Transcript Getting a Bill Through Congress Pt. 1

Announcer: Welcome to Civil Discourse. This podcast will use government documents to illuminate the workings of the American government and offer context around the effects of government agencies in your everyday life. And now your hosts, Nia Rodgers, public affairs librarian, and Dr. John Aughenbaugh, political science professor.

J. Aughenbaugh: So previously, we were talking about the Paperwork Reduction Act and Nia's concern that I'm going to ruin her childhood memories of Schoolhouse Rock!'s "I'm Just a Bill." And the-

N. Rodgers: It's such a cool song. I don't know how you can't just love it completely except that you're a constitutionalist and a political science guy.

J. Aughenbaugh: No, no, no, no, no, no, no, no. Hey I mean, you know-

N. Rodgers: And you-

J. Aughenbaugh: Wait a minute. I play the video every semester in my Intro to U.S. Government class.

N. Rodgers: Oh good.

J. Aughenbaugh: I sing along to the lyrics.

N. Rodgers: Oh good.

J. Aughenbaugh: I know it that well, right? Then I-

N. Rodgers: Do you also sing the preamble?

J. Aughenbaugh: Yes, I know how to sing that. And, by the way, I also play the Saturday Night Live version of "I'm Just a Bill." It's decidedly, shall we say, less optimistic.

N. Rodgers: I've not heard that one. I probably shouldn't hear that one because I want to believe in the Pollyanna belief that it's a civilized process. Okay, so when we last left off-

J. Aughenbaugh: We just got done talking about how a senate committee has reported out a bill positively. I.e. there was a vote and the bill was approved. So then you get to the point of the vote within the Senate as a collective body. And we
were at the point where the senate majority leader has almost unilateral discretion to decide when a bill is going to get a vote by the senate body as a whole.

N. Rodgers: But if the bill was got out of committee, if it was a yes out of committee, it's going to be voted on eventually, right?

J. Aughenbaugh: Sure, Mm-hmm (affirmative).

N. Rodgers: Because, at that point, killing it is a no-go.

J. Aughenbaugh: Yeah. Because the only way you can kill it after it's been positively reported out of a senate committee is to reject it on the senate floor.

N. Rodgers: Okay.

J. Aughenbaugh: Yeah.

N. Rodgers: So once it makes it out of committee, woo hoo, we're...

J. Aughenbaugh: We're feeling good.

N. Rodgers: We're feeling good.

J. Aughenbaugh: Yes.

N. Rodgers: Until...

J. Aughenbaugh: Okay.

N. Rodgers: Until, I'm sure, something terrible happens.

J. Aughenbaugh: Well, I mean-

N. Rodgers: But-

J. Aughenbaugh: Yeah.

N. Rodgers: But for now, so it is in the form of the bill for the Senate and that's different than what happens in the House, right? So now, it's approved by the Senate. Let's say that the majority leader's like, "I don't care. Let's just bring it up now. It's fine. It doesn't hurt my agenda. It doesn't do anything-"
J. Aughenbaugh: "It doesn't hurt my party," etc., etc.

N. Rodgers: "I'm fine with it." Or if it's from a member of their party and they really like it, maybe they're saying, "This is great. Let's run with this as quickly as possible." However that works.

N. Rodgers: So Mitch McConnell loves my bill. Loves my bill. And decides that he's going to bring a floor vote. What happens? Does everybody have to be there?

J. Aughenbaugh: Well, the senate majority leader can consult with the senate minority leader, the leader of the minority party. Some bills are symbolic. They're resolutions, right? So you know-

N. Rodgers: We resolved it. Aughie, is a spiffy, spiffy person.

J. Aughenbaugh: Spiffy, spiffy person, yes. Or as my daughter likes to say, "Daddy, you're tres chic," okay? So let's say that there's a resolution that says that, right?

N. Rodgers: I want to see that desperately. I now need to run for office. Aughie is tres chic.

J. Aughenbaugh: And I would rather die. So those can occur with a voice vote, okay?

N. Rodgers: So are those things like we resolve that-

J. Aughenbaugh: This month is national maple syrup month, okay?

N. Rodgers: Okay. And as long as it doesn't involve trade barriers with Canada-

J. Aughenbaugh: Who cares, right?

N. Rodgers: Then we can just resolve that and everything's fine.

J. Aughenbaugh: Yeah, yeah.

N. Rodgers: Okay.

J. Aughenbaugh: But on your more substantive bills, you're going to have to be on the floor, okay? You're going to have to be there so that when-

N. Rodgers: So I'm going to have to be there.
J. Aughenbaugh: Yeah, you're going to have to be there.

N. Rodgers: Okay. Am I talking about it? Am I trying to shmooze people? Am I-

J. Aughenbaugh: Well, that's the thing.

N. Rodgers: Or am I angrily addressing the public?


N. Rodgers: Okay.

J. Aughenbaugh: Okay. So this is the Senate.

N. Rodgers: I need to know what earrings to wear.

J. Aughenbaugh: Okay. Before you even worry about your appearance, think about this, the Senate has historically loved to proclaim that it is the most deliberative, democratic body in the world. In the Senate, when a bill comes up for a vote, they have what's known as unlimited debate, okay? Unlimited debate.

N. Rodgers: Okay.

J. Aughenbaugh: So we know this by a piece of jargon, if you will, it's known as the filibuster, right?

N. Rodgers: Uh-huh.

J. Aughenbaugh: So let's say your party doesn't like the bill that's up for a vote.

N. Rodgers: No, no. It's my bill.

J. Aughenbaugh: Okay. But hold on, okay?

N. Rodgers: Okay, fine.

J. Aughenbaugh: For whatever reason, there's a whole bunch of senators who don't like paperwork reduction.

N. Rodgers: Okay, well, fie on them but okay.
J. Aughenbaugh: Okay. What they can do is filibuster, which means they just talk and talk and talk and talk.

