

RALPH NADER RADIO HOUR EP 433 TRANSCRIPT

Tom Morello: I'm Tom Morello and you're listening to the *Ralph Nader Radio Hour*.

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan along with my trustee, and I don't know if I'm using this word correctly erstwhile co-host David Feldman. Hello David, welcome back.

David Feldman: Thank you.

Steve Skrovan: Of course the man of the hour Ralph Nader, hello Ralph.

Ralph Nader: Hello everybody.

Steve Skrovan: Now Ralph, I don't know if you're aware, David wasn't with us last week because he was with Triumph the Insult Comic Dog in Washington where they were covering, and I use that word loosely, the January 6th hearings at the at the Capitol. David, I understand that was a pretty interesting adventure. What happened?

David Feldman: As per the advice of counsel I cannot comment on an ongoing criminal matter.

Steve Skrovan: David why don't you tell us what happened.

David Feldman: As per the advice of counsel I cannot comment on an ongoing criminal matter.

Ralph Nader: Well your team tried to get into the hearing room and you thought you had the credentials to do so. The Capitol Hill police disagreed and blocked you or evicted you as you were entering the hearing room, isn't that right?

David Feldman: Ralph as you most surely know, as per the advice of counsel, I cannot comment on an ongoing criminal matter.

Ralph Nader: You're either gonna perplex or outrage the listeners. Which do you prefer me to emphasize, perplexing or outraging?

David Feldman: As per the advice of counsel, I cannot comment on an ongoing criminal matter.

Steve Skrovan: All right, well he's taken the 5th Ralph; he has taken the 5th right now. He's doing a John Eastman on us.

Ralph Nader: Okay, People can go on the internet and find out what happened because it was in the news at the time.

Steve Skrovan: Yes, and I just want to point out that I know Ralph you have never been arrested in your life. I have never been arrested in my life. But now on this program we have an ex-con.

Ralph Nader: That's a rather severe description for a civic attempt by *The Late Show with Stephen Colbert*.

David Feldman: As per the advice of counsel, I cannot comment on an ongoing criminal

matter.

Steve Skrovan: They were doing a bit for *The Late Show with Stephen Colbert* and they all got arrested. Tucker Carlson was claiming that they were insurrectionists. So when David is free to speak more we'll get the story of exactly what it's like to be arrested at the Capitol and kind of what you go through there.

Ralph Nader: In American jurisprudence you're innocent until proved guilty so you can never describe David as an ex-con.

Steve Skrovan: You know what, I will describe David any damn way I please, Ralph [laughter].

David Feldman: Can you describe me as a neocon?

Steve Skrovan: A neocon, that's even worse. I'm gonna describe you as a neocon. All right, well let's get to the show. You know the wreckage left in Donald Trump's wake is no accident. Far from being a bumbling, incompetent buffoon, Trump entered the White House with a well-coordinated plan of action and executed it well. Using a potent combination of populist, free market ideologues, and establishment Republicans, the Trump administration installed industry friendly, incompetent and destructive agency heads to make our government as dysfunctional as possible and burn it to the ground. That's what our guest Professor Tom McGarity argues in his new book, *Demolition Agenda: How Trump Tried to Dismantle American Government, and What Biden Needs to Do to Save It*. We'll speak to Professor McGarity about his book, how conservative think tanks, wealthy donors, and groups like the Chamber of Commerce backed up Trump's demolition crew, and how we can rebuild. As always, somewhere in the middle we'll check in with our corporate crime reporter, Russell Mokhiber. But first, we're hearing a lot about how Donald Trump tried to destroy democracy after he lost the election. Now let's hear about the inside plan of how he tried to destroy government when he was actually leading it. David.

David Feldman: Tom McGarity is the William Powers Jr. and Kim L. Heilbrun Chair in Tort Law at the University of Texas at Austin School of Law, and the past president of the Center for Progressive Reform. He's the author of *Pollution, Politics, and Power*, *Freedom to Harm*, *The Preemption War*, and *Demolition Agenda: How Trump Tried to Dismantle American Government, and What Biden Needs to Do to Save It*. Welcome to the *Ralph Nader Radio Hour* Professor Tom McGarity.

Thomas McGarity: Thank you, it's great to be here.

Ralph Nader: Welcome indeed Tom. Our listeners think this is a book just about "government and regulation". Think again, this is a book about how the Trumpsters, directed by Trump himself, cut out protective programs and allowed you to breath more dirty air, drink more contaminated water, be exposed to more contaminated, uninspected food and all kinds of other things that affect you, your families, your children and your community. It was and continues to have its deadly legacy. It was a demolition agenda. So before we get affirmative on what Biden has done to roll it back and what he hasn't done, and what is needed, which is the last chapter in your book Tom, describe to our listeners something they know something about, but they don't quite know how deadly, devastating illegal and relentless it was in the executive branch agencies like the Food and Drug Administration, the Auto Safety, the Environmental Protection Agency,

Consumer Financial Protection Agency. All these are supposed to be watchdogs of Wall Street to Houston looking out for the health and safety of all the people regardless of whether they're liberals, conservatives, anarchists, progressives, whatever. Give us the summary of this.

