Unpacking Politics

Episode 02: Unpacking the First Year of Trump (47)
Guest: E.J. Fagan (UIC Political Science)

Kate Floros: On January 20, 2025, Donald Trump began his second term as President of the United States. He immediately began issuing a steady stream of executive orders and proclamations aimed at transforming the politics and policies of our national government. His executive orders focused heavily on reversing Biden-era policies, imposing tariffs, dismantling federal DEI programs, mass deportations, militarizing the southern border, promoting fossil fuels at the expense of renewable sources, reversing transgender rights, punishing political opponents, and dismantling the regulatory agencies of the federal government.

He is doing these things for the most part, without Congress. Where did the main ideas of Trump's first year come from and what do these policies and Trump's supercharged view of the presidency have to do with Project 2025: a massive report from the Heritage Foundation? I am Kate Floros, and in this podcast, Unpacking Politics, co-host Evan McKenzie and I will try to make sense of political events in the United States and around the world.

Today we're talking with our guest, Professor E.J. Fagan, a scholar of American politics and policy, and author of the book: *The Thinkers: The Rise of Partisan Think Tanks and the Polarization of American Politics* published by Oxford University Press. Evan, E.J., let's unpack this topic.

E.J. Fagan: How you guys doing?

Kate Floros: Great.

Evan McKenzie: Wonderful. Thanks for being here with us E.J. We, I think we can probably just jump right into this. Yeah. Because Kate has given us an excellent introduction to the overall theme. What do you think is the relationship between Trump's very rapid start to his presidency with multiple domestic policies that in some ways are quite radical.

Compared to what even he stood for in his first term. And what is the relationship between all that and this Project 2025 report from the Heritage Foundation?

E.J. Fagan: It's interesting. I wrote a book about the Heritage Foundation, I wrote a book about how Heritage does this policy planning thing before presidential terms.

And they called it Project 2025 this year. It was the seventh or eighth time they wrote a big fat policy planning document that a Republican president could use to implement when they're in office. And I think if you read Project 2025, you can see a lot of things that ended up happening, some things that didn't.

I don't think it quite predicts what happened a year ago. Project 2025 is in many ways a more ordered document than the Trump administration has been. It is a preview of what a lot of people who expected to be appointed to jobs in the Trump administration would do. And it turned out that in part because of Elon Musk in part because of just the rapid transition that took place in the Trump administration, that they went beyond what they imagined the law would allow them to do when they wrote Project 2025.

And it turned out that, for example, closing of the U.S.A.I.D. that there was an ordered, way to do that Project 2025 recommended or, significantly closing pieces of the Department of Education. But what actually happened, which is much more rapid, much more illegal and maybe much less likely to hold up in court and we'll see where all that ends up.

Kate Floros: Yeah. So I did notice that there were a lot of Project 2025 authors in the Trump administration. And so I'm wondering, so are you suggesting that Project 2025 was like a tryout letter in 900 and some pages?

E.J. Fagan: The I have a weird take about this, which is, I think that Project 2025 is actually a signal of weakness from the Heritage Foundation.

The Heritage Foundation didn't write a lot of stuff in Project 2025. They organized it, okay. They brought a bunch of people together. The Trump administration's weird. It's an interregnum, right? You have, you had first term, you had four years off, you had a second term. And so you had a lot of people who were expecting to win in 2024, who had served in the first Trump administration and had he just won the 2020 election, they would've been promoted, right?

And they would've been in those jobs in 2021, 2022 rather than 2025, 2026. And so they got together and they wrote down a few pages about what they would do. Now if that book hadn't been published, I think they do the exact same thing that they did. They knew what they were going to do.

This wasn't policy planning in the sense it was coming up with new ideas. The Heritage Foundation's basically incapable of coming up with new ideas at the moment. But it's really good credit claiming, right? So they put their name on a book. They raise a lot of money off of it. But if you delete the Heritage Foundation from the world, I don't dunno if Project 2025 does very much again, but if you're a voter at the election, during the 2024 election, you read it, you get a pretty good preview of what's gonna happen.

So it's an informative document the way that like a party platform is informative. But just like a party platform, like I, I don't know if things change, if you didn't write it down, and all the Heritage Foundation did was convene a bunch of people to write some stuff down.

Evan McKenzie: Maybe we could back up just one step here.

E.J. Fagan: Sure.

Evan McKenzie: Because you are probably the leading academic authority on the Heritage Foundation and on think tanks in general. And I was wondering if maybe you could just take a minute and explain for us how in your view, the role of these think tanks, these research institutes has changed over time and how it's impacted the polarization or politics.

E.J. Fagan: Sure. So, a think tank is just an interest group or an organization that's trying to influence public policy by creating information about policy, right? They're doing policy analysis. And that leads to some policy change that they support. And for a while the think tanks were boring.

They were places that were called universities without students. And so they were contractors for the federal government and they were producing stuff that was pretty down the middle or, bias in the way that, a good university is biased, not partisan in any real way.

And this really anchored conservatives because conservatives saw a lot of the Republicans that they considered allies basically going rogue and working with these kind of neutral experts and doing things that conservatives didn't like. And so the Heritage Foundation was created in 1973, and the idea was that they would create a full service conservative policy shop that politicians could go to and come up with lots of ideas that would help them solve their political goals with policy.

And by, by giving them this kind of conservative alternative, they could move public policy to the right. And that's essentially what happens, right? So, the first 15 years or so, the Heritage Foundation's a very innovative place. Lots of ideas that they write down that comes into law.

So things like, there's major tax reforms in the 1980s. The major foreign policy initiatives like the Strategic Defense Initiative come out of Heritage. Welfare reform in the 1990s comes out of Heritage. Some ideas that eventually become the Affordable Care Act which initially were a Heritage idea to preserve the private healthcare system in the United States comes out of there.

And they're very successful and they're on the top of their game. And I think you could reasonably claim they were the most successful organization in DC at that time. Lots, there's lots of copycats. So first, a bunch of conservative organizations, startup, they're very similar, but also just a lot of think tanks in general kind of adopt some of the innovations of Heritage, both being ideological, but also in the way that they structured themselves.

Eventually that leads to progressives starting the Center for American Progress democratic aligned Think Tank in 2003. And you have this kind of mature ecosystem of think tanks. And I think when they're at their best, they are helping politicians solve their problems with policy.

Now, that doesn't necessarily mean solving problems with policy. So the problem is that voters are really concerned about something. The think tank can offer them a solution that might address voter concerns, might not, might seem like it addresses voter concerns. But sometimes they sell, they sell politicians a bill of goods sometimes.

But I think when they're operating best they kinda do both. They could be creative in strategic planning. There's a lot of studies showing that pretty much the only people who, almost all real serious, big time policy changes… the kind of big time, strategic plans come out of think tanks in some form or some form or the other.

