

RALPH NADER RADIO HOUR EP 361 TRANSCRIPT

Steve Skrovan: It's the *Ralph Nader Radio Hour*.

[Music] Stand up, stand up, you've been sitting way too long.

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: Hello, everybody.

Steve Skrovan: And the man of the hour, Ralph Nader.

Ralph Nader: Hello, everybody.

Steve Skrovan: And we have an old friend and regular listeners know him very well. Bruce Fein is joining us to give us a little update on impeachment here as we speak on the third day of February. Ralph, why don't you and Bruce talk about a little bit of impeachment?

Ralph Nader: Yes. I think our listeners want to get an early view of the brief that the Democrats and the House have sent to the Senate pursuant to the trial of Donald J. Trump on one article of impeachment that's already passed by the House of Representatives. And the trial starts on February 9th. So I want to ask Bruce a preliminary question. Bruce, regardless of how this comes out in the Senate, is it correct to say that the federal government can criminally prosecute Donald J. Trump for inciting a riot in so many ways at the time and laying the groundwork for it to show his intent in previous weeks and months? Can he be criminally prosecuted under federal law?

Bruce Fein: Yes, he may. It would be for those in the audience, if you look at 18 U.S. Code 2383, 2384, the impeachment trial is a civil proceeding, it's not a criminal proceeding. It doesn't create a double jeopardy issue. So even if he's acquitted in the impeachment proceeding, it is not at all a bar to probably then Attorney General Merrick Garland having a grand jury open an investigation and indicting and prosecuting Mr. Trump for inciting insurrection, inciting seditious conspiracy, inciting a riot involving instrumentalities of interstate commerce.

Ralph Nader: Pretty common street crimes, one would say, right?

Bruce Fein: Well I don't know. These are more significant than street crimes in the sense that the goal of the crimes wasn't just to create mayhem; it was to destroy the Constitution of the United States by preventing, through force and violence, Vice President Mike Pence from counting state-certified electoral votes that would then adjudge the victor in the 2020 presidential election. So that's not typically what happens in a riot. The Chicago Seven were indicted for something far less serious than trying to completely cripple and end the constitutional method for transferring presidential power peacefully.

Ralph Nader: Yeah. What I meant was, even though it had a historically unprecedented goal of trying to stop the final counting of the electoral votes at the U.S. Congress, the mechanism that was used was street violence. Trump has gotten away with corporate crime; he's gotten away with

government crimes, but this one...maybe the Justice Department will finally bring him to justice. Back to the Senate impeachment trial, you've read the 80-page brief by the House managers that was sent to the Senate. What is your view of it? Is it strong enough? Does it have deficiencies that you'd like to point out to our listeners?

Bruce Fein: Yeah. I mean if I was to grade it as a law school professor, I think I'd grade it a C minus. A very, very large portion of the 80 pages, perhaps the majority, are devoted to the argument that I think was established already in the Henry Belknap case in 1876 that the Senate can try an impeachment article after the officer has resigned or otherwise left office. Why they kept hammering that is a little bit puzzling to me, because the major issue that I view that was overlooked was the massive evidence of the criminal, corrupt intent of Mr. Trump in hectoring, inciting and encouraging his weaponized mob to march on the Capitol with a clear intent and purpose of obstructing the implementation of the constitutional processes for counting state-certified electoral votes.

And why do I make that conclusion? First of all, the 80 pages nowhere references that in making his address to his fevered mob, Mr. Trump boasted that "I will be with you. I will be marching with you." That obviously made them think, "If he's going to march with us, he's obviously going to be supporting or endorsing our goals." The second thing that's so astonishing to me is that there is a long, longstanding doctrine and evidence log prior similar acts. When you're trying to identify a motivation of an individual in a particular accusation, if they've engaged in a whole series of prior similar kinds of acts, you can introduce it as evidence of a corrupt or criminal mind. And that's, for example, very typical in the cases we see now with many of those accused of sexual predation – The Bill Cosby case, the Weinstein case. It's not just the women who are particularly the source of the charge at issue, but other women who perhaps cases were barred by the statute of limitations testified because that gave you an insight because of prior similar act into the state of mind of the defendant.

And here we have a president who, only in 2019, boasted by proclaiming, "And then I have Article II; I can do anything I want as president." And that's exactly what he did do from the beginning to the end of his administration. The constitutional lawlessness, the corruption was pervasive. Even a former national security advisor, John Bolton, said that obstruction of justice was a way of life at the White House. He usurped the power to tax, the power to spend. He usurped the treaty power. He usurped the power to go to war. He usurped due process. He violated virtually every law on the books when it came to administering and faithfully executing the laws concerning consumer, environmental and other protection laws--scores of cases on those issues.

Ralph Nader: And subpoenas.

Bruce Fein: He defied subpoenas. He wouldn't have his administration testify, supply documents or information to Congress which thwarted the oversight power. And all these ways . . . and obviously he used his pardon power in order to give an incentive to his aides and toadies to commit perjury, to do wrongdoing to assist him in anticipation that they would have their sentences commuted or they would be pardoned or otherwise...

