

# #1613 Breathless Speculation: Biden's Baggage, Trump's Tyranny, Misleading Media, Courts and Criminality

**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 take a look at this year, 2024, which is already shaping up to be even more of a disaster than expected. The causes for anxiety are many and varied, leaving many of us with questions. And we generally try to avoid topics and commentaries that lean directly into the realm of pure speculation, but today we decided to lean all the way in to answer your most pressing questions about this year. What about Biden's supportive Israel? What about his age? Should he be replaced at the Democratic Convention? How likely is Trump to do the terrible things he promises. And what about his court cases, et cetera?

Sources today include *Breaking Points*, *Democracy Now!*, *The Thom Hartmann Program*, *The Muckraker Political Podcast*, *All In with Chris Hayes*, and *Today, Explained*, with additional members only clips from *Amicus* and *Today, Explained*.

## Biden GENOCIDE COMPLICITY US Court Backs ICJ - Breaking Points - Air Date 2-1-24

**KRYSTAL BALL - HOST, BREAKING POINTS:** There was a court case. It hasn't gotten a lot of attention, but here working its way through the U. S. courts, [00:01:00] accusing Biden of complicity in genocide. And we actually just got a ruling yesterday that is pretty interesting. Let's go ahead and put this up on the screen. Um, so a federal judge just ruled the Biden administration does appear to be supporting a genocide. Um, they go on to say, but he must dismiss the case under the political question doctrine, despite preferring otherwise.

So, this judge is saying basically because of the political questions doctrine, I can't actually do anything here. But he backs up the ICJ ruling, which found that Israel is plausibly committing genocide in the Gaza Strip. Let me read you a

little bit of the judgment here so that you guys can hear the way that this judge lays this out. They say, "Similarly, the undisputed evidence before this court comports with the finding of the ICJ, indicates that the current treatment of the Palestinians in the Gaza Strip by the Israeli military may plausibly constitute a genocide in violation of international law. Both the [00:02:00] uncontroverted testimony of the plaintiffs and the expert opinion proffered at the hearing on these motions, as well as statements made by various officers of the Israeli government, indicate the ongoing military siege in Gaza is intended to eradicate a whole people and therefore plausibly falls within the international prohibition against genocide. It is every individual's obligation to confront the current siege in Gaza. But it also is this court's obligation to remain within the meets and bounds of its jurisdictional scope. In conclusion", the judge writes, "there are rare cases in which the preferred outcome is inaccessible to the court. This is one of those cases. The court is bound by precedent and the division of our coordinates branches of government to abstain from exercising jurisdiction in this matter. Yet, as the ICJ has found, it is plausible that Israel's conduct amounts to genocide. This court implores defendants" - that would be Joe Biden - "to examine the results of their unflagging support of the military siege against the Palestinians in Gaza".

So basically, [00:03:00] you know, this is kind of a mixed bag, Emily, for the Biden administration on the one hand. The judge says, Listen, I can't do anything because of the political questions doctrine. But to have an American judge rule that the ICJ is correct and implore Biden directly to cease his aid of what may well be a genocide of the Palestinian people is nonetheless a pretty extraordinary outcome.

**EMILY JASHINSKY - GUEST HOST, BREAKING POINTS:** And a refresher on the political questions doctrine. I pulled up Ballotpedia here, they write, "The traditional expression of the doctrine refers to cases that courts will not resolve because they involve questions about the judgment of actors in the executive or legislative branches and not the authority of those actors".

So, Biden himself, people who are making decisions at the Pentagon, they say, for example, cases involving foreign policy or impeachment often raise political question concerns. So, foreign policy, which is so heavily controlled and influenced by unelected people at the Pentagon, at the Department of Defense, more broadly by people in the executive branch fall under the political questions doctrine, which is pretty interesting [00:04:00] in this context where you have a court decision by the ICJ that's in question. It makes sense and then it doesn't make sense because again, you have a court decision that you're talking about. So, it's an interesting ruling for sure. And this doesn't make anything better for Joe Biden.

**KRYSTAL BALL - HOST, BREAKING POINTS:** Yeah. And they have another challenging situation that's going to unfold this week, which is the ICJ is set to rule on another case, this one not about Israel, this one about Russia and Ukraine. And so the US has, they, I mean, again, the level of gaslighting from this administration is outrageous. First of all, they tried to say, Well, you know, the ICJ didn't find that Israel was guilty of committing a genocide. Well, no shit. That wasn't the question that was before them right now. So they've completely tried to dodge. They've said, Oh, actually the ICJ backs up our position on, you know, Israel and Gaza in that... which is, you know, insane if you read the ruling, it's the total opposite of what the U. S. has been claiming and the support that the U. S. has been giving to Israel. [00:05:00] But put this up on the screen. So, judges at the world court are going to hand down a judgment this week in a case in which Ukraine accused Russia of violating an anti-terror treaty by funding pro-Russian forces, including militias who shot down a passenger jet. And the reason this is uncomfortable, Emily, for the U. S. obviously, is you can't on the one hand be like, yay, ICJ, I agree with your ruling when it comes to Russia, but boo ICJ, I disagree with your ruling and I'm not gonna abide by it when it comes to Israel. You don't get to pick and choose. Of course, I mean, you shouldn't be able to pick and choose, but of course they will pick and choose and it just becomes blatantly obvious, the level of hypocrisy and how they just use international law for their own ends. When it's convenient, they, Oh, yes, the international rules based order. And when it's not convenient, then they just ignore it. And even beyond ignoring it, the fact that in the wake of the ICJ saying Israel must increase humanitarian aid to Gaza, people are starving to death and you must do better. And our response on that very same day is [00:06:00] to cut funding to the number one aid agency on the ground in Gaza to the benefit of the Palestinian people. It's not just an, we're going to ignore the ruling, it's we are actively going to flout and thumb our nose at the ruling.

## **Moral Failure Democrats Urge Biden to Change Gaza Policy - Democracy Now! - Air Date 2-21-24**

**AMY GOODMAN:** What are you demanding — as the Michigan House majority floor leader — what are you demanding of the Biden administration? You don't usually take such stands against your own party, but right now the Democratic Party is really dealing with enormous pressure at this point. Can you talk about what you want to see happen?

**REP. ABRAHAM AIYASH:** Look, I think our demands are simple. We just don't want our government, our country, to support, to aid, to abet any operation

that kills innocent men, women and children. It is not a radical idea for us to suggest that the richest and most powerful country in the history of the world should not be funding what we see as a genocide, that [00:07:00] we have seen nearly 30,000 dead Palestinians at the hands of the U.S.-funded Israeli missiles and bombs, and we want our leadership to not engage in that type of moral failure and that degenerative act that does not dignify the humanity of the Palestinian people.

So, you know, more than anything, we're not standing against anyone, but we're simply reaffirming our stance for humanity and for the basic tenets of human rights, which says it is not a crazy concept that we should not be supporting any effort that is killing any innocent person in the world, especially to the magnitude that we've seen in Gaza, where more people have died in this conflict than any war since World War II, which is just a devastating toll.

And we're hoping to exercise our right. We're going to use the ballot box on February 27th to show that we are going to not support any effort that is [00:08:00] supporting a genocide and that we're going to stand firm and, hopefully, allow this administration to change course before the November election.

