

Gaslit Nation Transcript

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“Who Will Protect Us from the Supreme Court?”

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[opening theme music up and under]

Andrea Chalupa (00:00:56):

Hey everyone. Welcome to *Gaslit Nation*. I am your host, Andrea Chalupa, a journalist and filmmaker and the writer and producer of the journalistic thriller, *Mr. Jones*, about Stalin's genocide famine in Ukraine; a film the Kremlin doesn't want you to see, so be sure to watch it. Today—speaking of the Kremlin—today is Tuesday, December 5th, Volunteer day. I celebrated by hanging out over Zoom with a group of volunteers from all over the world who are in Ukraine right now volunteering. This special event was organized by David, a long time *Gaslit Nation* listener who is on his way to Ukraine now to join the fun. Their stories are incredible and they're all being put to work. They're meeting a lot of extraordinary people. It's really a soul-uplifting time. I was getting... You know me—I was getting very tearful hearing their stories in this Zoom hangout. And their number one piece of advice, which really surprised me (but it makes a lot of sense because it's very similar to my story on how I just showed up in Ukraine in 2005 and ended up staying there for several months and helping start a rock band and getting my grandfather's memo more translated and discovering the story of Gareth Jones from his family that had just put up their website and just going on this extraordinary life changing adventure that led to where I am today in such a major soul-shifting, elevating way.)

Andrea Chalupa (00:02:22):

So their number one piece of advice: if you ever want to volunteer, go to Lviv, a beautiful medieval town. It just looks enchanting. It looks like the kind of city that will always have a Christmas fair outside; just gorgeous cobblestone streets and old churches and beautiful restaurants and outdoor bars and cafes and things. It's just a cozy, cozy place to spend time anywhere and they need you there. So the number one piece of advice from this great group of beautiful people who are all in Ukraine now volunteering is just show up. I know that sounds very adventurous, but their feeling was just fly to Poland, get across the border, walk if you have to, get to Lviv and just show up. You can just tap shoulders, ask around, look at people that seem to know what they're doing. Read bulletin boards and you'll be put to work peeling potatoes, building camouflage nets.

Andrea Chalupa (00:03:13):

There's a lot of work to do. If that's not for you, if just showing up is not for you—and that's understandable—you can get all the information that you need if you visit the website volunteeringukraine.com, volunteeringukraine.com. And you can always email me and I can do my best to put you in touch with people there. And you can email me at gaslitnation@gmail.com. Another *Gaslit Nation* listener (because we have the greatest community of listeners in the world) sent me information about a humanitarian aid group in Berlin that he's involved with, the Berlin Odessa Express. I'm going to read from this statement now: “The Berlin Odessa Express provides humanitarian aid to Ukraine with regular aid transports of medicine, medical supplies, and technical goods. We are a private association of people who are from Ukraine or have professional and private connections to the country and have

many direct relationships with people in Ukraine who have been greatly impacted by the suffering and destruction caused by the Russian War.”

Andrea Chalupa (00:04:18):

“We were among the first groups to deliver humanitarian aid within the first weeks of the full scale invasion. Our core group consists of seven people and the wider relief network includes about 20. Most of us live in Berlin. Our professional backgrounds, our doctors, entrepreneurs, development aid workers, engineers. All these backgrounds are useful in the professional and economic procurement of relief supplies. We work purely on a voluntary basis and donate our time and money to this initiative ourselves. We are highly efficient, with 100% of our donations flowing directly to the procurement of aid supplies. Through our cooperation with Pharmacists Without Borders, we are able to purchase medications at a significant discount, making donations go even further. With your contributions, we support our local partners in welcoming children and families, war refugees, the elderly and those disabled in the war to the Odessa region by providing them with a steady supply of medicine, hygiene and technical support such as generators and solar modules.”

Andrea Chalupa (00:05:18):

“Our main partner organizations in and around Odessa include the Odessa Regional Council and the NGO Winds of Changes. Additionally, we cooperate closely with associations for Jewish survivors of World War II and for former Nazi forced laborers. Through our close collaboration, we're able to deliver precisely the items our partners need most for their communities in a timely manner. In July, 2023, we delivered our eighth aid shipment. It was the first time we traveled to Odessa personally and met our Ukrainian partners face-to-face. Filmmaker Rick Minnich, who's also a *Gaslit Nation* listener, accompanied us on our journey to capture the many emotionally charged encounters and to document how we work. Together with Guy [inaudible], Rick created the eight minute video, *Here We Are*, which is now available on the YouTube channel, Meet the Good Ones. Currently we're planning our ninth shipment in time for the holiday season. You can support our work through a tax deductible donation to our fiscal sponsor We Aid at weaid.org.”

Andrea Chalupa (00:06:21):

It's Berlin Odessa Express. I'll put out this link of where you can make a tax deductible donation to the Berlin Odessa Express at the very top of our show notes. And thank you so much, Rick, for all that you do. I'll also put a link to Rick's eight minute video. We are here so you can see the Berlin Odessa Express in action. And then I want to thank our friends at the Humanitarian Group Razom. That's razomforukraine.org. They're helping humanitarian aid relief for Ukrainians, including refugees. They have a special call to action asking anyone who is in the states, a US voter, to call your representative and ask them to pass supplemental funding for Ukraine. If you live abroad, you can of course do this too. You can send an email, call your rep, even if your rep is Mike Johnson with all his mysterious Russian dark money.

