

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 host, Nia Rodgers, Public Affairs Librarian and Dr. John Aughenbaugh, Political Science Professor.

Hey, Aughe.

Good morning, Nia. How are you?

I'm good. How are you, Mr. Frog throat? You sound better than you did last week.

Yeah.

When you had the plague.

For our loyal listeners, I was one of those people who ended up getting the flu after getting the flu shot. Which doesn't mean you shouldn't get a flu shot. When I'm saying that.

No.

Because that is more rare than it is comment. It did doesn't cover, every strand or every variation. I know this. According to my doctors, the flu shot probably mitigated how badly I got it. But one of the effects was that I ended up with an upper respiratory infection leading to.

Your sexy Kathleen Turner voice that you have.

Yeah. Is it a Kathleen Turner voice or is at Deborah Winger voice?

To me it's Kathleen Turner because hers is lower.

Okay.

She's got that sort of more resonant.

It's got a lower timber?

Yeah.

Either one works.

But now, I'm happy to be alive because last week I wasn't entirely sure. I might make it, I might not.

For loyal listeners, we have decided we're going to try to release more in time with what's happening.

Yes.

We're recording this on the 23rd. We have to release by the 30th or so. That we're around a week. We'll see if that actually happens.

Hope springs eternal.

Yes. But right now, the biggest thing in the news is the impeachment of President Trump. The impeachment trial has gone to the Senate. We have decided we're not going to talk about that until later on. If there's a huge development, we'll talk about it. But we've decided that we're going to leave that for later. We'll analyze what happens when it's over. We just think that you're being inundated with that information pretty much constantly. I know NPR is playing it live.

Yes.

There is that access to it. We invite you to listen to that but we're not going to be talking about that. We are going to be talking about a few things though that maybe tangentially relate. As listeners know, I regularly fantasize about being president. Although at this point the field is still open and I might have a chance. Yeah. I mean come October.

Exactly. Nia Rogers could be running for the office of president.

Mike Bloomberg can do it, although he's got significantly more money in his bank account than I have in mine.

He does have some more resources than most Americans.

In fairness, he got some chops. I mean, he's been mayor of New York and he's done some stuff.

In one party would you run? Would be the basis?

Would I run in?

Yeah.

I think I probably... I know that you can't run as an independent although that would be what I would prefer.

Okay.

Because I'm so middle of the road in my politics, they probably would be like I would want to run some sort of, I would run as a moderate and people would say, "What party?" 'd be like the moderate party. I want to talk about politics in moderation. Hence why we have civil discourse actually like the idea that we're both basically moderates. I think most of our positions, although I will admit to a small but wildly colorful libertarian streak. Occasionally where I want to move to the woods and be left alone again.

Although I would make it in the woods. I'd be like that guy in Alaska who unfortunately his house burned down around him. Fortunately, he lived but I would that be like that. That would be the kind of thing that would happen to me if I went to the woods.

Many of us are introverted or who had been labeled loners or having loners streaks. There is something that appeals to us in regards to being libertarian.

Yes.

But then we recognize that a lot of things that we rely on on a daily basis.

Yeah. I really like water.

I really like roads. I like schools.

Like electricity.

I like those kinds of things.

Yeah. Those things.

Which require that you can't live completely.

Yeah.

Frankly, I'm too soft to live that way. I mean, I recognize that I've been raised in a very middle-class sort of world of whenever I flick the tap, the water comes on.

Sure.

Whenever I flick the light switch, the power comes on.

I've only sat in the dark by choice. I think it would be hard for me to learn some of those other. There's a part of me was very tempted.

Sure.

That's your response when you get overwhelmed by things sometimes too. I also had the response for Christmas that I wasn't going to watch any news and that lasted about six hours which I thought maybe the longest time that I've gone without checking the news channels.

Yeah. I told myself when school is out and my daughters on vacation, I'm not going to watch the news. I'm not going to go ahead and look at my news feed on my phone.

Right.

The longest I've gone is about a day and half and.

Sweet.

I feel so disconnected even as I am complaining.

Right.

As I am reading articles or watching a new show, I start complaining and this is why I feel disconnected. But nevertheless, I like to know what's going on. My brain is, I want to know things.

I'm a worrier. Perhaps getting a master's in Homeland Security Emergency Preparedness might not have been the best choice for a person who naturally worries about everything because then it just gave me more stuff to worry about. But it also in some ways gave me a feeling of control, which was nice. Like I now understand more and therefore I feel like...

Sure.

I can handle it better.

But I have to admit that one of the reasons that I check the news on a regular basis is to make sure that things like the coronavirus isn't found in Virginia.

