

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.

N. Rodgers: Hey, Aughie.

J. Aughenbaugh: Good morning, Nia. How are you?

N. Rodgers: I'm excellent. How are you?

J. Aughenbaugh: I am good.

N. Rodgers: Today, I want to talk about something that's not really exciting, but it is certainly different for Virginia. Because just a few months ago, pot became legal in Virginia.

J. Aughenbaugh: That is correct. Recreational.

N. Rodgers: But it became legal.

J. Aughenbaugh: In a very limited way.

N. Rodgers: Somebody has to give you pot, you can't buy it. I don't understand that. Can you explain to me why Virginia's law is so weird compared to something like Colorado or one of the other states where they're like go to it, my friends, smoke pot, sell pot, do whatever you want to do with it. Just don't drive impaired. That seems to be the ruling in Colorado is just don't be impaired when you're operating something where you could hurt somebody else.

J. Aughenbaugh: Yeah. To take a step back. In the United States right now, nearly four-fifths of the states allow for the medicinal use of marijuana. Almost 20 states, including Virginia, allow for the recreational use of marijuana by adults.

N. Rodgers: Can you explain? Marijuana is a Schedule I drug.

J. Aughenbaugh: Okay.

N. Rodgers: That's where its legal versus non legal status comes from. It's how it's described by the federal government.

J. Aughenbaugh: The federal government has regulated drugs, not alcohol. The federal government's been regulating alcohol since pretty much the onset of the formation of the United States.

N. Rodgers: Is that why pubs actually close? You all have to go home, you don't have to go home, but you can't stay here, you can't keep drinking.

J. Aughenbaugh: Nia, we need an entire separate podcast episode to discuss the United States relationship with alcohol, because as you and I discussed, when we haven't been recording, when we discussed potential podcast episodes, the United States relationship with alcohol is, I think it's fair to say, unique among the nations of the world.

N. Rodgers: There's a Victorian word, fraught.

J. Aughenbaugh: Yes.

N. Rodgers: It is fraught with complications.

J. Aughenbaugh: With alcohol, with booze. As some scholars have pointed out, you could plausibly make the argument, Nia, that the United States was a nation founded on alcohol.

N. Rodgers: The rum runners.

J. Aughenbaugh: Well, many of our founding fathers actually produced alcohol.

N. Rodgers: That's right, a lot of the plantations did.

J. Aughenbaugh: George Washington was a distiller. Some of our initial legal skirmishes in our country occurred because the federal government decided to tax booze as a way to pay off revolutionary war debts. But in regards to drugs, the federal government got involved in regulating drugs at the turn of the 20th century.

N. Rodgers: I think in your writings, I saw in 1906.

J. Aughenbaugh: 1906. This is roughly the time when pressure was put on the federal government to regulate the food drugs that were being sold to the American public.

N. Rodgers: Is that like that, take this tincture for headaches, take this whatever and it could have anything in it. Like the original Coca-Cola had cocoa leaves in it, all kinds of stuff like that could just be.

J. Aughenbaugh: Yeah, this is a magic elixir that in addition to going ahead and curing your constipation, you could also use to get stains out of your clothes.

N. Rodgers: Probably you don't want to swallow something that can do both of those things.

J. Aughenbaugh: That's right.

N. Rodgers: So you've got this snake oil thing going on that they're trying to protect people from.

J. Aughenbaugh: That's right and that's where you get the rise of an independent regulatory commission known as the Food and Drug Administration. But in regards to marijuana, the Controlled Substance Act was passed during the Nixon administration. Ostensibly, it was a law that was designed to have the federal government regulate and criminalize the sale, distribution, and usage of drugs that were ruining people's lives. Whether it had been cocaine, heroine, hallucinogenics, etc. But in regards to marijuana, marijuana was added to the list of drugs, and these are known as Schedule I drugs in the law, the Controlled Substance Act. Two federal agencies, the Food and Drug Administration and the DEA, the Drug Enforcement Agency, have to make a determination. Does a drug have any legitimate medical use and is it safe if you used or prescribed? If you can't answer yes to those basic questions, then the drug gets placed in Schedule 1. In Schedule 1 of the law allows the federal government to criminalize the production, sale, distribution, and use of those drugs.

N. Rodgers: Got you. In the case of something like heroin, there's no medicinal use for heroin.

J. Aughenbaugh: That's right.

N. Rodgers: There's no safe level of use of heroin.

J. Aughenbaugh: That's right.

N. Rodgers: About weed, is a weird one because weed's been shown to relieve pain and anxiety in some patients so there is a medicinal use for it. In relatively small quantities, it's considered to be safe.

J. Aughenbaugh: Yes. That's one of the criticisms of the federal government even today, classifying marijuana as a Schedule I drug.

N. Rodgers: Why was it classified as a Schedule I drug?

J. Aughenbaugh: Well, there are various explanations, one of the more prominent explanations for why marijuana was classified as a Schedule I drug is that many of the people who use marijuana in the late '60s, early '70s, were young hippies.