Thomas McGarity: Well, it's a big story. We had what I call in the book, established over many years, going back really Ralph to when you were pushing the Congress to create agencies like the National Highway Traffic Safety Administration, the Environmental Protection Agency, and the Occupational Safety and Health Administration. We created these agencies to provide protections--protections for vulnerable people, vulnerable places, vulnerable species, and to protect them from polluters, profiteers, and plunderers. Over the years of course this protective edifice, I call it, has been subject to chipping away here and there in various administrations, typically Republican administrations but not entirely. We've had some chipping away during Democratic administrations as well but nothing like what we saw in the Trump administration where there really was a demolition agenda. The agenda was not just chip away, but let's destroy this thing; let's go back to where we were prior to the New Deal, or even conceivably prior to the Progressive Era, the turn of the nineteenth century to the twentieth century. It was quite systematic. It was quite broad. I initially was gonna focus on just three agencies maybe, but people urged me to go beyond that. So I looked at worker protection. I looked at environmental protection. I looked at protecting our public places like our national parks, our national monuments, those things. I looked at consumer protection and the creation of the Consumer Financial Protection Bureau, which was absolutely neutered during the Trump administration, even though it had just been created during the Obama administration.

Ralph Nader: It was created to stand up to Wall Street's huge rip-offs and thefts of investors and other vulnerable people in the economic sphere. Mick Mulvaney, who was appointed to dismantle it by the Trump administration, made a statement saying, it's there to protect Wall Street. Can you imagine? So how did they go about dismantling? Give us the details. And don't you think a lot of it was illegal?

Thomas McGarity: Much of it was unlawful and fortunately we had a judiciary then, though we may not at the moment, that was willing to call them on it. But I start off with just appointing toxic leaders to these agencies like Scott Pruitt at EPA, Ryan Zinke at the Department of Interior, Elaine Chao. Goodness gracious, she's been around forever, talk about draining the swamp. She's been part of the swamp forever. She's Mitch McConnell's wife. She used her position in the Department of Transportation, which oversees the National Highway Traffic Safety Administration, to help out her family's companies, their transport and shipping companies. Then of course there's Betsy DeVos who hates public education and spent four years as the Secretary of Education trying to do in public education and move monies ~~ey~~ to private schools and religious schools.

Ralph Nader: Literally aiding and abetting these commercial colleges or universities in stealing from the students. She was their protector.

Thomas McGarity: Absolutely. When the students wanted to get their money back, the ones that had clearly been defrauded, like the Corinthian fiasco, she wrote a rule saying, well, no, you don't get all your money back because you must have got some kind of education out of them. And she wouldn't allow them to get the compensation that they were entitled to. Other things that went on included systematically dismantling the agencies by shifting things around,

reorganizing the civil servants who I think by the way are kind of the heroes of the book. If the civil servants, got too aggressive about doing what their statutes told them to do, they got shunted off to Siberia. The Department of Interior literally moved the entire Bureau of Land Management, which is responsible for almost one third of the nation's lands in terms of giving out oil, gas and coal leases. They sent the office to Western Colorado. Of course nobody there in Washington, was willing to go to Western Colorado to move their families, some of whom had wives who were working, or husbands that were working in Washington, D.C. So they weren't going to go to Colorado. The Bureau of Land Management was essentially decapitated. Consumer Financial Protection Bureau (CFPB), remarkably, we talk about Mick Mulvaney, well the first thing he did was put that group that was in charge of protecting students from these fly-by-night educational institutions, he demoted that organization, shuttled it away, and created an organization to do cost-benefit analysis on various regulations or deregulations mostly that they were promulgating. Kathy Kraninger, his successor, actually forfeited the argument that the Consumer Financial Protection Bureau should be independent and should not be subject to political pressure from the White House, and took the position in litigation that the CFPB was unconstitutional.

Ralph Nader: What is the CFPB protecting people for? What kind of theft, and deception and thievery? Give some examples.

Thomas McGarity: A good example of course is payroll lenders. These outfits that set up outside every military base and often in college towns who prey on people who are just moving from check to check/pay check to pay check. If they get a little behind, you go to the pay day lender and they say okay, we'll lend you the money until next payday. So maybe 500 bucks we'll loan you till next payday. Their hope is that you won't be able to pay it back so that they can roll it over and charge another fee. In fact the Consumer Financial Protection Bureau during Obama administration, did a study and showed that this happens 10 or 12 times they roll over these loans. So basically, they're in peonage to the payday lender. Of course another thing CFPD does, or did, but can't anymore, is protect us from mandatory arbitration clauses and consumer contracts. Those are really bad news. It's; You click on a consumer contract or you sign one with three pages of very, very fine print. You almost invariably will be signing a contract that deprives you of your right to a jury trial if the company defaults, or if the company does something wrong or sells you a bad product, or provides a bad service. You agree when you made that click, or you signed that long form, to arbitrate your claims. Well, the arbitrators are picked by the companies. Not surprisingly, since they are repeat players, the arbitrators tend to rule on the side of the companies. Not only that but you give away your right to a class action. When you've been cheated out of say three or four hundred dollars, which is not pocket change, but is not enough to support an individual lawsuit to get to three your three or four hundred dollars back. What you need to do is combine with all the other people that got cheated out of similar amounts by whatever strategy or tactic s the company used, and get together with them; that way you can hire a good lawyer, or maybe more than one lawyer, you can hire a number of lawyers to go after that company to compensate you for all of your losses. That turns out to be big money because often these companies have cheated hundreds of thousands or millions of people.