**JUAN GONZALEZ:** Well, I wanted to ask Congressman Ro Khanna, who's with us, as well — you've said that, for example, that President Trump is too dangerous to not support President — I mean, former President Trump is too dangerous to not support President Biden. Your response to those Democrats who cannot in good conscience vote for President Biden, at least in this primary?

**REP. RO KHANNA:** Well, first of all, I have a tremendous amount of respect for Representative Aiyash, and I'm looking forward to seeing him in Michigan. I do believe the administration needs to change course in foreign policy in the Middle East in order to gain the trust of people who we have lost. You can't just meet with the Muslim American or [00:09:00] Arab American community and then veto in the United Nations a resolution calling for a ceasefire and, by the way, an unconditional release of the hostages. This is the third time we have vetoed that. It is hurting our moral standing. It is hurting our commitment to human rights. And it is not giving confidence to people that you're hearing them and changing course.

So, my hope is, in my meetings with Representative Aiyash and others, that we can come up with a strategy that helps change course in the Middle East so we get a permanent ceasefire, so we have a release of the hostages, so we get aid into Gaza, and we have more peace and justice in the region.

**JUAN GONZALEZ:** And, Representative Aiyash, I wanted to ask you about the meeting you had with Biden officials earlier this month in Dearborn. What did you get out of those talks?

**REP. ABRAHAM AIYASH:** We're firm in reiterating our points. We want to see an immediate, [00:10:00] permanent ceasefire. We want to see humanitarian aid delivered to the people of Gaza through entities like UNRWA. And we want to see restrictions and conditions on the aid that is sent to Israel. You know, it is unfathomable that we just send a blank check with no conditions to a country that has violated human rights, that has violated international law over and over and over again.

And we reminded the administration that, one, they showed up 124 days into this conflict. They visited a state that happens to be the swing state. So, we are not seeing the level of support. We're not seeing the level of concern that our communities have demonstrated for months. And we reiterated those messages once again.

And unfortunately, just four days after that meeting, we saw the Netanyahu regime did one of the worst attacks on the Rafah region, and the United States [00:11:00] still did not put the type of pressure on that regime to stop these heinous acts.

**AMY GOODMAN:** Let me ask Congressmember Khanna: Do you think the Biden administration made a mistake in vetoing yet another ceasefire resolution? And I want to go a little further. Right after the U.S. ambassador to the United Nations issued that veto, President Biden was in Los Angeles at a fundraiser. He was attending a high-dollar fundraiser with the media mogul Haim Saban, well-known Democratic, pro-Israel billionaire. The dinner — the meeting was at, what, \$3,300, to cost as much as \$250,000. I'm looking at a piece now in *Common Dreams*. Your thoughts on this and on President Biden continually saying he's putting enormous pressure privately on [00:12:00] Netanyahu, yet their private acts continue to be against the kind of ceasefire that was put forward and vetoed at the United Nations?

**REP. RO KHANNA:** It was a mistake to veto the United Nations resolution. At the very least, we could have abstained. I mean, you have 15 countries on that Security Council. Thirteen of them are voting for a resolution for a permanent ceasefire and the release of all hostages, which is the sentiment not just in the world, it's the sentiment about the majority of American people. And we are the lone "no" vote in the global community. It is hurting America's standing in the world, especially an administration that is committed to multilateralism and

rebuilding international institutions. What does this say about the credibility of the U.N. if we aren't going to participate in those institutions?

The other issue is that I appreciate that there has been some movement [00:13:00] in the administration because of many of us in Congress who have called for a permanent ceasefire, who have called for the humanitarian aid to Gaza. There has been movement in recognizing the value and dignity of Palestinian lives and the humanitarian concerns. But now we need action. There needs to be clear consequences to Netanyahu and his very far right-wing government. I mean, people in his government are way to the right of Donald Trump, and that is important to understand, people like Ben-Gvir. It needs to be clear to Bibi: He can't go into Rafah. Our secretary of defense doesn't want it. Our president doesn't want it. Who is he to defy the United States of America and then expect us to continue to provide military aid to do that? So, we need to be very, very clear of the consequences, and that is not what has happened so far.

## **Manufacturing Discontent How Was America SO Easily Convinced Biden's Brain is Bad - Thom Hartmann Program - Air Date 2-13-24**

**THOM HARTMANN - HOST, THOM HARTMANN PROGRAM:** "Media creates Biden 'fitness' crisis", so writes Judd Legum over at [00:14:00] Popular.info. He's talking about how Robert Hur, the Republican special prosecutor that Merrick Garland appointed to look into Joe Biden, another reason to remove Merrick Garland, now. But in any case, Robert Hur is a lawyer, not a doctor. And yet he's opining about the President of the United States' mental acuity. And this is an actual political threat. But what makes it really bad is how the media dealt with it. When Robert Hur's report came out, the media could have said, You know, uh, Robert Hur had, there's no there, there, Joe Biden didn't commit any crimes, and, uh, they're not gonna prosecute him, and this Republican who did the investigation thinks that he's an old man, but so what? I mean, it could have been dealt with that way. And frankly, I think if it was about Trump, it would have been dealt that way. But because it was about a Democrat, *The New York Times*, *The* [00:15:00] *Washington Post*, *The Wall Street Journal*, the three big national newspapers that we have in this country, all went nuts.



Judd Legum did an analysis. And he says, *The New York Times*, *The Washington Post*, *The Wall Street Journal* collectively published 81 articles about Hur's assessment of Biden's memory in the four days following the release of Hur's report. Eighty-one articles. *The New York Times* published 30 stories about Biden's alleged memory issues between February 7 and February 10. The story was covered by 24 reporters, four opinion columnists, and *The New York Times* editorial board. Only one of those 30 stories in *The New York Times* mentioned a key fact, writes Jo Legum, that Hur is completely unqualified to render a judgment on Biden's mental capacity.

*The Washington Post* featured even more coverage of Biden's memory, writes Judd Legum, in the aftermath of Hur's report. That paper produced 33 articles featuring Hur's opinions about Biden's memory between February 7 and February [00:16:00] 10. Just one of *The Washington Post's* 33 articles noted that Hur's opinions of Biden were baseless, and that piece was written by their health reporter. *The Wall Street Journal* published 18 articles on Biden's memory during that time period, those four days. Uh, the Wall Street Journal's opinions pieces were even most caustic, flatly asserting that Hur's report "PROVED THAT BIDEN WAS IN COGNITIVE DECLINE AND HAD A FAILING SHORT TERM MEMORY". Quotes from the article. They did not produce any articles in *The Wall Street Journal* explaining that Hur has no qualification, no medical qualifications, to determine whether Biden has a functional memory.

I mean, keep in mind, Donald Trump called Victor Orban the leader of Turkey. He said that he defeated Barack Obama in 2016 when he ran against Hillary Clinton. He has claimed that Obama is his opponent right now and that Obama is actually running the country. He mixed up Nikki Haley with Nancy [00:17:00] Pelosi. Um, Trump's mix, and so, you know, did these three newspapers go after Donald Trump for those failures? Judd Legum notes, the tenor of the coverage was markedly different. One of *The New York Times* articles was a brief recounting of the incident. This is when Trump mixed up Nikki Haley and Nancy Pelosi. It was a brief recounting of the incident without any suggestion that it was a political liability for Trump.

