

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: Good morning. We have a great show today.

Steve Skrovan: We do have a great show and we also have the man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hello everybody.

Steve Skrovan: Now I want to start today's show with a series of questions for David and one for Ralph. And I need you to answer honestly, David, and you'll understand . . . the listeners will understand why I'm doing this as we go along. So, David, you're in the witness chair here. David, have you ever sold liquor-flavored sherbet that contains more liquor than necessary to flavor their sherbet?

David Feldman: You know the answers. Why would you ask me that on the air? You know the answer. Next question.

Steve Skrovan: Have you ever tried to sell "tongue spread" that isn't at least 50% tongue?

David Feldman: Are you monitoring my computer? Why are you doing this in front of Ralph? These are things that I've done privately without...

Steve Skrovan: I just need you to answer the questions honestly. I'm going to move on to the next question. Have you ever alarmed people with your unreasonably loud noises in a national forest?

David Feldman: Okay, so you're tapping my phone. All right, go ahead, move on.

Steve Skrovan: **And** this one I'm pretty sure is a "yes." Have you ever been a commercial moose hauler who has hauled a moose from the Nulhegan Basin Division of the Silvio O. Conte National Fish and Wildlife Refuge in Vermont without a moose-hauling permit?

David Feldman: Before I answer that question, is the moose alive or dead?

Steve Skrovan: We'll ask our counselor later. And Ralph, this one is for you and I'm sure you get asked this all the time. Have you ever flown honeybee semen from one country to another through the United States in containers that won't prevent the bee's semen from leaking out during the trip? Answer honestly, Ralph.

Ralph Nader: Never. I'd never invade the privacy of bees at that level.

Steve Skrovan: Okay. Well, each one of these questions is based on a real-life federal statute executed by our United States Congress. If you've ever done any of these things, you have committed a federal crime. And our first guest has been compiling them for over five years now,

one a day. His name is Mike Chase and his Twitter feed is @crimeaday. He's a criminal-defense lawyer who's going to tell us how this hobby turned into a cottage industry that has culminated in

a bestselling book entitled *How To Become A Federal Criminal: An Illustrated Handbook for the Aspiring Offender*. Who says we have a "Do Nothing Congress?" And as always at some point, we'll head over to the National Press Building in Washington, D.C. to get the *Corporate Crime Report* from our trusty Corporate Crime Reporter, Russell Mokhiber. But first, if you ever dreamed of becoming a federal criminal, our first guest is here to show you how. David?

David Feldman: Well, we find out that it's against the law to promote a cockfight through U.S. mail, I'm moving to Canada. Mike Chase is a white collar, criminal-defense lawyer. He's also the legal humorist behind the @crimeaday Twitter feed where he offers up a daily dose of his extensive research into the curious, intriguing, and often amusing history of America's expansive criminal laws. Mr. Chase's work has made him the go-to commentator on the countless, weird and esoteric federal criminal laws buried deep in the books. And now he's written his own book about it, entitled *How To Become a Federal Criminal: An Illustrated Handbook for the Aspiring Offender*. Welcome to the *Ralph Nader Radio Hour*, Mike Chase.

Mike Chase: Thanks for having me. And I got to say, I've got to commend everybody on doing such a good job earlier with answering those questions in such a way that nobody I think violated/waived their 5th Amendment rights. I think everybody did a good job, so, yeah.

Ralph Nader: That's because they're comedians, Mike.

Mike Chase: Comedians are known for preserving their 5th Amendment rights. I think that everybody knows that, yeah.

David Feldman: And by that you mean eminent domain.

Ralph Nader: This is the book, *How To Become a Federal Criminal* that is full of humor, but it has a subtext. And before I ask you what the subtext is, if there is one, does the legal profession have a sense of humor? Have you been invited to talk about this book at law schools, bar associations? Have you been on the media--public radio, public TV? Give us a scan.

Mike Chase: Yeah, the answer is, you know, I sort of started talking about it at local Bar events mostly in the criminal practice groups because that's sort of what I do is criminal defense work and so I've talked to some of the local bar folks. And I think people do inherently have a sense of humor. And so, this has been received in a way where I think people are starting to say, "Oh, you know, I never knew that the U.S. Code and the CFR [Code of Federal Regulations] could be used to set up a punch line to a joke. And to answer your sort of other question about a subtext, the answer is yeah. As you mentioned at the beginning of the show, you know I've been for five years trying to answer this academic question of how many federal crimes are there on the books. And one of the things that I sort of didn't expect but grew out of it is lots of folks started saying why? Why is that a crime or why is that a rule on the books; or also saying . . . and I think I hear this every single day when I posted one is somebody says, "Hey, I think that's actually a pretty good law." And about nine times out of 10, I sort of agreed. So, I thought I would write a book where I would say, look, it's not about regulation is good/regulation is bad; criminal law is good/criminal law is bad. It's that there's a deep story behind a lot of this and it's okay to laugh.

Ralph Nader: Well, just by way of clarification to our listeners, the Congress passes these criminal laws and they are not meticulously detailed. So, let's say they pass a law saying that

postal-service property needs to be protected; then anybody who damages it is committing a crime and then the Post Office elaborates it with greater specificity and it's all those specificities under the rubric of the criminal statute that leads to some of these humorous comments in your book. So, let's start with damaging postal property because I was a great user years ago of the Post Office, still am, and I remember in my hometown it was a total taboo. You could take the worst juvenile violators that would smash windows and damage private property, but when it came to the post office box--that blue post office box--they never touched it. Explain.