Ralph Nader: You're saying the Democrats' brief didn't put in their brief the pattern and practice that you're talking about . . .

Bruce Fein: Yeah, that's right.

Ralph Nader: . . . to bolster their case.

Bruce Fein: Yeah, exactly. And it's stunning. They're so narrowly focused on just January 6 alone. For example, why didn't they ask, and they would want to have subpoenaed the Secretary of State of Georgia. You want to know that the purpose of the exhortation to go and march on Capitol Hill was to corrupt the count of the electoral votes. Well, if you want to deduce what his mindset was, a few days earlier you'd want to have the conversation with Mr. Raffensperger, the Republican Secretary of State of Georgia, who was told you could face criminal prosecution if you don't find an additional 11,000 or 12,000 votes for me.

Ralph Nader: Told by Trump on a telephone call.

Bruce Fein: On a telephone call, yeah, that Trump doesn't deny. So it's just appalling the magnitude of this man's disrespect and contempt for the Constitution and the rule of law. It's all just whited out and you just kind of have this little snapshot of one event on January 6th, as the beginning and end of this person's high crimes and misdemeanors.

Ralph Nader: Let's go to the other deficiency that you pointed out. They don't seem to be willing to call witnesses and have a longer trial. They want to get it over with, which is exactly what the Republicans want.

Bruce Fein: Yeah, which is silly. Why, when you need to engage the American public . . . we know that some will never change their mind even if you had 5000 volumes of evidence, but there are those, and that's showed true in Watergate, where people initially in favor of Nixon, changed their mind after the Watergate hearings. There is no reason to rush the judgment. After all, we're working with a Congress that typically works from Tuesday to Thursday. How about because of the importance of the issue, not just for ourselves but our posterity, the future of the Constitution and our Republican form of government. How about thinking about the future and saying, "We can take a little extra time." Maybe that means that we wait an additional 7 or 10 days on a COVID-19 bill or something; that's okay. We'll work on Saturday and Sunday. There's nothing in the Constitution that prevents Congress from working on Saturdays and Sundays. This is ridiculous when we have the greatest threat by far in the history of the United States to the constitutional methods for counting electoral votes for the president, who is now the most powerful man in the world, to go forward without any live witnesses, without the kinds of things that can underscore to the American people the gravity of the issues.

The family of the Capitol police officer who died, the weapons that were found in the Capitol, all those who risked their lives, even the terrifying effect that they had on the members and staff, frightened that they could be executed. They need to have people testify, "Yeah, they were shouting and chanting, 'Hang Mike Pence.'" This is something the president has never disavowed, "Hang Mike Pence." Are you kidding? In the United States of America we hang a public official because he doesn't do unconstitutional bidding of the president?

Ralph Nader: Bruce, are the Democrats going to subpoena Trump to testify at the trial?

Bruce Fein: Well, we don't have that information at present. The Senate surely could, and that's why, Ralph, you have a wonderful idea, everyone who's on this program should be writing, communicating to their senators. Senator Durbin is someone who perhaps is willing to stand up on the Senate Judiciary Committee. Senator Blumenthal of Connecticut, a strong person; Klobuchar of Minnesota; Sheldon Whitehouse of Rhode Island, these people have to be communicated and say, "We need and must have this kind of testimony. We want to hear and see these people." I would want not only Mr. Trump to testify, because this is such a critical element. I would want former Vice President Pence to testify how many efforts did Mr. Trump take to try to bully you into violating your constitutional oath, what did he say? Because that gives a background of what Mr. Trump was hoping to accomplish when he incited his mob to march on the Capitol. It wasn't an isolated address. It came on the heels of his clamoring for his vice president. You can just count the votes on your own and throw out the ones you don't like even though it's an absolutely absurd, fanciful interpretation of the 12th Amendment.

Ralph Nader: Well, thank you very much, Bruce. It's a good capsule of what we have to look forward to. If the Democrats turn a powerful case into a feather, then history will be their judge. Thank you very much.

Bruce Fein: Thank you, Ralph.

Steve Skrovan: Yes, thank you for that, Bruce. I'm sure we'll be checking in with you as the trial unfolds. So now let's roll back the clock just a little bit, all the way back to December 2020. With one foot out the door of the White House, Donald Trump issued a flurry of pardons to some of his high-profile friends and henchmen. But let's look at four pardons that didn't get as much airtime. These four pardons were granted to men who worked for the private security firm Blackwater, and were convicted of killing 14 Iraqi civilians while under contract with the State Department. The massacre occurred in 2007 during the American occupation of Baghdad. The United States has a long history of imposing sanctions, invasion, and occupation in Iraq, destroying its cities, upending its people's lives, and then conveniently forgetting our own imperial violence.

So our first guest today will be Professor Sinan Antoon, who has written a piece in *the Washington Post* explaining how these pardons are just one link in a long chain of American abuses in Iraq. And if there's one thing more American than invading Iraq besides apple pie, it must be the prison industrial complex. The United States has 5% of the world's population, but 25% of the world's prison population. One out of every 10 of those prisoners is held in a private for-profit prison. In the second half of the program, we'll turn from neoliberal violence abroad to neoliberal violence at home and discuss private prisons with John Dacey, who is working in the courts to abolish these for-profit private prisons in the United States. And as usual, somewhere in between we'll take a break to check in with our corporate crime reporter Russell Mokhiber. But first, let's talk about how our actions in Iraq conveniently slipped down the memory hole. David?

