

Prosecutorial Discretion

Roman Mars [00:00:00] This is a story about accounting, crime, and fish.

Elizabeth Joh [00:00:04] Enron was once the world's largest energy trader, and it filed for one of the largest corporate bankruptcies in American history on December 2nd, 2001.

Newscaster #1 [00:00:15] Enron employees, some carrying boxes filled with belongings, leave their downtown headquarters, huddled against the cold and uncertain future.

Enron Employee [00:00:23] This was supposed to be a very solid company. No worries about your future if you come from a small dotcom startup...

Elizabeth Joh [00:00:30] The company admitted that it hadn't been entirely truthful about its finances. And by "not entirely truthful," I mean "fraudulent." The government's investigation of Enron led to the prosecutions and convictions of Enron CEO Jeffrey Skilling and its founder, Kenneth Lay.

Kenneth Lay [00:00:49] Certainly this was not the outcome we expected. I firmly believe I'm innocent of the charges against me, as I have said from day one. I still firmly believe that as of this day...

Elizabeth Joh [00:01:01] Enron's collapse also led to the downfall of its accounting firm, Arthur Andersen. The accounting firm was, in fact, indicted on obstruction of justice charges. Federal prosecutors argued that Arthur Andersen had shredded documents and computer hard drives related to its shoddy auditing of Enron. After Enron and several more accounting scandals, Congress eventually passed what's known as the Sarbanes Oxley Act in 2002. This is a federal law that's meant to regulate auditing and accounting firms more closely to prevent another Enron from happening again.

Roman Mars [00:01:40] And that's where the fish come in.

Elizabeth Joh [00:01:42] On August 23rd, 2007, the crew of the commercial fishing vessel called the Miss Katie was working in the waters off of the Gulf of Mexico. The ship was stopped for inspection by field Officer John Jones of the Florida Fish and Wildlife Commission. Jones worked for the state of Florida, but he was also allowed to enforce federal fisheries laws. That day, the crew of the Miss Katie had caught over 3,000 fish. While Jones was aboard the ship, he noticed three grouper that were on the small side. Size matters because federal law only allows you to harvest red grouper that are at least 20 inches long. And it turns out there were even more undersized fish. How do you measure fish under the Code of Federal Regulations? With their mouths closed and their tails pinched.

Roman Mars [00:02:35] Their mouths closed so that the little bit of extra that you would get from a mouth being open--

Elizabeth Joh [00:02:40] You don't cheat on that way.

Roman Mars [00:02:41] You don't cheat on that. But their tails pinched--I don't know what that one means.

Elizabeth Joh [00:02:46] I think--yeah--you're trying to minimize. Like, you're getting...

Roman Mars [00:02:50] Stretch them out but not too much.

Elizabeth Joh [00:02:51] Not too much. There's actually some really complicated set of rules about this, but I thought that would bore people if I read it. Officer Jones put the illegally caught fish in a crate. The ship's captain, John Yates, was first given a state civil citation. That's sort of like a traffic ticket. Yates was also told to bring back the undersized fish when the ship returned to port. Here's what happened next. Yates told his crew to dump the small fish overboard and put some other ones in the crate. When the Miss Katie returned from sea, Officer Jones noticed that the fish weren't the same very small fish he'd cited Yates for four days earlier. The crew admitted to dumping them. For that little fish switch, Yates was prosecuted, convicted, and sentenced to 30 days in jail. What was Yates charged with? For interfering with the inspection on board the Miss Katie, including a charge under the Sarbanes-Oxley Act. You see, one of the provisions of the Sarbanes-Oxley Act--the one that was prompted by the collapse of Enron and Arthur Andersen's negligent accounting--makes it a crime to destroy or conceal any record, document, or tangible object in order to impede a federal investigation. The law, including this so-called anti-shredding provision, was intended for accountants. Did it apply to fish tossed overboard? Believe it or not, the answer was unclear enough that the United States Supreme Court decided to review Yates' case. When the Justices heard arguments from the lawyers on both sides, they were the usual claims about how to interpret an unclear federal law. But there was also this exchange. The late Justice Scalia asked Roman Martinez, the lawyer representing the federal government, about the maximum penalty Yates might have received. Scalia asked, "But could he have gotten 20 years? What kind of a sensible prosecution is that? I'm talking about the prosecutor. What kind of a mad prosecutor would try to send this guy up to 20 years or risk sending him up for 20 years?" The government's lawyer said that according to the U.S. Attorney's manual--that's a set of guidelines for federal prosecutors--once the decision is made to bring a criminal prosecution, the prosecutors should charge the offense that's the most severe under the law. This means that the prosecutors were able to choose which crime to charge Yates with and to choose how much prison time to recommend. In Yates' case, the government had asked the judge for a sentence of 21 to 27 months. The judge gave Yates 30 days. In 2015, the Supreme Court ultimately decided in the ship captain's favor. Undersized fish just didn't count as tangible objects under the Sarbanes-Oxley Act. But that exchange between the Court and the lawyers in the Yates case also reminds us of a very important fact in the criminal justice system. Prosecutors have enormous discretion. The outer limits of prosecutorial discretion are making the news now that the president's associates and friends have become criminal defendants--and in Roger Stone's case, a convicted felon.