Mike Chase: Yeah. So, I think people are always concerned about "going federal," right? And so, you can commit, sort of, nuisance under state law, but yeah, once you touch the mailbox, that's the jurisdiction of the feds. And so, it was always sort of the stuff of lore. I mean people said oh, you know, if you destroy a mailbox, that's a federal crime. And it just so happens that it is. And you're exactly right that the postal service has promulgated all kinds of rules that even go into further specificity about the kind of things you can't do with the mail, but sort of, I think, the flagship crime of the Post Office is don't smash a mailbox.

Ralph Nader: Well let's move to the Pentagon. When people hear the phrase Pentagon crimes, they think of contract violations by Lockheed-Martin or Raytheon or Boeing. And they don't think of the kind of examples that you give. Give some examples. On page 225, you actually illustrate this in the book, too. We're talking with Mike Chase, author of *How To Become a Federal Criminal*. You actually illustrate these as well and we're going to go through some of them and then talk about what ~~the~~ lessons can be drawn here in terms of what are not corporate crimes, for example, what are not willful and knowing violations that leads to death and injury by auto companies, by aviation manufacturers, that are still not considered crimes. So, let's start with the Pentagon crimes.

Mike Chase: Yeah, I don't think folks would be shocked to know that the feds have jurisdiction over the property that they inhabit. But I do find it interesting ~~in~~ the sort of level of detail that they get into when they're regulating their property. So, for example, how it became necessary at some point for the Pentagon to be very clear that bringing a hand-thrown spear was a prohibited weapon [along with] blow guns, sling shots, other crimes that you can commit on property, specifically the Pentagon. I'm reminded of the famous cinematic line, "Gentlemen, You Can't Fight In Here! This is The War Room!" And that seems particularly funny to me in the Pentagon that they had to be so specific about the kind of weapons that you can't bring. And you also can't get into a fist fight in the Pentagon ~~in~~ either, but that's probably not too much of a surprise.

Ralph Nader: Now these are regulations, right?

Mike Chase: Yeah. So, these are regulations that are sort of issued in order to protect the property, right? And so, there's a general statute that says violations of regulations that are prescribed in order to protect the property or prevent nuisances and public disturbances are Class B misdemeanors. The sentences aren't particularly steep, but nonetheless, these are the regulations that are promulgated in order to protect that property.

Ralph Nader: You know, in reading your book on page 50 on migratory birds, I got the impression that our laws are more specifically protective of migratory birds than they are of human migrants.

Mike Chase: That's probably true actually and I think I'd probably agree with you on that. The Migratory Bird Treaty Act [of 1918], obviously a long-standing protection statute and series of schedules of birds; you know, it protects not just migratory birds, it protects virtually every bird that is in North America. And, yeah, there are a lot of other regulations that are criminally enforceable that have been promulgated pursuant to the Migratory Bird Treaty Act. And you have to be very careful. Now of course we want to protect migratory birds. I mean it's probably the single greatest mechanism to prevent many of these birds from extinction or having their populations threatened. But it is true that a lot of times, in terms of our human-rights record, we probably don't protect people quite as much as we do wildlife through regulatory structures like this.

Ralph Nader: You have a section that says you can't shoot Canada geese from a sailboat with the sails unfurled. Does that mean you can do it with the sails not unfurled?

Mike Chase: Yeah, so if your sails are furled and your sailboat is not moving, you can go ahead and shoot them so long as you have a permit to engage in population control of Canada geese. You know, this is just a personal preference, I have a long-running beef with Canada geese, but that's just personal. I've had a few bad experiences with them, but yeah, if you have a permit and you go out there to go take some Canada geese, you got to make sure that your sails are furled.

Ralph Nader: What about this, in the Migratory Bird Treaty Act on page 55, using a falconry bird in a movie that isn't about falconry.

Mike Chase: True. Yes, falconry is a regulated practice, so you certainly are allowed to train birds of prey to sort of do your bidding. You got to do it pursuant to a falconry permit. But aside from that, you've got to make sure that you comply with a very strict regulatory structure. It regulates how many of certain kinds of birds you can have, what you can do with them, and yes, as you mentioned, if you're going to put them in any kind of a movie or a commercial or on TV, you can only do that if it's in programming that is specifically about falconry, the practice of falconry. So, falconry birds are not allowed to be in the next great action movie. They're not allowed to be in romantic comedies. And that, I think, is the key reason why you never have a red-tailed hawk playing the lead in a romantic comedy.

Ralph Nader: What's the point of that? What's the reason behind that prohibition?

Mike Chase: You know, in looking into that, it does seem that it's a little less like a prohibition and it's more like a clarification although it does cause people to laugh. It's sort of funny to think about these non-falconry related movies. But I think the notion is that the regulators wanted to be clear that falconry is sort of a narrow practice. And so, if you're going to use these falconry birds, you really have to use them solely for advancing falconry. And I think what they want to do is they want to prevent falconers from getting into the business for the wrong reason and commercially exploiting these birds, which in essence, it makes sense, but it's nonetheless a provision of law that many people probably have never read or thought about.

Ralph Nader: Isn't that a First Amendment issue?

Mike Chase: There are some organizations that are, I think, litigating that issue right now. And there have been claims raised on First Amendment grounds. I haven't checked the status of that litigation yet, but I think it's the Pacific Legal [Foundation], ~~organization or one of those~~ is currently litigating on behalf of a falconer. And yes, their claim is that it is a First Amendment violation, so I think it's yet to be seen what the courts do with that.

Ralph Nader: First Amendment meaning free speech, but you have a ban on importing a pregnant polar bear. Can you import a polar bear? And how do you know if the polar bear is pregnant? And tell us about this little beagle, Elvis.