David Feldman: Sinan Antoon is an associate professor at NYU's Gallatin School, a translator, an author and a poet. He has written extensively about the ways in which war crimes perpetrated by the U.S. in Iraq have shaped contemporary Iraqi culture and politics. He's also a novelist and his most recent work is *The Book of Collateral Damage*. Welcome to the *Ralph Nader Radio Hour*, Professor Sinan Antoon.

Sinan Antoon: Thank you. I'm so glad to be here.

Ralph Nader: Welcome, indeed. When I read your column in *the Washington Post*, I was reminded of Hillary Clinton's statement when she said that she considered her vote for the Iraqi War a mistake. Over a million people have died because of that. Millions more displaced, injured, sickened, families blown apart, the whole society dismantled. We did this to a country that did not threaten us even under the regime of our former ally, Saddam Hussein. It was an unconstitutional war, not declared. It violated criminal statutes, the UN Charter, which is a treaty we adhere to, and the Geneva Convention, characterized by destruction of civilian infrastructure like electric systems, drinking water protection systems, healthcare institutions, and the arbitrary destruction of civilians. And she and other Democrats, quite apart from the war criminals, Bush and Cheney, call it a mistake--a mistake! It was arguably the worst crime committed by the U. S. government in the 20th Century, and it spills over obviously into the 21st Century. We blew apart this country. It is still suffering. We exacerbated internal divisions, pitting one group against the other. And we're paying \$500 million for the embassy in Baghdad, which is what we pay annually for the Occupational Safety and Health Administration for the protection of American workers.

I wanted to give this predicate, Professor Antoon, because the American people have got to come to terms with this, and the sooner, the better. The crime of the destruction of Iraq by the U.S. government spearheaded by George W. Bush and Dick Cheney who have never expressed regret or apology, and that holds true for the National Security Advisor, Condoleezza Rice. Your reaction?

Sinan Antoon: Well, first, thank you so much for having me. I'm really honored. And thank you for devoting time to this subject because I think part of the problem is not only the amnesia, but as you mentioned, it's that it's just a passing thought. The entire crime of not one war but several wars against Iraq passed by with the mainstream media on an anniversary without even one op-ed to speak of it. And it goes back way before 2003. I often say that one way to think of the United States' involvement with Iraq is to think of it as three acts. It all started out back in 1991 because, as you mentioned previously, Saddam Hussein used to be an ally of the United States and the so-called Free World and liberal democracies, because he was doing the bidding of empire in the Gulf. But then when he crossed the red line and invaded Kuwait, that's when Saddam Hussein was punished. And the 1991 Gulf War, which was supposedly waged to liberate Kuwait, to kick the Iraqi army out of Kuwait, ended up also destroying the entire infrastructure of Iraq back in 1991.

I was living there back then and even though I, like many Iraqis, were against Saddam Hussein, but what 1991 meant was the destruction of a very healthy economy and one of the countries that had the best infrastructures in the region. For two months, day bombing of institutions and structures that had nothing to do with Kuwait, and on top of all of that, the most barbaric sanctions in modern history were imposed on Iraq from 1991 until 2003. So this is one crime already. And in the '90s, one million civilians died as a result of those sanctions. And I'm sure many of your listeners know of the notorious statement by Madeleine Albright, who was one of many Liberals and Democrats who, in the Trump era, seemed to be so angelic. She was asked on *60 Minutes* by Lesley Stahl, already two years into the sanctions, it was already obvious that the sanctions were only killing Iraqi civilians; they were not hurting the Iraqi regime in any way. And they had killed

hundreds of thousands of innocent children under the age of nine. And was the price worth it? And Madeleine Albright said, "Yes."

And I think this is something that we should all pause before . . . even beyond Iraq, to understand the problem with this imperial thinking by the liberal elite in Washington, D.C., which has a certain hierarchy of human worth. And whether it's indigenous children, or African-American children, or Iraqi children and others, they don't factor in that hierarchy. They're at the bottom of that hierarchy. So in 2003, with a populous that was already oblivious of the history of what its country, its military had already done to Iraq and Iraqis, we come again and start the hearing of the drums of war. And for me and so many others at the time, I remember and I think this is also very important for us as citizens to remember, that in 2002, it was obvious for many of us that there would be no weapons of mass destruction because a country that was subjected to so much destruction would not . . . so I just want to say this because in the reigning narrative of the D.C. elite and the mainstream media now that, "Oh, well, we didn't have information. We were given the wrong information." No. The information was already there. We knew that there would be no weapons of mass destruction. But of course, the war was about something else, not democracy, not liberating people. Because the United States has never been in the business of liberating people and delivering democracy. On the contrary, if you look at the last 60 years, whether it's in Asia, Africa, South and Central America, the United States usually allies itself with military dictatorships and with juntas, and never intervenes on the side of democracy, on the contrary. I mean we know where the Republicans and the right-wingers stand, but my article in *the Washington Post* was also very angry because all the proverbial pearl-clutching by the Liberals who are so aghast at Trump pardoning these criminals, but many of those Liberals themselves were supportive of this war in 2003. And it took them many, many years and after many hundreds of thousands of civilians killed to even start wondering, "Maybe this is wrong." I think it's very important to remember that all of these liberal outlets, *the New Yorker*, *the New York Times* and so many others, were all supportive of the war. And as you mentioned, Ralph, there was never really . . . there has yet to be a real confrontation and a reckoning of the responsibility, not only of politicians, but of journalists, of pundits, of others. And sadly, I think we have to link this also to this country's problem with its own national myth that has to do with the foundational violence of how this country came about. So I think the absence of Iraqi civilians or the absence of any reckoning or responsibility taken for what the actions of this country have done to Iraqi civilians or now are doing to Yemeni civilians and children, because this country gives weapons to the Saudi-Emirati Alliance that bomb Yemeni civilians every day, or what this country has done to its own indigenous population and minorities; it's all linked together, so...