Roman Mars [00:06:15] How much discretion does a prosecutor have, and how far can a president go? It's time to find out. This is What Trump Can Teach Us About Con Law--an ongoing monthly series of indefinite length, where we take the tweets of the 45th president and his critics and use them to examine our Constitution like we never have before. Our music is from Doomtree Records, our professor and neighbors, Elizabeth Joh. And I'm your fellow student and host, Roman Mars. In the American criminal justice system, prosecutors exercise an enormous amount of discretion. That means they have a lot of freedom to make some fundamental decisions.

Elizabeth Joh [00:07:20] This includes things like whether to start investigations, whether to bring criminal charges, whether or not to bring more or less serious charges, and how to present the government's case. Robert Jackson--who served as attorney general, and who would later go on to be a Justice on the Supreme Court--famously said in 1940, "The

prosecutor has more control over life, liberty, and reputation than any other person in America. Of course, prosecutors do have limits. You can think of the constitutional requirement that you can only convict a person on a beyond a reasonable doubt standard as a check on prosecutors. They need constitutionally sufficient evidence. But if you're unhappy that a prosecutor chose to investigate you or to charge you with a more serious crime when a less serious one might also have applied, or if they sought a harsher sentence rather than a lighter one, in general, there's nothing you can do as a criminal defendant to complain about it. Prosecutors have the lawful power to make these enormous and consequential decisions. After someone has been convicted of a crime in federal court that involves time in prison, the next step is to calculate the applicable sentence. While Congress sets the maximum prison time for every federal crime, not every conviction leads to the maximum sentence. Instead, courts rely on what's called the Federal Sentencing Guidelines. You can think of the Federal Sentencing Guidelines like a sort of scorecard--a grid-like calculation that takes into account the circumstances of the crime and considerations about the defendant, like whether or not the defendant has a criminal record or whether they cooperated with the government in a larger investigation. At one time, the Federal Guidelines were binding on the federal courts. But the Supreme Court ruled in 2005 that they're just advisory--more of a starting point. And here's where the prosecutor plays a role again. Even though the federal judge has the final say on what sentence the defendant should receive, usually both the defendant's lawyers and the prosecutors will submit legal papers that argue for a particular sentence.

Roman Mars [00:09:36] So let's get to Trump.

Elizabeth Joh [00:09:38] In November of 2019, a federal jury convicted Roger Stone of charges of witness tampering and lying to Congress because of his attempts to gather information about Hillary Clinton during the 2016 presidential election. Stone's case arose directly out of the Mueller investigation. Now, Stone is a longtime friend of Trump's and a former campaign adviser. Stone's political career goes all the way back to Nixon, when he worked for Nixon's Committee to Re-elect the President, also known as CREEP.

Newscaster #2 [00:10:12] Roger Stone does occasional political chores for Nixon.

Roger Stone [00:10:15] So this is the "Batcave." This is the "factory," as we call it. This is where I tape my Saturday radio shows. It is also the repository of probably the world's largest collection of Nixon memorabilia. Here you have the first- and second-generation Nixon bongos...

Elizabeth Joh [00:10:35] He testified in the Senate Watergate hearings when he was just 20 years old. He also has Nixon's face tattooed on his back.

Roger Stone [00:10:42] He'd been through a lot, obviously, but I think he was just as resilient as ever. His greatest single quality is resilience, and that's the purpose of my tattoo.