Mike Chase: Oh, gosh. Well, Elvis is really the hero of the book so I'm glad you touched on that. But yeah, it's true that the Marine Mammal Protection Act protects some of these pretty majestic creatures, right--polar bears and so they've made all sorts of rules. Among those rules is that you can't import a polar bear under certain circumstances. So, you know, the conditions under which the polar bear was captured matters. So, if it was captured while it was swimming, that's prohibited. And another one is if it was pregnant at the time that it was captured. The only problem with that is that it's almost impossible to tell when a polar bear is pregnant because there is no definitive polar-bear pregnancy test and there are periods of the year where they have these things called pseudo-pregnancies. Now the funny thing about this to me is that actual lawmakers were debating this in such great detail. And for lawmakers who get criticized about their record on reproductive rights, this seems to be sort of great detail and great understanding of the material. But nonetheless, there are some scientists who have been working on developing a polar-bear pregnancy test and they've trained a beagle named Elvis to sniff polar-bear excrements and he has a pretty good track record of about 90%, better than 90%, testing on polar-bear pregnancies.

Ralph Nader: Has Elvis ever met Triumph, the insult dog?

Mike Chase: I don't know. I mean, Elvis does noble work. Triumph is a little bit more low humor, but I don't know; I think they'd get along.

David Feldman: Hey, hey, that's my bread and butter.

Ralph Nader: David works with Triumph. I took care of Triumph from 2008 on TV. That's another story.

David Feldman: He put him down.

Ralph Nader: You have something that really caught my attention. I mean I don't know whether Italian-Americans would take offense to this, but you have on page 177, "making an unreasonable gesture to a passing horse" and you illustrate it. Can you run us through that equine section?

Mike Chase: Yeah, I mean, that one is one where it speaks to a particular problem in lawmaking, is that everybody writing the rules knows what they're talking about, but sometimes they don't think that there might be people someday reading the rule who don't know what they're talking about. And so, yeah, there's a rule that if you're on in a national park and there's a passing horse, you can't make an unreasonable gesture to the passing horse. Now I think

everybody probably can assume that that's to not spook a horse or create a dangerous situation, but they didn't say that. They didn't say to prevent spooking the horse, they just said unreasonable gesture. And so, it's anybody's guess what constitutes an unreasonable gesture. Yeah, I go through a few like "the chin flick", or "the full moon" of course, is one of my favorites of ways that you might make an unreasonable gesture to a horse. You have to kind of get up to the Supreme Court to find out.

Ralph Nader: What's the point of that?

Mike Chase: Well, I mean, aside from self-expression, I mean, I think that's a good point. I mean sometimes, look, I don't know what your personal beef with that particular horse is. I mean you may have a history, so it may make sense. But I think obviously the point is that, yeah, if there's a horse passing and you make a gesture that causes the horse to run off and injure somebody, you shouldn't do that. But the people writing the rule, they didn't say that and so I think if you flick off a horse on public land, I think you may be able to go to jail for that.

Ralph Nader: You say in your book in 2006, I'm quoting "A reporter for the *Boston Herald* approached the late Justice Antonin Scalia as he left church and asked how he would respond to his critics' claims that his religious beliefs undermined his impartiality. His response, a 'chin flick.'

Mike Chase: That's right, yeah.

Ralph Nader: What is that in terms of verbal translation?

Mike Chase: Yeah, so I mean everybody was in an uproar about it because a lot of people think it means FU, but Scalia wrote a very fiery letter back to the press and said, "No way is that FU; it's sort of just the dismissive classic Italian gesture." And so, it was a big to-do for a while there. I mean I still think that if you 'chin flick' to somebody, they're going to take it offensively and they're not going to just think it's dismissive, but I think the real problem is, if you make it to a horse or a Supreme Court Justice, I guess.

Ralph Nader: Yeah. Well you also have a section "bring stilettos over three inches to the Capitol." Is that illegal? Capitol meaning the Congress.

Mike Chase: Yeah, exactly, yeah. It is, but depending on what generation you're from, you may not know what a stiletto actually refers to. It turns out that a stiletto, I guess, is just a knife and has nothing to do with a high heel. But if you just read the regulation, you may just wear flat shoes. Some of us were a little more vertically challenged, we might have a problem with that. But, yeah, you can't bring a stiletto [knife] and in fact, there have been incidents of people bringing weapons into the Capital to make points. So, they keep that pretty locked down and any dagger, dirk, or stiletto is prohibited from the Capitol.

Ralph Nader: This was a little more serious. There are certain prohibitions when you're sitting in the U.S. Supreme Court listening to an argument. If you make a bold statement, you can get into trouble. You want to elaborate that? There have actually been cases on that.

Mike Chase: Yeah, exactly. And yeah, that is an issue that's been litigated and actually been litigated fairly recently because there were some protestors that went to the Supreme Court to protest the Citizens United decision, and when they stood up and they sort of demanded that

Citizens United be overturned, they were removed from the Supreme Court and charged; you know there were potential criminal charges for that conduct. And the truth is that the statute is drafted in such a way that it prohibits very broad types of speech--harangues, loud statements, and any kind of loud speaking.

Ralph Nader: How about t-shirts like Occupy Everywhere [and] The Beatles are very overrated.

Mike Chase: Exactly. If you go to the Supreme Court grounds and you wear a t-shirt that is designed to bring attention to a particular message, that could be charged as a federal crime. And so, yeah, there have been cases where people have worn to the Supreme Court Occupy Everywhere shirts and that that has been deemed chargeable, yeah.

Ralph Nader: We're speaking with Mike Chase who has just authored a book *How To Become A Federal Criminal: An Illustrated Handbook for the Aspiring Offender*. Mike, where did you get your sense of humor other than you went to what law school?

