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**Civics 101**

**Episode 26: THE CABINET**

**Virginia Prescott:** [00:00:00] Hey there I'm Virginia Prescott and this is Civics 101. The podcast refresher course on some basics that you may have forgotten or slept through in school. We so appreciate all of your questions about how our democracy works. You can submit them through our listener line, email, Twitter, and voice memo on our website. Today's question came from Kristen in California who asked how exactly does the cabinet work. How much control do the secretaries have and are they loyal to the president or to the department. Here to guide us through the inner workings of the cabinet is a genuine civics scholar. That is his title from southern New Hampshire University, Dean Spiliotis. Hello Dean.

**Dean Spiliotis:** [00:01:32] Virginia it's good to be with you.

**Virginia Prescott:** [00:01:33] I'm so glad you're here. Did the voters give us any guidance on the topic of advisers or cabinet positions in the Constitution?

**Dean Spiliotis:** [00:01:41] You know that's an interesting question that's one I actually get asked a lot. If you look at Article 2 of the Constitution which establishes the executive branch there is no mention of the word cabinet. There is some discussion of the executive departments and the heads of executive departments. But the concept of the cabinet as we know it really developed through precedent starting with George Washington who began his first administration with four members of his Cabinet Secretary of State, Secretary of Treasury, Secretary of War, which is now we think of with the combination of Department of Defense and Homeland Security and the attorney general. So those were his four initial appointments. The idea of them being viewed as a cabinet really kind of evolves over the first few years of his first term in office and over the years.

**Virginia Prescott:** [00:02:27] You know you add housing and urban development health and human services.

**Dean Spiliotis:** [00:02:30] Yeah sometimes the additional cabinet level positions are driven by policy ideas that the presidents may have sometimes as is the case with the Department of Homeland Security, it's a response to a particular crisis but we've gone from four Cabinet level offices under George Washington up to 15 now under the current president.

**Virginia Prescott:** [00:02:52] So 15 Cabinet ministers heads.

**Dean Spiliotis:** [00:02:56] Secretaries, it's Cabinet secretaries as the phrase we usually use.

**Virginia Prescott:** [00:02:59] Oh right we're not England anymore...

**Dean Spiliotis:** [00:03:02] It's actually similar to the ministers in England. But yeah cabinet secretaries the president gets to appoint or nominate because they do have to be confirmed by the Senate. 15 of these offices now and they're all the ones that people are familiar with Treasury, State, Commerce, Department of Energy, Department of Education. 15 of those to fill.

**Virginia Prescott:** [00:03:23] All right. So 15 have to be confirmed by the Senate. These secretaries, let's go through that process a little bit. Nominated by the executive as heads of agencies. Then what.

**Dean Spiliotis:** [00:03:33] Then it goes as part of our separation of powers and the checks and balances system needs to go to the U.S. Senate for hearings for whatever the relevant committees may be in the Senate. And then you have you have a confirmation vote. Initially we start with the cabinet secretaries. There also are some additional political appointees below the secretary level you've probably heard the phrase undersecretary, deputy secretary assistant secretary, so there is this thin layer of political appointees at the top of each of the federal departments who need confirmation but we typically start off with the cabinet secretary. You know for many years you needed 60 to get cabinet secretaries through the Senate for confirmation. 2013 Democrats were still in control of the Senate back then under Harry Reid the now retired senator from Nevada. They changed the rules. This is the so-called nuclear option. There have been kind of a backlog in federal judges, appointments that needed to be confirmed. There were some Republican filibuster of Democratic appointments at the cabinet level. And so they changed the rules. This is sort of a version of the nuclear option we now hear with the Supreme Court. Anything below the Supreme Court 51 gets you confirmed as opposed to holding 60. So that's a recent change.

**Virginia Prescott:** [00:04:51] How about those on the inner circle of these White House advisers. You know had national security chief of staff. None of those need to be confirmed. Those are just the straight appointees.

**Dean Spiliotis:** [00:04:59] That is right. The individuals that the president appoints in the White House so increasing in recent presidencies we've seen presidents increasingly rely on the sort of counselor or senior counselor to the president. We do have these ongoing advisory structures in the West Wing of the White House the National Security Council Council of Economic Advisers National Economic Council. There's a whole, the Office of Management and Budget, there's a whole sort of alphabet soup of these agencies a lot of them tracking back to FDR the Reorganization Act of 1939 and then in particular in the 1940s coming out of World War II with the Cold War we get the Employment Act in 46, we get the National Security Act shortly after that. And so in this sort of period of 1930s, 1940s into the 50s you had this sort of building up of the Presidential Advisory apparatus really in response to situation on the ground.

**Dean Spiliotis:** [00:05:53] Great Depression World War II the Cold War. And so none of those folks require confirmation. The president can appoint them at his pleasure. He can also remove them which is actually true of any official a president, President does not need approval to remove a cabinet official either. Although there was an interesting in the Washington administration there was a case very early on in President Washington's term where the Senate decided if we need to confirm your appointments we should also have to approve their removal. And Washington held his ground on that and so it is the case that presidents can can ask for resignations and in fact you typically see at the beginning of new admin any new administration the political appointees ambassadors they submit their resignation and then the president can decide whether or not to accept it.