N. Rodgers: Anti-government.

J. Aughenbaugh: Who were not very supportive of the national government, but particularly the Nixon administration. There has been the unearthing of government documents, conversations in the Nixon administration where those who use marijuana were seen as enemies of the administration. These were people who, politically, were not going to be supportive of the Nixon administration. Oftentimes, used by people of color and minorities, poor people, people living in cities. Again, groups who typically didn't vote for Nixon and/or Republicans, so it had racial and class overtones.

N. Rodgers: Hence the Shafer Commission's like there's nothing wrong with marijuana, you all need to stop. Nixon saying, oh, you gave me this report that I've suddenly dropped in the back of the bottom of the closet and can't find.

J. Aughenbaugh: Well, hell. Nia, let's be more specific. He threw it in the circular file known as a garbage can and hoped that nobody reported on the findings of the Shafer Commission. For listeners, if you don't know what the Shafer Commission is about, take a look at our previous podcast episode from earlier this year where we looked at various government commissions, one of which was the aforementioned Shafer commission.

N. Rodgers: We're here where we've got marijuana as a schedule 1 drug, which you and I think agree probably should not be on the schedule 1 list. But the government has been pretty obstinate about keeping it there.

J. Aughenbaugh: Well, what can you say the government, Nia.

N. Rodgers: The federal government.

J. Aughenbaugh: Yeah. Here's part of the confusion which you alluded to a few moments ago, the federal government lists marijuana as a schedule 1 drug. Across the country, if you produce, sell, distribute, or use marijuana, theoretically, you could be arrested by federal agents for violating federal law.

N. Rodgers: Schedule 1 carries some pretty hefty penalties.

J. Aughenbaugh: Yes.

N. Rodgers: It's not a pay your \$10 fine and go on home. It's not a jaywalking thing.

J. Aughenbaugh: This is in a traffic citation.

N. Rodgers: It's a much more involved and people have gone to prison for long prison terms for very small amounts of weed.

J. Aughenbaugh: Yes.

N. Rodgers: Sorry. By weed, I mean marijuana. We will probably call it a thousand different things. Marijuana has lots of street names.

J. Aughenbaugh: Yes.

N. Rodgers: Grass.

J. Aughenbaugh: Grass, Mary Jane, smoking a blunt, etc.

N. Rodgers: In the lexicon it has so many names because so many people don't find it harmful in the way that other things are harmful.

J. Aughenbaugh: But in the last roughly 25-30 years, at the state level, individuals have been able to convince states to decriminalize the use of marijuana. First, it was for medicinal purposes. In states like California, they created medical dispensaries to where if you were prescribed a card by a licensed doctor to use marijuana for pain relief and other medicinal purposes, you could go to a dispensary and get a small amount of marijuana to alleviate your pain or to help with glaucoma in regards to an eye condition, etc.

N. Rodgers: Which was the smart way to do it because then you get a large test set that shows that the people then didn't become bonkers in the streets and start killing people and stealing stuff and doing whatever.

J. Aughenbaugh: That's one of the advantages that has always been associated with robust federalism. Which is you allow states, whether it be one state or a handful of states to try out policy innovations or policy changes to see what works and what doesn't work.

N. Rodgers: Then if they tank, you're like, oh, well, so much for California moving on. But it tanks in one spot rather than tanking the entire country. Was it that something about laboratories of democracy? That's not the phrase. Is that the phrase?

J. Aughenbaugh: Yeah. Justice Louis Brandeis writing in a Supreme Court case, I believe it was in the late 1920s, early 1930s, referred to states as laboratories of democracy.

N. Rodgers: Trying California before the rest of us try it. It's like does this smell weird to you, why don't you eat it first and if you don't die, then I'll eat it.

J. Aughenbaugh: Listeners, Nia and I are of an age where there was an infamous cereal commercial, Life cereal commercial, where the parent gives one child a bowl of Life cereal and the kid is a little skeptical. Because when you get cereal recommendations from parents, usually parents are trying to give you good cereal.

N. Rodgers: Right, it's going to taste terrible.

J. Aughenbaugh: Without the sugar in it, the marshmallows, etc. The one child goes ahead and pushes the bowl down to their brother, Mikey, and the catchphrase was give it to Mikey. What is it?

N. Rodgers: It's something about if he'll try that.

J. Aughenbaugh: If he tries it, he'll like it because we can watch Mikey's face as he digs into the bowl of Life cereal. If Mikey likes it, then maybe it's not too bad.

N. Rodgers: He goes back for another spoonful and his brother shouts, he likes it, hey Mikey.

J. Aughenbaugh: The commercial ends with a whole bunch of kids happily, greedily, diving into bowls of Life cereal. But likewise, that's the idea behind federalism, but it has created this weird confusing conflict because once states began to allow medicinal purpose or medicinal use of marijuana, other states, most prominently the first two states in this country, Colorado and Washington, began to allow for the recreational use of marijuana. This occurred during the Obama administration. What you could legally do in your state is technically still a violation of federal law.

N. Rodgers: Still is. It's still a violation of federal law. If you're in Virginia, where it's now legal to smoke weed and you smoke some, you're still potentially in trouble with the Feds.