So Robert Hearst says, Biden couldn't remember when his son died, and everybody's like, Oh my God, that's the end of, uh, you know, Biden, we gotta, we gotta move on. You know, get the, get him the hell out of here. Trump mixes up Nikki Haley and Nancy Pelosi and *The New York Times*, instead of writing 30 articles about it, like they did about Biden, they write one article about it, and that article never mentions the fact that this might hurt Trump politically, when that's the entire focus of the 30 articles that they ran about Biden. The other three articles [00:18:00] briefly note, noted that Haley was using the mix up to

attack Trump. *The Washington Post* published only two pieces about this mix up of Haley and Nancy Pelosi.

I mean, there's just this huge double standard. We saw this with Comey, the same thing, you know, that if you can provide *The New York Times*, *The Washington Post*, *The Wall Street Journal*, if you can provide our national media with data to attack a Democrat, the "Dean scream", you know, Gary Hart and Monkey Business. If you can provide the media with something that can be used to attack a Democrat, they will run with it as long and as hard as they can, because they just love this stuff. If you provide them with stuff that they can use to attack a Republican, they tend to downplay it and it's been that way for a long time.

I remember when Reagan was senile. I mean, a friend of mine - whose name I shouldn't probably disclose because of what I'm about to tell you, but - a friend of mine's wife was one of the court [00:19:00] reporters in the room with Ronald Reagan when he was deposed in Iran Contra. And I will remember this till my dying day. I was sitting in their kitchen, with Michael and his wife in Los Angeles, and, you know, having this conversation about, she had just finished this deposition, like, you know, a day or two earlier, and she was just in shock. She was like, You know, over a hundred times. Ronald Reagan did not know where he was. He didn't know what day it was. Now, this was the 7th year of his presidency. This wasn't after he left office. And it was no secret that, I mean, I'm sure you can still Google it. But did the media go nuts with it? No. They were like, well, you know, Reagan seems to be having some problems remembering things. Right.

## **Should Biden Be Replaced With Special Guest Max Burns - The Muckrake Political Podcast - Air Date 2-20-24**

### **JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** By the way, Nick, I'm going to have you play the second thing here in just a second, but I want to point out the casualness with which Kamala Harris is [00:20:00] absolutely brushed aside in every one of these conversations. Like, it basically always comes down to this. We all know Joe Biden's older, he's lost his step, but the other problem is that he can't just hand it over to his VP. It is a very strange way to handle this, and Ezra Klein does it as well, but Nick, if you could, you could play this clip, I think there's something else that's happening here as well.



**EZRA KLEIN:** So yes, I think Biden, as painful as this is, should find his way to stepping down as a hero, that the party should help him find his way to that, to being the thing that he said he would be in 2020, the bridge to the next generation of Democrats. And then I think Democrats should meet in August at the convention. To do what political parties have done at conventions so many times before.

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Okay. So very quickly, rhetorically - and Max, I know that like you do the same thing as well - "helping Joe Biden find his way" is a really interesting piece of rhetoric. You know, helping somebody find their [00:21:00] car, helping somebody home, helping somebody with their groceries. This is very, uh, weird choice of language. But on top of that. I think what's being expressed here, and people need to understand, Ezra Klein is not in a bubble. Ezra Klein is really tight with Barack Obama, really, really close with Barack Obama and the entirety of the Obama world. The Obama world does not want Joe Biden to run for reelection. They are very interested in sort of re-establishing the Obama-DNC Democratic Party, and it's been that way for a while. We've heard leaks that Obama keeps trying to tell Biden to change the campaign, to do this, to take this sort of a strategy. And that's the thing is there's a signal that's happening here, and this is what happens when parties sort of, kind of, lose control over the process. No one can keep Joe Biden from running for reelection. It is his choice, but the entire point is everybody is saying somebody needs to do something. And this idea of the brokered convention, which we'll break down in a second, they are saying somebody needs to step in here.

**NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Are you saying that Ezra [00:22:00] Klein is in lockstep with Obama on that podcast? Like, that he wouldn't have been able to record it like that. If Obama said...

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Oh, no, no, no, no. I don't think Obama gave him some sort of a signal. I'm saying that they traffic in the same waters. Like, this is a very specific type of liberalism, a very sort of like, you know, today Bruce Springsteen is going to come over and we're going to talk about songs and politics, you know? That's sort of that, like, uh, oasis, I guess you would call it, that sort of pool. But it definitely feels - does it not, Max - as the idea that somebody needs to do something here. Somebody needs to break the glass in case of emergency.

**MAX BURNS:** Yeah, and Ezra's doing his best in his calm voice to try and give you a sense of continuity. That this wouldn't be what it actually is, which would be a radical change from the norm and a very destabilizing, not just for politics, but for the markets, for world affairs.

It would create a moment of crisis, even if you don't intend to. But he's saying, no, this is actually just what parties have done [00:23:00] for centuries. They've had conventions and they've nominated candidates. Well, we don't have the party system of a hundred years ago when we went and had contested conventions.

The DNC made the choice, like we talked about earlier, to defund all those parties so they don't have the structures. What you're really saying is we want to take this to a convention and have a group that has already made this decision, put it forward at the convention. And that is radically different from anything that's been proposed before.

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL PODCAST:** And I want to put this out there. And I've said it many times on the podcast. I do not think Joe Biden is the person for this moment. I don't. I wish he wasn't running for reelection. I wish there was some sort of a bridge for the future, but I also want to point out: I am 'small d' democratic and I really have a hard time with all these people being like, we just need to get to a convention and the calmer heads will prevail and we'll figure it out.

And that's what happens in all of this, Max, is the punditry is always talking about like, Oh, if we just didn't have pesky primaries, if [00:24:00] we didn't have the electorate and the base figuring this out, we saw this after 2016, when they said, Oh, the parties would have never allowed Donald Trump. But this whole idea is just very, very elitist, and I don't think people understand how big of a shitstorm it would be if we had a brokered convention with the Democratic Party. I really don't think people understand, like, what an absolute disaster that would be.

**MAX BURNS:** No, and it's that kind of thing that sort of bugs me about that kind of opinion reporting is that it doesn't inform the way it needs to.

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL PODCAST:** No.

**MAX BURNS:** Like, for example, in order to do any of this, you would need to significantly change the party rules. But the rules committee of the DNC is

firmly Biden people. They're all very strong Biden allies. So what you're really saying is you need to bring in people to challenge all of those people, which would become a very public, very nasty fight that would be on the national news for days as it rolled out, the convention grinding to a halt, [00:25:00] which makes Joe Biden and the party look even more inept and inadequate.

I mean, I really genuinely think this is a fantasy created by people who learned politics from the West Wing.

### **JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Oh, Nick, by the way, Nick, I want to point out and I want you to imagine something because like when we get into like these scenarios, it's always good to imagine. Imagine the field day that Republicans would have: Look at the Democrats behind the scenes, pulling puppet strings, doing all this. And for the record, just because I want to give everyone a reality check, Barack Obama does not want to be seen like that. No politician has been more concerned with their public perception than Barack Obama, besides maybe Bill Clinton. And, like, he does not want to be seen as the person who's pushing out Uncle Joe in order to bring people. But Nick, can you imagine the disaster this would be?

