

Welcome to Civil Discourse. This podcast will use government documents to illuminate the workings of the American Government and offer contexts around the effects of government agencies in your everyday life. Now your hosts, Nia Rodgers, Public Affairs Librarian and Dr. John Aughenbaugh, Political Science Professor.

Nia Rodgers: Hey, Aughie.

John Aughenbaugh: Good morning, Nia. How are you

Nia Rodgers: I'm good, how are you?

John Aughenbaugh: I'm lovely. Thank you.

Nia Rodgers: So I've been thinking about replacing members of Congress. Okay, wait. Let me back up. That made it sound like I was thinking about killing members of Congress, and I am not thinking about killing members of Congress, but I was thinking in terms of...

John Aughenbaugh: We went from zero to sixty.

Nia Rodgers: Yeah, and I didn't mean to take us there. I'm now I'm thinking, I need to slow this Bugatti down before we go over a cliff. But I was thinking about it in terms of COVID right. Let's say that God forbid a senator or a congressperson contracts coven and they are very ill and they can't serve for whatever reason, and I'm assuming that if you became gravely ill and you were in like the ICU or whatever.

Would you still be a member of Congress, or would you be removed at that point? Like one that's a question I have, and then to if if heaven forbid you died from it. How, how does that work. How do we get

Congress personal, Congress persons' replacements?

John Aughenbaugh: Yeah, so basically you're asking two questions. Okay. One, on what grounds are members of Congress forced to leave their positions? And then the second is, okay, what is the process for either replacing Members of the House of Representatives and or the United States Senate? So let's so let's deal with the first question, which is actually simplest, okay.

Nia Rodgers: Okay.

John Aughenbaugh: There are five, if you will, basic reasons why members of Congress leave their position. Okay. One, they lose an election, which is not what you're talking about. Okay, I'm not talking about that. Two, they are appointed to other government posts

right. So for instance, the current Secretary of State, what's his name Pompeo, okay used to be a member of Congress.

Nia Rodgers: Well, and, and Jeffrey Beauregard Sessions.

John Aughenbaugh: Yes.

Nia Rodgers: Right, was he was a senator and then he was asked to be Attorney General.

John Aughenbaugh: That's right. Okay. Um, and if you think about, for instance, there is you know already preparations within the Biden campaign if Joe Biden is elected president, are there members of Congress, he might reach out to. Okay.

Nia Rodgers: Oh for cabinet positions and things like that.

John Aughenbaugh: Yeah, okay. Now, then you have death. Okay. Oh, which you just mentioned, you know, God forbid, a member of Congress gets seriously ill and they die in office.

Nia Rodgers: Senator McCain.

John Aughenbaugh: Yeah. John McCain. okay when he died of a particularly virulent form of brain cancer. Okay. Then you have resignation. Okay.

Nia Rodgers: Jeff Flake.

John Aughenbaugh: Yeah.

Nia Rodgers: I'm not doing this anymore. I'm going fishing. Life's too short to be in Congress. I'll see y'all.

John Aughenbaugh: Another is retirement. Okay.

Nia Rodgers: Oh,

John Aughenbaugh: You know,

Nia Rodgers: Do people actually retire from Congress?

John Aughenbaugh: Yeah, I mean, hey you know there are people who serve for you know 18, 20, 24 years. And they're like, you know, hey, I did my government service.

Nia Rodgers: Right now, like it's funny to me because I think if Strom Thurmond. He didn't retire, he just died.

John Aughenbaugh: Okay, but

Nia Rodgers: He was 95 years old and he just never retired. So, I guess.

John Aughenbaugh: You know John Warner and Chuck Rob here in the Commonwealth of Virginia. Okay, both of them. Sure. For a number of terms and United States on it and they retired. Okay.

Nia Rodgers: So you can retire from being a senator. Do you get some sort of benefits package when that happens?

John Aughenbaugh: Oh my goodness. Yes. Okay.

Nia Rodgers: We're going to have to talk about that.

John Aughenbaugh: Someday we are.

Nia Rodgers: It's good to be an ex member of Congress because it sounds like from the way you said that it's really good to be an ex member of Congress.

John Aughenbaugh: No. Is it good to be an ex member of Congress. It's also good to be an ex member of the federal judiciary too.

Nia Rodgers: Okay, so we're gonna post it on that for another episode.

John Aughenbaugh: Yeah, right. You know, maybe post election. And then the last method is expulsion. Okay. Members of whichever house of Congress, you're a member of, can vote to expel you from the body. Okay.

Nia Rodgers: Is that a common thing though?

John Aughenbaugh: No, no, no.

Nia Rodgers: I mean, they can walk to do that, but actually doing that, I would bet would be...

John Aughenbaugh: In the entire history of the United States Congress, 20 members have been expelled, 15 in the Senate and five from the house. Okay, typically okay if you do

something bad when you're a member of Congress, they censor you, which is kind of sort of like a warning.

Nia Rodgers: censure. Okay, so they're, they're, like, you are bad and you should stop doing that.

John Aughenbaugh: Yes, you should stop doing bad things.

Nia Rodgers: It's a sort of a shot across your bow as well. Yes. Okay, just straight up.

John Aughenbaugh: Of the set the of the 20 that have been expelled, 17 were removed for office because of their membership or support of the Confederacy. So actually there's only been three, you know, other than the Civil War, you know, Southern states seceding from the union right it doesn't happen very often.

Nia Rodgers: Right, just not a thing we do.

John Aughenbaugh: No it's another thing we do. Right.

Nia Rodgers: Well. And in fairness, those are the people's representatives, theoretically, you're supposed to leave up to the people. The getting rid thereof.