Mike Chase: Well, I went to film school first, which I think is the place where I probably got my sense of humor, or I always had it. But you know honestly, I just always thought that humor was a great communication tool because it's very easy for people to disregard a message or not listen to you, but I think humor is just a good thing and we need more of it, yeah.

Ralph Nader: Well, let's get a little serious here because in humor there is truth; you know that old saying. One is, the reason for the specifics Mike, it's easy to make fun of these people, but there have been more than a few cases where the judge has thrown out a prosecution because the statute is too vague--unconstitutional due to vagueness. So, they tend to bend over backwards and become very specific including people who are otherwise very supportive of doing something about the violation itself. Now if I threw some phrases at you here, answer them so we can help our listeners work through this. What's the difference between a corporation that engages in criminogenic behavior compared to a corporation that is engaging in criminal behavior?

Mike Chase: [laughter] Yeah, that I . . . that's an interesting question. I mean corporations, I think, engage in criminal behavior probably a lot, but they don't always engage in conduct that is chargeable criminally and so you're right, exactly. The regulators end up having to get into a position where they have to draft very, very specific regulations in order to be sure that they have envisioned the kind of conduct that's going to be harmful to the public, the sort of actually harmful conduct. And so, the conduct may be what we would call in law school, *malum in se*, [conduct that is inherently wrong]. It's inherently harmful, but you don't actually have a rule on the books that prohibits it. And so, yeah, it could go along and never be prosecuted.

Ralph Nader: Exactly. Your senator, Senator Richard Blumenthal is getting ready to put a bill in the Senate making willful and knowing behavior by corporations that injures or kills people, criminal, because there are a number of health and safety statutes, not all of them that don't have a criminal penalty, which is about the only thing these corporate executives are concerned about. Most of the fines and penalties they can just pass on to their insurer as a cost of doing business. Here's another question I want to put before you. Mike--what's your view of using the phrase white-collar crime, which I always thought related to a bank teller cheating the bank, to replace the phrase corporate crime? What do you prefer?

Mike Chase: Yes, it's funny when I always get that introduction and I get introduced to the white-collar criminal defense lawyers. There's a component of it that's a marketing term, which is at its core, I'm a criminal defense lawyer; I'll defend essentially anybody who comes to me as a client. And so, I think that white-collar crime has largely been used as shorthand for embezzlement, fraud, securities-type violations. But I think certainly there are, yeah, there are folks that specialize in representing organizations in those type of criminal proceedings. My practice, as a general matter, I represent individuals mostly in state and federal courts. But, yeah, they use the term white-collar criminal defense lawyer, sort of, broadly, I think it's lost a lot of its meaning. But you're right, I mean, there are certainly entire industries dedicated to defending corporate actors in connection with criminal wrongs.

Ralph Nader: Are you familiar with the *Corporate Crime Reporter*? We have Russell Mokhiber on the "Corporate Crime Minute" every week on our program.

Mike Chase: Yeah, so obviously in getting ready for today, yeah, I've gone through and read some of it. And the fact is that it's a good service to keep in mind because there are lots of wrongs that exist. And I go through some of the earliest ones in the book, so I go back even to examples of corporate actors using the legislative process, the regulatory process in order to actually serve their own ends. And there are anti-competitive motivations; there are self-protection motivations. And so, one of the historical things I wanted to touch on in the book is ~~yet-used~~ that practice where the corporations not only engage sometimes in conduct that is harmful and wrongful and not regulated, but there are also times when corporate actors have actually engaged in the legislative process in order to create a favorable regulatory structure for themselves. And some of those examples, like many of those examples, still exist on the books today.

Ralph Nader: Well if you had to reform the federal criminal code, give us some ideas.

Mike Chase: You know, you touched on a bill proposed by Richard Blumenthal and you used a couple of words that I think are pretty important, which is, you know, willfulness. And I do think that as a general matter, if the statute is drafted in such a way that an individual person can be charged, I think that a person should not be charged with a federal crime unless you can generally establish that they had criminal intent. That would be one, holistic sort of a across the board. I wouldn't attribute that to any particular type of crime. And then I think the other thing that I would do is, in terms of crimes that can be applied to the individual, again people who walk out in the world who don't have general counsels or legal departments advising them on a regular basis; for the average person out there, I would want there to be a comprehensive, singular, criminal code that a person, if they were so inclined, could sit down and read. And the reason for that would be, again, they're not getting legal advice on a daily basis and we also live in a world where ignorance of the law is no excuse. And so, I think the law should be knowable.

Ralph Nader: Let's talk about stowing away on an airplane. Tell us about that.

Mike Chase: So that's one of the earliest federal statutes that was not a pirate or treason or a counterfeiting crime. And the earliest statute was just stowing away on a vessel. And that was back in the day when people were trying to get to the United States and they didn't necessarily have the resources, so they would hide in the cargo hold and engage in very dangerous behavior

at great risk to themselves, and in some cases, others and so it became a crime. Part of it was it became a

crime because the country was dealing with new wave of immigrants and it was partially to prohibit them from coming to the country. Many, many years later, people were stowing away on aircraft and the courts learned that the statute was drafted in such a way that that practice wasn't prohibited because planes didn't come within the definition of a vessel. And so, they had to amend the statute so that it is now a federal crime to stow away on an airplane.

Ralph Nader: Here's another impression I got from your book; you left out the worst crimes because they weren't funny; they weren't bizarre. For example, Professor Malcolm Sparrow, an applied mathematician at Harvard, estimates that every year, 10% of all expenditures for healthcare are fraudulent--that is computerized billing fraud. And that comes down to \$350 billion with a B a year, this year, \$350 billion. Of course, a lot of those are federal crimes because they're crimes ripping off Medicare/ripping off Medicaid. And then of course there's military-defense contractor crimes that the auditors at the Pentagon or the congressional Government Accountability Office have documented. And then there are the environmental crimes and the consumer crimes--the Wells Fargo crimes. Why did you leave those out--because they were serious?