Sure.

Or we haven't suddenly gone to war with another country or whatever. Like it's part of it is me just sort of being catastrophic and my thinking, checking the news to make sure it's not as catastrophic as I think it could be.

Yeah.

Most people, I think probably if they really sat back and thought, is this the worst time ever they could think to themselves? No, there have been worse things that have happened.

Yeah and ultimately we will get around to it. The subject of today's podcast is an event that actually did happen before the articles of impeachment were voted on by the House and transferred to the senate. You probably saw the memes, brand new year and day three, we're going to war.

Right.

Right.

Hello 2020? We're going to war. We're going to war more, because we're still at war in several places on the planet.

Yeah. When we we're fighting a global war on terrorism. It's not been.

We're fighting a war on drugs.

But so, I think as you said, like many Americans, you kind of sort of wake up, and you're like, so what did happen?

What happened while I was sleeping?

Yeah, sometimes I have to admit occasionally I'm afraid to go to sleep.

We both know this, you have a particular workday where you have a lot of meetings set up, or in my case, I might have like two or three classes in a row. I'm not checking my phone in the classes, and in the next thing you know, are we at war, or the fires in Australia.

Still burning.

Been burning or are they having any success in putting them out? Is the weather helping?

Right, and now with this in China currently the death toll, which is terrifying for people.

I mean, I feel bad for people I don't know, but who are dying of things.

What is the world health community going to do to address it?

Exactly.

Is basically stopping traffic in and out of certain communities in China.

Is that going to help?

Is that going to help? These are the kinds of things that I think, many folks have questions about.

So it's pretty hard to go ahead and just say, "Yeah, I'm just going to completely cut myself off."

Right. Chinese New Year is the 25th, I think it's January 25th this year and they've now canceled

a lot of the large scale celebrations because they're worried about having large groups of people together. Because diseases even though this disease is not as communicable as some others.

I'm thinking Ebola, which is highly communicable. Or even the flu, which is highly communicable, it's still communicable.

Well, that's a huge effect on your morale as a country.

Imagine, if we just canceled New Year's Eve, like no, we're not going to drop that ball in Times Square but go home. That would be at some level, very sort of sad making for the country.

No, July 4th.

No fireworks, go away.

No Cook outs.

Nobody gets to be near each other. Everybody wear masks and don't shake hands.

Nobody's going to your favorite [inaudible] lakes, no rivers.

No baseball which is tragic for a lot of people.

[inaudible] it's the end of the world.

Yes, I mean, what? no baseball on July 4th.

Well, why bother? Not even getting out of bed today.

What kind of holiday is this?

So I say that by way of saying that one of the things I wanted to talk about with this sort of tangentially related to this presidential stuff that's going on is this idea of war, and so I was thinking that if I became president, I have this plan. You want to hear my plan? It's fabulous.

Sure. Go ahead.

So here's what I figured. 90 percent of the people in Canada live within 30 miles of the Canadian-American border?

Yes, they do.

So if I could get all of the Americans on the American side to just move 30 miles north, I effectively invade and take Canada.

Okay.

Right?

Okay. Theoretically?

Theoretically,.

Yes.

Assuming that the Canadian's aren't going to fight back too much, which some of them will.

But there will be some resistant, but some people will be like whenever it's fine because they're Canadian.

They're not really angry people, as a general rule.

They got mad over donuts with Justin Trudeau buying donuts from a local shop and oh my gosh! Why don't you go to Tim Horton?

That is one of the stereotypes of Canadians, is that they're generally a nice group of people.

I think if we did it nicely, they might take it well. I think they would take it better than if we came up with soldiers and tried to make it all, we're going to make this painful.

This is going to be one of your first executive orders when you became president.

Yeah. Everybody move north 30 miles.

Okay. Theoretically.

Here's what I want to know, can I do that? Can I invade Canada? I'm picking Canada because I think since it's an unprotected border, I think it would be easier in some ways than Mexico.

So this is an executive order to go ahead and start a war with a neighboring country. and you're concerned about the cost of doing so. That's very budgetary.

I don't want to make it expensive war. That's not useful. There's that debt clock thing, which is terrifying. The thing that flips constantly [inaudible] that makes you break into a sweat when you look out.

I've gotten rid of that particular website as a bookmark.

It's probably smart.

Because, again this was one of those things that it will just completely drive you nuts.

I thought I would just get not much and instead I just like started spinning all of these, worst-case scenarios, I just had to stop. So to your question, theoretically, could you go ahead and do this?

Can I invade Canada? Under current law? As president, not as me?

