

RALPH NADER RADIO HOUR EP 301 TRANSCRIPT

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan along with man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hello, everybody. Hello, Steve.

Steve Skrovan: David Feldman is actually traveling today so he won't be joining us, but we still have a stellar show. We're going to welcome back old friend, Mark Green. The former Nader's Raider and New York City Advocate, has collaborated on a book with Ralph entitled *Fake President: Decoding Trump's Gaslighting, Corruption, and General Bullsh*t*. Mark knows well the power circles in Manhattan, which gives him a long view of Donald Trump's behavior patterns through the years. Trump even contributed to Mark's 2001 mayoral race against Michael Bloomberg. Apparently somewhere along the line, their relationship went south. And as always, we will check in with our corporate crime reporter, Russell Mohkiber. But first, what can you say about Donald Trump that hasn't already been said about Benito Mussolini? Well, Ralph and our next guest are going to give it a shot.

Mark Green is a former Nader's Raider, who ran Public Citizen's Congress Watch for ten years. He was elected New York City's first Public Advocate and in the wake of the 9/11 attack, lost a very tight race for mayor of New York to current presidential candidate, Michael Bloomberg. An author and a radio and TV commentator, Mark founded and ran the Twitter handle @ShadowingTrump, consisting of 21 leading national progressive scholars and former officials. And now he and Ralph have collaborated on a new book entitled *Fake President: Decoding Trump's Gaslighting, Corruption, and General Bullsh*t*. Welcome back to the *Ralph Nader Radio Hour*, Mark Green.

Mark Green: Thank you. I'm delighted you called me an old friend. Well, I'm not that old.

Ralph Nader: [laughter] Well, Mark, this is an unabashed demonstration of an important book that you've written most of and I wrote an essay introducing it and also an attempt to have an epilogue that addresses Trump voters called "Dear Trump Voter If You're Listening". And the epilogue is entitled "On Betrayal"; the rest is your brilliant conception. And I say that because this is a book on Trump, unlike any other book on Trump. Not only is it big print, not only is it dark print, not only do they have margins where you can write your comments on it; it's a book that people can use for next year. It's a book that can have discussions in their living room for next year. It's a book that they can donate to their library for next year and beyond.

And just to illustrate the scope of the book and how fascinating it really is, look at the headlines of the table of contents. He has one on Climate Violence: "What, Me Worry?"; Women: Trump maintains "Nobody has more respect for women than me. Nobody;" Race: "I am the least racist person in the world;" Crime and Guns: "Less Crime! More Guns!"; The Rule of Law (Lawlessness): "A Shocking Pattern of Illegality"; Dumb and Dumber: "Contagious Incompetence"; Age of Rage: "Knock the crap out of them, would you?"; That was what he said at one of his rallies, Trump. Media: "The Enemy of the People;" Secrecy "We're the most transparent administration ever, by far"; Bully's Pulpit: Teddy Roosevelt: "Bully!", Donald

Trump: a Bully; War and Peace, chapter 13: “He's no Metternich;” 14: Putin: And His Siberian Candidate, 15: Springtime for Dictators. And this is the key frame of it all. Donald Trump said, on the record, “Under Article II, I have the right to do whatever I want as president.” He's referring to Article II of the US Constitution and it's doubtful that he's read it because if he has, he couldn't say what he just said and what he's been saying. And chapter 16: Allies: Diplomacy by Frenemy and 17: Immigration. And he quotes Trump, “And some I assume are good people.”

So you're giving Trump his say and these pithy remarks under chapter headings, Mark Green. And why this book now when I think there've been 30 books on Trump already since he became president?

Mark Green: Well, thank you, Ralph, for inviting me on the show and I tend to agree with your praise for our book. So I'm siding with you on that one. Why now? Well, first, even the most diligent of citizens cannot keep up with what *The Washington Post* has shown are 14,000 lies or falsehoods in his three years. He's up to 22 a day. I don't say 22 sentences day much less lies. And so what we thought useful, if not entertaining, is to organize them as you just described by content, tie them together into a bundle for the interested citizen, be that an anti-Trumper or a pro-Trumper to easily see what he says, thinks and does. And so it's convenient, which is sort of the definition of a book--bringing things together. The other reason is, I'll tell you, I'm an unmitigated optimist and Ralph and I have worked on and off, mostly on, for 50 years. But my heart sinks--when I grew up, still am--learning that you have to use evidence, science, facts, logic and law. And now comes someone who has succeeded by many definitions—he's the president, he's wealthy—by exploiting the liar's dividend. Now most people are unaccustomed to dealing with a compulsive liar. If someone says, the house you're going to is left, you make a left. Well, he lies about everything and is motivated not by science or evidence, but by vanity, his family and money.

