much as anybody else, they taught me how to be a good prosecutor and I have a lot of love for the Secret Service. They sometimes get a bad rap. They may deserve it a little bit in some regards here, but by and large, it's just an exceptional agency full of really professional, very calm people. And I've ridden shotgun on details when we've had dignitaries in town. And every once in a while something happens, that's out of the ordinary, nothing ruffles these guys calm.

They are so cool. They are so collected. We had every democratic political candidate. We had Hillary Clinton and Barack Obama. And we also had Bill Clinton down and a bunch of other luminaries in very tight, tough quarters. Secret Service did not miss a hitch, just absolutely smooth. So hearing the panic in their voices, maybe for normal people that's not panic, but for Secret Service agents that was damn near panic. And it really sort of just clutched at my heart that they understood how serious the threat was. They feared for their lives while the president that they served did nothing, but that's not new news, right? Because we've always understood Trump had great disregard for law enforcement unless they were serving him.

The new fact, and it's sort of a new fact, some of it we already knew, but this is what really struck me, the absence of any form of presidential records on January 6th, we knew already that the call logs hadn't been populated, that there was information missing there. We knew that because we actually knew that Trump had made some phone calls. He had that infamous call where he accidentally called Mike Lee, looking for Tommy Tuberville. And we know that because Mike Lee said, "I just handed the phone to Tommy." And Tuberville then says, "I talked to the president and told him I had to end the call because we were getting evacuated."

So that's always been interesting. We learned yesterday that there were also no entries in the presidential diary for a long period of time on the sixth. And that the official photographer was excluded from taking any pictures that day of the president. That's really remarkable when you think in the context of George Bush and how many photographs there are of 911, uncomfortable awkward photos of him, some of them were used to make fun of him. His team gave the photographer full access that day, not so in the Trump White House. And when you think about it, and I know we'll discuss this in a minute, but this pattern of missing records is very interesting when you think about the fact that also Secret Service, to the extent that there were any texts that day that they're missing as well.

Barb:

There are a lot of interesting things that came out last night. I had some observations too, though. Probably none as astute as Joyce. Joyce, I imagine that you have one of these big cork boards in your house with photos and apps and red string making attachments. Do you guys ever watch that show, Only Murders in the Building? It's so good. Steve Martin and Martin [inaudible 00:13:06].

Kim:

She's showing us her whiteboard.

Barb:

You got your whiteboard, excellent. All right. That's a good start. That's cute, that's cute. But it's not like Only Murders in the Building, we've got like the wall size cork board. You have one of those [inaudible 00:13:18]?

Joyce:

I aspire to get there one day.

Barb:

Yeah, yeah, or-

Kim:

I don't just because I don't have enough space in here, but if I did, I would.

Barb:

All right. Well, we'll crack this case I'm sure the three of us one way or the other. But I thought some very good advocacy too was done by Adam Kinzinger at the opening of the hearing by framing it. One of the things that he said that I thought really cast an important tone for the whole hearing was he said, "Donald Trump did not fail to take action on January 6th. He chose not to take action." And then during the hearing, we saw all of these things that he's in the dining room, watching the attack on Fox. And he was asked repeatedly to do something. And as Mark Milley, the chairman of the Joint Chiefs of Staff said, "He's the commander in chief of the armed forces." It was time to call up the national guard, the Pentagon calls.

And he says, "No, thanks. Won't take the call." Are you kidding me? And he does not activate the National Guard. He chooses to ignore the please of people within the White House who are begging him to go on, just go to the brief room. It's 10 steps away. Here's a little schematic. We'll show you how close it is. Just go down there and do a little video saying go home. Nope, won't do that. They're begging him to tweet, please go. He chooses not to do these things. And what does he do instead? He's calling Giuliani. Like, "How do we make this happen?" He's calling senators like Tommy Tuberville to seek delay. And then, the thing that causes Matthew Pottinger and Sarah Matthews to resign, in the midst of this 2:24, this attack goes on from around one to 4:00 PM.

2:24, he sends a tweet, puts out a tweet that says, "Mike Pence didn't have the courage to do his duty." And as they both described, I think he said, "This added fuel to the fire." She says, "This poured gasoline on the fire." So as Adam Kinser said, "This wasn't just a failure to act. He's just missing in action." He's very much in action. He is doing things to make sure that, that crowd stops that official

proceeding. And to me, that was very strong evidence that is necessary to prove that crime of obstruction of an official proceeding.

Kim:

I agree with that.

Joyce:

It almost sounds like you were describing a conspiracy there, Barb, the way you laid out all of those overt acts.

Barb:

It's all of my [inaudible 00:15:43].

Kim:

And this is a good point. And we talked so much about criminal intent, right? He clearly, from this evidence, understood and knew the power that he possesses, not only to corral and rally this crowd, but to call them off. And he was being very intentional about whether and how he did that. He fired them up with this tweet about Pence. And we saw in real time, how members of that mob of rioters were saying, "Pence betrayed us. Donald Trump told us." And then he also knew at the end, even when he very reluctantly told them to go home, he said, "I love you. You're great." You understand what it means? I'm paraphrasing. But you understand what it means when a great wrongdoing was done. He knew exactly what he was doing. He really made all of the intent elements very easy from this evidence

Joyce:

And the kicker on that final statement and, Barb, I know you've pointed this out too on Twitter is, all along, you could just smell this. If the president was ever charged, his lawyers would say, "No, he didn't intend for there to be violence. He made this statement." Well, the committee does a masterful job of laying out the timeline and showing he doesn't make that statement until it's clear that his little coup has failed. He comes out at the point in time when it's already clear that they won't be successful, does what he has to do, can barely manage doing it. In the video, he's really twitchy. I don't think I've ever seen him quite that twitchy as he is making that statement. Did not want to be there.

Barb:

Wait a minute. I have to attach a new red string on my [inaudible 00:17:28] for one second.

Joyce:

Twitchy.

Barb:

I thought that was really significant too, Joyce. It's not until after and I never realized that before. It's not until after it's clear that the coup has failed, that he makes the statement. So he's all in until it becomes futile. And then how about the next day? He does another video.

Kim:

Oh my gosh.