J. Aughenbaugh: The Obama administration made it very clear, and this came from a memorandum from a Department of Justice lawyer, Cole. It's known as the Cole Memorandum. The Obama administration would not target or enforce federal law, would not target lawbreakers of federal law as long as states could demonstrate to the Drug Enforcement Agency that kids could not get a hold of marijuana and drug cartels were not making money by selling weed.

N. Rodgers: That you weren't legitimizing drug cartels.

J. Aughenbaugh: That's right. As long as states could demonstrate that to the Obama administration's Justice Department, the Obama administration was basically, what did Obama say?

N. Rodgers: He said we have bigger fish to fry.

J. Aughenbaugh: That's right, we have bigger fish to fry. But advocates for marijuana use got a little trepidatious when Trump was elected president. Because Trump, when he was a candidate for president, distinguished between marijuana use for medicinal purpose, which he didn't have a problem with, versus recreational use of marijuana.

N. Rodgers: It seems to be the general Republican stand, is that I'm okay with a medical use for pain or anxiety, but I'm not okay with a recreational use for fun.

J. Aughenbaugh: Yeah. You have more Republican-elected officials who have subscribed to that distinction. Now, in the Trump administration initially, his Attorney General was former Alabama Senator Jeff Sessions. Sessions didn't make such a distinction. As far as Sessions was concerned, anybody who used marijuana for any purpose was a druggie.

N. Rodgers: It was all reefer madness.

J. Aughenbaugh: Yeah. But he didn't last long as Attorney General. No, he didn't. For only about a year-and-a-half.

N. Rodgers: Hey, that was long for a Trump appointee.

J. Aughenbaugh: Appointee, yeah.

N. Rodgers: I'm not trying to be ugly, but Trump's appointees moved on relatively quickly. A lot of them relatively quickly in their positions.

J. Aughenbaugh: Nia, have you ever heard the expression churn and burn?

N. Rodgers: Yeah.

J. Aughenbaugh: Yeah. That was the Trump approach.

N. Rodgers: Lots of turnover.

J. Aughenbaugh: Yeah. In human resource management circles, there was a lot of turnover costs in the Trump administration.

N. Rodgers: The thing about what I would think would be so hard is the one admin somewhere who's supposed to keep up with the organizational chart. Every day they come in and say, what change do I need to make? Like it's just that, but anyway. But one could argue that that's a lot of points of view that Donald Trump brought into various agencies. You could argue it from the other side and say that there's something to be said for lots of points of view.

J. Aughenbaugh: I mean, it's a different manager or approach, I mean, you and I discussed it in previous podcast episodes. His managerial approach comes from a different sector of institutional life in the United States.

N. Rodgers: In business, the churn thing is normal and in government, the stability thing is normal, and so you would be still bumping heads.

J. Aughenbaugh: But back to your initial question that you started the episode with.

N. Rodgers: Yeah. Why is Virginia so weird? Well sorry about this, if we could discuss for weeks why Virginia is so weird about lots of other things.

J. Aughenbaugh: Virginia's approach is what I referred to in policy circles as dipping a toe in the water. On one hand, Virginia historically is known as a very conservative, cautious state about policy change. I mean, it's one of the reasons, for instance why Virginia's financial reputation has always been rock solid. Virginia hardly ever borrows significant amounts of money. The government, that is, to do things.

N. Rodgers: Oh, bonds and things you mean our bond rating is really high?

J. Aughenbaugh: Our bond rating historically has been extremely high, one of the best in the country among the states. But the criticism that engenders in Virginia does not make broad sweeping policy change.

N. Rodgers: Virginia's not innovative?

J. Aughenbaugh: Typically, no.

N. Rodgers: Because innovation is dangerous?

J. Aughenbaugh: It is extremely dangerous. Virginia's approach is dipping a toe or a couple of toes into the recreational use of marijuana policy change. Again to see if this is a good fit for Virginia or bad fit. Basically, Virginia is trying to avoid creating a robust private sector market for marijuana use. On one hand, they decriminalized it. You can have small amounts of marijuana in Virginia as an adult not as a child, of course.

N. Rodgers: Over 18.

J. Aughenbaugh: Over 18, and you won't be arrested and thrown in jail. On the other hand, Virginia has created a policy structure that is not shall we say all that welcoming to those businesses who will like to set up shop and dispense in addition to marijuana and that can be rolled into cigarettes, other kinds of marijuana-based substances like gummies, chocolate bars, etc. I mean, hey, all you gotta do is just drive up 95 and go to New York or Massachusetts and they have marijuana shops. You go to Colorado, they're doing tourism packages in Colorado for people to not only see the mountain vistas, but you can also spend a day visiting Colorado's marijuana shops. I'm not making this up, guys. You can actually Google this or go to Expedia. Engage your tourism trip to Colorado to include going to a marijuana shop.

N. Rodgers: Virginia doesn't want that?

J. Aughenbaugh: No, Virginia doesn't want that, at least right now.

N. Rodgers: Was this some way to see, will they watch and see whether crime statistics go up and addictions like statistics [inaudible 00:27:12] that thing in order to make the next step is that the?