And that, that's really a unique role they have in a democracy. I think where things go wrong is when the think tanks stop being rigorous, right? Stop trying to produce good policy analysis and rather produce what they, the conclusions they would like to see in the world.

And I think that's what happens to Heritage over time is they become more ideological, more willing to offer politicians exactly what they want to hear in terms of conservative conclusions to answers. And over time they lose that ability to do real policy analysis and they cede that ground to others in the Republican party.

And so that's what I mean by, I feel like Heritage is weaker now than they've been in a very long time, even though they are more prominent in a lot of ways. It's a weird dichotomy.

Kate Floros: So how different is… you mentioned that these, before elections, these documents are very common.

How different in terms of policy prescriptions is Project 2025 from these previous policy documents?

E.J. Fagan: It's less detailed. So over time, their mandates for leadership have gotten shorter. The Project 2025 actually got bigger, but got less detailed in a lot of ways. It's interesting. I'd say it's less creative.

What the Project 2025… if you read it, again it's written by a bunch of people who held jobs in the Trump administration for the first term and expected to hold jobs in the second term. And so they, they come up with essentially, this is what I was gonna do next. So Russ Vought, for instance, the Trump Director of the Office of Management and Budget, he wrote down a bunch of stuff that he had started working on in 2020 and then didn't have a chance to finish things like changing the how easy it is to fire civil servants in the federal government.

There's a few exceptions. There's some interesting chapters where there's some people trying to do the old school think tank thing, which is take some kind of raw political energy and put some policy specifics on it. So there's a scholar named Oren Cass, who's trying to write an antitrust policy for conservatives.

That kind of changes, moves on from their old kind of Robert Bork antitrust kind of opposition to antitrust policy toward kind of what they would call like a pro working family antitrust policy. But there's very few of those chapters, I think, but that, I think that's the value of this, right?

It's like we have been out of power, we have some ideas and we need to actualize it, and we would like something written down to, to guide people who might be in these jobs, be it the author or somebody else. What can you do in the executive branch? Because it is focused on the executive branch, it's inherently limited.

It's really not a legislative agenda. The Republican party really hasn't had a legislative agenda other than tax cuts in a very long time.

And I think that's in part because their think tanks are not coming up with these ideas for them. And in part 'cause they don't wanna compromise the Democrats, which is ultimately what you need in order to pass legislation in the United States.

Evan McKenzie: You know that's one of the issues I was gonna ask you about. It seems one of the things that I noticed about Project 2025 is the way it focuses on the presidency and the theory of the unitary executive. This idea that the president is one person should have essentially total control over hiring and firing and controlling the activities of the executive branch and that's part of the way the presidency should be functioning. And I know that this theory has been around for some time… not a long time, but it has been around.

E.J. Fagan: Yeah. Part of a lot of this theory was created actually at the Heritage Foundation between the Federalist Society and the Heritage Foundation.

Actually, I have a wonderful book in my office called The Imperial Congress, which is a bunch of Heritage Scholars and Newt Gingrich in the 1980s making the argument that basically that Congress is too big for its britches. You're right. Let me say there's the reason why mandate.

There's a reason why mandate focuses on executive power. In part, it's a plan for the executive branch, right? It's organized by agency. What can each agency do? But there's a broader point that's beyond Project 2025, right? Which is like this administration doesn't want to go to Congress for anything, right?

They want to try to test the limits of what they're legally able to do and never ask Congress for. Any authority, right? So for example, tariff policy…

Kate Floros: Why? What's the

E.J. Fagan: just I uh…

Kate Floros: Hey, let's see how much power I can have.

E.J. Fagan: Maybe, right? I…look… Donald Trump doesn't like compromise. Does he strike you as somebody who wants to go and hash out a deal with John Thune?

Probably not. Here's the biggest problem is that most policy making in Congress is bipartisan,

Kate Floros: Right.

E.J. Fagan: So the filibuster prevents you from doing most things with only 51 votes. Republicans have a majority right now. They have a decent majority. They have a couple of votes they can spare, and so they could go and pass stuff.

If there was a simple majority in the house they would have been passing all sorts of things. But in the senate to pass most laws, you need 60 votes. You need to compromise with Democrats. And that's just not their vibe, right? This is not, it's not something that they care very much about.

And frankly, none of the Democrats would say yes to a lot of this stuff, right? Democrats aren't gonna be like, yeah let's tariff the world. And so they're stretching the limits of their authority that way and running up against the courts. It's one reason why a lot of this stuff is not going to be very lasting.

There's a quote that somebody, I forget who said this that Donald Trump likes to govern in retail, not in wholesale. That as he likes to make like individual deals between parties whether you know this, Kate's, your stuff, whether it's, international relations, one deal between this country, one deal between that country or even inside the United States, between individual companies.

One company's agreeing to provide this one drug for 20% off or whatever, right? And instead of passing policy through Congress, that would allow you to do that. And that's just not the way they think about the world. They don't want to go and have to make those compromises in Congress.

They want to make those individual deals, which is why it's gonna be, I think, in the long grand scheme of things, less lasting, policy changes just because, these companies, they might not even be doing what they're saying that they're doing when they're making these individual deals.

And they're not required to by the force of the law, so they can just reverse it anytime they want. Which is probably what's happening. So yeah again they don't wanna do it. They have, they could pass tariffs with 51 votes. That's one thing to remember, right?

They could pass a reconciliation bill in Congress and do tax policy, which is what tariff is, and do it with just Republican votes, but they don't have the votes, and they don't wanna do the hard work of going and convincing people to give them the votes to log role, to trade, to do the thing that pluralistic society demands and which is why they try to do everything through executive action.

Evan McKenzie: Yes. That's interesting because just the other day when the Supreme Court announced the ruling in the tariff case, the Gorsuch has a concurring opinion where he said in a couple of paragraphs and at one point almost what you said, that the whole point of requiring that taxes have to be passed as laws by Congress is to get the collective wisdom of a whole lot of people's representatives in it, so that it isn't just the ideas of one person here today, gone tomorrow.

Today it's 10%, tomorrow it's 15%. Maybe I'll make it 50%, and that we're a society that, that, relies on policies that have some lifespan. People invest money, don't they? They,

E.J. Fagan: yeah.

Evan McKenzie: They build factories. It takes years to build factories. And those questions of whether the goods or the products that are coming into the country to compete with 'em are tariffed or not, is a big deal in terms of whether or not you build a factory.

Yeah. And if it could be changed from one day to the next. Where, what kind of economic policy is this E.J. if it's based on the whims of a person and a few other trusted or semi-trusted acolytes. What kind of an economy… political economy do we have?

E.J. Fagan: Yeah, you got a bad one.