John Aughenbaugh: That's right. You know, one of one of the logics of having congressional elections is if people don't like what you've done with their position of trust, they can do. What do you need

Nia Rodgers: Replace you with someone else. Yep vote you out. Yep bar if they like your corruption, because it works for them. Huey Long I'm looking at you. Have a long and storied career of just being a big old criminal and then your logos are like, yep. But he's our criminal, we love him.

John Aughenbaugh: Yeah, right. You know, you mentioned Strom Thurmond, a few moments ago, right. Served in the United States Senate. Okay, for decades. When he died in office. He was over 100 years old. Yeah, okay. And every time he ran for reelection some poor sap from a national news and media organization would be sent to South Carolina to interview South Carolinians as to why they would keep on voting this old guy. Okay, who had had a career. Okay, characterized by any number of racist efforts. Okay. How they kept on voting him in the office and I still recall and it's a paraphrase of a quote focus down South Carolina and African American, no less goes "oh yeah he's an old racist, but he's our old racist".

Nia Rodgers: Exactly. There's this, there's this thing, in the there's this sort of axiom in the south. In the north, y'all hide your crazy people. In the South, we put them on the porch. Yeah. Right, we, we don't even try to pretend like, Nope, that's my crazy uncle, he's just sitting out on the porch because... That's kind of how we are. but but I'm sure that there have also been northern candidates that that's been the case with so I just didn't say anything too terrible about the South, because I do love the South. so okay so 17 but that's a result of the Civil War. Yeah, and the Outcomes of the Civil War and the frustrations and divisions in the country right after that. So really three in 250 years is pretty good. It's, it's unlikely, you're going to be removed from office.

John Aughenbaugh: Yeah. So what more likely is going to occur is death or you're appointed to another government position and therefore your position in either the House or the Senate is vacant. OK. OK, now in the US Constitution, there is no required method for replacing Senate seats that are vacant.

Nia Rodgers: Okay, pause for just a second.

John Aughenbaugh: Yes.

Nia Rodgers: I love the founders, as an idea, as a concept right. I don't know them individually. So I don't love them individually, but... But there are some gaping holes in the Constitution. Like there's stuff that they totally cover the first Tuesday after the first Monday, November will always be the election, right. Like that's an arbitrary weird time that they came up with. But it's very specific, you have to have a Monday before you can have a Tuesday, like that. Like that's really weird specifically, and then you get to, oh yeah well they'll just figure out how to replace a Senator. We'll just leave that up to the states, right, because that's where it ends up happening is when they decide not to put something in the Constitution is because they think Oh, well, we'll just leave that up to the states. They'll figure it out. And then you get 50 different kinds of laws about how to do something. Is it as bad as that or is it or are there actually more consistent patterns than that?

John Aughenbaugh: Yeah, there are more consistent patterns in regards to replacing centers. Now understand before the passage of the 17th Amendment where senators became directly elected by the people of the state that they represented. Okay. Prior to that selection of senators was done by state legislatures.

Nia Rodgers: I bet that wasn't contentious at all.

John Aughenbaugh: Oh, it was extremely contentious And in fact, one of the arguments in favor of the 17th amendment was that state legislatures frequently could not come to agreement on who to pick when there was a vacancy in an unfilled US Senate term.

Nia Rodgers: Okay. They fixed polarization with a congressional amendment.

John Aughenbaugh: With a constitutional amendment.

Nia Rodgers: I wonder if that would work today. I mean, I'm just gonna put out there. It's a little polarized, right now, and maybe we could just have constitutional amendments, it would say, y'all. Knock it off.

John Aughenbaugh: Now the...

Nia Rodgers: That would be the best constitutional amendment ever. Where the the 28th amendment. Y'all knock it off. Wow that's short but to the point

John Aughenbaugh: Now that wasn't the primary, if you will. Reason to pass the 17th Amendment, you know, the idea of the 17th amendment. Actually reflected, if you will, of progressives the progressive view that the people should be more involved in the selection of who makes decision for them. Right. And in a future podcast episode listeners, we're actually going to be talking about other reforms of if you will have a direct nature. From the progressives and specifically what we're talking about our referendums initiatives and recall of elected officials. OK, so the 17th before the 17th Amendment, it was up to the state legislators and in some cases you have vacancies for you know 2,3,4 years.

Nia Rodgers: Until you got to change in the house or a change in the General Assembly or change in whichever body rules, your state. And people could actually get together and decide, okay, we're going to pick Aughie, and we're going to send him as our senator

John Aughenbaugh: That's right. Okay, now today. As you pointed out. Kind of sort of general consensus as a risen in most of the states, about how to fill. They can send it seat. In 36 states governors get to a point, the replacements for a vacancy tenancy. The person who's appointed to fill the vacancy holds the position until the next regularly scheduled election. So to give you an example. Currently, In Arizona, okay. When John McCain died. Okay. The Republican governor appointed McSally to replace him. She has the position on an interim basis until this fall because that was when McCain senate seat was up for reelection.

Nia Rodgers: But if his Senate seat had not been up for reelection for another two years would she have stayed in it till the end of his term.

John Aughenbaugh: Yes.

Nia Rodgers: And then, okay, so it's not the next election, it's the next election for that seat.

John Aughenbaugh: Seat.

Nia Rodgers: For that status. The seats are offset, aren't they, you don't replace both senators at the same time.

John Aughenbaugh: That's right, according to the US Constitution, only one third of the Senate seats are up for election every two years. Okay.

Nia Rodgers: Right, it's for continuity.

John Aughenbaugh: Yeah, it's yeah it's for continuity, you know, we have one of the logics behind the senate being a slower, more deliberative body. Okay.