### **NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Oh, well, a couple of things. And because I don't see this as a disaster that you guys see it. I see another issue. But the thing about that, I'm getting frustrated with Biden is that he now becomes accused of being [00:26:00] the most corrupt president ever. He also is accused of lying and being the most dishonest, all these things, which, and being a grifter. And it's basically the knee jerk reaction to, because Trump was accused of these things and is accused in the court of law of these things, then you have to then say, well, the other person is just as bad.

And that means, going forward, no matter who you are and how, you know, stellar your reputation is, you are simply going to be accused of all these things without any evidence that people are going to believe it. But so that's really, really a frustrating thing.

And then as far as the shit storm about a broker convention, I just think it's a time thing. If you're going to wait until - when is it August? Is that what it is? July, August? - you can't run a national campaign in, like, two months. There's no way to ever be able to do that no matter who it is, even if the ghost of, let's say Abraham Lincoln comes back suddenly...

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL PODCAST:** ...switches parties

**NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL PODCAST:** ...and he runs, like, he wouldn't win if you gave him like a month to run a national campaign. That would be ridiculous. He needs the train. He needs to go across the [00:27:00] country. You need to build all that stuff up. I don't think you could do it. And certainly not with whoever we have in the wings. So that is really the worst part of it for me, is that it would just be, we'd lose the, the, the Democrats would lose this election.

## **This Law Can Turn America Into a Police State & Trump Wants To Use It! - Thom Hartmann Program - Air Date 2-14-24**

**THOM HARTMANN - HOST, THOM HARTMANN PROGRAM:** ...fix the Insurrection Act before Trump uses it to create a police state. This is actually ver important. This is a big deal. You know, uh, when Senator Tommy Tuberville, the traitor who has now taken Putin's side on the Ukraine invasion - and I'm gonna get to that in the next hour - but when Tommy Tuberville was in the Trump Hotel on the evening of January 5th with the Trump family preparing for the insurrection the following day, the plans had been laid for the Proud Boys to seize the Capitol and for Trump to essentially deputize them, to invoke the Insurrection Act, define them as a militia, [00:28:00] and let them take control of the Capitol. The key to all this was the Insurrection Act. This was a package of laws that was passed between 1792 and 1874, that's been used about two dozen times throughout history. The first by George Washington, the Whiskey Rebellion, and most recently by President George H. W. Bush, in response to the riots in Los Angeles around the beating by police of Rodney King, an unarmed Black man.

The act allows the president to define what an insurrection is, and that's a huge problem. It also has no time limits. He can declare an insurrection, which ends *posse comitatus*. He can declare an insurrection and then bring the military into the streets of any American city or all American cities and start rounding up millions of Americans and putting us into concentration camps, which Trump has said he intends to do.

Now, he had this thing all ready to go on January 6th, [00:29:00] and he wanted to invoke it. And the Proud Boys thought he was going to. They were constantly checking their Twitter feed, waiting for him to declare an insurrection. And the

problem that Trump had, though, was in order to do this, he had the executive order, it was ready to go. But it would have required Bill Barr as the Attorney General and General Mark Milley as the Chairman of the Joint Chiefs, and Mark Esper, his Defense Secretary, would have required all of them to sign off on it. And none of them would do it. Well, not to sign off on it, to implement it. To put it into effect. And they just refused.

And that's the problem. Because next time, Trump has told us, he's not going to have people like Milley and Esper and Barr in his cabinet, he's not going to have people who respect even marginally the rule of law in his cabinet. He's going to get nothing but 100% Trump loyalist fascists. And they will implement the Insurrection Act. And they will put it into place on the first day of his [00:30:00] presidency. The law is written so vaguely. That any effort to impede the enforcement of the laws of America constitutes an insurrection under this act. In other words, if five people show up on a street in Washington, DC and block traffic for 30 seconds, under this act, under the current Insurrection Act from the 1790s, that is an insurrection that the President can use to declare martial law across the entire nation.

This can only be fixed by Congress. And there have been several efforts to do so, and interestingly, several Republicans, Mike Lee, at the lead of this bunch, Mike Lee, the very, very conservative, right wing Republican senator from Utah, has been at the front of that. He offered an amendment to the National Defense Authorization Act back in 2021 that would have fixed, in large part, the Insurrection Act. It did not pass. And he and Bernie Sanders and Chris Murphy, two Democratic Senators - well, Bernie's an Independent, [00:31:00] but you get... well, I guess all three now: you got a Democrat, a Republican, and an Independent - all three of them co-sponsored a bill, a stand alone bill, last year, that would have time limited the presidential proclamation of insurrection to 30 days and allowed Congress to give them a one year extension. And that's it.

But here's the problem. Donald Trump and Tommy Tuberville and, you know, MAGA Putin-loving fascists like them are a clear and present threat to our Republic. And we've got to be concerned about this and Congress needs to act.

## **‘The threat is authoritarian government’ What happens if Trump wins again - All In W/ Chris Hayes - Air Date 12-6-23**

**CHRIS HAYES - HOST, ALL IN:** As we approach what may be a repeat of 2020, there's a growing agreement and acute concern, I think across the political

spectrum, about the explicitly authoritarian threat of a second Trump term. Former Republican Congresswoman Liz Cheney believes that Trump "will never leave office" if he is elected president again.

*The New York Times* just published this headline explaining "Why a second Trump presidency may be more radical than his first". And the threat of another Trump term is the focus of a special issue of *The Atlantic* devoted to the question of what happens [00:32:00] "if Trump wins". In a new piece for that issue, Barton Gellman warns that if he makes it back to the White House, "we know what Trump would like to do with that power because he said so out loud. He is driven by self interest and revenge in that order. He wants to squelch the criminal charges now pending against him. He wants to redeploy federal prosecutors against his enemies, beginning with President Joe Biden. The important question is how much of that agenda he could actually carry out in a second term".

And Bart Gelman, staffer at *The Atlantic*, joins me now. The sort of top line point that you make, which we talked about on the show, is that you can't forget the fact that the man is literally running for his freedom. And I think it's so easy for it to see abstract, because the man has escaped accountability for so long, he's 78 years old, but, like, he could end up in prison. That's not an insane idea. Like, what prison would look like secret service and what, you know, but like, that's a real thing that he's really scared about and it is motivating more, I think more than anything, to [00:33:00] grab the run and the desire for power.

**BART GELLMAN:** Yeah, I think that's exactly right. And I think there are people who console themselves with the idea that maybe he'll already be convicted in one of the cases by the time the election comes around, and so they've got him. But that is not what's going to happen. Even if he does get convicted in the DC case, which is the only one that looks likely to run its course before the election, the case will be on appeal when the time comes that it's inauguration day. If he wins, uh, his justice department will move to withdraw the case on appeal. There's a legal maneuver called confession of error, and they go to the appeals court and say, nevermind, you know, we don't think he should have been convicted.

**CHRIS HAYES - HOST, ALL IN:** Withdrawn.

**BART GELLMAN:** Withdrawn. And I would be surprised if he doesn't also try to pardon himself. And the interesting thing about the pardon is there's a legitimate [00:34:00] debate among constitutional scholars about whether a president can pardon himself. But like so many other things about Trump, it's sort of irrelevant because if he does pardon himself, there is nobody with



standing to go to court and challenge that pardon, except maybe the Justice Department, his own Justice Department.