Elizabeth Joh [00:10:52] Stone joined a group of former Trump advisers and aides who ended up with guilty pleas or convictions after the Mueller report--Rick Gates, Michael Flynn, Michael Cohen, George Papadopoulos, and Paul Manafort. On Monday night, February 10th, the federal prosecutors who had been working on Stone's case submitted a legal memo to the judge in the case, Judge Amy Berman Jackson. They argued that Stone's crimes deserved a sentence of between seven and nine years in prison. All of this sounds so far pretty unremarkable. The sentencing memo from the government stated that

Stone obstructed Congress' investigation into Russian interference in the 2016 election, lied under oath, and tampered with the witness. "And when his crimes were revealed by the indictment in this case, he displayed contempt for this court and the rule of law." Now, Stone's misbehavior continued through his trial. Judge Jackson very nearly revoked his bail after Stone posted a picture of her next to a target on Stone's Instagram account. Stone's lawyers also submitted their own memo and argued that Stone deserved only probation. And that disparity isn't surprising. Again, so far, nothing unusual.

Roman Mars [00:12:11] And at 1:48 Tuesday morning, President Trump tweeted:

Elizabeth Joh [00:12:15] "This is a horrible and very unfair situation. The real crimes were on the other side, as nothing happens to them. Cannot allow this miscarriage of justice." Hours later, the Justice Department filed a new memo in Stone's case. The memo argued that a sentence of seven to nine years wouldn't be appropriate or, quote, "serve the interests of justice in this case." The memo also noted that Stone's advanced age, health, personal circumstances, and lack of criminal history didn't deserve such a harsh sentence. Stone is 67 years old. It turns out that Attorney General Bill Barr and his deputies had intervened in the case. A Justice Department spokesperson denied any coordination with the White House in the decision to overrule the original prosecutors in the case.

Roman Mars [00:13:08] And then within hours of the new memo, all four prosecutors on the case quit.

Elizabeth Joh [00:13:13] All four--and remember, these are the four federal prosecutors who were involved in Stone's prosecution--notified Judge Jackson that they were withdrawing from the case. One also quit the Justice Department altogether. Unlike the attorney general, these lawyers are not political appointees. They spend their careers in their positions, no matter who serves in the administration. Reporters asked Trump about the attorney general's intervention in Stone's case in the White House on Tuesday afternoon. Trump said, "No, I didn't speak with the Justice Department. I'd be able to do it if I wanted. I have the absolute right to do it. I stay out of things to a degree that people wouldn't believe. But I didn't speak to them. I thought the recommendation was ridiculous. I thought the whole prosecution was ridiculous." On Tuesday night, Trump tweeted, "Who are the four prosecutors (Mueller People?) who cut and ran after being exposed for recommending a ridiculous nine-year prison sentence to a man that got caught up in an investigation that was illegal, the Mueller scam, and shouldn't ever have been even started? 13 Angry Democrats?" And then on Wednesday morning, the next day, Trump tweeted, "Congratulations to Attorney General Bill Barr for taking charge of a case that was totally out of control and perhaps should not have even been brought. Evidence now clearly shows that the Mueller scam was improperly brought and tainted. Even Bob Mueller lied to Congress." Well, prosecutors have the freedom to do what they want, right? They have the power to recommend extremely harsh sentences or ask for leniency from the judge. Remember Justice Scalia's concern about the mad prosecutor in the fish case? All of this is true in the abstract, but the decision from the top of the Justice Department to overrule the recommendation of the trial team in Stone's case is different. The change occurred coincidentally just hours after the president tweeted out his unhappiness over the original sentence recommendation. That looks like political intervention in a criminal case to help out a close friend of the president. Attorney General Barr has denied any coordination with the president when his office decided to intervene in Stone's case. And in fact, Barr claimed that Trump's tweets "make it impossible for me to do my job."

Roman Mars [00:15:44] If you think about it, they didn't really need to coordinate. Trump said it out loud on Twitter for the whole world to see, including Barr.