Yeah. I also read that Gorsuch opinion and I was struck by how forthright he, how confrontational he was in a way, right? He was calling out the Trump administration in a way that gives me some confidence that, you know, if, when other things come up in the docket.

So I, this is, I dunno, authoritarians, the, there's an old saying that, or an old justification for authoritarians, which goes back to Mussolini, who was the authoritarian leader of Italy during World War II. There might be some political oppression.

Yeah. You might not be able to have free speech. Some people might get killed, but ultimately they make the trains run on time. And so that's why people support authoritarians 'cause they're better at policymaking. And they're decisive, right? They're able to act quickly and do things and do things that democracies can't.

And the reality is that's not true. The reality is that democracies well-functioning plural list of democracies are better at policymaking and are less likely to screw up because they make these compromises. Because there's this information flow between many parties. The collective decision making is a superior way to do business than individual decision making.

Mussolini did not make the trains run on time. In fact, most of the train lines in Italy ran worse, under him. He actually fixed up one train line that foreigners used to make it look nice. And of course then lost a war and cost Italy tremendous amounts of things, right?

I think Trump, Trump likes to look decisive by doing big things. And I think that sometimes gives the appearance that he's successful, right? That, that the idea that, you know, if you do big decisive things, you can look successful. But the reality is that often you're doing big decisive things because you fail to do it the old school pluralistic way.

You invade Iran or you attack, you start a war, not because you are powerful, but because you were too weak to do it the easy (sic) way.

Kate Floros: Do you think that Trump even cares about… because I read, I was reading a lot today about the changes to the Department of Education and us, the three of us, being in an institution of higher education have seen some of these changes. And being in the Senate, I have definitely heard a lot about these changes.

And so I guess I'm just wondering how much of this... in your opinion… is Trump actually believing these things, or people who work for Trump believe these things, and this is the, these are, these actions are a way for Trump to be the big man.

E.J. Fagan: I don't think Trump here is about the Department of Education, right?

I don't think he even thinks about it most of the time. I don't think he cares about quote-unquote woke universities or whatever. But I think that there's the difference between the first term of the Trump administration and the second term of the Trump administration is in the Republican party.

In the first term of the Trump administration, almost everybody who was nominated, at least initially, in the first year two jobs were conventionally qualified Republicans. And they were conservatives. They had ideas that maybe I disagree with. But they were basically not that different from who Marco Rubio would've appointed in that year or Jeb Bush would've appointed in 2017.

And a lot of them were, I think, fine at their jobs, right? You look back at, the health, the Department of Health and Human Services, during Trump's term, and it was pretty normal, right? Again, some stuff I disagree with, but they're a pretty normal place. Department of Education, they did some stuff around the edges that conservatives liked, but they didn't, kick everybody outta the building, right?

They didn't cause all sorts of problems, they didn't accidentally shut down, the airspace in Texas… the FAA, because they accidentally deployed a laser weapon which happened a couple of weeks ago, right? Like that kinda stuff just didn't happen because you had normal, conventionally qualified people there because the Republican party was still a coalition. It was a coalition between, to simplify it, like the Chamber of commerce types and the movement MAGA type conservatives. And Trump was the first movement MAGA type conservative to win the nomination in a long time.

But like that raw material had been around since before Trump. It was, in some ways it goes back to McCarthy, right? It's been there for a while. And then all those essentially the, you call it the, you might call 'em the establishment types. They just start getting pushed outta the party in the Trump era.

Some of them object to him. Some of them object to certain ideological changes in the Republican party. But just in general, like Trump wants people who will break the law for him, probably wants people who are, I think the vibe is a little crazy, right? I think that Trump just likes that.

And then he gets reelected. And that's the whole administration right there. You could maybe name like two people in the second term of the Trump administration and in senior cabinet level positions who are conventionally qualified, right? And say Marco Rubio is probably conventionally qualified after that.

If I had to pick someone like, I don't know man… the department of… Brooke Rollins, the Secretary of Agriculture, seems fine, right? Like that, that is, then you get a lot of people who, they're there because they're the outcasts, right? There's this strong ideological mission and they want to destroy government and they don't care about the political implications.

They don't care about, the harm to whatever, universities, to constituents, to whatever. Like they're clear-eyed revolutionaries and the kind of more conventional Republican party-political types they're not there anymore to say "no, that's a bad idea. Let's not do it."

And I think that that explains also, I think a lot of why a lot of voters were okay with the second Trump administration 'cause the first time around it wasn't that bad right. The first time around I think us political scientists were scared, right? We're like, look like this could end really poorly.

We know where this could be going. But then from the normal person on the street, like things just kept functioning. Yeah, COVID-19 happened. Nobody really blamed Trump for that. They did some conventional (sic) stuff with the vaccine, which was successful. The first three years, they basically had a relatively competent government and a, a loud, crazy guy up top right?

And they were okay with the loud, crazy guy 'cause the basic competent government continued. And I just don't think that's the picture of the Trump administration in the second term.

Evan McKenzie: No, it certainly isn't. I wonder as you talk about these things we're just one year in and I noticed that Trump's approval ratings on a whole bunch of issues, including issues that he was in very positive territory on like immigration and the economy and these things when he got elected…when he came into office. He's lost tremendous ground on those issues and he's underwater on most of those major issues, including immigration, including the economy, including even inflation, which he campaigned on heavily and blamed on Biden.

And I'm trying to understand like, what's the thought process, do you think in, in his administration and his advisors and maybe in his own mind, if you can go to a place like that?

E.J. Fagan: Yeah.

Evan McKenzie: About the election, which is eight months away.

E.J. Fagan: Yeah. By the way, I don't know what exactly what issue poll you're referencing, but I think you might be referencing G. Elliot Morris's wonderful...

One of my former students, my former research assistant back in Texas, Elliot is the best. He's doing awesome. I think that Trump thinks he's popular and I think there's two things going on. One is just I

think he is A-plus level narcissist and so is, not willing, has never, since the day he was born, willing, been willing to accept that he's wrong about anything.

I also think there's just there's a perception that he did better in the 2024 election, I think, than he actually did. One of that is that the polls are wrong again. And so I, Republicans are probably convinced themselves that polling is never wrong. That really they're gonna do fine in the 2026 elections.

Just, right now all the indicators in the other direction are wrong. And part of it I think is that literally just on election night, because of like how slow the West Coast counts its votes, it seemed like he had won by a larger margin than he did. And I think it's like that is imprinted upon all of the media's minds and the kind, a lot of political elites minds that Trump won this, like Trump triumphant election.

He went by a smaller margin than Hillary Clinton lost by in 2016. So Hillary Clinton won the popular vote in 2016 by a larger margin than Trump wanted this year. And I just think that all goes to your head. But also, he's not on the ballot anymore. He doesn't care about these Republican party politicians.