N. Rodgers: Not unlike this podcast.

J. Aughenbaugh: Yeah. Kind of, sort of like this podcast. Actually-

N. Rodgers: Except they might be reading recipes. They might be-

J. Aughenbaugh: Yes. Now, the myth around the filibuster is much grander than its actual use.

N. Rodgers: You can't sit down. You can't ever relax. Is that really true?

J. Aughenbaugh: Well, I mean, once you get, let's say the speaker... or not the speaker. The senate majority leader recognizes you to, you know, "The junior senator from Virginia, the floor is yours." Okay, you get up to speak. Now, the Senate follows Robert's Rules of Order. So you can continue to go ahead and speak as long as you want.

N. Rodgers: And not necessarily on this topic.

J. Aughenbaugh: That's right.

N. Rodgers: I could just talk about anything.

J. Aughenbaugh: You could talk about anything. So-

N. Rodgers: Can I sing? I mean, does it have to be speaking?

J. Aughenbaugh: Well, I mean,, not necessarily. Though, you know-

N. Rodgers: I mean, I wouldn't sing in public because-

J. Aughenbaugh: [crosstalk 00:07:04] but somebody could go ahead and say-

N. Rodgers: I'd want people to respect me afterwards.

J. Aughenbaugh: Yeah. But, I mean, when was it? Ted Cruz, a few years ago, and I can't remember the bill that he didn't want the Senate to vote on, read his kids' favorite Dr. Seuss books. I think Green Eggs and Ham was one of them, right? You've had other senators read names out of the Washington D.C. phone book when we still had phone books.
N. Rodgers: That would be incredibly boring. And so are they running out time?

J. Aughenbaugh: Yeah because-


J. Aughenbaugh: The purpose of the filibuster is the minority party wants the majority to not take the vote. They want the majority party to further negotiate about the bill. So that's one of the things that a filibuster can force the majority party to actually negotiate to accept amendments to the bill.

J. Aughenbaugh: Now, when the bill is still in committee, the minority party or the party that doesn't like the bill will try to amend it before it gets voted on. But, again, the committee chair can go ahead and say, "We're not taking any amendments," and you're pretty much screwed, right? So your next opportunity to change the form of the bill is when it gets to the floor.

N. Rodgers: Now, wait. I forgot to ask you something and I think this is important. So when the bill comes to the floor, who reads it? Do I read it because I'm the-

J. Aughenbaugh: No, the clerk.

N. Rodgers: ... sponsor of the bill?

J. Aughenbaugh: No.

N. Rodgers: Okay. So the clerk reads the bill.


N. Rodgers: Do they read the whole thing? Because holy cow, some bills are 1,000 pages. I mean, some bills are huge.

J. Aughenbaugh: Well, if the committee chair or the sponsor of the bill is willing, an executive summary or the intro can be read, okay?

N. Rodgers: Okay.

J. Aughenbaugh: Once the bill gets read by the clerk, then amendments can be offered. And, again, the senate majority leader has quite a bit of discretion on whether or not particular amendments will be accepted. And then you got to vote on them.
N. Rodgers: On the amendment before you vote on the full thing?

J. Aughenbaugh: That's right.

N. Rodgers: So let's say that this one comes up for discussion, this paper reduction act and somebody somewhere wants, oh, I don't know, a pipeline, an oil pipeline in their state. So they could bring that up. It's doesn't have to be related to this bill, right? They could bring up any kind of amendment and say, "I want this amendment... I want to attach this to this bill."

J. Aughenbaugh: Yeah. You see that a lot with appropriations bills.

N. Rodgers: Okay.

J. Aughenbaugh: Yeah.

N. Rodgers: So-

J. Aughenbaugh: Because-

N. Rodgers: "And by the way, I want this thing for my district."

J. Aughenbaugh: Yeah. Because with appropriations bills, I mean, basically-

N. Rodgers: You're spending money anyway.

J. Aughenbaugh: Yeah. All members of Congress want something in the appropriations bill. Thus, the derisive label "pork," right?

N. Rodgers: Right. Pork barrel, which is... Aren't there laws against that now?

J. Aughenbaugh: There are laws against earmarks, okay?

N. Rodgers: Oh.

J. Aughenbaugh: Okay? Where you specifically designate that money will be spent by the executive branch in your district or state.

N. Rodgers: Okay, so you can say, "I want a pipeline." But you can't say, "I want a pipeline in the city of Richmond."

J. Aughenbaugh: Richmond. Yes. On the other hand, the House of Representatives, about two weeks ago, passed a public lands bill that was noteworthy because it
got support from both Democrats and Republicans and one of the reasons why it did is it had goodies for everybody, right? In fact, the projection is it's going to fly through the Senate and even the president is going to sign it because everybody's getting something in it, right?

N. Rodgers: But that's a good thing, right? Because you've compromised-


N. Rodgers: ... to the point where everybody's getting something they can live with and everybody's having to live it with something they don't like.

J. Aughenbaugh: Yeah. Environmentalists are getting thousands of acres of federal land that will now be off-limits to development. But you've got ranchers and sportspeople and others who are getting land so they can do their activities. You got states who are getting national monuments out of it which, I mean, folks don't recognize it but in terms of economic development, a national monument is become... There are people who spend all summer going to national monuments. That's-

N. Rodgers: Oh, my dad did that when we were kids. He would take us, "Look kids, it's the fill-in-the-blank thing."

J. Aughenbaugh: It's tourism.

N. Rodgers: And we would stop and look and-

J. Aughenbaugh: Yeah, it's tourism.

N. Rodgers: And then I'm sure buy hot dogs or whatever because that's what happens.

J. Aughenbaugh: Yeah. You spend the night and the next... okay, but-

N. Rodgers: Sure. That's one of the great things about the national parks too is that they draw a lot of people which helps to preserve them because those people help pay for the end result which is that you theoretically don't have people cutting down... I know bitterness during the shutdown but-

J. Aughenbaugh: Okay. So the bill's on the floor, right?

N. Rodgers: Okay.
J. Aughenbaugh: Amendments can be offered. That's one of the ways you can go ahead and slow down a vote on a bill, particularly if you don't like it. But let's say that-