Yeah, of course.

I don't think I would be very successful invading Canada by myself.

Under a current Supreme Court and also current federal law. You could for a period of time, but then you'd have to go ahead and report to the United States Congress per the War Powers Act, that you have gone ahead and invaded another country.

So I can do it?

Yes.

Then ask for forgiveness?

Yes.

This is better than the permission thing.

Well, yeah, it is you and others have noted one of my standard operating procedures as an individual, it's better to ask for forgiveness than to ask for permission.

Yes. That does seem to be the way you up.

As many of my bosses, my dear mother, they have all commented, I tend to do things and they just say, "Oops, sorry."

They you get it.

But you are correct. So the the law I'm talking about, and we will put this on our reference guide, the War Powers Resolution, which is not a very big law. It was passed at the tail end of the Nixon administration. The United States Congress grew frustrated because in part, Nixon ran for the office of President and said he was going to lead the country out of the Vietnam War.

Wait. Is this is the first election or the second election?

Actually, both.

Okay.

Both of his efforts, he said, "Hey, I'm going to get us out of the Vietnam War." But then Congress and the rest of the country ends up finding out that he goes ahead and puts troops in Cambodia, Laos in some ways was actually ramping up the war to put pressure on North Vietnam before the war could be negotiated to an end. This upset Congress because Congress was like, "Hey, wait a minute here."

Although one can understand that strategy.

Sure.

If you invade the neighboring countries and you use that to put leverage.

Yeah.

I understand why. Why he did it.

Why he'd want to do it but I'm not sure I agree with the overall choice but I understand why. But members of Congress in both parties, both Democratic and Republican. Can't even enjoy that. Were like, "Hey, wait a minute here. We're now at a point to where we've had successive presidents basically lie to us and the country in regards to our involvement in Vietnam."

What we're talking about here is the Pentagon Papers.

The Pentagon Papers.

Daniel.

Ellsberg.

Ellsberg. Thank you.

Okay. Ellsberg, who had worked in a classified position for the RAND Corporation. The RAND Corporation for decades have done classified studies for the federal government and. Regular stuff.

Yeah. Sure.

You can see a lot of their stuff if you go on their website.

Yeah. They do all kinds of studies about policing, homeland security, etc.

They're a highly respected corporation.

They're highly respected. The RAND Corporation, did a study that ended up being referred to as the Pentagon Papers, which basically chronicled how the United States got involved in Vietnam as far back as the Eisenhower administration.

Wow.

Yes. As far back.

The Eisenhower administration sent military advisers to Vietnam to advise.

That's always the way it starts.

Yeah.

I should send military advisers to Canada.

Sure. "Hey, tell them that you're sending them advisers so that they can better go head and protect their border and in the process, figure out all the ways that we can go ahead and send Americans over the border."

Okay.

You see how this works?

Yeah. Okay. Will you be my, Invasion Canada, adviser?

I don't really want to invade Canada. I happen to like Canada.

I like Canada, that's why I want Canada. I think it would make a lovely northern territory.

Then it can have its own counties, we could just call the different.

I know this is probably going to be a little surprising to you, maybe some of our readers, but I'm actually quite a bit of a dove as it relates to foreign policy. I'm not a big fan of US excursions around the world.

But this isn't around the world. This is next door. Really, this is like you building hedges in your next door neighbor's yard. Some people could consider it a gift. "Look, I gave you some hedges. Isn't that lovely?"

When I bought my current house, I actually took down a whole bunch of hedges between me and one of my neighbors.

You're that guy?

I am, yeah.

Okay. So I invade Canada gently.

Yes.

Gently, because I don't get hurt anybody.

Okay,.

I invade Canada because I'm trying to take all the Tim Hortons coffee and donuts for myself.

Yeah.

Because Canada I think would make a lovely topping to the nation and it would give us clear access to the Arctic.

Fair enough.

Just saying there's some positive stuff there.

Fair enough.

So then I have to come back to Congress and I have to say, "By the way, last week, I invaded Canada."

Yes.

But nobody got hurt and everything's fine.

Yes.

Then what does Congress do?

Well, then Congress has a choice. Congress then can pass a resolution requiring you to stop whatever you've done.

To un-invade Canada?

Pretty much.

Okay.

Or they can give you an extension on your activities, but then at the end of the extension you have to report back.

So they could say, "You can stay in Canada for 30 days, but if it doesn't seem to be working out or we're losing lots of troops or Canadians resist, or they all just move 30 miles north, then you have to come back to us and ask us for more. What? More people or more permission to stay?"

Yes. Because ultimately, you're going to need budget.