The only reason why he doesn't wanna lose Congress in 2026 is that he doesn't wanna be served subpoenas for two straight years. Like I think he thinks that he's smart enough to work his way through this. I think he's also making a mistake that I think more politicians make than we give him credit for not just Trump, this is beyond Trump. One thing we know in, in the literature is the question is like how strong is the reaction, the backlash against the president? There's always a backlash, right? The midterms are always bad for the president's party, or almost always bad. And the question is okay, what causes that backlash?

And the literature basically points to people thinking that policy has moved too far in the wrong direction. So they were like, yeah, I like Trump on immigration. I wasn't crazy about all the asylum seekers who I could see living homeless in public in the late Biden administration.

Some places specifically, I wasn't crazy about kinda what to do to my local schools when you have a flood of kids that the school district isn't really prepared to deal with. And so yeah, I'd like to, I'd like to pivot a little bit in the other direction in immigration policy.

And then politicians come in and because they're ideologues, because they're partisans, they go instead of adding, adding, going from a six to a four. They go from a six to a negative 10. They just go completely crazy in the opposite direction.

People are like no. I didn't want that. I didn't want *this* immigration policy. I wanted a little bit more conservative than what Biden was doing. Or I wanted to fix the problems that I thought that I saw Biden's fail, that saw as Biden's failures. But the ideologues go oh no, what you were actually voting for…what we were promising explicitly… was that we're going to have the largest deportation campaign in American history. And I just don't think that voters considered that, even though he was saying it, I don't think they thought he would do it, in part because he didn't do that during the first term.

And in part because politicians never do it. Politicians often promise a lot and then they never actualize it. And so politicians will often try to do something really big and then brag about the big thing that they did. But all the research suggests that's exactly what creates the backlash, right?

There was a backlash against the Affordable Care Act in 2010, Barack Obama comes into office passes a massive healthcare bill that liberals really like, tries to pass a bunch of other stuff, and then brags about it and says yeah, look how liberal I am. Look at all my great things that I did. And that's exactly what voters don't want, right?

Voters want a little change, not a lot of change. And I think that Donald Trump's weakness in this sense is that he's incapable of saying, I did a little right? He's always saying, I did a lot. He's always saying, I am God incarnate, who has changed public policy forever. And that's exactly what you would wanna do if you wanna provoke a response in the midterms, and that's what he's doing.

Yeah.

Kate Floros: Okay, so this is, sometimes I'm prone to like maximalist, scary thinking, and I'm trying to avoid that. But if we go back to this unitary executive idea, right? And this is something that the Supreme Court blesses in some way. What does this mean for the next Democrat who comes into office, assuming that…and it's probably gonna be a he… because I will maintain that Kamala would've won if she were Kamal… but-

E.J. Fagan: We could have that conversation on another episode, but yeah.

Kate Floros: But okay, so whenever the next Democrat comes in and then does really radical things, whatever, and then the next Republican comes in and undoes every… this cannot be healthy for democracy, one, and two, does it incentivize people who don't really believe in democracy to take action to prevent a next democratic president from coming in.

E.J. Fagan: Yeah, look, that kind of whipsawing public policy, it's not good for a lot of reasons. It's not good… like… business as you, as we've talked about. You can't plan a factory if you…you can't create a, an electric car business if all of a sudden the public policy is gonna whip saw three years later.

The Unitarian executive is a more specific issue than that. So the idea behind the Unitary executive, it's a legal doctrine…the idea being that the president can basically fire anybody in the executive branch and that all of the executive branches are an extension of the president and so Congress can't put protections in place to make it difficult to fire people.

So the first kind of salvo of this is in something called independent agencies, that there are some agencies that the president appoints and that those people who are appointed and the people who run those agencies are confirmed by the Senate, but the president can't fire them.

And so for example, like the Federal Communications Commission is an independent agency, and Congress has said “we gave them some really sensitive power. We don't want to have that much political control over this. So although the president can appoint them with advice and consent of the Senate, we're not going to let the president just fire anybody.”

This is an old doctrine going back over a hundred years. And the conservative legal doctrine is basically that's unconstitutional. The President can fire anybody they want for any reason and that not only extends to independent agencies, so the commissioners of the FCC, but also civil servants.

Most people who work for the federal government, most people who work for any government are not fireable by the executive. J.B. Pritzker could not fire any of us if he wanted to…because we're civil servants and we have civil services, civil service protection, written into law. There's good reason for that.

And we used to have very corrupt governments before this because you would've something called the spoil system where a new executive would've come in and then everybody appointed to the government would be a party member. And the president would reward their people who helped 'em get elected by giving them jobs.

And that would, that led to corruption…that led to poor services... It's, that's not something you do when you actually built up a real federal government in the late 19th century. And so we created the Civil Service Act in the late 19th century. And then the politics was often organized for the next like 30 or so years around essentially anti-corruption, around more efficient government and eliminating the spoil system.

And it was successful.

Kate Floros: And now we're headed back to that.

E.J. Fagan: We might be right. Look right now there, there's like a, there's a bunch of different things going on simultaneously, and we're still waiting to hear from the courts. Right now. It looks like the courts are going to let Donald Trump fire every single person in independent agencies other than the Federal Reserve.

The Federal Reserve is the central Bank of the United States, and it's an incredibly important economic actor. Why is it different? There's really no real justification for it. If you read some of the opinions that the Supreme Court put out when this was being discussed, they made some stuff up about the first Bank of the United States.

That's not real. The Federal Reserve is an independent agency like all the others, but it's really important. So right now it looks like they're probably not gonna let Donald Trump fire people in the Federal Reserve Board, but he can fire everybody else. Then the question is below them. So those are independent agencies.

Those might be a little bit different, right? Maybe you can argue that independent agencies are unconstitutional, but civil service protections are constitutional. Congress has set up these civil service protections for a reason. The president can appoint kind of policy making people at the top of agencies, but not the street level bureaucrats who are actually carrying out the law.

We don't know yet…how that's going to hold up in court. So, Russ Vought, the director of the Office of Management and Budget under Trump, has a regulation he is forwarding, which would allow Donald Trump to fire about 60,000 appointees instead of about 4,000 appointees.

Kate Floros: Appointees?

E.J. Fagan: These are both appointees up, up I'm sorry, 60,000 civil service.

So basically every management level civil servant in the federal government…

Kate Floros: Okay.

E.J. Fagan: Not necessarily every street-level bureaucrat though if you can fire those 60,000 people, I see no reason why you wouldn't be able to fire the street-level bureaucrats. But the idea is every, basically every single person who has anything close to a policymaking role would be directly fireable by the president for any reason without cause.

And if that's thecase, then you effectively no longer have a civil service. These are both like, higher level people…say like Anthony Fauci was a civil servant and was very important as an expert during the pandemic. But also you have, like literally just the head of a regional office for something.

