

RALPH NADER RADIO HOUR EP 441 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 co-host David Feldman. Hello, David.

David Feldman: We have exciting news.

Steve Skrovan: What is that?

David Feldman: Well, we're doing another live episode of the *Ralph Nader Radio Hour*, where our audience can come watch us produce this show. In affiliation with the American Museum of Tort Law, we have rebooked Josh Koskoff. He's the attorney who won a \$73 million judgment against Remington [Arms] and other arms manufacturers on behalf of the families of nine victims of the mass shooting that took place at Sandy Hook Elementary School in Connecticut. The live Zoom will be Wednesday, August 24th at 12:30 PM Eastern, 9:30 AM Pacific. If you'd like to watch a live taping of the *Ralph Nader Radio Hour* with our special guest, Josh Koskoff, go to ralphnaderradiohour.com to register.

Steve Skrovan: And you know who's also going to be there? The man who is with us again today. He's always here. He's the reason we're here. He's the man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hey. Yeah. And by the way, we had several specific criticisms of Dan O'Dowd's charges against Tesla and its autopilot ~~and~~ technologies. We're going to ask Dan O'Dowd to respond, and we may have other responses as well in a future program. So hold on listeners who weighed in and took issue with Dan O'Dowd.

Steve Skrovan: Very good. Yes. And we've got a stacked show for you today. First up, we'll welcome constitutional law expert, Bruce Fein, back to the program. Bruce has been racking up his frequent flyer miles with us as the January 6th committee peeled back the layers of the [Donald] Trump administration's involvement in last year's coup attempt. And we look to him for some expert analysis. Last week, Donald Trump's Mar-a-Lago home/lair/confidential document storage facility was searched by authorities. So we've asked Bruce to shed some light on the most recent developments.

After that we'll be joined by the *Washington Post* business columnist, Allan Sloan, to discuss the Federal Reserve and its role in America's shifting economic winds and how he says current trends and regular people's everyday financial concerns like personal savings accounts, gas prices, and mortgage rates, point to economic recovery rather than a recession.

Finally, we'll welcome back another friend of the show, Steve Silberstein, from the National Popular Vote. He will share the latest progress on the movement to reform the Electoral College and bring more states into the National Popular Vote Interstate Compact. As always, somewhere in the middle, we'll check in with our corporate crime reporter, Russell Mokhiber. But first, Donald Trump turned his Bedminster golf course into a cemetery to avoid paying taxes. Was he also trying to claim Mar-a-Lago as a branch of the National Archives, David?

David Feldman: Bruce Fein is an international law expert and our residential constitutional scholar. Welcome back to the *Ralph Nader Radio Hour*, Bruce Fein.

Bruce Fein: Thank you.

Ralph Nader: Welcome back, Bruce. You've been following closely the FBI [Federal Bureau of Investigation] search at Mar-a-Lago and the flurry of activity out of Georgia and New York. Give us your views of how serious you think is this pursuit of Donald Trump's taking classified information down to his home in Florida from the White House.

Bruce Fein: Well, I think it's a material step forward. It reinforces the conviction that he is a pathological liar. He made up this story that he had given a standing order only to himself, that everything he took out of the White House into Mar-a-Lago was automatically declassified. Nobody knew about it. His national security advisor didn't, it wasn't written down any place; it was just in his head. And now why is that important? It's because in a case of investigating the crimes against him that have been alleged, his corrupt intent is very critical. And this reinforces what I think is overwhelming evidence that he has a virtual corrupt motive behind everything that he does and says.

But moving forward, on the other hand, I think it is a very substantial detriment to Mr. Trump's fate because the crimes alleged here don't relate really to January 6th. They're not so much political crimes, if you will. It's very clear under the law ever since president [Richard] Nixon and I was around and you were around when the law changed to make all documents prepared in the course of presidential duties, documents owned by the public. They used to be in kind of a twilight zone until Congress passed first the Presidential Tapes Preservation Act then the Presidential Records Act that Mr. Trump, despite the clear provisions in the law, decamped at least with like 11 boxes of classified information.

We know that from the inventory that was prepared and made public from the search conducted by the FBI. And we know as well that based upon what we suspect was in the warrant affidavit, that there were cameras and probably a mole who was able to inspect the documents and discern their classified nature by the markings.

Ralph Nader: Let me ask you a question that the press hasn't asked on this. He took all these boxes of classified information, a lot of them dealing with foreign military policy apparently. But there are copies of these remaining in the various intelligence agencies. So he wasn't taking boxes of exclusive copies that he could destroy or deal with exclusively down there. What was his motive since the government still has copies of what he took from the White House? Is that correct?

Bruce Fein: Well, I don't know whether they uploaded all of those documents. Even if they were copies, they would still remain classified. And under the law, he still could not share national defense information with third parties. And we know how sloppy he was, even as president, and openly discussing national security information with Russian agents, with Japanese agents and others. So, it wouldn't exculpate him from the Espionage Act that says whether information is classified or not, if it's shared and its national defense information with a person not authorized to receive it, that still makes it a crime.