Ralph Nader: Let's not forget the Palestinians, all the weaponry supplied Israel and occupying the West Bank. It's the same pattern; it's the same pattern empire. But in your article, you pointed out something that was even more, shall we say, astonishing to even people who have discounted the U.S. government's crimes over there. And that is these fighters for Blackwater were convicted in U.S. courts and Trump pardoned them. Why did he pardon them? What caused him to do the pardoning? Is he close to the Blackwater executives and they've renamed the company? What was the motive for that?

Sinan Antoon: I mean I think both. Part of it is that on the one hand, as you said, because the founder of Blackwater is Betsy DeVos' brother, and he's a friend of Trump and they're part of this

economic elite. But on the other hand, I think it's red meat for his base. Because he knows that he can get away with it and that also whether we like it or not, there is a significant portion of the voters in this country who support Trump and support his ideology, and believe in this white supremacy and believe in Americans as eternal victims. They don't see . . . and their violent, militaristic vision of how the world should be and who should be the masters of this world; this rhymes with all of that. And their narrative of the war in Iraq is that the white man goes abroad and tries to do something good but is not really appreciated. So they knew that you could get away with it.

Ralph Nader: These pardons were big news in Iraq. Iraqis were absolutely stunned. They still had some measure of confidence in American judicial justice, and that was removed with the flick of Trump's pen. But he and others have not been criticized for something I want you to talk about. There were thousands of Iraqis who helped the U.S. military mission out of desperation to feed their families. They were translators, they were drivers of vehicles. And when different events transpired in Iraq, they were in jeopardy and they wanted to become refugees and come to the U.S. Tell our listeners how few of these Iraqi refugees, who supported the U.S. mission and felt betrayed, were allowed in from year to year.

Sinan Antoon: I mean very few of course, but they get preferential treatment because they cooperated with an occupying army for whatever reason, of course, for economic needs and so on and so forth. But of course, very few of them were allowed to become refugees. But I also want to point out that if you go back to the massacre, this is the one massacre that we knew about because it took place in Central Baghdad in a very important place and got all the media attention. There are thousands of Iraqi civilians who were shot and killed by these mercenaries. That's the other problem of this neoliberal corporate terminology. These are not contractors; these are mercenaries. When you are hired and given money to go and participate in a war, you're not in an army [and] you're not supposedly defending your country, then you are a mercenary. In the early years of the Iraq occupation, there were clips on YouTube that are still there of some of these Blackwater mercenaries shooting Iraqis for fun and laughing. I mean this is only one of so many massacres of Iraqi civilians who were killed for no reason whatsoever, because part of this imperial vision that was also accentuated by the war on terror is to mark everyone as a potential insurgent or terrorist. It means civilians . . . this might sound like an exaggeration, but there are no civilians. There are just insurgents. And for me, I understand everyone has a right, if they're in danger, to become a refugee and to seek asylum, but there is also a problem in this country whereby there is a hierarchy of who is worthy of help. It's the people who worked with our army and the people who were our translators. But what about all those other Iraqis who didn't even have English to work with the U.S. Army who just wanted to live a peaceful life and not to have their country be destroyed, or not be killed at a checkpoint because a mercenary thought that they were suspicious?

Ralph Nader: Does the Pentagon still have a compensation program like when they kill civilians in Afghanistan, they give the family \$20,000? Does that apply at all?

Sinan Antoon: They do. They supply them . . . of course the figure is really embarrassing. And since you brought up Palestine, it's almost humiliating, because it's like the Israeli Army compensates something really . . . sometimes actually they don't compensate; they charge the

families for the bullets. But in Iraq, yes, there have been compensations for lives lost, but as we all know, I mean how can a human life be quantified, and can you put a price on a human life?

Ralph Nader: You've called Iraq the invisible war, and it certainly lends itself to the United States of Amnesia, as Gore Vidal once called our country. We're about running out of time. We've been talking with Professor Sinan Antoon at New York University, professor of Arabic literature and contemporary politics. Before we end, Steve and David, any quick questions?