Nia Rodgers (noise). Sorry. I was making commentary over here.

John Aughenbaugh: snort. So basically that's what happens in 36 states.

Nia Rodgers: Okay, and for a time there wasn't it relatively common that you would that that's how women served in Congress was that they would take the seat of their spouse when their spouse died is sort of the placeholder. Yeah, under the theory that you knew this person best you knew their way of thinking. You probably had similar relationships because you would have known the other senators. They were friends with because you would have had them over for dinner, you would have had them doing that kind of thing.

John Aughenbaugh: Your policy views would be similar to your spouse's etc.

Nia Rodgers: Right.

John Aughenbaugh: Though, is somebody who was once married. I'm not entirely sure. Correct. But nevertheless,

Nia Rodgers: But that was what they did not always, but a lot of times in the past. And that's how women actually served in a Senate before they could serve in the Senate on their own.

John Aughenbaugh: Now in 14 states. If there is a vacancy, a special election is held by a specified date to fill the vacancy. Okay. Um, and again what you could see what could happen here is, let's say Nia, you're a US senator and

Nia Rodgers: All the power

John Aughenbaugh: And you get appointed by the President to serve as the...

Nia Rodgers: Make it good...

John Aughenbaugh: Secretary, secretary of the Space Force.

Nia Rodgers: YES!

John Aughenbaugh: Yes. Okay. Which we discussed in a previous podcast.

Nia Rodgers: Which is the ultimate dream.

John Aughenbaugh: Okay, and let's say I'm the governor of the state that you represent say I'm the governor of Virginia. AGAIN, LIKE THAT, whatever happened.

Nia Rodgers: And how far has Virginia fallen at that point that I'm that I'm a senator in your governor. We love Virginia too much for to let that happen all at once. But anyway.

John Aughenbaugh: But in that kind of arrangement, I would set a date for a special election. Okay. Okay, um, let's say our good friend, Hillary. Okay.

Nia Rodgers: Hillary Miller.

John Aughenbaugh: Okay, who has appeared on the podcast. Let's say she wins the special election, she would hold that seat. Until the next scheduled election okay for that seat. Okay, so it could be only for a year, or it could be for five years. Okay, it depends on, at what point in the six year senate term you were forced to resign to take this other government position because remember listeners. Hold on just a moment. Remember listeners. In the US Constitution no person can hold two jobs in the federal government. So if you are a US senator. You can't be US senator and the Secretary of Commerce. Okay, you're either one or the other. If you are a US senator and you're nominated by the President to serve as a federal judge. Okay, and you get confirmed by the Senate. At that point in time, you have to give up your senate seat.

Nia Rodgers: But you don't have to give it up until you go through the confirmation process.

John Aughenbaugh: That is correct. Until you get officially offered the other job and you accept it. Okay. You don't have to give up your previous government position.

Nia Rodgers: So you can hold your seat until you find out whether you pass muster with your colleagues, although talk about embarrassing if you don't. But okay so let's just let's just go with your scenario for a second here. So I am appointed or rather I am invited to be

the, the Secretary of the Space Force. And I go through the approval process and I get approved and so I immediately resigned my position. I assume within hours of those two things I accept the one, resign the other. And you as governor, you call Hillary and you say, Guess what I picked you i've been i've been reading my list because we watch this process and we thought it was going to go this way. And you're my pick and if, if the election if I did that in July and the election would normally have happened to November, do you even bother to hold a special election in July.

John Aughenbaugh: That's completely...

Nia Rodgers: Keep the position open until November and say it's anybody's game.

John Aughenbaugh: That's completely at the discretion of the governor. In fact, Okay. In 10 of the 14 states okay that require that there be a special election. Okay. Um, the governor can appoint an interim US senator. Now opponents in that election. Okay, are going to be very happy if you were appointed the incumbent US Senator, The interim US senator because incumbents in historically in the United States, even if they're only in office for four or five months. Okay, get to go ahead and say, I've been doing the job. And that's one of the reasons why you should vote to keep me in the job.

Nia Rodgers: That's an unfair. A little bit of an unfair advantage. But what they could do is just keep the seat open, they could say, you know what, it's five months, we're going to have our other senator do double duty and be like, super active

John Aughenbaugh: Yeah.

Nia Rodgers: And we're going to just hold off and do this as as democratically as we can, which is to not give anyone an advantage in the election. So they have that choice.

John Aughenbaugh: Yeah, they have that choice now. What we've seen is that typically since the 17th amendment as was pat or was ratified as an amendment to the Constitution. States going to go very long without having full representation in the US Senate.

Nia Rodgers: Well what Governor is going to resist.

John Aughenbaugh: Yes.

Nia Rodgers: I mean, that's, you know, if you can give your party and advantage by making an incumbent. But even if they're an incumbent for three weeks, but you get their name out there because they were in the newspaper 50,000 times over, being the incumbent, then it would be... It reflects somewhat what's going on with the Supreme Court nomination right now, which is even if President Trump loses the election he will have put another Another

person on the Court. Right. Yeah. Yeah, who would. It would be hard to resist having that kind of influence over the future.

John Aughenbaugh: And yeah, so You know, to your initial question okay about vacancies in either house or of house of Congress. Okay, in the Senate. Okay, we typically don't see long vacancies in unfilled senate terms, we just don't. Okay. And in, in many ways, it reflects the fact. Well, you just pointed out, okay, either the states require okay a temporary appointment or replacement until the next regularly scheduled election for that senate seat or the fact that if your governor right I mean... if people want to be senators. Right. Right. I mean, people want to be us senators, um,

Nia Rodgers: Well, and I'm not trying to be ugly, but there's a certain narcissism in running for governor or President that makes the assumption that of course you're going to make a good pick. Right. Like of course you would do you would do the right thing because you wouldn't run for that office if you didn't think that you were suited to making these executive decisions like you But if I would you run for governor under the under the theory of All you know i might be good at it. It'll probably be all right. That's not how they come into it, they come into it with I'm brilliant and I'm fabulous and I'm going to fix everything.