You're basically asking, well, he's not stealing government property because they have a copy of it. But I don't believe if you look at the search warrant the crimes that are listed are not related to theft of government property; it's sharing national defense information, obstructing or destroying a presidential document, and the third one relating to obstruction of justice that may relate to Roger Stone in his pardon and that's somewhat difficult to deduce. But I do believe that the crime of destroying or mutilating presidential documents indicates that the government officials

believe some of the documents he took were not copied and left behind in the United States files or in the National Archives. That's why they were asking for them

Ralph Nader: Because there is testimony from his close associates in the White House in the latter days of his administration, that he would tear up classified documents. He'd flush some down the toilet. Isn't that what happened?

Bruce Fein: Well, we know certainly that happened with regard to some of the documents. Yes, he did destroy them there. And I think Maggie Haberman's of the *New York Times* recent book has photos that corroborate his name on documents that were pulled out of the toilet. They had to actually call the plumber. So it is notorious. These are Trumpers who have stated that yes, he tore up presidential documents, mutilated them, and that's clearly a crime under the federal code.

So I think that he's in trouble because it's very difficult to claim that classifying information and sharing nuclear secrets is a partisan issue. I don't think anybody would like to share nuclear secrets with many of these crazy governments abroad. And that's why this is, I believe, going to show a strong setback to Mr. Trump, especially if all are part of what we call the warrant affidavit that sets forth the information establishing probable cause to believe these three crimes occurred is unsealed.

We don't know whether that is going to happen. My own view is that the judge probably will have some information redacted, probably the names of the people who are close to Trump who revealed some information about the documents that were classified to the government, perhaps some other things to be redacted. But if you can redact *The Mueller Report*, you can redact a search warrant affidavit and let the remainder go to the public.

Ralph Nader: And what's the Georgia connection here?

Bruce Fein: Well, the Georgia connection in some sense is distinct in that it focuses on voter fraud, not classified information. And it relates to Trump's effort through Mr. [Rudy] Giuliani. And I believe he spoke to Senator Lindsey Graham, of South Carolina, to concoct reasons to create a second fake set of electors who would present themselves to Congress in saying we are the true electors of the state of Georgia, even if they haven't been certified by the governor; also efforts that were made to flip the vote count after it had been concluded. And I believe in Georgia, they've recounted the votes like five times. And I think in some of the recounts they're exactly the same as the previous ones. And these are recounts conducted by hard-right Republicans, not code pink.

But nevertheless, we heard the telephone call between Mr. Trump and the (Georgia) Secretary of State, where he was urging him to find 11,000 new votes; there is going to be trouble; if you don't find them, you're in dereliction of duty. Lindsey Graham calling the Secretary of State and saying "Hey, can't you find that some of these mail-in votes were improper" and then ludicrously maintaining that this is part of his duties as a Senator of the United States to oversee state elections. So they're already naming Giuliani as a target of the criminal investigation. Lindsey Graham may have that status soon and of course the prosecutor has stated she has not ruled out calling former President Trump himself to testify as well. So that clearly is the connection, if you will, in this larger several front criminal investigation of ex-President Trump and his subordinates.

Ralph Nader: We're talking with Bruce Fein. Bruce, you were in the Justice Department for a number of years. You're familiar with prosecutions. Donald Trump has gotten away with violating laws as a corporate failed gambling czar for years and he has violated all kinds of laws,

the Hatch Act and the Antideficiency Act as president. Two quick questions. One is how serious is this prosecution? Is he likely to get away with this? And second, are these prosecutions crowding out prosecuting Trump for other crimes, like the blatant violation of using government property against his political opponents in the 2020 election that is a violation of the Hatch Act, which is a criminal statute.

Bruce Fein: Well, I do think that if the indictments are forthcoming, the likelihood of conviction is overwhelming. I believe that Mr. Trump, if he ever got on the stand, would lie. And he's not a very good liar. Except to his followers who have drunk the great Kool-Aid, he doesn't sell stories that at all makes sense. In the District of Columbia, which is the likely venue of most of the criminal prosecutions, I believe he would be convicted. Now there's certainly sufficient resources in the department to charge and prosecute Trump for a wide variety of crimes, including those enumerated, like the Hatch Act, the Antideficiency Act, flouting congressional subpoenas or evading them, obstructing justice on a virtually limitless number of occasions.

So it's a matter of political will. I believe that the greatest deterrent, if you will, against a broad-based approach, is that many of the Democrats feel they've got similar, if not identical skeletons in the closet, and they don't want to set a precedent that could come back and haunt them. They're a very timid group. And that's why they've been so reluctant to challenge some of the more outrageous claims of ex-President Trump with regard to executive privileged state secrets.

And let me underscore as well, the [Joe] Biden administration now and Merrick Garland have been in office for what we're approaching, the second year. There is outstanding an Office of Legal Counsel [OLC] opinion that says you cannot indict or prosecute a sitting president. There is no, I believe, textual or historical support for such a view that the king could do no wrong as long as he's king. And yet neither Garland nor Biden have called for revoking the opinion saying, Yeah, everybody including me can be investigated when I'm president. Before that opinion was issued, Archibald Cox was investigating a special prosecutor, Richard Nixon, for crimes, which led to his downfall, if you will, resignation, for all the Watergate coverup material. There's no indication that Archibald Cox and the government couldn't function while the president was exposed to criminal liability while in office. So it's shocking to me that the Democrats have not repealed and issued a revocation of this outlandish OLC opinion.

