

#1603 Clarence Thomas and the Highest Court in the Land with the Lowest Standards of Ethics

JAY TOMLINSON - HOST, BEST OF THE LEFT: [00:00:00] Welcome to this episode of the award winning *Best of the Left Podcast* in which we look at the most recent wave of scandal and manipulation of the nation's highest court, as well as historical controversies that go back much, much farther than that. However in a bygone age, scandal was handled much differently than today, putting our current state of dysfunction and hyper-partisanship. Into sharp focus.

Sources today include the *Ralph Nader Radio Hour*, *LegalEagle*, *The Majority of Report*, *The Kyle Kalinski Show*, *The Muckrake Political Podcast*, the *PBS NewsHour*, and Robert Reisch. With additional numbers, only clips from *All In with Chris Hayes*, and *Now & Then*.

Ralph explains the need for resignations and reform on the Supreme Court - Ralph Nader Radio Hour - Air Date 12-30-23

RALPH NADER - HOST, RALPH NADER RADIO HOUR: The corruption of Clarence Thomas has been documented by ProPublico, the New York Times, in article after article. He's gone on these junkets by billionaires, he's accepted huge gifts that he has not disclosed. It's because until very recently, there were no ethic codes applying to Supreme Court justices the way [00:01:00] they apply to lower federal court judges, and now they have a weak new code of ethics, but they leave its enforcement up to each Supreme Court justice, which makes a mockery of satire.

And so what we're seeing here are mealy-mouthed Democrats investigating in the Senate Clarence Thomas and, to some extent, Justice Alito's freebies and junket, and not calling for the resignation. The columnist for the Washington Post, a Harvard Law grad, Ruth Marcus, just had a column demanding that Clarence Thomas recuse himself in the upcoming decision about Trump's assertion that he's immune from prosecution, because what he did occurred when he was exercising his duties as president in the White House, and she should be asking for his resignation. And the Senate Judiciary Committee under

Senator Durbin and Senator Whitehouse, they've got loads of [00:02:00] evidence on Clarence Thomas, and they still haven't called for his resignation.

Now, the comparison under the period of Lyndon Johnson as president, Abe Fortas was a Supreme Court justice, was accused of taking a grant from a politically connected person who had a foundation in Florida, and after a few annunciations in the press, Abe Fortas tendered his resignation. Clarence Thomas has done far, far worse, and blatantly so, and he's arrogant about it, and he's defending it. And he's not remorseful, and the Democrats aren't even asking for his resignation. This illicit decline in public ethics and morality, decline is too easy a word, it's fallen off a cliff. And Clarence Thomas is really the Donald Trump of the Supreme Court.

STEVE SKROVAN: Ralph, I just want to follow up, as long as we're talking about the Supreme Court, how do you feel about the Supreme Court as a branch of government? Because when I look [00:03:00] at what I know of the Supreme Court and the decisions they've made throughout history, aside from a few years in the 50s and 60s of the Warren Court, it seems like they've made mostly bad decisions on the big issues. You're talking about Dred Scott, or corporate personhood, or the second amendment, or Bush v. Gore, Citizens United, the repeal of Roe v. Wade, Buckley Vallejo, they seem not to make good decisions throughout history. Is it worth it for them? Is it worth it for us?

RALPH NADER - HOST, RALPH NADER RADIO HOUR: Well, they were the bastions of the property classes, as they used to say in the old days, and they made no bones about it. They presided over a period of slavery. They presided over a period where women didn't have the right to vote. They presided over the Jim Crow period after the Civil War. And they didn't disturb the entrenched status quo of a corporatist white male [00:04:00] domination. And of course, until recently, they were all white males. As you say, starting with the Earl Warren court, they produced Brown versus Board, saying that school segregation was illegal, and they fostered the civil rights movement in case after case, and then the Burger court took over, Warren Burger, and turned it to the right and then it hasn't stopped. It is now the most extreme court in generations, with the six three majority that is pro corporate, pro executive branch power at the expense of the congress, anti union, anti worker, and anti consumer, and the only time they defer to Congress and defeat the petition for the people is when they feel it necessary to rein in the regulatory agencies.

But worse is yet to come. They may come out with a decision next year stripping the [00:05:00] regulatory agencies of the delegation of authority to regulate corporations like the oil companies, the drug companies, the auto companies, they may issue a decision that strips them saying, and this is an

unconstitutional delegation of authority by the Congress that is legislative in function and has no business being exercised by executive branch agencies, throwing it back to Congress saying, you want to regulate these corporations, you do it with thousands of pages of regulations, presumably, as if Congress has the expertise or is willing to labor more than three days a week when they're not in recess.

So I think they are reaching a point, the sixth justice majority, of getting a huge backlash and calls for impeaching them all together before the Senate. I've written an article several years ago saying I don't call for impeachment of justices very easily, but when in case [00:06:00] after case, these justices come down on the side of artificial entities called corporations, which are never mentioned in the Constitution, against real human beings, whether they're workers or victims of different oppressions or looted consumers, that when they continually vote in favor of artificial persons are never mentioned or authorized in the Constitution, that that is a severe ground for collective impeachment proceedings before the US Senate. I think that's what we're going to be looking forward to if the progressive liberal interests in this country have any sense of being able to look at themselves in the mirror and not be seen as surrendering the sovereignty that the Constitution gave them as real human beings, surrendering to the supremacy of giant corporations.

Astonishing Corruption at The Supreme Court? - LegalEagle - Air Date 5-6-23

DEVIN STONE - HOST, LEGALEAGLE: Just a week after the initial report on April 13th, ProPublica published details of an October, 2014 real estate transaction [00:07:00] between Crow and the Thomas family. According to public documents, one of crow's companies paid just over \$133,000 for two vacant lots and a single family home that were co owned by Thomas, his mother, and the family of Thomas's late brother. The transaction, which had not previously been disclosed, was the first known instance of money flowing directly from the Republican mega-donor to a Supreme Court justice.

Now, under the terms of the sale, Crow allowed justice Thomas's then 85 year old mother, Leola Williams, to live in her home for the rest of her life. She lives there currently rent free, but is responsible for property taxes and insurance. And after the sale was completed, contractors then undertook extensive renovations of the house.

Then on top of those transactions, according to an April 16th article by the Washington post, Thomas has reported hundreds of thousands of dollars of income from a firm called Ginger Limited Partnership for two decades. The problem here is that the real estate firm founded by his wife and relatives has not existed since 2006 the company's assets were taken over by a similarly named Ginger Holdings, LLC, but [00:08:00] Thomas's disclosure forms make no mention of a newer firm. Now, given the similarity of the names, it's possible that the company was just listed in error, but it merits mention given Thomas's decades long history of non disclosure.

In a statement provided to ProPublica, Crow describes the Thomas's as " very dear friends" and defended the trips as the kind of hospitality he extends to all their close friends. "We have been most fortunate to have a great life of many friends and financial success, and we've always placed a priority on spending time with our family and friends."