John Aughenbaugh: Well, and not only that, remember governors are typically viewed as the heads of their political party in a state. Right, if you want to go ahead and do a lot if i mean you You want to go ahead and cement your parties, if you will. Majority control or dominance in a state being able to go ahead and appoint okay even just for a few months. Okay, US senator goes a long way. Okay, towards fulfilling that yeah I mean, think about this.

Nia Rodgers: Politics is all influence

John Aughenbaugh: Okay, think about this. If you're the governor of a state and the Senate position that just became vacant was filled previously by a person from the other party. Look at what you can do for your party. Right, okay. You're benefitting your party. Okay, in the national legislature.

Nia Rodgers: And you're giving that person a chance to show that they can do the job. And then that gives them a leg up and you're right incumbent. But look, I'm already here, and I'm doing the job and see how good I am. I've already done these things yet.

John Aughenbaugh: Yeah.

Nia Rodgers: So, okay. So that's never there's just never going to be a chance that it's going to be left open. Unless you had... Unless there was some political advantage to not filling the

seat. Yes, then you might see that, but otherwise there would be no political advantage to doing that.

John Aughenbaugh: Yes. Okay.

John Aughenbaugh: Okay, now that's the Senate, the House. There's actually a constitutional requirement that house members only be replaced by an election held in the congressional district of the former representative

Nia Rodgers: Is it a special election held right away, or is it just the next election?

John Aughenbaugh: Very good question. Okay. According to the Constitution in state law, the governor of the state calls for a special election okay to fill the vacant house seat. Okay. Now, question as to how quickly it's supposed to occur. Right. Okay. So typically you would have a primary in the spring or early summer. So the, so that the political parties can pick their candidate. Okay. And then you have the general election in the fall. Okay, well let's just say for instance Nia, you are a representative in the house. Representing a district that covers okay where you live in Richmond. Okay. All right. And let's say once again I'm, you know, I'm not gonna have anything negative befall you let's say you get appointed to be the ambassador to...

Nia Rodgers: Pick a good one...

John Aughenbaugh: Ireland.

Nia Rodgers: Yes!

John Aughenbaugh: Okay, so. Okay.

Nia Rodgers: It's beautiful. Ireland is beautiful.

John Aughenbaugh: Let's say that happens. Okay, in December. Now, There could be a special election. Okay. As early as January. Right. On the other hand, if you're going to follow the general election cycle. Okay, you're not going to have the primary election until the spring and then you wouldn't have the general election. Okay, until the fall

Nia Rodgers: So, could be almost a year.

John Aughenbaugh: It could be almost a year. Okay.

Nia Rodgers: Well, and in, in fairness to some governors, special elections are expensive. Yes. Like, that's not a cheap thing to do because you have to marshal all of the polling stuff

that you do. And even though you're only doing it in one district. In this particular instance, some districts are quite large. I mean, I'm thinking, Montana. Right. Some districts are quite large, physically and you'd have to... And then you also have to get the word out that it's happening or you have no turnout because... I will be honest with you, that the vast majority of places that I've lived. I had no idea who my local representative was. I knew my senators were but I had no real idea who my local representative was until election time and even then. Only because I was paying attention to the elections, like all of it, and I'm like, oh, they're on the same sign. As the presidential person. Now I know which side, which party that person is from, like, you know, it's just terrible. Now I do a whole lot more. By the way, listeners. I do a lot more investigation of my ballot, I'm, I'm one of those people now who sits down and makes a list before I go into the polling place, but I didn't used to be that person. And so if you wouldn't have been able to tell me I wouldn't be able to tell you, rather, who my... who my person was so if you have a special election and I didn't know about. I wouldn't show up. I wouldn't vote.

John Aughenbaugh: And by the way, listeners what Nia just shared about her behavior of the past.

Nia Rodgers: About her tragic past

John Aughenbaugh: Okay, is entirely consistent with the vast, the overwhelming majority of Americans. Okay. When Americans are polled to go ahead and name. Okay, who their elected officials are most Americans can go ahead and name the president, usually the Vice President, they can...

Nia Rodgers: What do you mean usually?

John Aughenbaugh: Not all Americans can.

Nia Rodgers: You're doing this to hurt me, aren't you?

John Aughenbaugh: Well, no, no, no, no, no. It's actually to go ahead and make you feel better. Okay, in the sense that your behavior in the past was not all that unusual. Okay, Americans know, most Americans know who the president is. They cannot name a single Supreme Court Justice

Nia Rodgers: Okay, that's terrifying.

John Aughenbaugh: Okay.

Nia Rodgers: A majority, there are some really entertaining justices if nothing else, you should just know them because they're fun.

John Aughenbaugh: Oh, sure. Okay. I mean, and when I go ahead and show photos of the current Supreme Court justices to my students... You know, they're like, you know, they have visceral reactions to the justices, particularly when I started explaining you know some of the more interesting tidbits right okay but they typically know their senators.

Nia Rodgers: That interesting

John Aughenbaugh: They typically do not know their statewide elected officials. Many Americans cannot name who their governor is. or lieutenant governor is, they certainly can't identify who their house member is or state senator is.

Nia Rodgers: And I have to admit I struggle with that. I'm not gonna pretend that I don't. Once you get past the lieutenant governor in this state officials, I struggle. I have to admit I struggle, and that's why I research my ballot now is to make sure that

John Aughenbaugh: Yes.