And if you wanna do corrupt stuff, and they can say no to you, that's a problem for you as a corrupt president of the United States. And so you wanna make it clear that anybody who says no gets fired. You don't wanna prosecute this guy, civil, civil service prosecutor in the Justice Department…you're fired. Goodbye. And I don't have any limitation on my ability to do that. And that's something that I worry about a lot. I think that is, I think our federal government, was more efficient than people give a credit for.

I think our federal bureaucracy, especially compared to like state bureaucracies was I think one of the crown jewels of the American political system. And Republicans don't like that because often the bureaucracy is not supporting some very conservative ideas. And I write by them my book, that's a longstanding kind of idea in Republican circles.

But I think that overall the bureaucracy is pretty apolitical, pretty efficient, pretty good at just executing the law. And if we replace that with a Andrew Jackson-style spoil system, like I, I think we'll all regret it.

Evan McKenzie: It's interesting EJ because it has been said about American political culture that we tend to be more distrustful, not just of government in general, but also of bureaucrats than in many other countries, France or the UK or Spain or wherever. Where not only is there probably a little more trust in government in general there's also a little more trust in people with government jobs. And people might be proud to tell their parents, look, I just got a job. I'm a bureaucrat. As opposed to say…your parents going, oh, I thought you were gonna amount to something, but I just wanted,

E.J. Fagan: Speaking of this on this podcast with three bureaucrats. Yeah.

Evan McKenzie: You are involved in this comparative agendas project.

Yep. You know a lot about the policy process in many different countries, not just the United States. Do you think there's any truth to this idea that, are we to some extent, unique in the depth and scope of our anti-government, anti bureaucracy, anti administration attitudes, or is this just the way people all across the developed world view countries?

E.J. Fagan: I mean there are certainly other there are other kind of edge cases out there, but I think for the most part, what you said is correct. Like most parliamentary democracies… so most modern democracies in the world have a relatively thin executive appointee later layer and quite a lot of empowered bureaucrats.

There's a lot of reason for this one is that in a multi-party system you often, that's the way that compromise is formed, where you have a bunch of parties who each have a small piece of a government ultimately they don't want to they can't really agree on full partisan control of individual agencies and all of that.

And in part it's because the American Constitution is old. We developed the Constitution without really any other examples. If you look at kind of what James Madison and others were exposed to, they were reading like, like the constitutions of like Swiss counties and stuff, right?

They were reading like Roman history to try to figure out how to form a government. And the result was they got a lot of things wrong. I think one of the things they got wrong was not explicitly insulating the bureaucracy from the executive and not separating those roles, not putting other limits on the executive that other countries that came later were able to do.

Or just parliamentary systems in general being a much more way, a much better way to run government. And I think that we are in all sorts of ways we're paying for that. Our courts, for example are, if you think about other places that we consider democracies, none of them have a politicized court like ours do.

If you look at for example, what Europeans are aghast about the Hungarian authoritarian regime. It's a court that looks like ours and gerrymandering, right? It's a lot of stuff that that we've had for a very long time and somehow managed to survive.

But, you go to other countries, they have insulated courts. They have bureaucracies that can make insulated decisions. They have better forms of government than we have because we went first and everybody learned from us and others examples.

Evan McKenzie: Yeah.

Kate Floros: But we're the best. What are you talking about, E.J.? We are the best. Yes!

E.J. Fagan: I don't even know how many people in America are saying that these days.

Evan McKenzie: Yes. I have one other thing I was gonna ask you about EJ. We haven't said anything at all about the Democratic Party.

We've talked a bit about the Republican party, we've talked about Trump, and I don't know, one context for talking about this might be the literature on party systems.

E.J. Fagan: Yep.

Evan McKenzie: In the United States, the history of party systems where you have a certain configuration of normally two parties since the Civil War's been the Republicans and the Democrats. but different coalitions of people supporting them and different policy agendas.

But we speak of party systems where they were aligned in a certain manner and then elections come along that we call these realigning or critical elections where everything gets turned upside down. Have you given that any thought? Do you ever wonder where we are in that cycle of party systems and realignments?

E.J. Fagan: Yeah, I think, yeah, A realignment occurs when you have demographic groups moving between parties, right? So you have this kind of sharp difference and sometimes they're not always sharp, sometimes they take a few cycles, but you have over time a change in the coalition. So like the classic example is that the South used to be Democratic and after the civil rights movement, you have this slow 30 to 40 year process of the South becoming solidly Republican.

And that creates a change in the party coalitions and for a while, gave Republicans a national majority at least in the presidential level. I think now we can say affirmatively that 2016 was a realignment. I think that we would now add a new party system to that list of party systems in the United States wasn't the biggest realignment in the world.

So it's not like you've turned the northeast into a Republican stronghold and the South into a Democratic stronghold again. But you have this movement within, especially the Democratic party, of lots and lots of new educated Americans and lots of people who used to be Republicans in suburban places like where I live becoming very strong Democrats.

And then you had another movement of working-class Americans without college degrees, mostly white but also non-white, moving into the Republican party. And what you've seen during the Trump era, I think up until now, is like a couple of trends that people, I think underappreciate one is that you have a racial depolarization of the parties that as Republicans did steadily better with non-white voters during, from between 2016 and 2024.

And Democrats did steadily better with white voters. This is largely due to college education being a more important variable. So college educated non-white voters became more democratic. But most non-white voters are not college educated. And so that group as a whole became more Republican.

And I think Republicans rightfully saw that as a political opportunity, right? One thing about realignment is they sometimes create enduring majorities. That is…you create the New Deal Coalition in the 1930s. And that New Deal coalition becomes so big that Democrats hold power in Congress for a very long time, for decades.

And Republicans have a very hard time winning election to the presidency. And so I think at the 2024 election, I think a lot of Republicans are saying, maybe there's this working-class coalition that we've built that is big enough that we can consistently win a majority.

Which is something that no party and American democracy's been able to do for at least 20 years, if not longer. And I just don't think that's true. I think that I think a big reason why Kamala Harris lost, Kate, is that there's a lot of inflation and so you have this kind of temporary effect.

But also, then you take government and you do the immigration crackdown, right? You take government and you promote a whole bunch of white supremacists in very visible roles. And this new working-class coalition is like “wait a second, I didn't vote for the Klan”, and my Hispanic gun owner in a pickup truck in Texas says, “I didn't vote for the clan.” I voted for, someone who didn't like inflation or whatever. Or someone who, you know maybe I'm not too crazy about all those college boys and so I voted for Donald Trump and I, if I had to make a prediction, I think that they've now completely undone that realignment, the racial part of the realignment, the part where non-white voters move toward the Republican party.

And I think I'm seeing no evidence so far that the democratic part of the realignment has changed. That is college educated whites I think are going to be more democratic in 2026 than they have been in recent elections.