J. Aughenbaugh: That's the logic that you will see with the changing of Virginia law. It's not as aggressive or as robust as we see in other states. But I mean Virginia finally recognized what many scholars, and I'm only talking about medical scholars or drug scholars, but I'm also talking about criminal justice scholars or public policy analysts have begun to conclude. Which is, marijuana probably should not be a Schedule I drug per the federal government's Controlled Substance Act. That those who use it typically don't get quote, unquote, addicted to it, and if they do get addicted to it, they typically don't engage in other criminal activities to maintain their addiction. That's different than what you see with other Schedule I drugs, whether we're talking about the various versions of cocaine, heroin, meth, speed, or God forbid, we actually talk about how opioids which are allowed by the Food and Drug Administration, are not a Schedule I drug, but.

N. Rodgers: Are highly addictive.

J. Aughenbaugh: Highly addictive and we see.

N. Rodgers: Ask the Sacklers and their lawyers.

J. Aughenbaugh: As we've seen in the past decade, criminal activity associated with distributing, selling, and using opiates has skyrocketed. I mean, there are entire communities in the United States that have been devastated by opioid addiction.

N. Rodgers: Although I would like to quote here for just a moment, a guy I know, who wrote a thing, and listeners, if you're wondering who that is Tutag. One of his missing posts. I really like this phrase. I think for me it's how I think of addiction. Addiction is a treatable illness rather than a criminal condition. The problem with us criminalizing being addicted to something is that one, we drive it underground, so people don't get help. Two, we penalize you for being addicted to something, which is, we don't penalize people for being addicted to alcohol. We don't penalize people for being addicted to shopping, or sex, or other things that people get addicted to. But we criminalize them for being addicted to cocaine. When what we should be doing is helping them get off cocaine. Because almost nobody who's addicted to math or cocaine or heroin wants to stay in that state. In that case, then we should make sure they can do it as safely as possible. But most of those people say, if I could go back and not take that first step, I would.

J. Aughenbaugh: Yes.

N. Rodgers: Because I see what it's done to my life. Like there's criminal intent to it, seems to me to be wrong. It's a backwards way of thinking about people.

J. Aughenbaugh: There's two points I want to make, in addition to what you just said. Think about this Nia. It wasn't until the 1960s that the courts began to acknowledge that being an alcoholic was not a criminal offense.

N. Rodgers: Really.

J. Aughenbaugh: It was not until the 1960s.

N. Rodgers: So before that being an alcoholic was a crime.

J. Aughenbaugh: Yes.

N. Rodgers: Interesting. I did not know that.

J. Aughenbaugh: Then the second thing I wanted to point out is, you just went a head and mentioned, the intention of drug users. For most drug users, their intention when they use drugs is not to get hooked. Is not to get addicted. In criminal law, the motive is an extremely important element of demonstrating that somebody committed a criminal act.

N. Rodgers: Yeah, it's the difference between murder and manslaughter.

J. Aughenbaugh: Yeah.

N. Rodgers: I meant to killing versus accidentally killing somebody. We recognize those as different things. We treat them as different things under the law. Getting them on the route up. I'm sorry.

J. Aughenbaugh: No, no, no, no. But I mean, in this really does demonstrate, if you will, how this country still has some significant issues to address as it relates to know only, whether or not marijuana should be legal. What drugs, if any, should be schedule one drugs. I mean, we've already talked about, for instance, issues of federalism. Think about this, historically. What level of government has the authority to regulate individual behavior for public health and safety reasons.

N. Rodgers: States.

J. Aughenbaugh: State. But we have a federal law, the Control of Substance Act that allows the feds to regulate and criminalize behavior that historically is the domain of state governments.

N. Rodgers: Well, I would argue that because Congress has not done its job in controlling, it makes these acts. They adhere to the Controlled Substances Act, and it doesn't curtail the federal level of control over that. Like this. Not only to Congress. Shouldn't congress just come along and make marijuana legal?

J. Aughenbaugh: Yes. Again, I'm glad you went in and mentioned this. Now you have issues of the modern administrative state. Because what Congress has basically done, has given a whole bunch of authority to the executive branch officials to decide what drugs are or are not Schedule 1 drugs. Congress could go ahead tomorrow, and by the way, there is a draft legislation in the Senate to decriminalize or remove marijuana from the Schedule 1 listing of drugs.

N. Rodgers: But those agencies could do it too, right?

J. Aughenbaugh: Yes.

N. Rodgers: DEA and FDA. Do they both have to agree?

J. Aughenbaugh: Yes, they both have to agree.

N. Rodgers: So they could go to lunch. The directors could go to lunch and say, what do you think? Shall we take marijuana off the office Schedule 1 and the other guy could say, "Sure". Then that would be the end of that.

J. Aughenbaugh: But here's another issue. Let's say that the DEA and the FDA did that.

N. Rodgers: I feel certain they have to post it somewhere.

J. Aughenbaugh: Yeah. They will.

N. Rodgers: Is that the Federal Register? They have to say, "What do you think about change in this, please tell us what's wrong with this idea".