Nia Rodgers: I know what I know who I'm voting for and why I'm voting for that person. But unless somebody has done something like okay. So listeners who live in Virginia will now know where I live. Please don't target me for hate mail. I live in Eric Cantor's previous district.

John Aughenbaugh: Yeah yeah

Nia Rodgers: And the only reason that I knew who Eric Cantor was, was that he was... He was so big in the House like he was doing. I mean, like, and then you had the whole Dave Bratt thing that came after Cantor and you couldn't live here and not know any of that. And then you couldn't live here and not know Abigail Spanberger for the same reason. Yes, but but previous to that if you had said to me Nia. Who's your who's your representative to Congress. I've been... probably a guy. Like, you know what I mean? Like I would have probably been in the neighborhood of male.

John Aughenbaugh: And then, yeah.

Nia Rodgers: Beyond that, no clue.

John Aughenbaugh: Yeah.

Nia Rodgers: And give it up for the General Assembly. I love the General Assembly, they're doing God's work down there, but I have no idea who my representative to the General Assembly is.

John Aughenbaugh: So,

Nia Rodgers: Isn't that terrible? And I'm and I'm politically like relatively interested

John Aughenbaugh: Yeah, you're informed. Okay. And that's one of the criticisms of elections in the United States. There are so many positions and they're held so frequently that you get voter fatigue that. Even those who are interested in politics, after a while, say, I can't read anymore. I can't listen anymore. I can't think anymore about this.

Nia Rodgers: I think we have Virginia. We have elections every year in Virginia.

John Aughenbaugh: We do.

Nia Rodgers: And I suspect that the vast majority of Virginians turnout for the presidential election.

John Aughenbaugh: Oh my. Oh, yeah.

Nia Rodgers: Isn't don't we see that the numbers are almost always a huge spike in a presidential year and then they they just sort of drop off. Yeah, sometimes they're a big spike in a governor year If there's a if there's a gubernatorial race. Care about that but

John Aughenbaugh: Yeah, the off year elections, the elections in years where there's not a presidential election turnout is significantly lower. Okay. As Nia pointed out, Virginia, like the state of New Jersey holds their governor election, the year after the presidential election. So we'll have a governor's election here in the Commonwealth of Virginia next year.

Nia Rodgers: That's an interesting side note, the governor of Virginia can only serve one... like they can't serve two continuous terms. They can serve more than once, but they can't do it in a row.

John Aughenbaugh: That's right.

Nia Rodgers: You will never see eight years of a governor in Virginia, which I think is kind of unusual.

John Aughenbaugh: We're the only state with that prohibition.

Nia Rodgers: Oh, well, it's not kind of unusual. It's Usually just straight up unusual. Yeah. Because I mentioned it to a friend who they were getting ready to work on a reelection

campaign for governor and I said, yet you can't do that in Virginia, they're like, what, like, Nope, you got to sit out a term you can come back, but you have to sit out a term.

John Aughenbaugh: When I moved to Virginia and my mom asked me what was different about politics in Virginia. My to my home state is Pennsylvania.

Nia Rodgers: How long do you have to answer, Mom?

John Aughenbaugh: Well actually it was a multi phone call discussion.

Nia Rodgers: Was gonna say you wrote a small novel for her.

John Aughenbaugh: And one of the things I shared with her almost immediately was the fact that governors cannot succeed themselves right is Nia just explained. They have to take at least one term off before they can you know run in the successfully elected. They hope and my mom was just like that does not make any sense. And I'm like, Well, if your intent is to make sure that the governor okay doesn't become too strong. Okay. I said, then it makes all kinds of sense.

Nia Rodgers: Right, and Virginia. It's also a pre it's a prevention of entrenchment, right. Like, it's a prevention of you're not just going to be governor eternally and serve forever as governor and I know that some states have term limits, but I don't think they all have term limits.

John Aughenbaugh: not all states have term limits.

Nia Rodgers: So some people could be elected as a state governor and just stay there forever. The way.

John Aughenbaugh: Our terms. Yep.

Nia Rodgers: Yeah, and Virginia was like no, thank you.

John Aughenbaugh: Know, Virginia has never allowed that okay well they did allow it, but then they got rid of it. Okay.

Nia Rodgers: So it was originally

John Aughenbaugh: Well, yeah, there was a period in the 19th century where governors could succeed themselves but nope. Yeah.

Nia Rodgers: And I have to admit I kind of like it because it it... So the thing about a second term is if you think that you're building towards the second term, you are. You are more cautious about doing certain things which is a good thing, but you're also more cautious about doing certain things which is a bad thing. Because there are some times when you need to damn the torpedoes, and you don't because you're worried about reelection. Whereas if you take that off the like at the beginning, this is not part of the deal. Then it changes what governors do, especially in Virginia, it changes how they immediately when they take office start doing things that they think is direction that the Commonwealth needs to go right like they, they're like, Yeah, I'm not building towards another election because I can't, I can't have another election.

John Aughenbaugh: Well, they basically know they have three years right there's their last year in office. They basically know that even if the state legislature is controlled by their political party members of the state legislature are already thinking about working with the new governor

Nia Rodgers: So they have, they have to reach across right

John Aughenbaugh: Yeah, they basically got three years. Okay.

Nia Rodgers: Which is why you see lurches of radical change in Virginia. Sometimes, where you see what radical...

John Aughenbaugh: Well, I would argue governors, not being able to succeed themselves is one of the reasons why we see incremental change in Virginia. Okay. Because again, they know they don't have a second term that they can leverage to get more long lasting policy change done. Okay. So whatever they're going to get done. They're going to have to get done in three years okay in the state legislature noses. So if the state legislature is controlled by the opposition political party.