Ralph Nader: Well, even worse you point out Wells Fargo created three and a half million false accounts for its customers--credit card accounts, charged them for auto insurance they didn't ask

for. Nobody was criminally prosecuted at the top of the company or anywhere. Wells Fargo is running along making its profits. But there's something strange about this Trump approach. They really thought that most businesses wanted deregulation, and they thought they had a lot of Trumpster voters behind them. But on page 265 of your book, you make explicit what's throughout the book, that these protective measures, what you call, even something about "real threats" posed by tainted food, unsafe workplaces polluted air and contaminated drinking water to name a few. These protective measures are supported by the vast majority of American people, whether they're conservatives or liberals. You give the paradox of the election of Trump in South Dakota by 30% margin, 2016. But what else was on the ballot that was overwhelmingly passed?

Thomas McGarity: What they also overwhelmingly passed was elimination of putting back into effect something like usury laws. They eliminated or reduced the interest rates these payday lenders could charge. Some of these lenders were charging 200-500% interest rates, and they simply capped the interest rates with this law. At the same time they elected Donald Trump, people understood what these payday lenders were doing and they put a cap on the interest rates.

Ralph Nader: Effectively destroying the payday lending industry in South Dakota.

Thomas McGarity: That's right. Because they can't make their obscene profits if you limit them to just 36% interest rates.

Ralph Nader: Well during this dismantling I was active trying to expose it and in my modest way, do something about it, I could never get any legal specialist to recommend the kinds of actions that prosecutors should have taken or civil lawsuits that should have been brought against the corrupt nominees of Trump, like Scott Pruitt who was driven out because of his own personal corruption as head of EPA. Why is it that the legal community is having trouble dealing with agencies that wilfully do not enforce the law, wilfully violate congressional mandatory orders and statutes, and they're not exposed to any criminal action; or they're not exposed to mandamus, equitable remedies, civil suits by wrongfully injured people because of deliberate scrapping of health and safety standards letting companies do whatever they want in terms of recklessness. Give us some knowledge about this. Why did the law fail here or was there no law?

Thomas McGarity: The first reason it fails when you're talking about civil lawsuits against the heads of these agencies who shirk their duties is of course sovereign immunity. You can't sue the government unless they agree to be sued. That goes back to the old English maxim that the king can do no wrong. Of course the king can do wrong. But still if the federal government, that is Congress, doesn't wave sovereign immunity then you can't sue these heads of these agencies for damages due to maleficence. They can be criminally prosecuted but that has to be done by the Justice Department. Conceivably by a state attorney general and that might happen. But so far I talked about Scott Pruitt and Ryan Zinke who were both run out of town on a rail because of corruption, yet they're back. Ryan Zinke just won the Republican primary in Montana, and Scott Pruitt is trying to do that in Oklahoma. We'll have that election, I think, next week or the week thereafter. So apparently not only have they not prosecuted, but they plan to come back to town.

Ralph Nader: Well, you know, you go on to say this is a serious paradox that's gonna be

apparent in the 2022 and 2024 election years. You say, “The South Dakota experience suggests that progressives can reach rural and white working-class Americans, on issues that are close to their own experiences without appealing to resentments against “the other”. Rural and white working-class Americans are concerned about their safety and the safety of their children and grandchildren.” Well, what if they translate that kind of concern in evaluating who is on the ballot and who they should vote for?

Thomas McGarity: That’s the great, I think, challenge of progressive populism. I think it’s out there and I think it has potential. The security or this desire to be protected against the uncontrolled, unrestrained free market is out there. It is there with these, as you mentioned, the white working class, the rural America. But so far, so many of them have heard the appeal of Donald Trump and others that, based on fear and resentment, this notion of replacement, the notion of us against the other. And the appeal to fear so far, I think has overwhelmed the appeal to good citizenship. We all owe each other something. One thing we owe ourselves is protection from corporate maleficence. I think people get that, but for some reason a lot of them at least, still are just too concerned. Maybe they’re listening to Fox News, or on the web listening to Breitbart of whatever. But these appeals to their fear and resentment simply overwhelm.