Barb:

He cannot bring himself to say the election is over, right? And he also can't seem to pronounce yesterday. What was going on with that?

Joyce:

He said, it's... What did he say? It's a difficult word for me or something really weird.

Kim:

That was the only thing that he was even remotely relatable to me because as somebody who does a lot of radio and I find out that here are a lot of words, regular words that I cannot say well.

Barb:

Like sister 16, that's hard. I have trouble with that one.

Kim:

[inaudible 00:18:20] that one I was... I can't say the second month of the year, we've pointed this out. So that was the least-

Barb:

I can't either.

Kim:

... problematic part of everything. But the fact that he was like, "I'm not going to say that the election is over." That was just one of the most stunning things of the whole hearing.

Joyce:

As a prosecutor, you want to have that clipped and you want it to be the last thing that you play for the jury in closing argument. You watch that video and you think, wow, I can do a lot with that from an evidentiary standpoint.

Barb:

Although there are a lot of choices for what you play last for our listeners, the law of primacy and recency, prosecutors are always taught to lead with something strong and end with something strong, because that's what will stay in a jury's mind. I also think there was something else that was very powerful, which is Eric Hershman, mostly I like. He's been very candid and very blunt about what he said to John Eastman and others. But yesterday he talked about we were trying to get him to make this video. He finally does. It's like four 15 in the afternoon. Man, we were drained. We had to go home. You wouldn't believe the exhausting day we had. Really how about people at the Capitol? But Trump ends his day-

Joyce:

So shameful.

Barb:

When Trump walks out the door, his last words are, "Mike Pence let me down."

Joyce:

That one's good. But what do you think about this as a nominee for last thing, Barb? Talking about Pat Cipollone testimony after he's compelled and they litigate privilege and Cipollone who I think clearly wants to testify, but is trying to protect the presidency. He testifies and he says, "Donald Trump told me he knew he lost the election, but he didn't care. He was going to hang onto power anyhow."

Barb:

That'd be good.

Joyce:

That's my closing argument.

Barb:

All right. I'll take that one. That's the fantasy. That's pretty good. All right. I just want to ask about one more thing while we're talking about the highlights. Every once in a while I think they just can't help themselves, the committee, and they want to put in something in there just because it's so delicious and shows such good karma. We saw this when Jared testified about when Pat Cipollone was always threatening to resign over something. I just thought it was a bunch of whining. Last night, we saw this little bit on Josh Hawley. I don't know if it advanced the narrative at all, but it was pretty good. What did you think about that one, Kim?

Kim:

One of my favorite bits was someone, one of the reporters covering it, showed the inside of the room when they showed Holly running and laughter erupted. I think that's the reaction that was trying to get here. I certainly don't think that it's a key part to the investigation, but it just goes to show, we have seen for a year and a half now this image of Holly raising that fist and pumping up that crowd and being a tough guy. And I think that, that just tells the other part of the story and it's good for what, we in journalism, call context.

Joyce:

And maybe it does advance the story just a little bit because we hear that one of the guards talked about how upset she was that Holly in this safe space is riling up the crowd. If this was the season finale, I was looking for the Cliffhanger and maybe this is one of several small Easter eggs that they planted for us. What's going to go on with Josh Holly in the future?

Barb:

Well, we'll have to allow the summer recess to go by and tune in the fall for season two to find out what happens next. One last thing I want to ask you both about relating to January 6th is those missing Secret Service text messages. Radio communications we heard at that eighth hearing really amplifies, I think, the need to see those texts. There's chaos going on. And Joyce, let me just ask you, I know you worked with Secret Service, the premier agency for cyber investigations. Do you think they're really gone, gone, or do you think they can be retrieved?

Joyce:

So ironically, the premier agency for cyber investigations actually has a facility in my district, the NCFI, the National Forensics Institute and the Secret Service trains state, and local law enforcement and even judges from across the country in this facility here. And one of the things, lo and behold, that they teach is how to recover lost documents. So maybe the Secret Service can use some of their own experts and recover these materials. All kidding aside, this is not the first time that there's ever been a situation where people thought something was lost permanently only to figure out how to retrieve it later on. So that's a possibility, but something that hasn't been discussed nearly enough is that the Secret Services policy is actually to not use, to avoid the use of text messages for these sorts of internal communications, because among other reasons it's not secure.

So I'm interested to know there must be a good faith belief on somebody's part here that there were messages that should have been turned over. We know that there was at least one, and Barb, I'm sure you had this experience for whatever reasons at some point in time, inevitably, our two old government technology wouldn't work. When we had Blackberries still, when the rest of the world had iPhones, they would quit working or something like that. And you would inevitably have to use your personal phone for something. You would CC it onto your government email address so that it hit the government servers and got saved. But maybe there's something like that going on here where they resorted to the use of text messages in the chaos that day. There's just a lot of smoke going on here for there to not be some messages kicking around.

Barb:

Joyce, I hadn't thought about that until just now. But in the chaos, if you think you're dying, isn't it quite possible you're sending messages to loved ones describing what's happening in real time on your personal device?

Joyce:

[inaudible 00:24:17] right? I would want to, just as an exercise and thoroughness, I would want to have these folks under oath. They're federal agents, they're obligated to tell the truth. They know it. So maybe you don't even have to put them under oath, but I would want to ask them, were you using anything other than your government communications? Were you using personal devices? Did you use encrypted apps? I would really want to find out the full range of communications they used.

Barb:

I think that could be fruitful. Well, Kim, let me ask you the inspector general of the Department of Homeland Security says, "This is now a criminal investigation." What is an inspector general and what does it mean now that this is a criminal investigation?

Kim:

That was really fascinating. So an inspector general is an internal watchdog in an agency that conducts investigations when things like this happen and that was happening within the Secret Service, but they were told to stop that probe, stop it in place because there is an active criminal investigation, which means that prosecutors are investigating that. And it could mean a number of things. I think the first thing that comes to mind is a violation of the Federal Records Act that requires records to be kept. And it is a criminal penalty. It carries up to, I believe, three years. Is that right? Three years penalty-

Barb:

Yes.