With respect to the property purchase. Crow said he purchased the home with a plan to turn it into a public museum honoring Clarence Thomas. While he claimed the transaction was at market rate, Crow purchased a vacant lot and a house on the same block for \$40, 000 the prior year. Crow did not explain why he bought the two vacant lots, but indicated that they had been sold. Crow also asserted that he has never attempted to influence Justice Thomas on any legal or political issue, and claims he is unaware of any friends attempting to influence Thomas on the same.

But at the same time, Crow serves on the board of multiple groups that have advocated at the Supreme Court through the filing of amicus briefs. And in [00:09:00] 2005, a company called Trammell Crow Residential that was formed by Harlan Crow's father and partly owned by Harlan Crow, was the defendant in a case before the Supreme Court. Clarence Thomas did not recuse himself from that case.

In response to ProPublica's reporting, Clarence Thomas defended the trips and pleaded ignorance that it was wrong, and in a rare statement stated:

"Harlan and Kathy Crow are among our dearest friends and we have been friends for over 25 years. As friends do, we've joined them on a number of family trips during the more than quarter century we have known them.

Early in my tenure at the court, I sought guidance from my colleagues and others in the judiciary and was advised that this sort of personal hospitality from close personal friends who did not have business before the court was not

reportable. I've endeavored to follow that council throughout my tenure and have always sought to comply with the disclosure guidelines. These guidelines are now being changed as the committee of the judicial conference responsible for financial disclosures for the entire federal judiciary just this past month announced new guidance, and it is, of course, my intent to follow this guidance in the future."

Now, this statement raises far more questions than it answers. For example, while Thomas acknowledges being gifted [00:10:00] family trips from Crow and perhaps others, he does not address the use of Crow's plane for other reasons, and as we'll talk about later travel and the actual vacation itself are treated differently.

For example, in 2016, Thomas used Crow's plane for a direct three hour trip to and from New Haven, Connecticut, which would have cost about \$70,000, and it appears that Thomas might have been the only one on that plane. And obviously no one would ever vacation in New Haven, Connecticut, so the trip must have been for some other reason.

Additionally, Thomas asserts that he sought guidance within the judiciary and was advised that his hospitality from close personal friends was not reportable, but Thomas doesn't specify who advised him, whether they had any expertise, whatsoever, whether they were self-interested in that advice, whether this occurred before or after befriending Crow, or whether he followed up after this initial advice within the 30 years that this has been going on.

And while Thomas claimed that he has always sought to comply with disclosure guidelines. the justice has a documented history of forgetting to disclose certain things. In 2011, Thomas amended prior forms to reflect [00:11:00] income his wife earned between 1998 and 2003 from the Heritage Foundation, which is a conservative think tank, which Thomas claimed was inadvertently omitted.

A 2004 LA Times report revealed that Thomas had accepted private plane trips and expensive gifts, including a Bible that was previously owned by Frederick Douglass, valued at \$19,000, and a bust of Abraham Lincoln valued at \$15,000. The article also noted that Crow had donated \$175,000 for a new Clarence Thomas Wing at the justice's childhood library in Georgia.

And after the [New York] Times Report, Thomas continued to take plane trips from Crow, he just stopped disclosing them. And ProPublica is not the first publication to raise questions about the relationship between Crow and the Thomas family. In 2011, the New York Times detailed numerous favors that the

Texas billionaire had done for the Thomases, including helping to finance a library dedicated to the justice in Savannah, Georgia, and providing \$500,000 for Ginni Thomas to start a Tea Party conservative activism group, which came with a \$120,000 a year salary for Ginni Thomas.

And in a move that stirred controversy at the time, Crow financed a multi million dollar restoration of a cannery that included a museum about the culture and [00:12:00] history of Pinpoint, Georgia, a pet project of the Associate Justice. Now Crow says he hasn't tried to influence Thomas on any issue, and it's true that people who are ideologically aligned are probably more likely to become friends, but if a billionaire gave my partner 500, 000 to start a political organization, flew us around the world on a private jet, bought property from me that would both house my mother for the rest of her life and promise to have that house turned into a museum honoring me, well, you might question the independence of this channel.

Harlan, call me.

Now, Thomas's former law clerk, James Ho, who currently sits on the Fifth Circuit Court of Appeals defended his former boss by suggesting that the hypocritical double standards were at play saying that, "there's a big difference between. Actual corruption and the appearance of corruption." but even if there isn't any quid pro quo between Crow and Thomas, the entire crux of judicial ethics is based on avoiding any appearance of impropriety. But under 28 US code section 455, any federal judge, including the Supreme Court justices, are supposed to recuse themselves from any proceeding, "in which his or her impartiality [00:13:00] might reasonably be questioned."

Unfortunately, there are neither official rules nor a legal mechanism to force the justices to recuse themselves, and chief justice Roberts has long resisted calls to impose a code of ethics on the Supreme court. And not surprisingly, there is a wide ranging debate on this topic. Multiple legal experts told ProPublica that these non disclosures were not just unethical, but may have broken the law, specifically the ethics and government act of 1978.

And in a bit of cheekiness from Congress, the Congressional Research Service put out a helpful explainer of this law following "a recent article detailing undisclosed trips by an associate justice", whoever that could be.

Supreme Court's Corrupt Financial Ties To Billionaire Exposed During Senate Hearing

- The Majority Report w/ Sam Seder - Air Date 5-3-23

SAM SEDER - HOST, THE MAJORITY REPORT: Yesterday, since we were talking about the Supreme Court yesterday, we played a clip of Sheldon Whitehouse talking about the conflict of interest that Clarence Thomas clearly had with his family member working for entities that had cases in front of the Supreme [00:14:00] Court, that being his wife and that being January 6th.

Whitehouse goes on in that same hearing to lay out all of the ethical violations that Clarence Thomas has appeared to have committed. Now, of course, the Supreme Court says, well, we don't have to respond. This came up in 2011 as well, the exact same thing. Clarence Thomas's relationship with Harlan Crow. Two judges actually came to testify in regard to it, Scalia and Ginsburg. That was back when the Supreme Court actually cared about its legitimacy.

The important thing to understand here is that there's no mechanism. and Whitehouse has a piece of legislation that would impose at least a system to adjudicate whether there have been ethics violations.[00:15:00]

I don't know that it would have any enforcement power, but at least it would place out there for our representatives a non partisan method of establishing that there has been an ethical violation. They then could have the opportunity to impeach the justice or whatnot.

SEN. SHELDON WHITEHOUSE: Which brings us to Justice Thomas's recent non disclosure of supposed personal hospitality from a right wing billionaire and its problems.

First problem: private jet travel is not in the personal hospitality exemption, which is limited to food, lodging, and entertainment. Exhibit 7. Some textualist, by the way.

Second problem: Thomas said it was okay because he'd asked colleagues, but that financial disclosure committee, it's there to ask about financial disclosure. Setting aside that his name should give a clue, Thomas knew the committee [00:16:00] existed because concerns about his yacht and jet travel gifts from this billionaire were referred there in 2011, after some of these gifts were first revealed in this New York Times story, Exhibit 9,

Third problem: there's no legal way not to disclose the property acquisition in Georgia.