Kate Floros: So is this a

E.J. Fagan: yeah.

Kate Floros: Is this a justification then for going after higher education?

Is that kind of part of what's behind it? It's not just because the whole like anti woke effort is anti-DEI, anti all that stuff is, seems to come out of a wellspring of white supremacy. So is like all of that tied in that…

E.J. Fagan: I think so

Kate Floros: All the college educa…well, the many college educated people are turning to the Democrats …so let's destroy college… so that…haha!

E.J. Fagan: the, the Republican opposition universities is longer standing than that. So, in 1952 William F. Buckley, who becomes a very influential conservative magazine editor writes a book called God and Men at Yale, which is a criticism of universities. But the criticism was that the university was…he didn't use this term but I'll just use it, that it was "woker than its constituents".

And its constituents were students and donors. And see, he's saying those university professors, all of us evil university professors they're the outliers. The people who go to college, the people who are the upper class Country Club of America at the time, that's really who was going to college.

Sure. They're conservatives. They are republicans or conservative democrats. And they don't want all this woke stuff. They want a conservative public policy, and Yale is making a mistake by being so liberal. Now, by the way, what did he mean? He meant teaching things like black and white people are equal or colonialism might not be a great idea, or economics is a way to understand the world.

This book does not hold up well for William F. Buckley, if to say anything. But so that's a, that's very much like a foundational belief in modern conservatism, skepticism of universities. But I think the difference is, and I think you nailed this, right?

They still were the majority of college educated people in the United States. If you look at, for example, 2012, Mitt Romney versus Barack Obama, there's a real split in the electorate between people who have B.A.s and people who have professional degrees. Those people are Democratic, they're incredibly Democratic.

They've been trending Democratic for decades.

Kate Floros: Even lawyers?

E.J. Fagan: They were very Democratic in 20- Lawyers, doctors, actually, I think were more split.

Kate Floros: Yeah.

E.J. Fagan: Okay. Doctors were a Republican constituency for a while. But PhDs, et cetera, this was Barack Obama's group… whites with B.A.s… Mitt Romney won them… and won them considerably…

And Barack Obama did a little bit less badly with whites without a college degree than Democrats have done since then. And that tells you that, first off, a lot of conservative parents wanna send their kid to college to go get a B.A. and have a career. A lot of conservative donors give to their local college and maybe they're fans of their football team, whatever.

There's still that relationship that exists between all of them. And the a, that's a very different politics than when they reject college, when they think that they don't like people who go to college and they kinda see those people as enemies.

Now, I'll say, I think all but three members of Congress who are Republicans went to universities. Many of them have quite advanced degrees and many of the people who are who are kind of leaders in this movement, people like Florida Governor Ron DeSantis, were very accomplished undergraduate scholars and scholars in general.

For example, Josh Hawley from Missouri is one of the leaders in this world. And like the man like wrote an academic book, right? This is not…I believe he was I believe he was one who wrote, I could be wrong, but it was a history of Theodore Roosevelt. This is hypocritical in many ways, but I think in many ways Donald Trump is activating the lower level, kind of non-elite version of this even though he himself is a graduate of the University of Pennsylvania. How much studying he did there? We don't really know. He is, a guy with a golden toilet, right? Not exactly a representative of a working class, but there's like a vibe, there's a temperament there that I think was seen as very successful.

And if you imagine, how do you build a coalition… a cross-racial coalition as a Republican? One way you do it is with the anti woke stuff. With the stuff that appeals to people who don't have a college education. If you remember during the 2024 Democratic National Convention, Barack Obama got up and said hey, give people a break for not knowing like what, what are the right words to use? Like your parents are not evil, just, that kind of thing. And you, so you can imagine there's some raw material there that Donald Trump is particularly good at harnessing. I don't think that like JD Vance is gonna be able to do that.

I don't think you can reestablish that coalition. And especially when you've now…you've now revealed to all of these racial groups that you are in league with a white supremacist.

Kate Floros: Yeah.

E.J. Fagan: And very obviously in not even really hiding it.

And so if I had a prediction, I'd say I think you might have another realignment, or at least maybe a reversal of half of that realignment. And it's a really bad place to be if you're a Republican. You don't get back many of your college educated whites, but you lose much of what you gained or all of what you've gained with Hispanics and with black voters.

Black voters haven't moved back as quickly as the other groups with Asian voters, mixed race voters, groups that they did really well with in 2024. The other thing is there's an age, there's an age dynamic going on that I think people underappreciate. The baby boomers are dying…quickly.

They're entering the part of their age curve where there will be fewer of them around every year for the foreseeable future. And millennials, my generation, we're getting old, right? We're starting to, I'm almost 40, right? We're starting to vote in adult numbers.

And we are still very Democratic and age polarization is very dangerous for a political party. So one effect of this realignment has been a lot of older voters moving to the Republican party and a lot of younger voters becoming very Democratic. And it looked like that trended reverse in 2024. But so far, since the 2024 election, it has reversed back in spades.

Right, now, Gen Z is way more democratic than even millennials. And I think that's because of the dumb actions politically of the Trump administration.

Kate Floros: My dad always would… he was a Cleveland sports fan his whole life. Poor guy. And he would always talk about the Cleveland-at the time-Cleveland Indians- being able to snatch defeat from the jaws of victory.

Because everything should suggest that the Indians should win and then they'd lose. And I frequently use that same phrase about the Democrats, right? They can snatch defeat from the jaws of victory. Is it likely that they're gonna do like an "own goal" and totally not capitalize on these things that you're talking about?

E.J. Fagan: I don't think so. And I love the baseball analogy as a 10-year anniversary of the Cubs beating the Guardians or the Cleveland Indians in the 2016 World Series this year. (Kate blows a raspberry) I say this as a fan of the New York Yankees. So right now the Democratic party's approval ratings are bad, like really bad.

This is in part because Democrats are frustrated with their party. Republicans are always gonna hate them. But Democrats, usually for your own party you are more positive about, but Democrats are very negative about their own party. In fact, they are so bad that the last time, and I think this helps answer your question, that any party that had approval ratings this bad was the Republican party in 2009.

And they had a really good year in 2010. And a really good decade in fact.

And I think that reveals a couple of things about American politics. First off, we don't have a leader of the "out" party. There's no opposition leader in the United States to represent that party to the world. There's no face you can put on the Democratic Party other than their legislative leaders.

And legislative leaders have never been public leaders of a party. Chuck Schumer, Hakeem Jeffries. They're not gonna go and lead the revolution. That's never been the case.

Kate Floros: Yeah.

E.J. Fagan: The way that parties-that happens is a presidential campaign. And so there will be a competitive 2028 Democrat nomination and whoever emerges from that competition will define the party at that point in time.