Steve Skrovan: Yes, I have a question, Sinan. The dominant narrative, as we've discussed about the second Iraq War now, is that it was acknowledged as a mistake, as a blunder, but the dominant narrative of the first Iraq War I think is still that that was justified, that was a just war because Saddam had invaded Kuwait, this defenseless country. How would you rebut that narrative?

Sinan Antoon: Well, I mean I rebut that narrative with the figures. I, myself, as I said, would understand if the United States and the world order wanted to take the Iraqi Army out of Kuwait. But Baghdad, my hometown, was 550 kilometers away from Kuwait. Why did you need to destroy 116 bridges in Iraq to liberate Kuwait? Why did you need to destroy all of the electricity-generating plants and so many factories? Why did you need to keep bombing Iraq for six weeks to liberate Kuwait? We have to step back and look at the larger picture. This was about, many generals even said, this was about healing the wounds of Vietnam. And we must never forget of course the military-industrial complex. This was also about trying out all of these weapons. It was also about the economy, because the Gulf countries paid for all of the weaponry, paid for all of the destruction, and then the contracts for rebuilding Kuwait were apportioned according to the percentage of military in the coalition. So the United States actually made billions and billions of dollars, of course, not the average citizens . . .

Ralph Nader: Well, George W. Bush admitted in his speech in California that oil was very much involved as the motivation.

Sinan Antoon: Of course.

Ralph Nader: But there's an historical point, Steve, that most people miss. Some two or three decades earlier, Iraq did the same thing under a ruler. They pounded the drums about Kuwait. They said Kuwait was sucking oil under the boundary, and the tanks started rolling out of Baghdad toward Kuwait. At that time, the U.S. wasn't much involved, but Britain had a treaty with Kuwait. And when they saw that the tanks were rolling over the desert heading for Kuwait, they sent a brigade of paratroopers over there and that was the end of it. They took the tanks back to Baghdad. The same picture repeated itself with the preparations for invading Iraq by pulling the armored vehicles and tanks on the desert, and why didn't the U.S. do that? Why didn't the U.S. say, "Okay, we've got you under surveillance, satellite photographs. You better not breach that boundary. We're sending some paratroopers there to support Kuwait." There wouldn't have been a war.

David Feldman: Didn't our ambassador say to Hussein that we wouldn't have a problem?

Sinan Antoon: Yes. He said we have no position on Arab-Arab dispute. And I'm happy that Ralph brought this up because actually Dick Cheney flew to Saudi Arabia and convinced the Saudi king at the time that Saddam would not only invade Kuwait, but he was going to move into Saudi Arabia, which was not the case. But the bigger goal was to have permanent U.S. military bases in

the Gulf. That is the whole idea. And Saddam Hussein of course gave that to the United States on a platter of gold, as they say.

Ralph Nader: And as David said, the ambassador gave an indirect go signal to Saddam when he said, "We're not going to interfere in inter-Arab conflicts. " And that's when he said, "Okay, I now can make the move." So this was a completely preventable war in 1991, completely preventable. The British did it to prevent it. It was almost a rerun. But as you say, Professor Antoon, there were other motivations for the destruction that was followed long after the Iraqi Army was driven out of Kuwait.

Sinan Antoon: Yeah. I mean, definitely. That's what we always have to think of is . . . it might sound like a cliché, but who benefits from all of these wars? Do average United States citizens benefit from these wars? No. And Cheney and others, their portfolios tripled because of that war actually, and because of Kellogg, Roots and Brown [Kellogg, Brown & Root] [KBR]. It's interesting. When he was the secretary of defense under Bush Sr., he commissioned a study and that study then just said that so many services to the U.S. Army should be privatized, and then he goes into the private sector. And guess which company gets all of those contracts that are apportioned? Kellogg, Roots and Brown [Kellogg, Brown & Root] so on and so forth. So when you speak of the losses of war, it's the average citizens who lose the war. But for the economic elite and the ruling class, they profit from these wars.

Ralph Nader: Well, we're out of time. We've been speaking with Professor Sinan Antoon at NYU regarding an article he wrote in *the Washington Post* in December on the invisible war and the amnesia that affects our country about the crimes that the Bush-Cheney administration with significant democratic support in the Congress committed against the people of Iraq that is continuing to this day. A ravaged, destroyed land without any declaration of war by Congress, illegal to its core. Thank you very much for continuing to enlighten the public here, Professor Antoon.

Sinan Antoon: Thank you for having me. It's an honor to talk to you.

Steve Skrovan: We have been speaking with Professor Sinan Antoon. We will link to his work at ralphnaderradiohour.com. Let's take a short break. When we return, we're going to talk about abolishing private prisons. But first, 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" for Friday, February 5, 2021. I'm Russell Mokhiber.