Fourth problem: some of this personal hospitality involve people dedicated to turning the court into a tool for right wing billionaires, namely Leonard Leo. This guy doesn't have business before the court, his business is the court. This disclosure mess has again been referred to the Financial Disclosure Committee, which raises the question of the previous referral to that same committee of the same billionaire's gifts to Thomas of yacht and jet travel.

The rules seem to require the committee to report its findings to the Judicial Conference. The records of the Judicial Conference are [00:17:00] public, and the records of the judicial conference contain no mention of any such report. So what became of the 2011 referral? Did anyone intervene? Is the committee still considering the 2011 referral more than a decade later? There is much yet to learn, which is why last week I sent a letter to the courts asking for further answers. Exhibit 10.

Three things are needed to fix all this. Better enforcement, better recusal rules, and better disclosures. My bill would do all three.

SAM SEDER - HOST, THE MAJORITY REPORT: I mean, it is extraordinary. He's saying he didn't know, he asked people, he had been called to court, as it were, on these, not even similar things...

MATT LECH - CO-HOST, THE MAJORITY REPORT: Same guy.

SAM SEDER - HOST, THE MAJORITY REPORT: The same guy! It was just less numbers of trips at that point, because that was over a decade ago. And so [00:18:00] we're to believe that Clarence Thomas, the Supreme Court Justice, when two of his colleagues went in front of the Senate, when there was discussion and a referral of his trips to the Financial Disclosure Committee, that he wasn't aware of any of that? And that's why he didn't do any more disclosures. He wasn't aware that he was like literally called up and publicly talked about, like the New York Times wrote about this. I mean, I get it, he doesn't want to read the New York Times because it's liberal lies, but he never heard about it? It's unbelievable.

EXPOSED: Supreme Court Corruption CAUGHT Red Handed - The Kyle Kulinski Show - Air Date 4-27-23

KYLE KULINSKI - HOST, THE KYLE KULINSKI SHOW: We have more Supreme Court corruption to talk about. This is a really important story. The thing that I can't get over is just how much everybody pretends like, Oh, the Supreme Court? You mean the honorable gentlemen and gentlewomen over there? The ones who are above the fray and who are incredibly [00:19:00] intelligent? They are like our intellectual overlords and they just -- they only make the correct decisions based on the law. This is like the mythology that has been preached to us, this idea of the INDEPENDENT JUDICIARY is so important.

But no, in reality, they are deeply, deeply political, even though they claim they're not. And they're corrupt. So now we know this: this is in Raw Story: "Justice Gorsuch failed to report property sale to CEO of law firm with cases before Supreme Court." Why would this matter? For those who don't understand, I think it's pretty intuitive and you can get it right away. But what do you think's going to happen in these cases? Gorsuch has a massive bias on the side of wherever the law firm is. He has a bias in favor of their side of any case. So he's probably not going to judge it on the merits, he's probably going to judge it based on his political connections and money.

This is incredibly devastating. And this is on top of the recent Clarence [00:20:00] Thomas Supreme Court scandal, where he's basically, he has a billionaire sugar daddy, and he hears cases all the time where he has a massive conflict of interest and a bias.

Another Supreme Court justice failed to disclose his financial relationship with an individual with business before the court. See, if there actually were a code of ethics or these people were not absolute goblins, they would recuse themselves.

No, actually, I retract that. They wouldn't have taken these gifts anyway. They wouldn't have done it. Neil Gorsuch has been trying to sell a 40 acre property he co-owned in rural Colorado for nearly two years, before Brian Duffy, the chief executive of one of the biggest law firms in the country, put it under contract exactly nine days after Gorsuch was confirmed by the Senate in 2017, reported Politico.

Wow, would you look at that? What a coincidence that timing was. I'm sure it wasn't pay to play corruption. He and his wife closed on the house a month later, paying \$1.825 [00:21:00] million according to a deed in the county's record system, reported political correspondent Heidi Prisbilla. Gorsuch, who held a 20 percent stake, reported making between \$250,000 and \$500,000 from the sale on his federal disclosure forms.

Gorsuch did not disclose the identity of the purchaser. The box was left blank. Gee, I wonder why. Couldn't be because he's trying to hide his obvious pay for play corruption, is it? The firm Duffy leads, Greenberg Traurig, has been involved in at least 22 cases before or presented to the Supreme Court since buying that 3,000 square foot log home and mountainous land from the justice, although Duffy says he has never argued a case before Gorsuch or met him socially. Quote, "I've never spoken to him." Sure. "I've never met him." Sure.

By the way, this is how pernicious this stuff is. I just want everybody to understand this. The way it works in our legal system is in order to prove corruption, there has to be what's called a quid pro quo. Which is basically I will now [00:22:00] give you the money, and you will do X favor for me. Fill in the blank with whatever X is. That's quid pro quo corruption. Now the reason why that standard is absurd is because in most instances, the corruption is implied. So if you just buy the house, and you just let him get away with a \$500,000 profit or whatever it is, you just do that, you don't say anything. It's implied, right? Oh, yeah, when that case gets in front of the court, and I'm on that side, it's implied, "Hey, man. I do you a solid, you're gonna do me a solid?" And also, to one extent or another, this is human nature, right? If I scratch your back, you scratch mine. Somebody does a solid for you, you're gonna wanna do a solid for them back in return. In fact, if that's not the case, you're kinda sociopathic. Now, in most instances in life, I scratch your back, you scratch mine is totally fine, but when it comes to politics, and people who are supposed to be above this, tit-for-tat, pay-to-play corruption type stuff, it's terrible, because his job is supposed to be, decide cases based on the [00:23:00] Constitution, based on the law, be objective. You are, by definition, no longer objective with this sort of conflict of interest.

By the way, I don't even believe him when he says I never spoke to him, I've never met him. But even if it were true, that doesn't change the nature of the case *at all* here.

Duffy, a long time Colorado resident, said he had been looking for a property with access to fly fishing waterways for many years, and he insists he did not know Gorsuch was one of the owners when he made his first offer. I totally do not believe that, not even a little bit. Quote, " The fact that he was going to be a

Supreme Court Justice was absolutely irrelevant to the purchase of that property," Duffy said. "It's a wonderful piece of property and we're so glad we bought it." Gorsuch has sided with Greenberg Traurig clients eight times and against them four times in the twelve cases where his opinion is recorded, including a case where he joined the other five conservative justices in agreement with a Greenberg client who challenged a Barack Obama measure to fight climate change by regulating carbon emissions from power plants. Quote, "We have seen a steady stream of revelations regarding Supreme Court justices falling [00:24:00] short of the ethical standards expected of other federal judges and of public servants," said Senate Judiciary Committee Chairman Dick Durbin. "The need for Supreme Court ethics reform is clear, and if the court does not take adequate action, Congress must. The Senate Judiciary Committee will be closely examining these matters in the coming weeks."

Okay. So let me point out this for you guys. It was implied here, but just so everybody understands. The way it works with lower federal courts, there *is* a code of ethical standards that they have to abide by. With the Supreme Court, there's no code of ethical standards. It's astonishing: the higher you get up the ladder, the fewer rules there are. So you have free reign, do whatever you want, and it's the honor system, basically. Oh, just trust me. I got this. They need a code of ethics. Absolutely. And I would get rid of the lifetime appointments for sure.