Andrea Chalupa (00:07:17):

Just call, call, put pressure on, call your representative and ask them to pass supplemental funding for Ukraine. Look out how to do that at the top of the show notes. Thank you so much. And thank you to everyone who listened to the Make Art Workshop on Patreon. I've received so many incredible letters and reactions to it. I read them all. Thank you, thank you, thank you. I'm collecting comments and questions. I'm going to do a follow-up workshop early in the year that'll be followed by a virtual meetup for us to get together and share our projects and ask all of our brilliant dumb questions. I'll be bringing my own brilliant dumb questions and I'll also—fun surprise—update you on the progress of some of my projects, where things stand, share (hopefully) some recent successes and very likely vent some

frustrations. And we can just sort through everything we have related to art and projects and anything related to that and share ideas and books and all sorts of things.

Andrea Chalupa (00:08:17):

So look out for that. This is going to be our year. We're going to link arms and get through 2024 together being more creative, being more intuitive, being more powerful than ever. [laughs] That's the plan. This week's bonus episode will be a very interesting one, so if you're already subscribed to Patreon at the Truth-teller level or higher, be sure to listen to this. It's running Saturday. I got some interesting... I'll say colorful insight on Russian oligarchs from someone who had to deal with them back during the Car Bomb 1990s. So I want to share that in this bonus episode with you, the community. If you are not already a subscriber, you can sign up to get our bonus shows and join the conversation by signing up, subscribing at the Truth-teller level or higher at patreon.com/gaslit. And another reminder, we're having a social media workshop on January 18th at 8:00 PM Eastern to get ourselves ready to raise our voices and raise hell going into the 2024 election and for human rights at home and around the world.

Andrea Chalupa (00:09:30):

That's going to be sort of, you know, our big New Year's resolution. So our New Year's resolution is to clean up our social media, get things ready, get things aligned, and make sure that we're primed and ready to go and raise our voices for those who need our voices right now. That workshop's going to be run by me and Rachel Brody, who is leading the effort to put pressure on Governor Hochul to replace Jay Jacobs because he is a crime against humanity. Jay Jacobs is the worthless chair of the Democratic Party here in New York that seated so many House races in New York state to the Republicans. And Jay Jacobs lives in Long Island, which has become so red on his watch. So his own neighbors, his own community can't stand him, right? So he needs to go. We need somebody who's a coalition builder, who's a uniter, who's effective, and not just a dead weight for the hyper donor class.

Andrea Chalupa (00:10:26):

That's what Jay Jacobs is, that's why they're keeping him in there. He's a gatekeeper for the ultra elite donor class, which sucks, and it's a drain on progressive resources just to confront this issue. And the Democratic Party itself has to shell out extra money to work around Jay Jacobs to try to win back these House seats. It's insanity, obviously. So Rachel, one of the many projects she works on is trying to get Jay Jacobs out. And so we can start a conversation around that and then get to beefing up our social media for 2024. Alright, so let's play a quick game of Bot or Not because I received a fun comment on Instagram. I'm going to read from it now. So tell me if you think this is a real person or a bot. This is what this guy wrote. Oh, and his account just went private after writing this, which is interesting.

Andrea Chalupa (00:11:13):

That's why I'm like Bot or Not "Just had the misfortune of having your podcast show up in my feed after having to go back to an archived version of my podcast roster. You're a Russiphobia is so fucking stupid. Incredible that with the US fully backing genocide in Gaza, with the fraud of the US vicious manipulation of Ukraine becoming clearer than ever, with the death of the very American, fully bipartisan supported world-renowned butcher Kissinger, you still have to prattle on about Russia, Putin, Assad and their crimes." Hmm, methinks thou protest too much. "Look a little closer to home. The US is far more evil than Russia is. The US is inherently evil in a way that Russia can never be because Russia is not inherently a settler colonial society." And on and on and on he goes. And so I get this comment. I've got my kids.

Andrea Chalupa (00:12:03):

They need to get dressed. I have my husband, he's being chased by the kids. So you think that I'd be like, "Okay, this guy, this is a bot, or this guy just never took a history class." And I could say to myself, "Wait till Monday to even deal with this or even pay attention." But you know me, so I went straight to

respond. [laughs] So here's what I wrote and I'm sharing it with you all. And so here's what I wrote: "*Gaslit Nation* calls out oligarchs everywhere, including the US. We're running two episodes in December on how to undo the Reagan revolution, starting with this episode this week. Also check out my interview with investigative journalist Nick Turse, whose bombshell reporting for *The Intercept* revealed that Kissinger was responsible for more deaths than previously known. As for Russia, it was and remains a settler colonial power. There are several ethnic republics in Russia with their own languages, cultures, histories, who do a significant amount of the fighting and dying in Russia's genocidal invasion of Ukraine while the elite in St. Petersburg and Moscow dodge the draft. For more on how the 'Soviet Union' is a gaslighting term that means Russian genocidal imperialism, read historian Timothy Snyder's *Bloodlands: Europe Between Hitler and Stalin*, and watch my film, *Mr. Jones*, directed by Agnieszka Holland, who grew up in Soviet occupied Poland and whose father, a journalist, died while under police interrogation. Hopefully there's room in your heart for the liberation of all who suffer. Follow and listen to Terrell Starr of the *Black Diplomats* podcast, a regular guest who covers Russian genocidal imperialism as well as Palestinian liberation, including his trip to the West Bank. - Andrea." Signed. Alright, so whether that's a bot or not, I still had a bit of fun. And that gave me an idea for a holiday party game. You know my hero, my historical mentor whose hand I'm clinging to get through these times, Dorothy Thompson, her famous essay *Who Goes Nazi?*—written in *Harper's* in 1941, I believe—goes viral when Trump comes to power because it's all about Trump and Kushner and Elon Musk.