Mike Chase: Yeah, that's exactly right, is that they're sort of not funny and they also don't speak to this other issue, which is I think that if you look at the statistics pretty uniformly, the overwhelming majority, I mean, the pie chart is overwhelming. The federal dockets are filled with immigration crimes, drug crimes, gun crimes, and fraud crimes. And that sort of makes sense to us, because of course, those are the crimes that are going to be prosecuted. Fraud crimes have to be prosecuted because they cause immense financial damage. Gun and drug crimes--there might be people that fall on different sides of an ideological divide about what should be prohibited and what should be—you know, if some folks should take a more libertarian approach or not to that. I don't really get into that in the book. But then there's this other question where people say, "Well how is it that academics have claimed that there are 300,000 federal crimes?" And I thought look, let's go through some of these more detailed examples as sort of a way--as a tour; use it as a tour guide through some interesting facets of how laws can be made, how they can be applied, how people can be prosecuted for them, and at the end of the day, realize that you know what, when these laws, by and large are being implemented and somebody's being prosecuted for them, it's usually not because the government has just swooped in and said, "Hey, I think you're selling non-compliant cheese." They're swooping in, generally speaking, because there's been some harm or there's been some wrong, and by and large, these rules are not completely nonsensical; they have a story. That was sort of the esoterica approach to the book, was let's take a sort of a tour guide through what might sound weird and try to understand it a little bit better.

Ralph Nader: And what do you propose--simplifying, getting rid of some of these obsolete crimes from the 18th century or earlier? What would you do with the federal criminal code? As I pointed out earlier, you've dug into the statutes probably more than anybody. And in your more serious moments, if you're asked to suggest reform of the federal criminal code, other than strengthening the corporate crime sections, what would be some of your suggestions?

Mike Chase: Yeah, I would prune back some of the statutes. I mean, certainly I think that it's a problem. I go for one example in the book where there was this old statute on the books for preventing early boarding of a ship. And there was another example where the government was saying look, we want to prohibit people from essentially stealing seamen off of ships who are coming back from these long voyages and getting them into servitude. It was a really awful practice. But then for a hundred years or so, that statute wasn't used. And then later, because it was drafted so broadly, some activists with Greenpeace were unfurling a banner on the side of a ship that had illegally harvested mahogany on it and they were just . . . it was an act of protest. I don't think they thought they were committing a federal crime. But because the statute was drafted so broadly and had remained on the books, their arguments that they should be acquitted, that their charges should be dismissed, because it wasn't within the intent of the statute, that was rejected. And to me, that was a problem that this statute, which was plainly passed for another purpose, enabled a bunch of people to become federal criminals just because it was so vague. So, yeah, I would eliminate some of these older statutes if they no longer have application. I would go through to try and sharpen up the language to make sure that we're actually only prohibiting wrongful conduct. And then again, I would try and make sure that we're not engaging in a ton of duplicative lawmaking and make sure that the crimes that are on the books are clear and understandable.

Ralph Nader: Are you speaking at law schools about your book?

Mike Chase: I'm hoping to; I'm hoping to. You know, it's tough in the summer because I think a lot of the students are off right now doing whatever it is that law students do during the summer. But, yeah, I do hope to go around to law schools and talk on this subject s because I think it's an interesting one.

Ralph Nader: What law school did you graduate from?

Mike Chase: I went to the University of Connecticut School of Law.

Ralph Nader: Well that would be the first invitation, I would think. Do you ever get a question, it's a little bit off the charts, but what if someone asks you, is there anybody in the United States, 21 or over, who is not a federal criminal given all the hundreds of thousands of infractions that you allude to and describe in your book?

Mike Chase: I think you got to answer that on a couple of levels. I mean, you know, is there anybody in the country that's not a criminal, in the sort of inherent sense? I think yeah. I mean I think that there are people who aren't committing harmful wrongs, but that's unfortunately not how we define a criminal now. We can define a criminal as a person who is in violation of a rule with a criminal prohibition. I know some folks have said that everybody over the age of 21 is a criminal and I guess I have no reason to question that. But at the same time, I do think that lawmakers and rule makers do try, as a general matter, not to prohibit perfectly innocent conduct. So, I don't think that people are walking down the street and getting pulled into prisons. But at the same time, I do think that we have such a vast degree of criminal legislation that we all, if we scrutinize our life enough, we probably could be found in violation of something.

Ralph Nader: The reason why I asked that, because in your book on page 247, you say "Anybody who detains a seaman's clothes shall be fined not more than \$500, imprisoned for not more than six months or both"-- that's from the statute. So, someone who takes a sailor's hat or

boots or underwear and doesn't return them, maybe from a relative; I mean, it's crazy in terms of the embrace of some of these infractions, isn't it?

Mike Chase: Well, I mean, they have to be a current seaman, a current sailor. If they're an old, retired sailor, it's not going to count.

Steve Skrovan: The Old Spice guy for instance; you can take his clothes?

Mike Chase: Yeah, you can. And actually, I don't think . . . every time I see the commercials, I don't think he's wearing many clothes.

Ralph Nader: So, in a bar, when everybody's got more than a few drinks in 'em and someone lifts a sailor's hat and runs out shouting, "Navy all the way!" that's a crime? [laughter]

Mike Chase: I think so. I think it probably is, yeah.

David Feldman: Why do I think, Ralph, you've actually committed this crime? [laughter]

Ralph Nader: Yeah, I want to get David and Steve in on this.