Now Durbin saying these things, okay, so he's nominally on the right side, but I'm gonna add to this in just a second here. He's not really doing his job right. [00:25:00] You're about to see, he's not really doing his job right. Durbin has asked Chief Justice John Roberts to testify next month before his committee on the court's ethics rules following revelations of Justice Clarence Thomas undisclosed financial relationship with billionaire Republican donor Harlan Crow.

Here's what I just referenced. This was in Politico. "Senate Judiciary Committee Chairman Dick Durbin says he didn't invite Justice Clarence Thomas to testify regarding ethics because he thought Thomas would ignore the invitation." So he didn't even try to get Clarence Thomas to testify, when he's like the heart of the corruption scandal.

Now by the way, Clarence Thomas has since sent a letter, where he was like, Yeah, I'm not really feeling it. We have separation of powers, so that means I get to do what I want. No the whole point of separation of powers is that so we have checks and balances, which is the exact opposite of how you're interpreting it. The separation of powers doesn't mean I get to get away with whatever I want, even if it's wrong. Separation of powers is, if I do something

wrong, there's another branch of government that will check my ass. [00:26:00]
But Clarence Thomas just flipped the meaning of that, to be like, "No I'm busy, I'm not gonna come to, yeah, I don't, this is a nothing matters." No, it is definitely not a nothing matter.

Ron DeSantis Sinking While Clarence Thomas Grifting - The Muckrake Political Podcast - Air Date 12-19-23

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: ProPublica will not leave poor Clarence Thomas alone, they have got his number. It's like Hershel Walker with Roger Sollenberger over at Daily Beast. It's like a dog just snapping at somebody, not letting go. ProPublica's Justin Elliott, Joshua Kaplan, Alex Majerski, and Brett Murphy have released a report regarding Clarence Thomas's both public and private signaling to donors within the Republican party, the Supreme Court itself, and also the Republican party writ large, back in the early two thousands. Apparently Thomas was signaling all the way back then that, I don't know, he wasn't getting paid enough. Back then in 2000, he was making \$173,000, which is the equivalent, Nick, if you want to feel bad about inflation, that's the equivalent of \$300,000 a year at this point.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: Is that [00:27:00] right?

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: That's right.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: Oh my God.

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: Yeah, that's a tough one. Here's a quote from the ProPublica article: "In early January of 2000, Supreme Court Justice Clarence Thomas was at a five-star beach resort in Sea Island, Georgia, hundreds of thousands of dollars in debt. After almost a decade on the court, Thomas had grown frustrated with his financial situation, according to friends. He'd recently starting raising his young grandnephew and Thomas's wife was soliciting advice on how to handle the new expenses. The month before, the justice had borrowed \$267,000 from a friend to buy a high end RV." I give it to this guy, he loves his RVs. "At the resort, Thomas gave a speech at an off-the-record conservative

conference. He found himself seated next to a Republican member of Congress on the flight home. The two men talked and the lawmaker left the conversation worried that Thomas might resign. Congress should give Supreme Court justices a pay raise, Thomas told him. If lawmakers didn't act, one or more of justices will leave soon, maybe in the next year."[00:28:00]

Nick, that's right. Clarence Thomas, back in 2000, basically blackmailed the entirety of the Republican Party, the Supreme Court, and every Republican donor to pay off his debt and to corrupt him. He literally begged everyone to corrupt him. And you want to hear something wild, Nick? It worked.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: You know why it worked so well? The timing is important of this, right? What was going on in January 2000?

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: I can't even imagine at this point what possibly was cooking up in January of 2000 that would completely change the history of the nation.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: So I actually saw Al Gore speak at a high school that I was a substitute teaching at, and it was later, it was probably the summer of 2000. But remember, I think what he was preying upon -- and this is why the timing is important -- was it looked like Al Gore was going to beat George W. Bush in the presidential --

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: Wait, correction. Correction, Nick. He did beat George.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: Okay. Let's get to that because it just so happens that Clarence [00:29:00] Thomas got to decide who won that race later on in that year. And this is really why it becomes a little bit more nefarious than a guy who all of a sudden woke up after, let's see, 10 years of being in Supreme Court justice and realized, shit, I don't get paid a whole lot. I thought I got in this to actually make some money. What did he think after, when he first got this job and committed his whole lifetime to doing this job that, all of a sudden he's I want money. And then that timing is really important because I think he realized there was pressure on everybody to maintain that because they thought --

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: That's called recognizing the leverage, is what it is.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: And if he were to resign when Gore was in presidency, then they lose that seat and becomes a lot less conservative. So this is a manipulation of all manipulations. I guess I want to give him credit. I didn't think he was that smart, but that's a pretty smart move.

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: To be fair, I don't think he dreamed this thing up for himself. Ginny Thomas, very shortly after this, landed a six figure gig at the Heritage Foundation. She has done a really good job of understanding exactly what she can do because her husband is a Supreme Court justice.

[00:30:00] Nick, we talked about George Santos. We said, probably the greatest liar and grifter that we have seen in Congress. The Supreme Court has been a bastion of grifters from the very beginning. Liars. Grifters. Manipulators. The very fact that corporations are people and the fact that was made up from whole cloth by a bunch of people basically who conspired to do it tells you who these people are. These are scoundrels in the Supreme Court, and they always have been. He, Clarence Thomas is on the Mount Rushmore of the most scoundrelous Supreme Court justices of all time. It's really incredible how blatant he has been about it. How big of a role he has played in to the blatant corruption of the modern Supreme Court. You have to take your hat off for him. You really do.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: And the veiled threats of like how the Constitution needed to be interpreted, and the quotes that he would have on this thing, it made it sound [00:31:00] like, it's " We all know how you want me --" Oh, here's the other thing. The backstory of this was he never asked a question for 20 years on the bench, which is completely strange. Everybody else asks something; he never would speak up because a) you could just assume that he was just uninterested or b) he was just waiting for the time to put his stamp on the Republican vote, whatever that's going to be in the conservative vote and then move on. I don't think he ever really spent much time thinking about any of these cases. And it just continues to add, we're going to add a little bit more context into what's going on, but it's I don't even know if it needs the context. The guy is corrupt.

JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL

PODCAST: He's corrupt. He should not even be, he shouldn't even resign in disgrace. He should be let out of the Supreme Court in disgrace. He should have his ass kicked out of the court, if there was any justice.

Also, for the record, what's that sound, Nick? Oh crickets. It's absolute crickets, as the Democrats say *nothing* about this, as they don't act on this whatsoever. As

this hasn't even become a campaign [00:32:00] issue. Like we don't hear anything about this. We don't hear anything about Supreme Court reform. We don't hear anything about adding justices. We don't hear *anything* about it, and that is a disgrace, that they would rather protect the sanctity of our institutions, and big scare quotes around "sanctity of our institutions," than to actually call out some of the most blatant corruption that we will ever see.

NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL

PODCAST: You know I think it would be a great -- remember I told you I would want to run for president and I would just say I'd release all the UFO information like that would probably catapult me to the White House. Maybe this way, I think that this wouldn't be a terrible idea to run on the Supreme Court, cleaning this up a little bit, I think. Maybe it's just me just wanting it, wanting someone to finally do something about it that had enough power because you would need the president's pressure to get anything done because they don't have anything to answer to. And that's I know how the Constitution was set up, but this is disgusting. It's repulsive.