In the meantime, there was a bunch of individual candidates that they're going to nominate. And so far with- today, we're recording on March 3rd. I'm excited to watch the first primaries of the 2026 cycle tonight, including my old home state of Texas, James Talarico, against Jasmine Crockett. And in most of these races, I say maybe if Crockett wins in Texas you have very strong Democrat candidates emerging.

There really isn't a race that you can say they're flubbing right now. Michigan's Senate might be a little dicey 'cause there's a third party candidate there who's a former Democrat, who's the former mayor of Detroit. So that could be a little bit weird. But for the most part, Democrats are gonna have a very good 2026 cycle.

I don't really think there's a lot that the Trump administration can do to really prevent that from happening.

Kate Floros: Even Federalizing elections.

E.J. Fagan: There's really no mechanism to federalize elections, that will get blocked in court in a minute. If you start being like, extra-legal, like literally like just sending in the army, just like at that point the country's over, the democracy's over. And so who cares about the election, right? If that's possible, right? But I don't, there's no button that they can press to federalize elections or what does that even mean? Elections are administered by local county officials. Yeah. Most of this stuff these days is automatic.

For example, tonight in Texas, you're going to see an automatic update of voting results. And so let's think about the general election in Texas in November. You're- it's just gonna the results are just gonna come in and whoever has the votes is going to, those votes are going to show up.

And maybe there's some shenanigans you can pull afterwards, but that ends, you end up in a, in a world of courts at that point. And you would hope that the courts like they were in 2020 are more, in tune with the actual things that are going on. And the reality is that there's a big country.

ICE doesn't have that many agents out there, and maybe they can mess with one or two elections, they're not gonna be, roaming the streets of Des Moines, to prevent a Democratic candidate from winning that election. And I think that Democrats are putting really interesting candidates in a lot of places, and I think that they're almost certainly gonna win the House.

I don't know what the betting markets have. I'd say well above 90% they're gonna win the House. And I think they have a really good shot at winning the Senate. If you kinda look at the Democrats path to doing the Senate there, there's a lot of ways they could do it. They could, they've states like a lot, Iowa, Ohio, Texas, that they're all interesting in play in, in ways.

And so…

Kate Floros: That would be seismic, wouldn't it? Alaska? Yeah.

E.J. Fagan: Do you remember the last time that we had an election cycle like this? It was 2006? 20 years ago, it is the exact same thing. It's like we're in freaking mirror land right now. We're invading the Middle East.

We have-they went after Social Security last year. You have an unpopular president in their second term. And Democrats surprisingly won both the House and Senate. I don't think either of those was really something that was being considered until very close to the election.

It looked like maybe they could eke out a victory in the House. But the Senate was beyond them and they won a lot of weird Senate seats in 2006, and then even more in 2008, they ended up having 60 seats. If you actually do the math, there is a very similar path to 60 seats for Democrats in the Senate.

And after the 2028 elections is unlikely, but it exists there.

Kate Floros: Would DC become a State?

E.J. Fagan: If Democrats get 54, 53, 54 seats? Yes. I don't think if you have a one seat majority… I think that you might have some recalcitrant, some Democrats who decide that they wanna… but you would…

Kate Floros: But you would need 60.

E.J. Fagan: You would need to, you would need a majority to overcome the… to decide that they don't want a filibuster anymore. Okay.

Kate Floros: Okay. That's a whole ‘nother episode.

E.J. Fagan: That's a whole ‘nother episode. It's unclear if that majority exists.

But they were really seriously considering it when it looked like they were gonna have a better night in the 2016 election.

So about a month before the election people kinda remember this as not predicting that Trump would win, but Democrats were way up in a lot of polls- Yeah. Before the 2016 election. And that was in part because of some sampling issues by pollsters. And so I remember the the Senate candidate from Iowa at the time, talking about packing the court in like late October of 2016.

And that was because they thought that they were gonna win 53, 54 seats. They ended up losing seats. And Trump ended up winning. I don't think they will have this discussion in public until the moment they have the votes. But I could very much see the filibuster go- dying.

There, there's some kind of high profile ways in which low profile ways in which the Republican party, the Republican senators, have poked away at the filibuster over the last year and a half. The reconciliation bill they passed last year: The big, beautiful bill. They like changed a lot of the rules that you need that, that involve, that, that are related to what you can pass.

So they could add in some stuff that they want. That's effectively how the old school rules died in the House of Representatives, where they just started passing little special rules, kinda one at a time. So

they might pass a rule saying new states aren't subject to the filibuster, and then they'll pass a rule saying Supreme Court stuff's not subject to the filibuster.

That's probably how it's gonna die. It's not all gonna die at once. But also, right now there's a majority of Republicans who are or rather there's enough Republicans who aren't willing to get rid of the filibuster. And Democrats are probably thankful that they didn't get rid of the filibuster a few years ago.

But, then, I think all the stuff we've been talking about, all the problems with our democracy, none of it works with the current court.

Kate Floros: Yeah.

E.J. Fagan: And I think that

Evan McKenzie: with the current Supreme Court?

E.J. Fagan: Yep. I think Democrats recognize this, right? Like the court right now. Is barely constraining, just horribly undemocratic actions by the Trump administration and will be a massive thorn in the side of any Repub- any Democratic administration.

And I think that Democrats are recognizing that this is a partisan court is not independent anymore. And they can have their own partisan court. I would love a constitutional amendment to fix this problem, but that's ultimately what it would require.

Evan McKenzie: Well, they can change the size of the Supreme Court by ordinary legislation.

E.J. Fagan: Yep. And I think. I think if they have enough votes, they will. They didn't, they didn't talk about it when their marginal votes were Kyrsten Sinema and Joe Manchin. 'Cause they weren't willing to do it. And so why talk about something radical in public if you're not willing to do it?

And if you come at the king, you best not miss.

But I think that just seeing just some of the radical behavior by this court in the Trump administration, even during the Biden administration, the Trumpy United States case, the, that type of stuff. I think Democrats do not believe in the legitimacy of the court anymore.

And if they have the votes, I think they would do it. But they have to get those first. And, if they only end up with a 51 seat majority then it's gonna be hard. It's gonna be hard to find those votes. But if they end up with 55, 56, whatever. Some larger majority, then you can have a whatever a John Fetterman say, no, I don't wanna do this.

And you can still pass it. And you could have even some kind of old Senate institutionalists say nah, the filibuster: I think it's important for policy stability. If you have enough votes you over overcome those. I think. I think, again if Democrats, for example, had the majority that they had in 2008, I think that would be very likely.

Whether or not they'll get that high is, is unlikely. But if they have, if they have a couple of very good elections, I think it becomes a real possibility. I also think that, maybe there's a world where that leads to real constitutional reform.