Kim:

... if you do not. And we talked about this before with Donald Trump allegedly chewing up and swallowing documents and things like that, but they have to keep these records in place, but it could be a bigger investigation. If it is shown that these records were intentionally destroyed to not be turned over to the January 6th committee, that sounds like obstruction of justice to me. And that's a much more serious crime. And as you said, Barb, if you couple this with the missing White House phone logs, with the missing White House records of Donald Trump's movements, this feels like the Watergate tapes on steroids. This is really, we don't know all the facts yet, but as they say down in Joyce's [inaudible 00:26:26], something in the milk ain't clean.

Barb:

I like it. For the record and to make sure my sister Joyce gets credit where it's due. It was she who made the point about this now pattern of missing records, I guess, knitters going to notice their patterns, aren't they, Joyce? But even [inaudible 00:26:42].

Joyce:

And it is so fair because people have been given me credit for your manslaughter theory all week on Twitter. They're like, "Well, I saw Joyce Vance on television saying Trump can be charged [inaudible 00:26:56]." It's like, no, it was actually Barb.

Barb:

It's all right. I'm in good company.

Joyce:

I take it as a compliment whenever it happens. Hey, Barb, have you been cooking lately?

Barb:

I have, Joyce. Funny you should ask. I've been using Hello Fresh because as you know, I'm not much of a cook, but with Hello Fresh, you get farm fresh pre-portioned ingredients and seasonal recipe that's delivered right to your doorstep. I have been making a lot of great fish this summer, tilapia salmon, barramundi, trout, all through Hello Fresh. And it's terrific. It's easy. You can skip trips to the grocery store and you can count on Hello Fresh to make home cooking easy, fun and affordable. And that's why it's America's number one meal kit.

Kim:

I have to say, I have people in my household with all sorts of different and divergent food tastes. And the one time that I know that I can please everyone is when I'm cooking Hello Fresh. The tacos are a big crowd pleaser, I will have to say. And Hello Fresh is 72% cheaper than dining at a restaurant. And it's even cheaper than grocery store shopping. That's money back in your pocket. So now's the time to select meals from the taste of summer series that sure to become everyone's favorites like old base shrimp and sausage boil, or the family style, grilled steak lettuce wraps. Yum.

Barb:

Plus, even if you're going away this summer, you can update your delivery and enjoy Hello Fresh. It's your vacation destination with just a click. Their plans are flexible. So they work with your changing schedule. We know you'll enjoy their meals as much as we do.

Joyce:

So go to hellofresh.com/sister16, and use the code sister 16 for up to 16 free meals and three free gifts. So go to hellofresh.com/sister16, and use the code sister 16 for up to 16 free meals and three free gifts. That's hellofresh.com/sister16, with the code sister 16 for up to 16 free meals and three free gifts. Your summer will taste so much better with Hello Fresh. America's number one meal kit. And you can also find the link to this deal in our show notes.

Kim:

In response to the Supreme Court's ruling imperiling substantive due process rights, and also in response to the revelations from the January 6th committee, Congress has been unusually busy this week. First a bipartisan group of senators came to an agreement on a bill that would reform the Electoral Count Act to make sure that January 6th never happens again, particularly the part about trying to stop the certification of electoral counts. And then The House took up several bills that would protect certain rights, including the right to access contraception and to marry who you choose. So, Barb, I want to start with you and the marriage bill, in addition to telling us what it would do. I want to know what you think will happen if it doesn't pass.

Barb:

Well, this is a really interesting moment, I think, because while many have assured us that there's no reason to think that Dobbs, which overturned Roe versus Wade will have anything to do with marriage equality or right to contraception or other things. Clarence Thomas said, "Yes, it will. You bet it will." Substantive due process is there's no such thing. And we should correct that while we have the chance, folks, while we have this power, we should undo all of these rights that are based on this concept of substantive due process, which essentially says that there are certain rights so fundamental that even though they are not spelled out in the constitution, of course, they are protected.

And they typically emanate from this right to privacy. We get to love who we choose. We get to use contraceptives within our own lives and make decisions that occur in the privacy of our own homes, all of those kinds of things. And I think when someone tells you who they are or shows you who they are, you believe them, right? The fact that Clarence Thomas has said so, I think, means that action does need to be taken. And I'm sometimes wary that you see this from the right, oftentimes, trying to bait Democrats into the debate. So they want to talk about culture wars. Let's talk about bathroom bills in North Carolina so that we have to be taking sides on issues of transgender rights.

I think this is one where people are rightly concerned that we could see just as we saw with the right to abortion, some state passing a law and it percolates its way up to the Supreme Court. And it gives the court the chance to say, yep, nope. This one too, gone. There is no... I don't see the words same sex marriage anywhere in the constitution. Therefore it doesn't exist. So I could see that happening. And one thing that's really interesting is Republicans don't want to say where they stand on this. We've got, I think, five who say they would support a protection for same sex marriage. There are eight who say no, like Ted Cruz who says, "No, I would never. I think that belongs to the states. That's a

states rights issue." Which should always perk up your ears, if you hear state's rights, that means subterfuge and pretext.

And then a lot who just don't want to talk about it. I think they don't want to take a stand because they want to kind of play both sides of the issue here and are concerned that if they take a stand, they're going to anger a certain amount of their constituents back home. I think there's a lot of political skittishness around this, but I think it's absolutely necessary because Clarence Thomas has telegraphed us to us where this court wants to go. And without that protection in federal law, I think it would be very easy for states to do just what they did in Dobbs, which is to say, there is no constitutional right. Therefore we're going to just leave it to the states to decide what they want to do. And you can bet plenty of states will ban it.

Kim:

Just a couple points and I agree with everything you said, Barb. I was interviewing someone who was more on the conservative side about the impact of what the Supreme Court has done. And I asked about the possibility that things like same sex marriage or interracial marriage could be imperiled now that the substantive due process, right, has been weakened. And I was told that I was fear mongering. Nobody wants to, nobody is even talking about that. That couldn't possibly happen. It's like, well, first of all, Clarence Thomas talked right about that.

Barb:

Absolutely talking about it.

Kim:

So it really is. And just thinking and not even a few days later, we're talking about the prospect that Republicans in the Senate may choose not to support a bill that would ensure that not only would same sex couples be able to marry, but interracial couples be able to marry since the substantive due process, right, undergirded both of those Supreme Court opinions. And if you had told me, even at the beginning of this year, when I already thought the world was crazy, that Congress would not support interracial marriage, I'm not sure I would've believed you. But this is where we are in the year 2022.