So we're dealing with a different animal here. And whether we liked Andrew Jackson or Andrew Johnson, often they would made decisions based on partisan interests, about the facts before them, agree or not. Trump does not analyze anything. It's all how does it affect me personally. Now that sounds like a cliché; It is because it's true. And the book is premised on someone who's a fake even though he and his supporters love to say, “Oh, he tells it like it is.” Yeah, he was constitutionally selected president, of course, but he's still a fake president because by dent of his ignorance, instability, anger, erratic behavior, he cannot, and is not fulfilling the obligations of the office that the Constitution and traditions have anticipated. And just one last reference, and Ralph and I just discussed this yesterday. He was a little sensitive to it because I referred to a person who was the President of United States and the President of Princeton. Woodrow Wilson in 1919 suffered a disabling stroke and couldn't perform the functions of the office and so his wife did behind the scenes. Well, he was sort of a president in name only. He was lawful, but he wasn't functioning. Donald Trump has a disabling ego, a messianic, malicious, narcissism that keeps him from making decisions based on what's in the interest of Americans, as opposed to what's in his own interests.

Ralph Nader: And it reflects on people every day and their livelihoods, their health and safety. I mean, he's destroying the Environmental Protection Agency, the Occupational Safety and Health Administration, the auto safety agency, the Consumer Financial Protection Bureau. He's taking the federal cops off the corporate crime beat. And he's saying to his corporate paymasters and the

people he associated with in his business career--go for it! Rip people off, pollute more, contaminate the workplace, dirty our water. And at the same time, he's telling his supporters, the water has never been purer; the air has never been cleaner; we have beautiful clean coal; we have more manufacturing jobs pouring back into the United States. This is what I call the betrayal of Trump voters.

You mentioned briefly, he was legally selected president. You're referring to the fact that he lost the popular vote by almost 3 million voters nationwide, but he won the Electoral College vote. This menacing, antiquarian creation by our founders, comes back again to take the presidential victory away from the winner of the popular vote as it did in 2000 giving it to George W. Bush when Gore got over 500,000 votes nationwide more than Bush did. Now, how would you like this book to be used? I mean, let's say you could be in charge of public education of the voters of America. How would you like this book to be used? Because it just breeds usefulness. It breeds discussion. It breeds Trump voter and non-Trump voter coming together and having a good healthy argument and see if anybody can be persuaded.

Mark Green: Well, there should be a 29th amendment to the Constitution, the Bill of Rights that compels people to buy and read the book. Short of that, we decided not to do it. We've done this before, you know, long narrative book, 300, 400 or 500 pages. You know, it takes work to read it. Instead, it's appropriately in this era of Twitter tick-tock, it's broken into edible small bites. If you're interested in the environment or international affairs or race, you can focus on that chapter and each of the chapters are based on things that he has said and then a sassy rebuttal. So he said, "Obamacare is dead." No, it's not. He said, "Well, I never said I would propose a great health insurance plan in the first 61 days." Yes, he did. You see, he uses assertions to replace evidence. So the coal is beautiful and clean, but windows are not. He just says it and a lot of people are credulous, gullible, and worshipful of him.

And so two things in the book that I think might be helpful. First, I'd just like to take a minute to expand on something that Ralph said in the prologue, which is four pages long, people; you read it, you get the gist of the book. On page X; that is 10, we make the point that the issue is not just the lies. I think most people understand he does that, but the lies endanger. Like Ralph said, they use the word deregulation. The translation into English is shifting more money to capital at the expense of our children's safety and health. That's what happens when you eliminate some of these environmental rules.

Here is a list also to supplement Ralph's expert points on the consumer law. His lies spur white nationalists' violence; pretends there's no climate crisis, as many states have flooded and burned up; withdrew from a functioning Iran nuclear deal, increasing the risk of the spread of nuclear arms, if not war, in the Middle East, with no argument against it. He's transferred trillions in wealth from the bottom, 90% of the top 21% with his tax cuts. He is traumatizing millions of Latinex families. Can you imagine? If you're a normal family and you came here, even if you have your papers or you don't, any morning, you could get a knock from ICE and you're gone. He's undermining the Western Military Alliance [i.e., the North Atlantic Treaty Organization, NATO].

We saw recently, where the NATO heads of state were laughing at him. They were captured on tape because of how loony he is. He's endangering members of Congress, physically endangering

them. What he says about them that could get hot heads with guns to go off, which happened at the so-called Pizzagate conspiracy. A crazy right-winger had a gun and shot at, and finally, his appointment of so-called deregulators, which is his way of violating the law. Although to quote someone I know, "It's not crime in the streets, but it's crime in the suites"--one of Ralph's original phrases that will stick.

Ralph Nader: Well, one thing also, he thinks climate disruption, all these storms hitting where he goes to golf in Florida, massive tornadoes, hurricanes, droughts, fires--he calls climate disruption, quote, "a Chinese hoax" and he shut down the federal government on it. You can't use the word climate change at the Centers for Disease Control in Atlanta, Trump orders. He shut down the scientific work on it, the satellite measurements of fires, for example. He has basically disabled and dismantled the lifesaving and health-preserving agencies of the government because the big corporations want him to do that. And he was once a failed gambling czar and he knew how to be one step ahead of the sheriff year after year up in the New York City area. What would you advise in terms of debates between Trump voters and people who oppose Trump? And before you comment on that, I do want to say the book is full of very accurate quotations from different people. It's full of very accurate facts and you can bank on it to the library. Wouldn't you want this, not just to be a handbook for people opposing Trump, but you wanted it to be more than that?