Ralph Nader: Yeah, the other problem is politics abhors a vacuum, and if the progressives are not beating the drums for major programs to curtail corporate crime, fraud, abuse, contamination, hazards, greedy theft of people’s hard-earned earnings, there’s a vacuum. The right-wing radio programmers like Sean Hannity and others, that whole machine at Fox News, fill the vacuum. I think people, if they look out anywhere toward politics, they get an overwhelming avalanche of stuff like Fox News and the domination of radio by right wingers. And they’re not hearing from the other side. I mean I’ll give you a personal example, all the consumer activists in this country should be holding your book up. They should be promoting your book. They should be filling the internet with excerpts from your book. This is the only book that’s been done in such intensity. We’ve been talking with Professor of Law in University of Texas, Austin, Thomas O. McGarity and his new book *Demolition Agenda: How Trump Tried to Dismantle American Government, and What Biden Needs to Do to Save It*. So it’s not being done. Politics is also a form of who has the most energy, who is the most intense, who is the most driven. It’s the bad guys who are the most driven, the Trumpsters who are the most driven. So we have to listeners get professor McGarity on programs you know in your locality and region. So tell us what Biden has done and what he needs to do to reverse course here.

Thomas McGarity: Well, he has done a lot. You sort of have to take it program by program. My overall grade is kind of a b-minus. In the area of climate disruption, he rejoined the Paris Climate Accords. He undid what Trump did with respect to the automobile standards for reducing greenhouse gases from automobiles; methane emissions from the oil and gas production industry he’s going after. He reversed a lot of what Trump did, but the big one, the clean power plan that the Obama administration promulgated, and that Trump replaced with a milk toast affordable clean energy plan, it’s not clear that Biden will be able to do anything about that. That’s regulating power plant emissions of greenhouse gases. We’re gonna find out maybe tomorrow, maybe by the latest sometime next week when the Supreme Court issues its opinion in *West Virginia v. EPA* whether EPA has any authority to do any of this. So to some extent Biden has been hamstrung by Republican appointed judges. That’s hurting, particularly in the area of natural resources, where Biden immediately put into place a moratorium on issuing new coal

leases. The federal judge said, no, you can't do that. He put a moratorium on new oil and gas leases and a federal judge in Louisiana said, no you can't do that. So he's been hamstrung to some extent by these federal judges. But he has done some good things. One really I want to focus on importantly. I said that the civil service, these guys that devote their entire career to serving the American public in these agencies are trying to implement what their statutes tell them to do to put into place these protections. The Trump people went after these people like gangbusters. One thing that Trump did toward the end of his term was put into effect something called Schedule F. It was an executive order that basically undid the civil service protections that have been around since just after the Civil War for those civil servants who exercise policymaking functions. Biden immediately rescinded that Schedule F Executive Order. But it could easily go back into place. It's sitting there ready to be put into place again for the next Republican president. That could do immense damage to this Civil Service, which really these are the guys that put these protections into effect and go out and enforce the protections, and go after the corporate plunderers in an effort to put them in jail. There have been some failures by the Biden administration. He hasn't undone all of Trump's reductions and protections for endangered species for example. The jury is still out on a few of Biden's efforts. But you got to give him credit. He's trying and his people are trying.

Ralph Nader: He's also blocked by what you put in your book, "the prospects for protective legislation are further dimmed by the makeup of the Senate and the continuing vitality of the filibuster. Senators representing only 17% of the US population have the power to stop most bills from going forward." That's why throughout your book you keep mentioning rural areas, rural areas. If the Democrats don't pay attention to rural areas, where 17% of the population has enough senators to block legislation, well they're not going anywhere, no matter how much support they have in California, and New York, Illinois and Massachusetts, and those states. But I have to take issue with some of your language Tom. You know what I'm about to say, which is, you refer to people on the right wing, the corporatist side as "free marketeers," that they're advocating the free market. There's no such thing as a free market in this country except for lemonade stands. For example, as I'm sure you'll agree, when there's monopolies, collusion, price fixing, product fixing, there's no free market. When there's corporate crime, there's no free market with Wells Fargo. They were thieves, and they overrode an open, competitive free market. When there's no freedom of contract, when you have to sign on a dotted line and click on, impossible to describe that as a free market. Free market involves the meeting of the minds as you know far better than I, in contract law. So, I have all these restrictions, controls and abolitions of free market conditions in a memo that I have discussed with our listeners, repudiating the myths of market fundamentalism and the corporate coercions en masse that enables. The title of it is "Repudiating the Myths of Market Fundamentalism and the Corporate Coercions it Masks." You can get it by going to Nader.org, listeners. But isn't it true that sometimes our progressive side uses the very language that the other side wants them to use? They use language like white collar crime instead of corporate crime; the private sector instead of the corporate sector; free market instead of corporate controlled markets; free trade instead of corporate managed trade through these trade agreements they get through Congress. Give us your views on the language here.