And the other thing that I wanted to say is that I remember when the Obergefell decision came down and it was written by Republican Supreme Court appointee, Anthony Kennedy, who's no longer on this court, which is one reason why all the things that are happening are happening. And he spent a lot of time, in his opinion, talking about public opinion and the way that it has shifted and the way that the public has come to embrace the rights and dignity of same sex couples in their family. And in real time, I didn't love that because I don't think that fundamental rights should be based on public opinion. I think there is a time Martin Luther King was never popular during his lifetime, right? Abolitionists weren't popular. So I don't want a popularity to be the test as to whether you have a right or not.

But I find it striking now, in retrospect, that even then in 2015, there was an acknowledgement that we, as a nation, had moved on, that we had evolved to a place where it was not only the right thing to do, but the acceptable thing to do. And now we are, again, in 2022, and we are back at a place where lawmakers are thinking that they can't take the political risk of protecting same sex marriage. That is incredible.

Barb:

Well maybe a conversation for another day is this idea of originalism versus what's the opposite of originalism. And it's this idea of a living constitution that we do evolve and that there are fundamental rights, like rights to privacy and self-determination, but that those manifest themselves in different ways as time goes on. And Thomas Jefferson talked about that, that I would expect that a maturing society would have evolving norms. "I don't wear the same suit of clothes I wore as a boy." He said, "Because I've grown." And we would hope that a society also grows. And that, although our fundamental concepts, things like liberty and privacy and other things are unchanging the way we apply those to our daily lives should change as time goes on.

I do have one ulterior, other theory that Justice Thomas actually has an ulterior motive in mind. He's laying the groundwork. He doesn't mention it by name. He mentions contraception. He mentions same sex marriage. He doesn't mention interracial marriage, but I'm wondering if this isn't all just an elaborate ploy to get out of his marriage with, Ginni, "What am I going to do, man? I think I shut down, man." So we are no longer legally married.

Joyce:

I hate to deflate your theory. I suspect that if push comes to shove that an equal protection argument will be offered to sustain interracial marriage and Loving versus Virginia, and they'll say, "Well, that doesn't apply to any of these other substantive due process rights, loving interracial marriage falls into a separate category." And that's the only way I can make sense of his just really painful to read concurrences in Dobbs, which essentially says, "Hey, the world as you know it, the world where we value people based on who they are and not the color of their skin or their gender or sexual orientation, that world is out the window."

Kim:

But Joyce, if I recall in con law equal protection is an intermediate scrutiny analysis. And if somebody claims that their religion prevents them from accepting interracial marriage, religious claims get strict scrutiny. So I think I'm not sure that that's safe either.

Joyce:

No, that's correct. It's definitely not safe. But I think that that's the argument that he would offer and perhaps try to push it into strict scrutiny because of the racial issue.

Barb:

That's harder than sister 16.

Joyce:

So everything is hard today.

Kim:

I know, I'm sorry. And I'm getting all wonky with the constitutional scrutiny levels but, Joyce, I want to talk about this contraception access bill too, and really ask you the same question, because it seems that, that may not pass either. What does that say about us?

Joyce:

So this contraception access bill that's been floating around in The House, here's the issue. Congress is not going to protect contraception. This bill drew virtually no Republican support when it passed The House, it will not draw sufficient numbers in the Senate to pass unless something miraculous happens. And on the surface, this really seems like a politically fool hearty move. In the wake of dogs, what could be more designed to convince young women that they should go to the polls and reject Republicans. But the reality is we know that younger voters don't turn out. Issues like this have a hard time gaining traction long term with voters. Perhaps this is just another area where this new ultra conservative Republican Party has some success in frittering away rights that were fought in my grandmother and my mother's generation. It's really the zeitgeist of this Republican Party.

The Supreme Court as we've discussed in the earlier conversation has not specifically taken away the right contraception yet and relegated it back for each state to make that determination. But it's clear that we could be headed there. It might take years for that to happen, but it seems like it is a strong possibility. People need to imagine a world where women who need access to contraceptive type medication, because they have medical problems that make that necessary either for quality of life or to maintain their lives, may not have access to it or where we just can't as women and as married couples and any kind of person out there make decisions about timing and planning of families. That feels like I don't know what that is. Is that a 1920s world that we're going back to? It's worse than the '50s.

Kim:

All right. I'm going to try to lift the mood here and talk about some good news, which is that-

Joyce:

I'm sorry. There's just nothing good to say about that.

Kim:

There isn't, you're right, you're right. So I'm going to talk about something else. I'm going to talk about legislation to reform the Electoral Count Act, which actually has bipartisan support and just might actually pass, Barb. What's that all about?

Barb:

I can kill your buzz, Kim, take it easy.

Joyce:

It's, slow your rule, baby girl.

Barb:

There is some good news about this, but there is some good news here though. So the Electoral Count Act is this one that creates a little confusion. It talks about certifying the vote on January 6th. It came after the, it was enacted over a hundred years ago after the contested election of Rutherford B. Hayes in an effort to try to sort out what happens when there's a contested election, but it's got a lot of vague language in it. And this is the statute that Donald Trump tried to exploit and suggest that Vice President Pence had some authority to throw out votes. This amendment to the bill, to the statute would make it clear that his job is merely ceremonial, it's ministerial. It also has a provision that instead of allowing a challenge to a particular state's electors to be debated, instead of just a single member of each house, it requires 20% of each house to object to a state's slate of electors.

And it also strikes this provision that I worry about being abused, going down the road, that says if an election should fail in a state and it doesn't really define what that means, then the state's legislature can decide how the state's electors should vote. And I think the idea probably was like, okay, if there's a hurricane in our state and we aren't able to have an election on the date in November when everybody's supposed to vote, rather than turn in nothing and have no vote at all for our state, we'll say the legislature gets to decide and send in our votes. But instead of that, they're just striking that provision. So that's not in there anymore.