N. Rodgers: Can you put in frivolous amendments?

J. Aughenbaugh: You can try but, again, the senate majority leader can go ahead and say-

N. Rodgers: "We won't consider that."

J. Aughenbaugh: "That's not germane to this bill."

N. Rodgers: Oh, okay.

J. Aughenbaugh: Okay? Again, the majority leader has a whole bunch of authority here.

N. Rodgers: Oh, okay.

J. Aughenbaugh: Right?

N. Rodgers: It's good to be the leader.

J. Aughenbaugh: It's good to be the senate majority leader and the other-

N. Rodgers: And it's good to be the Speaker of the House.

J. Aughenbaugh: Speaker of the House, right?

N. Rodgers: Okay.

J. Aughenbaugh: But then-

N. Rodgers: Hence why the job turnover in that is so controversial sometimes because those are positions of incredible power. And in terms of the speaker, they're third in line for the presidency.

J. Aughenbaugh: For the presidency. So the last tactic that you have as the party who may not like a proposed bill is the debate, is the filibuster, right? Now, by senate rule, debate ends with a 60-member majority, okay? So, you know-

N. Rodgers: Oh.

J. Aughenbaugh: Yes. Okay? So it's a super majority-
N. Rodgers: So your talking will only work until the senate majority leader gets 60 people to basically tell you to shut up so they can take a vote.

J. Aughenbaugh: Yeah. So the threat of the filibuster is usually good enough because typically, neither party has-

N. Rodgers: Hard to get 60.

J. Aughenbaugh: ... has 60 votes, right?

N. Rodgers: Oh, okay.

J. Aughenbaugh: The last time any party had 60 votes was the Democratic party the first year of the Obama administration, but that was before Ted Kennedy died. Ted Kennedy died and then Massachusetts elected Scott Brown. So they had 59 votes to 41 Republican votes. So that was one of the reasons why there was a big rush in getting the Affordable Care Act approved in both the House and the Senate, was that they were afraid-

N. Rodgers: They were going to lose their-

J. Aughenbaugh: ... they wouldn't be able to stop debate.

N. Rodgers: So is that what's known as a filibuster-proof majority?

J. Aughenbaugh: That's right.

N. Rodgers: Right, okay. So it's a good thing if you can get it but it's pretty hard to come by?

J. Aughenbaugh: It's pretty hard to come by.

N. Rodgers: And these days, I would assume, less and less easy to come by.

J. Aughenbaugh: Yeah. Because otherwise, then you have to pick off some members-

N. Rodgers: Of the opposite party.

J. Aughenbaugh: Yeah. Of the minority party, right?

N. Rodgers: And-
J. Aughenbaugh: And the number of moderates in either political party who might be willing to go ahead and, on a particular bill, switch sides is shrinking.

N. Rodgers: Right. It's like Susan Collins, I think, at this point in the Senate.

J. Aughenbaugh: Well, that's on the Republican side. On the Democratic side, it's Joe Manchin from West Virginia. And that's basically about it because, what's her name? Heidi [Klumper 00:15:15] from North Dakota and Joe Donnelly from Indiana, who were moderates, both lost the reelection so-

N. Rodgers: Which is a podcast for another day because the partisanship with which politics has taken is extremely unfortunate-

J. Aughenbaugh: Unfortunate, yeah.

N. Rodgers: ... for getting anything done. It's not wrong, I think, for people to believe strongly in something. I think that's great. If you want to believe strongly in something, that's wonderful. But I think when it ceases to function because everybody has chosen a polemic that can't... there's no in-between.


N. Rodgers: Right. Then what do you do? I mean, how does anything get done at that point? So I think that's probably frustrating not just for me but probably for a lot of people who look at the federal government and say, "It's not working." And the reality is it is working because of the 3 million people who work for the federal government, 535 of them work for Congress. I mean, work in the Congress.

J. Aughenbaugh: Congress, yeah.

N. Rodgers: And one of them is in the office, the Oval Office. So that tiny group of people, relatively speaking, that are dysfunctional, are... or can be dysfunctional. I shouldn't say "are dysfunctional." Can be dysfunctional, working-together-wise; I don't know what they are like personally. That's a small minority of what the federal government does but they drive a lot of the policy and a lot of the issues.

J. Aughenbaugh: Yeah. I mean, one of the ways to think about this is that we have a structure that requires compromise for stuff to get done. It's not a system... I mean, we have two houses of congress. If they agree, then you have to
convince the president to sign it. It's not a system created for efficiency because there's a lot of different ways that a proposed bill can be stopped.

J. Aughenbaugh: I mean, just think about part one of this podcast. Now, we're in part two. In part one, a proposed bill could be stopped at the committee level. In part two, we're talking about, okay, let's say it does get through the Senate, right? Let's say the minority party-

N. Rodgers: Gets enough amendments.


N. Rodgers: They're like, "Okay, fine. We'll- "

J. Aughenbaugh: Okay. The Senate approves the bill but then it's got to go to the House, right?

N. Rodgers: Why?

J. Aughenbaugh: Okay. Because we have, in our constitution... It's a two-step, if you will, how a bill becomes a law, right? The first step is what's known as bicameralism. Both houses of congress have to approve. So in Schoolhouse Rock!, "I'm Just a Bill," it gets through one house and then it has to go to the other house of congress. Now, let's say-

N. Rodgers: Which is a good thing.

J. Aughenbaugh: It's a good thing because, again-

N. Rodgers: Because, again, you're talking about that-

J. Aughenbaugh: You're making sure that the authority of the government has been vetted through this elaborate process, okay? I mean, because some of these bills, I mean, we're using as an example for this podcast the Paperwork Reduction Act and many of you are like, "Well, that's not going to change my life at all." Okay. We could make the argument it will but let's just say-