Mark Green: Yes. Well, in effect, it came out...December 3rd was its pub date. December 4th of course, the House Judiciary Committee began its impeachment hearing. So A) we have good timing; B) there's the soon-to-arrive actual 2020 presidential election. I do think that *Fake President* is a key to unlocking a lot of what Trump does, says and why. And so it's a primer, a guide book for that purpose. But Ralph, you raise an interesting thing. I'm going to stipulate that you and I are careful lawyers; we footnote. But a lot of the people listening, of course it's your show, would gravitate toward your philosophy and your body of work and would be critical of Trump. A very interesting question that we try to touch on is in your final epilogue gets at where you in effect, directly talk to, like you're at a coffee table with Trump voters. Why do they vote for someone who hurts them? What is their motivation? And this is not just psychobabble. Forty percent of Americans have been hypnotized by the David Blaine of politics, Donald Trump. And there's a part in the book where I cite some recent studies. A lot of people have been traumatized over the millennium centuries and they hate elites. They hate other religions. They want to own the liberals. You know they're angry people who watch Fox. What can I say? And they are not listening to the kind of facts and arguments that we believe we are making. So how do you break through to people who, you know, the three blind mice? Good news, people. We don't have to persuade and it's impossible in our political system, to persuade all of the forty percent. If people want to put faith ahead of facts, they're allowed. We simply have to convince, I'd say ten percent of the forty percent--a tenth, that is four points--that he is a corrupt lying racist. He is.

And I met a Chinese woman, who overwhelmingly said she is going to vote for Trump. And I said, what if I said to you, ma'am, go back to where you came from; wouldn't you be offended by me? Would you tolerate that in a family member or a neighbor? But you are tolerating it in a president, why? Now if I just think a lot of this is owning the libs; it's a middle finger kind of politics. But if we nudged one tenth of the forty percent, then the next time there's a Republican, Hillary wouldn't get 48% of the vote; she'd get 52% of the vote. And Trump would get, not 46,

but 42% of the vote--a ten point, democratic win because we've succeeded at the margins. That's a landslide, and this is not me simply being wish-fulfilling. He sounded by far the lowest poll numbers over three years. They don't move down, but they don't move up. And so, well, I'm not saying he will lose. I'm saying that we have contributed to the body of literature and we'll talk about the book on line and on air, to move enough of the public, so we don't lose our democracy and our future.

Ralph Nader: Well, let me give a bigger context here. A lot of Trump voters say they really didn't vote for Trump because of Trump. They voted because they couldn't stand Hillary. They couldn't stand the Democratic Party. They couldn't stand the so-called free trade that stole their jobs and shipped them abroad. They couldn't stand the go for it Wall Street attitude of the Democratic Party raising a lot of money and deregulating it and unfurling all this reckless speculation with pension money and mutual money. So it's not that they're totally irrational here and we got to be careful not to over generalize their motivation because there are different kinds of Trump voters and they have their own special reasons. They're not all the same reason. There was a 52-year old blue collar worker who moved from Cleveland to Georgia. He's quoted in one of the national newspapers the following way. Here's his quote. "They say Trump is crazy, but he's saying what I'm thinking; does that mean I'm crazy?" You know, you can spell that one out. So I've talked to a lot of Trump voters. Some of them have such low expectations of what a president should do for them that they say, oh, he's against abortion; that's enough. Or he wants to make America great and we're going to beat up on these people abroad; that's enough. Or he wants to get rid of government regulation without specifying it could be that which prevents your child's asthma or your mother's cancer.

Mark Green: Ralph, let me interrupt. Let me add to your quote. We quote a woman who's voting for Trump, who said, "I don't know that very much of what he says is true, but I trust him." Oh my God, what do you say about that? Now, I'm not putting that down.

Ralph Nader: Well, here's what I'd say. What I'd say is, ma'am, you are simply selling yourself short because you're not doing your homework. And in your daily work, you really do your homework. And how you raised your children, you really did your homework. But when it comes to choosing a president, you can't be a five-minute voter. You can't vote on a hunch--on how a president speaks or how a president thinks on a six-second ad on TV. I hold all voters to a standard of homework when they're deciding who's going to be the most powerful person in the United States, if not the world, over their lives.