I think those are all good things, but here's the buzz kill, Kim. There are a couple of things. One is, Donald Trump is seizing upon this moment to say, "See, that I told you the electoral counteract allows Vice President Pence to overturn the election. That's why they're changing it." As you both know, there is a concept in the law called subsequent remedial measures, which are not typically admissible in evidence because you don't want to disincentivize people to fix something when it might appear that it was the cause of a problem before. So if somebody trips on your porch steps, and then the next day you say, "I don't think he tripped because there's a hole in my porch. I think he tripped because he was drunk and clumsy, but I'm going to fix my porch anyway." So I fix my porch and then they bring that into evidence to say, you admit that your porch was defective by getting it fixed.

So Trump never allows a moment to go unused as a conspiracy theory. I also think, here's the real buzz kill, I wouldn't want this to be a substitute for meaningful election reform. And there is a worry about that. Our friend, Norm Eisen, who is a prolific writer at the Brookings Institute and has some really good thoughtful comments on this points out that there's some real need to protect the right to vote. As we see all of these states passing voter suppression laws, and there's the John Lewis Voting Rights Act and other efforts of foot in Congress to try to protect states, voters in states from these efforts to suppress the right to vote.

So the worry is that Republicans and Congress are eager to pass this one, because this is kind of a no brainer. And they don't want there to be abuse of this either. And then they can say, see there, we did something it's kind of like the gun legislation. It was something, but it's more baby steps and then they can tell their constituency, "We did something you can't say we never do anything. We did some..." But it's kind of small potatoes compared to what the real problem is.

Kim:

And Joyce, I want to get your thoughts on this too. We heard at the January 6th hearing Adam Kinzinger say that one of the things that the committee's going to do is make legislative recommendations to prevent January 6th from happening again. So what should they be asking for?

Joyce:

I think Barb makes a good point here. For the electoral count act, she says, "It's good, but it's sort of weak sauce, right? It doesn't go far enough." And the real risk here is that there will be a lack of willingness to engage on meaningful steps that would prevent a recurrence of January 6th. And that's where the Congress really needs to head because there are a lot of vulnerabilities that Trump exposed and here's the risk. We all know what it looks like. Someone who doesn't have high regard or respect for the rule of law, someone who's interested only in their own power can stretch and contort. The law can find loopholes and find ways to turn it on its head so that they can get results that are undemocratic and even try to overturn elections. Congress's job is to meticulously go back and close the loopholes.

So for instance, we might need better enforcement mechanisms for things like the Hatch Act, which is meant to prevent people who are government employees from engaging in political conduct.

That happened all throughout the Trump administration, even using the White House as a stage for political gatherings, including preliminary Republican gatherings during the primary stage and during the reelection campaign. Stuff like that it looks small, but it can go a long way in keeping people on the straight and narrow. Same thing for presidential conduct. It's possible that we need to adopt new criminal penalties and new laws that set forth more clearly a president's responsibilities. We may need to do some work on how the 25th amendment gets invoked. These are all fraught questions because anytime you talk about fooling with something that's into constitution, you have to be very careful that new provisions that you adopt don't violate the constitution.

So this will require bipartisan effort of a type that it's been tough to see quite frankly, in this Congress. I'll tell you, Kim, here's one bright spot on the horizon though. We know that Zoe Lofgren, a democratic representative and Liz Cheney, obviously, a Republican have been working together on their own version of electoral college act reform. And they apparently have developed a good relationship and are making meaningful progress. So maybe that becomes the model and out of this house committee, if some of these folks managed to get reelected, obviously, Liz Cheney's reelection bid is somewhat difficult at this point, but maybe we do see new alliances being built. Today's episode is sponsored by PayPal Honey. And you know I really have been using Honey a lot lately, Kim. How about you?

Kim:

So actually before we started recording this podcast, I had to stop for a moment to go meet the UPS man at my door because I've been doing a little shopping myself. I may have used Honey. In fact, I definitely use Honey for this new pair of shoes that just arrived, that I'm very excited about because Honey is so easy to use. Thanks to Honey. Manually searching for coupon codes is a thing of the past. Honey is a free shopping tool that scours the internet for promo codes and applies the best one it finds to your cart. And honey supports over 30,000 stores online, including where I bought these shoes. Think everything from sites that have popular fashion brands to tech, even food delivery. Tell us how it works, Barb.

Barb:

Well, imagine you're shopping on one of your favorite sites and when you check out, the Honey button just drops down and all you have to do is click apply coupons. Then you wait a few seconds as Honey searches for coupons it can find for that site. And if Honey finds a working coupon, you'll watch the prices drop. I just saved, no joke, today, \$20 on some replacement utensils. You have all these utensils that we got for our wedding 27 years ago. And somehow pieces just disappear. I think my kids take them and I needed some forks. So I bought eight forks that match our set and I saved \$20. It was so easy. You can even add Honey to your iPhone, which I did, just enable it. And you can find savings on the go.

Joyce:

Adding Honey to my iPhone has really been the mother of all good shopping tricks. But if you're going to impulse shop now and then to make yourself feel a little bit happy, why not have Honey as one of your ways of keeping it within realistic constraints? So if you don't already have Honey, you could be straight up missing out. It's literally free. It installs really fast. And by getting it, you'll be doing yourself a solid and supporting this podcast. We would never recommend something we don't use. We all use Honey a lot in case you haven't figured that out. So get Honey for free at joinhoney.com/sisters. That's joinhoney.com/sisters, or look for the link in our show notes.

So in Fulton County, Georgia, now where something smelled really bad in the milk, to use Kim's phrase, during the 2020 election, when all sorts of folks started making phone calls to try to alter the outcome of the election. We have news from Fulton County district attorney, Fani Willis. She is, of course, continuing her special grand jury investigation. And in the news now she sent subpoenas out to each of the imposter electors and followed up with news that they are targets of her criminal investigation. So, Barb, in the federal system, prosecutors don't usually subpoena targets. That's something that I don't think that I've done. You might invite them to come testify, but what's going on with these subpoenas that suddenly become target letters.

