

All-In Podcast #186 - Hot Swap growing, donors revolt, President Kamala? SCOTUS

breakdown: Immunity, Chevron, Censorship

Published - July 4, 2024

Transcribed by - thepodtranscripts.com

Jason Calacanis

Alright everybody, welcome back. It's Hot Swap Summer here at the All In Podcast episode 186 of the world's number one podcast calling in from the home office in Italy is Chamath Palihapitiya, how are you doing sir?

Chamath Palihapitiya

Great, how are you?

Jason Calacanis

You look so relaxed. Look at you. Look at you.

Chamath Palihapitiya

But it's only been two days that I'm working. I mean, I'm not that relaxed yet, but this place does put you in the right mood, I got to say.

Jason Calacanis

Alright, Sacks, I'm sure that it's been an uneventful week for you. How are you doing in the great state of California from our headquarters at the All-In Tower in San Francisco. How's the All-In tower doing?

David Sacks

Why are you doxing me? What's going on here?

Jason Calacanis

Because you live in San Francisco, everybody knows that all you have to do is look for the protests, follow the protests as you'll find Sacks, also with us of course, from the Ohalo headquarters,

Chamath Palihapitiya

Is that Backdraft Friedberg?

David Friedberg

The house is on fire.

Jason Calacanis

The house is on fire, what house you're referring to...

Chamath Palihapitiya

Which house? Which house? America.

Jason Calacanis

Yeah! Which one?

Chamath Palihapitiya

Is it the Democrats, or Biden's house

David Friedberg

There's a political party. I mean you can interpret it as you wish.

Jason Calacanis

Oh, okay,

David Friedberg

There you go.

Chamath Palihapitiya

Is your butt on fire? Did you have some bad Indian food?

Jason Calacanis

Did you hit the taco truck? What happened?

David Friedberg

There's a heat wave from the west right now.

Jason Calacanis

He stopped at the taco truck.

David Friedberg

The west is on fire.

Jason Calacanis

The west is on fire. Okay. Okay, Dr. Doom, if you want to come to the All In Summit now in year three, we've got a ton of programming updates, but the tickets are going to sell out. We just released another a hundred tickets.

David Friedberg

Jesus, I'm sorry. You have a fly attacking your head right now.

David Sacks

You look like Mike Pence.

Jason Calacanis

Jesus. Is it a Mike Pence moment?

David Sacks

It's a Mike Pence fly.

Jason Calacanis

It's a Mike Pence fly. Yeah,

David Sacks

It is a Pence moment.

Jason Calacanis

Or it could be like a Biden moment circling the dead. Oh God, that's too dark. That's pretty dark.

Jason Calacanis

It's pretty dark.

[Intro Music]

Jason Calacanis

For folks who are interested in meeting the other lunatics who listen to this pod: if you have no money and no budget, you can come to one of the 50 meetups that are currently happening around the world next week, on Thursday, July 11th. Go to allinpodcast.co/meetups - allinpodcast.co/meetups. You can host or you can join them. It's for \$0.00. Now, if you're doing well, you've got a little extra chatter, and you want to get together at the All In Summit, that's in September. We held back 400 tickets, according to Friedberg, who is running the summit now. He's released 100 this week, so get your applications in. If you are trying to score a ticket or a speaking gig, just don't email me—email Friedberg. Friedberg, any updates on the content? People want to know what's on the docket.

David Friedberg

We're definitely going to be talking about the changing landscape of American politics, so we are going to have some representation there to have that conversation. We're going to be talking about the future of media. We'll also be doing some really cool technology deep dives in areas like robotics, age reversal, EVCALS, and talking a lot about AI meets enterprise software. We have a number of the leading enterprise software CEOs joining us for conversations on that front. So, it's shaping up to be really amazing programming. Like Jason said, we held back 400 tickets from the initial batch, and we're going to release 100 this week. So, put an application in. We're trying to be selective, and it's going to be amazing. The parties are going to be awesome. Really excited about how it's all coming together.

Jason Calacanis

You're doing some Bird of a feather dinners, I understand this year some new concept. Can you explain that to me?

David Friedberg

The first night of the summit we've rented out a bunch of great restaurants around town in LA and we're putting people together for dinner at all these different restaurants and then the parties are nights two and three, which are going to be beautifully everybody, it's going to be great.

Jason Calacanis

Everybody comes to the parties, but that first night...

David Friedberg

Everyone comes to the dinners, everything, yeah, it's going to be great. So we're trying to create more space for people to meet each other. I know that's been a big thing in the past in the meetups and at the summit is people love meeting other folks in the communities...

Jason Calacanis

Smaller groups. So the dinners will be 200 people or something like that. You can expect...

David Friedberg

Couple hundred depending on the location. Yeah,

Jason Calacanis

And then the bigger parties will be everybody, 1800 people. Where do people apply for this?

David Friedberg

It's at summit.allinpodcast.co.

Jason Calacanis

Okay, there you go, folks. And you can come to the free events. Alright, just usually when we do the docket, I pursue a mullet docket: business first and the party in the back. But man, we've got to start with Washington.

David Sacks

I've never supported the mullet strategy.

Jason Calacanis

I know that. I know you've been anti mullet from the beginning. You want this to be a political show?

David Sacks

No, no, no.

Jason Calacanis

It depends on the week.

David Sacks

I always said we start with the biggest, most topical issues first and it could be business or it could be politics.

David Friedberg

Correct.

David Sacks

You were discriminating against the politics. You were insisting that it be a business issue even if the business issue wasn't relevant, topical or interesting.

Jason Calacanis

Here we go. No, I was not. I think you're talking about Friedberg. Friedberg was the one.

David Sacks

That's true. It mostly came from Friedberg who was right, who brought the ratings of this pod to a whole new level.

Jason Calacanis

Yeah. Friedberg, who brought the mag lunatic

David Sacks

Who built this thing, me that's who.

Jason Calacanis

Who From Robin Hood. He's the guy who did it. Glad from Robinhood. Shout out

David Sacks

By the way. I mean the ratings of this pod hit some sort of new stratospheric level, not just with President Trump interview, but last week.

Jason Calacanis

Whatever. I mean, the point is, last week was, I think, the most crazy week in the history of politics, and it's only going to get crazier. So, let's start off with a Hot Swap summary. You heard it here first—or maybe not—Hot Swap Summer continues. Previously, if you wanted to understand who's winning an election, you'd look at the polls. Not perfect, obviously; some

of these polls still call landlines, yada yada. But then people built models—obviously 538, all that kind of stuff. But it seems that this year, in this election cycle, people are really focused on prediction markets, aka betting markets. And we're looking at them in real-time, and obviously, people have skin in the game. So I'm interested in the panel's take on the sharps on these platforms and if you think that they're more accurate than, say, some of these polls or the aggregators of polls. But Kamala Harris is now the favorite to be the Democratic nominee, according to one of them. So just let that soak in. In the last 24 hours, VP Harris's chances of being the Democratic nominee have gone from 18% to 50%. At the same time, President Biden has dropped from 66% to 28%. There are a bunch of long shots—moonshots in there: Newsom, Michelle Obama, Gretchen Whitmer—all in the 8-12%, but they were low single digits prior to last week's debate. As you can see in the chart, Biden and Harris were about even this morning (the taping of this is Wednesday, July 3rd), but the New York Times reported that Biden told an ally he's considering dropping out. We should note that the White House spokesman said this is absolutely false, but this is the money chart from, I think, PollyMarket, and we keep updating this document in real-time while we're taping. Chances of Biden dropping out are now at 77%. That's up from 60% this morning and 40% after the debate.

David Friedberg

After we record the show, we have to before we publish, it's going to be a whole...

David Sacks

Well, I don't think he's going to do that because he is scheduled to do a sit down interview with George Stephanopoulos. I think they're recording it on Friday, which is two days from...

Jason Calacanis

Maybe he doesn't...

David Sacks

No, no, no. Hold on hold. He's going to do an interview with Stephanopoulos on Friday and then Stephanopoulos is showing it in two parts on Saturday and Sunday. So it's going to be edited. So we don't know what they're going to edit in or edit out. At this point though, the media is in such a freeing frenzy that I don't think that ABC is going to cover for Biden. So I suspect it'll probably be a pretty fair representation of the actual recorded interview. In any event that's coming out this weekend; I think the Biden presidency basically hinges on this interview. If Biden can show that he's sharp and he's responsive and not senile and presumably he's going to sit down and do this at the best hours of the day, they can't make that excuse anymore.

Jason Calacanis

So is that before nap time or after nap time?

David Sacks

Right, exactly. So I'm sure he can do this at a time when he has the good stuff. I think if he knocks it out of the park, maybe he can quell all of this speculation, but if not, if it goes poorly then I think he's done.

Jason Calacanis

So this is the last chance again, it's like this is like the third last chance.

David Sacks

I think so. Yeah, because think about it. I mean the accusation is that he's senile. That's not a hard thing to disprove if you're not actually senile.

David Sacks

You just need to go in there. It's a pretty low bar, right?

Jason Calacanis

Not senile.