N. Rodgers: We could make the argument, "It has in many ways that you don't even know."

J. Aughenbaugh: Has in many ways that you don't even know. But let's just think about this. If you're talking about a bill like the Affordable Care Act which had the potential of reforming one of the largest industries in the United States in
addition to affecting what some people would argue is a basic human right, we're going to want to make damn sure that before the government does all this alteration, if you will, that it's thought about this, right? That the people's representatives have thought about this; that the industries affected have had a chance to weigh in; that the experts will go ahead and say, "This is a good thing," or, "This is a bad thing"; that the people, in regards to either the Congressional Budget Office on the legislative side or the Office of Management Budget on the executive side, say, "Okay, this is how much money we're going to spend for this particular benefit," okay? So in many ways, that's the structure-

N. Rodgers: It's transparency and responsibility and accountability.

J. Aughenbaugh: So that's the structure. But Nia, to your point, if you're going to get things done, you're going to have to compromise. And that's where, I think for many of us, the hyperpartisanship now where the people in the Congress don't seem to like each other... I mean, it's more than just they have different policy preferences or different principles. They just don't even seem to like each other. I mean, they don't even want to compromise. They don't even want to work together.

J. Aughenbaugh: Okay, so the Senate passes the bill. Then it goes to the House, right? Now, the House may have also been considering a paperwork reduction bill.

N. Rodgers: Are they commonly introduced in house and senate meetings? Somebody from the Senate, like I would go over to a house person from Virginia, a congressperson from Virginia, and say, "Hey, could you get this ball rolling in your house?"

J. Aughenbaugh: Yeah. The thought process is, "If we fail in one house, if it gets approved in the other, we've increased the likelihood that we might get legislation," okay?

N. Rodgers: Oh, okay. Okay. So hedging your bets.

J. Aughenbaugh: Yeah, you hedge your bets, right? Let's say the House goes through its process which is, in some ways, very similar to the Senate. Let's say I am a representative from Virginia. Nia, as the junior senator from Virginia, you say to me, "Hey, would you cosponsor this bill? We'll get it introduced in the Senate. Aughie, you get it introduced in the House."
J. Aughenbaugh: I do this. The clerk of the house gives it a number. The rules committee in the House of Representatives decides which committee will deliberate on and report on this paperwork reduction bill.

N. Rodgers: Not the speaker.

J. Aughenbaugh: Not the speaker. But let’s be very clear, the members of the rules committee are picked by the speaker.

N. Rodgers: And if you cross the speaker, you would be sad.

J. Aughenbaugh: Yeah, right.

N. Rodgers: You would be sad very quickly.

J. Aughenbaugh: Quickly. Right. Okay. The committee in the House does what we described in the first part of this podcast.

N. Rodgers: They either table or don't table.

J. Aughenbaugh: They table or they research it. They have hearings, okay?

N. Rodgers: And then they vote it out of...

J. Aughenbaugh: Out of the committee. Let's say it gets voted out of the committee.

N. Rodgers: On a yes.

J. Aughenbaugh: Yes. Okay. But the version is somewhat different and the House-

N. Rodgers: It's only kind of reduction.

J. Aughenbaugh: Reduction, yeah.

N. Rodgers: So it's a 50% reduction-

J. Aughenbaugh: It's a reduction.

N. Rodgers: ... as opposed to-

J. Aughenbaugh: The senate version which was-

N. Rodgers: 100% reduction.
J. Aughenbaugh: Yeah. Let's just stop printing reports, right?

N. Rodgers: No more reports ever. No more paperwork ever.

J. Aughenbaugh: Ever, right?

N. Rodgers: You just pay me some money and I give you some stuff.

J. Aughenbaugh: So the House approves this version which is slightly different than the senate version. Well, with the hypothetical we described-

N. Rodgers: It's radically different.

J. Aughenbaugh: Different.

N. Rodgers: But they're probably not usually written quite that far apart.

J. Aughenbaugh: Written quite that, yeah, apart, okay?

N. Rodgers: Okay.

J. Aughenbaugh: At that point, to iron out the differences, the United States Congress creates what's known as a conference committee. You all have representation from the House, both the majority and the minority party.

N. Rodgers: Do the majority and minority leaders-

J. Aughenbaugh: Pick.

N. Rodgers: Pick? Okay. So Nancy Pelosi would pick for the Democrats but the minority leader in the House would pick for which-

J. Aughenbaugh: Yeah. What's his name?

N. Rodgers: I can't remember...

J. Aughenbaugh: Kevin McCarthy?

N. Rodgers: Kevin McCarthy. Would pick his however many people he wants to send. Do they send equal numbers?

J. Aughenbaugh: No. The majority party always sends more.
N. Rodgers: Oh, really?

J. Aughenbaugh: That's-

N. Rodgers: It's good to be in the majority as we are finding out.

J. Aughenbaugh: I tell students this all the time. If you want to know why you should pay... If you're really interested in partisan politics, if you want to know why you should stay up late and pay attention to some house or senate election in like-

N. Rodgers: California.

J. Aughenbaugh: Arizona.

N. Rodgers: After we've all gone to bed.

J. Aughenbaugh: Or New Mexico, it's because it might help determine whether or not your party's in the majority in either house of congress. They're like, "Do you actually stay up for that stuff?" I said, "Of course, I do," right? Because-

N. Rodgers: You and Steve Kornacki. You're the only people. You've got a wall. He's got a wall.

J. Aughenbaugh: Got a wall, yeah.

N. Rodgers: You're both counting.

J. Aughenbaugh: Yeah. He's out on his white board and there I am with my legal pad. I'm like, "Okay, this is where we're at," right? So you create this conference committee and they try to iron out the differences. And let's suppose that they do iron out the differences. Then the-

N. Rodgers: Do they have an option of not ironing out the-

J. Aughenbaugh: Yes.

N. Rodgers: Can they just say-

J. Aughenbaugh: Yes. "We can't come to agreement."

N. Rodgers: "That's it. We're done." Like a hung jury sort of. They'd be like, "No, no, that's not happening."
J. Aughenbaugh: Yep. "It ain't- "

N. Rodgers: And then it dies there.

J. Aughenbaugh: It dies right there.

N. Rodgers: ...

J. Aughenbaugh: Yes.

N. Rodgers: After all that.

J. Aughenbaugh: That work, yes.


J. Aughenbaugh: Well, it gets even worse.

N. Rodgers: Oh, do tell.

J. Aughenbaugh: Okay. So let's say they iron out the differences. So the revised bill then gets sent back to both houses of congress which have to approve it again.