What if I don't go to Congress?

Well then here's the rub.

What if I'm just like, "Foo on you Congress, I did it and there's nothing you can do about it."

Every presidential administration, starting with the Nixon administration, has produced a memo from the Office of Legal Counsel of the White House, which has declared the War Powers Act as unconstitutional. It has never been challenged in federal court. Because though Congress has used the War Powers Act as a threat, they have never followed through with any of the provisions of the War Powers Act. So to give you an example, the most recent one and the thing that got you thinking about invading Canada was, the Trump administration went ahead and assassinated who?

Mr. Soleimani.

Okay.

General, I'm sorry. I don't know his title.

Yeah. The minister of defense for the Iranian government.

Yes. Quite an architect of violence.

Violence, mayhem.

Terrorism. Destruction.

Chaos. He is sort of captain chaos.

Yeah. Throughout the Middle East.

So not exactly a warm figure.

Yes, and according to most Western democracies.

A bane.

Bane to their collective and individual existence.

Okay.

On the other hand, because President Trump did notify Congress beforehand that he was going to do this, people in Congress, both political parties, primarily democratic but even some republicans are like, "Hey, why did you do this? Is this a prelude to war?" Now. Are you having the Iranians will react, which will allow us to react. Then eventually it escalates into some formal conflict because one could argue that we are already in an informal conflict situation. Which is right, okay?

With a lot of nations.

But particularly with the Iranian since there are Iranian hostage situation of what?

1977?

'78, '79.

For 444 days.

That's right. Okay so a year and a third. Okay?

That's a long time to hold hostages.

That's right.

They were released the day after Reagan was inaugurated.

Is it or the day after he was elected?

No, inaugurated. He got inaugurated day after they came home.

So you have this situation where you have two constitutional clauses that seemingly are in conflict. On one hand, as members of Congress like to tell us, only Congress can declare war. On the other hand, in Article Two of the Constitution, the president is the commander in chief of the nation's military. So historically, presidents have defined commander in chief as the ability to make war. Notice the difference between the two verbs.

Make and declare.

Okay. Declare, I declare that coffee is a great beverage. Okay? I've declared it.

Does it mean that.

Does it mean anything?

Doesn't mean anything?

Nope.

Okay. Does it mean that some people are going to challenge my declaration?

Maybe. Okay. It doesn't mean that all adult Americans after drink a whole bunch of coffee. No. Okay. Because even if I was in Congress, unless I passed a law, they gave the bureaucracy the authority to force all adult Americans to drink coffee. All I did was declare that coffee is a good substance.

It's a good beverage.

I like it. Okay? But if you can make war, okay. Then you could make every adult in the United States at least purchase coffee.

Yes.

Or I suppose you could coffee board them.

Yes. Yeah. Just like water board. Yes.

If you want to force the issue.

Right.

Okay. So can I answer the question?

Yeah.

So similarly, you can declare your independence.

I am independent of Britain, but until you have a war that actually forces Britain to get out.

So yeah, so what?

You can declare anything you want to declare.

Sure.

I see. Okay so.

This is the rub, right? Because. So congress can say we declare war on Iran. But if the president doesn't send troops there.

Yes.

Then their declaration is empty.

Yeah it's empty. Think about this. The last time Congress officially declared war was World War II. Pretty much every president since Franklin Delano Roosevelt have sent US troops into harm's way without declarations of war. Well, and one could argue that the last successful war we prosecuted was World War II.

Yeah.

You need to have congressional buy-in.

Buy-in, acquiescence support.

Because they represent people support.

That's right.

There was not a huge amount support. I don't think Korea was divisive nearly as Vietnam, but I mean there was not huge support for Vietnam in large pockets of the United States.

Yes.

Same with the ensuing further wars that we've been in.

Yes. So I mean, this is the thing.

So that's interesting. I didn't really think about that you need that support in order to successfully prosecute a war.

Yeah, I mean and even some of our favorite president's, took liberties with this notion that only Congress can declare war. Lincoln went ahead and responded to the southern states that had seceded before Congress ever declared war. He actually got the United States Supreme Court and the prize cases to go ahead and say, yeah, he can respond. There is evidence that some of the framers understood that they created a bifurcated system because many of the framers understood that Congress would be a slow moving body.

In foreign affairs, things happen fast.

Right.

You might have to respond quickly.

Right.

So are you going to.

If Canada invaded us, we would have to respond, well, I don't know how threatening, but it would still be I mean, we would have to respond to in some way.