David Sacks

Yeah, so he just needs to go in there and talk,

Jason Calacanis

Has a pulse.

David Sacks

For whatever it is an hour and he is not going to be fed a hardball question. He's probably going to be pretty softball questions. He just has to prove that he's not senile. If he can do that, it'll calm things down.

Jason Calacanis

Stephanopoulos generally does a good job. He's not a sick offend. I think he considers himself a legit journalist and we will actually...

Chamath Palihapitiya

Well, this is

Jason Calacanis

He'll throw some fastballs I think.

Chamath Palihapitiya

I think this is going to be a Bernstein moment. I mean if Stephanopoulos wants to go into the Hall of Fame, this is his opportunity. If he throws the high heater to Biden and basically

is the one that delivers the coo da gra, then his name will be in history alongside Biden for that reason.

David Friedberg

Well, think about the strategy. If you're the Democratic Party leaders and you're evaluating who to choose to replace Biden, the first thing you do is you have to double down on Biden. Because if you were neutral to negative on Biden, or passive, it's immediately interpreted as he's being swapped out, and then you don't have time to pick the right candidate. In order to have the time to pick the right candidate, you have to first double down on Biden, be really declarative that he's our candidate, put him on media, put him on talk shows, while you're figuring out who's going to replace him and what the strategy is to get that person to win. So there's a chance that what's actually going on is a little bit more of a structured strategy around finding the right candidate, setting up the right program to get them elected, and figuring out how we're going to move the \$120 million that we raised from Biden over to whoever this new candidate is—which is going to be...

Chamath Palihapitiya

You can only move it to Harris. You cannot move the entire entirety that budget else.

David Friedberg

You've got to put together a real plan. You can't just do the hot swap. You've got to have a plan for the hot swap, which means in the meantime, you've got to buy time and the best way to buy time is throw Biden forward and be like, Hey look, this guy's going to go do media. He's still our guy.

Jason Calacanis

You're correct that they're buying time obviously while they try to figure this out. And the powers that be, which powers that be? The Biden camp, which is not the political machine, it's his literal family, hunter, Jill, et cetera. What they're actually doing, and this will be the next Nostra Canis prediction that'll come true is they're going to do, [inaudible 11:34] I didn't have time to get a whole,

Chamath Palihapitiya

All I heard was lick my anus.

Jason Calacanis

It's NIS not NUS. So Nostra Canis is prediction coming in here. Here's what will happen. Friedberg are going to do All cap locks, all locks, alert must credit Nostra Canis. They're going to do a democratic primary speed run. Here's what's going to happen. They're going to do five debates in 10 weeks and then whoever wins, wins Kamala, he's going to resign. Kamala becomes president. Kamala gets to run, doesn't show speed run. She gets to speed run like everybody else. Dean Phillips gets to come in. Everybody's speed runs it. They take

over the media. The media will go crazy over the summer, massive ratings. Boom! And we have a winner come in and they demolish Trump.

David Sacks

That's not going to happen.

Jason Calacanis

Yeah. You said he's not going to get hot swapped as well.

David Sacks

No, sir. Nostra Canis has gone off the rails.

Jason Calacanis

You said he wouldn't get hot swapped, so you have no credibility.

David Sacks

Well, it hasn't happened yet,

David Friedberg

If you run a debate, it shows weakness.

Jason Calacanis

You said he is going to win.

David Friedberg

The party needs to select a leader and they need to say, this is our candidate because if they do this, it's too diffuse. It weakens whoever ends up winning, whoever ends up winning it is not hundred percent.

Jason Calacanis

No! It strengthens the party because to say, listen, he decided to resign. We wanted to do the most democratic thing possible. What's the most democratic thing possible? We put all our candidates out there and you the people choose, Chamath, tell them I'm right.

Chamath Palihapitiya

I think this is one of the dumbest predictions you've made and you've made some real doozies in your date.

Jason Calacanis

The hot swap is going to happen, so you didn't call it.

David Sacks

The problem with your hot swap theory has always been that not only would Biden step down, but that magically they would choose the best candidate. We would get a Jeff Bezos, we would get a Jamie Diamond that somehow we would get someone who represented all Trumps' policies without being Trump, but you would get some magical moderate to emerge the Democratic Party. That's not going to happen. Okay. Thanks to your incessant demands for the hot swap. Okay. You and many others and this feeding frenzy,

Jason Calacanis

So I caused it. I love.

David Sacks

Yeah. You in part along with many others have caused this feeding frenzy. We are going to get President Kamala Harris. She's the only alternative. You can see this in the prediction markets just a few days ago. It was sort of evenly divided between. There was her, there was Gavin Newsom, there was Gretchen Whitmer. Now it's just her. Why does that happen? Because they realize they can't sidestep Kamala Harris without offending a major constituency in the Democratic Party. Equally important, maybe even more important, they would lose roughly a billion dollars of contributions to the Biden Harris campaign. If neither Biden nor Harris is running at the top of the ticket, they'd have to refund all of that money back to the donors who contributed it. There's no way they're going to start over from zero in terms of fundraising. So they've realized that if Joe steps aside, there is only one feasible candidate for them, which is Kamala Harris.

David Friedberg

Sacks let me ask you a question. If Jamie Diamond declared that he would be happy to take on the candidacy for the Democratic Party, he would call his friend Warren Buffett. He would call his friend Jeff Bezos. He would call up his own personal banker and say, "We've got half a billion, let's go and let's have a run at this." There are certain folks that are outside of the typical political spectrum that might actually have a shot at doing the extraordinary here and stepping up and doing exactly what Trump and others that support Trump don't want to see happen, which is a candidate that can actually challenge Trump on the merits of their experience, on their values, on their capabilities as leaders, as executives, and on their past performance. And I think that someone like that might be the strategist's kind of move to say, this is the one thing we can do that can defeat Trump. Because we all know from the polling that Harris doesn't stand a shot.

Chamath Palihapitiya

We tried that four years ago and you're missing the history, which is Mike Bloomberg tried that exact same thing. And there was one word that was said to Mike Bloomberg and his Kennedy imploded and it was the word billionaire. So the idea that you're going to get some other billionaire that all of a sudden is less hated. I mean Mike Bloomberg has sent so much

good, quite honestly. And so if he can't kind of escape the scarlet letter of the B word, I don't know how anybody else is doing

David Friedberg

Bloomberg, but here's why Bloomberg ran against other Democrats. This is a person that is running against another billionaire, which is Trump. And so if you have two people who are now on equal footing and it is the Trump versus the non-Trump,

Chamath Palihapitiya

How does this person get through the democratic of people in this country?

David Friedberg

I suspect let him cook.

David Sacks

You're operating under the charming delusion that the Democratic Party cares about democracy. This is basically a party that's run by political insiders that hates billionaires and people like this, people like Warren Buffet and Jamie Diamond, they pay the Democrat's protection money. Okay? That's how Democrats see them. We're going to go shake them down to get money from them. They're not going to hand over the reins of the party.

David Friedberg

I don't disagree to some, but let me ask you a question. This is what, this is what Trump, yes, but Trump ran in the primary, he rewrote the rules of the party by running. You're right.

David Sacks

No, he shut down. Hold on. He ran and shattered the party, the established power structure. Remember it was the Bush family's party when Trump first ran, Jeb was supposed to be the nominee, right? He was supposed to inherit the mantle from W the way that W inherited from his father. And Trump came in there and appealed directly to Republican primary voters and called the Forever Walls a mistake and said he was going to build the wall and said he is going to reset things with China, issues that were latent in the Republican Party. And he took over the Republican Party the way you're supposed to through democracy, through voting. That opportunity is gone here because the Democratic primaries happened last year and the Biden team ensured that he would basically win the primaries endlessly. So they control all the delegates, remember that? They control the delegates. They're not going to release them to a Jamie Diamond or some other billionaire who wants to shake up the party.

David Friedberg

Well let me ask you a question Sacks. So if they end up facing the terminal nature of this, which is if we don't put someone in that can win,

Jason Calacanis

We lose.

David Friedberg

We are not going to win. Yeah, it is over.

David Sacks

Why do you think that Kamala can't win? That's their thinking right now is that she stands a better shot than Biden.

David Friedberg

Let's assume that they take a read of the polls, they take a read of the nation, they actually do a real look at the circumstances on the ground, which is that she is not going to win. If they looked at that and they said, you know what, we need to win. And some sense comes into the head of the leaders of the Democratic Party and they say who can win? And a person like Jamie Diamond polls that he can win, there is a chance I think that maybe they say; this is how we're going to get back to the White House.

David Sacks

They're never going to hand the reins of the party to a total outsider. The Democratic Party is the ultimate insider party and they're going to pick an insider's picking insiders. And I think they've realized over the past week in particular that they cannot sidestep around Kamala Harris both because it would be a slap in the face to her constituency and the money issue. So it's Kamala or a bust for them. It's either Kamala or Biden.