Barb:

As you said, Joyce, it's not a legal issue. It's a policy issue. And the department of justice does as I think people have seen by now, tend to take a very, very conservative approach when it comes to all matters of criminal justice. But one of them is this idea that ordinarily a prosecutor should not subpoena a target because the idea is it's very likely that they're just going to show up at the grand jury and invoke their fifth amendment right, not to testify and they're going to look guilty and the grand jury's going to hold that against them. So it's not completely prohibited, but there are a number of hoops you have to go through. You have to show that the testimony is essential to your case and that it cannot be obtained by any other means. There's no one else I can talk to, this is the only person who might have this information and you have to get high level approval before you do it.

So I think the idea is we don't want to do this routinely, but in certain case where you really, really need it, you can get it. I don't know that they have a similar rule in Georgia and most states probably don't have a similar rule. So the judge said, then this case, I expect that these will probably be very short appearances. They may simply go in and assert their fifth amendment rights not to incriminate themselves, but let's go through that exercise. Let's see what they have to say. It may be that somebody wants to testify. And as you note, Joyce, that is permitted at the justice department as well. Sometimes a target wants to come in and tell their side of the story that there's an innocent explanation here. There's another side of the story that you ought to think about.

It may be that one of these electors wants to do that. My guess is not, my guess is that the judge is right. That they will come in and assert their fifth amendment rights. And it'll be very quick. But in contrast to the federal system here in Georgia, this judge is permitting in Fani Willis has asked them to come in and put their fifth amendment objections on the record.

Joyce:

I would love to know whether there's a joint defense agreement under the 16 that permits them to share information and work together. Because you got to wonder with 16 of them, is there someone who's just really nervous about getting convicted or going to prison who might flip or have they all cut a deal that they'll stick together, at least for now. I have a lot of questions, but Kim, interestingly enough, on this same timeline, there has been an effort by some of these folks to force Fani Willis out of the case. What's going on with that, and do you think it'll succeed?

Kim:

I don't think that it will succeed. Before we get to that, I just want to a little interesting trivia point is that superior court Judge Robert McBurney, I happen to know, based on my very close sources, that he honed his skills in part in law school by debating his classmate, Ted Cruz. So I would not mess with him in this case because he definitely has the skills. I know this because he's also a classmate of someone who is close to me, who I may be married to.

But getting back to your question about this, so Georgia State Senator Burt Jones filed motion. He was one of the Republicans who filed motion to try to get Willis off of this case, in part because she supports his political opponent in the Lieutenant governor's race. I believe she is sponsoring a fundraiser for the opponent in that case. And he's trying to say that due to her inappropriate conflict of interest that she should not be in this case. Legally, I am not sure he has a case here. Her job as district attorney is to investigate crimes that she, as she sees fit and to bring charges appropriately, if she sees that and it does not mean that she cannot participate as a political person. Now, is it a bad look, perhaps? Is it something that I would've if she asked me and she didn't, advised her not to do particularly given the high profile of this case?

And as an ethical issue as a legal ethical issue, I'm not sure it presents a problem, but sure. It may give fodder to Republicans just to paint her as a partisan actor, someone who's out to get folks and sort of [inaudible 00:55:06] her name. But I don't know. I want to hear what you guys have to say as former prosecutors, I don't think this is an actual legal problem, but it's not the best look in the world.

Barb:

Well, I agree with that analysis completely, Kim. I think there's not a legal issue here and it's a bad look. Again, Joyce and I, Joyce speak for yourself, come from this world of DOJ, where you are super non-political all the time and you steer clear of all of this stuff. But, of course, we lived in a world where prosecutors aren't elected, so you don't have to engage in political activity and you're forbidden from it, in fact. So I think it's a bad look. It's same deal with Letitia James in New York as the attorney general. I think she says a lot of political things that get her into some hot water, but I don't think it's legally relevant.

Joyce:

But I agree with all of that. And I think one of the things that it does highlight is why DOJ can often be in public corruption cases, the better jurisdiction to handle these sorts of prosecutions. Because one of the luxuries that you have as a U.S. attorney, or as an attorney general, is that you don't have to run for reelection. You're never going to be Letitia James out there being asked if you'll prosecute Trump. So you just don't get into that situation. And that can put you in a better place to prosecute. That doesn't even get into the question of resources and whether we should really dump the responsibility for the future of our democracy onto the shoulders of the district attorney in Fulton County, Georgia.

But really this does all indicate that a federal presence on these issues wouldn't be a terrible thing to have, Merrick Garland. But Kim, let me ask you, in addition to the fake electors issue, Fani Willis has also subpoenaed some witnesses, including Rudy Giuliani and Lindsey Graham. They're both fighting subpoenas. Do you think that they'll have to appear and will she get their testimony?

Kim:

In a word, yes, because we already know that a New York Supreme Court justice ordered Giuliani to appear and give testimony to the Fulton County grand jury per a filing by DA Willis. So I think if that is a tea leaf to read that everybody who received these subpoenas should treat them seriously and should know that trying, they can fight them all they want to, but if they fail to appear, they should call up their buddies, Steve Bannon and see how that might work out and treat this very seriously.

Joyce:

I'm just underwhelmed by this suggestion that somehow speech and debate clause privilege, which lets you say whatever you want to say in the context of doing stuff, at least on the floor in Congress somehow protects you when you make phone calls into a state that you are not a resident of and start talking about fixing the vote. That's just absolute [inaudible 00:57:50].

Kim:

I think this is where you're seeing perhaps the lies that folks in this circle were telling themselves and starting to believe that they have some sort of special privilege because they're in Trump world, maybe it's executive privilege, maybe it's speech and debate, maybe it's attorney client. They just think they have some sort of protection because they're around Trump in time and time again, judges are telling them, no, you really don't. And the consequences for this are real. So I think that's exactly right.

Joyce:

Hey, Barb, how's the timing of everything here influenced by the upcoming election? What approach is Fani Willis going to take? And do you think it's the right one?

Barb:

Well, the judge here has said he doesn't want any October surprises. I think what she has said is that she's going to conduct her investigation and try to get that part of it done before election time in Georgia. And then she'll go quiet for a bit because the dynamic of this is this special grand jury does not have the power to charge. It only has the power to investigate and issue a report. I think she wants to conclude that investigation and then see what they recommend. If they recommend a charge, she can do that right after the election. So that seems like a sound approach to me. Kim, you may notice that I am wearing, right now, my Detroit Tigers pair I wear, they are a wonderful bit of self expression, I find, do you have Pair Eyewear like me?