J. Aughenbaugh: As long-time listeners know what a new is referring to, is the process laid out in the Administrative Procedures Act. They would have to go ahead and provide notice that they're going to make a change, then they would have to give 30 days for comments.

N. Rodgers: For Jeff Sessions to complain.

J. Aughenbaugh: Then they would have to spend a certain amount of time appearing to take into consideration the comments. I mean, this is the process.

N. Rodgers: Then they have to tell the agencies how to actually go about stopping doing what it is they've been doing and fix all your manuals, remove all these laws, or remove all these penalties and don't be bopping people for this anymore.

J. Aughenbaugh: But here's another thing. One of the reasons why you probably won't see the DEA and the FDA take this kind of initiative, is that they're afraid that the next annual budget hearing, for their agencies budgets, members of Congress are going to go ahead.

N. Rodgers: You make marijuana legal. You just love drugs, that's for today.

J. Aughenbaugh: Yeah, and a member of Congress, whether it be the House or the Senate, will have a letter, or a video testimony from one of their constituents where their son or daughter ended up getting hooked on marijuana that led them to go ahead and then use harder drugs like cocaine or heroin, and their life was ruined or they died.

N. Rodgers: It's your fault.

J. Aughenbaugh: It's your fault. You want to go ahead in the wallet.

N. Rodgers: You have to gate in the gateway. The gateway drug and now. There'll be that. The other, I assume, thing that they would fear would be if somehow people could show that cartels, we're not making huge amounts of money. Like that's the more likely scenario I would think is not my kid got addicted and died, although there is that. But also, you're not supposed to do this because cartels are not supposed to be able to benefit. We can show that all these different marijuana farms are owned by this one cartel and yield a lot of money.

J. Aughenbaugh: Now you're getting into the policy implementation burdens that government has to address when they make something legal that was previously illegal. Okay. You just don't go ahead and say, "Wow, you can now do x, because if it was previously illegal". In the case of, let's just say marijuana; there's a whole bunch of money that was and is been made with the illegal sale of marijuana.

N. Rodgers: Right.

J. Aughenbaugh: Those who previously were engaged in that black market, if you will, aren't going to be all that pleased when their market shares dry up. They're going to try to take steps to protect their investments. Criminal activity around the manufacturing, sale and distribution of marijuana won't go away overnight. You're going to need to have law enforcement that are trained to address those particular issues.

N. Rodgers: When you do have to, I guess take into account potential violence from those organizations against people, quote, muscling in on their market. The way you got when alcohol was illegal in the United States and there were gangs who fought about who got to sell or who got to own a city or part of a city or I mean, is now what the Chicago Valentine's Day Massacre was about?

J. Aughenbaugh: Sure. But to my point. Look at what happened when prohibition was repealed. States were given the authority to regulate the sale, distribution, and use of alcohol within their borders. What many States encountered after the repeal of prohibition, was that those who engaged in illegal alcohol sales during prohibition, then wanted to go ahead and corner the market of the legal sales. States had to come up with enforcement and regulatory systems to deal with that.

N. Rodgers: Yeah, and in States that I have lived in, the way they've responded to that, it's been that the state sales you hard liquors. You go to the state to buy whisky, brandy, whatever else. You can buy beer and wine, which are considered much lower alcohol content in grocery stores. Most States have certain times where you can buy that, you can't buy it on Sunday morning because you ought to be in church. The state regulation on that is always fascinating to me. But the state cornered the market on hard alcohol and prevented, I suppose, all these other people from coming in and selling it with weird stuff in it. The other thing is, when the state regulates it, the state can actually regulate the ingredients.

J. Aughenbaugh: Yeah, the content and the quality, right?

N. Rodgers: Right.

J. Aughenbaugh: These are the same issues that arise when the government privatizes a previous public or government function. The state has to go ahead and get involved in implementation and enforcement of the new legal regime, right?

N. Rodgers: Right.

J. Aughenbaugh: Think about, for instance, one of the issues that has arisen in those countries and even States within the United States that have legalized the recreational use of marijuana. Most marijuana transactions are not done with debit cards. They are usually cash transactions. But banks in the United States, like banks in most western democracies, don't look very kindly on individuals who come to the bank with gobs, with huge amounts of legal tender today.

N. Rodgers: There's red flags that get raised by treasury about why are you depositing \$9,000 in 20's?

J. Aughenbaugh: Yes.

N. Rodgers: Into your checking account and then banks would say, we don't want your account because we think that the money is coming from what is now currently a federally illegal thing to do and we work across the state, so we're FDIC insured. We can't afford to lose our insurance, we can't afford to lose our place with the federal government because they decide to come after us to try to find all your drug money. I know that banks won't lend startup costs.

J. Aughenbaugh: No they won't.

N. Rodgers: To marijuana farms. Like you have to have all that money saved or get it from other people because banks are like, "No, I'm not going to give you money for an illegal enterprise, are you insane?" I guess they think they can't repossess it if it doesn't.

J. Aughenbaugh: Well, even if it's legal in that state, there are still Americans who are vehemently opposed the marijuana being legal. Do you want to be known as the bank? They provide startup money for an enterprise that many of your bank customers think is a gateway drug to harder drug use.