David Friedberg

I think it's a really good point. What we'll see is just how rational the Democratic Party leadership is. Are they going to continue to play based on insider first principles or will they actually take a first principles point of view on how do we win the election? And I think it will be very revealing about how the leaders of the Democratic party think based on the decision they make.

Jason Calacanis

And their donors free.

David Friedberg

Well, I don't know if that's true because I actually think that there's a, because -

Jason Calacanis

The donors are fleeing the ship, right?

David Friedberg

Yeah. There's a rift between the donor class and the Democratic Party leadership.

Jason Calacanis

Correct. And I think the donor class doesn't want to lose.

David Friedberg

And by the way, Sacks, what you're saying is probably right, but I think it could actually end up being a signal that there might be a change in who the donors end up supporting the next go around to realize this a leadership change in the Democratic party.

David Sacks

Look, what the prediction markets are showing is that it's not going to be a free for all. It's either going to be Harris or Biden. I mean that's what the prediction markets are showing, and I think that's fundamentally right. But look, I think there's real danger here to the country in this because what a lot of people are saying, and I guess it makes sense, is that if Biden's not fit to run again, how is he fit to serve out the rest of his term as President?

Jason Calacanis

He's not fit to serve out his term. He's got to resign.

David Sacks

Okay, so if he resigns, and that's probably the thing that helps Harris the most, right? Because now she gets sworn in as commander and chief, she's the president of the United States, a major

Jason Calacanis

First female president. Yeah, it's a big deal.

David Sacks

It's a major glow up for her and it infuse her with all of this gravitas and credibility that she's now the president of the United States. They can send her to G seven meetings and deal with other world leaders. They've got four months to basically take this candidate who everyone thought wasn't ready. Remember a year ago during the primaries when Biden ran again, one of the reasons why is because everyone said that Kamala is not ready. Every interview she does is basically a cackle or a word salad. In any event, no one thought she was ready. Now they have basically made her seem much more significant by giving her the presidency. But my point is this; we're in the middle of a war. We're in the middle of a war with Russia just a week or two ago.

Jason Calacanis

We are, we're in the war or we're providing weapons.

David Sacks

Both a week or two ago, American cluster bombs were used to kill Russian civilian sunbathing on the beach in Crimea. Our weapons are targeting killing Russian civilians. The Russians in response to that said, we are no longer in a state of peace with the United States. They did not say we're in a state of war, but they said we're no longer in a state of peace. And the Russians have indicated that they may escalate horizontally by giving advanced weapons to our enemies. For example, they've talked about giving cruise missiles to the Houthi. Okay, so all of this is happening right now in real time on the world stage, and you're going to remove Biden who, look, I don't like Biden's policies and I don't think he's comp Mentis for more than a few hours a day, but I would still rather have Biden as commander in chief for the next six months than take the risk of putting Harris in there who's inexperienced, who's a lightweight, and who might want to prove how tough she is.

Jason Calacanis

Let's get Chamath in for the final word here. Chamath your thoughts on what's going to happen, make your prediction between now and September. What do you think is the mid game here before we get to the end game?

Chamath Palihapitiya

I honestly don't know, but I think that we're in a precarious place where things are going to get worse. Biden actually approved private contractors now going into Ukraine and starting to fight. Americans will be on the battlefield as of, I think this was just a few days ago. If you remember the movie "Wag the Dog." I think that it starts to create all these weird scenarios where people will want to create major distractions to try to keep the evidence and the attention away from this core issue that after the debate everybody is focused on. I think the reality is that if you were accused, if any of you were accused of being mentally incapacitated, what you would probably do is go on every single talk show, go on every single news show, go on every single podcast.

Jason Calacanis

Press conference.

Chamath Palihapitiya

You would just do so much public facing work so as to completely dispel this idea so that you could firmly say it was a cold, although now this week it's jet lag, it was jet lag crap.

Jason Calacanis

The time of day.

Chamath Palihapitiya

Whatever it was, you'd be able to just completely take the wind out of the sails. I think we're still getting only a controlled dribble of information and access to the president of the

United States. So he's going to be on Stephanopoulos, he's going to show up for a NATO meeting and so you're only seeing drips and drabs of somebody who now a lot of people think is not in a position not just to run, but let alone run the country.

Jason Calacanis

You said last week the Democratic Party will have a meaningful reset still thinking that, Chamath?

Chamath Palihapitiya

The issue that the Democrats will have to face is the person that they probably want to run is someone different than Kamala Harris. And the problem that they're going to have to confront is there's a part of it which is fundraising. And I do think that David's right. There was an article in the FT where one of the op-ed writers said they're in this sort of identity politics trap in sorts because they will have to run her no matter what. And even if somebody did show up with the financial wherewithal, and I think Friedberg actually brings up a really interesting thought experiment. If there was somebody that could take the democratic mantle, who could completely self-fund their campaign, but he happened to be just a white man, what would the Democrats do relative to Kamala Harris? And I think that they would be in knots around what to do.

Jason Calacanis

Because of the identity politics issue.

Chamath Palihapitiya

I think they have made it an important issue, this idea of inclusiveness as they've defined it.

Jason Calacanis

Got it.

Chamath Palihapitiya

So it sets up for I think a very complicated summer. The other thing you have to keep in mind is how the electoral college works and how the ballot system works is that you don't have infinite time. You have to get all of this wrapped up and cinched up by the middle of August at the latest. And so we're very much on a four or six week shock clock. And I don't think the Democrats are doing what they need to do in order to completely take the wind out of the sails of this narrative that Biden is not prepared or capable. And the only way that you can do that is by having him appear 24 by seven in real time in front of hundreds of millions of people as often as possible and they're just not doing it.

Jason Calacanis

And so since they're not doing it, they have ample time to do it. He - he's obviously -

Chamath Palihapitiya

And by the way, the other problem that it creates is that you're starting to see some of these fissures inside of the team. There was a really charged article from Axios that dropped, which basically said that there are three people that have cordon off access to the president it named...

Jason Calacanis

That was weird.

Chamath Palihapitiya

Joe Biden and Thomas and some other person. And my initial thought when I read this was, other than Joe Biden who's a recognizable person; I had no idea who these other two people were. And I thought that's really precise for somebody like that who has inside access to all of these insiders to put that article out. So I think you're starting to see the sort of leaks in the fissures and then that's sort of this next phase that will make things a little bit ugly and contorted as well.

Jason Calacanis

Let me ask one question here because we've got to move on to the Supreme Court stuff. Sacks, two-part question: one, is there a chance that he has had a diagnosis already, and they're covering that up? And two, if they covered up something like that, what are the ramifications of it? Because it's clear to everybody, he's in cognitive decline. It's clear it's been a couple of years of cognitive decline.

Chamath Palihapitiya

No, no, no. That was asked of KJP in a press conference yesterday and she was very explicit. No, and the reason

Jason Calacanis

No, she doesn't know. She doesn't know.

Chamath Palihapitiya

No, no, no. The answer was much more explicit. Has he been diagnosed and she said no, and the reason she said no is because that is very credible for her to say because he hasn't taken the test.

Jason Calacanis

Okay, so that's your theory.

David Sacks

Look, it was obvious now for months if not years, that there's been a huge cover-up of his cognitive decline and the media has participated in this. Anyone who raised that question

was treated as being a partisan or a liar. And just for a good example of this, I know you described George Stephanopoulos as a straight shooter, but when Nikki Haley was on his show a few months ago, and I'm not a fan of Nikki Haley at all, but she started making this point and Stephanopoulos basically wouldn't let her finish. I mean basically shouted her down so the media was actively suppressing the story. You take Morning Joe Scarsborough, he was saying that this version of Biden is the best he's ever been, and we've been hearing all of that kind of stuff for months. They were describing true videos showing Biden being out of it. They were describing those as being fakes, clean fakes. They invented this new term for perfectly real videos that basically would reflect his condition. So the media has been engaged in a gigantic cover-up of this, and as a result, the country is in really bad shape because we have to go through the next six months either with a president who has limited cognition or we could end up with a new president who has untested, inexperienced, and based on every interview she's given in the last four years, it appears to be completely clueless at a moment in time where I think we have the most dangerous foreign policy situation since the Cuban Missile Crisis.

Jason Calacanis

So you think it's going to be...

David Sacks

this is a really horrible situation and hold on. It's the media bears a lot of the responsibility and what should have happened. Okay, what should have happened is we should have had a robust democratic primary a year ago.

Jason Calacanis

Sure, We'll call for that...

David Sacks

Based on concerns about Biden's cognitive abilities reported by an honest media. We never had that.

Jason Calacanis

Yeah.

Chamath Palihapitiya

Did you guys see this clip, by the way? There was a clip on Twitter where somebody put together a clip on x six minutes of a hundred spokespeople and proxies, and they all had the same thing to say about President Biden, which is he's sharp as a tack.

David Sacks

Sharp as a tack.

Chamath Palihapitiya

Sharp as a tack.

Jason Calacanis

Which end of the tack? The round part?

Chamath Palihapitiya

What was so funny to me is I thought to myself, if I asked a hundred people on the street, what do you think of Elon Musk? You'd have a hundred different statements, there'd be a general theme, but you would not have even 50 people repeat the exact same words.