Thomas McGarity: Well, I used it really as a shorthand for free market fundamentalism, which like any fundamentalism I take it was a bad thing. So I do open one of the chapters with Friedrich Hayek and the Mont Pelerin meeting to show how these proponents of free markets

gained a great deal of power. But I couldn't agree with you more that the markets aren't free, that in fact there are all sorts of market failures out there that can't be fixed with just a simple reference to well, let's fix the market. It's really much more fundamental than that because as you say, in many cases the markets are dominated by one or two companies and there's no antitrust enforcement. I didn't get into antitrust in the book, but one could write a whole book about that, and some have. So yeah, maybe I fell into their language to some extent, but I really meant that just as a shorthand for people who believe that free markets are free, and that would use their knowledge that they really aren't free to their advantage.

Ralph Nader: Well you have the section rebuilding government to make it better. I thought it was a terrific opening sentence, "The Trump administration's assault on government was like a hurricane that levelled the coastal city. The Biden administration is now faced with a dilemma of how to reconstruct the government that the Trump administration so vigorously attempted to demolish. In the process, Biden appointees should try to make government agencies both more effective in providing protection, and more resilient to future assaults." You end the book with reasons for optimism. Why don't you share those with our listeners?

Thomas McGarity: Well there are some reasons for optimism. The first is as you pointed out earlier, the public across the spectrum overwhelmingly supports protections against payday lenders, protections for a clean environment. They want to have national parks. They don't want all the public lands to be despoiled with fracking wells and that sort of thing. It's clear that the public supports this.

Ralph Nader: That's consumer protection.

Thomas McGarity: For sure, for consumer protection and yet they listen to Fox News and all they hear about is immigrants coming across the border. Science remains objective. The scientists are also heroes here. They didn't allow the politicians to decide what the science was gonna be. So that's still good. There is some hope that maybe the rich guys that have been funding the right winners are pulling back a bit. The Koch brothers, coalitions not nearly as bad as it was during the Obama administration. Rural America is changing in some ways. I think we need to make appeals to Rural America. You know, this is just a mystery to me. My dad was a Presbyterian minister and he mostly served churches in rural towns in Texas and various places in Texas. There were progressive people there. Where is the Tom Daschle? Where is the George McGovern? These people were coming from rural areas. Something changed after the Reagan administration and we don't see that rural populism anymore. But we're seeing more and more young, college-educated people returning to the land to operate farms, or just because they can telework and don't have to be in the city to work.

Ralph Nader: I've got to refer to poll you cite in your book, that a majority of Trump voters were opposed to reducing the power of many federal agencies including the Food and Drug Administration and the Consumer Financial Protection Bureau." One aspect of your optimism were many college-educated mothers and grandmothers in suburbia became politically active at the local level. Tell us about that.

Thomas McGarity: Well that's right. That of course had as much to do with Trump's personality, I think, his obvious disdain for women. But it also, I think and hopefully will continue to be, an understanding on their sense that regulations are about protecting families,

protecting them from financial risk, protecting them from environmental risk, protecting their workers from risk at the workplace. I think that, more so I think than white males, the mothers and the grandmothers get it that the government has an important function and that we need to place a little more trust in the government to provide those protections that we all really expect.

Ralph Nader: Now I want to put this to you as a law professor. Early in 2020, Trump using the pandemic as a phony pretext, the pandemic that he allowed to proliferate because he thought it was just a common cold and don't worry about it in those critical, early weeks. He ordered the FDA to announce publicly that they were suspending all inspections of imports--of food, medicine, and medical devices from places like China, India and other countries. Now, imagine putting out a press release announcing it is like saying to these exporters to the US, hey it's dumping ground time. Let's go for it. Now tell us, how could that have been done legally and why wasn't there any legal action by anybody in the United States whether officials or private litigants.

Thomas McGarity: That gets us back to something we were talking about earlier. There's a great asymmetry in administrative law that's out there. Administrative law is about the law that the courts apply when they are reviewing actions or inactions of administrative agencies. The asymmetry is that courts are very keen to ensure that agencies don't exceed the authority the Congress has granted them. But they are basically silent on agencies that don't do what their statutes tell them to do. In other words it's very difficult to file a lawsuit to force an agency to do what it's supposed to be doing. Some statutes provide for that and really, strictly the Administrative Procedure Act does, because it provides for judicial review of agency action that is unduly delayed or withheld. But the courts, and particularly those now that we're seeing in the Supreme Court with its now six to three kind of Republican appointed majority, are not interested in making agencies do what they're supposed to do, and are very interested in trying to stop agencies from doing what they think the agency shouldn't be doing.

Ralph Nader: And Congress bears a serious role here because in statute after statute s they provide waiver authority without any criteria or standards for the president. The president is instructed to do this, and that, but the president can waive that at his or her discretion. So Bruce Fein and I, over a year ago, sent a letter to 20 law reviews including *University of Texas Law Review*, saying this could be a good subject for a major feature in your law review. Because there are literally hundreds of these statutes with built-in waivers, with no criteria or standards to restrain the discretion of the White House. Part of the shift of congressional authority to the White House over the decades. We sent this letter twice. We got not a single response from any law review. So I hope you will encourage the *University of Texas Law Review* editors to look into this because we could use a scholarly compilation and analysis of government by standardless waivers, which is basically passing what I call no law laws. They're laws that can be evaded simply by presidential whim. Now when this book, *Demolition Agenda*, came out in mid-May did it excite the law school? Did professors rush over and congratulate you after having read it? Did the students have gatherings to discuss it? Were they in exams? What kind of intellectual ferment is there at law schools based on your experience at the University of Texas Law School in Austin?