Andrea Chalupa (00:14:13):

And in that essay, she says, "Next time you're at a dinner party, here's how to tell who among you will become a Nazi." And it's brilliant. She talks about the different types of people, and it's the same idiots we're up against today. So I'm going to offer you, in the spirit of Dorothy Thompson, at your holiday gathering this year, if you feel the mood is right, the moment is right, use your discretion, turn to the people among you and just see how many of them know that the Soviets used to be firmly on the side of the Nazis and that the Soviets and Nazis had a pact. In fact, it's called the Nazi Soviet Pact, the Nazi Soviet Alliance. The Soviets and the Nazis joined forces together, made a secret agreement. So it was publicly known that they joined forces. It was a huge shock to the world.

Andrea Chalupa (00:15:03):

It was a huge, demoralizing shock to the world, especially the left, especially communists who were like, "Ooh, how do we explain that one?" But what people didn't know at the time is they had a secret pact as part of that very public alliance to carve up... Stalin and Hitler were going to carve up Europe together. And right off the heels of signing the Nazi Soviet Pact, the Germans, followed by the Soviets, invaded Poland. And then they held joint military parades together. And that's what kicked off World War II. So just turn to someone at your next holiday party and be like, "Hey, did you know that before Uncle Joe, the Soviets were a great World War II ally? The Soviets actually got World War II started. Yeah, the Soviets were actually one of the main drivers of the cause of World War II. The Soviets and the Nazis had a pact."

Andrea Chalupa (00:15:49):

See how many at your party know that. I'd be very curious to know. And keep me updated. Alright, everyone. So we have an extremely special guest this week. All our guests are special. This wonderful human being I've known for many years. He's a sweetheart through and through. It is Jesse Eisinger, the Pulitzer Prize-winning investigative reporter and author of the must-read book, especially if you're furious at the DOJ and Merrick Garland—this book explains what's going on—the book is called *The Chicken Shit Club: Why The Justice Department Fails to Prosecute Executives*. Jesse has been leading the bombshell investigations at *ProPublica* into the corruption racket of the Supreme Court. They famously uncovered that far-right mega donor and Nazi memorabilia enthusiast, Harlan Crow, pays off Supreme

Court Justice Clarence Thomas. They went even further than that, as Jesse will explain in our interview and as can be read from their reporting available in the show notes.

Andrea Chalupa (00:16:48):

Jesse... He's remarkable. I could listen to him all day. I urged him, I always urge him. I said, "You need to start recording your own YouTube series, your own TikTok videos, just little short explainers because I want to listen." Hopefully he takes my advice seriously and does. That fun related story: Back in the day when my immigrant Ukrainian parents told me to get a job—a "real job"—and not just work on my *Mr. Jones* screenplay while temping in some office, happy as a clam. I was fine doing that, but I did what any dutiful kid of immigrants does, and I went out and got a job that my parents could be proud of, and that was at Condé Nast Portfolio. I was pretty miserable at first because I wanted to instead be working on my screenplay. But it all turned out. And at Portfolio, Jesse Eisinger was a big shot there doing some incredible reporting, predicting the collapse of Major Wall Street banks. And he was also the nicest guy, just so sweet, so brilliant.

Andrea Chalupa (00:17:58):

It's been an absolute thrill to follow his impactful reporting, including into corruption at the Red Cross, which I will link to in the show notes. And so I want to just sum it up, the big takeaway of this discussion—are you ready for this? Spoiler alert—the big takeaway from my interview with Jesse Eisinger of *ProPublica* is that **no one is coming to save us. We have to save ourselves**. As I've always said on the show, grassroots power is the most reliable power we have left. Happy Volunteer Day, everybody. Since this interview was recorded September 19th, a lot has happened in response to Jesse and his team at *ProPublica*. The Supreme Court formally adopted an ethics code. And I want to say I call it *ProPublica* because I was at an event with Jesse and a Moldovan who speaks a Latin language, a graduate of an Ivy League who studied Latin at university, and they all agreed that the Latin way of saying it would've been *ProPublica*.

Andrea Chalupa (00:19:05):

So when my listeners make fun of me for saying *ProPublica*... I had an entire group of people including Jesse, who agreed with me. It would've been *ProPublica*. And I understand in modern America, people call it *ProPublica* just like they call me Andrea [laughs]. So that's why it's really *ProPublica* and I'm really Andrea. But anyway, since this interview with Jesse that we did on September 19th, the Supreme Court formally adopted an ethics code of conduct that has no teeth, meaning it's simply a gesture and not enforceable. The Democrats in the Senate, under Senate judiciary Chairman Dick Durbin, finally found their spine and claimed they were going to investigate Harlan Crow, to which Republicans threatened in true brass knuckle authoritarian style to legally target 150 allies, meaning donors of the Democratic Party. That's obviously not much of a threat given that the Republican and Democratic Party establishment share the same donors.

Andrea Chalupa (00:20:00):

Durbin did what Durbin does best, and he backed down. So there's that. Same as it ever was. In part two of my discussion with Jesse, running next, we'll look more at the financial crimes including the Reagan revolution and what can be done to undo it since we're still living in the destructive aftermath of "Greed is good". "Greed is good" is now the law of the land. We have now the largest level of income inequality surpassing even the Gilded age. It's going to get even worse. The Supreme Court this week is looking at killing the wealth tax and overturning oversight protections at the Security and Exchange Commission. These are cataclysmic cases up there with *Citizens United*. They'll make our oligarch corruption crisis significantly worse. I will say it again: This is the most impactful session of the Supreme Court for the

wealthy ruling elite donor class since Citizens United. We all need to pay close attention. For more on that, here's Jesse Eisinger of *ProPublica*, an enemy of oligarchs everywhere.