Mark Green: Well, I'm not going to defend ignorance left or right, but it was one thing for some of these low-intention voters to say they didn't like Hillary. They didn't know they were being manipulated by Putin, WikiLeaks and Comey. Trump could say that he's anti-Wall Street, he's on your side and I'm going to bring manufacturing back and it was campaign rhetoric in 2016. Now he's been in office three years and so the excuse of not knowing what he is doing can't work anymore because the facts are there if we can persuade people to put aside the seething anger that some people have and simply say, yeah, he's a horror, but it is real; yeah, he's a horror, but my wallet. Yeah, he's a horror, but people listening, whether you liked Hillary or not A) She was bringing it. B) Over 30 years of attacks on her husband and her, and the money she took from Goldman Sachs that were not compelled making her look like an insider, added up to a huge negative. At the moment, well, I made by, we'll see who wins and what secrets that there might

be, there is no one where, oh yeah, I hate Trump, but X is horrible. Well, there's no Hillary equivalent to hate on for moderates who could vote for a Democrat. They're going to have to look at the facts and as we put it in the book and as you just argued, they have to do their homework. Five-minute voters is Ralph's phrase. I hadn't heard until you told it to me, Ralph, about a month ago. Now people who think this is like watching a replay of the last two minutes of a football game; they just give a few minutes to it. But Trump, if he's re-elected, which means that he can do anything he wants so long as a third of the Senate support him; that's not the country the founders intended or expected.

Ralph Nader: You know, I'm sure some listeners are saying, well, if we're given a bigger choice of parties and candidates, not just the Republican-Democrat duopoly, people like Trump might not have gotten even the votes they got. If there was more voices and choices on the ballot line--right down to senator, representative, governor, mayor--it would be a mix of political discussion. Mark, I think our listeners are entitled to know that you had a relationship years ago with Donald Trump and you put it in the letter we just sent to Donald Trump in the first paragraph where you came clean. You want to read the paragraph?

Mark Green: [laughter] What Ralph's talking about, it's an open letter we sent on the day of the book's publication. And this is from memory. Dear Donald, it's been a long time since you and Melania, when you walked into my fundraiser, November 4th, 2001, when I was running against this guy, Michael Bloomberg, for mayor; whatever happened to him? I lost track, Donald. And you were in a room with me, the Clintons, the Cuomos, John Stewart. By the way, thanks, Donald, for your \$4,500 contribution to my mayoral campaign. Next paragraph. Well, times have changed. And then we asked him, Are you a fake president if you're engaged in so much corruption and mendacity, and let him answer

Ralph Nader: You think he will wait for your book and then criticize it before 10,000 people at his next rally? [laughter]

Mark Green: I can only hope. Ralph, you just said that we need more voices and choices. You've given me an idea. You should think about running as a third- or fourth-party candidate for president yourself.

Ralph Nader: Oh my God. Another fake recommendation!

Mark Green: By the way, humor is on our side. Well, their IRV (Instant Runoff Voting), which many locales now do, and New York City just adopted for future mayoral races. That is, if there's two candidates and you don't like either of them, that's bad. But if you have six, you can vote for them--number one, two, three, four, five, six--and if no one gets a majority, the lower one drops off until we're down to the person you want and the other person. So that does increase choice and it's doable even in America.

Ralph Nader: And it makes sure that the winner wins the majority of the votes.

Mark Green: Correct. Right. The winner has to have a majority and then they have credibility.

Ralph Nader: I hope you get on MSNBC and NPR and PBS and [*Real Time with*] Bill Maher, and all the rest of them. Because this book is a great credit to you. I signed on as a secondary co-

author, but this is a marvelous creation of understandable descriptions of what Donald J. Trump has been up to and not just as president, but even before that. Steve, do you have any comments?

Steve Skrovan: I do. I'm going to stick my two cents in here in relation to the Trump voter that we were talking about. And as I see it, Trump's only real legislative accomplishment is the tax cut and that kept the big donors happy; his promise to repeal the Johnson Amendment that keeps the evangelicals happy. And the other voters know that people like us look down on them with all of our political correctness. And I think they identify with Trump's own sense of alienation, which is an odd thing because he's a billionaire. But he is kind of still an outsider with grievance. You know this better than anybody, Mark. He was never really accepted in Manhattan society. He was rejected from the NFL. He was even rejected in Las Vegas. That's why he's not in Las Vegas, only in Atlantic City. So I think people identify with him emotionally as an outsider. And despite this, we can't lose sight of the fact that his base is still a minority. I don't think we get rid of him by trying to win them over or trying to guess what will appeal to all those people we look down upon. We'll only be rid of him by providing a strong alternative vision.

Mark Green: Yeah, well there are two theories of the case. One is something that people on this show have dedicated decades of writing and advocating for--you know, a progressive program for the majority of Americans to show, "not just what you're against", as Adlai Stevenson, Governor of Illinois in the 50s said, but "what you're for". And that's the way all these grassroots groups are doing from individual to progressive change are doing. And the way to get to a majority of the Electoral College in the vote is to appeal to people's beliefs and interests. That's positive. And that means Trump and Clinton got 130 million votes. So, 110 million were eligible but didn't vote. That's a lot of people. And so we're trying to convince people who didn't vote, not to change their minds on Trump necessarily, but to show what's at stake and why they should register. And so the effort of Gillum and Abrams in Florida and Georgia to register people; they each lost their governor's races, you recall, by one point each. So it's persuading undecided people to show up, register and vote. And then persuading a tiny number of people who are for Trump, but have since seen the way he abuses minorities, women, immigrants, and they've had enough of it. And so this is not looking for something that is impossible, let's win 90% of the vote. You know, elections are at the margins and it's a doable thing if people are informed. And Ralph and I are old-fashioned enough to think that books, digital or in hand, promoted online and on air is one way of accumulating enough support so he's a three-year president or a one-term president.