N. Rodgers: No.

J. Aughenbaugh: Yes.

N. Rodgers: No, I can't go through this again. How do these people manage to not have a heart attack every other day?

J. Aughenbaugh: Lose hope?

N. Rodgers: Right. I mean, how do they manage not to do that.

J. Aughenbaugh: Become substance-abusers?

N. Rodgers: Goodness. Yeah. No wonder. I mean, no wonder there's such stress to work in Congress in some ways because I thought we were free and clear and now we have to bring this back. And so I assume that it goes through the same process, meaning it could be tabled again. It could be-

J. Aughenbaugh: No, no, no, no, no.
N. Rodgers: Or does it go to a straight floor vote?

J. Aughenbaugh: It just goes straight to the floor vote, yeah.

N. Rodgers: But you still have to get everybody to revote again with a majority in both houses?

J. Aughenbaugh: Both houses. And again, where it's going to take longer is the Senate simply because the Senate has the potential of the filibuster, right? I mean, unlike the House, where the Speaker of the House can go ahead and say, "We're only spending an afternoon debating this." In the Senate, the senate majority leader could hope but it could stretch on for weeks.

N. Rodgers: Really?

J. Aughenbaugh: Yeah.

N. Rodgers: Okay. So and he, he or she, cannot bring that to a swift end.

J. Aughenbaugh: Well, they-

N. Rodgers: I mean, they can with 60 or with a majority but beyond a majority-

J. Aughenbaugh: They can vote for a... It's called cloture, okay? It's a cloture vote, closing vote, okay?

N. Rodgers: Oh.

J. Aughenbaugh: We're closing debate, right?

N. Rodgers: So they can say, "We want to cloture vote. We want to stop talking about this." And the people who don't want to stop talking about this-

J. Aughenbaugh: Vote against.

N. Rodgers: If there's sufficient numbers, can keep you from not talking about this anymore.

J. Aughenbaugh: Yes, yep.

N. Rodgers: Wow. That was a whole bunch of double negatives but I think people know what I mean.
J. Aughenbaugh: Okay. But let's just say, hypothetically, both the House and the Senate now approved-

N. Rodgers: Wait. I have a question about cloture. Do you have to vote for cloture every time or only when there's a filibuster?

J. Aughenbaugh: Well, I mean if you-

N. Rodgers: Do you know what I mean? Like-

J. Aughenbaugh: I mean, no. If you want to end debate on a proposed-

N. Rodgers: No matter what. Like even if it's not really filibuster but people are just talking it to death and you're just tired of it.

J. Aughenbaugh: Yeah.

N. Rodgers: You can call for that?

J. Aughenbaugh: Yeah, you'd call the vote.

N. Rodgers: Can any member of the Senate call for that?

J. Aughenbaugh: Sure.

N. Rodgers: Or does it have to be the-

J. Aughenbaugh: No.

N. Rodgers: Really?

J. Aughenbaugh: Yeah.

N. Rodgers: So the junior senator from Virginia who's pretty darned annoyed at having to go through this again, as soon as somebody stands up and starts going... can I interrupt them or do I have to wait for them to finish?

J. Aughenbaugh: No, you can interrupt them because, according to Robert's Rules, once you had a first reading and a second reading, and, by the way, the first reading is perfunctory. You just-

N. Rodgers: A bill to do some stuff. Go.
J. Aughenbaugh: Okay. "This has all been sent to your chambers. Did you read it? We assumed you have." That's the first reading.

J. Aughenbaugh: Now, we're at the second reading, okay? And according to Robert's Rules, once you're at the second reading... Now, again, if you want to have the reputation of not playing well with others in the sandbox, you'd call the vote while somebody's talking, right? I mean, think about the meetings you've been at on this campus.

N. Rodgers: Oh, that's true. "Are you done yet?" Oh my goodness, that would be the end of that. That would mean me not being on any more committees or perhaps not being employed anymore.

J. Aughenbaugh: Employed anymore, right, okay? I don't know how many faculties meetings where I've been like, "Do I call the vote? Man, they already hate me." But let's just assume you get the votes and they're positive, okay? Both the House and the Senate have approved.

N. Rodgers: Woo hoo! I have a bill.

J. Aughenbaugh: Okay. You have a-

N. Rodgers: I'm done. I have a bill. I have a law.

J. Aughenbaugh: Now, the part where-

N. Rodgers: Except not.

J. Aughenbaugh: Well, it goes to the president. And the Schoolhouse Rock! video is actually pretty accurate in this regard. It goes to the president. Basically, the president has a number of choices. We think that the president only really has two choices.

N. Rodgers: Sign or veto.

J. Aughenbaugh: Sign or veto. There's a thing called a pocket veto.

N. Rodgers: ...

J. Aughenbaugh: And it's basically-

N. Rodgers: No, you cannot put this in your pocket.
J. Aughenbaugh: Okay. Basically, if Congress passes a bill within the last 10 days of a session, and, by the way, Congress, like college students, like college professors, oftentimes wait until the last moment to do stuff, right?