Ralph Nader: Well, you worked in the Office of Special Counsel, right?

Bruce Fein: Yeah. I was in the Office of Special Counsel, and I tell you, we didn't issue those opinions, Ralph. We went over to the White House, I remember, on several occasions said, "Mr. Nixon, you can't do this. This is illegal." He wanted, for example, to have a federal defamation law. We told him there was no authority to do that; that's state law. He thought the press was really bad. We would say the president can't do things. And then it turned and flipped. And now, John Yoo, who I've debated on several occasions before COVID, would say, "my client is never wrong." I said, "Your client is the Constitution. Not the occupant of the White House."

Ralph Nader: Well, on that note, we're out of time. Thank you for your keen observations. We're talking with Bruce Fein who has testified over 200 times before various congressional committees in the House and Senate, is the author of books, and who has experience inside the Justice Department when Nixon was president. Thank you very much, Bruce.

Bruce Fein: Thank you.

Steve Skrovan: We've been speaking with Bruce Fein. We will link to his work at ralphnaderradiohour.com. Up next, business reporter Allan Sloan will let us know if we are on

the verge of an economic recession or a recovery. But first, let's check in with our corporate crime reporter, Russell Mokhiber.

Russell Mokhiber: From the National Press Building in Washington, DC, this is your *Corporate Crime Reporter* "Morning Minute" for Friday, August 19, 2022; I'm Russell Mokhiber. Senator Kyrsten Sinema, the Arizona Democrat who single-handedly thwarted the party's longtime goal of raising taxes on wealthy investors, received nearly \$1 million over the past year from private equity professionals, hedge fund managers and venture capitalists whose taxes would have increased under the plan. That's according to a report from the Associated Press. For years, Democrats have promised to raise taxes on such investors, who pay a significantly lower rate on their earnings than ordinary workers. But just as they closed in on that goal last week, Sinema forced a series of changes to her party's \$740 billion election-year spending package, eliminating a proposed "carried-interest" tax increase on private equity earnings. For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

Steve Skrovan: Thank you, Russel. Welcome back to the *Ralph Nader Radio Hour*. I'm Steve Skrovan along with David Feldman and Ralph. What's going on in the economy? What's going on with the Federal Reserve? This fall are we in for a recession or a recovery? David?

David Feldman: Allan Sloan is a business columnist at the *Washington Post*. He has been writing about business for more than 50 years, including work at *ProPublica*, the *Detroit Free Press* and *Forbes*. He has won seven Loeb Awards, business journalism's highest honor, in four different categories, including a lifetime achievement award. Welcome to the *Ralph Nader Radio Hour*, Allan Sloan.

Allan Sloan: My pleasure to be here with all of you.

Ralph Nader: Thank you for coming on again, Allan. Listeners should know that we're going to get answers to questions that I have put to the Federal Reserve and gotten know answers because Allan writes about how policies in our economic realm can affect regular people positively and get them something resembling an adequate income.

Here is the basic question. I want to lay the predicate, Allan. Chairman [Jerome] Powell kept pulling down interest rates saying this is going to increase economic activity and be better for everybody, but he ignored over 150 million savers by in effect stripping him of any income other than one tenth of 1% or two tenths of 1% interest with his policies. In addition, he didn't do anything about the skyrocketing interest rates for student loans, payday rackets, and the unpaid balances on credit cards, among other things, including auto loans. The home mortgage rates did go down with his low interest or zero interest rate policies. But all these other tens of millions of Americans were still being hit with unconscionable interest rates, especially since the usury laws were mostly abolished in the states in the 1970s.

So here's the first question. Since corporations are loaded with capital and with all the trillions of dollars of stock buybacks, they really don't need exceptional lower-interest rates to invest. They would invest years ago in productive activities paying 4%, 5%, 6% interest. They really didn't need interest rates to go from 4%, 3%, 2% and drastically under 1%. So can you enlighten us, Allan Sloan, on all this because my letters to Chairman Powell have all gone unanswered.

Allan Sloan: All right. This may be one of the first times in my career that I'm going to actually defend the Federal Reserve. I hope you're not offended, Ralph. And don't decide you need another "yes" for this segment. (chuckle) But it's like this. The rates went down to zero when COVID[-19] struck, right? And they knocked their rates down to zero and they wanted to

stimulate the economy. They wanted to do this and they wanted to do that. But the Fed in many ways is a paper tiger or maybe a financial tiger. The only thing it has really is interest rates. It doesn't control student loan interest. It controls certain short-term interest rates. And in fact, the long-term interest rates are moving. Without boring everybody, they're moving in the opposite direction. The Fed is raising short rates and long-term interest rates and treasury securities are falling.

The Fed isn't all powerful and almighty; it can't fix people's student loans. If you want that fixed, go talk to Biden and his crew to abolish them or reset the interest rates. The Fed is just not all powerful. It does what it can do. You can argue about it a whole lot of ways. Friends of mine say the Fed should have raised rates long ago, which might have helped hold down inflation. But it's not as if Powell sits there and says, well, how could we help corporate America and how could we screw everyone else? That's just not what happens. I'm sorry to disappoint you, Ralph, but that's my answer.