Steve Skrovan: Right.

Ralph Nader: Any other comments, Steve?

Steve Skrovan: Yeah. And I'm just wondering what that alternative vision/that message is, because I don't think it can be, hey, let's take America back to how great it was four years ago. which is there's got to be some bold, new vision that appeals to those people in those states that you talked about, the swing states, who voted for Obama, but then turned around and voted for Trump because he promised to bring their manufacturing jobs back--the old neo-liberal globalist order; Trump was onto something there. And unless we address that, you know, it's going to be tougher.

Mark Green: Well, I don't know what our listeners watch on TV, but there is a great series, I think it's on HBO, the *Watchmen*. It's sort of a superhero reality show. And one of the things is that people can swallow nostalgia pills and they have reveries taking them back to the good old days. Well, and this could be a problem for Joe Biden, because he's, you know, running on nostalgia. So you're asking what's the big idea? It's not to promote her, but in fact, Elizabeth Warren says she believes in “economic patriotism”. You see; you don't surrender the word. And her view, so she has an idea--a 2% tax on wealth over \$50 million per year for a family. And whether it's administrable or not, that would shift several trillion dollars, just like Trump did, bottom to top, from top to bottom. That's not... if that's radical, so was Trump. And so that instead of it a kind of supply-side economics, where we just over spend on the rich, you have demand-side, consumer- up economics where people earn more in real income from nine-years old is the minimum wage for child has been campaign or increased because it's stayed static at \$7.25 federally for how long, Ralph, a decade or two? Unbelievable.

Ralph Nader: It's over a decade now.

Mark Green: Yeah. So there are old ideas that are good and then there were new ideas if you're credible. And Bernie Sanders, if anything, is credible. He certainly believes what he says. I know Elizabeth Warren; she's personally credible. This is not, you know, her whole life unlike Bernie, whose whole life has been dedicated to this kind of what she calls “economic patriotism”. And they actually, you have to just connect to people through your personality and your history, so they believe you and Trump is not believable.

Ralph Nader: Well, we've had enough visions of the good life over the last five years of our program. And if you put them all together, these are people who know what they're talking about, who come on the program. They have done a lot of things that they've talked about. They've built justice in America. And I wish some of these presidential candidates would tap into this great civic community--that has had so much experience, so much resiliency, so much honesty--to fuel their presidential campaigns with greater authenticity and connect it to where people live, work and raise their families. Thank you very much, Mark Green, for coming on to promote your own book. That was really generous. (laughter)

Mark Green: Well, thank you for enjoying the book that we co-authored. What a cabal. There is collusion against Trump.

Steve Skrovan: Well, we've been speaking with Mark Green. We will link to *Fake President*. I mean the book, not the actual person, at ralphnaderradiohour.com. When we come back, Ralph is going to answer some listener questions, but first let's find out what's going on in the shadowy world of corporate criminality with our corporate crime reporter, Russell Mohkiber.

Russell Mohkiber: From the National Press Building in Washington, DC, this is your Corporate Crime Reporter Morning Minute for Friday, December 13, 2019. I'm Russell Mohkiber. Uber said that it had reports of 3,045 sexual assaults during its rides in the United States in 2018 with nine people murdered and 58 killed in crashes. That's according to a report in the *New York Times*. The number of incidents represented a fraction of Uber's 1.3 billion rides in the United States last year. There are few comparable figures to judge Uber's safety record against. The New York Police Department, which keeps a register of sex crimes and rapes that occur on the

transit system, counted 533 in 2018. But even one of Uber's top executives said the company's findings were difficult to stomach. “The numbers are jarring and hard to digest,” said Tony West, Uber's chief legal officer. “What it says is that Uber is a reflection of the society it serves.” For the Corporate Crime Reporter, I'm Russell Mohkiber.

Steve Skrovan: Thank you, Russell. Since we are in the midst of the debate over impeachment, we thought we would dedicate the remaining part of the show to a discussion that Ralph had with constitutional scholar, Bruce Fein. Regular listeners know we originally released “13 Articles of Impeachable Offenses” committed by Donald Trump. The House ended up filing two Articles of Impeachment, narrowly focused on the Ukraine incident. But right now, we're going to play for you the summary of that discussion Ralph had with Bruce Fein.