[transition music]

Andrea Chalupa (00:21:20):

So Jesse Eisinger, hero of investigative journalism, I have a million questions for you on your book, *The Chickenshit Club*, but first we have to start with your excellent Supreme Court reporting that *ProPublica* has been doing, which is sort of pointing out that the emperor has no clothes on. We all knew that the Republican majority of the justices were corrupt, clearly. But your investigations at *ProPublica* uncovered that Clarence Thomas is essentially a kept man by far-right Republican mega donor, Harlan Crow, who enjoys collecting Nazi memorabilia. Could you walk us through that investigation? What were the challenges with it and what has been the real world impact? Because when we watch movies, the movies that I grew up on in the '80s and '90s, some of these movies would have these heartfelt endings that the truth is coming out. Now the public is aware and we're going to end on that final scene knowing that good will prevail. But today, we just have scandal after scandal after scandal, and that's just any given Tuesday of the week.

Jesse Eisinger (00:22:30):

Yeah, you're watching the wrong movies. You should watch *The Parallax View*, which is the best investigative journalism movie in my opinion. It's from the '70s with Warren Beatty, and it depicts an investigative journalist who... Things do not turn out well. I don't want to spoil it for anybody who hasn't seen it, but it's a great movie. So I'm editing the coverage. I've been asked to start up our democracy team, our threats to democracy team, and I'm editing our Supreme Court coverage that's been done. The reporting's been done by Justin Elliot and Josh Kaplan and Alex Mierjeski, and Brett Murphy. And it's just an extraordinary reporting feat from those guys. So I'm in awe of them, but I'm trying to take as much credit as I can for the extraordinary editing that's going into it. But the real amount of editing is I press the button on the story and then it runs.

Jesse Eisinger (00:23:29):

But yeah, we started with a story about Thomas's decades of accepting luxury travel and gifts from Harlan Crow, who's a Texas—Dallas-based—real estate billionaire, the heir to the Trammell Crow fortune. And then we've expanded that. So it turned out that Crow had bought Thomas's mother's house. That didn't go disclosed. Most of the travel and the gifts hadn't been disclosed either, which is an apparent violation of the law. And then he, Crow, had also paid tuition for the boy that essentially Thomas had adopted. He was raising this kid as his son—his grand nephew in point of fact, but effectively an adopted son. And then we expanded that to say, in fact, it's not just Harlan Crow, it's a coterie of billionaires; Wayne Heisinger, David Sokol (who's a really wealthy guy, I'm not sure he's a billionaire), and Tony Novelly. He was an oil and gas billionaire, a private equity guy. And that was an extraordinary story because Thomas had essentially in the lone defense that he'd given to this, he said basically, "I don't have to. I was told I didn't have to disclose this because these are personal gifts, as personal hospitality. And I've gone on some family trips with these very close friends of ours, the Crows." He and Ginny Thomas, who's obviously a famous or infamous figure in her own right.

Andrea Chalupa (00:25:02):

Ginny Thomas was a January 6th enthusiast, to put it lightly. But continue.

Jesse Eisinger (00:25:08):

Yes, a January 6th fan girl. Exactly. And a major figure in Washington conservative circles going back decades and an accomplished activist in her own right, and also a far-right figure. Embracing January 6th is only the kind of latest manifestation of her extreme views compared to median American politics. So Thomas has been accepting these luxury gifts for decades and not disclosing them. And then as you say, it has created something of an uproar. We also did a story about Sam Alito going on a secret trip that was brokered by Leonard Leo, one of the most influential conservatives of the last three decades, that was paid for—both Leo and Thomas went on a private jet to a luxury vacation in Alaska, flown there by a major conservative figure political donor named Paul Singer, who's a hedge fund manager. And they stayed at another donor's lodge, Robin Arkley.

Jesse Eisinger (00:26:13):

So there's a nexus of extraordinarily wealthy conservative figures who have paid for at least two justices' luxury trips that haven't been disclosed, and it's been going on for decades. And of course this is enormously troubling to ethics officials; there's apparent violations of the law, but the technical violations of the law, while significant, really aren't the most significant part of this. What's the most significant part of this is that this is a wild violation of judicial norms. Judges and justices are supposed to behave above conflicts of interest. They're supposed to be... The old saying is "better than Caesar's wife." And these guys have created the appearance of impropriety without any doubt, if anybody who's honestly looking at this in an intellectually honest way. We have a lot of critics, but we don't think that they're being intellectually honest.

Andrea Chalupa (00:27:10):

So what can be done about this? I mean, this is shocking. This is like Banana Republic level. This is something that... They're entrenched. This level of corruption is entrenched. Leonard Leo just raised a war chest of money to keep going down this path and further expand on their power in the courts, which would make it extremely difficult to get rid of them. As we've always said on this show and in our research into authoritarianism, we always point people to, in a dictatorship, the courts are the cage bars. When Hitler came to power, he turned Germany into a dictatorship in just six months and the first thing he attacked was the legal system. So these guys are already entrenched. They're going to build on the power they already have. Based on all of the reporting that *ProPublica* has done—and I'm sure the pushback that you've gotten... I know Alito saw your questions coming to him and he tried to sort of troll you guys and get around that by going straight to the *Wall Street Journal* to air his grievances out that way to try to bust your reporting, but it just made it all kind of funnier—but tell us, being in the thick of this, are we screwed as a democracy? Is that what the *ProPublica* Democracy Initiative is all about? "And these are the final days of American democracy." How do we come back from this brink? What levers of power other than *ProPublica* and me forcing the story out there as the public, what can we do to take back our power in the face of all this?