Ralph Nader: Well, no, no, you're right. They don't have the authority to deal with payday loan rackets up to 400% interest or student loan or unpaid balances. But they have inside of them the Consumer Financial Protection Bureau and I know they can't interfere. But for Powell to give no comments on all of these, sort of, is like an attempt to ignore them. Because he may be reducing rates for companies who are boring, but he leaves tens of millions of people adrift, including—and this, I think, you'll agree with because you've written about this—over 150 million savers have trillions of dollars in money market funds and savings accounts, et cetera. And they were losing tens of billions of dollars a year by having the Fed drive down interest rates. Would you agree that in this area the Fed was responsible?

Allan Sloan: Sure. I mean, look, I'm one of those people, okay? Because I'm very cautious and my wife and I are very cautious financially, we're old and if we screw up, we don't have 20 years to recover from a big loss. We have quite a lot of cash on hand and it earned essentially nothing until maybe six or eight weeks ago. And now it's earning about 2% in a money market fund or maybe a little more. I don't know why no one has ever asked them this in a news conference, but I think the answer is people like me and I guess people like you, because you've always struck me as a thrifty guy, are collateral damage. That's just how it is. He's not out to hurt us. It just happens.

Again, according to people who know this stuff, he kept rates too low for too long and now they're trying to catch up. The savers got hurt, but now they're doing a little better. You would know more about this than I would, but I don't think Powell can give orders to the Consumer Financial Protection Bureau telling them to do this or that. They're not under his authority. I mean, if you have problems and you're right to have problems and payday loans or an abomination, I mean...

Ralph Nader: Well, I was just expecting him to speak out a little bit beyond his authority. He's done that on a more than one occasion. But let me ask you a key question here that the official source journalists covering the Fed haven't seemed to ask Chairman Powell or other members of the board. And that is, for decades, business has been perfectly adapted to invest when interest rates were 5%, 4%, 3%, 2%. Why did he have to go all the way down to near zero, especially when there's a huge capital flow that these companies have generated, so much so that they don't know what to do with it, so they engage in stock buybacks? I believe it was \$7 trillion worth in the last ten years. Why does he think going below 2%, for example, and driving all the 150

million savers into penury in terms of not getting even 2%? Why does he go down to near zero? Can you explain that?

Allan Sloan: All I can say is, and again, I've talked to other people about this, but it's all person-to-person, it's not for publication or dissemination is, they're perfectly aware of this problem, but when COVID struck and do you remember the stock market fell about 30% and five seconds? Do you remember that, Ralph? There was financial panic. They did what they could do to restore confidence. And that was two and a half years ago or thereabouts, and they were doing this, I think, more for confidence and reassurance. And it also lowered mortgage rates, though how big a role that played in recovery, I don't know. They got only one tool, which is interest rates and you would argue, he also has the tool of his public image. But I just don't think that's what he does. And I can't think of a Fed chair whoever did that. I'm not saying they shouldn't have. Ralph, do you remember the last time a Fed chair spoke in public about social justice and helping savers? I don't know. I just don't remember. I don't remember ever hearing it at all.

Ralph Nader: Well, they do have a role in sustaining employment and he's talking a lot about workers' wellbeing when he describes his own policies. We're talking about Chairman Powell of the Federal Reserve. They do have one other tool that's euphemistically called quantitative easing, which you've written about a lot, which means that the Fed prints money and buys trillions of dollars' worth of government bonds and other corporate paper as they call it. Tell us about that. I mean, what was the purpose of that other than juicing the stock market and how high can the balance sheet of debt of the Fed go without something happening? You can't keep printing money forever. Give us your views on that, Allan Sloan.

Allan Sloan: Again, quantitative easing is you're right. It's printing money by the ton and dumping it in. That's quantitative easing. But since I don't have a PhD in economics, I can only speak English. I've no degree in economics. He was doing what he was trying to do to restore confidence and stuff like that. They've also, by the way, when interest rates were zero or almost zero short-term rates, companies scarfed up zillions of dollars of the stuff. The short-term interest rate of treasury securities is now very close to the long-term rate on treasury securities because the Fed controls the short rates, but it doesn't control the long rates. And the long rates have been coming down substantially for the past two months, because if there's a rational reason for it, it means that the financial markets are less worried about inflation, than Powell is, which I know sounds crazy, but I think that may be what's going on if you assume that financial markets are rational.

So, the whole thing is what's the word, a kludge, how do you pronounce it? It's just a mess. And he's running around. He got started late raising rates. Inflation is out of control. People are yelling at him. But if you look around at some of the big elements, I mean, look at gas prices. I was just looking this up. Gas prices, which by the way, peaked about, I think on June 14th. According to Triple A (American Automobile Association), they're down more than 20% from June 14th to now--the price of a gallon of regular gas. At the same time, that interest rates on short-term borrowings that corporations do have gone up substantially. And the interest yields on long-term securities have fallen. This isn't what's supposed to happen, but that's what's happening.

And I've always thought that giving the Fed credit for the good things and blaming them for all the bad things, was sort of childish. Because when you're writing stories and you're writing them every day, every result/every action has to have a reason. And a lot of times there is no reason.