Nia Rodgers: That's true.

John Aughenbaugh: They can slow walk everything they can slow walk. Everything okay and and again, I've told students. I've told students this before. Okay, the most important figure. Okay, or figures in a legislative body are those who know Robert's Rules of Order. Because those who know parliamentary procedure can go ahead and slow down the momentum of even the most popular governor

Nia Rodgers: And they can speed up things that yeah I mean whatever else you may say about Mitch McConnell... the man knows the rules. He knows them inside and out. He knows exactly how far he can walk up to a line and put his toe right up against it. He's, his

knowledge of that is phenomenal. Which is how he has managed to drive a lot of policy and in the Senate by knowing the rules.

John Aughenbaugh: There is a really there's a reason

Nia Rodgers: By the way kids who are listening the rules aren't always fair

John Aughenbaugh: No, and

Nia Rodgers: No, no, you know, when people say that's not fair, like, well, but that's the rule is

John Aughenbaugh: And if you want to go in and change the role criticizing it outside the body usually is not effective. So you got to get involved in the body to change the role But to your point, there's a really funny story of when Ronald Reagan was president. House Republicans complained that Ronald Reagan hardly ever met with them to get his various legislative proposals passed and Reagan was, was infamously quoted as saying Well, I already know you guys are on board. I am I have to convince the Speaker of the House. Tip O'Neill, who is a Democrat. Okay. Who knows who served in the House for a long period of time. He knows where all the bodies are buried. I gotta convince him. To go along with me. Not you. Okay. So, you know, that's the value of actually knowing the rules. Okay, particularly when you are in the majority in a legislative body. Okay, because you basically know the executive branch has to come to you and negotiate, they have to. Right. That's why, for instance, where we're not going to see another pandemic stimulus package come out of the Congress until the Trump administration and Mitch McConnell in the Senate are willing to play ball with Nancy Pelosi in the house. Say what you will about Nancy Pelosi, but she's been there for a long time.

Nia Rodgers: And she knows the rules

John Aughenbaugh: She knows rules. Okay. She knows the rules. Okay. Um, and they know this.

Nia Rodgers: Well, and they're working on the resolution to keep the government going after December.

John Aughenbaugh: Yes.

Nia Rodgers: I think there are... Wait is it till December.

John Aughenbaugh: Yeah, they just passed one this week.

Nia Rodgers: Again, continuing resolution. Right. Yeah.

John Aughenbaugh: Our favorite faithful podcast listeners will know, we did a multi episode series on the budget process.

Nia Rodgers: Right.

John Aughenbaugh: And once again, the United States Congress did not pass A complete federal government budget, but this week. They passed a continuing resolution. Now this was a resolution that only works basically through Christmas.

Nia Rodgers: It's actually like early December isn't it? It's not quite Christmas so

John Aughenbaugh: Yes, right.

Nia Rodgers: Now, so over Christmas, the government could shut down, because during a pandemic. That's what you want.

John Aughenbaugh: But it got Congress and the White House through the election.

Nia Rodgers: Great which which at this point incremental is the best we can hope for. Right, because there's so much going on.

John Aughenbaugh: Yes. But back to the house.

Nia Rodgers: Right, so

John Aughenbaugh: So basically, what you have here is You could have a congressional district that goes nearly a full house, if you will. What's the word I'm looking for. House session. Without having representation, depending on when their representative died resigned got expelled took a new job, simply because Okay, of the timeline right because house. Okay. The house seats served for two years. Right. Okay.

Nia Rodgers: And isn't it again. A third

John Aughenbaugh: No, the full house is up for reelection every two years.

Nia Rodgers: Oh I misunderstood that. Okay. Wow.

John Aughenbaugh: Only the Senate has a third of its membership up ok for election.

Nia Rodgers: Okay, let's just for just a moment, have a small fantasy moment.

John Aughenbaugh: Oh good lord no. I know where you're going.

Nia Rodgers: The entire turn over Of Congress

John Aughenbaugh: Let's say a whole bunch of House members get get ill with COVID-19. And then they die right after the election.

Nia Rodgers: No, no, no. I was thinking, sorry. To the place of... Can you imagine if... It brings my dream of the presidency closer, where I could just say y'all go home and nobody comes back. Send me all new people.

John Aughenbaugh: Listeners what Nia is referencing

Nia Rodgers: No senior anybody in the House.

John Aughenbaugh: Listeners, what Nia's referencing is the fact that the President in article to the Constitution. As the authority to not only convene Congress, but also to adjourn. Congress. Okay, which again we discussed in previous podcast episode because Donald Trump. Earlier this year, President Trump actually said, I might just adjourn Congress if they don't do what I want them to do.

Nia Rodgers: I mean, I like how he threatens things that just are unthinkable. Wow. Okay, but that and and i'm again I'm fantasizing in a sort of completely ridiculous way but but if lightning more to 100% strike you can have an entirely new house of representatives. No incumbents re elected, which would never happen, but wow that would change the dynamics, because for listeners. The reason my face is doing all these weird things is... The committee's that you serve on the all of that stuff is a matter of how long you've been in the House of Representatives, it like how senior you are

John Aughenbaugh: Yes.

Nia Rodgers: And so if you had 100% new... That I don't even know what the speaker would do with that like I don't even if they would have to just sort of basically draw straws like there would be no way to organize the way the house currently runs. If you didn't have seniority.