N. Rodgers: Oh, hey, this is due tomorrow. I should get started.

J. Aughenbaugh: Right? But if Congress passes a bill within the last 10 days of congressional session, the president can just sit on it and by doing nothing, the bill is vetoed. It's called a pocket veto. It's as though the president stuck the bill in his pocket and-

N. Rodgers: And then went to play golf.

J. Aughenbaugh: Went to play golf.

N. Rodgers: Because a lot of presidents do that apparently.

J. Aughenbaugh: Yes, they do.

N. Rodgers: Golf is their sport. Seems to be a presidential sport. I don't know what that's about.

J. Aughenbaugh: Who's the last president... What was it? Reagan didn't play a lot of golf. Carter didn't play golf.

N. Rodgers: Oh, okay.

J. Aughenbaugh: Yeah. Carter didn't like really-

N. Rodgers: Well, President Ford was a football player, I think, in college.

J. Aughenbaugh: Yeah. Well, he liked to play golf.

N. Rodgers: Oh, did he?

J. Aughenbaugh: Yeah. Actually, he always participated in, it used to be known as the Bob Hope Celebrity Pro-Am Tournament in California. And Ford was known to occasionally hit wayward shots. Of course, President Ford also sometimes would fall down steps but nevertheless... Yeah, Reagan was probably the-

N. Rodgers: Although he wasn't as bad as Chevy Chase makes him out to be.
J. Aughenbaugh: That's correct.

N. Rodgers: I mean, come on. Saturday Night Live did run a little bit hard core with that.

J. Aughenbaugh: Core. Yeah, right? Reagan didn't play golf. Reagan liked to go to his ranch out in California and chop wood and stuff, okay?

N. Rodgers: Oh, and President Bush-

J. Aughenbaugh: Oh, both of the Bushes played golf. In fact-

N. Rodgers: Oh, really?

J. Aughenbaugh: Oh, in fact, Bush One liked to play a round of golf in less than two hours.

N. Rodgers: Wow.

J. Aughenbaugh: No messing around.

N. Rodgers: Wow, goodness. That is not taking the leisurely route that most golfers take of, "I'm going to just wander and sort of chill and it's going to be fun. I may drink a beer while I'm playing."

J. Aughenbaugh: Four or five.

N. Rodgers: "Oh, no, no. I have things to do. We must accomplish the golf and then move on." Okay, so that says a lot about his personality. They're all very different, the presidents.

J. Aughenbaugh: Yes, they are. And you can tell a lot about a person by how they play golf.

N. Rodgers: Oh, okay. That's good to know. Well, I don't play golf. I play putt-putt and I play it with lots of cursing involved and lots of crap talk. So just be warned, visitors, I mean, listeners, if you ever see me at a putt-putt, I'm the one who's cursing and talking about your mother. And I'm sorry. I'm sorry now. I'm just going to say that.


N. Rodgers: Yeah. No kidding. And I love it. That's the funny thing. So that's the last 10 days but it's any 10 days, right? The president, if he just ignores you for
10 days, that's also a pocket veto, right? It's not just the end of a session or is it just the end of the session?

J. Aughenbaugh: Just the end of the session.

N. Rodgers: Okay. So he can't ignore you for the other time. The other time, he has to make a decision.

J. Aughenbaugh: That's right. And by the way-

N. Rodgers: And I'm not entirely certain people know how long sessions last. Can we-

J. Aughenbaugh: Oh, a congressional session basically lasts two years.

N. Rodgers: So saying, "I'm going to wait until the last 10 days of the session- "

J. Aughenbaugh: To actually pass a bill, okay-

N. Rodgers: That's pretty hard-core putting things off until the end. If you wait for two years.

J. Aughenbaugh: But it's Congress, right? Okay? How many times have we had a proposed government shutdown here in, what, the last 20 years? And it's all because they've waited until the last possible moment to pass a budget, right? I mean, this has pretty much become standard behavior. As I joke with my students, "You guys ought not to criticize Congress. You ought to revel in Congress because they kind of, sort of act like you guys do, right? Let's not throw stones here because- "

N. Rodgers: Right. We're standing in big glass houses.

J. Aughenbaugh: Houses, right? Okay. So it goes to the president, right? Now, before these bills even get voted on in either house, most presidential administrations will be pretty public in whether or not their going to veto or accept a bill.

N. Rodgers: "Oh, if you send that to me, I'm not going to sign it. I'm going to veto it." And then you can do it anyway.

J. Aughenbaugh: Sure. And then the president then, "Okay- "

N. Rodgers: Vetoes it.

J. Aughenbaugh: Yeah. Well, no. I mean, well-
N. Rodgers: Oh, please tell me he has a big, giant stamp like they do in Schoolhouse Rock!

J. Aughenbaugh: No.

N. Rodgers: ...

J. Aughenbaugh: No.

N. Rodgers: You're killing me.

J. Aughenbaugh: No. There's just a form that basically says you know-

N. Rodgers: Really? There's a form? There's a form for the Paper Reduction Act?

J. Aughenbaugh: Yes.

N. Rodgers: Oh my gosh.

J. Aughenbaugh: Yes, it's a form.

N. Rodgers: Okay, that's hilarious. Okay, so those forms-

J. Aughenbaugh: I mean, in the standard bureaucratic tradition-

N. Rodgers: It's probably in triplicate.

J. Aughenbaugh: ... of modern governance, it's a form. Sorry, guys, okay? It's not a stamp, okay? I hate to say that-

N. Rodgers: You kill me. You kill me with these things.

J. Aughenbaugh: Well, you know, it's part of-

N. Rodgers: It's part of your charm. So, okay. So he vetoes because he doesn't like this but he's told people ahead that probably he's going to veto.

J. Aughenbaugh: Let's talk about the reasons for veto. And this has been a pretty significant change in the history of our country and that is early presidents like Washington, Adams, Jefferson, they typically would only veto legislation if they thought it was unconstitutional. You don't start seeing presidents until Andrew Jackson in the 1820s, in the late 1820s, but more modern presidents, and presidential scholars usually date the modern presidency to
Teddy Roosevelt at the turn of the 20th century. It's only when you get modern presidents that they began to veto legislation, you know bills that were passed by Congress, for policy reasons.

J. Aughenbaugh: So understand the distinction here. Our early presidents thought the veto power could only be used for constitutional issues, as in a proposed bill passed by the Congress would more than likely be deemed by the courts as unconstitutional. So Washington signed legislation that he didn't like for policy reasons but he was just like, "It's constitutional and whether I like it or not is irrelevant." It's modern-

N. Rodgers: Well, a lot of them were involved in writing the constitution or had some hand in it, so they would know like, "Well, okay, that's not covered so I guess the will of the people... " I mean, because theoretically, the Congress is the will of the people. It's the direct will of the people, right?