New Supreme Court ethics code 'does very little' to hold justices accountable, expert says - PBS NewsHour Air Date 11-13-23

AMNA NAWAZ - HOST, PBS NEWSHOUR: Professor Clark, put this moment in context for us. For the first time [00:33:00] in the court's 234-year history, it's adopting a code of ethics. How big a deal is this?

KATHLEEN CLARK: This is not a very big deal. It does show that the Supreme Court can read the room. It knew that it had to do something to address the political and ethics crisis that it finds itself in. But in terms of substance, this new code does very little. And it provides no new mechanisms for holding justices accountable when they violate the rules.

AMNA NAWAZ - HOST, PBS NEWSHOUR: Well, let's tick through some of that public pressure from the reporting that has been laid out.

And I do want to take a moment to, in particular, note the many reports by ProPublica breaking news on this front over the last seven months. You're seeing a few of those stories right there. They raised concerns over donor influence, failure to disclose gifts, failure to recuse from certain cases.

So, Professor Clark, does any of this — is any of this addressed by the new code?

KATHLEEN CLARK: [00:34:00] This new code addresses none of that. It doesn't address donor influence. It doesn't address what will happen when justices fail to disclose gifts. It does address the recusal problem by saying, nothing will change. It views recusal as a decision for an individual justice. And if a justice fails to recuse, the court won't do anything about it.

AMNA NAWAZ - HOST, PBS NEWSHOUR: So, you have read through the whole code now. What does it do? And if it doesn't do anything, why do you think all nine justices signed onto it?

KATHLEEN CLARK: I believe that the justices, all presidentially nominated and confirmed by the Senate, are, in that sense, politicians. And they realize that the court is in some jeopardy, in some political jeopardy, because of the scandals uncovered by ProPublica and other journalists. So they felt pressure to take some [00:35:00] sort of action, perhaps to stave off Congress from taking action and imposing an actual ethics code that would provide accountability. So, I think that this should be seen really as a political document, as a way of addressing a political problem that the court had.

AMNA NAWAZ - HOST, PBS NEWSHOUR: You mentioned that congressional pressure. One of those who has been calling for Congress to impose and enforce a code of ethics is Democratic Senator Sheldon Whitehouse. He tweeted some of his concerns, which get to a point you raised earlier about enforceability. He said: "The question is enforcement. Where do you file a complaint? Who reviews it? How does fact-finding occur? Who compares what happened to what's allowed? That is where the rubber hits the road."

So, Professor Clark, do I hear you saying none of that is addressed in this code and there is potentially still a role for Congress here?

KATHLEEN CLARK: Oh, there's definitely a role for Congress here. And, yes, this code is utterly silent. It's basically a failure to address those [00:36:00] really important questions of who is it that will hold justices accountable, and how will they be held accountable? And if I could just add one thing, ironically, the court touts the fact that it imposes mandatory ethics training on the court's employees. It does not impose mandatory ethics training on the justices. And that's where the failure has been.

AMNA NAWAZ - HOST, PBS NEWSHOUR: Well, here's the question, because we have heard some of the justices publicly say they support a code of ethics. We have recently heard just earlier this fall from Justices Coney Barrett and Elena Kagan. Here's what they had to say then.

JUSTICE AMY CONEY BARRETT: I think it would be a good idea for us to do it, particularly so that we can communicate to the public exactly what it is that we're doing in a clearer way than perhaps we have been able to do so far.

JUSTICE ELENA KAGAN: It would [00:37:00] help in our own compliance with the rules. And it would, I think, go far in persuading other people that we were adhering to the highest standards of conduct.

AMNA NAWAZ - HOST, PBS NEWSHOUR: Professor Clark, do you think there was a divide or there is a divide among the justices on how this should be addressed?

KATHLEEN CLARK: I don't — I'm not privy to the justices' conversations among themselves, but you could hear in both of those quotations a concern with public perception. And that, I think, is the bottom line about this new code. It's a way of addressing public perception, rather than addressing the heart of the problem, which is a lack of accountability.

AMNA NAWAZ - HOST, PBS NEWSHOUR: So, when it comes to public perception, we know the court has suffered a decline in public trust, like a lot of American institutions, in recent years. Does this code help at all with that trust and building it back up?

KATHLEEN CLARK: I don't believe so. I [00:38:00] believe what would actually help matters for the Supreme Court is for it to adopt an accountability mechanism, something like what has been suggested by, I think, Professor Stephen Vladeck and others, an inspector general, some kind of mechanism for investigating allegations of wrongdoing or violations, and as a way of actually holding justices accountable when they fail to comply with the law.

How to Fix a Broken Supreme Court - Robert Reich - Air Date 7-18-23

ROBERT REICH - HOST, ROBERT REICH: The Supreme Court is off the rails. And it's only going to get worse unless we fight to reform it. Public trust and approval of the court have hit historic lows due to seemingly partisan

decisions and a growing number of ethics scandals. Here are three key reforms Congress should enact to restore legitimacy to our nation's highest court.

Number one, establish a code of ethics. Every other [00:39:00] federal judge has to sign on to a code of ethics, except for Supreme Court justices. This makes no sense. Judges on the highest court should be held to the highest ethical standards. Congress should impose a code of ethics on Supreme Court justices. At the very least, any ethical code should ban justices from receiving personal gifts from political donors and anyone with business before the court, clarify when justices with conflicts of interest should remove themselves from cases, prohibit justices from trading individual stocks, and establish a formal process for investigating misconduct.

Number two, enact term limits. Article 3 of the Constitution says judges may hold their office during good behavior, but it does not explicitly give Supreme Court justices lifetime tenure on the highest court, even though that's [00:40:00] become the norm. Term limits would prevent unelected justices from accumulating too much power over the course of their tenure, and would help diffuse what has become an increasingly divisive confirmation process. Congress should limit Supreme Court terms to 18 years, after which justices move to lower courts.

Number three, expand the court. The Constitution does not limit the Supreme Court to nine justices. In fact, Congress has changed the size of the court seven times. It should do so again, in order to remedy the extreme imbalance of today's Supreme Court.

Now, some may decry this as radical court packing. That's pure rubbish. The real court packing occurred when Senate Republicans refused to even consider a Democratic nominee to the Supreme Court on the fake pretext [00:41:00] that it was too close to the 2016 election, but then confirmed a Republican nominee just days before the 2020 election. Rather than allow Republicans to continue exploiting the system, expanding the Supreme Court would actually unpack the court. This isn't radical. It's essential.