David Feldman: I have a question about prosecutorial discretion and how many of these laws are on the books, specifically to arrest individuals, like John Ehrlichman, the domestic adviser to Richard Nixon, said we should pass these punitive drug laws so we can lock up hippies and black people. How many of these laws are designed to give local police [the] authority to arrest anybody they want? And can ~~not~~ a local police officer arrest you for a federal crime?

Mike Chase: Yes, so in terms of the federal crimes, generally speaking, no. But there are state analogues that are . . . touch on exactly what you just described. And one of the greatest abuses is in a type of statute like the disorderly conduct or the breach of peace statute. And it's a lot like what Ralph and I were talking about a few minutes ago, which is if the wording is so broad that even the law enforcers don't technically know what's embraced in it, they say, "Look, I'm going to make the arrest and then I'm going to let you sort it out in court." And that happens quite a bit that there are a lot of folks that are in court because they did something that struck up a neighbor or a person in public or a passerby that's not so comfortable, and so they end up getting charged and now they have to deal with the criminal-court system. But it's because of these overbroad, all-purpose statutes like breach of peace and disorderly conduct, yeah.

David Feldman: Is there such a thing as false arrest?

Mike Chase: Yeah, I mean there's a notion of false arrest, sure. I mean cops are supposed to have probable cause. They're supposed to comply with the constitutional requirements that restrain them in just shaking people down. You know, at the end of the day, these police officers also have qualified immunity; they can do a lot of things where they don't end up actually facing any kind of consequences if they do abuse that power. So, there is a notion of false arrest, sure, but it's fairly toothless in the long run.

Ralph Nader: You just reminded me that very often a crime is also a tort, so you have police brutality, the prosecutors refuse to prosecute the police, but the families of the deceased can file a case in tort, which would suggest that we'd like to have you at an event at the Tort Museum

in Connecticut talking about this book and the relation between crimes and torts.

Mike Chase: That would be great, I'd love to do it and you're exactly right. I mean a lot of times the criminal law is designed or at least it should be, you know there's an old great book called *The Limits of the Criminal Sanction*, [by Herbert Packer], which basically says that the criminal sanction should be used for real harmful wrongs and tort is largely the same way. But if you fall below that duty of care, you stop doing that thing that you owe to society to behave in that kind of a way, that of course is a lower standard. You know, we require proof beyond a reasonable doubt to make somebody a criminal, but that doesn't mean that they haven't necessarily caused harm to somebody. And so, yeah, there's the overlap; there's quite a bit of overlap.

David Feldman: If you look at the scales of justice - I'm sorry to interrupt, Ralph - but if you look at the scales of justice, are we a nation of laws or a nation of law enforcement? Because watching Mueller's testimony, I walked away from that thinking we're a nation of law enforcement. We don't enforce the laws here, it's up to prosecutors and cops to decide what laws are going to be enforced, right?

Mike Chase: Yeah, and that's part of the message; that's part of what I touch on, which is I don't think that all rules are nonsensical; that's not my view. And I don't believe that rulemaking and regulation is either inherently good or inherently bad. What I do have a problem with is if you have proliferation of rules to the point where virtually anything can be charged under some provision, you're exactly right, which is the law enforcer has all of the discretion. If they want to pick the defendant first and then pick the crime second, I don't think that's how criminal law should work. And so, yes, in many instances, you do you have a code that's so expansive that it essentially cedes a bunch of power from the lawmaking branch to the executive branch in an impermissible way.

Ralph Nader: By the way, we're running out of time, Mike Chase, author of *How To Become a Federal Criminal*. Tell us about @crimeaday.

Mike Chase: Yeah. So, @crimeaday is a project that I started on Twitter five years ago, almost exactly five years ago, just a little bit over, where every single day, I post by tweeting some provision of either just the U.S. Code alone or the U.S. Code in conjunction with the Code of Federal Regulations that is a discrete act made criminal under federal law. And again, when I say, post the crime, I post the prohibited conduct, I don't necessarily post an instance of it occurring and the notion is to try and count all of the discrete acts that are expressly prohibited under federal law and get a count. And so, I've been going for five years every single day without missing a day and I think I probably got hundreds of years left to go.

Ralph Nader: Before we close, Steve, do you have a comment or a question?

Steve Skrovan: Yes, I do. There's an old joke about marriage when an interviewer is talking to this couple who's been married for 60 years and he asks, "What is the key to your longevity?" And the husband says, "Well, we made a decision very early on that she would make all the little decisions and I would make all the big decisions." And the interviewer says, "Well, what's an example of a big decision?" And the husband says, "I don't know, we haven't had one of those yet." So, I wonder is the lesson here that Congress is really good at all the little decisions? It's the big decisions they're not really good at. And these things that you post every day, are all these little decisions?

Mike Chase: Yeah, I mean it's . . . well one, it's a good joke. And two, I think that what's happening is that Congress thinks it's making the big decisions and letting the little decisions to be made by agencies and others. I think that there are some that would argue that what's actually occurring is exactly the opposite, that Congress is not paying much attention to what is becoming either prohibited or required by law and that they're allowing the executive branch to do it. And so, I agree that that is probably part of the issue. And what to do about it? Well, that's going to take a lot of time and a lot of effort. But I think we can at least laugh at it a little bit and that's what I try to do in the book.

Steve Skrovan: I have one other question, because David and I as comedians, you know, we look at this and it seems like just a wealth of material here. And I just sort of scrolled through your Twitter feed here and landed on "it's a federal crime to gamble at the national zoo". So, as a comedian, I think . . . well, first of all, that explains why there's no sports book at the national zoo.

Mike Chase: Right.