Elizabeth Joh [00:15:50] It's hard to see any other reason for the sudden change in Stone's case other than political favoritism. This kind of direct overruling of prosecutors who are directly responsible for a criminal case pretty much never happens. Remember the Federal Sentencing Guidelines? The prosecutors were recommending a sentence within the guidelines' recommended range. And the abrupt resignations of the four prosecutors after having been overruled--that, too, is extremely unusual. These are protest resignations. After Attorney General Barr tried to deny political influence in the Stone case, Trump doubled down. On February 14th, he tweeted, "'The president has never asked me to do anything in a criminal case.' A.G. Barr. This doesn't mean that I do not have, as president, the legal right to do so, I do, but I have so far chosen not to!" What looks like the president's direct attempt to get a close associate less present time is the kind of fundamental rule of law issue you hear about. What's the rule of law? In general, it means that we have a system in which everybody is held accountable where the law is evenly enforced and where the courts are independent. If the president is allowed to tell the Justice Department to do whatever he wants, that's not a system where we can have confidence in the rule of law. The Justice Department is supposed to be an independent law enforcement agency, not directed by the president's personal views on revenge or favors. On February 16th, more than a thousand former Justice Department prosecutors and officials signed an open letter. It urged Barr to resign over the Stone case. The letter also stated, "Governments that use the enormous power of law enforcement to punish their enemies and reward their allies are not constitutional republics. They are autocracies." Remember, a prosecutor's role is to bring cases in the public interest. That's why the caption in this case is "The United States of America versus Roger J. Stone Jr." The Department of Justice is not the president's personal law firm.

Roman Mars [00:18:08] And you might be thinking, "There must be a law against this, right?" Well, not exactly. There is no law that prevents a president from interfering in Justice Department decisions.

Elizabeth Joh [00:18:18] And that's because we generally haven't needed one. Since Nixon, presidents have more or less felt bound by norms not to interfere personally with the Justice Department. The expectation is that presidents know better than to use the Justice Department to help friends or to attack enemies. And if the attorney general is willing to intervene in a criminal case to do Trump's bidding, there's no reason to stop here. There are other pending or potential criminal matters involving Trump's associates and friends. Federal prosecutors in New York are still investigating Rudy Giuliani, Trump's personal lawyer. They appear to be looking into his activities in Ukraine on behalf of Trump and what Giuliani did with two former associates, Lev Parnas, and Igor Fruman. Parnas and Fruman are now facing criminal charges for illegally directing foreign money as U.S. campaign contributions. There's also Michael Flynn, Trump's former national security adviser. The Mueller investigation led to criminal charges for Flynn for lying to federal investigators. Flynn hasn't been sentenced yet. The New York Times has reported that the attorney general has assigned an outside prosecutor to review Flynn's case.

Roman Mars [00:19:35] In other words, there are many potential opportunities for Trump to have the Justice Department intervene apart from the Roger Stone case.

Elizabeth Joh [00:19:43] Well, what about Roger Stone? Does anybody really deserve almost a decade in prison for what he did? Reasonable people can debate whether a

seven- to nine-year sentence is appropriate in his case. In fact, overly harsh sentencing and minimal checks on prosecutorial power are pretty standard criticisms in criminal justice. Remember the captain of the Miss Katie? Before his case went up to the Supreme Court, John Yates had been convicted by a federal jury in 2012. His prison time was 30 days. But that wasn't all. Yates also had to submit his DNA for collection and was subjected to three years of supervised federal release. This was a very real conviction and punishment. But if President Trump were truly concerned about what Justice Scalia called "the mad prosecutor," he has legitimate, lawful tools at his disposal. He could call on Congress to legislate reform. He could direct the attorney general to have stricter guidelines on what ordinary federal prosecutors do. But that's not what Trump did. He was angry about Stone--just Roger Stone. What other evidence do we have that Trump cared just about Stone's case? On February 11th, Trump attacked Judge Jackson in a tweet. And then on February 13th, he attacked the foreperson in the Stone jury. He tweeted, "Now it looks like the foreperson in the jury in the Roger Stone case had significant bias. Add that to everything else, and this is not looking good for the Justice Department." Is there anything else? Adam Schiff, the chairman of the House Intelligence Committee, stated on February 11th, "I do not take a position on the proper prison term for Mr. Stone. But it would be a blatant abuse of power if President Trump has, in fact, intervened to reverse the recommendations of career prosecutors at the Department of Justice." Schiff, of course, was one of the House managers in Trump's Senate trial. In his closing statement, Schiff argued to the Senate, "Can any of us really have the confidence that Donald Trump will put his personal interests ahead of the national interests? Is there really any evidence in this presidency that should give us the ironclad confidence that he would do so? You know you can't count on him to do that. That's the sad truth. The American people deserve a president they can count on to put their interests first."

Adam Schiff [00:22:20] You can't trust this president to do the right thing--not for one minute, not for one election, not for the sake of our country. You just can't. He will not change, and you know it.