Jason Calacanis

They're talking points, obviously.

Chamath Palihapitiya

And so you have this funny situation where a hundred different people were basically saying the exact same talking points, so it's not even a point of view. It was just something that they were told to say by somebody else. And that to your point, both sides Sacks is the real issue, which is that you don't really have an honest media here. And so there is no check and balance on power right now.

David Sacks

Imagine if this feeding frenzy happened a year ago.

Chamath Palihapitiya

Well, the contrast and compare I want to make is everybody has a point of view about Donald Trump, and I was thinking about this. The reason why everybody has a point of view about Donald Trump is everything that has happened in his life is completely transparently documented. There really is nothing hidden at this point. And so you have a point of view because you've been given all of the stuff right and there's endless amounts of new stuff that come out about the old stuff. And so that's so interesting. You have the ability to come to your own decision and it's not packaged through these filters yet with President Biden, I think it's so constrained and controlled, and I think you have to understand and appreciate that cognitive decline. Let's assume that he isn't for the sake of the United States, but if he is in it, it only gets worse from here and it compounds and compounds and compounds. That is what happens. And so not only do you have to wonder what the next five months are like, what does it look like in 18 and 24 and 36 months? That is a really important issue here.

David Sacks

Clearly Biden can't serve a second term, but the question is what do we do now? And I got to say, it's amazing to me that the Democrats are not considering the one option that is kind of

obvious, which is, you let the man run the most dignified campaign he can. He's a candidate you chose and you lose.

Jason Calacanis

Satire Sacks is back here.

David Sacks

No! This is not Satire Sacks. The real problem here is the Democrats refuse to lose. They want to cling to power however they can. They refuse to let democracy just work.

Jason Calacanis

Democracy working would be to do the speed run.

Chamath Palihapitiya

I have a question. What would you do with the money? Would you just not spend it then and just save it?

David Sacks

Well, this is really interesting. So there is an analog, okay. In 1996, Bob Dole was the Republican candidate for president, and quite frankly, he was too old. He was seen as a relic. Clinton was fairly popular, and it was pretty obvious that he was just a loser and he was going to lose. Did the Republicans engage in shenanigans to try and fix the situation? No, they just accepted the inevitable that Dole was going to lose. And what they did is they pulled financing from his campaign, at least in the final month, and they redistributed it to House and Senate candidates, and actually they did better in the House and Senate. They held onto the House and Senate. I think they lost a few seats, but way less than they were expecting to. And they kind of ran on a campaign that you can't trust slick Willie, so keep us on, split the ticket and keep us on as a check against him. And it actually worked fairly well. It was the best Republicans could do, but frankly, they let Bob Dole run a dignified campaign. My advice to the Democrats would be, don't have Biden and resign doing a shakeup.

Jason Calacanis

Yeah, you have the Democrats listen to sacks. There's your political counsel.

David Sacks

If you're a Democratic party, up right now. When you put an untested, unexperienced, clueless president in there who was going to want to show how tough she is and bring in her own team, nobody wants Kamala middle of this dangerous situation. Let Biden run a dignified campaign and lose.

David Friedberg

My advice to the Democrats is to embrace an outsider, give the people what they want, freedom of choice, freedom to elect a leader and bring someone in that falls outside of the traditional political spectrum that does not want to hold public office because it's not their career. They can bring money to the table, they can bring credibility to the table and they can win votes and compete effectively against Trump. If your goal is to retain the White House, Kamala...

Chamath Palihapitiya

Give us two names.

David Friedberg

Jamie Diamond. Jamie Diamond, Bob Iger.

Jason Calacanis

Give us a second name. Bob Iger. Yeah, it's a great one. Jamie Diamond and Bob Iger.

David Sacks

You know what you're doing, right now it's called "Wish Casting." You're doing wish casting

David Friedberg

Sacks. I'm not speaking about realism, I'm speaking. I'm speaking about what it would take to win. Yes. If they actually want to have a shot winning, winning someone that could win a popular vote, someone that could actually win votes away from Trump, because you can't introduce someone like Whitmer or Moore this late in the season when no one in the United States knows who the heck this person is. When you have someone with credibility, with economic and business success, with executive authority with capital and a connection into the Democratic Party, but isn't part of the political machine that you and many others in the Democratic party are now starting to hate, let's go. You have an opportunity to actually win. And if they were smart and they got their together, they would say, you know what? It's time for a change just like the Republicans had to do when Trump stepped into the party...

Jason Calacanis

Bingo, use the Republican playbook, brilliant for you Friedberg, brilliant.

David Sacks

Okay, well you guys better have a magic lamp with a genie in it because that's the only way this is going to happen.

Jason Calacanis

Well, listen, I'm just trying to keep the show fresh. Okay. Okay, here we go. Next topic, here we go. Friedberg gets the final word. Here we go. I'm giving Friedberg the final row. He had the best take. I'm giving Friedberg the final word.

David Friedberg

Oh, you're pulling your McNeil Lehrer?

Jason Calacanis

Absolutely.

David Friedberg

Yeah. Okay,

Jason Calacanis

Here we go. There were seven rulings and a bunch of SCOTUS activity over the last week, but these are really important consequential decisions. We are going to talk about three of them and I'm going to try to get through these quickly. Obviously you could talk about these for hours and people will be doing case studies on them for a long time, but let me try to do this quickly so we can get everybody's take on them. The first one I want to talk about is net choice. This is the content moderation cases that you may have heard of. There were two very controversial laws passed in Florida and Texas in 2021 in the wake of January 6th. The Florida law, if you weren't aware of it, and I don't suspect most people are, would cover platforms with over a hundred million monthly active users or a hundred million in annual revenue. In other words, they're targeting X, YouTube, Facebook met of those kind of sites, and they would require those platforms to notify users if their posts are removed or altered, and the platforms would have to make general disclosures about their operations and policies. In the Texas law, it was very similar platforms, over 50 million monthly active users, and it would require them to notify users whose posts were removed and provide an explanation of why all that kind of stuff. Both of these laws were challenged in court in 2021. Just to give you an idea why I think the conservatives were upset about this. Obviously Trump being suspended indefinitely on Twitter, Facebook, and other platforms or the labeling of content like we've seen on our own channel on YouTube. Net choice is a tech industry group, includes Facebook and YouTube and the parent companies of those, and they sued to block these two laws. Justice Kagan, a liberal, wrote the unanimous decision, obviously no dissensions here, and the majority held the editorial judgment and the curation of other people's speech is a unique expressive product of its own, which entitles it to first amendment protection. So just to give you an example, if you wanted to create a social network, we can't be anonymous like LinkedIn, you can do that. If you want to do something like Twitter X and have anonymous accounts, you can do that as well. If you want to create a social network with adult content, you can do it. Or like Zuck is doing on threats, interestingly, they are downplaying political content. Obviously other platforms amplify

political content, so the end of all this in terms of how the court handled it is they offered some guidance and sent the cases back to the lower courts to clarify a bunch of stuff. Just to keep this brief, Chamath what are your thoughts on this? Obviously some of the ideas here, like letting users know why they were banned or why content was taken down. I think the overwhelming majority of users would like to have that, but is this the government's role?

Chamath Palihapitiya

I'm not enough of a legal scholar to know the details of this case except to say that when the entire court goes in one direction, it's probably because this never should have been brought to the court in the first place and they're giving a very clear message. It wasn't even ideologically strained to figure out what the right answer should be.

Jason Calacanis

Sacks, obviously your chosen party was the one who brought this. You have concerns about the platforms doing this, but do you have equal concerns about the government then I guess being the ones who have to enforce these? Is this a good ruling?

David Sacks

Well, I think that with respect to the Texas and Florida laws, I think their heart was in the right place. They were motivated by the right things, which was to reduce censorship on these social media platforms, specifically censorship of conservatives, which is to say their citizens. But those laws probably were overly broad and they infringed on the free speech of corporations because I guess corporations get free speech too. And basically what the ruling says is that content moderation receives the same first amendment protections as any other kind of speech. So the decisions of what content you're going to keep up or take down on your own property is itself a speech decision, and the government has to respect that. So that's what the ruling here was saying. I think it's not a bad decision. I wish the Supreme Court however, had coupled this with a better decision in the Missouri versus Biden case, which they basically said that the plaintiffs lacked standing to pursue. So they didn't necessarily give it dispositive ruling in that case, but they threw it out. And basically what that case was about was the Biden administration was engaged in attempts to influence or pressure social media companies to take down speech as a practice known as "Jawboning". And I wish they had coupled this decision with a better decision in Missouri versus Biden saying the government's not allowed to coerce social networks to take down speech either. And they refuse to do that. So I wouldn't say these are the greatest set of decisions with regard to free speech that the court's ever done. I hope that they will come back in the future once they find a plaintiff with the right standing to address that issue.

Jason Calacanis

Yeah. That's a key issue. Friedberg your thoughts.