**CHRIS HAYES - HOST, ALL IN:** Well, this speaks to a sort of thing I keep coming back to in this discussion - I was thinking as I was reading your piece, the Liz Cheney line about, you know, he's not going to leave - is that, you know, it all depends what other people do. I mean, he doesn't have unilateral power, right? So when Liz Cheney says he's not going to leave if, you know, he's elected again, I thought, No, the Secret Service is going to escort him from the building at noon on January 20th, 2029, because that's their constitutional duty. And you could say, well, Chris, you're being naive. But at some level, it's like, I guess I, I feel this battle within myself between warning of the graveness of the danger and not ceding the terrain of his power. Does that make sense to you?

**BART GELLMAN:** Yeah, that's right. I mean, and, [00:35:00] and we shouldn't exaggerate. There are things the president can do and there are things the president can't do. And we don't know to what extent the guardrails will be holding. There is a career civil service. He wants to politicize it. Uh, there are courts. There are...

**CHRIS HAYES - HOST, ALL IN:** And he wants to steamroll them all.

**BART GELLMAN:** Right. There's Senate confirmation. But for example, it's not clear to me that even a Republican Senate would confirm Jeffrey Clark as Attorney General.

**CHRIS HAYES - HOST, ALL IN:** Correct. That's not going to be either.

**BART GELLMAN:** They might not. But what Trump's people are doing is very clever. He can put in under the Vacancies Reform Act, he can put someone as Attorney General for most of a year...

**CHRIS HAYES - HOST, ALL IN:** Acting.

**BART GELLMAN:** ...as an acting, as long as they're in any Senate confirmed position around the US government. So, of course, if he comes into power, uh, in January [00:36:00] 2025, the people already serving in confirmed roles will be Biden appointees. But there's more than a hundred positions that are Senate confirmed and that are held by Republicans right now under Biden because there are all these, like, National Labor Relations Board.

**CHRIS HAYES - HOST, ALL IN:** Yeah, statutory bipartisan boards and positions.

**BART GELLMAN:** Right, they must be party balanced. And the Trump people are looking at those names and trying to figure out, you know, what MAGAs they've got to work with. And then after 90 days, he could appoint anybody he likes, you know, Mike Davis, Kash Patel, you know, as a counselor or a section chief in the Justice Department, as long as there are GS-15 or higher in DOJ, he can then make them acting Attorney General. And he could do that with all the other confirmed positions.

**CHRIS HAYES - HOST, ALL IN:** And we've got to say they were very, very aggressive with the Vacancy Reform Act, which is the law that governs a lot of this stuff. Obviously, there's constitutional requirements for advising consent in the Senate. There's a huge sprawling government. The Vacancy Reform Act, which is a pretty loophole ridden piece of legislation. They were very aggressive on it [00:37:00] before. But I guess my point too is, all the things you're describing, like, in the end, what I see in the future is a very immediate constitutional crisis if he's reelected. Or people roll over. It's one or the two. But I think the former is as likely as the latter, which is not like, Oh, great. We're just going to have a constitutional crisis. It's just to say that, like, he's going to go very hard and be very aggressive. And there are going to be some obstacles in his way.

**BART GELLMAN:** No, well the threat is authoritarian government. The threat is lawless government and people are going to have to stand up to that people are going to have to resist. And I think a Trump presidency would for sure have more than one constitutional crisis. You know, you talk to legal experts and they're all full of thoughts about loopholes he could exploit or residual powers or things that are profoundly against the norm, but that a president could do if he wanted to go completely off the deep end.

But what they don't think about is stuff that's just flat out unlawful. I [00:38:00] mean, there's a legend that President Jackson once said that Justice Marshall has made his decision, now let him enforce it. Apparently he didn't really say that. But he kind of meant that. And it's not clear to me who enforces a ruling by the Supreme Court if Trump says I'm not doing that. I mean, Trump has said that any law or regulation or article of the Constitution can be terminated, in the right circumstances. The right circumstances in that case being his fictions about the election. He said he could terminate it and it's not clear who could stop him.

# Florida man owes half a billion Part 2 - Today, Explained - Air Date 2-21-24

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** We're back and Vox's Abdullah Fayyad is here to tell us why Donald Trump's half a billion in legal debt is everybody's problem

**ABDALLAH FAYYAD:** It's everybody's problem because he's running for president of the United States, and what it generally means when any candidate running for public office, let alone the presidency, when they're in debt, is that there can be a lot of leverage [00:39:00] used against them when they're in office by their creditors.

In this particular case, it's not just a matter of Trump being in debt, it's a matter of him potentially being cash strapped, facing nearly half a billion dollars in civil damages from just two civil lawsuits alone. And being on the hook for that money while he's running for office again means that any donor, any special interest group, any bank, any foreign government that's looking to curry favor in a potential second Trump term could swoop in and help bail him out.

It doesn't necessarily mean it would be an explicit pro quo.

**DONALD TRUMP:** I want no quid pro quo!

**ABDALLAH FAYYAD:** But this is exactly how money in politics works. We see it for every candidate when it comes to fundraising for their campaign. In Trump's case, it's fundraising for his own survival as a businessman. And a lot of people can step in and essentially advance their interest in their second term by having that relationship with him, and having [00:40:00] that leverage over him, potentially as his creditors.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** But I gotta ask, we don't ever really know how rich, how broke Donald Trump is, but we know he owns some serious real estate. Couldn't he just sell a building or two, a tower, or a rosy, gaudy mansion in Florida or something and be done with all of these debts?

**ABDALLAH FAYYAD:** He could. And, I think what should be clear to most people is that even after all of this, Trump is still going to be a rich man. The question is just how much cash he has on hand to pay these civil damages right now. He's on the hook for over \$450 million that's due soon. Even if he appeals,

he has to front a considerable amount of money, potentially the entire amount and even some interest while that appeals process plays out, and the question is where he's going to come up with that cash. Based on his own accounting, last April in a deposition, he mentioned that he had \$400 million [00:41:00] in cash, which is a lot of money even for a billionaire in cash, but that's still not enough to cover these damages, which means that yes, he will have to liquidate some of his assets.

For him, that's an uncomfortable thing to do because A, it's a big part of his personal identity, it's part of his political identity, and it shows that he's in a lot of trouble. It shows a weakness on his part that he really does not like to do on the public stage. And so will he survive this as an individual being able to pay his bond? Of course he can. His net worth is estimated somewhere between 2 and 3 billion, though obviously it's very opaque and we actually know very little about his finances. It's still going to do a good amount of damage, both politically, but also in the short term financially.

The fact that he would have to liquidate some of his assets means that his business is going to suffer. He's going to lose some of his assets in the short term. And that actually could deal a blow to his businesses, which [00:42:00] is by design. This is what these penalties are supposed to do. They're partly supposed to be punitive. And so that's why there's such a high sum. It's because he has such a high net worth.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** Okay, so you're saying basically, yes, he could sell his assets, but he probably won't want to, and that's why we should be concerned.

**ABDALLAH FAYYAD:** Not exactly that. It's just a matter of, him having to front so much money in the short term that even if he does liquidate some of his assets in order to maintain his finances, he's probably going to have to take on more debt and take on more loans. And, just for context, when he was running for reelection in 2020, he was, per The New York Times reporting on his tax returns, which were leaked before the election, in 2020, he was running with about 400 million in debt, most of which was coming due in the next four years.