Steve Skrovan: But also, you think: what was the origin of this? Were the monkeys shooting dice? [laughter] I mean, what . . . who took umbrage? What actually happened there I wonder?

Mike Chase: Well, monkeys are much more . . . they like craps. I mean everybody knows that

David Feldman: And then they throw it at us.

Mike Chase: Exactly, right. They're known for throwing craps at the visitors to the zoo. But I think they try to prohibit gambling a lot of places. I think the funniest places where gambling is prohibited is the national zoo and the U.S. Mint [laughter] because I love the idea of the Mint employees sitting around with giant stacks of cash.

Steve Skrovan: Yeah, playing heads or tails.

Mike Chase: Yeah. So, I don't know if there's been an incident of somebody gambling against the monkeys or somebody's gambling at the Federal Reserve. I don't know if there's actually been incidents of that, but maybe it's a good example of the law working because it doesn't happen.

David Feldman: I have a question. About half a million Americans on any given night are being held in a jail because they can't come up with bail. Then there are about 1.8 million other Americans behind bars. Do we know how many of those men and women behind bars in America went before a jury, had a jury trial, didn't plead out?

Mike Chase: Yeah, we do know, and it's a shockingly tiny percentage. I mean, obviously if you're awaiting trial and you're awaiting bail, you haven't been convicted yet, which is an interesting thing in and of itself, but ultimately as somebody makes their way through the criminal justice system, the question of whether or not they're going to go to trial is a pretty much a foregone conclusion. Ninety-seven percent of all people in the federal system--and there are similar numbers at the state--will plead guilty. And of the people who go to trial, that small percentage who go to trial, the majority of them will be convicted, which means that in this

country, once you are in the criminal justice system, there's a near 100% chance that you will have a criminal conviction.

Ralph Nader: Which is why some people call it the criminal injustice system--a very coercive process especially against people who don't have much money. Well, you know, I think the best way to describe you, Mike, is that Mike Chase is a legal criminal defense lawyer.

Mike Chase: A lawful one as well.

Ralph Nader: You see, I make jokes that are so nuanced that Steve and David don't even know it.

Steve Skrovan: Yeah, I got it. I got it. You know what they call jokes that are so nuanced that nobody gets them?

Ralph Nader: Yeah, they're not jokes.

Steve Skrovan: Not jokes.

Ralph Nader: But technically in the context of this discussion, Steve, a criminal defense lawyer has a double meaning.

Mike Chase: That's right.

Steve Skrovan: Yes, that's true. That's true. In our business, Ralph, we call that "a thinker."

David Feldman: I have a proposal for the Tort Museum. I have an idea that if you've been arrested for false arrest, I think the police should make you sign a binding arbitration agreement. What do you think of that, Ralph?

Ralph Nader: I would be against that.

David Feldman: You don't want me to address the Tort Museum?

Ralph Nader: But your example has provoked another question to Mike, which is tell our listeners about this very little-used practice of a "citizen's arrest." Somebody could come up to a Donald Trump, maybe when he's in one of his worst contexts or someone could come up to a police [officer] who's engaging illegally? Tell us about the "citizen's arrest" power of people.

Mike Chase: Yeah, I think there's probably a whole bunch of . . . I think maybe even today there's a bunch of stressed-out law graduates who are taking the bar exam right now as we speak. And so, they're all probably scratching their head trying to remember the ways in which you can make a "citizen's arrest". My vague recollection is that you can only make a "citizen's arrest" if you observe a felony in progress. And so yeah, I think that there is some permission that you can make an arrest if you watch a felony occurring in process, but if you find out that somebody committed a misdemeanor yesterday, you can't make a "citizen's arrest".

Ralph Nader: Well let's say there is a felony in process and you do a "citizen's arrest", what's the next step?

Mike Chase: Yeah, the next step is probably a couple of things. That person probably sues you at some point potentially, or I think you can deliver them to the police station and they'll probably arrest you, too. [laughter]

David Feldman: I'm such a lefty; I want to legalize undocumented citizen arrests.

Ralph Nader: We'll let that one pass. [laughter] The whole point of a "citizen's arrest" is that it authorizes a citizen to bring a felony in process to the lawful authorities for their arresting the offender and prosecuting them. It has quite a history behind it and people should know about it. I always say that students in law school should be taught the law of fine-print contracts and the law of wrongful-injury torts, and the law of "citizen's arrest" and what their rights and remedies are, but unfortunately, very few law schools have that as part of their curriculum.

Steve Skrovan: By the way, Ralph, I think I have a good reason to make a "citizen's arrest" for you stealing that sailor's hat. [laughter]

Ralph Nader: You just don't know how I can turn it into a Frisbee. [laughter]

Steve Skrovan: Yes, and I don't know when it happened, but I know what happened because you were a little, you came really down hard on that one.

Ralph Nader: Navy all the way! You mean that doesn't exonerate me?

Steve Skrovan: No.

Ralph Nader: Well, thank you very much, Mike Chase, author of the new book, *How To Become a Federal Criminal: An Illustrated Handbook for the Aspiring Offender*. There's a lot of American history here when you go through old criminal infractions. You say, well, that was his way of life then. They really thought that was important then. And now with new technology and new norms, it's not that important. So, I found it very fascinating and I hope that our listeners pick it up and read it. And we hope we can have you at the Tort Museum sometime in the next few months, Mike Chase. Thank you very much for coming on, Mike.

Mike Chase: Thank you.

Steve Skrovan: We have been speaking with Mike Chase, author of *How To Become a Federal Criminal*. When we come back, we're going to answer some of your questions. But first we're going to take a short break and Russell Mokhiber is going to give us his latest report on how to be a corporate criminal. You're listening to the *Ralph Nader Radio Hour*, back after this.