David Friedberg

Yeah, so I've said for a long time we've obviously had conversations about Twitter and shadow banning and some of the other activities on what are typically called social media platforms. At the end of the day, these are all, as I've shared in the past, my belief is they're all content companies. They have a choice as executives and as editors of those companies to decide how to editorialize the content on their platforms. They can choose to create content with writers that they pay on staff like a newspaper might. They can choose to create content with actors and directors that they pay to create novel video series for them like HBO might or they can choose to make content creation available to third parties that don't get paid like users. And at the end of the day, what they choose to do with that content and how they choose to display that content is up to them as an editorial platform that is ultimately creating content for other consumers. I don't view that user generated content platforms are a right of the consumers to have access to share their thoughts. They have the internet to do that, and they have many other places that they can go to create blogs, to create websites, to do whatever else they want to do to express themselves. But to have a technological platform that lets them submit content that then the editors get to decide how and where they show that content, I think they should understand because it's in the terms and conditions when you sign up. So I don't believe in social media platforms as utilities, and I don't think that the government should have any role in deciding what is or isn't on those platforms. This goes both ways. I think that the company should decide what kind of platforms they want to have, whether they want to have free speech that allows inappropriate content or content that might be offensive, or whether they want to have a highly moderated platform to make it more broadly available or appealing to users. It's entirely up to them. And I really do appreciate the ruling because I think that the government should have less of a role in intervening in deciding how media companies create content and how they editorialize that content.

Jason Calacanis

Yeah, so I think that's well said. And I was in the same sort of camp as you Friedberg, which is like a battle of snowflakes here. The liberals obviously we're canceling people on these platforms, and now the MAGA folks want to come in and have the government regulated. If you want to compete here, just create a new product or service in the market, you're on the board of Rumble Sacks like they're doing really well. And if you squeeze too tight and your platform doesn't work, the marketplace should figure out who the winners are. And it's not a situation where you want the government getting in there because then they're going to go to a newspaper. And there's so much precedent here. I actually read some of these rulings, which is really interesting. They're written phenomenally well, I will put in the show notes, the actual links to the PDFs of these decisions. They're well worth reading. And in this case, they brought up a bunch of the previous law. It was fascinating. People wanted to force a newspaper to allow one candidate to reply and give him space. They were like, no, you can't do that. It's their newspaper. They decide what they publish. Another person wanted to have

a corporate newsletter be forced to give information about the other sides. You just don't get to do that.

David Friedberg

I'll just say one more thing. What else is striking is just how insular and protectionists Texas and Florida are being. And it's not just what this law, it's also with the lab grown meat or cultivated meat laws that they've passed. And other states are passing similar laws, which is limiting innovation in the state and limiting freedom to operate in the state in order to protect interests of individuals and corporations that already exist within that state. So it's really important to note this isn't a good or a bad thing, but those states are operating in a way, the lawmakers of those states are operating a way that's trying to protect the interests of the individuals and the businesses in the state over the freedoms and the liberties that might otherwise be available. And I think we often talk about these states being more free, but these laws and the cultivated meat ban laws, in my opinion, indicate that these states are actually on the contrary. They're much more kind of protectionists.

Jason Calacanis

What's your take on that Sacks?

David Sacks

To Friedberg's point? I mean, I think this ruling might've been necessary from a constitutional standpoint because corporations do have free speech rights. But again, I would say that I think that the laws of Texas and Florida were coming from a good place, which is they were trying to protect the rights of their citizens to engage in free speech. I think it's just unfortunate that in this case it's a zero sum game and as a result, those laws were invalidated. I think that makes sense, but I still think we have a problem.

Jason Calacanis

I agree with you. The platforms have too much power. What is your proposed solution? You obviously don't want to have the government in there running a newsroom or running Twitter X because you yourself were saying, Hey, the government's too involved in X and these platforms and doing this. So obviously having them more involved is bad, right? You're against them being involved.

David Sacks

Yeah, I think it's really tricky to figure out how to solve this.

Jason Calacanis

Got it.

David Sacks

I think for one thing, you don't want the government jawboning these sites to take down content that clearly should be a free speech violation. I'm just pointing the court didn't get to that.

Chamath Palihapitiya

I think we're totally missing the bigger picture. There's a lot of fear mongering that I think has happened with respect to the Supreme Court and that it's all of a sudden become some super ideological, super rigid, super activist place. And I think it's in fact much of the opposite and the data supports that. And so I think it's important for people to know that what's actually happening is that many of these decisions are very much split along non-ideological lines, and I think that that's an important thing. So I just like I'm pulling this up and I just want to read some of these things to you, "US versus Rahimi, which is a federal law that prohibits people subjected to domestic violence, restraining orders from having a firearm that was an eight to one decision where all but Thomas supported. That makes a lot of sense you would think Racial gerrymandering that was more ideological. Where was the conservative block versus Sotomayor Brown and Kagan Trump v Anderson, which is Trump getting back on the Colorado ballot nine votes. FDA versus the Alliance for Hippocratic Medicine, which was access to the abortion pill nine zero maintaining Access MO versus US, which is whether Idaho's strict abortion law conflicts with the federal law non-ideological where it was Gorsuch Alito Thomas and Kanji Brown Jackson who descended. So it goes on and on and I think what's so interesting about all of this is that I had thought that this was not like what it was. What I thought what had happened is Trump stacked the Supreme Court all of a sudden we are ripping all these laws apart, this longstanding doctrine of what has passed. But yet I think what's actually happening is people are pretty thoughtfully pushing the responsibility to the states. And I think that the court's decisions are relatively unpredictable in the sense that it's not just a conservative block versus a liberal block. I think that's the real story. And when you unpack a bunch of these decisions in that context, so interesting to me is these are pretty nuanced decisions that get at the heart of a lot of key important issues happening across non-ideological lines. Jan six one, Ketanji Brown Jackson was the Biden appointee that basically supported this thing that may throw out 200 plus convictions for Jan six and Amy Coney Bear was on the other side. This is an unpredictable Supreme Court, I think they think for themselves, they seem to be independent, and I think they're coming to their own conclusions. That's the only thing to take away from the distribution of the votes that should make people feel a little bit better.

Jason Calacanis

So I think this next ruling is the most important one, and I think it'll be the most important one that we've seen with this new court that has three of the nine justices placed by Trump, to your point, Chamath. And this one is seismic. The Loper versus Raimondo decision overturned Chevron. Okay, so this one takes a little explaining. The court overruled a landmark 1984 decision in the Chevron case from 40 years ago. For context, the original

ruling created the Chevron doctrine where the government and federal courts generally defer to the stances of federal agencies unless Congress has written specific laws on an issue. The 1984 ruling upheld the EPA's interpretation of the Clean Air Act. It's very influential. This has been cited by federal courts over 18,000 times in 40 years. It was overruled in another six to three decision where the justices voted along party lines, *Chamath*. Basically the shifts power back to federal judges and courts instead of administrative agency staff by experts, academics, all that kind of stuff. In the majority opinion, Roberts conservative obviously said the Chevron doctrine violates the administrative procedures act of federal law that directs the courts to review actions taken by federal agencies. He also pointed out that the courts are regularly expected to deal with technical questions, so this should not be considered beyond their ability to scope. Kagan a liberal wrote a critical dissent. She said, the agency staff with scientists and experts are more likely to have the expertise to make these decisions rather than the judges. She also pointed out that the system had been functioning for 40 years, and this ruling will create a massive quote jolt to the legal system. *Chamath*, get in there.

Chamath Palihapitiya

Do you remember when President Biden tried to pass the budget two years ago and he was one vote short, and Joe Manchin ended up putting it over the top, but he negotiated what was a redo of a bunch of regulation. And he was promised that there would be this regulatory overhaul that happened, and that was sort of why he had decided to vote for that budget bill. It ended up not happening. So the reason why I think he had saw that, and he discussed this, is that there are so many businesses that now suffer from the regulations of these agencies because when the agency enacted that regulation, it was just a different time and place and there was no clean way to go back to an independent body and say, I understand what your intention was in 1985 when you wrote that regulation, but in 2024, things have changed. Can we reconsider? And basically what the courts have done now will allow companies who believe that regulations are either overwrought or misguided for today's market landscape can bring it to an independent judiciary and have them decide. And I think that that's a very reasonable check and balance, and I think that makes a lot of sense. Folks can pass laws and if folks believe that those laws do you undue harm, now you have a mechanism to go and actually explain your case to somebody independent who can then make a judgment. I think that that's a good check and balance.

Jason Calacanis

Friedberg, I knew this was the one you most wanted to talk about. What's your take on this end of the age of experts and throwing things back to the court? What will be the practical ramifications of this.

David Friedberg

I don't know how much experience you guys have had dealing with federal regulators agencies.

Jason Calacanis

You have a lot more than I think all of us.