Stuff is going up because it's going up; it's going down because it's going down. But nobody wants to hear this. Everybody wants a rational reason for everything.

Ralph Nader: Steve, David, do you have any questions for Allan Sloan?

Steve Skrovan: As we head into the fall, do you think we are headed toward recession or recovery?

Allan Sloan: My bet is recovery. And in fact, if you read something I wrote recently, I sat and looked at my schedule of events, realized that the gross domestic product [GDP] numbers were coming out and they were going to show a decline in the gross domestic product after adjusting for inflation and that everyone in the world, except maybe me, everyone in the journalistic world would write about there has now been two quarters of shrinking GDP; we're in a recession.

And the thing is I actually went and talked to a guy who is in charge of deciding whether or not we're in a recession. And his definition of a recession, which is the National Bureau of Economic Research's definition, includes all sorts of things we haven't seen. It includes rising unemployment. It includes other things. I don't think we're in a recession. I don't think we're heading for one, but I don't pretend to know. I just know that all the people who've declared, well, it's been six months of declining inflation adjusted gross domestic product, therefore it's a recession. I don't think they have any idea what on earth they're doing or talking about, but it makes for a good sound bite and it fills up columns, but not mine.

Ralph Nader: Allan, before we leave, I'd just like your general comments on corporate welfare, which is really out of control. You remember the days when there was a tremendous debate in Congress for a \$250 million guarantee for Lockheed [Martin] Corporation. And now, it's just like government guaranteed capitalism. Here's \$52 billion for the chip manufacturers. Here's \$6 billion for the nuclear industry in Georgia and so forth. Do you think it's out of control? I mean, what's your view on that?

Allan Sloan: I don't like a lot of the programs that shower money on companies. On the other hand, something Trump did, which surprised me, actually worked of showering money on companies to make COVID vaccines. That actually worked; it turned out very well for hundreds of millions of us. But you have to take each one separately. You guys are big picture guys. I'm a small picture guy. I try to look at this company or this program or this this or this that. I'm down in the valley. You guys are up on the mountains. You have a better view than I do.

Ralph Nader: Well, let's look at the bailout of Wall Street. These big banks are really too big to fail. What's your view of that? Break them up under the antitrust laws so they're not too big to fail or just have a government guarantee?

Allan Sloan: Well, the last time around—when was this? 2008/2009, Ralph. The last time the Treasury actually did something intelligent in return for making these loans, it took—it got very substantial pieces of stock in what they call options, pieces of the right to get certain large amounts of stock in these banks for almost nothing. And when everything in the end got sold, it turned out the taxpayers had made a profit on the bailouts. That's a kind of thing I would do. Again, you want a government guarantee. Give me something, give me the taxpayer something. Give me a piece of the action. Do this, do that. To me, that's a lot simpler.

Ralph Nader: Yeah. That was done in the GM [General Motors] and Chrysler bailout. The government got stock. Actually at one point, the US government owned 60% of General Motors. They didn't quite get their investment back, but it was better than these giveaways, that are a one

direction disbursement of taxpayer funds for corporations who keep doing it again and again. The airlines had \$45 billion in stock buybacks in the few years before the COVID hit and then they demanded \$51 billion in bailout. And so this keeps going on; it's sort of part of a business model now. And your approach is okay, if you're going to get bailed out, the government is going to own a big chunk of you in terms of shares. So if you recover, the government gets significant payback. Is that your point?

Allan Sloan: That is my point. If I were in charge, God forbid, of this that's how I would do it. Of course I might have gotten on their case earlier about the buybacks, but that's a whole other story for a whole other show and a whole other set of people.

Ralph Nader: Well, we're out of time. Thank you very much. We've been talking with Allan Sloan, regular columnist at the *Washington Post* and writes for other outlets as well. And thank you very much for your insights, Allan, and keep going.

Allan Sloan: Thank you for having me on your show, Ralph. You take care now.

Steve Skrovan: We've been speaking with Allan Sloan. We will link to his work at ralphnaderradiohour.com. Up next, Steve Silberstein joins us with an update on the National Popular Vote Interstate Compact. David?

David Feldman: Steve Silberstein serves on the board of directors of National Popular Vote. Welcome back to the *Ralph Nader Radio Hour*, Steve Silberstein.

Steve Silberstein: Thank you. It's a pleasure to be here.

Ralph Nader: Thank you again, Steve. This is a remarkable civic initiative you started years ago, basically a citizen reform group that says, "Hey, we should elect presidents by popular vote, not by the mischievous Electoral College," which by the way, made possible the election of George W. Bush in 2000 and Donald Trump in 2016. They both lost the popular vote, but the Electoral College put them in office. For those among our listeners, Steve, who are not really familiar with your project, could you first articulate the rationale for it? Why you got it underway? And you went to all these state legislatures to initiate an Interstate Compact. And what level of Electoral College votes now you have under this compact? Bring us up to date.