N. Rodgers: Yeah, if Elon Musk is listening to this podcast, which I think is extremely unlikely, but if he is, that's what your next venture should be. Start a bank, that lends money, that lends venture capital to marijuana.

J. Aughenbaugh: I want to go back to something you mentioned just a few minutes ago. You were talking about how the government can get involved to regulate the quality and the content of drugs. The Canadian experience is very illuminating in this regard. When Canada legalized the recreational use of marijuana, the Canadian government wanted to make sure that the potency of marijuana in their country was not so great that it might actually cause people to get addicted to marijuana.

N. Rodgers: Or harm its users in some other way.

J. Aughenbaugh: It harm it's users, etc. Well, for many marijuana users in Canada, they didn't like those limits, so they still now prefer to go ahead and buy marijuana from the black market.

N. Rodgers: Because they want the stronger stuff.

J. Aughenbaugh: They want the stronger stuff. I'm sorry. I tried to tell advocates for legalizing marijuana. When you legalize marijuana it doesn't mean, Law we have this just great legal market now. There are a whole host of policy implementation questions you have to address if you want this to work. I know it's boring stuff, it's stuff that we don't want to go ahead and answer, but these are the what if questions, that drive policymakers and bureaucrats tasked with implementing policy, it just drive them bonkers.

N. Rodgers: It's why it takes forever to do something, because you have to think all the way through it. so you've made pot legal in your state, right?

J. Aughenbaugh: Yes.

N. Rodgers: People can now recreate with weed and enjoy it however they want to enjoy it including edibles. Edibles are food and food is strictly controlled in terms of health. I can't just make brownies in my kitchen and sell them on VC use, kept one and I could, but if I got caught, that's illegal for a reason. You don't know what the cleanliness level of my kitchen is? I might have cats walking on the counters, I might have who knows and not have cleaned any of that up before I started cooking. and now, you're ingesting something that may or may not be healthy. Those edibles have to be regulated, not just for the level of THC that's in them, but for the quality of the actual edible itself. Was it made in a safe environment? Yeah, there's a lot more to it than just go to town their brother.

J. Aughenbaugh: Yes. Right.

N. Rodgers: I don't know if you've ever rolled a cigarette or a blunt or anything and I'm not asking you Auggie because I don't want you to admit or not admit.

J. Aughenbaugh: Hypothetically, I may have some experience.

N. Rodgers: You have hypothetical experience? In my hypothetical experience, rolling two blunts exactly the same way is almost impossible. They're slightly different sizes.

J. Aughenbaugh: Even if you're stone cold sober.

N. Rodgers: You've done it a 100 times, it's still really hard to roll them exactly the same.

J. Aughenbaugh: Though, how do you guarantee the size? The quality, the potency, etc. These are all the kinds of things that we have over the years relied upon the government to regulate and ensure.

N. Rodgers: How many of us would have jumped up and taken a vaccine that the FDA does not approved? If they had said, Well, we don't think it's good. I don't think anybody would have rolled up their sleeves. We depend on certain levels of the government's intervention to keep us safe. There's reasons why the customs officials, when they find all that smoked fish in your suitcase, they're like, no, you can't bring this into the United States. I don't know what you're thinking. But you know what I mean? That's just unhealthy and it's weird and you need to stop and it's smells bad. There's all these things, but mostly it's unhealthy. We can't guarantee the safety of that food for the consumption of the people who come after. We don't want that to go away. I don't want that to go away because I don't want the number of rat hairs in my can of tuna to go up because nobody's minding the, like there is the reason that all of those companies get inspected every so often and all that stuff is to keep you from dying from what they might put into a can of food or.

J. Aughenbaugh: For our listeners, I mean, just think about, for instance, what we've learned historically. Normally in the United States, but in other nation-states. When a nation's economy goes from farming to industrialization to post industrialization, we ask the government to go ahead and minimize risk. If you want folks, we can go ahead and tie this to the social contract, I mean we can. What is one of the reasons why you have a government? To provide, safety, stability, to minimize evil and wrong.

N. Rodgers: That's why you have a legal system. It's theoretically, so there is redress and there is control.

J. Aughenbaugh: Yes. We have laws so that people know what is or is not societally acceptable. You can go ahead and tell your kids, you should not travel 10 miles per hour over the speed limit on the interstate because that's unsafe. By the way, you don't want to pay the citation or the ticket. You want to make brownies for a bake sale. Did you get approval from wherever you're going to sell the brownies? To sell them. You come up with a new way to roll marijuana cigarettes. Well, the state wants to make sure that the way, your invention, your widget, if you will, the infamous capitalism example, did you come up with a new widget? Does it comply with safety standards? Because we want users to have some competence or security that when they use or smoke your marijuana blunt, it's not going to lead them to spend a month in a hospital.

N. Rodgers: Exactly. There's a reason that there are little messages on the sides of cigarette packs that say, smoking has been shown to cause cancer.