Kim:

I do have Pair Eyewear, but I have to... Mad respect to your Detroit Tigers from a family of Tigers fans. I feel very honored that you're wearing those. I do have some as well. I have some fun, different colors that I can use to switch up my look, to match my outfit. And if you are a unique mashup of all your favorite things, and of course you are, there's a multitude of ways to express yourself. So celebrate all that you are and explore who you can be with customizable prescription glasses from Pair Eyewear. You can change up your look in a snap and Pair Eyewear's base frame and magnetic top frame. The combination makes it easy to switch up your style. Base frame start at just \$60, including prescription lenses with hundreds of top frame designs to match any base frame you choose.

Barb:

Kim, that was really good. I've been trying to crack you up by taking my [inaudible 01:00:22] magnetic cover on and off, but you're such a pro. You just went right through it.

Joyce:

Change your glasses like you change your clothes. Get started by choosing your base frame with options from the square to the cat eye. Each and every frame comes in six different colorways, including classic black to the remix blue tortoise. Just pick your favorites and build a collection to match your personality. If you want more than just an illusion of choice, pair eyewear has forged their own way and designs all

their looks in house so you get high quality eyewear at a fraction of the price. And for every pair purchased, Pair provides glasses and vision care for children around the world.

Barb:

Get glasses as unique as you are. One pair, infinite styles starting at just \$60. You could have Detroit Tigers eyeglasses like me and even [inaudible 01:01:12] eyeglasses like these fabulous ones.

Kim:

I wish you guys could see the fashion show that Barb is putting on for us right now. It's fabulous.

Barb:

Go, go to paireyewear.com/sisters for 15% off your first purchase. That's 15% off at P-A-I-R-eyewear.com/sisters, or look for the link in our show notes.

Kim:

And now we have come to what really is our favorite part of the show, which is answering some of our listener questions. If you have a question for us, please email us at sistersinlaw@politicon.com or tweet using #SistersInLaw. And if we don't get to your question during the show, keep an eye on our Twitter feeds throughout the week. We jump on Twitter and answer as many questions as we can when we can.

So our first question today is from Anne, who asks, "Can you please discuss target letters, specifically, it seems that high profile people, or perhaps people in the universe of high profile people get warned that they quote might get indicted. That a DA is looking closely at their actions." Okay former DAs, what? What's a target letter?

Barb:

First of all, we weren't DAs. We were us attorneys, but people mispronounced it all the time choice. How many times did you get introduced as like, "And now the U.S. district attorney general." They don't know, nobody knows what yet.

Joyce:

All the time, right? I would get that. And I would also get introduced and I still get introduced as Judge Vance, because my husband is a judge. So I just learned to let it go.

Barb:

You just go with it, right? You just go.

Kim:

I met former prosecutor. It's all the same.

Barb:

I know.

Kim:

Come on. All right, what's target letter?

Joyce:

[inaudible 01:02:58] prosecutor you've seen them all.

Barb:

Well, I'll take a stab at that. So a target letter is typically sent to someone who is going to be a witness to the grand jury and they are notified that they are a target so that they know that they might want to assert their fifth amendment rights against self-incrimination. I didn't issue many target letters because as we discussed, DOJ typically does not call targets before the grand jury. What I did issue far more frequently was a non-target letter because a witness would get a subpoena and the lawyer would call and say, "Is my client a target?" And I'd say, "No." Like, "Can you send me a letter that says that?" We'd say, "At this time, your client is not a target." And that usually gave them the comfort they needed to come in.

But I think it is a fair point that it typically comes in white collar cases because those are the kinds of cases where you're likely to be doing this kind of proactive investigation, as opposed to what might be considered a street crime, a violent offense, a drug offense and that sort of thing. I think there is probably a much higher likelihood that someone involved in some kind of white collar offense will end up getting a target letter.

Joyce:

I think that's fair in a reactive case or in a case where you need to stay covert until you indict because you have concerns about violence or safety, you're not issuing target letters. But there's sort of like foreplay for getting a guilty plea, right? If you've got a defendant in a white collar case and you want to open that conversation and maybe convince them to come in and make a [inaudible 01:04:27], then you might give them something called a [inaudible 01:04:30] letter that lets them come in and tell you what their testimony would look like if they were going to cooperate. That just sets you on the road to sounding somebody out, to see if there's a possibility that they could become a cooperating witness instead of a defendant.

Kim:

Wow. I didn't know that question was going to be that sexy, but thank you, Joyce.

Barb:

I'm not comfortable talking about foreplay.

Kim:

All right. Our next question is from Sheila, from Sea Ranch, California, who asked, "What do you think of Liz Cheney?" I'm going to take that to mean what do we think personally, politically? I don't know. Politically, there's probably few things that I agree with Liz Cheney about, if anything. As vice chair of the January 6th committee, I think that she has been amazing in her professionalism, in her thoroughness, in the fact that she... and everyone on the committee, regardless of party of the people who are on the committee have been very laser focused in a way that makes it really hard to impune what they're doing in good faith, anyway. So I think that the job she has done as vice chair of this committee has been exemplary. And I can say that even irrespective of the fact that we probably politically agree on very little. What do you guys think about her?

Joyce:

You know the Venn diagram of stuff, politically that I agree on with Liz Cheney is two circles on opposite ends of the page that don't touch. I don't like her politics. I disagree with them. I think that there sometimes mean spirited, but like you, Kim, I appreciate the work that she's done on the committee. And I was struck by that again yesterday, when she went to bat for these women who are coming forward to testify and who are being abused by people in Trump world. I thought that, that was something important. I was appreciative of that. It looks like Liz Cheney is playing, I'm not sure how to put it. It looks like she's in the driver's seat for the committee. It looks like a lot of the decisions that are substantive are being made by her. So there are some areas where we haven't heard testimony that I would really like to hear.