Steve Silberstein: Yes, thank you. So the reason I got started on this with a few other people is that we all believe that the person who gets the most votes should win the election. So that should apply to every election, including the presidency. As you know, we've had five times in our history when that has not happened, whereas the loser has been awarded the presidency. The two that you just mentioned very recently in 2000 and in 2016. So to change this, most people think that you have to amend the Constitution. And that's just not the case. If you read the Constitution, you will see that according to the Constitution, each state legislature can decide how that state's votes will be awarded in the Electoral College. And as you know, not all states give their electoral votes to the person who won that state. Two states, Maine and Nebraska, for many years divide their Electoral College votes based on who won each individual congressional district in the state.

So what we are doing is asking a group of states to pass a law, saying that our state will give all its electoral votes, not to the winner of our state or the winner of a particular congressional district, but to the winner of the total national popular vote. And when a group of states that together have half the votes in the Electoral College enact this law and join this Interstate Compact, then those states will give all their votes, that is half the votes in the Electoral College,

to whoever won the most votes nationwide. And the mission will be accomplished. The major consequence of this will be, not only that the winner wins, but no longer will we have the whole presidential election being fought in a couple of so-called battleground states.

Right now with the current system, there's just a few states, four or five or so, that control the outcome of the election. And the presidential campaign is totally focused on that. Those states get all the pork and all the attention that they want from the presidential candidates and the president, because they control the outcome of the election. It used to be Florida and Ohio were the two states. But now it's switched to Michigan, Pennsylvania and Wisconsin.

So, you see, everybody trying to outgame the system here and figuring some magic thing where they can manipulate the election in Wisconsin or Michigan and control the whole outcome. We saw this, of course, in the last election in spades where Biden won the popular vote by an overwhelming 7 million vote majority. Yet the whole thing was contested in just a couple of states. As Trump had said, if he just had 10,000 more votes in Georgia, the whole show would've been... So, we have a fix to this. So far, we've gotten 15 states and the District of Columbia, which has three Electoral College votes, to enact this law. These 15 states have 195 Electoral College votes. As soon as we get about six or seven more states, so that we pick up the remaining 75 Electoral College votes, this will become the law of the land. And we will have a presidential election where the candidates pay attention to and campaign in the entire country instead of just the few so-called battleground states.

Ralph Nader: Well, if you can't get it through the state legislatures in some of these states, Steve, can you get it by referendum or initiative?

Steve Silberstein: Not every state has initiative and referendum. Actually, there's only 17 or 18 states that allow initiatives and referendums. We could and we thought about that and we might, but the main focus is on the legislatures. As you know, in Colorado, the legislature enacted the law and then some people decided let's undo the law and they put a referendum on the ballot to undo the national popular vote enactment in Colorado. So there was a vote of the people of Colorado on that. And the people said, "no, let the law stand," so Colorado by popular vote throughout the entire state, the law stands and Colorado is a member of the Interstate Compact on this.

Ralph Nader: And what about Michigan?

Steve Silberstein: Michigan is another state that does have initiatives and referendums. And there is a possibility that we could do it there. As you know, there's been a lot of scandals in Michigan about signature gathering and so on. So very, very expensive proposition. The signature gathering operations or at least in the last year have been quite corrupt by submitting all kinds of invalid signatures and so on. So it's a possibility, but we would prefer to get it in through the legislature.

Ralph Nader: Yeah, we had on the program of the young woman who launched the referendum in Michigan to reform the very partisan redistricting maps and she actually won. She started with almost nothing and raised up to \$15 million and beat the Republicans who fought it vigorously. This is about three years ago. It's just about going into effect for this election cycle. So there may be a possibility there. I have to ask you the same question I keep asking: Why isn't the official Democratic Party, national and state, making a big issue of this? They've lost two presidential elections in the last 20 years or so. And why aren't they backing what you're doing right down to the state legislative level, getting it in the media, putting some resources behind it?

Steve Silberstein: I really don't know why they're not making a bigger deal about it. But as you know, most of the Democratic officials are for this. The Democratic governors throughout the country have signed the bill to put it into law. Democratic legislators have voted for it. Republicans have also voted for it too. It has passed the Republican Senate in Oklahoma, the Republican House in Arizona and so on. So why the party is not doing this when all the major party leaders are for it? I really don't know.

Ralph Nader: Have you asked them formally?

Steve Silberstein: We have not asked them because we want to keep this nonpartisan - as it were.

Ralph Nader: I see.

Steve Silberstein: We asked the individuals and they agree. And we asked Republicans too. But we don't want to say that there's only Democrats for this.

Ralph Nader: You have a wonderful map on your website where you show the progress and listeners should really get onto that website. Can you tell us what the website is?

Steve Silberstein: Yes. The website is nationalpopularvote.com.

Ralph Nader: And tell us what kind of information. It's graphic as well as verbal.

Steve Silberstein: It has a map of the United States and shows you the status of the legislation in each of the 50 states. Of course, it shows you which ones have passed it and which ones it passed one body of the legislature. There's all kinds of research and articles about it there. We also have all the reasons for it. And we respond on the website to all the reasons that people might come up with to oppose it. For example, that it actually requires a change in the Constitution. That's an argument people make and we review that. We go through all the legal cases and the analysis and so on. So that's not the case.

The other argument is that maybe California would control the outcome of the election because so many people live in California. And that's not the case if you look at the math, go through the numbers. Of course, California has a heck of a lot of Republicans in there. It's a divided state. We think of it as a blue state, but it's divided. There are as many Republicans in California as there are in Texas. But even if you got every single vote in California, you'd still only have about 10% of the population and 10% is not enough to win a presidential election.