In the past two years, Joe Biden's pick to be treasury secretary, Janet Yellen, has raked in more than \$7.2 million in speaking fees from Wall Street and large corporations, including Citibank, Goldman Sachs, Google, City National Bank, UBS, Citadel, Barclays, Credit Suisse, Salesforce, and more. That's according to a report in *Politico*. Yellen, the former chair of the Federal Reserve, brought in nearly \$1 million giving nine speeches to Citi alone. She earned more than \$800,000 speaking to Citadel, a hedge fund founded by Republican megadonor Ken Griffin. She also spoke to the law and lobbying firm Pillsbury Winthrop. 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. Now we're going to explore how one multibillion dollar industry ties the personal wealth of some to the bondage of others. David?

David Feldman: John Dacey is Executive Director and Co-Founder of Abolish Private Prisons. He has spent the last five years challenging the constitutionality of private for-profit prisons in the United States. Welcome to the *Ralph Nader Radio Hour*, John Dacey.

John Dacey: Thank you very much. It's a pleasure to be here.

Ralph Nader: John, you've been practicing law in Arizona now for 40-some years; you've been studying this issue. And you think that private prisons, per se, incarcerating prisoners, having complete control over them as private profiteering corporations is unconstitutional. Can you explain that in plain language?

John Dacey: Sure. We'll look at this from two standpoints. First, what is the proper role of government? And in our view, the Constitution does not give the government the power to turn over the taking away of liberty to private parties. And once it does so, it injects impermissible financial biases into the system of justice that violate due process and create a separate system of justice that is not equal to what people in public prisons experience, because of the attenuation of the connection between the people incarcerated in government and between the voters and the entity that's doing the incarceration. Second, we look at it from the standpoint of the person who is in the prison. And in a privatized system, the prisoner becomes commoditized, if you will. Each prisoner represents a unit of revenue and profit to their jailer. So there's no incentive to release. There's an incentive to keep prisoners longer. And the value of the prisoner to the corporation and of the prison contracts essentially are assets to the corporations that affect their profitability, their stock values and their executive compensation. In our view, there's a violation of the 13th Amendment's prohibitions on slavery and involuntary servitude.

Ralph Nader: We're going to get to that. What you're saying is the prisoners are essentially inventory for these private corporations.

John Dacey: That's right.

Ralph Nader: And by the way, listeners, as you probably know, some of these are giant companies on the New York Stock Exchange like the Corrections Corporation of America. And I heard that there were some studies that show that, as inventory, they have an incentive to make more profit by arbitrarily throwing prisoners into solitary confinement where their incentives is extended. And of course, they keep more prisoners there. They also connect with the prison labor unions against certain criminal justice reform. So it spreads its tentacles. How many prisoners are in public prisons and how many are in private prisons, so we get some sort of proportion here, federal and state?

John Dacey: So generally, I mean I'm going off of a couple years ago, we were up at about 2.3 million people in prisons and jails on any given day, of which about 9% or 10% are in private prisons and jails. The percentage of federal prisoners in privatized facilities had been higher. It

was around 17%, the states being around 8%. And most people in private prisons are placed there by the states, not by the federal government. So I'm not sure I've answered your question.

Ralph Nader: No, you have. And why is the percentage lower than most people might think? In other words, is the percent of prisoners in private prisons growing and growing, or has it reached a level under Obama and then was grown under Trump? The Trump people encouraged private prisons I assume.

John Dacey: The reasons for the variations include such things as what California and Nevada did in 2019, which was to pass state legislation to prohibit or phase out prison privatization at the state level. Iowa, New York, Illinois, for example, have had statutes on the books for a while that prohibit privatization. The majority of states use private prisons, either in their own states or they farm people out like they do to Arizona. So the numbers will vary even among states that use private prisons. So Arizona is among the top five in terms of numbers and percentages. We're at about 20% of our state prisoners in private prisons, but if you look at New Mexico and Montana, they're closer to 40%. There are other states where the percentages are much lower for various reasons.

Ralph Nader: Are any of these private corporate prisons allowing unionized staff or is that mostly in public prisons?

John Dacey: It's mostly in public prisons, although I have read that at least in one or two locales, they've contracted with correctional officer unions. But there is one thing I'd want to emphasize. Not all correctional officer unions are alike, and the ones that I've been working with for a period of time are virulently opposed to privatization of prisons and jails. So they have a stake in the privatization as well, and not just about job security. It has a lot to do with safety and security and the qualifications to be a correctional officer.

Ralph Nader: And union busting.

John Dacey: And union busting.

Ralph Nader: Now, Obama discouraged in the latter years further expansion of corporate prisons, and then Trump came in and one of the first things he did was reverse that in saying, "Yeah, we're going to have more corporate prisons." Now, is there any economic saving to this? Not that that's a factor compared to the human rights and constitutional issues. But usually when you contract out government services, there are two things historically that have been documented – an increase in corruption and misuse of campaign finance money. And the second is that it's actually more expensive. It's more wasteful. What's your view on this?