John Aughenbaugh: And that's why listeners. If you want to know why media organizations always report, in particular, on how many House members have decided not to run for reelection; they've either resigned, or they're retiring is for what Nia just described. Okay, because in both house in the Senate, but in particular the house right okay if you have huge turnover. Okay, and some years we will see this you know 18 to 20 members of one

political party says, you know, now I'm tired of being in the minority, I'm tired of working in the Congress. Nobody gets along I'm not running for reelection.

Nia Rodgers: And often, it's in a midterm. Yes, because midterm elections traditionally don't go well.

John Aughenbaugh: For the President's party.

Nia Rodgers: For the President's party. So some of those guys are like, yeah, no, I don't want to be...

John Aughenbaugh: Okay, but then you have this huge turnover and then that you know has the potential to mean there's huge turnover and who are the chairs of the committee's okay Or there might be a huge turnover in committee membership. Okay, so all of a sudden you know legislation that was being considered on a committee gets completely scrapped. Because you have 5,6,8,10 new members on a committee and they're like, Yeah, that's not our priority. We want to focus on x.

Nia Rodgers: Yeah, they haven't been lobbied within an inch of very existence. About that particular issue. And they're like, No, no, I care about golf courses or whatever. And then the next thing you know, The priorities get shifted rather dramatically. But in your scenario which I also find fascinating. So we have an election year this year and in November. All I don't know, let's just save it. Everybody's reelected and it stays the way it is. But then in December, a whole bunch of people get sick. And they have to retire because they're simply not physically able to continue being congresspersons because they've had some sort of combination of the plague and COVID and the flu or whatever.

John Aughenbaugh: Well, I mean, think about COVID and the flu right public health experts have already said, you know, that twindemic Has the potential to really hit the American population hard and think about, again, the age group of the lion's share of most members of Congress.

Nia Rodgers: A little bit older.

John Aughenbaugh: Yeah, they're they're middle aged to older right

Nia Rodgers: And they are also people who have lots of public exposure.

John Aughenbaugh: They have a lot of public exposure. High stress, which means their bodies typically can't fight off okay you know these kinds of infections, if you will.

Nia Rodgers: And many of them have underlying conditions.

John Aughenbaugh: That's right. Okay. I mean, I don't want to go there. But let's say we it does happen.

Nia Rodgers: Right. So let's say you lose 100 of the 435 and you don't elect until next November, because that's the earliest when you can have a special election.

John Aughenbaugh: Or are you a governor who's willing to forgo that normal timeframe, simply because you want to make sure your states congressional districts have representation. That's the difficulty. Because as you just pointed out a few moments ago when we do special elections.

Nia Rodgers: And nobody shows up.

John Aughenbaugh: Nobody shows up.

Nia Rodgers: I mean like basically if you want your vote to supercharge, super count, do it during a special election because it's like you and six other people in your district. I mean, it's... You have enormous power during those if you just show up.

John Aughenbaugh: And the parties political parties hate that. Okay. But nevertheless, okay. Do you want a congressional district or a number of congressional districts to not have representation. Okay, you know, for, you know, nearly a full year.

Nia Rodgers: Right. And in Virginia. Let's just say that you lost three. That's a lot of federal dollars that you are not getting earmarked because those positions are sitting empty. You have to make a cost benefit analysis here of... we need a warm body we need somebody in that space asking for stuff for Virginia, even if it's not somebody who thrills us to the core of our being, because we just, we need to have that the less representation, your state has in Congress, the worse it is for you. That's why the states with sparse populations complain about that. And that's why we even have a Senate versus a House is to guarantee that there's at least two people for every state in their pitching for I mean a beating for the fence right

John Aughenbaugh: Because Yep, yep.

Nia Rodgers: They need something. And yeah, wow. That would be interesting, wouldn't it Oh, I mean, in those ways of things that you say that's interesting when it happens to another country and it's terrible when it happens to yours.

John Aughenbaugh: Yeah, but I mean in so much what we're talking about in this episode. And in the podcast episode. It's going to get released next week in regards to certifying presidential elections. Okay.

Is, you know, worst case scenarios. Okay, worst case scenarios. So, you know, we talk about these and then we wonder whether or not the Constitution or law actually is prepared for this right. You know, there's the old Eisenhower quote you know plan and I'm paraphrasing here, you know, you know, plans, oftentimes don't work, but you need to do planning. Right, right. You know, you know, if you if you

Nia Rodgers: at least work through the scenarios. Then you're not completely blindsided by What happened.

John Aughenbaugh: That's right.

Nia Rodgers: Okay, you need to have worked through all the scenarios in your brain. I mean, even if what you think. That you would do. Can't be done. You've at least thought through all the possibilities.

John Aughenbaugh: Nia and I had a conversation when the pandemic first hit in this country. Okay. Typically out in the west coast. Okay, and almost immediately. You know, you know, he asked me, you know, you know, are you planning for this. And I'm like, Yes, I'm planning for this, but I'm not making any concrete plans. Okay, I needed. You know, I needed to be ready. Nia needed to be ready about how our jobs and how we were going to go ahead and teach and support students was going to change. But we also knew that there were so many unknown variables. Okay, that getting locked into a particular plan. Okay, would have made no sense.

Nia Rodgers: And listeners what Augie is referring to is the unknown unknowns. The known unknowns. Like, I know that that he sounded insane when he was talking about the. I'm sorry, Secretary I can't remember his name. His name is gone right out of my head... The secretary, who said that the known unknowns and the OH.

John Aughenbaugh: Yeah, and I'm blanking... Is yeah but nevertheless

Nia Rodgers: But, but he when he was saying that what he was trying to say was, you need to try to have thought through as many variables as you can.

John Aughenbaugh: Understanding that you don't know all the variables. Okay, at this particular time. And, and probably one of the benefits of one Nia getting her one of her master's degrees in Homeland Security.