J. Aughenbaugh: Cancer. Yes.

N. Rodgers: If you choose, we're not stopping you. That's to me where the line is that the government has to get right up next to, is the line between caring about your safety, and preventing you from doing a thing that you as an adult person should be allowed to make the decision to do. You can drink heavily all night if you want to. The government comes up against your right to drink when you get behind the wheel of your car.

J. Aughenbaugh: Yeah.

N. Rodgers: Because at that point you're endangering other people's safety. It seems to me that Virginia is trying to figure out where that line is, not just economically, but also safety wise, how are we going to regulate this in a way that finds that line where we don't oppress people's personal rights, but we protect the larger.

J. Aughenbaugh: The other thing that Virginia did was decriminalized the use.

N. Rodgers: Which is awesome because that will stop the ridiculous amount of people going to prison for very tiny amounts of what I think of as tiny. But it's one thing. If the cops find you with 18 kilos of weed, that's not personal use. If it is, we need to get you help. But when they find you with an ounce of weed or two ounces of weed, I'm going to just come out and say, I personally have never thought that

that should have been illegal, that's not enough to cause people to run wild in the streets and be violent monsters, it's just not.

J. Aughenbaugh: Yeah. The other issue, we could do multiple podcast episodes about this is culture, political and otherwise in a country. As I mentioned earlier in the podcast episode, the United States relationship with booze, with alcohol is very different than many other countries' relationship with alcohol.

N. Rodgers: Which has caused all kinds of weird cultural follow on from that.

J. Aughenbaugh: Yeah. We've had laws, we've had efforts to prohibit. We have seen some state governments basically come into existence because of alcohol. But, for instance, in many European countries, they don't have merely the percentage of their citizenry suffer from alcoholism as we do here in the United States.

N. Rodgers: It goes in both directions, those relationships, of suppression and then I'm going to drink because it's forbidden. If you grow up in France drinking an inch of wine in the bottom of a glass, since you were nine. When you turn 18 or 21, there's nothing magical about going drinking. You're like, well, why would I do that when I could just go do something else for my 21st birthday. Whereas here in the United States, your 21st birthday is your invitation to get completely Blotto to the point where you're throwing up your shoes.

J. Aughenbaugh: When you think about other things and again, this ties into a country's broader culture. Plenty of people, researchers, scholars, people from other countries point out about how the United States, on one hand, seems to have a Puritan view of sex.

N. Rodgers: Then we've got quite the porn industry in the United States in a very different way than they have in other countries. Other people's naked bodies in other countries are like a naked person. Here.

J. Aughenbaugh: It's like woo-hoo, naked.

N. Rodgers: Here, oh! Naked. It goes in both directions as opposed to huh! Naked. Whereas most people like huh! Naked. Moving on and they don't even, it's not salacious.

J. Aughenbaugh: Yeah, it's not salacious. In other nations, the human body's functional. It is a collection of parts that when they are working well, are your tool or tools to get through your daily life. But here in the United States, woo-hoo, skin.

N. Rodgers: We are talking, sorry, Western nations and other nations, we're not talking about Taliban, who would have a similar reaction in public nakedness that my grandmother would have of being completely appalled. We're not talking about those nations in which nakedness is also not acceptable, but it's not acceptable as a religious function, I suppose, of the culture as much as anything else.

J. Aughenbaugh: Well, then that ties to my next point when you're talking about policy. I challenge my students when I teach my public policy class. I'm like, guys, what contributes to a nation's political culture? Because political culture helps to determine what is or is not acceptable in terms of public policy and I said, in though many of you-all who are of the younger generations would like to see religion have less of an influence on political culture in the United States.

N. Rodgers: It's had enormous from beginning.

J. Aughenbaugh: It's had an enormous okay.

N. Rodgers: From beginning the whole point.

J. Aughenbaugh: I said, you have to remember that a large number of American colonies were created with specific religions in the charters from Great Britain that could dominate.

N. Rodgers: Exactly.

J. Aughenbaugh: Whether it was the Quakers in Pennsylvania, the Catholics in Maryland, the Baptists in South Carolina.

N. Rodgers: We came here to practice our religion.

J. Aughenbaugh: Religion. That's right

N. Rodgers: It was a, we will create a state that will allow us to do that. The people who think that Utah is somehow unique in American history.

J. Aughenbaugh: No.

N. Rodgers: As far as being a state created upon religion. No, that's a relatively normal thing here.

J. Aughenbaugh: Those kinds of religious morals and values influence the creation of public policy. It influence the way we view things that we human beings will do. Whether it be you drink alcohol or our relationship with food, again, the American relationship with food.

N. Rodgers: Is a whole another podcast.

J. Aughenbaugh: Yeah, it was very different than other cultures. This idea that you would go to a restaurant and have a servings portion that in other countries could feed a family of four easily is shocking but we Americans are like, "Oh hey, a buffet" where for \$15, we can go back for six or seven helpings of food. In other cultures, what's wrong with you?