Ralph Nader: All these counts point to a real lowering of the bar for what presidents can get away with--the lawlessness, the contempt for the Constitution, the contempt for Congress, the contempt for people who are trying to exercise their rights of civic advocacy, blocking law enforcement with obstruction of justice, blocking access by the people of this country to their own government proceedings, whether it's cabinet departments or regulatory agencies or decisions exonerating corporate crime or providing corporate welfare, bailouts of Wall Street, handouts, giveaways, subsidies. It all shows a tremendous deterioration of standards that we should apply to holding our government, not only just accountable, but to make it reflect the Preamble, “We the People” and Abraham Lincoln's phrase “government of by and for the people.”

Sometimes, Bruce Fein, it's good to go back in history. Sherman Adams was the Chief of Staff for President Eisenhower. He was from New Hampshire; I think he was its former governor. He once accepted a vicuna coat from a textile manufacturer, and he had to resign his position. So that indicates how higher the standards were. There wasn't anything clear that he gave this textile manufacturer. He just should not have accepted this vicuna coat and President Eisenhower let him go. And he was the chief of staff in the White House! So what we need to look at here is something that has always intrigued me, Bruce Fein. If you violate a traffic ordinance, you have to pay a penalty. If you, as a government official, suppress people's right to vote and violate the Constitution, Free Speech/First Amendment, you don't pay any penalty. Why is it that if you violate statutes, presumably you can be prosecuted and pay a penalty, but if government officials violate the US Constitution, there is no penalty. Why isn't a constitutional violation considered ipso facto a crime if it can be proven?

Bruce Fein: I think that degeneration, Ralph, can be explained by the transformation of the United States from a culture, liberty-centered universe where everyone gets to march to their own drummer; the great ideal was due process, privacy, right to be let alone, not to go abroad in search of monsters to destroy. And at that time in the early years, Ralph, when there was a government wrongdoing, I remember there was a case, I believe in 1860s, or even earlier, where a captain of a ship made an illegal seizure of another ship that wasn't authorized by statute. It was strict liability. He had to pay damages for illegally seizing the ship. But when we then started to become a full-global empire, with the Spanish American War, committing torture against Filipinos, acquiring Guam and Guantanamo Bay, Cuba, World War I; we were going into Haiti, Dominican Republic and Nicaragua every other year, we then fashioned this idea of the government immunity. No, you can't sue the government unless the government consents--

government immunity. And that is what's taken hold today; it's really crazy. The government who ought to be the one that turns square corners, the government who can commit so much greater harm than someone in the private sector simply because their power is so much greater. They have a monopoly of legal violence, now is immune from the lawsuits. And we have the court saying, oh, well, under the state secrets privilege, even if you're alleged to be complicit in murder, in kidnapping and torture, you can't be sued because it would disclose a state secret to sue you. That's how crazy it is. The government can commit all these horrible crimes [but] unless they consent to be sued; no you can't sue an individual. But that comes because it's a variation of what was the rule in England, Great Britain, when we became independent. No, the King can do no wrong. It was just a made-up fiction. The King can do no wrong. Now we've just borrowed, the government can do no wrong unless the government consents, and it's really quite, quite odd because it is a doctrine of justice that ensures the infliction of injustice! You take the most terrible things done by government unless they say, you can sue us; nope, you're immune. Sovereign immunity. It's kind of waved up there in the air. They say it's an aspect of our degeneration from a liberty-centered universe to a power-centered universe. Our legal doctrines reflect power not justice.

Ralph Nader: Yes, the role of raw political power or economic power or corporate power over the rule of law. And whenever law is subordinated to raw power, we descend into autocracy, plutocracy, dictatorship in pockets here and there and eventually, the overthrow of constitutional government and the freedoms of the people. But let's go to another level of specificity here. Two examples: [Case number one] Federal or state officials steal an election. They throw away votes; they distort votes, whatever. And they're not taking bribes because that would be a criminal violation. They could be indicted. They just want to win the election and they steal the election and violate the constitutional rights of voters. Case number two, a criminal war of aggression without declaration of war by Congress in a foreign country. And requiring soldiers, sailors, and air force people to go and fight in what is clearly a pattern of war crimes. And they can't defy that order without getting into deep trouble. So they're trying to protect their constitutional rights. No, the soldier says, "we'll not go to war' this is a criminal war of aggression; it's not been authorized, appropriated or declared by Congress." And the other one--stealing an election without taking bribes. Why is it that we don't have a system of law that makes such outrageous constitutional violations with severe repercussions, right down to the ground level, subject to criminal prosecution and penalties?

Bruce Fein: Well, it's just a variation of what I said. No empire will ever prosecute war because that's what it's defining earmark is.

Ralph Nader: No, I'm saying could it be done by a dutiful Congress?

Bruce Fein: Oh, the Congress clearly has the power to do it. The issue is whether they have the political will to do it. But certainly, in terms of constitutional authority, 1) they could make it stronger than it already exists in law; that a soldier is immune from any kind of demotion or prosecution for refusing to obey an illegal order to participate in an illegal war of aggression. After all, we prosecuted the Nuremberg defendants for participating in wars of aggression against foreign countries, namely a war of aggression defined as a country that has not invaded your country or has not declared war against or not said they're ready to initiate war against you. We commit wars of aggression all of the time under that particular standard.