David Friedberg

Yeah, I've worked across a number of federal agencies in businesses I've been involved in, and I can tell you it is, as I'm sure you would expect, there's a lot of bureaucratic morass in these agencies. And if you think about it, it's because the agencies are effectively under the Chevron doctrine, vested unlimited authority to create rules and regulations that they then determine are meant to represent the laws that were passed by Congress. But more often than not, those rules and regulations begin to bleed outside of the lines of the intention of the laws when they were passed. And this is because those agencies, by creating new rules and regulations, and this isn't some, like I have a subversive reason for doing this, but these agencies have an incentive for creating more rules and regulations because they then get to go back to Congress and ask for more budget and hire more people and grow the importance and the scale of their agency. This is the natural kind of organic growth that arises in any living system and any organization of individuals is also a living system and has the same incentive. It wants to have more resources, it wants to get bigger, it wants to do more stuff, it wants to be more important. And Chevron doctrine has allowed agencies to operate independent and outside of the lines that were defined in the laws that were passed, that then vested them this authority that then they can go and say, I want more budget. I want to get bigger. And I'm optimistic that this ruling will limit the agency's authorities and limit their ability to create more bureaucratic overhead, more headcount, more individuals that need to now go and administer the rules and regulations that they themselves create. And so I'm actually very optimistic and hopeful about this change. Now, the downside, the negative to this is that there are a number of really important regulatory roles that agencies have come to play that never got passed as bills, like environmental protection rules. And there's a negative consequence that will arise to some degree with respect to health of the environment, health of people, et cetera. But I think net Congress needs to do its job, it needs to go back to session, and it needs to sit down and needs to pass laws that really clearly define what is and what isn't going to be legal going forward. And then the agencies operate strictly within those bounds.

Jason Calacanis

So to recap, it could get a little messy, but it's better, healthier system because this system has become super bloated over 40 years. That was my take on it as well. Sacks, what's your take on this? This feels like a huge win to me. What do you think?

David Sacks

Yeah. Well, I agree with that and I agree with what Friedberg said. Look, when this decision, the Chevron decision came down in 1984 at the height of the Reagan revolution, conservatives actually liked it. They praised it because we were coming off a period of an activist court, the Warren Court, and they thought that shifting power from the courts to

the agencies would actually be a good move. Well, it turns out it completely backfired. Chevron when it came out was not a widely noticed decision. Since then, it's been cited 18,000 times by federal courts. It's turned out to be enormously important and influential. And the reason for all those citations is it's the court's deferring to the rulemaking of an agency. What Chevron basically says is, as long as the agency's interpretation is reasonable or you could say not unreasonable, then the agency can basically promulgate the rule. And what this has led to is an orgy of rulemaking by all these federal agencies and so most of our laws now effectively are being made by unelected bureaucrats who are part of this three letter alphabet soup of government agencies. It's not the Congress, it's not the court, it's not the president. It's this fourth branch of government that's not in the constitution, which is the administrative state. And so the administrative state has become incredibly powerful as a result of Chevron doctrine. And now I think by reversing it, you actually give a chance for the restoration of democracy. Basically, the agencies are not empowered to essentially make whatever rules they want as long as they superficially appear reasonable. They actually have to show that their rules are within a statute that they were directed by Congress to effectively engage in the rulemaking. So this is a step in the right direction for sure. But again, the real problem here is reigning in this unelected administrative of state.

Jason Calacanis

Yeah. Chamath, any final thoughts here as we move on to the next one?

Chamath Palihapitiya

Seems like the Supreme Court is doing a great job.

David Sacks

I agree,

Chamath Palihapitiya

All nine of them, they really seem to be doing a tremendous job. I give them a lot of credit.

David Friedberg

I feel like I've become a conservative, maybe I'm a conservative now, Sacks, I don't know. I may have to sit down and confess to you because I read a number of these decisions and I was like, I agree, I agree. And this is supposed to be a conservative court, so I'm not sure. Maybe I am.

David Sacks

Well, it's actually it's not.

Chamath Palihapitiya

It's an originalist court. It's not a conservative court. This is what I'm saying. These are words that are planted by people that want you to believe their version of the lie.

David Friedberg

Great point.

Chamath Palihapitiya

There are a lot of originalists on the court and what the originalist doctrine says in Sacks, you can correct me, is I read the Constitution with faith infidelity and I just see what it says, not I interpret it, not I fill in the words what it says is what we're allowed. And I think that there's a really good version of America in that view of the world.

David Sacks

Yeah, I mean I would say it's not even necessarily an originalist or conservative court. It's a three, three, three court, meaning there's three conservatives, there's three liberals and there's three justices in the middle. You have this middle block led by the Chief Justice Roberts with Kavanaugh and Barrett, and then you got the conservatives with Gorsuch and Thomas and Alito. And sometimes the middle block goes with the liberal. Sometimes it goes with the conservatives. Again, it's more of like a triangle. And as we know, the triangle is the best shape for equipoise, right? Because it creates balance and I think what we have right now is a balanced court. And I think on the whole, they've done a good job and I think it's kind of sad that in reaction to some of these decisions, you've got powerful lawmakers like Elizabeth Warren who are explicitly calling for packing the court. They're actually saying, put a bunch of justice on here to ruin this equipoise that we have. I think it's really sad. I think that the court right now is one of the last highly functional institutions in American public life, and for elected leaders to be calling for its destruction is just sad.

Jason Calacanis

Well, I think, and here's an image from Axios showing six Republican nominated in three Democrat nominated. I think to give the counter argument, Roe V Wade being overturned was something the majority of the country didn't want. These three people were added for that explicit purpose by Trump. People have trauma pain over that reasonably, I think. And then the truth is though, if they are just one standard deviation here, as you can see in this Axios chart, which is based on some data,

Chamath Palihapitiya

I don't trust this chart. I think this chart is worthless. Jason, I think what it is, actual articles?

Jason Calacanis

No, I'm saying

Chamath Palihapitiya

Look at the actual -

Jason Calacanis

You don't even know what it is and how they voted. If you look at it

Chamath Palihapitiya

My point is this is meaningless. A child could have drawn this. It means nothing.

Jason Calacanis

No, no. A child didn't draw it, Chamath. This was -

Chamath Palihapitiya

How do you know?

Jason Calacanis

Because I'm reading the source of the data. This is based on something called "The Martin Quinn score", an analysis by political scientist, Andrew Martin, and Kevin Quinn. Notice the Martin Quinn score places judges on an ideological spectrum or a lower score indicates a more liberal justice or a high score indicates a more conservative justice, and then they went through all of their decisions.

Chamath Palihapitiya

So you're saying a subjective classifier, a subjective classifier is created by these two random people and you're now reading the score like it means something.

Jason Calacanis

No, I think it's an interesting chart to discuss to understand a little bit of their meanings.

Chamath Palihapitiya

What I would encourage anybody to do is to look at the actual substance of the decisions and the votes, and what you'll see is that people are not as easily predictable as that chart would show, and I think that's important.

Jason Calacanis

Okay! I think that chart supports exactly what you just said, Sacks, right? Yeah,

David Sacks

Not exactly. I mean, again, I view it as a three, three, three court. A lot of other people have written about that and they've got their own diagrams and charts to show that. Look, I think it's a court, like I said in equipoise, I don't think it's partisan. I think it's being reasonably fair. I don't agree with every single ruling. Like I said, I would've liked to have seen a different result in Biden V Missouri. However, I think on the whole, they're doing a good job and it really should be a scandal that you've got powerful lawmakers explicitly calling for the court to be passed. I mean, that would be a disaster, right? Because you have nine justices, which

is a good number, you try to increase that to 13, then the next time the Republicans have control, they're going to increase it to 15 or 21 or whatever, and pretty soon we're going to have a hundred justices on the court. You'll ruin it. Really, nine justices should be a constitutional requirement. We should just fix it at nine and not mess with that. So it's just scandalous to me that you've got politicians who are reacting to reasonable decisions by saying that we need to pack the court.

Jason Calacanis

Okay, quick hit here. This is an important story for you, Chamath SCOTUS also agreed to hear a case on the limits of online porn in its next term, which starts in October. The law in questions pass it.

Chamath Palihapitiya

Will it impact incognito mode? Because if it is that just you're in trouble,

Jason Calacanis

I think, did you flee to Italy or -

Chamath Palihapitiya

Could you imagine if they banned incognito mode?

Jason Calacanis

I think you might want to do a deep dive into how incognito incognito mode is. You may want to get a VPA.

Chamath Palihapitiya

I'm pretty sure Texas is going to ban incognito mode.

Jason Calacanis

Exactly.

David Friedberg

Texas and Florida.

Jason Calacanis

I think a couple of these sites, because of the threat of these laws of age gating, they've just decided to wholesale leave certain states by IP address. Therefore, the sale of VPNs in Texas went up because when you went to certain porn sites, they said, "Hey, because of Texas' proposing these laws, we're not going to allow you to visit this website."

Chamath Palihapitiya

Nick, do the NBC thing.

[Begin - NBC Clip]

The more you know.

[End - NBC Clip]

Jason Calacanis

Okay. SCOTUS agree to hear a case on the limits of online porn in its next term, which starts in October. The law in question was passed by Texas legislature in 2023 requires porn sites to verify the age of their users and restrict access for minors. It seems reasonable. Fifth Circuit Court in New Orleans upheld the law sending it to the Supreme Court if upheld users would have to submit personal info that verifies they're over 18 to watch porn. The law is opposed by the ACLU and the Free Speech Coalition, which is a trade group representing adult entertainers and companies, they argue it places an undue burden on adults wishing to access constitutionally protected free expression.