Roman Mars [00:22:34] So Elizabeth and I talked on Monday. It is now Thursday, February 20th. And today, Judge Jackson sentenced Roger Stone to 40 months in prison. And as I record this, it is unknown if Trump will pardon him. So, let's catch up on all the stuff that's been going on. And there has been a lot of it.

Elizabeth Joh [00:22:54] After months of hearing and investigations, the president was acquitted in early February by the Senate. In the Rose Garden, he said, "Now that the Senate has fulfilled its constitutional responsibility--bringing this process to a conclusion--I want to say again to the American people how profoundly sorry I am for what I said and did to trigger these events and the great burden they have imposed on the Congress and on the American people." That was President Clinton's statement after his acquittal in February of 1999. President Trump was acquitted by the Senate on February 5th, 2020. As everyone expected, the Senate did not have enough votes for the two thirds majority needed for conviction, as the Constitution requires. It was a highly partisan vote. Every Democrat voted guilty on both the abuse of power and obstruction of Congress charges. Every Republican voted not guilty on the obstruction of Congress charge, and nearly every one of them voted not guilty on the abuse of power charge. Except for Utah Senator Mitt Romney. He became the first senator to vote against a president from his own party in a Senate trial. Romney gave an impassioned speech during his allotted time on the Senate floor.

Mitt Romney [00:24:17] You see, I support a great deal of what the president has done. I voted with him 80% of the time. But my promise before God to apply impartial justice required that I put my personal feelings and political biases aside. Were I to ignore the evidence that has been presented and disregard what I believe my oath and the Constitution demands of me for the sake of a partisan end, it would, I fear, expose my character to history's rebuke and the censure of my own conscience.

Elizabeth Joh [00:24:56] But his vote, of course, did not affect the result on removal. President Trump became the third president in American history to face impeachment and removal and also the third who was not removed by the Constitution's impeachment process. After the vote, the president retweeted a picture of himself with a Game of Thrones typeface: "Acquitted for life. Still your president. For the haters and the radical left-wing Dems, game over." Trump then tweeted a video of himself being reelected term after term in perpetuity, which defies the average lifespan and also violates the 22nd Amendment. He also tweeted, "I will be making a public statement tomorrow at 12 p.m. from the White House to discuss our country's victory on the impeachment hoax." The next day, he celebrated his acquittal at a White House event. For more than an hour, the president lashed out at the impeachment process. He said, "It was evil. It was corrupt. It was dirty cops. It was leakers and liars." Trump expressed no remorse. Just before the Senate trial ended, Maine Senator Susan Collins said in a TV interview on February 4th that she intended to vote for Trump's acquittal.

Susan Collins [00:26:12] I believe that the president has learned from this case.

Newscaster #3 [00:26:17] What do you believe the president has learned?

Susan Collins [00:26:19] The president has been impeached. That's a pretty big lesson.

Elizabeth Joh [00:26:25] Tennessee Senator Lamar Alexander was asked in a TV interview whether Trump would view the acquittal as encouragement to repeat what he had done with Ukraine. Alexander said, "I don't think so. I hope not. I mean, enduring an impeachment is something that nobody should like. Even the president said he didn't want that on his resume. I don't blame him. So, if a call like that gets you an impeachment, I would think you would think twice before you did it again." Did he? Just 48 hours after his acquittal, Trump fired Gordon Sondland, his ambassador to the European Union. Remember that Sondland testified under oath in the House impeachment inquiry. In his public testimony in November, Sondland said this of Trump's request to start an investigation into the Bidens and the withholding of military aid to Ukraine: "I know that members of this committee frequently frame these complicated issues in the form of a simple question. 'Was there a quid pro quo?' As I testified previously, with regard to the requested White House call and the White House meeting, the answer is 'Yes.'" Trump also fired Lieutenant Colonel Alexander Vindman, an Iraq war veteran who had served on the national security staff. Vindman also testified publicly under oath in the House impeachment inquiry. Vindman testified that Trump's pressure on Ukraine was, quote, "inappropriate and had nothing to do with national security." Vindman, you might remember, ended his formal statement by turning to his personal story. Vindman arrived in the United States as a refugee from Ukraine, which was then a Soviet republic. "In Russia, my act of expressing my concerns to the chain of command in an official and private channel would have severe personal and professional repercussions. And offering public testimony involving the president would surely cost me my life." He spoke directly to his father.