Ralph Nader: Explain the Nuremberg principles. Now, if Donald Trump is cornered by a wave of impeachable offenses, passed the House, and he thinks he may be convicted in the Senate and he tries to wag the dog overseas; he gives orders to start armed hostilities against places and countries that don't threaten us, what should the generals and the admirals and their subordinates know about the Nuremberg principles, which apply to US law, right?

Bruce Fein: Yeah. International law is part, oftentimes part of the United States law. Congress has the power to punish violations of the Law of Nations. We have something called the War Crimes Act as well, 1997. But the officials would clearly have authority to say we're not going to follow a clearly illegal order. We are not going to do the Adolf Eichmann--the idea of well, I'm just following orders. No, because in the military law, it's not only a right, Ralph, it's a duty to refuse to follow an illegal order. And there can't be any question about it since Nuremberg and it's a precedent that's now approaching 70 years. When you are engaged in a war of aggression, a crime against peace or aggression, meaning you're attacking a country that hasn't attacked, you are guilty of a crime unless you walk away from it. And that's exactly what they ought to do. Yes, Trump attempted something like that. We know that there was something on a lesser scale that was at work when Nixon was under impeachment and it hadn't voted in the House of Representatives yet. When then Secretary of Defense, James Schlesinger was worried that giving the erratic behavior of President Nixon, that he might initiate a war to deflect attention from impeachment. Remember, he put the nation on the highest level of danger with a thing called DEFCON 3 during the Yom Kipper War in 1973. That put us at nuclear loggerheads with the Soviet Union. And so Schlesinger instructed the joint chiefs of staff in the DOD service personnel, "You don't accept any order to initiate a conflict, unless it comes from me; don't accept an order from the White House", because he was worried that Nixon would do something crazy. And I don't know whether impeachment goes down the road, whether we would have a secretary of defense who would act like Schlesinger; I would hope so. But right now, I'm not sure the stature of the succession of the man [Mark T. Esper] I can't even pronounce his name, would have that strength of character to do something with it.

Ralph Nader: What's interesting is you say that these military personnel would have a duty not to obey an illegal order, under the Nuremberg rules, by Donald Trump to fire away and launch weapons of mass destruction or just armed invasions here to distract attention from his impeachment procedures. But it's more than what most people would think of as a duty, isn't it, Bruce Fein? In other words, if they don't say no, they are violating international law and the Nuremberg principles, which apply here in the US. Because you remember Justice Robert Jackson was assigned from the Supreme Court on leave to be the Chief Prosecutor at the Nuremberg Trials and at the end he said, "Don't think these rules just are applying to Germany and Italy. They're applying all across the world and they apply to the USA as well."

Bruce Fein: Well, of course, that's the principle. The Nuremberg principles basically are, and they were applied in the Adolf Eichmann trial in Israel. Following orders is not a defense to perpetrating a war crime or a crime against peace. And that's what makes this a duty. And I say it's duty, not only under international law, but whether it's actually honored more in the recent observance in our military forces that a clearly illegal order should and must be disciplined.

Ralph Nader: That's in the War Crimes Act?

Bruce Fein: I don't know whether it's there; it's in the military codes some place. I'm not sure whether it's the War Crimes Act or UCMJ [Uniform Code of Military Justice].

Ralph Nader: Well, Bruce Fein, listening to our discussion reminded me of something one of our law professors used to quote, a statement by Judge Learned Hand, who was a very revered judge in the first half of the 20th century. He was a Circuit Court of Appeals judge, graduate of Harvard Law School. And he once said that when the law breaks down, when the constitutional observance breaks down in a country like the US, no branch of government, no court, nor legislature, no executive branch can save us. All that can save us is the spirit of liberty in the hearts of the people and their willingness to engage it, to paraphrase his statement. And I think that's where we're at now under the Trump regime of lawlessness, the congressional regime of abdication and the judicial regime of either hands-off or vie for Supreme Court view of concentrated power in the White House being constitutionally legitimate--the so-called unitary theory of the presidency. Do you have any concluding comments?

Bruce Fein: Yeah, I think I wouldn't quarrel with the observation, Ralph, but I think it lets leaders off a little too much. There are, for good or for ill, the obligation of leaders in society to encourage, to put speed bumps in the road. They need to do things that someone involved day to day, trying to keep their families together, above water, financially or otherwise that wouldn't necessarily have the time and inclination to do that. So it's a vacuum of leadership that I believe leads to much of the public complacency because they don't look at anybody. Well, what are we supposed to do? They are not ordinary citizens that read through the law books and isn't immersed in this stuff. And it's the obligation of leaders to lead but we don't have that today. I call, what we have an acephalous [lacking a head] political system.

Ralph Nader: Congress was not created as an equal branch of government by our founding fathers. It was created as the primary branch of government. Wouldn't you say, Bruce?