Jesse Eisinger (00:28:38):

We're kind of prohibited from opining on policy. We're not activists. We certainly would report on wrongdoing from Democratic appointees, Democratic justices, Democratic judges, if we could uncover it. We've actually followed leads on that and haven't really found stories on that. So I don't think that the problematic behavior is commensurate. It's not on both sides. And there's a reason for that because there is a conservative organized effort to ensconce these justices in a kind of cocoon cocoon of like-minded people who support them and provide them adulation and encouragement and then provide them with the latest and greatest updated conservative legal thought as well. And there's just

nothing like that from the organized progressive side. So there are a couple of things that are going on right now. One is that the Democrats in the Senate are trying to raise questions about ethics. They're trying to pass an ethics law.

Jesse Eisinger (00:29:43):

The technical issue is that the Supreme Court is not actually subject to the same ethics laws that lower court judges are subject to, and they're not subject to the same code of conduct rules and norms that lower court judges are. And so the Senate is trying to pass that, but it hasn't gone anywhere. They've talked about interviewing or subpoenaing. They've hinted at that for Leonard Leo and Harlan Crow. And Leonard Leo and Harlan Crow said, Go pound sand, and they haven't really moved on that. So the effort from the Senate Democrats is pretty anemic at this point. And then there's been a little bit of public outcry, but not much. And I think it's because these issues are arcane and people are cynical and they're, I think, overwhelmed, maybe a little traumatized. People are exhausted so there isn't much of a movement. I will caution that the worst has yet to come to pass.

Jesse Eisinger (00:30:46):

If you look at one of the rulings from the Supreme Court in the last session, they were given the opportunity to take a very extreme position on something called the independent state legislature rule, which really would give state legislatures the ability to overrule the state courts. And, in other words, that would give them potentially the power to just say, Well, the majority say—Republicans say—we reject the results of the election and we think Donald Trump won our election in Georgia or some other state, Arizona or something like that. And the court, the Supreme Court, the six three majority, super majority of conservatives—ultra conservatives—rejected that. So that would've been an extraordinary moment. This was a theory that was embraced by Trumpists and John Eastman and people like that, and they rejected that. So the worst has not yet come to pass. Things that have severely restricted Americans' rights in the corporate realm, regulatory realm; Dobbs for abortion are obviously examples, religious freedom has been expanded at the expense of LGBTQ rights. But in terms of the worst, we've yet to see it.

Andrea Chalupa (00:32:01):

So what are you talking about in terms of the worst is yet to come? I understand in my immense imagination, having studied some of the worst authoritarian regimes ever in existence, I know how bad it can get. So you are saying that the worst of the Supreme Court is yet to come? What is your generational trauma in your DNA telling you?

Jesse Eisinger (00:32:25):

I guess what I need to say is the worst has yet to come to pass. They did not embrace the attempt to do the absolute worst ruling on independent state legislatures, *Moore v. Harper*. And then a surprisingly good ruling where Kavanaugh went over to the liberal side on the Voting Rights Act, rejecting Alabama's very extreme districting. You had those two rulings that complicated the narrative that the united front of the super majority is looking to roll back everything, all the gains that liberals and progressives have made over the last 40 or 50 years, and even going back to the Warren Court. So what I mean to say is that the worst has not come to pass, but the most important thing is that this upcoming term is extraordinarily important to the donor class. So mostly what you've gotten so far are social issues like the expansion of religious rights and Dobbs, the rejection of Roe. Those were things that the right, the far right, the religious right had wanted for decades.

Jesse Eisinger (00:33:43):

They certainly want to reverse gay marriage and things like that. They haven't quite gone that far obviously, but they're trying to curtail those rights and fan religious rights as we know. But this term is the really important term, and I suspect it's going to get much less coverage because it's about arcane regulatory issues. So this term has a case about the Securities Exchange Commission, which could roll back the Securities Exchange Commission. This term has a case about the Consumer Financial Protection Bureau, which would really curtail the CFPB. And then two cases that are really, really extraordinarily important; one which is also called Moore, which is confusing, which is a narrow tax case, but that hinges on what the definition of income is. But an expansive ruling there could mean that we cannot tax the wealthy. And I know you were going to get into that because this is the coverage that I was doing in the last several years about wealthy tax avoidance.

Jesse Eisinger (00:34:50):

We obtained all this IRS data, and so we've been doing those kinds of stories. This could make it so that you couldn't pass a billionaire wealth tax or a billionaire tax on unrealized gains. That's a hugely consequential case. And the other hugely consequential case is a case that's looking at Chevron deference, which is incredibly arcane and boring, but really what it is it says the courts should defer to agencies. Agencies have the authority, agencies have the expertise to make rules. And unless there is some real violation, whether the agency has been capricious or whether they're violating the constitution, if they haven't done that, the courts should really defer to the authority and expertise of the agencies. They're probably going to get rid of that. And that has been a longstanding goal. But that longstanding actually, interestingly enough. But that's been a goal for about a decade from people like the Kochs, Chamber of Commerce, the economic conservatives, and that's going to be extraordinarily important. And you do not see and you will not see millions of people spill into the streets defending Chevron deference. You're just not going to have that

Andrea Chalupa (00:36:03):

Affirmative action. That was one that they checked off their list. The far right of America has been organizing this power move, packing the courts for decades. They've been building this power for decades, and it finally reached this harvest season. And that's what we're seeing now, and they've gotten their wishlist. And I think people, as bad as we knew it was going to be, I heard from mostly men, mostly white men, that there's no way Republicans are going to get rid of *Roe v. Wade* because they need abortions themselves. And now here we are. And they worked very swiftly. So what else is left to take away? And some of the chatter you're seeing in these incel communities, which are driving a lot of this Republican base and a lot of white women like me are pushing this in their conservative podcasts in their social media saying the, "The trad wife, get women back into the home." I think it's within expectation, based on past behavior, that they might be coming after my right to vote. Do you think it would go that far?