Chamath Palihapitiya

Oh, speaking of porn and it's related businesses, the Rick's Cabaret recession index is back on. Did you guys see this?

Jason Calacanis

No.

Chamath Palihapitiya

It was published on Twitter. So Rick's Cabaret is a collection of public strip clubs. And what's interesting about the Rick's Cabaret stock price is that it has presage the last two recessions, and whenever the stock dives, people have said it actually predicts an upcoming recession and the stock just puked up like 25 or 30% in the last week.

Jason Calacanis

Oh boy. There it is. So people do not have the cheddar to go to the cabaret and go splashy cash and I got it.

Chamath Palihapitiya

It's called Rick's Cabaret, but the strip club index says a recession is on the off.

Jason Calacanis

I prefer cabaret. It's more charming. Alright, so

David Sacks

JCal, I'm surprised you're not discussing the immunity case. That's the one that all the pundit hyperventilating about.

Jason Calacanis

Oh we'll get, I made it last.

David Friedberg

I'll counter the Rick's Cabaret recession indicator as valid anymore based on the theory of our good friend on the group chat, who I think has done a very good job highlighting that the strip club industry has been decimated by OnlyFans. As a result, Rick's cabaret is more likely down because of OnlyFans and the lack of, shall we say, employee base available to work in these establishments because they make more money working online at OnlyFans now, that was a theory post posited by one of our good friends.

Chamath Palihapitiya

But you got to think that that showed up in the data at least a year, two years ago, no? Because how long has OnlyFans been around a long time. I'm guessing four

Jason Calacanis

Years. Well, but I think it peaked during COVID because you couldn't go to a cabaret if you wanted to take in a cabaret show and have a bottle of champagne at a cabaret show, you couldn't do it. The thesis of our friend is the

David Friedberg

Thesis of our friend is that entertainers? Yeah. Only fans took all the entertainers out of the strip club industry because they make more money online.

Jason Calacanis

Cabaret, Cabaret industry.

David Friedberg

The cabaret industry I'm sorry. Please edit that, Nick. And as a result, the quality of the product at the cabaret business has declined, and as a result, revenue has declined and it took a little bit of time to earn that in.

Jason Calacanis

So the virtual cabaret industry,

David Friedberg

That's our friend's theory. We give them a big shout out. We will shout out, call it the beep theory.

Jason Calacanis

Yeah, the beep theory. So the elite cabaret artists can make more money on OnlyFans. They'll go there and then that leaves the less refined artists -

Chamath Palihapitiya

Nick will have to cut this whole segment.

Jason Calacanis

For the real person. Why?

Chamath Palihapitiya

It's so good, so pure.

Jason Calacanis

I'm trying to navigate this and not get labeled.

David Friedberg

Sacks where are you on this? What's your opinion?

Jason Calacanis

Sacks going to wave. No, I'm trying to get into cabinet position. So anyway, so far 16 red states have passed or agreed to pass age gain.

Chamath Palihapitiya

JCal's got the redundant Mifflin

Jason Calacanis

Sorry, I couldn't hear you. You guys started laughing too quickly. Say it again,

Chamath Palihapitiya

Cut out [inaudible 1:04:50] score of X, Y, Z

David Friedberg

[inaudible 1:05:00]

Chamath Palihapitiya

[inaudible 1:04:16] What does it say?

Jason Calacanis

I don't understand the Dun method score. I don't watch the office.

David Friedberg

JCal what is wrong with you? You would love the office.

Jason Calacanis

Yeah, I never got into it. I never got into it. I've probably watched it like four times. That's the paper company where they work. Apparently we've had a huge victory for Trump in the immunity case. Trump sued in this case based on special counsels as Jack Smith's prosecution of Trump for alleged attempts to overturn the 2020 election in his role in January 6th. If you don't remember that case, since there's so many cases against Trump, this was based on Trump pressuring Mike Pence to not certify the election, his phone call to get the 11,780 votes that were missing in Georgia or Giuliani and the WAC pack trying to fake electorates to overturn the election. Trump argued that he should be immune from prosecution for Acts committed while he was president. They ruled 6-3 along party lines that former presidents can't face prosecution for actions that related to core powers of their office. And that all -

Chamath Palihapitiya

Official, official,

Jason Calacanis

That was the term that they used core powers of their office and that all official acts receive at least the broad presumption of immunity. Here's the quote "Under our constitutional structure of separated power is the nature of presidential power, entitled former president to absolute immunity for criminal prosecution for actions within his conclusive and preclusive constitutional authority. And he is entitled to at least presumptive immunity from prosecution for all his official acts. There is no immunity for unofficial acts", that would be outside the duty of the president's Chief. Justice Roberts emphasized that decision that the decision doesn't necessarily mean presidents are above the law in her dissenting opinion. Justice Sotomayor wrote that under the new ruling, criminal law can't be applied to presidents even if they misuse their office for personal gain. She wrote that if the president orders the Navy Seal team seek to assassinate a political rival, he is now insulated from criminal prosecution. Another quote, the president is now a king above the law. She closed with this line "With fear for our democracy I dissent notably, this breaks a tradition of closing with I respectfully dissent." So Trump's attempts to overturn the election results case now hinges on whether Trump's conduct was private or related to his official duty. For example, the lower courts now have to determine when Trump pressured Pence to not certify the election, if that was an official business of being president or not. Or when he called Georgia and said, "Hey, can you find me 11,000 votes?" Was that official duty or was it outside his duty? President Trump has already cited the immunity ruling in requesting a New York judge throw out his conviction in the hush money case. The sentencing for that was pushed back from July 11 to September because of this ruling. Sacks, there's your wrong.

Chamath Palihapitiya

What do you think Cal? I'm really curious what you think.

Jason Calacanis

I mean, I read, I'm halfway through the original PDF and I do think the president needs immunity obviously for conducting business. And then I do think if they step outside the lines, they should not have immunity and then the devil will be in the details here and that's what courts and juries exist to do. So when he told Mike Pence to not certify the election, he's obviously not doing that as part of his duty as president. When he called Georgia to get the 11,000 votes, he was not doing that. That's why he had outside counsel there. That's why he hired Giuliani and the Wack Pack.

Chamath Palihapitiya

What do you think of Sotomayor's hypothetical of using Seal Team six to kill a political rival? You think that he would be immune from anybody would be immune from prosecution for that?

Jason Calacanis

No, that seemed a little bit hysterical and actually that came up in the discussions. I actually listened to the audio version of this when they were doing the Q and A basically. And I think you listened to it too, Friedberg. We had talked about it. So yeah, I think the devil will be in the details here in how they execute it. Obviously you need to have immunity if you're going to, I don't know, take actions to assassinate Osama bin Laden or whatever it is. But it is a bit concerning this concept of being able to shield the president when he asks, I don't know the Attorney General to do something illegal. So these are the details that are going to need to be worked out here. And obviously it's a split decision. So the Supreme Court themselves can't agree on this.

Chamath Palihapitiya

I think that there's just so much we don't know about what it takes to be the president of the United States. The example that I gave you guys in the group chat is like, look at the whole Iran Contra Fair. How complicated was that? Can any of us really understand what all of the interplay was when Ronald Reagan decides to work around a weapons embargo, sell weapons to Iran, take money, funnel it and fund descent, and East does in the middle of all of that, there was a huge cocaine trade that was kind of enabled or supported. I mean, how do we know? I think there's just a lot of latitude that you give to the one person that you elect to be president. And so maybe it's just a good reminder for all of us that we are electing one person. We cannot be electing five or six people. We're not electing a shadow cabinet, we're electing one person. And this is just a reminder of how much power that one person has.

Jason Calacanis

Sacks, you have thoughts?

David Sacks

I think this was an easy decision. All the majority did was codify explicitly what has long been presumed that presidents enjoy broad immunity for official acts that they undertake in the exercise of their constitutional authority and the duties of their office. It was established decades ago that presidents enjoy broad immunity from civil lawsuits. So it's already been the case that presidents can't be sued civilly. Well, criminal liability is even harder to prove. So if you have the broad immunity from civil, you should have broad immunity from criminal as well. And the Supreme Court I think had never ruled on criminal immunity because they never had to. No form of president's ever been subjected to the type of law fair that's been deployed against Trump, who also happens to be the political opponent of the current president. So I think it's a shame that the Supreme Court has had to rule on this. Did they get every detail right? I don't know. I don't know what it means for the future. However, I know the reason they're doing it, which is we've had this unprecedented law fair against Trump and that's why they've been forced to do this. So ultimately, I think this is the right decision. No, it does not authorize drone strikes against the president's political enemies. That's insane. It does not make the president above the law or a king. And I think that Roberts in his ruling said that the key things he said that the dissents position in the end boils down to ignoring the constitution separation of powers and the court's precedent, and instead fear mongers on the basis of extreme hypotheticals. And then he says that the dissents overlook the more likely prospect of an executive branch that cannibalizes itself with each success of precedent free to prosecute his predecessors yet unable to boldly and fearlessly carry out his duties for fear that he may be next. I think that's really the key line here is that you're posing all of these insane hypotheticals instead of recognizing the practical reality that if you don't give president's immunity, then the next president is going to prosecute the old president and future presidents will be hamstrung in doing this very important job. That's already difficult enough. So I think that this was just a necessary decision. There was no way around it, and the president already has civil immunity. You got to give him criminal immunity too.