John Dacey: Let me give you a couple of examples from Arizona that I think are indicative of the bigger picture. So the Arizona legislature 10 years ago required the Arizona Auditor General to do a comparative cost study on public versus private prisons. I'm sure they were confident private prisons which . . . that they saved money. The Arizona Auditor General's initial report said private prisons cost slightly more. So to demonstrate the power of this industry in this state, instead of refining the reports to address any criticisms of the manner of it, the legislature did away with any further reports. The public doesn't get to know. More importantly, I think, we had Arizona

Senate Bill 1070, “the detain people with brown skin act” if you will, most of which was struck down by the United States Supreme Court. NPR did an investigative piece after the law was passed to determine who funded this effort. And they published a story that concluded it was private prison money that had been donated to most of the signers of this law and to Governor Brewer. That was the money behind the scenes. Now, the industry may contest that. That was the conclusion of the NPR study. In my view, that is just some indications of the power this industry has in Arizona.

Ralph Nader: We're talking with John Dacey who is a leading advocate for the abolishment of private prisons and is leading litigation in that respect, among other initiatives. John, is it fair to say that private prisons would oppose decriminalizing possession of marijuana because they want more prisoners, violent or non-violent, in their prisons? Is there a red thread that goes through their public policy because they're active lobbyists?

John Dacey: Yes. And they may say they don't get involved in influencing public policy. I say that's a lot of nonsense. If you look at their 10-K filings with the SEC, as you mentioned earlier, CCA [Corrections Corporation of America], rebranded as CoreCivic, has in consecutive years indicated a warning to potential investors and shareholders. Lenient judges, criminal justice reform, alternatives to incarceration, decriminalization are adverse to the financial interest of our shareholders. It's obvious. I mean if you have an institutional model and your beds are empty, you're not going to be in business. And when you're in the business of putting people in prison, you want to sustain and grow.

And to come back, if I could for a moment, Ralph, to your earlier question, the decision at the end of the Obama Administration to start phasing out private prisons at the federal level, reversed immediately by Jeff Sessions after the election, that particular sequence of events, in our view, emphasizes the reason why we need to go to the courthouse and get a constitutional decision. Because even what President Biden did last week with his executive order, reestablishing the movement that started at the end of the Obama Administration, it's an executive order. It can be reversed at the next election. So we think we need something more on the model of *Brown v. Board of Education*, a constitutional decision at all levels of government that establishes the law of the land.

Ralph Nader: Well, the Biden executive order did, as you say . . . and it has limited impact during the period of the Biden Administration. They can, for example, not renew contracts. They cannot fund new prisons. They can do a lot to slow down this drive of corporate prisons. It's amazing, years ago, Steve and David, when I was in law school, if someone said "corporate prisons", we'd say, "What are you talking about? Are you kidding? In the USA, corporate-run prisons for profit and they can do whatever they want inside the prison against the prisoners and lobby to get more prisoners so they can make more profit and get their shareholders more dividends?" That's how constitutional order in this area as well as other areas has decayed. But you've talked a lot about prison labor, slave labor that private prisons engage in, and I think public prisons put out their workers for pennies an hour too. Can you enlighten us on that, John?

John Dacey: Yeah. I think one of the distinctions, whenever we use the word slavery, it's of course an easy association to the African slavery in this country, which was comprised of labor, extracting value from labor. In the private prison setting, I think it goes even one step further. The

mere presence of a prisoner's body in a private prison cell generates revenue and profit for the prison corporation, whether that person ever does any work or not. It is just taking their liberty. And I realize it's the judicial system that results in the person being placed in the prison. But just the value of the person's body in the cell generates profit. And of course, if their labor is used inside the walls, it reduces the cost of operating the prison, which also adds to profits. There are all kinds of ways in which private enterprise makes a lot of money off of prisoners, public and private prisoners. And what we're hoping our litigation challenge will do is it will start to get court rollbacks of the profit incentive that we think is a cancer in the legal system that is metastasizing.

Ralph Nader: You mentioned other corporate enterprise. In other words, there are other corporations that, in effect, rent out prisoners at pennies an hour to do work outside of the prison, and these are low-security prisoners. And just recently, some of these prisoners were bravely fighting along with fire fighters the wild fires in California because they were needed. What's your view on that? And number one, as a practice, number two, as an emergency support structure like in the wild fires?

John Dacey: I think if prisoners are going to be used in labor, and keep in mind that sometimes it's not so voluntary, they ought to be paid like anyone else for their work. And it is the issue of human dignity, treating people with human dignity regardless of their status as prisoners or not. And there are so many reasons to justify treating them differently, but I mean I hope that's an answer to your question. It makes no sense to me to put their lives at risk as you just mentioned.

Ralph Nader: There were reports recently about horrible conditions in private prisons in some southern states. Tell our listeners what's going on at the state legislative level, public hearings; what's going on at the Bureau of Prisons looking into these abuses; what's going on in Congress. Have there been any books written about it. And then we'll get to the group that you have formed and connect our listeners to it.

John Dacey: Let's start at the end of your question, are there any books people can read. Yes. There's a book by Lauren-Brooke Eisen of the Brennan Center for Justice, called *Inside Private Prisons*, that was written about the industry and the contracting process. Shane Bauer, an investigative reporter for *Mother Jones*, wrote his book in 2018, *American Prison*, about his work in a CoreCivic prison in Louisiana as a security guard. It's a pretty eye-opening, horrible description of the conditions. And the book that really got me started is a book called *Worse than Slavery* by historian David Oshinsky. It was written in the '70s. It's written about the Parchman Farm's prison system, the public prison system in Mississippi. But I think what is of great interest to me is for these purposes, is connecting the dots from African slavery to the horrible abuse of our criminal justice system to legislate laws known as the Black Codes, and engage in the practice of convict leasing, basically turning the freed slaves back into prisoners and free labor for the plantations and business interests in the wrecked southern economy after the Civil War. I see the rise of the private prison industry as just one more way to control people's lives, take away their liberty, and incarcerate the many in order to enrich the few.