Jesse Eisinger (00:37:10):

That's pretty extreme, but you would probably know more about those issues and what's going on. I haven't been to my incel chat rooms in a while, so I don't really know a lot about these social issues and the social ferment there. But what I would say is that Clarence Thomas in a concurrence in *Dobbs* really flirted with the idea that all of these expanded due process rights that we read into the 14th amendment, which include the right to contraception, gay marriage, conspicuously, he did not talk about interracial marriage. *Loving v. Virginia*, I believe, is that ruling and that gave people the rights to do that under the 14th Amendment. I'm not a lawyer, so I may be getting some of these things slightly wrong. But the extremes of the party would like to do that. There also are real challenges on voter rights, not

really about women voting, at least for now, but trying to restrict the voting for Black people, for Latinos in states like Texas or Arizona, their voter ID laws.

Jesse Eisinger (00:38:25):

There's really aggressive redistricting. That actually was a longstanding goal, was to get rid of the Voting Rights Act. And there, Roberts was a key architect of that as he was for affirmative action. So yes, what the Republicans are facing and the super majority kind of understands is that they've got minority power and so they want... They're anti-majoritarian because the majority doesn't support their views. And so yes, they've got this kind of anti-majoritarian social view and then they also want to deliver for the donor class. So when you look at Harlan Crow and Tony Novelly, Paul Singer; the people funding these trips for the Supreme Court justices, they want a rollback of regulation. That's what they really want. They want a rollback of regulation and they want to keep lower taxes, and they want to defeat any initiative that would tax 'em at meaningful rates. So some of them sort of care about social issues, but not really. I think they humor them. Paul Singer actually, he's got a gay son, and so he actually is a huge supporter of gay marriage. So he doesn't care about these social issues. Neither did Donald Trump. He didn't care about that. I mean, he used to be pro-abortion; multiple divorces, total debauchery. He was just an opportunist.

Andrea Chalupa (00:39:51):

The way the founding fathers tried to build this country was we're supposed to have checks on power. What is the check on this power that they have? It seems like Citizens United, a Supreme Court ruling, just opened up the floodgates of unlimited money to just take over our courts. What is the check on this power?

Jesse Eisinger (00:40:14):

Yeah. Well, that's a good question. And the checks are, as we all know from elementary school, the executive branch and the legislative branch. But we have what scholars discuss, and I'm not really an expert in this, but we've sort of come to a notion of Supreme Court supremacy. And one of the problems is that the left and progressives and liberals really embraced Supreme Court supremacy because for this brief period of the Warren Court, there was really a huge expansion of individual rights for minorities and for the dispossessed. So you got, of course, *Brown v Board*, that's the most famous, but then you got *Miranda* and you got a whole series of rulings that expanded individual rights under the Warren Court. And for that, during that period up to *Roe*, which was in the Burger Court but can be thought of sort of as one of the kind of crowning achievements there of that, or one of the last achievements of that court.

Jesse Eisinger (00:41:23):

So that sort of was the court that liberals fixated on, and they have used the courts to achieve things that they couldn't achieve legislatively. Now we see the conservatives having learned that lesson very well and doing that in a more effective way. The courts actually historically have been a conservative branch of the government and a check on legislative and executive power to change things. So they resisted progressive reforms. They actually rejected an income tax in the 1890s. They tried to roll back progressive reforms at the turn of the 20th century. They rolled back the New Deal. That was when FDR talked about packing the court. There's a problem now. I mean, we have lifetime appointments for these justices. People have talked about expanding the court. They've talked about term limits for the court. Some of those would require either a constitutional amendment or big legislative majorities to push through. So we've got a real problem and the Democrats have not embraced any real court reform at all. So to the extent that there's a huge problem here, and it seems like there is, the Democrats are not responding to it remotely in any fashion that's commensurate with the enormity of the issue

Andrea Chalupa (00:42:49):

And why do you think they're doing that? It's clear that there's a feeling among many people that were held hostage by the Supreme Court and the donor class that funds it, the Republican majority, with these lavish trips and buying houses and things, it's only going to grow and get more powerful. So why do you think the Democrats are just sitting on the sidelines? There's a big push, a grassroots push, to demand an expansion of the court (the Supreme Court), which is typically done every few generations. And Obama just came right out and said, "No, I don't think that's the right thing to do, is to expand the court." Where are the Democrats coming from in this?

Jesse Eisinger (00:43:29):

Yeah, the Democratic Party is extremely timid about it, and I think they want to let things play out and they don't feel like there's multiple factions, complicated factions within the Democratic Party. You've got someone like Obama who turns out to have been not the great hope and change guy, but a pretty conservative figure, incrementalist figure. Then you've got somebody like Joe Manchin who's extremely valuable for the Democratic Party, to have a senator from West Virginia (which supported Trump by 40 points, percentage points or something like that), but Manchin is not remotely liberal or progressive, and you need to get him on board. Also, the donor class has very effectively co-opted someone like Kyrsten Sinema who is a real mystery to me. I can't figure out what her politics are.

Andrea Chalupa (00:44:28):

It's money. Her politics is money. Sorry, go on.

Jesse Eisinger (00:44:31):

Yeah, but she's going to lose... She's going to get donations from big interests and lose the next election. So maybe she just wants to be a lobbyist? A well-paid lobbyist? Your guess is as good as mine. So the Democrats have had to make compromises. They're timid. There's a lot of learned helplessness. They don't know how to effectively wield power. They don't know how to convey political ideas well, especially to working class voters; not just white working class voters, but they're also losing non-college educated voters, incrementally of color, so more Black men and Latino men especially voted for Trump in 2020 than 2016. So the Democratic Party is becoming a kind of elite party, educated party, affluent party, and it doesn't do politics well, and there's a learned helplessness. So that combination plus the Big Tent makes it a very unwieldy party for affecting change.