So had he won a second term in 2020, creditors, as The New York Times put it back then, would have been put in the [00:43:00] unprecedented position of potentially having to foreclose on a sitting president of the United States. That's never really happened before. We might be facing a similar situation now. If he has to sell some of his assets, he's still going to have to take on more loans in order to fund his businesses, and the fact that his business will be dealt a blow through these civil damages, he is going to have to likely take on more loans,

and that just puts him in a bad situation with creditors. Even if they are big creditors, big major financial institutions that are quote unquote trustworthy, but it's still a serious liability for any candidate to just have that much amount of debt in public.

And just one more thing on this is federal government employees generally are graded on certain criteria to see whether or not they can qualify for security clearance. Having an enormous amount of debt is one thing that's used against giving people security clearance, because it's primarily seen as a tool that can be used [00:44:00] to target people for bribery, and things of that nature, just improper conduct while in office. So that's a window into the ethics problems that could come up should he win a second term.

## **Should Biden Be Replaced With Special Guest Max Burns Part 2 - The Muckrake Political Podcast - Air Date 2-20-24**

### **JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** I also want to say that there's something really weird happening with this too, which is there's still the divide, and this goes back to the first segment that we were talking about—the Republicans and Trump's base, it literally is a cult. And so when Trump tells them, I built a wall, the wall doesn't need to exist. It's there. It's a matter of faith. And actually, what we're talking about right now in terms of quote unquote, resistance or, liberal things, people are being sold on the liberal side with the idea that if they buy these things, if they donate to these things, if they do this, there will be results. And that's still, something of an empirical base sort of society.

I think a lot of people who have been taken in by this resistance consumerism, Max, I think a [00:45:00] lot of people are looking around, they're saying, "You know what? I bought all this RBG merchandise and Roe v. Wade's gone." We literally have seen this stuff taken away. And so what we're missing and this is the problem, is I actually think that there are energies out there, and there is momentum in terms of democratic energies, progressive energies that are building up, it just so happens that they are not profitable. You can't put that on a t-shirt. Organizing the local Amazon warehouse doesn't fit on the back of a t-shirt, it just so happens that it's what gets things actually done.

**MAX BURNS:** Yeah, and it brings voters out. We saw that with abortion in Ohio. We saw that with all the labor organizing in Bessemer. We're in a renaissance right now of labor organizing, and nobody's printing off shirts for that. And the reality is, these are the issues that bring Democrats to the polls. This is what the national party is supposed to be for, is sending national money to state parties to tell this story. And instead all that money goes [00:46:00] directly up to the presidential races now. We have completely abandoned the Democratic Party's role in funding state parties. And if we're not going to subsidize that message, it shouldn't be surprising that a bunch of for profit grifters have stepped in to tell people who have no other mechanism for learning it what their version of the message is.

**NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** The only other problem I think I have with that is that on a local level, up until the state races, it becomes dangerous to run for those positions. You know what I'm saying? Because the other side has made it such a treacherous road where they're going to threaten you and dox you and all sorts of things. Maybe I'm wrong, but I'm pretty sure it's mostly the right doing that. And it to the point where who would want to run anyway?

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** And the apparatus isn't there either. What has happened, and Max brought this up, I think it's one of the most consequential things that's happened in the past few years, the Democratic Party gave up on the 50 state strategy. Howard Dean is one of the most influential people in modern American politics, and the fact that that [00:47:00] stake got pulled up, and instead they've been relying on basically Stacey Abrams in every quote unquote red state that there is. They've just given up on it and hoped that a Stacey Abrams would show up and bring in all this money.

And so what actually happens, Nick, is let's say you're in a deep red state and you want to run for Congress, and you want to run as a Democrat, you're putting your life on the line and the party's not even going to help you put out signs, much less make sure that you're protected and make sure that the environment is actually fair.

Max, does that check out for you?

**MAX BURNS:** Yeah, that's the frustration I hear from activists every day. And you see it, Stacey Abrams isn't even exempt. She delivered two monumental turnout performances in Georgia that many Washington based consultants said was statistically impossible to do. And she did it twice. She did it on a shoestring budget. And her reward for that wasn't to be made DNC chair and



taking the strategy national. It was for the DNC to say this year, Georgia doesn't look [00:48:00] as competitive, we're pulling funding out, and now her organization is closing down. It is, if anything, one of the most self inflicted wound moments I've seen from the DNC in years. Because now Stacey Abrams has essentially no infrastructure in Georgia.

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** God, the most self inflicted wound from the DNC. That is, that's not at the Mount Rushmore right there. It's a big ol list.

**NICK HAUSELMAN - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** Max, what do you think? Why? Why did they abandon the 50 states outreach like they had under Dean's vision?

**MAX BURNS:** Because Obama won. It's as simple as that. Obama came in and his great contribution at the time was leveraging digital. No one had done it 2008. And there was no politics really on Twitter at all until Barack Obama spearheaded that. And he won big, and then that sort of became orthodoxy. He appointed his people, and the thought became, as long as we protect the White House and Congress, we're great. And as long as we have [00:49:00] that, it's everything. It doesn't matter about governorships. It doesn't matter about state houses. And that worked really well at electing the president. Not so much for anything else.

**JARED YATES SEXTON - HOST, THE MUCKRAKE POLITICAL**

**PODCAST:** And I just want to throw in there, Max, and this was one of the things, because we can get deep in the weeds for a quick second. One of the prevailing dogmas of that period was this idea of demographics are destiny. That America was changing, and as a result, we weren't going to have to worry about this anymore. Basically, the Republican Party was going to moderate itself at some point.

The Marco Rubios, the Nikki Haley's, that, that was the whole idea is eventually, they were going to have to fix themselves. It was both I think, naive but also dangerously ignorant in its own right to believe that somehow or another demographics were going to completely change the entire thing, or that there wasn't going to be a backlash in some way, shape, or form, and eventually you look up, and you have states now where there is no significant democratic [00:50:00] presence. You don't have a neighbor. You don't have a co worker. You don't have anybody in town, basically in any office, anybody around who isn't in a quote unquote satanic cabal. And so as a result, you have states that it's been turned into trench warfare at this point.

# **BONUS Is SCOTUS Afraid of Holding Trump to Account - Amicus With Dahlia Lithwick - Air Date 2-10-24**

**DAHLIA LITHWICK - HOST, AMICUS:** I want to ask you another slightly Calvin-ball, feelings-ball... It's right in the middle of Calvin-ball and feelingsball, it's Calvin-feelings. I want to ask you a Calvin-feelings question, which I haven't seen talked about a whole lot, but really struck me only at three in the morning when I was trying to figure out what I thought about oral arguments on Thursday morning, and the thing that I was really clocking that we hadn't talked about, I think, enough is the mob like threat of "nice democracy you got there, would be a shame if something were to happen to it."

And by that, that was my [00:51:00] mobster voice, by that I mean there is this subtle threat, and it starts in Jonathan Mitchell's briefing. That there's going to be all sorts of chaos and mayhem and violence if this is allowed to happen. We hear it in questions on Thursday from the chief justice. It's there in Justice Alito's questioning about vexatious, frivolous lawsuits that are going to follow up. And I think that we are so used to the menacing tone of, "well, you know, if you allow Colorado to knock him off the ballot, there's just going to be a lot of vexatious, frivolous, pointless suits by people who are willing to weaponize the legal system," and the degree to which you're just telling on yourselves when you do that, that every accusation is a confession.