J. Aughenbaugh: Sure.

N. Rodgers: Because it's representative democracy. I send you there to make sure my interests are covered and my interests are met, right?

J. Aughenbaugh: Yeah.

N. Rodgers: So that's the whole point of it. So I can see where a president might say, "Well, this is an elected representative and these are the people. I mean, this is-"

J. Aughenbaugh: Yeah. So, "Unless it violates the constitution, who am I to go ahead and tell the people's representatives that this is bad policy?" But that changed in the 20th century primarily and you see this now all the time.

J. Aughenbaugh: So in the first part of this particular podcast of I'm Just a Bill, and I don't know why I changed my voice for that but nevertheless, it sounded funny at least in my head, we talked about how the house representatives earlier this week passed a gun control bill.

N. Rodgers: It's a waiting period bill, right? That's the one that you're talking about?

J. Aughenbaugh: Yeah.

N. Rodgers: It extends the waiting period from 3 to 10 days?
J. Aughenbaugh: Yeah. And it regulates sellers' responsibilities in regards to doing background checks.

N. Rodgers: Okay. You can't just wait and then say, "Sure, it's fine. You seem sane to me." That's not enough.

J. Aughenbaugh: Yeah. And there are a whole bunch of exceptions in regards to transferring guns to family, friends, etc. but-

N. Rodgers: But the president has already said he's-

J. Aughenbaugh: Said he's going to veto it, okay? Almost nobody I know who teaches constitutional law thinks that that bill is unconstitutional. If Trump vetoes it... so let's just say it does get through the Senate that's controlled by the Republicans.

N. Rodgers: Oh my gosh. And then the committee to join things up and then the whole and then back again. Oh my goodness.

J. Aughenbaugh: Let's say that all that-

N. Rodgers: Months from now.

J. Aughenbaugh: Or years, okay? It gets to the president. Here's the big difference. Now you have presidents who are saying, "I'm going to veto this because I don't like the policy." And, again, that's a significant change in regards to how do we view the presidential veto.

J. Aughenbaugh: Now, the process doesn't stop there. And this is always one of my complaints about the Schoolhouse Rock! video, right? It basically suggests that either the president vetoes it or signs it and then, boom, we're done. But remember, in the constitution-

N. Rodgers: So he whips out his magical, non-stamp piece of paper and writes, "No," on it and then, "XOXO, Donald Trump," right?

J. Aughenbaugh: "No." Yeah, "Hugs and kisses." Now that actually would be funny. I would like to see that in the presidential papers.

N. Rodgers: That would be funny too. "XOXO" with a little heart underneath or you know-

J. Aughenbaugh: Some doodling on it.
N. Rodgers: Like it's been written by a 13-year-old lovesick girl. I'm sorry that was-

J. Aughenbaugh: Oh no, how about a-

N. Rodgers: Or a 13-year-old lovesick boy.

J. Aughenbaugh: Boy.

N. Rodgers: I'd go either way with that.

J. Aughenbaugh: Or how about emojis now on cell phones.

N. Rodgers: Let's not be genderist here. Exactly. Let's not be genderist. Used by everyone. But anyway, so that veto goes back to the Senate?

J. Aughenbaugh: Congress.

N. Rodgers: Which house... Who gets the veto? Who gets that delivery?

J. Aughenbaugh: Okay. Well, I mean-

N. Rodgers: I mean, who's sitting in their office and somebody brings in a piece of paper from the president that says-

J. Aughenbaugh: Okay. So in the case of the Paperwork Reduction Act, as you pointed out in the first part of this podcast, this was a bill that originated in the Senate so it would go to the Senate first.

N. Rodgers: Okay.

J. Aughenbaugh: Okay?

N. Rodgers: I mean, first, obviously, it would go to CNN or the news people who are standing around. Not just CNN but all of the news people who are... and then they would go over for comment and that's how somebody would find out probably. But anyway-

J. Aughenbaugh: It would go to the house of congress where the bill originated.

N. Rodgers: Okay. So-

J. Aughenbaugh: At that point then, the United States Congress can override the president's veto. It requires a two-thirds vote of both houses of congress. To give you
an example of a legislation where the Congress overrode a presidential veto, the War Powers Act.

J. Aughenbaugh: The War Powers Act was passed, I believe, in 1973 or 4 by the Congress that... After President Johnson and President Nixon, you know, lying and getting us into the Vietnam War, United States Congress was just like, "You know, we might want to have greater oversight over- "

N. Rodgers: That seems a bad thing.

J. Aughenbaugh: Thing. Yeah, right? "We should have greater oversight." So the War Powers Act basically requires that a president, if they send U.S. troops overseas to engage in hostilities, the president has to report to the United States Congress within a period of time. And then Congress would have the authority of ending what the president did.

N. Rodgers: The interaction.

J. Aughenbaugh: Yeah.

N. Rodgers: They can say, "Bring them home."

J. Aughenbaugh: Bring them home, right?

N. Rodgers: Or, "Move them somewhere else," or whatever, whatever the simplest thing to do is.

J. Aughenbaugh: So the Congress passed the War Powers Act during the Nixon administration.

N. Rodgers: Oh, I can't imagine that President Nixon enjoyed that very much.

J. Aughenbaugh: So he vetoed it. And the-

N. Rodgers: Not surprising. I mean, not surprising because a president would not want to give up power. I mean, who does that ever? Who ever says, "Oh no, you know what? I'm tired of being in charge. You take this part. Go ahead." That's very few people.

J. Aughenbaugh: And even if it wasn't dealing with a specific war, most of those presidents are like, "I'm going to leave this office with more power than when I came in," right? They all think that, right? So he-
N. Rodgers: For a variety of reasons which we can discuss at another time.


N. Rodgers: But that's pretty rare isn't it?

J. Aughenbaugh: Oh, it's extremely-

N. Rodgers: Because you'd have to get... I mean, basically the stars have to align and all the things have to be perfect in order for you to get two-thirds of majority in each house to override the president.