Now, I'm not going to sugarcoat this. Making these reforms happen won't be easy. We're up against big, moneyed interests who will fight to keep their control of the nation's most important court. But these key reforms have significant support from the American people, who have lost trust in the court. The Supreme Court has no real power to enforce its judgments. It has no army, it has no control over spending. Its power comes from only one source, the trust of the people. With neither the sword nor the purse, trust is all it has.[00:42:00]

Bombshell new report on the Supreme Court's abortion leak - All In with Chris Hayes - Air Date 12-15-23

CHRIS HAYES - HOST, ALL IN: I want to start with bringing people back to the timeline, which I had sort of forgotten a little bit until I read your piece today, which is basically that Mississippi passes this law banning abortion to 15 weeks. They know it's frontally unconstitutional under the court's current jurisprudence, but they want to test it anyway. And they want to send it up to the court, and they petition the court, and then Justice Ruth Bader Ginsburg dies. Amy Coney Barrett replaces her. Tell us about the dynamics in what we think of as the conference in that court about whether to take up the case knowing how adjacent it is to Justice Ginsburg's death.

JODI KANTOR: So, one of the things that Adam Liptak and I found was that this was a real point of sensitivity for the court. You know, it's interesting: on the one hand, in our system of lifetime appointments, the passing of justices helps refresh the law. It's part of what [00:43:00] moves the law along. But if the law changes too quickly after a justice dies, it can look like - actually, Amy Coney Barrett wrote years ago in a law review article - it can look like this is about politics and power instead of law and reason.

So, there's this debate in early 2021 about whether to take up the case, not how to decide it, but whether to take it up at all, and it becomes a debate about timing. It's very clear that this new conservative supermajority has the votes to hear the case. They have the minimum of four. In fact, initially they have five. But there's disagreement about when to do it. Justices Alito, Gorsuch and Thomas were very eager. They actually wanted to hear the case that term, the term before it was actually held. Whereas Justice Kavanaugh and Justice Barrett were a little reluctant. Justice Kavanaugh suggested a plan [00:44:00] to relist it. In other words, to withhold from the public, the court's decision to take the case. And actually, Justice Barrett made a really strong stand. She said to the others, if you try to take this case this term, I will change my vote from a grant, a yes, to a deny, a no. And then one of the biggest surprises of the reporting is that that is what she actually ended up doing. She opposed hearing this case.

CHRIS HAYES - HOST, ALL IN: And it's key here to just set the context here when you quote that law review article, right? The perception from the outside is, the anti-Roe justices are sitting around waiting for their colleague to die and then be replaced with a new person. So, even before her body is in the ground, they can get to planning their long desired goal of overturning *Roe*. And I'm

feeling, I'm reading into things here that you didn't report. I'm saying this is what it looks like to me, is that Justice [00:45:00] Barrett is like, That's going to look bad for me personally. Like, if we do this right away, she is objecting to it. But the most fascinating thing is that what Kavanaugh suggests they do is they decide to take the case and functionally deceive the public about doing so.

JODI KANTOR: So, he named some reasons. He says, we're going to watch the lower court cases on abortion. You know, we're going to see what happens, et cetera, et cetera. But it does have the effect of distancing, creating the appearance of distance from Justice Ginsburg's death. And I agree with you that Justice Barrett is in a fascinating position, because remember that President Trump said that he was going to appoint justices who would automatically overturn *Roe*. She gets appointed. She is a favorite of abortion opponents. She has, you know, she has seven Children. You know, that is the way she's read in the public mind. So, I think actually the fact that she voted against taking the [00:46:00] case gives us a lot to think about in terms of the court and also about her. You know, what is the meaning of her switching her vote?

CHRIS HAYES - HOST, ALL IN: Ultimately, you only need four votes. They take the case and we all know that she ends up joining the majority, which was their gambit all along, that majority, that she would in fact join it. But just to, just because it's a technical thing, but it's important to me because in some ways it's my... I think the top line of this reporting is that they basically decide they're going to take it in February. But the way they communicate to the public isn't in February, we're going to take this case. Instead, they, they relist it, meaning we haven't decided yet, we haven't decided yet. And they keep doing that over and over again. They know they're taking it, but they are saying, Well, we don't know. Even though they know they took it three months after Ginsburg died, three months after Barrett. So, the public doesn't know that, but they know that, right?

JODI KANTOR: I hear what you're saying, but I'm going to give you another [00:47:00] interpretation of the facts. This is also introducing a delay that opens a window for persuasion, because what happens next is that, you know, there's this sort of funny period when they have the votes. But this is not publicly announced. And Chief Justice Roberts and Justice Breyer, a conservative and a liberal, both very drawn to consensus, neither of them interested in pursuing *Dobbs*, have this window for persuasion. And they try to convince the two newest justices not to take the case. Whether that affected Justice Barrett's decision, we can't totally say for sure. But we know that she ends up changing her vote. So, the appearance point you make is a strong one, but you also have to ask what is happening strategically during this point, because we know that

justice Alito gets a little nervous and says to justice Kavanaugh, Is your vote firm?

CHRIS HAYES - HOST, ALL IN: And on that strategy, so [00:48:00] when we get to actually they take the case, they hear the arguments, they're drawing up the opinion, right? They have the five votes for overturning *Roe*. Frontally, Mississippi has changed once the case gets taken, they say, We're actually not asking you to rule on this law. We want you to go all outta *Roe*. They go all outta *Roe* in oral arguments. It's like, Do it, do the whole thing. They've got five votes. There is an effort you report on by Breyer, basically, and Roberts to try to pull a justice away from that to find some consensus position that upholds Mississippi law, which would radically pare back rights but not end *Roe*. What does the leak do to those efforts?

JODI KANTOR: So, that's another thing we're able to establish in this reporting. I cannot tell you who leaked that document. I can't tell you for sure what the motive is. But Adam and I can tell you the effect, which is that the leak cemented these votes. Part of the [00:49:00] reason that the votes are secret is that justices do sometimes change their mind. They want that freedom. They need that freedom. History shows us that it's happened plenty of times with a lot of consequence. And so the leak interferes with that.

It's hard to say what would have happened anyway. There isn't overwhelming evidence that, you know, three justice compromise that would have saved the right to abortion, you know, is on the cusp of becoming reality. We cannot say that. But we know that the deliberative process was at play, that there were efforts at persuasion. The chief justice only needed one vote to make his 15 week position work. And also, Justice Breyer was so interested in this that he considered joining this 15 week position, which would have been a symbolic move. And then the leak comes along and those efforts become hopeless. And so part of what we need to remember about this decision is that it really does [00:50:00] look like somebody did something really inappropriate and intended to interfere with the process in some way.

Supreme Court Scandals: A Story of Justice Now & Then - Air Date 4-26-23

HEATHER COX RICHARDSON - HOST, NOW & THEN: Fortas starts to get into trouble. Three months after he was sworn in January of 1966, he received \$20,000 from the Wolfson Foundation, which was a nonprofit organization organized by Louis Wolfson, and he got the money for consulting

on charitable contributions, so he's taken consulting money. Wolfson was an early corporate Raider. He had built his financial empire out of construction, streetcar, and marine salvage companies during the 1950s, and had come under fire from the Securities and Exchange Commission in that era for trying to dump stock in a company he controlled called American Motors Corporation, but he had come out from that investigation successfully. However, months before Fortas joined Wolfson's Foundation, his handling [00:51:00] of a marine salvage company came under new scrutiny because he was accused of bribing a Boston financier to buy shares of that company.