There's one answer to that, which is, I think, the answer that Jason Murray gave, which is "no, we actually know [00:52:00] what to do about vexatious, frivolous, threatening suits that have no point." But the other answer is, "I'm sorry, Justice Alito, are you threatening me?"

And we didn't talk about the underground. pinning here of since when do we just accept the idea that if Colorado is allowed to deploy Section 3 of the 14th Amendment in a way that it was intended to be used, other people will use it for shitty outcomes and therefore we should stop it because "nice democracy you got there."

**MARK JOSEPH STERN:** Yeah, it's a threat, that's it. It's a threat that if a majority of the court allows this case to prevail, if a majority of the court allows Colorado to remove Trump from the ballot, that justices like Alito are gonna come out swinging for the other frivolous, ridiculous cases that should not be compared to this one, which is very much rooted in the Constitution, but that will emerge from red [00:53:00] states that are trying to retaliate. That if Ron

DeSantis tries to remove Biden from the ballot for fill in the blank reason, he's an enemy of the state, he's a traitor, a Chinese spy, whatever, that Sam Alito is going to be lining up to refuse to stay the decision from a crazy panel of the 11th circuit keeping Biden off the ballot.

I think our friends Steve Ladeck and Lee Kovarski wrote a great piece about this and MSNBC saying, well, actually the check here is the Supreme Court, you guys, who have full authority to step in and say, "Okay, this is a meritorious case. This is a frivolous one. This is a case that we will consider and embrace. This is a case that we will reject out of hand." It's the Supreme Court for a reason. They have the last word on this, and could easily shut down any of those kinds of absurd retaliatory moves by Red State.

So this slippery slope argument, and as you said, Roberts cited it, Alito [00:54:00] cited it, classic Alito grievance line, classic "watch what you're doing here, because I'm gonna come back twice as hard twice as fast" to say, "this is all going to redound to your detriment if you happen to squeeze out a win over my dissent. I am going to find a way to get back at you." I mean, was it even a veiled threat, really, or was it just a threat?

So, yeah, in a way, I think it ties into the piece that we wrote on Thursday about judicial humility where the court said over and over again through Roberts, through Barrett, through Kavanaugh, "well, this could lead to such dangerous places. We have to look at the consequences of our decision. We can't possibly be getting involved in each and every case that will arise out of red states and blue states alike if we let one state, colorado, remove a presidential candidate from the ballot."

Where is that concern in literally any other case, but especially in gun rights cases [00:55:00] where, I think this is an apt comparison, the Supreme court, in 2022's Bruen decision, declared all gun restrictions presumptively unconstitutional and created an entirely new test out of thin air for assessing them. And we have seen scores of gun laws struck down, and now the Supreme Court's docket is getting flooded with every gun restriction under the sun being invalidated because the Supreme Court decided to completely change the rules and upend and overturn centuries of precedent here.

They didn't care about consequences then. They specifically said, in fact, that judges were not allowed to consider the consequences of gun laws when assessing their Constitutionality. They specifically said we don't care if a gun restriction could save a thousand lives or a million lives, if it doesn't have enough historical analogs from 1791, it is unconstitutional. Judges cannot look

to the consequences ever, period, that [00:56:00] is the rule. And here it was all consequence based judging. All of it, top to bottom.

So I think that it's another example of a hypocrisy and a disparity between the different sides of the court. In Bruen, in the gun decisions, the liberal justices have been very focused on the consequences. They've said, we can't pretend like we can just close our eyes to reality and to what's going to happen in the real world after we render our decision. The conservatives said the opposite. And yet here magically they're all on the same page. Magically justices like Roberts have discovered judicial humility and rediscovered the beauty of letting the people decide and letting democracy work itself clean.

It doesn't sit right, and I can only hope that, again, I'll just keep coming back to this, I can only hope that the liberals wring something good out of this behind the scenes. I know we're supposed to pretend like the justices don't do horse trading behind the red velvet curtain, but we know that they do. [00:57:00] And it would be a really Acutely painful moment for the country if this just turns into a slam dunk win for Trump and otherwise the court continues to let him run out the clock in all of these other cases that matter just as much.

## **BONUS Florida man owes half a billion Part 2 - Today, Explained - Air Date 2-21-24**

**SEAN RAMESWARAM - HOST, TODAY,EXPLAINED:** So a lot of granular detail from the attorney general in New York. How does the former president's defense team defend him?

**ANDREA BERNSTEIN:** So one of their big defenses is, "no one was hurt here. Deutsche Bank wanted us as a customer. They were willing to give us these incredibly low rates because it was good for them. They benefited. There was no victim." That was one. Another one was, "our accountants figured it out. Our employees figured it out. We left it to them. We trusted them." And then, there was, "Nobody really relied on these statements, and also, it didn't make a difference."

**SEAN RAMESWARAM - HOST, TODAY,EXPLAINED:** Okay, so Trump's legal defense team essentially says, "Show us a victim. [00:58:00] Everyone got paid. This was good for everyone." But the judge ultimately decides that's not the case.

**ANDREA BERNSTEIN:** Well, the law decides it, right? This law, 6312, is a very powerful law in New York, and it was written in the middle of the last century with the idea that if you have a fraudulent marketplace, you corrupt the business market in New York. And it is the Attorney General's job to defend against that, and to make sure that people don't do this as a course of business no matter who the victims are. Because the idea is that hurts all business in New York.

**LETITIA JAMES - NEW YORK ATTORNEY GENERAL:** Today, the court, once again, ruled in our favor, and in favor of every hardworking American who plays by the rules. Donald Trump and the other defendants were ordered to pay \$463.9 million. That represents \$363.9 million in disgorgement, plus [00:59:00] \$100 million in interest, which will continue to increase every single day until it is paid.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** Where does that number come from, Andrea? It's big.

**ANDREA BERNSTEIN:** Okay, so let me introduce a concept, which I know Today Explained listeners can handle, which is called disgorgement. It's not actually a fine. What the law says is if you have these ill gotten gains, based on the fact that you lied over and over and over again, you have to pay it back.

**LETITIA JAMES - NEW YORK ATTORNEY GENERAL:** Donald Trump may have authored the art of the deal, but he perfected the art of the steal.

**ANDREA BERNSTEIN:** So a very big portion of the money that Trump has to pay comes from the cash that he kept by keeping his interest rates so low. If you have to pay 12 percent interest versus 3 percent interest, hypothetically, those are not the actual numbers, but for example, [01:00:00] you save a lot of money.

In this case, the difference in the interest was about \$170 million. So that is considered an ill gotten gain, got to pay it back. Then, the judge said, well, because they had all this extra cash that they weren't entitled to, they were able to pour money into a number of properties, two in particular, the Trump International Hotel in Washington, D.C., and the Ferry Point Golf Course, which is in Bronx, New York. They were able to pour so much money because they had all this extra cash, and then sell it and make even more money. So all of that comes back too. So that's how they get to the \$355 million.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** Okay. And this is on top of the \$83.3 million he already has to pay E. Jean Carroll.

**ANDREA BERNSTEIN:** Totally separate case. Correct.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** In the E. Jean Carroll case, the jury awarded her something like \$60 million more than her lawyers were asking for. In this latest case, because of disgorgement, the fine is \$355 million—big [01:01:00] numbers. Do you think he might be getting hit harder in either case than, say, a less famous former president New York City civilian would?