N. Rodgers: Why would you eat that much food?

J. Aughenbaugh: Yeah, but here in the United States, oh, hey, that's a good deal.

N. Rodgers: Well, it's part capitalism. It's also more is better, which is an American mentality.

J. Aughenbaugh: Yeah.

N. Rodgers: That why I have one jet when you can have six, right?

J. Aughenbaugh: Yeah.

N. Rodgers: There's all these sort of excess. Americans like excess. But I want to bring us back to something new, because I want to ask your opinion before we close out this episode. You said that the Senate is considering making a federal change to the marijuana status, right?

J. Aughenbaugh: Yes.

N. Rodgers: Do you think that will go through?

J. Aughenbaugh: No.

N. Rodgers: Why?

J. Aughenbaugh: Unless the Senate gets rid of the filibuster and for our listeners, the filibuster is the role in the Senate that 60 senators have to vote to end debate. I don't think there is enough senators who are going to want to end debate on removing marijuana from schedule 1 and to decriminalize recreational amounts of marijuana.

N. Rodgers: Really?

J. Aughenbaugh: I just don't think that there's enough.

N. Rodgers: Do you think do you think that popular opinion is that we should have legalized marijuana in the United States.

J. Aughenbaugh: Yeah.

N. Rodgers: Even in the red states. Do you think it's popular opinion?

J. Aughenbaugh: Yeah. The public opinion polls, near that I have seen, the most recent ones, both nationally and at the state level. Nationally, I wouldn't say a strong majority, but a healthy majority of Americans would like to see the decriminalization of marijuana.

N. Rodgers: Okay.

J. Aughenbaugh: I think if the Congress went in that direction to decriminalize marijuana, they might get enough support, but to remove it completely from schedule 1 and allow for the recreational use of marijuana even though public opinion polls seem to favor that, I just don't see there being enough votes in the Senate. Yeah.

N. Rodgers: Well, maybe another couple of presidents?

J. Aughenbaugh: Maybe.

N. Rodgers: Maybe as younger people move into more political power, and as younger people move into more likelihood of controlling public policy in a variety of ways that may shift. I mean, 30 years ago, nobody thought it would even be legal anywhere ever and you already seen that shift.

J. Aughenbaugh: Yeah, I tell my students, I say, for those of you, there's some of my students who are just like Virginia didn't go far enough. I tell them, I say, "Hey guys. give it a decade or two."

N. Rodgers: 30 years ago, Virginia would have even considered this, heck no.

J. Aughenbaugh: I said, folks, I'm old enough to remember when an overwhelming majority of Americans were against legalizing the recreational use of marijuana and overwhelming majority of Americans were against same-sex marriage.

N. Rodgers: Right.

J. Aughenbaugh: Overwhelming majority of Americans were against women being in combat positions in the military and I said, it not only within my lifetime, within my adult portion of my lifetime."

N. Rodgers: Right.

J. Aughenbaugh: Those are all changes. So I said, "If you have some patience and you're willing to work and support those elected officials who are willing to go ahead and see things differently you can get change." But policy change in the United States tends to be incremental.

N. Rodgers: Right.

J. Aughenbaugh: It tends to be incremental.

N. Rodgers: America is amazingly conservative country in that way.

J. Aughenbaugh: Yeah.

N. Rodgers: There's rarely a giant leap to something and when there is, then it gets eroded because people weren't ready for it.

J. Aughenbaugh: Yes.

N. Rodgers: Well, if they come back and they've passed it, then you can eat crow and if they do pass, if they don't, then that'll just be you predicting their normal behavior of we couldn't get ourselves together to do something because we can't agree on anything.

J. Aughenbaugh: Near as you're well aware, because you've known me for a number of years. I am frequently wrong and I am quite willing to go ahead and acknowledge my wrongness. Okay?

N. Rodgers: Me too, because I think that's the only way you learn.

J. Aughenbaugh: Door. But I really enjoyed having this conversation. It is definitely a policy matter that a lot of people in the United States generally, but younger people in particular are interested in.

N. Rodgers: Right.

J. Aughenbaugh: It's not because all young people are interested in walking through life high on marijuana. No. It's just that they don't see the big deal about it and there's a lot of medical research that supports that view. You and I have talked about this. We Americans tend to abuse things, right?

N. Rodgers: Right.

J. Aughenbaugh: But most things in moderation.

N. Rodgers: You're an adult?

J. Aughenbaugh: Yeah.

N. Rodgers: Do you as it were?

J. Aughenbaugh: Yeah.

N. Rodgers: For the record, I am no longer a marijuana user. But I still think do you in reasonable amount, who am I to stop you? As long as you don't endanger other people, it's not my business. I'm very much of the position that a huge amount of what goes on in the world is none of my business.

J. Aughenbaugh: Door.

N. Rodgers: Who people have sex with, what they do in the privacy of their homes, as long as they're not abusing each other and everyone's consenting to adult, whatever, none of that's my business. I think that's where a lot of young people are, it's not my business to know what you do in your private life as long as it doesn't hurt anybody else, go ahead.

J. Aughenbaugh: Yeah. I tend to agree with you on that.

N. Rodgers: Thank you so much and we'll get together again soon.

J. Aughenbaugh: All right. Take care.

N. Rodgers: Thanks.

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