Things never seem like they're likely until they happen in politics. And maybe, if Donald Trump is seen as a massive failure after a couple of years and, almost destroyed American democracy, you can imagine a world where you start thinking seriously about, real institutional reform.

Kate Floros: Okay. Nevermind. We're probably, we're over time, but I just, I… it, how can people not see that already?

E.J. Fagan: They might see it. They don't they don't wanna say it out loud while you're still trying to get the current court to vote for you. Like they, they're trying to create a….

They, they look, in order for American democracy to survive, Democrats need five Supreme Court justices to vote with them. That's just the reality of the situation right now. If you had seve- if you had, nine, Sam Alitos, the democracy's over. Yeah. And right now they know they're getting it on some issues.

Now, the tariff and the tariff case, most recently being the case where they had six, they had six votes and they had Neil Gorsuch writing, like we said, like a pretty, pretty good opinion. And they had John Roberts writing a pretty good opinion limiting presidential power.

And there's gonna be a time when, they need those votes for something else. You're not gonna tell them you're gonna put them out of a job until you do.

Kate Floros: Yeah.

E.J. Fagan: And so why, why piss him off.

Kate Floros: Okay, so here's my question. The Democrats go big in the midterm.

Does –what's his face- Clarence Thomas resign so that Trump can pick another Supreme Court justice because…?

E.J. Fagan: Maybe.

Evan McKenzie: Alito is gonna resign.

E.J. Fagan: They're both gonna…

Kate Floros: Before the next group is sworn in?

E.J. Fagan: they're both in their retirement age. I think if they wanted to, Republicans could confirm a Supreme Court justice very quickly and they would have a majority for that.

And I think even the kind of more moderate, the Thom Tillis of the world, I think like having a conservative Supreme Court. I don't think that he could nominate literally anybody. I don't think, like

Aileen Cannon, the judge who the horribly corrupt judge from Florida. Who was in the can for him during the classified documents case.

While he was outta power, I don't think that she's gonna be, would, could be, could get through confirmation. I think the good news is that you can't really get worse than Alito and Thomas but you could get younger you can lock in more seats for a while. Yeah. On the other hand, look, if you're Sam Alito, Clarence Thomas, this is fun, right?

Like this is what you finally have a majority on most issues to do the stuff that you've wanted to do for a very long time. And similar to, maybe Ruth Bader Ginsburg maybe they go yeah, maybe I can stick around for a little bit longer. And I can continue to be a Supreme Court justice.

This is what I like. I don't know what's in their heads. I think that Republicans would love to see them resign. Trump would love to see them resign. That's a way to, for him to buy, some favor with his party. I'd be very curious to see who gets nominated. Trump does not like the Federalist Society right now,

Kate Floros: Really?

E.J. Fagan: Because during his first term, he appointed a lot of judges who were conventionally qualified, but were Federalist Society members, relatively normal lawyers who just happened to have this kind of, and a lot of them stood up to them, including, Justice Barrett, including recently Justice Kavanaugh, Justice Gorsuch right in, in different cases. And I think that he wants a much more corrupt set of actors.

I don't know who those are. Like, I don't know who is the confirmable corrupt Supreme Court Justice. He nominated one of his personal lawyers to an appellate court position in New Jersey who is like a mustache-twirling villain of a judge but I don't think he's confirmable.

I think you could imagine Justice's… a Republican senator saying no to that. And they would, most Republican senators would like a Federalist Society type, right? They see no benefit to them to, in this authoritarian move. So I'd be very curious to see what that process is like.

And if you have to get something done quickly, if you lose the 2026 elections and Thomas retires the next day…

Kate Floros: Yeah.

E.J. Fagan: You only have a month and a half to get a confirmation through and, you can do that procedurally, but you can't do that if there's a lot of conflict.

Kate Floros: Yeah.

E.J. Fagan: And so yeah

Evan McKenzie: I'll make a quick prediction as I know we're gonna wrap up here in a minute, but I think the one who is going to step down is Alito before, and I think he'll do it in the fall, and there's a reason why I think that because he has a book coming out in October and that's when the Supreme Court starts their term and that's when he'll be doing his book tour.

So I think he's, and you, you can get this on the betting markets and check it out and the person he is going-Trump is going to nominate three, replace him will be Emil Bove.

E.J. Fagan: That, that's who I'm talking about. He's personal lawyer from New Jersey.

Evan McKenzie: Yes. I think it's gonna be him. He is confirmable. He is already on the court of appeals for the third circuit.

So he has been previously confirmed and that he probably is confirmable, even though he is, as you say, a mustache twirling villain.

E.J. Fagan: Yeah, he does. I hate to insult somebody's face…but, he, so he, it was a 50, he got 50 votes plus the tiebreaker. I wonder if the politics have changed especially in a lame duck session.

Kate Floros: But here's the thing, if they don't confirm…okay. Do the Democrats have the gumption to leave a Supreme Court seat open for two years?

E.J. Fagan: Oh, yeah. Oh yeah.

Kate Floros: They'll totally do it?

E.J. Fagan: Oh, a hundred percent. Oh, like I think Republicans would've left it open, if Clinton had won, they would've left open that seat for a decade.

I don't think any party is giving away a Supreme Court seat to a compromise candidate ever again. Unless you have a, unless you have a constitutional change.

Kate Floros: Okay. Okay so Alito retires to go promote his book and they can't get a thing through. Wouldn't it be better to have some kooky person than let whoever's the next president and maybe hope for a Republican president or Republican Senate to do it?

E.J. Fagan: No, because it's a lifetime appointment, right? Like you, you say we have the Senate, so we might win the presidency two years. Let's take another seat back. No, I think they a hundred percent take it. I think I mean I think Alito can resign like with a, like a contingency. E.g. I will resign contingent on my successor be confirmed.

So I think that's also possible. But yeah, like I, I mean I think realistically that, that's a very quick discussion between the Trump administration and the Senate and they'll dominate somebody.

Evan McKenzie: I think so too.

Kate Floros: Thank you EJ very much. And we have certainly unearthed a lot of topics that will fill multiple future episodes.

E.J. Fagan: Happy to talk anytime.

Evan McKenzie: You've been listening to Unpacking Politics, a podcast that examines current issues in the world of politics, featuring guests who bring insights from the academic world.

Explained in terms that you can understand. The podcast is co-hosted by Kate Floros and Evan McKenzie, who are faculty members in the political science department at the University of Illinois Chicago.

Today's guest was Professor E.J. Fagan, one of our UIC political Science colleagues who specializes in American politics and policy. He's the author of The Thinkers, The Rise of Partisan Think Tanks, and the Polarization of American Politics published by Oxford University Press. The podcast was produced by Jack Petraitis. Our theme music was provided by Hunter Nico McKenzie, and Handmade Audio. Thanks for listening, and join us for the next episode of Unpacking Politics.