**Virginia Prescott:** [00:06:40] Right. But often these cabinet heads don't last for a very long time.

**Dean Spiliotis:** [00:06:44] It's interesting the, this may have changed but for many years the kind of typical tenure for a cabinet secretary was just a few years. But I think what happens is a lot of cabinet officials get into these positions and they realize how challenging it is to steer and particularly change course if you have a if you have a switch in party control in the White House how difficult it is to kind of move these bureaucracies in a particular direction they kind of have their own sort of inertia or in some cases their own momentum combined with the fact that they often find themselves sort of blocked by the inner circle of White House advisers who are often kind of more politically oriented than cabinet officials who, you know many Cabinet officials sort of very rapidly take on the mission of their agencies and that makes the situation even more complicated. But there's no denying that as the cabinet was originally intended was to help the president. And in George Washington's time it was a very kind of personal relationship. These were essentially you know sort of personal secretaries with Washington we didn't have these big bureaucracies. You know it's the case that originally the bureaucracy was designed to formulate policy. Send it off to Congress anyone whatever is passed to come back and implemented. And we've seen in recent decades that the whole relationship between the president the cabinet and the sort of political White House adviser restructures a lot more complicated.

**Virginia Prescott:** [00:08:09] Well that's my question. Where's the real power here. I mean it seems to me that this is played out in a couple of previous administrations that the real power is around the White House.

**Dean Spiliotis:** [00:08:19] Yes. And you talk to any political scientist who studies the executive branch and bureaucratic policymaking and they will say certainly since the time of FDR the White House advisers have the upper hand over the cabinet. They have the physical proximity of literally being with the with the president in most cases just upstairs on the second floor of the West Wing. There are even a few offices right around the president. You have physical proximity you have personal loyalty. Most of these advisers had have gone through the wars with the candidates and the campaign to help them get into office. And they typically are able to kind of control the flow of information in ways that frustrate the cabinet.

**Virginia Prescott:** [00:09:02] How does this square constitutionally? I mean what we're hearing is that those who are really pulling the levers of power around the president are chosen appointed compared to those who have to go through the approval process of elected legislators. That's the separation of powers.

**Dean Spiliotis:** [00:09:17] Well that's the complaint is that there's a lack of accountability. And you know I think what we've seen in recent decades as Congress has become increasingly polarized and gridlocked, presidents were relying on their sort of core advisers in the White House. They tend to expand those structures add more and more people and they tend to have those people help them figure out ways to circumvent the legislative process. We've seen so much focus in recent administrations on the issuing of executive orders or the attachment of signing statements to pieces of legislation all things that are designed to kind of enhance the power of the president a lot of that really originates with his key advisers not so much with the cabinet although you know it's interesting at the beginning of every new administration there's so much attention placed on who's going to be in the cabinet. How well does it reflect the kind of demographics of America you know where are these people coming from. Business, Congress, other aspects, the nonprofit world et cetera.

**Virginia Prescott:** [00:10:17] How about in this case when the president has seemingly strategically named and says disruptors, he is putting disruptors and the head of these agencies, the secretary of education whose children have not been educated in public schools or the head of regulation who is against regulation or head of EPA who has sued the EPA. How does that work in this case.

**Dean Spiliotis:** [00:10:38] Well you have to wait and see how that plays over time. Classic examples Ronald Reagan Ronald Reagan was very good at choosing an initial set of cabinet secretaries who then appointed people appointing people sort of down vertically into the bureaucracy who shared a similar philosophy which was you know let the domestic programs atrophy and shift resources to defense. And so there are ways in which over time you can have an impact within the bureaucracy. It's just challenging to do so. So it may very well be the case that these disrupters take over their agencies and over time are able to kind of appoint like minded individuals in key positions and that in turn changes shifts the focus of the bureaucracy. What also happens though a lot of times is they get into these agencies and they are captured by the priorities and the institutional culture of those agencies and start to reflect bureaucratic preferences more than presidential preferences so we have to kind of wait and see which way it goes. It is instructive to me that most of the disruption thus far in the Trump administration has come from his wife's White House advisers.

**Virginia Prescott:** [00:11:44] So what do you think for our civics went on class today would be a takeaway for listeners about understanding the presidential cabinet.

**Dean Spiliotis:** [00:11:52] I think that the best way you can understand the effectiveness of the executive branch is really to kind of view it as a triangle in which you know at the top of the triangle you have the president but the other two corners of the triangle you have the cabinet and you have the executive office of the president which encompasses most of the staff within the White House. And if you can understand the kind of the dynamic of the key players both in the White House and in the cabinet agencies you can kind of figure out where a president is looking to drive his policy agenda. Sometimes it's the cabinet. Certainly in recent presidential administrations it's more likely than not that you can trace policy outcomes to the dynamic between white house advisers and the president the cabinet maybe involved at some level. But it's a it's an it's a relationship that is kind of fraught with all kinds of potential conflict.

**Virginia Prescott:** [00:12:49] A civics scholar and an analyst. Thank you so much Dean for joining us.

**Dean Spiliotis:** [00:12:52] My pleasure Virginia.

[00:12:58] All right and with that we close the door on the cabinet rigid some very bad pun. Today's episode was produced by me and edited by Maureen McMurry. Music came from Broke for free. And don't forget we produced this show to make sense of our government and help us better understand the news. Just like you. So if you're looking at a newspaper or you see something posted on Facebook that doesn't make a lot of sense. Please reach out to us.