Jason Calacanis

Friedberg your thoughts. I guess the steel man on the other side would be Trump doing things like calling Georgia and asking to find votes or pressuring the president, the vice president to overturn the election results after 60 foul legal cases is what's concerning the other side. So do you have a take on it?

David Friedberg

I think that the distinction between acting in their executive capacity as president of the United States versus their personal capacity as an individual candidate or an individual that could benefit through some other means. It's a really good distinction. I think how the courts ultimately adjudicate that distinction is what's still ahead. But I do think that the clarity of that distinction is critical. It seems like the right thing, how this is going to play out with respect to election interference. Does interfering in the election constitute one's role

as an executive overseeing the federal election process or does it constitute one's personal benefits that may arise if one is individually is the key determinant that the lower court will likely have to make, maybe that gets kicked back up again in the future if there's a disagreement over the decision that the court does make. With regards to that distinction.

Jason Calacanis

Where do you stand on that, Sacks? You in previous episodes have said you didn't believe in this election interference and you thought Trump lost. Have you changed your position on that or are you still in that position?

David Sacks

That's totally irrelevant to the court's decision.

Jason Calacanis

Let me ask you a follow up to that then. So in the case of do you think Trump was acting officially when he asked Georgia to find the votes when he asked Pence to overturn the election, or do you think he was acting in his duty?

David Sacks

I think that what you just described there is what's known as "a question of fact" in the legal system. There are questions of law and questions of fact, and what the Supreme Court has done is given us a doctrine. They've answered the question of law. They've basically given us a three-part test. They've said that when the president acts within his exclusive constitutional authority, he gets broad immunity when he does an official duty, but that's not in that category. He gets presumptive immunity, meaning that the prosecutor can still go after him. They just have to rebut the presumption. And when he gauges in a personal act, there's no immunity. So look, what has to happen now is if Jack Smith wants to continue this prosecution of Trump, he's going to have to make the argument that Trump's acts were either personal or were part of his duties, but he's going to rebut the presumption. So that is now the question of fact that Jack Smith would have to litigate, and I'm not going to litigate it here. I don't know the answers to that, but again, I would separate questions of law and questions of fact. What the Supreme Court has done, I think has given us a useful doctrine that the presidency now needs in light of the reality of law fare.

Jason Calacanis

See, this is the one I think Chamath, that is super fascinating because I could see President Trump and his lawyer saying, Hey, very simple. We think there was election interference. So yeah, we called Georgia to make sure that those 11,000 votes were there and hey, we thought this was not a fair election. So I was acting in my duty and when I told Pence to not certify the election, I could see them making that argument. What do you think?

Chamath Palihapitiya

I don't know the specifics of these cases, but I think it's going to force a prosecutor to have a really strong point of view and have evidence and then go after somebody. But again, I think you're focusing too much on Trump. Robert said in the decision you have to look past the exigencies of the current moment. This is a set of rules that's about past presidents and future presidents. This is forever. And so that's the most important thing here, which is there's a set of rules that I think we can all agree on because the man that we all elect, dutifully elect is the most powerful person in the world. We knew it before. We know it now. So even more important that we make sure we're picking one person and that person is capable of doing the job, you may not agree, but they need to be competent and capable of doing the job.

Jason Calacanis

Yeah, well, they definitely have to be competent. And this case was brought by Trump over this specific issue. So I think that's, if we look at this specific judgment here, that's what they're going to have to determine in the coming months or years with this case is was he acting in his duty or was he not? That's going to be a really interesting case.

David Sacks

I think that between this ruling and another case called Fisher versus US, which is the January 6th obstruction case where the Supreme Court in the sixth extreme majority found that Sarbanes Oxley was being misused to create a new crime called "obstructing an official proceeding". When you combine that judgment with this judgment, I think Jack Smith should just resign. It's pretty clear that Supreme Court has kicked the legs out from under his case.

Chamath Palihapitiya

And by the way, Ketanji Jackson supported that decision.

David Sacks

That's right. So again, on a hyperpartisan court. They just ruled that Sarbanes Oxley had nothing to do with what happened on January 6th and it was being misused by a creative prosecutor. And I told you when these Jack Smith cases first came, I said, it's not the job of a prosecutor to be creative. Their job is to narrowly interpret the law and to enforce the law. And you combine these rulings together and you can see that Jack Smith has now an even more uphill battle. It's time for him to resign, stop his ridiculous law

Chamath Palihapitiya

By way's 200 convictions. It's not just one.

David Sacks

That's right. It's 200 of them.

Jason Calacanis

Small percentage of the overall convictions, though

David Sacks

They took hundreds of people who did not engage in any violence on January 6th. Many of them just wandered through an open door in the Capitol and they were prosecuted to the hilt. They were sent to jail for that because this DOJ wanted to send a statement. They wanted to use them as a political talking point, and that's a shame. I think hundreds of people were horribly mistreated by the judicial system as part of a political prosecution.

Jason Calacanis

Now, there are some people, except for the ones who beat police and brought long guns,

David Sacks

No problem in putting those people in jail. No problem. Anyone who used violence goes directly to jail do not pass, go. But some of these people just took a tore through the capitol.

Jason Calacanis

All those people got suspended sentences and trespassing, speeding tickets.

David Sacks

Some went to jail. The ones who went to jail, they spent three years in jail.

Jason Calacanis

Yeah. The ones who went to jail were the ones who beat cops or otherwise.

David Sacks

Not Jacob Chanley poor just because he wore the Viking. Remember the guy with the Viking?

Jason Calacanis

Oh yeah. So they also went to jail if you did damage, if you vandalized. Yeah. That was the other reason people went to jail.

David Sacks

I saw a video of him getting a guided tour through the Capitol.

Jason Calacanis

I mean, if you vandalized a capitol building, I guess you have to do so what

David Sacks

Do you do? He moved to Deus around?

Jason Calacanis

No, I think they shattered the windows and

David Sacks

He didn't. I never saw any video of him doing that.

Jason Calacanis

Anyway,

David Sacks

They picked on him because he was an easy target. He looked like a weirdo and he had the Viking horns and he has a history of mental problems, and so they put that man in jail for years.

Jason Calacanis

Yeah. I'm not concerned about him. I'm concerned about the ones who brought all the long guns to the hotels around the capitol to have backup firepower. But hey, everybody's got a different opinion on this. That wraps up te All In Podcasts.

David Sacks

You can have those concerns. I don't think it lets you put it into some people in jail.

Jason Calacanis

Yeah, I think you can hold both of those ideas. I don't think anybody innocent should go to jail and I don't think the oath keeper should have brought guns to the Capitol. Okay.

David Sacks

They didn't brought them to Virginia, just to be clear.

Jason Calacanis

Yeah. They brought them to the hotels around them. Huge large cash...

David Sacks

In Virginia.

Jason Calacanis

That's Correct. Yeah.

David Sacks

In Virginia.

Jason Calacanis

Yeah. They drove to the Capitol on January 6th and brought their guns to the hotel.

David Sacks

Anyway, I'm not defending,

Jason Calacanis

You are you defending them.

David Sacks

No, I'm not defending them. I'm just clarifying that there were no guns at the capitol because that's

Jason Calacanis

No, they were in the hotel around the Capitol.

David Sacks

That's a lie. But I don't think innocent people who just wandered through the capitol should go to jail and that clearly.

Jason Calacanis

We agree. We agree. They should not go to jail. They should get trespassing tickets. Okay. This is episode 186 of the world's number one podcast. Did Biden resign while we're taping?

David Friedberg

Biden just went on a campaign call and he said, "Let me say this as clearly as I possibly can, as simply and straightforward as I can: I am running...no one's pushing me out. I'm not leaving. I'm in this race to the end and we're going to win."

Jason Calacanis

Whoa.

David Sacks

I think it's more likely than not that they're not going to replace Biden because the only feasible alternative is Harris and should be worse, and I think it's more dangerous for the country, frankly. I'd rather to see Biden finish out his term than put someone new,

Jason Calacanis

Even with If he had Alzheimer, Trump, Trump, Trump.

David Sacks

Its two bad choices. JCal and I don't agree with Biden's policies, but there's continuity there.

Jason Calacanis

Okay. Four. The chairman dictator from the home office in Italy. Chamath Palihapitiya, you're assault of science and the Rain man. Yeah! Definitely. Definitely. Cabinet position. David Sacks. I am the world's greatest moderator of the #1 podcast in the world. See you next time, bye, bye.