Andrea Chalupa (00:45:35):

Don't you also think there's an element of enough of the Democratic establishment being in on the donor class? Maybe the Democrats are doing exactly what the donor class that's propping up both parties wants them to do, and they're feigning this helplessness because they're cashing in for themselves to stay empowered or to set up a cushy job for themselves after office.

Jesse Eisinger (00:45:58):

Yeah, I mean, that's absolutely part of it. The Obama administration was really captured by Silicon Valley and tech interests. One idea floated by Elizabeth Warren and Bernie Sanders, a kind of wealth tax or an unrealized gains tax, which is my preferred policy solution that the Biden administration actually embraced, that's being thwarted by these kind of donor class Democrats. So yeah, big money is affecting Democrats as well. The majority of ultra wealthy people are conservative, but there's a coterie of liberal billionaires like Laurene Powell Jobs and people like that, and they fund a lot of nonprofits. So the

nonprofits are compromised by the billionaire class, kind of liberal billionaires. They're to the left, surprisingly, on social issues, which actually some argue—and I'm not an expert on this—but some argue sort of pushes the working class away from the Democratic Party because it alienates them. And so we've got these identity policy issues. We've got the billionaire donor class that isn't interested in economic reforms and more focused on social reforms. So yeah, it's a complicated mess. Meanwhile, you've got, as you say, and I completely agree, an authoritarian threat rising in Donald Trump and the Republican Party.

Andrea Chalupa (00:47:23):

There's this debate right now whether to use the 14th Amendment to keep Trump off the ballot. Colorado is one that is looking at this. But the pushback against this is, What is the point because the Supreme Court will just side with Trump. And so what are your thoughts on that 14th amendment and where do you think the court would stand if given the opportunity to keep Trump off the ballot, considering some of them—three of them, that's a whopping number—are there because of Trump, but they also haven't always voted in his favor at times.

Jesse Eisinger (00:47:57):

It's never going to happen. It's just one of these fantasies. And there's a great little illustration of this. Steven Calabresi, who's a founder of the Federalist Society, which is the conservative organization that has cultivated all these conservative justices and many, many other major figures on the right for decades now, he was a founder of this organization. And these two conservatives wrote this 14th amendment paper, and he embraced it and said, "Yeah, this makes a lot of sense." Then the *Wall Street Journal* editorial page said, What the fuck? What are you doing? This doesn't make any sense. Then Calabresi changed his mind very publicly. "Oh, I agree now. I was wrong." It was like out of a Chinese reeducation camp. Progressives have been praying for some kind of Deus ex machina to solve the Trump problem. It was Russiagate or it was—which I actually believe was a real scandal, but they were hoping that Mueller was going to solve this or other prosecutors were going to solve this.

Jesse Eisinger (00:49:07):

They were going to sweep in and take the Trump problem off their hands. And the answer is, none of these solutions will. And these current prosecutions won't solve the Trump problem either because the base wants Trump and they are not going to be convinced that he's a criminal, even though I think it's obvious that he's a serial criminal. And what's going to happen is the people who are going to have to solve this are the People. This is a democratic problem that needs to be solved democratically. And to the American people's credit, they did solve this. They worked toward solving it in 2020 and 2022 because they rejected the worst Republicans. Trump lost, and in 2022, every election denier in a statewide race lost. Kari Lake lost and all these other people lost in conservative states as well as... Well, not in conservative states. There were a few conservative states where you had election deniers, but in any purple or blue state, the election deniers lost. So I should amend that to talk about the swing states. That was a significant victory for the forces of democracy. The problem is that the job isn't done, and people are, as you were talking about earlier, people are tired. They're exhausted and dispirited and out of ideas, but the ideas are you've got to continue to mobilize and continue to vote and be civically engaged.

Andrea Chalupa (00:50:45):

That's exactly what I keep saying on the show, that grassroots power is the most reliable power we have left. And yes, it is exhausting and it takes a toll. So let's turn now to your book, *The Chickenshit Club*,

which you wrote all about why no one went to prison for the global economic crash engineered by Wall Street, why the DOJ let all of those criminals off the hook, how that all went down and that crime, what we all witnessed—trillions of dollars wiped out, hundreds of thousands of people, their lives destroyed, their savings, their retirement just wiped out, and it's been this shaky recovery ever since, if you could even call it a recovery. Jobs came back, but not the same jobs. People are still working several jobs. And especially in our field, in journalism, so many extraordinary journalists and editors have been pushed out of the industry because those jobs are disappearing.

Andrea Chalupa (00:51:49):

And so your book names names. It's wonderful to read. I highly recommend it. It's just... So take your anger from listening to this interview and read Jesse's book, *The Chickenshit Club*, which is the perfect name for what we're up against, because if you're confirming what I've always said on the show, which is grassroots power is the most reliable power that we have and you have to follow, as I always say on the show, the Ukrainian civic society model. Ukraine has a robust civil society. It's remarkable. It openly follows a spirit of self-reliance. A group of young activists started at a political party called Self-Reliance, and that's what I'm always telling Americans. I'm like, It's up to us now whether you like it or not. That's the reality so stare that reality in the face and just get to work with me. But that also points out that our institutions are very clearly failing us, and they're not strong enough for this moment, because institutions are only as good as the people in them. And some of those have been purged. Many of them have been purged under Trump. You have the Secret Service even full of Trump loyalists still to this day. And so tell us, is the DOJ the one that let Wall Street get away with tanking the global economy, that's the same DOJ that we're now supposed to trust to bring Trump and his co-conspirators to justice? What are your thoughts on that?