J. Aughenbaugh: Yes. Which tell you how strongly the United States Congress felt in the early '70s.

N. Rodgers: I guess so. Well, but then again, we also... People talk about divisiveness at this time but that's because a lot of the people who were talking about that were not alive/involved in the divisiveness of-

J. Aughenbaugh: Oh, other eras.

N. Rodgers: ... the Vietnam era, where people were, I mean, protesting in the street in ways that now, just would not even be heard of. It's funny to me that people say, "Oh, we're so divisiveness." I'm like, "You know, there have been other times in history where we have been incredibly divided as a country, as a nation, about what we should do and which direction we should go in. That's part of being a nation."

J. Aughenbaugh: Yeah. I remind my students, "Hello, guys? The civil war?"

N. Rodgers: Well, yeah. I mean, and then you do have the whole, "We just decided to kill each other," which is pretty extreme, I would say.

J. Aughenbaugh: Extreme. Okay. But I mean, even early on after the constitution got ratified, almost immediately the Federalist Party and the Democratic/Republic, then it evolved into the Democratic party, they couldn't stand one another. And, by the way, their personal attacks-

N. Rodgers: Didn't that get people shot?

J. Aughenbaugh: People got shot. Alexander Hamilton. But the level of personal attack, I mean, if you guys think that Trump's bad, he's a choir boy compared to
some of stuff that they said in the late 1700s, early 1800s, right? And I'm not saying that we should go back to that.

N. Rodgers: Yeah. Not a good thing. We're not advocating that. This podcast is not advocating being nasty to other people.

J. Aughenbaugh: Other people. Or violence, right? No more duels.

N. Rodgers: No, no, no. Let's not do that. Well, and let's not set things on fire. Let's try to be a little more civilized than that if we can just because that seems awfully destructive and dangerous.

J. Aughenbaugh: There's something to be said for somebody who says, "I don't like your policy but hey, let's go get a beer or let's get a cup of coffee or let's share a meal," right? I mean, because you know, hey-

N. Rodgers: Versus, "I'm going to flip over your car and set it on fire."

J. Aughenbaugh: On fire, yeah.

N. Rodgers: Which seems a little extreme to me. Although, emotions, tensions run high. I understand.

J. Aughenbaugh: Sure. I mean-

N. Rodgers: I mean, hence the whole thing in the Senate with the beating the guy with a cane, right? Emotional things can happen.

J. Aughenbaugh: Yeah. What was that?

N. Rodgers: I think somebody said something about somebody's wife. I mean, it really is like, "Wow. Come on, now." That's why you shouldn't bring personality into politics in that way and-

J. Aughenbaugh: So I think that my larger takeaway for this discussion is you have a law, the Paperwork Reduction Act which, on its face, many of you all might be like, "They actually passed a bill on that?" Yes, they did, okay?

N. Rodgers: Yeah. They pass bills on all kinds of stuff-

J. Aughenbaugh: Stuff.

N. Rodgers: ... that you think, "Really? That's a thing?"
J. Aughenbaugh: And it's a pretty deliberative process and for some of these bills, you're like, "They probably shouldn't have spent all that."

N. Rodgers: All that time and effort and-

J. Aughenbaugh: Time and effort, okay, etc. But this is a process designed to go ahead and make sure that, again, something that has the force of law which is binding on us, theoretically, on all of us-

N. Rodgers: Right. On all 336 million of us.

J. Aughenbaugh: 36 of us, okay.

N. Rodgers: ... should be discussed. That's-

J. Aughenbaugh: Yeah. It should be discussed.

N. Rodgers: I agree.

J. Aughenbaugh: The process, again, is not efficient. If it's going to work, it's going to require kind of, sort of soft behavioral norms to actually work because the structure is set up so that the government has the power to act but, to act, they're going to have to jump through some hoops, some significant hoops.

N. Rodgers: Right. We don't want a coup d'etat. We don't want them to be able to just act in fiat fashion without any regard to what the will of the people is or what the sort of previous rule of law is.

N. Rodgers: And the other thing too is yes, this act is innocuous but a lot of them aren't. A lot of them lead to death. A lot of them lead to destruction. I mean, when we decide to go to war, that's something we should talk about. When we decide to change how we do huge things in this country like how we do immigration, that's something we should talk about and something we should explore because it's going to affect millions and millions of people.

J. Aughenbaugh: We're creating a government benefit. We're basically picking winners and losers. Some people are going to get the benefit and other people aren't going to get the benefit. We should probably go ahead and talk about that, right?
J. Aughenbaugh: We create a student loan program so high school kids can go to college. Well, if we didn't have it, does that mean millions of talented high school students don't get to go to college? Or-

N. Rodgers: Well, what does that mean for the economy?

J. Aughenbaugh: Economy, yeah, yeah.

N. Rodgers: What does that mean for our future politics?

J. Aughenbaugh: Future politics, okay.

N. Rodgers: I mean, we need an educated populous.


N. Rodgers: I mean, all of those things for a variety of reasons. So I think that that's an excellent point to end on, that it is an adversarial process for a reason. And that reason is to slow us down and make sure that we're doing, as much as we can, we're doing the right thing and that when we don't do the right thing, we can fix it. We can come back with another amendment and change it or fix it or whatever.

J. Aughenbaugh: Yes. And, by the way, the law that we picked, the Paperwork Reduction Act, and I mentioned this in the first part of this podcast, is actually the subject of a really humorous West Wing episode. So you ought to take a look at it because it's actually pretty funny, okay?

N. Rodgers: We'll put a link to that or we'll put a... Sorry, we'll put the name of the episode on the research guide so that if you want to go research that. And we'll also give you all the information about seeing the two-

J. Aughenbaugh: Versions of Schoolhouse Rock!

N. Rodgers: ... Schoolhouse Rock! so that people can follow up on that if they want to do that. So thank you so much.

J. Aughenbaugh: Oh, I enjoyed it.

N. Rodgers: And we'll talk again.

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