Ralph Nader: Well, you have enough states that have passed laws to join the Interstate Compact to reach 195 Electoral College votes. You need to go to 270 and then things change. Then anyone who wins the popular vote nationwide becomes president regardless of the Electoral College vote.

Steve Silberstein: Electoral College will then award the presidency to the winner of the National Popular Vote. So when the Electoral College meets, at least 270 Electoral College votes, that is the majority, will go to the national winner. The winner will be determined by the Electoral College, but the Electoral College will vote for whoever got the most votes in the country.

Ralph Nader: And so what are the most likely states coming up that could bring it to 270?

Steve Silberstein: Nevada, Maine, Minnesota, Virginia, and Michigan. There's lots of states there. And in many of those states, it's already passed one body of the legislature. So, we just got to get it through the other body.

Ralph Nader: And can people who want to join this effort get materials that they can pass out for meetings in various parts of the state to mobilize?

Steve Silberstein: Yes, they can. So on the website, there is a one pager as we call it, a one-page description of it. There's a five pager. In fact, there's a whole book about it that you can download for free. Of course you can buy the book if you want at your bookstore or online through Amazon[.com, Inc.] or Better Books.

Ralph Nader: And what's it called?

Steve Silberstein: The book is entitled *Every Vote Equal* (by John Koza).

Ralph Nader: *Every Vote Equal*. Well, this seems to be a real grassroots invitation, listeners. And you would be well advised to look at recent history and see what we got from repudiating the popular vote. I think Al Gore won it by slightly over 500,000 before it was pitched into Florida and that vortex and irregularities and deceptions. And as you say, Trump lost the 2016 popular vote by about 3 million plus votes to Hillary Clinton. So this seems to be quite a consequential effort by you, Steve Silberstein.

Steve Silberstein: And I remind people that the major consequence, besides the winner winning, is that we will have a national campaign. The presidential candidates and the presidency will pay attention to every state. Every voter will be looked at, sought after, and talked to as opposed to the present system where 80% of the country is just spectators and wondering what the hell is going on in Wisconsin and Michigan. Is there a little bit of corruption or some who knows what?

Ralph Nader: Right. And that's reflected in the presidential candidates not even going to all the 50 states or even close. They maybe go to 33 states. Democrats don't want to lose any time going to Texas or Alabama or Mississippi. And the Republicans don't want to go to Massachusetts, New York or California. So the voters there are really marginalized. They're excluded from any kind of participation, going up to the candidates like they do in New Hampshire, attending debates in these states. It's getting just worse and worse in terms of the red state/blue state dividing line. And you say that the National Popular Vote will make the candidates want to go because it's the total vote that counts.

So for example, Donald Trump had pretty much ignored California, but under National Popular Vote, he would spend a lot of time in California. And the same thing would be for Joe Biden, who didn't spend that much time in Texas or many of the Southern states or the Mountain states. What about this argument--just before the popular vote kicks in right after the election, one state doesn't like the result of the popular vote and the state legislature pulls the plug and they immediately revoke their participation in the Interstate Compact and the governor signs it. What's your response to that? I've heard that being said.

Steve Silberstein: Yeah. The law that the state passes has the state join an Interstate Compact, which is a legal contract between the various states. And that contract, like all contracts, has a withdrawal provision and it says if a state wants to withdraw, of course their legislature could pass a law saying we're withdrawing, but they have to do it six months before the election. That is the withdrawal period ends six months before the election. So this would be in about June of the election year. They would have to pass that law before then. And before then, it's unlikely that people even know who the presidential candidate will be for each party. And if they pass the law after that and try to get out of the Interstate Compact, then they're violating the contract. And contracts are sacrosanct. That's taken up to the Supreme Court. Can I withdraw from this contract at a time other than I agreed that I could withdraw from it, which was six months before the

election. So, it's basically impossible for a state to withdraw at the last minute when they find out their election result they don't like.

Ralph Nader: Actually six months before the election is early April. So that's even more unlikely that they know who the candidates might be.

Steve Silberstein: And then of course, when we go into this, it's quite possible that we'll have more than just the 270 Electoral College votes. We could have like 280/290, something like that. And if we do, and some state were to withdraw, let's say way in April or whenever, it still wouldn't be enough to invalidate the contract because there'd be enough other states there. So there's various mechanisms to make sure...

Ralph Nader: No doubt the challengers will try to take it all the way up to the Supreme Court as they do on many other issues. But this is a project that you really have spent a lot of time and energy on, Steve. And it seems to have slowed down once you reached the 190 level. Do you see the closer you get to the 270, the more stringent the opponents are in the states that you're trying to win in order to go over 270?

Steve Silberstein: Yes. As this skims closer and closer, more people will be more aware of it and there'll be more fights. But on the other hand, we'll have the momentum going forward. And so we'll move it. As you know, just recently, there was a bill passed in Congress where the government can now negotiate for drug prices for Medicare. It took 25 years for that come about and there have been fights and fights and fights. And I'm sure this last fight was as strong as ever, but it got done and this will get done in the same way.