Okay. So now can you, and I've said this to a number of my students who are like what Trump did in assassinating Soleimani was unconstitutional. I'm like, well, not according to the practice and precedent set by a long number of presidents. Whether it be Obama with Libya, Bush too started a global war on terrorism with an authorized use of military force.

That wasn't a declaration of war.

He just basically went ahead and said Congress.

Agrees that you can go kick butt for this purpose is purpose for this initial action, which turned into a larger. The Clinton administration, Haiti, Kosovo, Bosnia.

Then Reagan was.

Well, Reagan Grenada in Lebanon, okay?

Right.

Bush won the Persian Gulf War.

In the first Bush administration, Bush one's administration, he was explicit. He got the United States Congress to go ahead and give its blessing. But he made it very clear publicly I don't have to.

Right. I'm going to do this one way or another and as a guy who had formerly run the CIA, he probably had.

Yeah.

He was probably like, "Dude, I've studied it's enough to know what are you going to do about it.".

Yeah. Okay.

But I'm left with another question, which is, I'm left with lots of questions, but about this specific thing. So sorry to your earlier point, which I did want to mention anybody who's used drone warfare has engaged in some of this behavior where you just assassinate somebody without trial, right? So that's a very gray area.

Yeah without congressional approval.

Right. That we've allowed presidents to exercise that authority.

So really what this comes down to is slowly over time what you're saying is from Eisenhowerish forward, or maybe from Rooseveltish forward, it's been a slow shift of power between the Congress and the executive.

Yes.

Where initially with World War II, I don't think Roosevelt would have been successful just declaring war in Europe. Like he needed buy-in, he needed Congress to be because we were pretty isolationist at that point. We were.

We still were, yes.

So now you get this presidential eking away like scraping off a little bit and a little bit and a little bit by each president until now, modern presidents, and I'm not just talking about Trump, also Obama, also Bush, also Clinton, also.

Bush one, Reagan. Reagan. All of them felt comfortable.

Sure because their predecessors had in similar situations taken steps as commander in chief.

By and large, the United States Congress acquiesced. I mean, the War Powers Act was one of the few instances where the Congress was just like, we have a role in this with the president, but every president since the War Powers Act was passed is basically gone out and said,

"Yeah, we think it's unconstitutional. We dare you to apply it because this is going to end up in court."

No one has.

Nobody has.

Is that because they aren't sure they'd win?

I think members of Congress get upset, but at the end of the day, their legal counsel tells them, "Do you guys want to go to court and potentially lose on this particular foreign affairs of that? "

So the question for many scholars is, what would be the event that would actually force Congress to go forward and apply the War Powers Act even to the extent of defending it in court?

It might be invading Canada.

Could be invading Canada, really you invaded Canada? They are so nice. What were you thinking?

But here's the other thing, and I tell my students this in constitutional law. Many of them don't like Trump. So they're just like, "Congress should go ahead and exercise its constitutional authority." I said, "Okay guys. But we just got done spending three weeks talking about how historically the federal courts, particularly the Supreme Court, doesn't like to get involved in foreign affairs disputes between the Congress and the President." The Supreme Court historically has viewed, foreign affairs and military affairs as political questions that the political branches should work out amongst themselves. I am hard-pressed to go ahead and see liberals or conservatives, strict constructionists or loose constructionists on their court, wanting to weigh in on a dispute, no matter who is the president.

Yeah. It seems to me that the only disputes that they want to weigh in on of that type, are the ones where you talk about, like for Guantanamo.

What courts those cases ended up in, what rules they were held to: their area of expertise, which is the law. How are we going to apply fair and equity. We don't like Congress or a President saying, we don't have the jurisdiction.

Exactly. Yeah, we do.

We have the jurisdiction. Now that we've gone ahead and reclaimed the jurisdiction, this particular dispute, we don't want to have anything to do with.

That's [inaudible] mess, you figure it out.

Like prisoners of war, they're interested in how those people are tried, how that's all handled.

But how you get to having prisoners of war is not their business and they prefer to stay out of it. That's good.

In fairness to Trump, he's not doing anything that the Presidents before him have not done. He's following precedent, which is to eke out a little bit more of that sort of, what can presidents do and I don't recognize this act as being a legitimate constraint upon me. I mean, it's not like he killed Queen Elizabeth. I'm sorry, what I mean is like a party that wasn't in any way involved with any of our disputes.

He didn't kick a puppy.

I don't think that anybody deserves to be killed, but that's not what I'm saying.

Either one of us are, but we're in this particular instance.

But in this instance, it's more understandable because of, the position of the individual and the position of this government.

Remember too Nia, and I know I forced you and your classmates to read this, when you were getting a master's degree in homeland security. In Federalist 51.