Nia Rodgers: Donald Rumsfeld

John Aughenbaugh: Yeah, Donald Rumsfeld, yeah.

John Aughenbaugh: Me actually teaching in that and also getting my PhD in public policy and administration is that. There are things that we know as government officials that are like worst case scenarios and we hope that they never happen. But because of your position and because the public frequently turns to the government okay to guide them to lead them to help them in terms of time of crisis Jada have given some thought. Even if it is as Rumsfeld points at pointed out, there are some things you will never know. Right. Okay. You can put you know of the brightest smartest people in a room and there still is going to be okay, an event that happens that they could not have hypothesized

Nia Rodgers: Right. The 9/11 Commission report said that we had a failure of imagination.

John Aughenbaugh: Yes. Okay.

Nia Rodgers: We did not imagine a scenario where planes would be used as bombs.

John Aughenbaugh: Yeah, I mean, because again,

Nia Rodgers: It hadn't happened before now. Yeah it and I are aware of that possibility...

John Aughenbaugh: A government intelligence officer who went ahead and said in a meeting, while you were brainstorming ideas. And guys, we ought to prepare. Okay, for terrorists to use planes as weapons. Okay, think about what that what reaction, they would have received pre 9/11. right right at that point in time, many of your colleagues are like hey we ought to make sure they Joe doesn't get invited to this kind of meeting ever again. Okay.

Nia Rodgers: Yeah, cuz he's crazy. He's talking crazy stuff. And then after that. After they were just said, Boy, that Joe was prescient. But untilthen, he's a nutcase right until it happens. He's, he's he's just a lunatic. And then after it happens. He's Nostradamus but...

John Aughenbaugh: You know, when COVID 19 hit okay. Again, you know, Nia said to me, you know, are you, what are you prepare for and I'm like, Hey, I'm getting ready for a number of scenarios, but I don't know which one's going to hit. And the big thing is I need to go ahead and send a very clear message to my students. Okay, this is what I'm going to do. Okay, it's not necessarily the best option. But this is what we got. And this is why I'm doing the things that I'm doing. That was the best that I could do. Okay. Right. Um,

Nia Rodgers: And the reason we're bringing this up during this discussion of how you replace congress people is Congress, people are slowly getting sick.

John Aughenbaugh: Mm hmm.

Nia Rodgers: It's not super surprising. We're in the middle of a pandemic. For all the factors Auggie mentioned their age, their physical condition. The fact that they're in public great deal of time, the fact that they sit next to each other. A great deal of the time and don't socially distance, all of those things. So we're bringing this up because we need to think we need to be thinking ahead in terms of what does our state do, how does our state plan for something like this. If you do have to replace a member of Congress because they're incapable of serving now. We don't say that by way of saying, we hope, anybody dies because we certainly do not. None of us, no what we, we both like it if deaths from covered would stop right now. This madness and there would be no more deaths. And we would like it if they would have stopped about 10 months ago. Yes, you know, but but that is something that we need to think about. And because special elections are so lowly attended and hard to pull off. It's something that voters need to think about and just be aware of that that might happen that you need to keep an eye out on how your, your representatives are doing and make sure that if anybody has to retire or or leave the position for illness that there's that you know what's going to happen and that you know have a stable work through it.

John Aughenbaugh: I mean a good axiom here to remember folks is democracy takes work. Okay. And yeah, we could probably make it easier. We've discussed in this podcast, how we could make it. He's here.

Nia Rodgers: Really, where's the fun in that? I would love for certain things to be easier. But there's also 330 million of us like... What's the other thing is, is people will say, well, then x country. They do this thing. And I'm like, okay, but the next country they have 5 million people. Their whole country's population is smaller than the population of New York City. So I can't, I can't go there with you.

Just huge Now, if you're talking about Russia or China or India. I'm on board. I'm listening because they're like us with enormous populations but you know What yeah I listened to a student can embarrass wants to New Zealand. And I was like, you know... And then I just didn't even go there cuz, well...

John Aughenbaugh: I have students, you know, with some regularity, say, you know, voter turnout in Europe's much higher. And I said, Okay, fine. You understand that most European countries, okay, are a small percentage of the size of the United States and oh yeah by the way in terms of diversity. Okay. I mean, they have a, you know, homogeneous population.

Nia Rodgers: Right, right. I think if you compared like the number of people who vote in Texas and the number of people who vote in France. They're probably fairly similar. Because those are about the same size, like, Come on, people.

John Aughenbaugh: I said, you know, there are significant differences here right in terms of, you know, culture, size... Again, I would like to see turnout be significantly higher in the United States, all... Yeah. Now, on the other hand, I'm just going to sort of like Okay guys, we're going to have a conversation about how to improve turn on the United States first comparing the United States to other countries. I'm not necessarily gets us to that end goal.

Nia Rodgers: Right. I'm gonna need you to find a democracy that's as big as we are. And has the same you know system and then we'll start talking about how to. Yeah. Yeah, it's it's apples and oranges, but Yeah, but it sounds like, for the most part we have, we know how this works.

John Aughenbaugh: Yes.

Nia Rodgers: That we're in good shape. With that, we just need to keep on top of the potentials if there does need to be a special election and we would like to encourage listener to vote in a special election. Whenever there is one in your district, because it is enormously empowering for you to do so.

John Aughenbaugh: And remember guys okay elections are about politics. Okay. Okay, so there are going to be politics involved with that. Alright.

Nia Rodgers: Alright thanks Aughie.

John Aughenbaugh: Thank you.

Nia Rodgers: I'll talk to you next week.

John Aughenbaugh: Looking forward to it.

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