Ralph Nader: And the listeners should know, the vast majority of these prisoners are not first-degree murder convicts. There are people over the years who've been put away for 15 years for forging a check. They've been put away for years decades ago for stealing a horse, which was considered a very serious felony. And now, of course you have them full of non-violent drug

offenders led by the tens of thousands of people in jail for possession of marijuana. So tell us about your group and how people can connect with it, John Dacey.

John Dacey: Yeah. I would encourage people to go to our website, abolishprivateprisons.org. We're a 501(c)(3), Arizona non-profit corporation, a public interest law firm. We need support. We want to take the issue of prison privatization to the United States Supreme Court. In order to do that, we may have to file more than just one lawsuit. And you can read the court filings in that lawsuit on the first page of our website. We need donations. We need volunteers, people who may have retired but still want to do legal research and writing; we need that sort of thing. We are talking to different interested groups about amicus briefs. We have pro bono co-counsel. There are divestment activities where a number of large banks have backed away from working with the private prison corporations. A number of organizations, faith-based, civil rights based, have passed resolutions, calling for abolition of private prisons on ethical, moral, theological grounds, as well as constitutional. To be clear, we're not saying public prisons are the best thing since sliced bread. They have their own host of problems.

Ralph Nader: To be sure.

John Dacey: But we don't think the United States Constitution permits the existence of this industry. In our view, the question should not be "What are the reasons to have private prisons?" For us, the question is, "Why does anyone think private prisons are constitutional in a free society?"

Ralph Nader: John, give that contact website again slowly.

John Dacey: Yes. [Abolishprivateprisons](http://Abolishprivateprisons.org), one word, .org. And we have a lot of information on the website, including the legal documents we've filed in the federal court in Phoenix, our board and our pro bono co-counsel.

Ralph Nader: By the way, listeners, I'm sure John would like all of you to consider, if you're able to and have the time, supporting his effort, but especially retirees, retired lawyers, retired law professors, retired paralegals. Thank you very much, John. The website again is abolishprivateprisons.org. Thank you, John Dacey.

John Dacey: Thank you.

Steve Skrovan: All right, that's our show. We want to thank our guests again, Professor Sinan Antoon and John Dacey. But before we close, we want to point out a new feature we're going to have on the *Ralph Nader Radio Hour* website. It's a take action button that leads to a letter that you can send to your senators and representatives. Ralph, why don't you tell us what that's all about?

Ralph Nader: Yeah. A few programs back, listeners, you remember we interviewed the national expert on corporate crime, Professor John Coffee, Jr. of Columbia Law School. And some people who heard the program felt frustrated, like there's such under-enforcement of corporate crime. And so, I thought that we could try something new. Instead of urging you to write your member of Congress demanding that they do something, why don't you write your member of Congress asking them what they are doing or not doing on something. And so this letter has been drafted very carefully and all you have to do is download it, look at it, if you agree with it, sign, and send it to

your member of the House and your two senators and ask for a written reply. It's a detailed but short letter that tells the members of Congress that you're connected with other people and they're not going to be able to send you a form letter. If you want to tweak it, you can do whatever you want. You can delete or add whatever you want, p.s. or in the body of the letter. But the letter itself is a very powerful tool and we'd like you to send us copies of any replies that you get from your member. So this is the new dynamic. Help us out. Let's show that radio can lead to congressional justice.

Steve Skrovan: Yes. Just go to the *Ralph Nader Radio Hour* website. It is in the upper right-hand corner. The button says **Take Action**. Just press on that and that will link you to the letter. And that's our show. For you podcast listeners, stay tuned for some bonus material we call "The Wrap Up". A transcript of this show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted. Scroll down just above the audio player. It's a big blue link.

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

Steve Skrovan: To support the American Museum of Tort Law, check out their online shop at store.tortmuseum.org. They have autographed books, Flaming Pinto coffee mugs and other unique gifts for all you lawyers, law students, paralegals and tort fans out there.

David Feldman: The producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt and Matthew Marran. Our executive producer is Alan Minsky.

Steve Skrovan: 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.

David Feldman: Join us next week on the *Ralph Nader Radio Hour*. Thank you, Ralph.

Ralph Nader: Thank you, everybody. Spread the word. Get more radio stations to carry the program.

[Music]

You say you have no choice.
You say you're just one person.
And who will hear your voice.
Don't let them fool you
You have the power in your hand
I'm only trying to school you
Listen to me people
Do you understand?
We got to stand up
Oh, you've been sitting way too long
Oh, stand up
You know what's right and you know what's wrong
Rise up

Don't let the system pull you down
Stand up