Jesse Eisinger (00:53:12):

Well, so it's a complicated issue. What I wrote about was the problem of the lack of prosecuting wealthy people, white-collar criminals (mostly white males), and the lack of accountability writ large. And when the book came out, what I realized was I had understated the problem, of course, because Trump was elected then and it turned out that the problem was so much worse. It wasn't just about big banks or big corporations, but there were whole swathes of the economy that were really kind of unpoliced, like campaign finance and taxes and commercial real estate, all these places where Trump was able to kind of commit crimes with impunity. And in fact, we ended up breaking a story that I helped with *WNYC* about how Cy Vance, a Democratic appointee, the Manhattan DA, had decided not to prosecute Donald Trump Jr. and Ivanka for a commercial real estate fraud down in Soho on pretty clear fraud, clear lying about their building in the mode of their father.

Jesse Eisinger (00:54:24):

And you can imagine that if they had prosecuted those children for a building that their father had done before, it would've been very hard for Trump to have gained traction because he didn't have quite this cult following where committing crimes was actually viewed as a good thing by the majority of the Republican base at that point. Now, of course, they see things very differently. So we had an enormous problem. We continue to have a huge problem. I sort of think of my beat as elite impunity, and we have a severe elite impunity problem. One of the big issues is taxes and tax wealthy tax avoidance. The DOJ to its credit has recognized the problem. The leadership has recognized the problem. You've got the Deputy Attorney General, a woman named Lisa Monaco, she's given a speech saying we need to throw more high-powered white-collar criminals in prison.

Jesse Eisinger (00:55:25):

We've got a very exciting energetic antitrust effort now. The DOJ antitrust division is headed up by this guy, Jonathan Cantor, and he's really aggressive and he wants to prosecute people criminally and then also ring back and revitalize antitrust enforcement, which should be a huge... It's a huge problem, corporate concentration in this country; a wellspring of inequality and depredation from large corporations, and he's been working closely with Lina Khan at the FTC. So you can see the battle for the heart of the Democratic Party and the battle for the heart of American democracy within the Biden administration, because the Biden administration has these pockets of real energy and reform, and even revolutionary New Deal zeal. Biden made this proposal for an unrealized gains cut. So there are pockets of reform happening, but there are also forces of conservatism and revanchist forces and forces countering this reformist zeal; anti-reform forces within the establishment, within the Democratic Party.

Jesse Eisinger (00:56:39):

The Obama administration was really the target of my book because they were in charge of holding Wall Street accountable after the financial crisis, and they totally failed. They didn't really even see that there was a problem. Geitner and Eric Holder and Eric Holder's appointees, they didn't really understand that there had been a problem with the financial crisis. They thought they solved it by saving the Wall Street banks, which of course was a disaster. A disaster that I think gave us Trump and we're still living with the political consequences of it. So I think that you're seeing this battle for the soul of the establishment of the elites of the Democratic Party, and there's been a recognition of it, but they haven't solved the problem.

Andrea Chalupa (00:57:23):

And how do you think that problem can be solved with so much on the line, like our very democracy on the line? Because even if Trump loses the electoral college and he chokes on a Big Mac a year later, he's gone, we're still stuck with Trumpism. We're still stuck with the Federalist Society. We're still stuck with Leonard Leo and his billion dollar plus war chest in the reformist battle. What do you think are three things, three things that reformers can do or whoever can do, somebody can do, not just me and my friends, not just the grassroots, but what are three things? If you were to write your next book, say, these three things would secure American democracy where we could just stay at a fighting chance?

Jesse Eisinger (00:58:08):

Yeah. Well, again, I'm not an expert in the solutions to this. I think to me, probably the biggest problem with American society is wealth inequality because that entrenches a small class of billionaires who then can warp our politics and really kind of drain the system of any ability to correct. So I see that as the most pressing issue from which all these other issues fall; that we can't reign in corporations, we can't properly regulate them, we can't solve environmental problems or climate change, we can't get any effective corporate regulation, we can't get good labor regulations and antitrust reform. It goes on and on and on from there. So what I think is what we need is a functioning tax system. We need to fund the IRS, and in fact, the Democrats did do that. And then we need some kind of way to effectively tax billionaires.

Jesse Eisinger (00:59:15):

And Biden proposed that, and they were sort of dead on arrival. But the effort to create an income tax in this country took about 50 years. We had an income tax to help fund the Civil War, and then we got the income tax in 1913 with the 16th Amendment. So we had about a 50 year effort to do that, which included Congress passing a law and it's being rejected by the Supreme Court, AND passing a constitutional amendment. So you need efforts that cross generations to bring about reforms. So that's both scary and intimidating and dispiriting, but also I would think maybe optimistic that you can bring

about change even when the country was, at that point at the height of the Gilded age, we had as much inequality as we have today. Back then, we had less enfranchisement. Women couldn't vote, most Black people couldn't vote effectively.

Jesse Eisinger (01:00:17):

And so we've expanded the franchise and we have reformist movements and models to look at. So I think that things could move very quickly. You can see reforms that have happened of the last few years. Look at gay marriage, which was... Obama couldn't really embrace gay marriage, certainly Clinton couldn't, and then it happened like that. And the Supreme Court ended up capitulating. So that's a social reform. It's not an economic reform. Economic reforms are probably harder, but you can see that these things can happen. And so people need to be optimistic and need to work for them, I think. I'm not an activist, I'm not a politician. I don't have advice on that kind of stuff, but you can see that in the course of history that things have looked bad and things have changed.

Andrea Chalupa (01:01:15):

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