I would've liked to have heard a very fulsome conversation about how the FBI missed the fact that white supremacists militia groups were going to Mount an attack on the Capitol on January 6th. My guess is that Liz Cheney, who is in a very fierce political battle for her life, doesn't want to do anything to off the police, right? We may not have heard that sort of testimony and that sort of a conversation in ways that I would like to, but I have so much respect for the fact that she has a line that she wouldn't cross and that she stood up and continues to stand up for what she thinks is right in a democracy. And that she was really willing to put her own future,

Her own career in danger for principle, that is something that I have enormous admiration for. And I'm just going to say on a really shallow note, she also has those really great bright blue suits. And if anybody knows where she gets those, I would love to buy a suit in that color.

Barb:

I like the white one too. She wears the white [inaudible 01:07:46].

Joyce:

It looks great, right? I suppose this makes me shallow, but I do sometimes admire the suits I see people wearing.

Barb:

She's a woman of a certain age. She's in our demographic, I suppose.

Joyce:

Absolutely.

Barb:

I agree with you. She is someone I've always actually not liked at all. She is her father's daughter and she has been quite vocal in her opposition to reproductive rights. She at one time was very vocal against same sex marriage, though did change her mind and admit she was wrong. Which I think is also a sign of good character. And I do appreciate that she's leading this effort. How low have we fallen in this country that it's so remarkable that anyone has integrity and will simply say out loud what Trump did is a profoundly anti-democratic, anti-American plot against us this country, but only she and Adam Kinzinger are really willing to call out what happened here. I guess, it has become remarkable in this country. I don't think Pat Cipollone thinks Mike Pence should get a medal for what he did for certifying the election.

I don't think he should get a cookie, let alone a medal. And I kind of have the same view about Liz Cheney. But I will say, I think she has correctly, and whether this is her own idea or one that she's latched onto, she has very astutely recognized that the witnesses, and she herself, carry a great deal of credibility because they are Republicans. Donald Trump wants to frame this as a political witch hunt. That it's all about the crazy radical left wing Democrats who are trying to take him down. And the very fact that she's there as the face of the committee, I also give a lot of credit to Benny Thompson for seating so much of the attention to her. He always does a brief introduction and then he hands it off to her because I think he recognizes the symbolic value of having a Republican, be the vocal leader of this group.

And she does really come across as that leader. And she's had some really effective speeches. I don't know whether she's writing them herself or [inaudible 01:09:50] he's writing him for her. But she talked about how Donald Trump will be gone one day, but your dishonor will remain. Some really powerful stuff. And she is now lagging in polling in her own district. She is the one and only member of Congress in Wyoming and she's down 20 points. She is most likely going to lose her election over this.

But I think she'll be back. I think she'll be back on the national scene. I think if she wants it, she could be a candidate for president. So before we go, deifying her for her moment of political courage, there may be some long term benefit for her as well. But at this moment, I do admire her for taking this difficult leadership responsibility.

Joyce:

She did something last night, Barb, that you just reminded me of that I thought signified both her interest in having a future career, but also her commitment to the country. We've talked a little bit on the podcast about how important it is to create a path back for people who became Trump supporters. You can't just cut them off, right? Last night she said to them, she spoke very deliberately to them, I thought at the end and said, "Trump is preying on your patriotism." And she said, "We cannot abandon the truth and remain a free country." It was like she was saying, come home, come home to the Republican Party [inaudible 01:11:07]. Absolutely. And it was well done. And in the moment I thought, wow, that's great. I'm glad she's doing it. And, damn she's running for president.

Kim:

And our third question today comes from Gina L. Jones three, who asks, "Why will the sentencing for the Parkland shooter take a month or close to it?"

Barb:

I'll take a stab at that. I don't know all the reasons, but I imagine that there are a couple of factors that will take that long. One is, all of the victims have an opportunity for what's called elocution. We will hear about all of the people who lost their lives. I think there are 16 people who died,. Their families are going to get up and talk about who they were and how it has affected their families to have these losses. I imagine even people beyond those who were killed will have victim statements that they want to make people who were traumatized by what they saw that day. So that takes a long time.

The other thing is the defendant has a right to, was referred to as mitigation evidence. It's all admissible. So if it was a troubled childhood, if there were addiction issues, if he was ever beaten, IQ issues, trouble in school, all of it is relevant and it should be, right? It's a matter of life and death. And this jury needs to know everything about the good and the bad. They have to find aggravating

circumstances and also consider whether there are any mitigating circumstances as they decide whether to impose death.

Kim:

Thank you all for listening to #SistersInLaw with Joyce Vance, Barb McQuade, and me, Kimberly Atkins Stohr. Jill will be back soon. You can send in your questions by email to sistersinlaw@politicon.com or tweet them for next week's show, using #SistersInLaw and go to politicon.com/merch to buy our pale blue tea hoodie and all the other goodies that are offered there. And please support this week's sponsors, Blueland, Hello Fresh, Honey, and Pair Eyewear. You can find their links in the show notes. Support them because they really help make this show happen. And to keep up with us every week, follow #SistersInLaw on Apple Podcasts or wherever you listen. And don't forget to give us a five star review. It really helps other people find us. See you next week with another episode, #SistersInLaw.

Joyce:

Y'all were going to have to put baby chicks in the merch shop. We've got-

Kim:

Oh my God.

Joyce:

So [inaudible 01:13:39] many baby chicks.

Barb:

How many do you have?

Joyce:

It's unbelievable. So-

Barb:

Too many to count?

Joyce:

... I think at last count we have 13. [inaudible 01:13:46] what happened was I was up in New York back to back weeks for the January 6th hearings. And then we were in Portugal. I told the boys, "Make sure you bring in the eggs every day." And they did from one coop, but not the other. And the chickens just went broody while we were gone and started sitting on them. [inaudible 01:14:04]. And the first thing that I knew was our youngest kid, our 19 year old comes in one morning and he says, "Mom, there's a chick in the coop." And I'm thinking, surely not. And I go running down [inaudible 01:14:14].

It's not like they all hatched in the space of 24 hours because it was a planned clutch. It's just every day. You just don't know what fresh hell is waiting for you. But they're so cute. Oh my God, they're adorable. I wish I could keep them all, but I can't.

Barb:

I think we need to put them up on the merch shop [inaudible 01:14:33].

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Joyce:

#SistersInLawAndChick. Oh my God. What am I going to do? I think Bob is going to have to build a new coop this weekend.