Alexander Vindman [00:28:21] Dad, I'm sitting here today in the U.S. Capitol. Talking to our elected professionals is proof that you made the right decision 40 years ago to leave the Soviet Union--come here to the United States of America--in search of a better life for our family. Do not worry. I will be fine for telling the truth.

Elizabeth Joh [00:28:43] On February 7th, Vindman was marched out of the White House by security guards. His brother, Yevgeny Vindman, who also worked on the NSC staff, and who did not testify, was also fired. What's the lesson? I'll just note that in 2017, when Trump was asked to read the part of the Constitution that deals with the president's powers out loud, he said, "It's like a different language, right? It's like a foreign language."

Roman Mars [00:29:12] So grim. Fired his brother. This is some mob stuff.

Elizabeth Joh [00:29:19] Yep. It's just mean unnecessarily.

Roman Mars [00:29:23] Oh my God. Depressing.

Elizabeth Joh [00:29:24] He certainly has not learned the lesson. He has learned a lesson, actually. It's just not the one that everyone thought he would learn.

Roman Mars [00:29:30] I mean, it is funny; his quirk is to deny everything and say he has the right to do it anyway--his two-pronged approach to all things. He's learned that that works no matter what. That's it.

Elizabeth Joh [00:29:43] I don't think it's inconsistent necessarily or that it's alarming. Why does he say both things at the same time? I think he's always speaking to different audiences. And you can always kind of pick and choose, if you support him, what you want to hear. You can hear that, "Oh, he didn't do it, and he said so, if you want to believe that." Or you can also believe, "I have the absolute right to do what I want," and stick with that, too. And I think in this social media climate, you need to grip onto something. And if there's one thing that you want to believe Trump is saying to be true, then you can certainly believe that. It doesn't really matter that he's saying contradictory things all the time.

Roman Mars [00:30:19] Yeah. I mean, I don't think they're necessarily contradictory. It's just interesting to me that it's always those two prongs in terms of his response. Even though whatever the Article II says is a foreign language, it still says that he can do whatever he wants. That's how he interprets it. So, he always says that, always supports with that, and says he didn't do the thing he was accused of, but if he did do it, it wouldn't matter because he's allowed to do whatever he wants. You know, we've talked about doing this for the rest of this year until there's another election.

Elizabeth Joh [00:30:50] That's the way I would put it at this point.

Roman Mars [00:30:53] And this Stone case is, like, a little bit more in keeping with the first year or so. This isn't all impeachment business. There's plenty of stuff that he can push the bounds of the Constitution for the next few months, I suppose.

Elizabeth Joh [00:31:07] I think that's right. It's similar in one respect, but I think it's different because it comes post-impeachment. We've already been through a Senate trial, and it's pretty clear we're not going to go through that again with him. I should never say "never" in Trump's case. And that means that there are no consequences for the president. There's really nothing other than an election that would check him because the

Senate is clearly not going to be a check on the president. The institutions seem to be barely able to hold their own and may not be able to, particularly if--in the case of the Department of Justice--we permit what looks like political interference when it comes to a friend of the president or you can even imagine the reverse where, you know, you have political investigations of Trump's enemies. So that's worse because at least before there was the specter of impeachment--there was the thought, "Well, maybe he would feel threatened by impeachment." But that's clearly not going to happen and hasn't happened. And it's kind of worse in a way because we don't really know what boundaries might exist because even in the case of this Stone intervention, it kind of shows us--as we've talked about many times in the past on the show--a lot of this has always been about, "Well, nobody is allowed to do that." And so, we just assume the president shouldn't do that. We don't literally have a law on intervention post-Nixon because we assume, like, presidents are smart enough to know not to do that--or they believe enough in the public interest or their office to not do that. But when they don't believe in the norms at all, then there's nothing to hold them back. But remember, any time that Congress has tried to rein in the powers of any president, there's always a pushback from the president himself to say that the Constitution doesn't allow Congress to rein in a president this much. And that's an age-old debate that's been around much longer than Trump. So, we might see many more efforts to try and rein in what the president does. I'm not sure that would be particularly successful.

Roman Mars [00:33:23] This show is produced by Elizabeth Joh, Chris Berube, and me, Roman Mars. You can find us online at trumpconlaw.com. All the music in Trump Con Law is provided by Doomtree Records, the Midwest Hip Hop Collective. You can find out more about Doomtree Records, get merch, and learn about current tours at doomtree.net. We are a proud member of Radiotopia from PRX, supported by listeners just like you.