Geek.

Okay. In the Federalist Papers for those of you who have not read them, were written by John Jay, Alexander Hamilton and James Madison, in defense of the then proposed constitution. In Federalist 51, Madison was writing in response to those who didn't like the proposed Constitution, the Anti Federalists. He was talking about the separate but shared powers arrangement of the federal government. One of the things that he said was, we assume that those who occupy positions of government authority, will be ambitious, that by forcing the branches to share power, ambition will check ambition. So for somebody like a James Madison, he would basically go ahead and say to the congress, if you guys don't like how successive modern presidents have slowly accumulated even more power in the realm of foreign and military affairs-

You should do something about it.

You should do something about it.

Either you should, amend the Constitution, you could make a law constraining the president's power or you could take him to court and try to force the courts to make or all of those. Or use your budgetary authority.

That's true. I'm not going to fund your incursion into Canada. Let's see how you do with invading Canada when you have no money.

You mentioned the use of drones to attack enemies.

I'm not a big fan of that.

I'm not a big fan of it either.

I understand the principles of saving American lives, I get that, but it's hard for me to sort of be death from the sky, that feels so alien, big brotherly.

I would like greater accountability measures.

That's a good way to put it.

But the United States Congress could go ahead and say to any presidential administration, whether it be their president or president of the opposition party, until you establish a better process, we are defunding the drone program.

Congress could do that.

We're defunding all of defense. Good luck with that.

We will bend you to our will very quickly because that's a huge part of our economy.

That's a huge number of federal employees that would be saying, "I'm not getting a paycheck?"

That would require members of Congress.

To have stones.

To have a backbone but also walk across the aisle.

That's true because no one could probably get that through.

Every minority political party in Congress, whatever party doesn't have control of both houses of Congress, always thinks that in the next presidential election, our party's nominees going to win and we're going to retake majority control of Congress. So they don't want a hamstringing their party's president in the future.

So you got to convince the minority party, hey guys, even if you in the future, will be the majority party, you must be willing to go ahead and arraign in the office of president, no matter who is president. That's difficult to convince.

Because they're expecting that eventually, their party will be back in the control of the presidency.

I'd like to give back power: like what person in history has ever said that, who had power? Oh, no, I have too much power. Here, have some back. That's not a thing that we generally see happening.

I had my concerns of what Trump did. On the other hand, I also have my concerns of what the United States Congress has allowed a succession of modern presidents to do. Because the way it's set up structurally, Congress should push back anytime, any president, whether you like the president, whether or not you liked a particular action,

Congress should push back.

Whenever they do something like that

Because it is a shared power.

Congress has plenty of foreign affairs powers.

The fact that they've gone ahead and delegated most of them to the executive branch and then every so often, go ahead and say, I can't believe that the President, insert name.

Did this thing.

Did this thing.

You let him do that thing.

You let them do that thing.

You've encouraged it by not pushing back.

So, of course, I think that what may be missing here is that presidents are essentially cats. So if you let the cat sit on part of your keyboard, eventually, the cat's going to be all the way across your keyboard and playing with your mouse and potentially having their tail in front of your screen. Because if you give a cat an inch, it will take your entire keyboard. It's the nature of ambitious, self-absorbed creatures.

Politician I mean some level.

I'm a dog lover, but dog lovers know this, if you allow your dog to go ahead and sit on one piece of furniture, you better be willing to let the dog sit on all pieces of furniture.

If you let them up on the bed you better be willing to be pushed out of the bed, right?

Because dogs in the middle of the night are going to go ahead and stretch out.

They're going to push against that great creature that feeds them every day, walks them, etc.

They do bite the hand that feeds them.

That's what dogs do.

Again, I hear people go ahead and say this "If I was President, I would never do this."

Yes, you would.

Because if you were president, when you come into office you understand that you have these huge responsibilities.

People are expecting you to defend the nation.

It's incredible amount of pressure.

That's right.

Keep all of us safe.

That's right.

Keep me safe, but make it so I can travel where I want, I can never have to learn another language, I can always just speak the language that I grew up here speaking. I mean, a lot of Americans aren't bilingual.

Yeah, that's right.

My money will be taken anywhere and my worth will be taken anywhere. So go ahead and do that, but no pressure.

I'm sure presidents are like, "You know that that's not a reasonable set of expectations."

But we have them.

Generally speaking not just Americans, but most people from their country think that.

You think about how we reward presidential candidates.

They go ahead and tell us all kinds of things that they're going to do as president, many of which they can't deliver on.

But we end up picking people who make outrageous campaign promises to us.

