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**Civics 101**

**Episode 17 - Vetoes**

**Virginia Prescott:** [00:00:19] I'm Virginia Prescott and this is Civics 101 the podcast refresher course on some basics of how democracy works that you may have forgotten since middle school. Today it's the presidential veto. One of the cornerstones of the constitutional checks and balances that the framers used to prevent the misuse or abuse of power within any branch of government. We're taking the long view with Ken Kato. He's associate historian at the U.S. House of Representatives. Hello Ken and welcome.

**Ken Kato:** [00:00:47] Hi. How are you.

**Virginia Prescott:** [00:00:48] Very well. And this is such interesting stuff I did a little bit of homework and I found that the word veto itself does not actually appear in the Constitution. So what does the Constitution say about this process that we've come to call the veto?

**Ken Kato:** [00:01:04] It just simply provides in how a bill becomes law a role for the president to either approve or disapprove a bill. Hence the term veto. But as the great Bard said "A rose by any other name."

**Virginia Prescott:** [00:01:20] Well this is it we're going to concentrate on presidential vetoes and congressional overrides. Governors have veto power governmental and intergovernmental organizations all do as well. So let's get to the framers intent here what was the fear or precedent for establishing this veto power.

**Ken Kato:** [00:01:38] For the late 18th century there was the time of the founders there really was a sense of trying to avoid tyranny and tyranny was the result of power associated in one body. So they created a system of mixed government the one the few the many. You would have in the British system the king the House of Lords for the few. And the House of Commons for the many. And it was believed that this was a system that was guaranteed to prevent tyranny. Because power had to be shared among the three. The United States system of course is British heritage. However because of the revolution there was a sense that the king had been out of control, the early vetoes were either eliminated in many state governments or qualified. Qualified I mean by two thirds majority that they can be overridden.

**Virginia Prescott:** [00:02:39] All right so let's follow that follow a bill from its inception through the chambers of Congress to president's desk. Can you walk us through that.

**Ken Kato:** [00:02:48] Sure, bill gets introduced, goes to committee, debated, passed, goes to the next House, goes through essentially the same process. President receives the bill. The Office of Management and Budget in the modern time would review the bill and decide which departments and agencies should have the option of making a recommendation to sign the bill into law or not.

**Virginia Prescott:** [00:03:17] And then this goes to the president with those recommendations. What happens if the president says uh uh, this is going back to Congress I'm vetoing it.

**Ken Kato:** [00:03:26] Well usually one of the agencies will make that recommendation and oftentimes they will draft a veto message for the president.

**Virginia Prescott:** [00:03:36] So all of this stuff about, if that bill gets to my desk I'm going to veto it, all of this kind of declaration and signaling this is actually handled by the OMB rather than the president's office.

**Ken Kato:** [00:03:47] No in those cases those are high profile bills. And so the president knows that certain provisions will not be allowed. Usually though we we don't hear about these veto threats, most of them take place in private.

**Virginia Prescott:** [00:04:04] Does the president have to specify why he and of course traditionally they've all been he, is vetoing the bill.

**Ken Kato:** [00:04:11] Yes. The Constitution requires a written justification for not approving the bill. So that what happened in the early Congresses they could try to tinker with the bill and then pass it and send it on.

**Virginia Prescott:** [00:04:25] OK so that goes back to Congress it goes back to the chamber in which it originated correct.

**Ken Kato:** [00:04:30] Right.

**Virginia Prescott:** [00:04:30] And then what did they do. They change the language a little or they vote on it again. Where does it go from there to override a veto.

**Ken Kato:** [00:04:39] To override a veto. That would be an attempt to pass the law as they originally passed it.

**Virginia Prescott:** [00:04:46] So it would have to still have that same original language.

**Ken Kato:** [00:04:49] Yes. Once they start tinkering then the essentially started the legislative process back at square one. If they read feel strongly about a bill they will debate it, vote on it. The constitution requires two thirds of each house by the yeas and nays which means a roll call vote, it has to be recorded.

**Virginia Prescott:** [00:05:12] And if they pass it also by two thirds?

**Ken Kato:** [00:05:14] Then it has become a law.

**Virginia Prescott:** [00:05:17] OK so the president has no recourse. That was the executives one chance to veto the bill that one time.

**Ken Kato:** [00:05:23] Yes.

**Virginia Prescott:** [00:05:23] Wow.

**Ken Kato:** [00:05:24] On the other hand you know you figure 26 hundred vetoes that have been done only about 4 percent have ever been overridden.