Now, Fortas apparently didn't know about that and about the investigation into it, and he continued to socialize with Wolfson. And when the Supreme Court went into recess in June of 1966, Fortas flew down to Wolfson's horse breeding farm near Ocala, Florida. Then the day after he gets there on June 15th, 1966, the Securities and Exchange Commission complaint against Wolfson hits the public media. Fortas leaves the farm the next day, and in December of 1966, as Wolfson's legal troubles are getting worse, Fortas returned the \$20,000 consulting check to the Wolfson Family Foundation.

The controversy doesn't really get a lot of attraction until 1968, when Johnson nominates Fortas to [00:52:00] replace the chief justice of the Supreme Court, who's retiring, back in the days when Chief Justice is retired, Earl Warren. And Fortas comes under fire initially, not for his connections to Wolfson, but for an honorarium he had taken to give 11 lectures at American University. He had taken \$15,000 to do that, and it had been paid by former clients of his corporate firm, some of whom had cases that were coming up before the Supreme Court.

So, Republicans then dredged up the news that Fortas had also advised President Johnson on a several non-correlated issues while he was acting as a sitting justice, including discussing the Vietnam War. So, armed with the American University honorarium and the fact that Fortas had talked to Johnson, again in those days, theoretically, Supreme Court justices didn't talk to members of the Executive branch, South [00:53:00] Carolina, Senator Strom Thurmond began one of his famous filibusters against the vote on Abe Fortas for Chief Justice. Recognizing that his vote was in trouble because of Thurmond. Fortas asked President Johnson to withdraw the nomination, and Johnson was beside himself.

And mind you, the backstory here of course, is that Strom Thurmond is appalled by Lyndon Johnson's efforts to desegregate the United States and to get through the Civil Rights Act of 1964 and the Voting Rights Act of 1965, and here's this way to get back at him with the guy who was after all protected individuals in the Gideon case. And Johnson says, "The action of the Senate, a body I revere,

and to which I devoted a dozen years of my life is historically and constitutionally tragic. I urge all involved with and [00:54:00] concerned about our constitution and its form of government to pledge now that this shall be no precedent, that the Senate hereafter will act by majority will and never fail to address itself to the issues which it has the constitutional duty to answer, as in cut it out with the filibuster.”

JOANNE FREEMAN - HOST, NOW & THEN: basically, do your job.

HEATHER COX RICHARDSON - HOST, NOW & THEN: Do your job. Fortas stays on the court without a lot of further incident until May of 1969 when a journalist for Life Magazine named William Lambert broke the story about Fortas and Wolfson wide open. That incident happened three years before it hadn't gotten a lot of traction then. In early May of 1969, the Magazine ran a piece by Lambert outlining the \$20,000 arrangement under the headline, “The Stock Manipulator and the Justice.” Fortas opted to resign 11 days later. He wrote Chief Justice [00:55:00] Warren, who was not retired of course, because there hadn't been able to replace him, suggesting that he was not admitting misconduct, but that he wanted to protect the court by ending the controversy.

JOANNE FREEMAN - HOST, NOW & THEN: Fortas said, “There has been no wrongdoing on my part. There has been no default in the performance of my judicial duties in accordance with the high standards of the office I hold. So far as I am concerned, the welfare and maximum effectiveness of the court to perform its critical role in our system of government are factors that are paramount to all others. It is this consideration that prompts my resignation, which I hope by terminating the public controversy will permit the court to proceed with its work without the harassment of debate concerning one of its members.” So he's talking about the welfare and maximum effectiveness of the court and resigning in the service of those things. [00:56:00] Now, his liberal allies on the court, particularly William Brennan, begged Fortas to stay on the court knowing that President Richard Nixon, who took office in January of 1969, was gearing up to nominate a particularly conservative replacement justice.

HEATHER COX RICHARDSON - HOST, NOW & THEN: So interestingly enough, people are looking back to Fortas now as they're considering what's happening with Justice Thomas, and Adam Cohen in the New York Times recently said, “if our body politic were as healthy today as it was in 1969, leaders of both parties would be demanding Justice Thomas's resignation, and he would be as worried about being impeached by a Republican House as Fortas was by a Democratic one.” But what really jumped out to me about the Fortas case and how different it was than the Field case when we were prepping

for this was this Joanne, and I want to see what you have to say about it, because it struck [00:57:00] me that one of the reasons we are at the position we are in this moment is that, really beginning with Nixon, the Republicans ignored norms and really just said, “Well, we don’t care. We’re going to do whatever we want.” and the Democrats continued to try to accept norms to say, “Okay. I’m going to resign even though I didn’t do anything wrong. It looks like I did. So I’m going to back down.” And I wonder if the Democrats had, early on, done what the Republicans were doing that is Fortas said, “Hey, forget it. I’m staying here.” that there would’ve been such a popular outcry that we would’ve gotten the kinds of court reforms that we need.

Whereas instead, because you could always look at Fortas and say, “Hey, look, the court’s fine. People are retiring when they need to, or they’re stepping down when they look corrupt.” Or the many different times that there have been something that looked bad on the Democratic side and the Democrat has said, “Okay. I’ll [00:58:00] step down.” Whereas on the Republican side, they’ve just said, “No. We’re going to brazen it out.”

So we have George Santos still in the House of Representatives and some of the other people as well who’ve been questioned for their behavior. And the stuff that we covered last week about how corrupt the Tennessee legislature appears to be, that maybe the correct thing for Fortas to have done was not to resign, but to openly take bribes and say, “Yeah. You don’t like it, fix it.” Instead of giving people the excuse of saying, “Well, no. We’re really okay because half the people are behaving.”

JOANNE FREEMAN - HOST, NOW & THEN: that’s like the ultimate constitutional game of chicken. Essentially what you’re saying is, well, if the Republicans were violating norms, the Democrats should have done the same thing because then it would’ve been such an obvious problem that people would’ve cried out and pushed against it. So that is a game of constitutional chicken because it’s assuming people would’ve pushed back. And one of the interesting things that has drifted through this episode is the fact that although the Supreme Court [00:59:00] justices serve for life during good behavior and are supposed to be separate and apart from the other branches of government, and in some way are not supposed to be shaped by popular will, is that the mood of the country and the assumptions of a country and what is right and wrong actually still can shape what happens to a Supreme Court justice.

HEATHER COX RICHARDSON - HOST, NOW & THEN: It is an intellectual exercise here advocating not playing by the rules, but what we’re talking about with the court as opposed to necessarily with Congress, in this case, really does come down to the individuals, because Abe Fortas said, “Okay.

I'm out of here. I don't like the way this looks. I care about the institution. I'm gone." Today's Supreme Court has destroyed the court's legitimacy. They've just destroyed it. And instead of being like, "Man, we are really worried about the court's legitimacy." They're like, "Throw me off." The fact that Justice Thomas is, yet again, just amending [01:00:00] his financial disclosures, considering everything that has come out about that man is mind boggling.

JOANNE FREEMAN - HOST, NOW & THEN: Why are you assuming that back in time, if there had been widespread corruption, that there would've been a loud outcry and response? I mean, why are you assuming that the American public would've responded differently? And maybe part of the answer to that is the body politic was in a different place. Assumptions about norms were in a different place. I don't know. But what is your answer to that?