So when they come into office, many of them are like, "I said I was going to do this." Even if they come into office and figure out, "Oh my God, I can't do this." But I can get close. I can get close or I need to be seen like I'm doing this. Or trying to do this. We as voters reward that overreach. Hell, we picked them because of that other overreach. Again, I tell friends all the time, we should pay attention to what presidential candidates say they're going to do in office, because most of them won't be able to achieve what the hell they say they're going to achieve.

What's weird is we punish people for being realistic.

Sure.

We punish candidates who say we can't do that because we don't have enough money to do that.

We don't have enough money.

We don't have enough social support or whatever it is.

We say "That's not a can-do attitude, we reward people who say, I shall turn the moon to cheese."

When was the last time we elected a president, who actually on the campaign trail said, "If you elect me as president, we're not going to get all that much done." We're going to be moderately successful.

Our colors for the campaign, are beige and tan. We're just going to be sort of neutrally.

The office of President really doesn't have that much constitutional power, and unless I can go ahead and convince those jackals in Congress to give me.

This isn't going to happen.

But pick me as President anyways.

Nobody would pick that person.

Nobody.

We like people to be emotionally and rhetorically big.

Yeah, broad, expansive.

We want them to be forceful, big, and passionate.

Think how we rewarded as American voters President Carter. He gets elected, comes in and goes ahead and talks about how the country is suffering a malaise. That we're going to have to tighten our belts. We're going to have to consume less oil.

We're going to have to put on a sweater.

We're going to have to put on a sweater. We're going to go ahead and dial back our thermostats in our houses etc. All extremely reasonable.

He sounded just like your dad and we all were like, "Oh my gosh, we elected our dad, never mind."

Yes. So in 1980, we go ahead.

We get an actor.

Yes, the Great Communicator.

We get an actor who can read a speech better than just about anybody.

Yeah, he goes ahead and promises us balanced budgets.

Star Wars, all kinds of stuff and we're like, "I'm in."

I'm not beating up on Reagan, I'm just saying as American voters we said terrible messages to presidential candidates, particularly any of those who dare say very realistic things. Think about Walter Mondale. In a presidential debate he was asked, "Would you raise taxes?" He goes "Well to do some of the things, that I think the country needs to do we may have to raise taxes." He got drummed, he got beat up. I think he lost to Reagan 49 states to 1. The only state that voted for him was his home state of Minnesota. Think about what kind of message that sends to a presidential candidate.

Don't say that. Keep your promises really realistic.

Hell no, no promise the moon because that's what we vote for.

I personally am not thrilled with drone strikes as weapons. I'm not a fan. But I also understand that part of the President's job is to respond to our id. It's to respond to our collective sort of, "That's a bad guy and you should kill him." Because in the movies, the bad guy wears a black hat. He's clearly the bad guy. So it's okay to do him in. Osama Bin Laden.

Yes.

The hunt for Osama Bin Laden, which took years and that was very much our American id of I want vengeance. I want this person to be punished because the things they do are bad in the world. Trump whatever one may say about him, his id is very apparent.

It's very apparent and he's tied into a huge segment of the American population. He was just like, "We don't put up with this bullshit." We don't let this guy go around killing people, finish him off. Show him what happens when you you kill innocent people. You mess with the United States and it's allies.

I get it. There's a part of me that's like, "Yeah."

You think post 9-11.

Then the other part of me that says, "But trial."

Like there are things that I think.

Think about post 9-11, you and I have had this conversation. One of my big regrets post 9-11 is that the country didn't have a meaningful conversation about how we were going to respond to terrorism.

Right.

We just went ahead and did it.

Right.

There was only like one or two members of Congress who voted. 538 people and three of them said, "Should we slow down here?" Everybody else wanted to go for it, authorize use military force, the Patriot Act, right?

Vengeance shall be ours

But intuitively, I understood it.

I was upset.

It's not an unnatural reaction.

But you didn't see the American public begin to have questions about the global war on terrorism until Bush got re-elected and it was midway through his second term. Right, six years on.

Somewhere around that. The people start going, "Hey, this doesn't make me feel any better about what happened."

But that immediate response I get.

When you're president, do you want to look weak?

I don't care who's president.

You don't want to answer the question.

What would happen if someone raped your wife with, I don't know, I'd have to think about it?

Yeah, which was Michael Dukakis' response to a debate question in the 1988 presidential election.

He was never forgiven for that response.

Yeah. He was never forgiven.

Clinton gave what people perceive as the correct response, which was, I would be infuriated, and I think he answered basically, I would do whatever I can to punish that person.