Russell Mokhiber: From the National Press Building in Washington, D.C., this is your *Corporate Crime Reporter*, "Morning Minute" for Thursday, August 8, 2019. I'm Russell Mokhiber.

Kevin Harvey, a professional investor who made millions in Silicon Valley, destroyed protected wetlands in Mendocino County, California to build a winery. As a result, he will pay more than \$3.76 million in fines. That's according to a report from *Curbed San Francisco*. The California State Water Resources Control Board announced that it reached a settlement agreement with Harvey and his Rhys Vineyards. "The illegal and permanent loss of wetlands and streams caused by the vineyard construction was an egregious violation of state and federal law," said

Josh Curtis of the North Coast Regional Water Quality Control Board. The state said that Harvey did not bother obtaining permits for his expansion of his Rhys Vineyards. For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

Steve Skrovan: All right. It looks like we have some time for listener questions. David, you want to do the honors here?

David Feldman: Yeah. This is a great question from John Lind. He says, "Ralph, why don't you run for president as a Republican? You could win. You have a lot of good arguments that would make Republicans vote for you."

Ralph Nader: That would be an interesting approach, I would love to take on Donald J. Trump in a debate; can you imagine that? But John, you have to understand the Republican Party is a private corporation and they can keep you off debates. They can push you off ballots; they can be a tyranny. And if you run as an independent and challenge Trump where you have similar problems here of not getting on the debate, which means you don't reach 99% of the people that you have to reach if you're going to be seen as a viable candidate. If you don't get on the debates, you don't get on the media. If you don't get on the media, nobody knows you're running.

Steve Skrovan: Thanks for the question, John. This next question comes from Harmony Ovnicek and she says, "How can I learn more about the Green New Deal? I'm an elementary school teacher who also likes teaching the much ignored subject of civics."

Ralph Nader: Well, you can go to sunrisemovement.org; they've got a very good elaboration of the Green New Deal. [sunrisemovement](http://sunrisemovement.org), one word, dot org or you can go to the sierraclub.org. They also have a description. And since you're teaching civics, look up our book, *Civics for Democracy: A Journey for Teachers and Students*; like no other civics book you'll ever see, very useful.

David Feldman: This next question comes to us from Ozabe Banks. He says, "Ralph, I'm a black businessman for over 25 years and I believe I am the victim of fraud and wrongful foreclosure on my property. I once manufactured USDA chicken sausage along with my retail store in South Central Los Angeles. I need your help and guidance in these matters. Can you help a black man? Thank you, Ozabe Banks."

Ralph Nader: Ozabe, take your grievance to consumerwatchdog.org. You'll get the contact for Jamie Court who runs it. It's in Santa Monica, California. And if they can't help you, they would know somebody who could. They get a lot of press on their issues; they're big on insurance abuses, for example, and you should contact them, consumerwatchdog.org.

Steve Skrovan: Very good. Now this next question comes from a regular listener, Marc Abizeid and this is actually to me. He says, "Steve, please follow up on a Ralph's run-in with Bernie getting his haircut. First encounter after 22 years, there must have been more to it than that, press him."

Ralph Nader: Unfortunately, there hasn't because when I bumped into Bernie getting a haircut, I gave him four suggestions for his campaign saying that the corporations are taking away our freedom of contract, fine print contracts, and our right to have our day in court and trial by jury. That's a good argument against corporate right-wingers that are taking away our freedom. And

also, I mentioned corporate crime, corporate welfare, and a pamphlet we're coming out with on 25 ways life is better in Canada than in the U.S. because they have universal health insurance. And he said, "Oh, that's interesting. Contact my administrative assistant, Mr. Gillison, and I've made six calls to Mr. Gillison, he hasn't returned the call. So unfortunately, Marc, there isn't anything more to it than that so far, but stay tuned.

Steve Skrovan: Although recently he did go to Canada and talked about it on State of the Union with Jake Tapper comparing the drug prices.

Ralph Nader: That's right.

David Feldman: Four years ago, and two months, you said that we underestimate Donald Trump at our own peril. What do you think of Bernie's chances?

Ralph Nader: Well, I think Bernie's main competition is Elizabeth Warren. She's excellent in so many ways. I think he's stronger on military- and foreign-policy changes. But the best ticket, depending on who wins the primary, would be a Warren Sanders ticket or a Sanders Warren ticket. That's a winning ticket.

David Feldman: Right. And what do you see happening from right now. November 3rd, 2020 is 14 months away; what do you see happening?

Ralph Nader: It's too far ahead to predict and predictions are very perilous even when it isn't too far ahead. However, I will ask that question to the number one clairvoyant on our program, David Feldman.

David Feldman: I think Bernie is going to get the nomination. I don't think Biden is going to make it to Iowa. I don't think he can put a sentence together. And I think Kamala, once her record's exposed, she'll fall by the wayside. And the only two people left standing will be Elizabeth Warren and Bernie Sanders whether we like it or not. I happen to like it, but I think that's what it's going to be. Sounds good to me.

Steve Skrovan: Well, that's our show. Thank you for your questions. Keep them coming on the *Ralph Nader Radio Hour* website. I want to thank our guest again today, Mike Chase. A transcript of this show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted.

David Feldman: Subscribe to us on our *Ralph Nader Radio Hour* YouTube channel, 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: And Ralph's two new books are the fable, *How the Rats Re-Formed the Congress*. To acquire a copy of that, go to ratsreformedcongress.org. and *To the Ramparts: How Bush and Obama Paved the Way for the Trump Presidency, and Why It Isn't Too Late to Reverse Course*. We of course will link to that also.

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.

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

Ralph Nader: You're welcome, everybody. Readers think, thinkers read.