**ANDREA BERNSTEIN:** So let's take E. J. Carroll. So one of the things that was so interesting in the E. J. Carroll case is right before plaintiffs wrapped up their case, they played a video deposition of Trump from the business fraud trial. And in the business fraud trial, Trump says, I have four \$400 million in cash. That is very unusual for developers. Developers don't usually have that much cash. Mar a Lago is worth \$1.5 billion. Doral golf course is worth \$2.5 billion.

**DONALD TRUMP:** If you take Doral, could be worth two and a half billion by itself.

**ANDREA BERNSTEIN:** Now, of course, those valuations have been found to be fraudulent by Judge Ngoran, but the jury didn't know that. So the jury is watching this and E. Jean Carroll's [01:02:00] lawyers say to the jury, "Trump says he has a lot of money. Please have him pay a penalty that will get him to stop. You determine how much that amount is." So in that case, they asked the jury for an amount of money and damages to rehabilitate her reputation, but then they said, "give us some punitive damages, you figure out. This guy says he has billions of dollars, you use an amount that will make him stop," and that's how they came up with the \$65 million plus the \$18 million for her to repair her reputation.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** Does Trump have to hand over this nearly half a billion dollars, like, tomorrow? When does he actually have to pay?

**ANDREA BERNSTEIN:** The \$355 million doesn't include the pre judgment interest. The attorney general's office has said it will be upwards of \$450 million when you put that all in. Now, Trump is appealing. They say the verdict is wrong. [01:03:00] If past is prologue, they will take every opportunity to appeal



this case. It can be appealed first to the first level of New York Appeals Court, which is called the First Department. Then to the highest court, which is called the Court of Appeals, and in most cases, that would be the final word. However, Trump being Trump, they may argue that there's a federal issue involved, so it would theoretically go to the US supreme Court.

So, all of that has to happen before the money is finally transferred to New York State, but, there is talk about putting up a bond, putting the money in escrow. He can't just go off and say, "well, I'm not going to pay it until we're done." That isn't the way the law works.

**SEAN RAMESWARAM - HOST, TODAY, EXPLAINED:** Maybe the half a billion dollar question is, will he still have to pay if he wins the election later this year?

**ANDREA BERNSTEIN:** Assuming he loses all his legal appeals, the answer is yes. I wouldn't be surprised if the case is not [01:04:00] resolved. And were he to win the election to hear his lawyers make an argument that even to address this issue is too distracting for the president.

Now, there is Supreme Court law in Bill Clinton and Paula Jones that certain aspects of a civil suit can continue, and this is a civil suit. So, I I hate to say this, because it's so overused in this context, but it's uncharted waters. In theory, yes. In theory, the judgment has been made. If Trump loses all his appeals, he has to pay the money. He has to find the money now to guarantee that he will be able to pay it in the event he loses all his appeals. But what would happen, would he try to argue that? If past is prologue, it's not out of the question.

## Final comments on the presidential age debate and what we're really voting for

**JAY TOMLINSON - HOST, BEST OF THE LEFT:** We've just heard clips today, starting with *Breaking Points*, discussing the Biden administration's complicity in Israel's war in Gaza. *Democracy Now!* looked at Democrats pushing Biden to shift on Israel policy. *The Thom Hartmann Program* looked at the media reaction to concerns about the age of the presidential candidates. [01:05:00] *The Muckrake Political Podcast* discussed the idea of a brokered democratic convention. Thom Hartmann looked at the likelihood of Trump using the insurrection act if inaugurated again. *All In with Chris Hayes* discussed the constitutional crisis of a second Trump term. *Today Explained* explained the threat of a president carrying as much financial strain and debt as

Trump does. And *The Muckrake Political Podcast* discussed the positive actions happening among the democratic base that happened to not sell t-shirts.

That's what everybody heard, but members also heard bonus clips from *Amicus* discussing the Supreme court oral arguments in the case, looking to ban Trump from the ballot in Colorado. And *Today Explained* broke down the business fraud case against Trump. Resulting in hundreds of millions of dollars in fines.

To hear that and have all of our bonus contents to the red seamlessly, to the new members only podcast feed that you'll receive, sign up to support the [bestoftheleft.com/support](https://bestoftheleft.com/support), or shoot me an email requesting a financial hardship membership, because we don't let a lack of [01:06:00] funds stand in the way of hearing more information.

Now to wrap up, I just want to relay the single best argument for any presidential candidate whose policies you more closely align with compared to their opponent.

The question in this campaign of age or competence is essentially a distraction, and I think that almost everyone knows it at at least some sort of gut level. The number of people who would really cast their vote based on which of the two candidates had the fewer number of verbal gaffes is, I think, vanishingly small. And it's for the same basic reason that the same Christian conservative family values people who claimed to be completely appalled by Bill Clinton's scandalous behavior, now defend one of the most unethical scandal prone, disgusting people our country has ever produced. It's not about the person, ever, [01:07:00] and it never has been. It's about what they represent, about what policies the administration will push for, and whether that will push the country in the direction that we, as a voter, want or not.

Back in the 2000s, I loved making fun of George W. Bush's verbal flubs that were so frequent, they were dubbed Bushisms.

**GEROGE W. BUSH:** I know the human being and fish can coexist peacefully.

Our enemies are innovative and resourceful, and so are we. They never stop thinking about new ways to harm our country and our people, and neither do we.

We got an issue in America. Too many good docs are getting out of business. Too many OBGYNs aren't able to practice their, their love with women all across this country.

There's an old saying in Tennessee, I know it's in Texas, probably in Tennessee, that says fool me once, shame on, shame on you. If [01:08:00] you fool me, you can't get fooled again.

**JAY TOMLINSON - HOST, BEST OF THE LEFT:** But those sorts of things, while fun to mock, weren't really the reason that anyone on the left oppose his presidency. It was the policies he represented, the Supreme Court justices he would appoint, and the direction he would push the country and the world. And there's an old saying in politics, probably in both Texas and Tennessee, that personnel is policy. What that means, and what we should constantly remind people, is that the presidency isn't really about the person on the ballot. It's about the fountains of members of the administration that get hired as the personnel, whose job it is to work toward and implement the policy vision of the administration. That's really what you're voting for when you cast a vote for president. The person at the top is the one on the news all the time, but they're not the one doing all the work of the government single-handedly.

Literally any conversation or debate you come [01:09:00] across regarding Biden's or Trump's age should be immediately redirected to the existence of staff, and not just the white house staff, the entire administration staff. And what we know without a doubt is that every halfway reasonable person who's ever worked for Trump has come out on the other side. Criticizing him, not just a little bit, but often in the harshest of terms. And we are running desperately low on halfway reasonable people who would even be willing to work for a second Trump administration. Meaning that only sycophants who prove their value through loyalty rather than competence will be the only ones available to fill the ranks of a second Trump administration.

The number of gaffes and the precision of memory and mental acuity of either candidate will have basically no measurable impact on the country or the world, but the personnel differences between the two couldn't be [01:10:00] starker or more consequential.

That is going to be a for 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 a voicemail or send us a text at (202) 999-3991 or simply email me to [jay@bestoftheleft.com](mailto:jay@bestoftheleft.com).

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 a 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 by signing up [bestoftheleft.com/support](https://bestoftheleft.com/support), through our Patreon page, or from right inside the apple podcast app.

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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](https://bestoftheleft.com)