I would do something about it. But again.

We don't do well with moderation.

We don't do well with, I don't know,

I need to stop and think about what the ramifications are of me engaging in vigilantism.

But does that make me as bad as the person who did the thing?

Yes.

Right.

Yeah.

That's not how we react as humans.

So even though I'm not a huge fan of what happened, I understand in part why Trump felt like, I got a shot at this guy. This guy kills people. He's chaos embodied. There are people all around the world who would be appreciative of this. Let's do it.

Yes.

While like I said, I'm not a huge fan, I actually understand it. I'm not sure in the long-term it solves the problem.

Yeah. I'm not enough of a foreign affairs expert to know how that destabilizes the Middle East.

Right.

Or what that may mean in terms of on Iranian government response.

Although, it doesn't seem to have caused a huge, it seems to have caused a proportional response.

Okay. But all I know is as somebody who studies.

We say that now, we don't know what is six months from now.

Yeah, somebody who studies constitutional law, if Congress wants to rein in the office of president, it can. I think it may be high time that we start having some of these conversations, and it's not because the President is Trump. You and I.

If I invade Canada, we should still have this discussion.

Right.

Actually, probably more if I invade Canada.

Right.

Since you know.

But you and I both are less than enthusiastic about drone attacks, and the current policy about the use of drones was crafted by President Barack Obama.

Right.

Okay.

I didn't like it when he did it.

I think that's part of what we talk about when we talk about civil discourse, is the idea that the powers of the president aren't necessarily embodied by the person of the president.

That's right.

You have to separate those two things.

It is perfectly acceptable to dislike name x president here.

Sure.

Obama, Trump, Bushes, Bushes,

Clinton, whoever in your lifetime.

It's perfectly acceptable to not like that person, but separating that from what the president should and should not be doing.

I agree with you that Congress needs to be having that discussion, and I agree with you that the problem with that is that they're always expecting it'll be their guy next, and they don't want a hamstringing his power.

That's right.

Currently his power. Maybe eventually her power.

Yeah. His, her, their power.

He doesn't want it. So don't call Trump to task for a thing that you would not also be willing to call your president if you're a Democrat or a Libertarian.

Whatever party that's not the Republican Party.

That's right.

Don't because it's just two-faced, and it's not productive in the end.

Yeah. Because.

Because now you just look like a jerk, and you look like an opportunist. You look like.

I mean, how do we get to better government, right?

We make the rule for everybody, not just for one party or the other.

If we're concerned about presidents engaging in behavior that then will lead the country into a bigger war or causing a foreign affairs crisis down the road, then that actually requires the president to consult with the United States Congress. To me, that would seem to be the better course of action, no matter who is president and who's in control of Congress.

I want that consultation.

Right.

I understand there are some situations where you can't consult.

There's an opportunity to go ahead and take out Osama Bin Laden.

Okay. Get it.

But at the same time, what would have been the harm in a president reaching out to the leadership of both houses in Congress and say, we have this opportunity. It's an opportunity that exists for the next half day or the next two hours. Unless there are serious objections, I'm going forward with this.

Right. A true sharing of power in the sense of, no, a true sharing of responsibility.

Because that's the other thing.

It's accountability.

It's accountability. I mean, the Supreme Court has said this in foreign and military affairs a number of times. When the president actually gets congressional approval, the court is even more willing to go ahead and say, go forward.

The thing about accountability and responsibility is that if it is that nobody gets to say later, I wouldn't have done it.

If they're consulted and they all go in, they don't get to say later when it doesn't turn out the way they thought it was going to turn out. Well, he screwed that up.

No, we screw that up, and we're going to have to fix it.

Yes.

So you're suggesting that I don't invade Canada, I think is what you're saying.

You're saying that what I should do is consult Congress?

Yes. Get congressional. See if Congress is on board. Yeah, get congressional buyin.

Because I'm sure Minnesota, Michigan, New York, they'd probably be on board. I'm thinking that a number of Northern states on the Canadian border might say, man, that's some choice real estate there.

Nice people.

Nice people. Yes.

They've got you've got some working systems that we could adopt. It would be cool.

I mean, they have Molson beer.

Which is true. They have a pretty decent beer.

They have decent beer. Yeah. Okay.

They have decent beer and they have great Poutine.

Oh, yeah.

So if nothing else, and if you haven't had Poutine, look it up.

Oh, it's good stuff.

So good.

Yes. Anyways.

Okay.

Yes.

Well, then we will talk again, I'm sure, about other things that aren't the war powers, but thank you for having this discussion.

Oh, I really appreciated it.

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