**Virginia Prescott:** [00:05:32] Wow. Only 4 percent. Well OK. I have another question. What is the deal with the veto pen. Everybody talks about the veto pen. What is it.

**Ken Kato:** [00:05:41] Presidents and members of Congress love to claim credit. Lyndon Johnson was was the master of that. He could sign something with as many as two dozen pens.

**Virginia Prescott:** [00:05:54] One thing.

**Ken Kato:** [00:05:55] Just one thing. And as he does each little stroke it and scribble he would hand that pen over to one of the people who had was a supporter and it would become a souvenir. And you can go on Capitol Hill and go into an office and you'll see a pen framed with a facsimile of the bill that had been signed into law. Vetoes don't usually make that. But they certainly can and of course there's a rhetorical one. I will use this pen to veto any legislation you suddenly.

**Virginia Prescott:** [00:06:34] OK. Next question what is a pocket veto.

**Ken Kato:** [00:06:38] Pocket veto is...the Constitution requires the president to be able to review the bill for ten days. Either the president signs the bill into law. If he doesn't sign it into law it becomes law without his signature which sometimes happens. But if Congress is not there to receive the bill back in ten days then it's a pocket veto, the bill dies. This is usually happens at the end of a Congress and as we've gotten more and more into full time year long Congress the old pocket vetoes that used to appear during long recesses and between sessions have disappeared.

**Virginia Prescott:** [00:07:29] Right because back in the day they just met for a couple of months at a time?

**Ken Kato:** [00:07:33] Something like that yeah.

**Virginia Prescott:** [00:07:34] Have there been any big surprises in vetoes or any presidential vetoes that really changed the course of how we think of history.

**Ken Kato:** [00:07:44] Andrew Johnson is probably the father of some of the most important ones. Soon after Lincoln's assassination Johnson vetoed Republican legislation for civil rights for African-Americans and the Freedmen's Bureau which was supposed to provide education and welfare support for freed slaves to become full citizens. Johnson's successful veto of this legislation in many ways condemned the United States to another century where African-Americans were second class citizens.

**Virginia Prescott:** [00:08:26] Well give us the long view Ken. How presidential vetoes and congressional overrides vetoes work now as compared to in the past. Is it something that was more or less frequently done, easier or harder done?

**Ken Kato:** [00:08:41] Well the subject matter of vetoes in the past tended to be mostly private bills, bills that were aimed at one individual, private bills have sort of fallen by the wayside. There are other ways to deal with private claims. So more vetoes more legislation and hence more vetoes are on substantive policy bills. However with a much more complex society greater demands on government, bills have now been combined. So you have these omnibus bills which may have four or five six different topics. Or in the past appropriations bills, 12 of them would be passed in the Congress. Now oftentimes there are Omnibus Appropriations where all 12 appropriations bills are combined. If you're a president who didn't like the Interior Department in the past you could veto the Interior Department bill and force Congress to appropriate less money. Now you have to take it or leave it. If you veto the omnibus appropriations bill you get to veto the Interior Department's monies. But you are also vetoing the Treasury Departments Defense Department and so on.

**Virginia Prescott:** [00:09:59] When we talk about checks and balances are we talking about parties having too much power or about specific branches say Congress taking too much power from the other branches.

**Ken Kato:** [00:10:11] It's mostly institutions. That's what the focus of checks and balances has always been on. Representatives, Senators and the president all have in their own way different constituents. That can create conflict even if they all belong to the same party. In 2008 George W. Bush for instance a company from Dubai won the contract to be in charge of all the ports on the East Coast. For House members many of them Republicans were up in arms about someone from Middle East taking control of all our ports even though Dubai was and is an ally of the U.S. in the war against terror. George W. Bush threatened to veto any legislation preventing Dubai from being in charge. He had to give up his veto threat had to be swallowed because the public opinion and the members members of the house were just not going to go along with the president.

**Virginia Prescott:** [00:11:17] Think we'll be seeing that veto pen in the next couple of years two years?

**Ken Kato:** [00:11:20] It's almost inevitable, there are very few presidents since the early early presidents who haven't vetoed legislation at some time or another. In fact Franklin Roosevelt was once quoted as saying find me a bill to veto because he didn't want to be taken for granted by Congress.

**Virginia Prescott:** [00:11:41] Kenneth Kato associate historian for the U.S. House of Representatives. Ken thank you so much for speaking with us.

**Ken Kato:** [00:11:47] No problem. It was my pleasure.