Thomas McGarity: There's a fair amount of intellectual ferment. Yeah, it came out at a bad time for the students because they had just finished taking their exams. They were off to the

clerkships, et cetera over the summer. I'm expecting we'll do something about it in the fall. Otherwise, I've gotten very good responses from my colleagues for the most part. They get it. In terms of the waivers that you were mentioning, that is part of this asymmetry. The idea that, here's what you're supposed to be doing, but here you can give a waiver. And it's everywhere, as you point out. It is basically unconstrained. During the pandemic, the first year or so of the pandemic, the Trump administration made great use of that by simply waiving everything over regulatory requirements all in apparent recognition of the fact that the pandemic was making it difficult for companies to conform, or to comply with the law. Now what Trump did toward the end was he said, now agencies go look and see if you can make all of these waivers permanent. And some of them did. So some of these waivers are still out there and in effect. But that is, I think you're absolutely right, kind of an unseen Achilles' heel of the administrative state, and the administrative process.

Ralph Nader: Well you know, I wish you had spent a little more time on Congress, which has dismantled itself over the years. Oversight hearings of executive branch agencies are at a lowest ebb in my experience in 50 years. They don't have the investigative hearings that Congressman Dingell, Congressman John Moss, Senator Ribicoff, Senator Magnuson, Senator Hartke used to have riding herd when the Food and Drug administration, EPA, the auto safety agency and others didn't do their job. Although John Dingell was instrumental in making sure the auto safety agency didn't do ~~his~~ its job coming from Michigan and his connections with the auto industry. But the worst dismantling was when Gingrich became speaker. He defunded the Office of Technology Assessment (OTA). Unless I missed something Tom, I don't see a reference to that because that used to be a technical resource inside Congress that they couldn't disregard because it was their own advisory agency that really told Congress, look, this technology is very bad. It's very dangerous. It's inefficient. This science is inadequate. You've got to get more grounded in this. And they did dozens and dozens of reports, which were online still, until they were defunded. When the Democrats took over in 2009 and they had a big majority almost 60 senators and a big majority in the House, Nancy Pelosi rejected the petition from Nobel Prize laureates and many other who were saying, refund the OTA. It still exists, it just wasn't refunded. She said, no, I don't want to do that because I don't want the Republican minority to accuse me of starting another bureaucracy on Capitol Hill. So the Congress, both parties, the worst being the Republicans, really dismantled themselves and provided fertile ground for what Trump took criminal exploitation of when he was selected by the Electoral College in 2016. Any sense on that?

Thomas McGarity: I don't mention the Office of Technology Assessment. I wrote three or four reports for the Office of Technology Assessment. I'm very familiar with them and I greatly was pained by the fact that the Gingrich Congress got rid of them. The Gingrich Congress, for all its Sturm and Drang about they're going to get rid of all of these agencies, they got rid of exactly two. One was the Administrative Conference of the United States, another entity that I'd done several reports for, and the Office of Technology Assessment. Congress during the Obama administration, put the administrative conference back into business. They're out there doing reports now. The Office of Technology Assessment, they didn't. I don't know why. It wasn't a very expensive agency. It didn't have that many staff. They did most of their work through committees and volunteers. They did provide very important information to Congress, which is badly needed, because they're operating at a terrific disadvantage when it comes to technical information.

Ralph Nader: Yeah, one of the things they would have alerted us to years ago was how unprepared we were for global pandemics. That would have been right under their health section. Their budget was only 21 million dollars, but Newt Gingrich knew that they challenged the corporate version of things on Capitol Hill. They challenged them authoritatively, not polemically. He knew he'd have to shut it down if he was going to continue to curry favor with his corporate paymasters. Tom, before we get to Steve and David, my favorite quote on the back of your book was by Morris Pearl who is the chair of the Patriotic Millionaires. We've had them on the show and here's his quote, "Demolition Agenda by Tom McGarity made me so angry that I had to put the book down every few pages, but then I had to pick it up again and continue reading about Trump's campaign to destroy the institutions that make people from all over the world strive to become Americans. A heartbreaking, sobering read." So listeners, get it for your libraries, get it for your friends, your students. This is an important book for book clubs who should not just focus on fiction book clubs like 90% of neighborhood book clubs do, because they don't want to get into anything controversial. Friends, we have to face reality; we have to get out of virtual reality and face reality if we want to be true to our families and to our posterity, and to the future of this tormented Planet Earth. David?