Ralph Nader: Steve and David, do you want to pitch in here? This is quite exciting.

Steve Skrovan: Yeah. Steve, as I'm watching the January 6th hearings, I'm hearing all this stuff about fake electors and different things going on in the different states. And what occurs to me as the world watches this is that we have this Rube Goldberg electoral system that no other country has and it just kind of highlights how it can be taken advantage of.

Steve Silberstein: Well, yes. And I think these hearings and all these schemes that Trump has outlined--five, six or seven of them--shows you how Rube Goldberg the system is. Right now, the worst part of it is if a candidate doesn't get a majority of the votes in the Electoral College, then the election, according to the Constitution, is thrown into the House of Representatives where the House of Representatives chooses. But each state only has one vote. And that one vote is determined by whether or not that state has a majority of Democrats or Republicans in its delegation. So if that were ever to happen, you would have an extremely undemocratic election.

Ralph Nader: And Wyoming would have an equal vote with California.

Steve Silberstein: That's correct.

Ralph Nader: By the way, Steve, are there any candidates running for office on the Democratic Party ticket at the national state and local level that are talking about your National Popular Vote reforms?

Steve Silberstein: Yes. In the last presidential election, all of the Democratic candidates, Pete Buttigieg, Elizabeth Warren, and so on endorsed the idea of a National Popular Vote and changing the way the Electoral College operates, as we described here, by having states pass this law so that the Electoral College awards the presidency to whoever gets the most votes.

Ralph Nader: David, before we conclude, and Steve gives the website again for interested listeners.

Steve Silberstein: And I might just add in here, after the election in 2016, when Trump was awarded the Electoral College vote even though he lost the popular vote, as you said, by 3 million votes, Trump himself endorsed the idea of switching to a National Popular Vote. Of course, he claimed that he would win the National Popular Vote. And he said, the difference is that he would campaign differently. And that's exactly the point. He would've campaigned differently.

Ralph Nader: Yeah. He would've spent more time in California, he said.

Steve Silberstein: That's right. And you know, trying to woo voters as opposed to manipulating the Electoral College. So even he, after, as I said, he lost the popular vote, said he was for it. Now, of course, he has changed his mind. We know he changes his mind all the time. So we don't know where he is from one moment to the next.

Ralph Nader: David?

David Feldman: Or him spending more time in California might be a reason for California to bow out of the compact.

Ralph Nader: All right, well, we've run out of time. Thank you. We've been talking with Steve Silberstein, who is one of the key founders of the National Popular Vote movement, which you've been hearing discussed in the last few minutes. Steve, can you give slowly again the website so people can see the map of the United States, what states have already enacted legislation to join the Interstate Compact, what states are in play and a whole array of useful material listeners that you can download and spread the word?

Steve Silberstein: Yes. The website is nationalpopularvote.com. I urge everyone to take a look at it. You'll find it really, really interesting.

Ralph Nader: Any legislative action this year or is it over for this year in any state?

Steve Silberstein: The legislatures are pretty much over in all the states right now. So there's nothing going on legislatively. We are, of course, talking to legislators all over the country now to prepare for the next session.

Ralph Nader: So listeners, if you're from Nevada, Minnesota, Michigan, and the other states Steve mentioned, you've got a few months to lay the groundwork before they come back into session in January of 2023. Thank you very much for all that work you've done, Steve, and all your associates who have hung in there year after year to get this reform accomplished.

Steve Silberstein: Yes. Well, thank you. And thank you, Ralph, for all your work on many, many issues. We all are deeply indebted to you for that. Thank you.

Ralph Nader: Thank you, Steve. You're welcome.

Steve Skrovan: I want to thank our guests again, Bruce Fein, Allan Sloan, Steve Silberstein. 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 of this program 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. And for Ralph Nader's weekly column, it's free. Go to nader.org. For more from Russell Mokhiber, go to corporatecrimereporter.com.

Steve Skrovan: Do you know any parents losing control over their kids, the ongoing battle over the iPhone and their laptop? Well, we may have an antidote. *You Are Your Own Best Teacher!*, the latest book by Claire Nader equips tweens to develop and apply their skills as young citizens, skeptical shoppers and lifelong learners. Go to inspiringtweens.com to learn more about the book.

David Feldman: And if you would like to attend a live taping of the *Ralph Nader Radio Hour*, have I got good news for you. In affiliation with the American Museum of Tort Law, join us for a live Zoom recording of the *Ralph Nader Radio Hour* featuring Josh Koskoff. He's the attorney who won a \$73 million judgment against Remington [Arms] and other arms manufacturers on behalf of the families of nine victims of the mass shooting that took place at Sandy Hook Elementary School. Our live Zoom recording will be Wednesday, August 24th at 12:30 PM Eastern, 9:30 AM. Pacific. We would love to see you so go to the *Ralph Nader Radio Hour* website to register. It's ralphnaderradiohour.com.

Steve Skrovan: And the producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt and Matthew Marran. Our executive producer is Alan Minsky. Our theme music, "Stand 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*. Thank you, Ralph.

Ralph Nader: Thank you, everybody. Help us get on more stations and spread the word among your friends and neighbors and co-workers to listen to the show. Thank you.