HEATHER COX RICHARDSON - HOST, NOW & THEN: Both of the things you just said, but I think I'm actually looking at something slightly more instrumental in a partisan system, it's easy to whip up one side of the equation against a corrupt justice, as Strom Thurmond attempted to do and successfully did with Abe Fortas. But if half the population could say, "No, no, no, no, my guys are fine, and we get rid of all your bad guys," there isn't a bipartisan outcry against ethical breaches. [01:01:00] So what we've got now is we've got a whole bunch of Democrats and some independents looking at the Supreme Court and going, what on earth do you people think you're doing? Whereas the hardcore Republicans are like, "Hey, we love these guys." And because it's only happening on one side of the equation, I think you lose out on having everybody say, Hey, we got a systemic problem. And them simply saying, "No, this is all just about politics."

Final comments on John Roberts' year-end report and the slide away from the possibility of accountability

JAY TOMLINSON - HOST, BEST OF THE LEFT: We've just heard clips today, starting with Ralph Nader laying out the case for resignations and reform on the Supreme Court. *LegalEagle* got into more of the details of Clarence Thomas's relationship with Harlan Crow. *The Majority Report* discussed why it would be impossible for Thomas to not have known about the ethical problems and reporting requirements he's been flouting. *The Kyle Kulinski Show* discussed Neil Gorsuch's questionable property sale. *The Muckrake Political Podcast* pointed to the long history of Clarence Thomas using his leverage on the court to get money from wealthy Republican [01:02:00] benefactors. *The*

PBS NewsHour reported on the new ethics code written by and for the Supreme Court that will do nothing to change any behavior. And finally, Robert Reich laid out his proposals for needed reforms.

That's what everybody heard, but members also heard bonus clips from *All In with Chris Hayes* discussing some of the inner workings of the court leading up to the overturning of *Roe vs. Wade*. And *Now & Then* discussed the differences between how court scandal was handled in a bipartisan way back in the sixties, compared to how it's basically ignored today.

To hear that and have all of our bonus content delivered seamlessly to the new members-only podcast feed that you'll receive, sign up to support the show at BestOfTheLeft.com/support, or shoot me an email requesting a financial hardship membership, because we don't let a lack of funds stand in the way of hearing more information.

Now to wrap up, I just wanted to share one more detail about what the court released to end this year, marked primarily by the exposure of vast [01:03:00] corruption within the institution.

In addition to the toothless ethics rules intended to give the impression of ethical standards on the court rather than to create real standards, John Roberts, the Chief Justice wrote his annual report completely ignoring the topic of ethics. I think the *Daily Beast* sub-headlines it best: "The Supreme Court in 2023 faced ethics scandals and a serious loss of public trust. Naturally, the Chief Justice's response is a silly childish book report on AI." Continuing from the article: "He spends the first five pages giving a grade school-like report of how the court has evolved from using quill pens to typewriters and now computers. When Roberts does get around to discussing AI for barely two pages, his insights are so bland that *Above the Law* said about it, quote: 'If AI had a sense of shame, ChatGPT would be [01:04:00] embarrassed by this level of superficiality.'"

now look, granted AI was also big news this year. I get why he might want to address its potential impact on jurisprudence. But one might also hope that someone in that position would have the self-awareness to realize when they're just not up to the task. Continuing from the article with this important point, quote: "He ducks any real discussion of the true legal ethics issues that AI implicates, such as how the use of it may affect client confidentiality, and what kind of disclosure duties do lawyers have to their clients when they use AI."

This article and others on the subject make one last point as well, but first, a quick history lesson. This is as good a time as any to point out that Roberts was

appointed to the court by George W. Bush after having spearheaded Bush's chaotic legal strategy during the 2000 election recount, that culminated in the so-called Brooks Brothers [01:05:00] riot, in which expensively-suited Republican lawyers literally banged on windows and doors trying to stop the recount, in line with their legal strategy that the only way to assure a fair election was to not count the votes. Now, I don't think Roberts was actually at that riot, but he was the leader of that team of maniacs. And it was rewarded with the appointment as chief justice.

Secondly, his most famous catch phrase from his hearings was that judges are just umpires. They're just there to call balls and strikes, not make actual, you know, judgments. Which is why we should all be assured that his ideology wouldn't color any of his decisions.

This was an argument that the left knew was bullshit at the time and said as much, but it was good enough cover for his extreme pro-corporate, anti-voting rights, anti-civil rights stances that he was confirmed without much controversy.

Well, it turns out that now that [01:06:00] he's faced with the idea of actually mindless AI being integrated into the legal process, he no longer thinks that judges should be compared to relatively mindless umpires, simply calling balls and strikes.

Back from the article, quote: " He searches for ways to show off his understanding of the limitations of AI. He says that in professional tennis, line judges have been replaced by optical technology to call balls in or out, which he asserts is inapplicable to judging. That's because, quote, 'Legal determinations often involve gray areas that still require application of human judgment.' So much for the umpire analogy." End of article quote.

Now, of course, it's nice to know how we got here, and occasionally point out some hypocrisy that exposes what a powerful person like Roberts probably always knew was lies. But ultimately that all pales in comparison to the damage that's been done by the court's rulings over the past [01:07:00] 20 years. And it's not even just about the rulings they've made or some of the corrupt ways that justices have gotten their seats of power. The most important thing to understand is that we've created a system that effectively has no mechanism to check that power or corruption. The expectation was always that there would be enough honorable people filling the halls of power that the Supreme Court didn't need any mechanism for oversight beyond the threat of impeachment. But in the time of hyper-partisanship, the stakes, the political stakes, are perceived as being too high to act honorably. They see it as war, not governance. So the

rules of war and raw power apply, not the behaviors that would produce good governance.

And so accountability for corruption that would have been called for as obvious to practically all just a couple of generations ago, is now seen as essentially outside the realm of possibility.

That is going to be it for [01:08:00] today. As always keep the comments coming in. I would love to hear your thoughts or questions about this or anything else. You can leave us a voicemail or send us a text to 202-999-3991, or simply email me to Jay@BestOfTheLeft.com.

Now, thanks to everyone for listening. Thanks to Deon Clark and Erin Clayton for their research work for the show and participation in our bonus episodes. Thanks to our Transcriptionist Trio, Ken, Brian and Ben for their volunteer work helping put our transcripts together. Thanks to Amanda Hoffman for all of her work on our social media outlets, activism segments, graphic designing, web mastering, and bonus show co-hosting.

And thanks to those who already support the show by becoming a member or purchasing gift memberships. You can join them today by signing up at BestOfTheLeft.com/support, through our Patreon page, or from right inside the Apple Podcast app. Membership is how you get instant access to our incredibly good and often funny bonus episodes, in addition to there being extra content, no ads [01:09:00] and chapter markers in all of our regular episodes, all through your regular podcast player. You'll find that link in the show notes, along with a link to join our Discord community, where you can continue the discussion.

So coming to you from far outside the conventional wisdom of Washington, DC, my name is Jay!, and this has been the *Best of the Left* podcast coming to twice weekly, thanks entirely to the members and donors to the show from BestOfTheLeft.com.