David Feldman: Thank you Ralph. Professor, my question concerns the conflation of criminal justice and politics. You said earlier that Ryan Zinke in Montana is running for Congress. Scott Pruitt in Oklahoma is running for Senate. Are they running to avoid criminal prosecution? I remember right after Bridgegate in New Jersey, Chris Christie decided to run for President. Trump who as you know is the subject of several criminal investigations, is probably running for president. Do these reprobates really want to serve in government or do they run to make it harder to get prosecuted?

Thomas McGarity: That's a very interesting question, which I really hadn't thought about. I'm not sure they're doing that because I'm not sure they had much of a threat of being prosecuted to begin with. It doesn't look like anybody wants to go after them. There is this lack of accountability that's very frustrating. You go in, you tear up an institution like Zinke did and Pruitt did, and then you walk away from it. Everyone says, well that's yesterday's news. We don't need to go into that. One would think that at least when they come back and start running for office that it might trigger some thoughts about well, let's hold them accountable for what they did do in the past. In the case of Pruitt for example, the Inspector General of EPA said, you spent a whole lot of money on security that was totally unwarranted, and conceivably unlawful. He spent \$43,000 on a secure telephone booth because he was so afraid that the environmental groups had it out for him. Every time he took a flight he had to travel first class because he was afraid somebody might stab him or something. This was never, other than just running him out of town, he's never been held accountable for that.

Ralph Nader: Former Attorney General of Oklahoma by the way. Yeah, I mean these people Zinke and Pruitt were not only occupationally corrupt, they were personally corrupt. As David said, they should be concerned about being prosecuted but there isn't a whiff of that in the air these days against those two gentlemen, and not mention other cohorts that Trump brought in to wreck the federal government.

Thomas McGarity: When you think about it, I'll just add this, during the Reagan administration when this happened, and they ran Anne Gorsuch out of town, a couple of her

minions went to jail. We just don't see anything like that these days.

David Feldman: The spin seems to be that as long as you're a criminal who is running for office, you can always claim the charges are politicized. That seems to be the spin. My advice would be if you're a criminal, run for office and they won't prosecute you.

Thomas McGarity: I expect unfortunately that may well be good advice.

Ralph Nader: Well we're running out of time unfortunately, listeners. We've been speaking with Professor Thomas O. McGarity, Professor of Tort Law at the University of Texas Law School. I hope he suggests to his new tort students in the fall, that they can take a virtual tour of the American Museum of Tort Law in Connecticut, right from their classroom. Just go to tortmuseum.org. And they can revel in the history of the evolution tort law from Medieval England to the present time. Give the contact number once again for the Center for Progressive Reform and thank you very much.

Thomas McGarity: It's www.progressivereform.org. I will mention Ralph that I refer my students on the second day of class to the Museum of Tort Law. I take that little cartoon you have of *Brown v. Kendall*, [Ralph chuckles] and show it to the class, and then refer them to the museum.

Ralph Nader: Now it's gone virtual. We got the messages from the around the world, people taking the tour saying there should be a Tort Museum in our country, the law of wrongful injury. Anyway, you've produced a great book. We got to make sure more and more people hear about it, read about it. The Center for Progressive Reform is full of studies that may connect with something on your mind, in your community you think needs to be exposed and changed, listeners. So let's get engaged here. *Demolition Agenda*, new book by law professor Thomas O. McGarity. Thank you very much Tom and to be continued.

Thomas McGarity: Thank you Ralph.

Steve Skrovan: We've been speaking with Professor Tom McGarity. We will link to his work at RalphNaderRadioHour.com. Now let's check in with our corporate crime reporter Russell Mokhiber.

Russell Mokhiber: From the National Press Building in Washington, D.C., this is your *Corporate Crime Reporter* "Morning Minute" s for Friday, June 24, 2022; I'm Russell Mokhiber. On the night of December 22, 2008 a dike at the Tennessee Valley Authority's Kingston Fossil Plant broke releasing 7.3 million tons of coal ash into three hundred nearby acres, and into local waterways. No one was killed in the spill, but the resulting clean-up of the toxic coal ash did result in the deaths of at least 50 of the 900 workers who worked at the clean-up site. The workers were not given proper protection during the clean-up and were thus exposed to the radioactive and highly toxic waste. It's a little-known tale of corporate violence. Jamie Satterfield knows the story well having covered it for the *Knoxville News Sentinel*. She left the paper last year and is now reporting for the *Tennessee Lookout*. For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

Steve Skrovan: Thank you Russell. Welcome back to the *Ralph Nader Radio Hour*. I'm Steve Skrovan along with David Feldman and Ralph. Before we close today I just want to

acknowledge a faithful listener, who writes to us all the time, sometimes in frustration because I've been sort of the gatekeeper here. His name is Don Harris and he has an idea and a website that's associated with it called *One Demand*. I'm just gonna tell you what *One Demand* is all about because this is an example of a citizen who is trying to take on big money and politics, and this is his way of doing it and we want to promote that. So on his website called *One Demand*, which you can go to at onedemand.org, Don Harris writes that there is one issue that affects all other issues--the issue of big money in our political process. So solving this problem is the first step to solving any other problem. This is also an issue that 80% of citizens agree on, including a majority of Republicans. They want big money out of politics. Whether or not they agree on other issues, all these citizens can work together to achieve this common goal. Our one demand is that candidates finance their campaigns only with small contributions. We can all work together to create and demonstrate demand for small contribution candidates and make our one demand a won demand. Once we begin reduce the influence of big money, we may even find we agree, at least in part, on some other issues once the big money interests are no longer framing the parameters of the debate. Citizen unity instead of party unity. That is what Don Harris says on website *One Demand*, which you can go to at OneDemand.org. Ralph, do you want to comment on Don's activism here?

Ralph Nader: Yeah, it's very good. You have to define small contributions. You have to define no to corporate contributions. There are a lot of small contributions now in the internet age that come from right-wing corporatist interests. They're becoming more and more creative about how to do that, partly to disguise who is really behind the money or what these small contributors really are pushing for in terms of a corporatist agenda. The second thing is there are a lot of one demands. Another one demand could be you're not gonna vote for any candidate who doesn't support full public financing of election campaigns through congressional enactment. There are a lot of one demands that can be put before members of Congress and challengers. It's always good to focus your interaction with candidates from public office on specific demands like Don Harris. Keep it up and I hope you get some reaction to it.

Steve Skrovan: Thank you Don, thank for your persistence and your patience. Go to onedemand.org and sign up with Don's program if the spirit moves you. One more thing before we go, Ralph, talk to us more about the *Capitol Hill Citizen* and this is the *Capitol Hill* paper that you put out, the pilot issue that we've been promoting on the show. What's the latest on that?

Ralph Nader: The second edition is coming out very soon. The third edition will be coming out in the mid-summer. It's gonna demonstrate how to really cover Congress as if people matter and not simply focus on official source journalism that is covering what the speaker says or what the minority leader says, or what various senators and representatives want the press to cover. They do have to cover them. But the 500 full-time reporters on Capitol Hill don't seem to have time to cover anything else including the emergence of this sterling new newspaper. It was 40 pages, political size. By the way the political reporters are interested in covering it. We've had tremendous reaction given the very modest publicity all over the country. People say, in print, I'm so glad I'm holding a newspaper in print. I don't have the clutter. I don't have to worry about filter and distractions, and advertisements; full focus on reading a newspaper that covers what is not covered on Capitol Hill, which is a small size city of over 30,000 people where everybody there has a job and it has such power in the most powerful country in the world. There's no institution in the world that could turn around the situation for the common good in

one area after another as our 535 members of the US Congress. You can subscribe to it. We send it to you first-class mail. You can order a pilot edition and the more people who order these pilot editions, the more likely we will be able to have a self-sufficiently-funded *Capitol Hill Citizen*. Please tell our listeners how they can get it. The reaction has been personal and very, very impressive so far from all over the country.

Steve Skrovan: It's very easy, just go to CapitolHillCitizen.com and those of you who loved the first edition and are waiting for the second edition, it's on its way.

Ralph Nader: It's for \$5. If you want us to contribute more, all the better. We're taking about a year to figure out how to make it self-sufficient. If it is, we're gonna have a different Congress and we're gonna have a different citizenry out there.

Steve Skrovan: I want to thank our guest again Professor Tom McGarity. For those of you listening on the radio, that's our show. For you podcast listeners stay tuned for some bonus material we call "The Wrap-Up". A transcript to the show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted.

David Feldman: Subscribe to us on our *Ralph Nader Radio Hour* Youtube channel. For Ralph's weekly column, it's free, go to Nader.org. For more from Russell Mokhiber go to CorporateCrimeReporter.com.

Steve Skrovan: The American Museum of Tort Law has gone virtual; go to tortmuseum.org to explore the exhibits. Take a virtual tour and learn about iconic tort cases from history. Be sure to check out their online gift shop where you'll find books, posters, "Flaming Pinto" magnets, and mugs for all the tort fans in your life. That's at store.tortmuseum.org.

David Feldman: For a mere \$5 order your copy of the *Capitol Hill Citizen*, Democracy Dies in Broad Daylight. Go to CapitolHillCitizen.com. The producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt, and Matthew Marran. Our executive producer is Alan Minsky.

Steve Skrovan: If you want to do more on *Capitol Hill Citizen*, give me five dollars; that's just the minimum. More is welcome. Our theme music "Stan Up, Rise Up" was written and performed by Kemp Harris. Our proofreader is Elisabeth Solomon. Our associate producer is Hannah Feldman. Our social media manager is Steven Wendt.

David Feldman: Join us next week on the *Ralph Nader Radio Hour* when we welcome director of Public Citizen's Global Access to Medicines Program, Peter Maybarduk. Thank you Ralph.

Ralph Nader: Thank you everybody.

[0:57:52]

[Audio Ends]