Bruce Fein: Oh, it was clearly thought to be the primary branch of government. That's why you could have a president like John Quincy Adams. Once he left the presidency, become a member of Congress where he had his brightest hours protesting the gag rule on petitions to end slavery. You can't conceive now of a president ever descending to Congress, given all the power that it surrendered to the other branches of government. And of course, the most famous statesmen at the beginning; it was the Daniel Websters and Henry Clay and then Thomas Hart Benton. They were giants. Even Joseph Story in the legislative branch, the Presidents Martin Van Buren, Zachary Taylor, John Tyler—they were zeros, but now you don't find that juxtaposition at all. All the power's gone to the executive. All the talent runs to the executive. Congress basically has been reduced largely to I say as an inkblot. The power is still there if Congress has the political will to assert it, but right now, it's staying complacent and supine.-

Ralph Nader: You called this period in our history, 2019 coming up 2020, the whole impeachment controversy, one of the most critical in American history. What do you mean by that?

Bruce Fein: Well, I think we've now gotten to a point of virtually limitless, unaccountable executive power that unless the line is drawn here--and again, it's not a Republican or Democratic line, it's constitutional--I think it's over. No president again will feel they have to

obey any constitutional provision to the extent they refrain from doing something it'll be a political, not a legal calculation and we will go the way of other empires. We'll continue to fight endless wars. Our national debt will go to \$30-40 trillion. We won't be able to pay Social Security. Our roads will crumble, and we will disintegrate from within. And with regard to the citizenry, I oftentimes recall, Ralph, this is an epitaph that Edward Gibbon wrote in *The Rise and Fall of the Roman Empire*. He delivered an epitaph on Athens and he said, when in the end, more than freedom, they wanted security; they wanted a comfortable life. They lost it all—the security, a comfortable life and freedom when in the end, they asked not what they could give to society, but what society could give to them. Then Athens ceased to be free and was never free again, and that's basically where we are.

Now, ultimately, the novelty of the United States was recognized [as] we the people are sovereign and if we don't exercise that sovereignty by commanding the standards that you have identified, it's all over. We already can see where our endpoint is. Just read the history books. Britain, Ottoman Empire, Chinese empire, Greek city states.

Ralph Nader: British Empire.

Bruce Fein: Yeah, yup. That's exactly what's going to happen here and the idea that oftentimes it happens. you fall off a cliff. The empire ends overnight like the Soviet Empire did. Sometimes it's more drawn out, but that's where we're headed. And I just think it's totally irresponsible. We think, Ralph, of the liberties we enjoy right now, just because you and I are talking, we have at least some semblance of a free speech and press. The only reason why we have that is because people made far greater sacrifices than we did, [i.e.,] risked their lives, their fortunes, their sacred honor, the last full measure of devotion. We're asking very little, just exercise your citizen right. Get out, vote, be alert. You don't have to resort an extraordinary sacrifice and that will carry the day, but if you don't do that, I can guarantee you government will continue to encroach on your privacy until we have rule by executive decree. We're going back to 1776.

Ralph Nader: And a mature corporate state where big business and government are intertwined and operating together against the people. On that point you made, Bruce Fein, I've just been given the exact words of Judge Learned Hand. He gave them in his speech that he titled “The Spirit of Liberty” at Central Park, New York City on May 21, 1944. And they bear listening to with great care. “What do we mean when we say that ‘first of all, we seek liberty’? I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes. Liberty lies in the hearts of men and women. When it dies there, no constitution, no law, no court can save it. No constitution, no law, no court can even do much to help it. What is this liberty that must lie in the hearts of men and women? It is not the ruthless, the unbridled will. It is not the freedom to do as one likes. That is the denial of liberty and leads straight to its overthrow. A society in which men recognize no check on their freedom soon becomes a society where freedom is a possession of only a savage few as we have learned to our sorrow.” Judge Learned Hand, the speech of liberty speech at Central Park, New York City on May 21, 1944.

That to me is a call for citizen engagement, for citizen action, for citizen advocacy, for citizen participation in the councils of government and the machinations of the marketplace, and that's where we end up. That's where our discussion is left with you, the people. The Constitution did

not start with we, the Congress. It did not start with we, the courts. It did not start with we, the White House. It did not start with we, the corporations. It started with “We the People”. That's our burden. That's our challenge and that's our message to posterity. Thank you.

Steve Skrovan: I want to thank our guest again, Mark Green. A transcript of the show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted. 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 Mohkiber, go to corporatecrimereporter.com. In addition to *Fake President*, Ralph has got two other books out, the fable *How the Rats Re-Formed the Congress*. To acquire a copy of that, go to ratsreformcongress.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 will link to that also. The producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt and Matthew Marran. Our executive producer is Alan Minsky. Our theme music “Stand Up, Rise Up” was written and performed by Kemp Harris. Our proofreader is Elisabeth Solomon. Join us next week on the *Ralph Nader Radio Hour* when we speak with activist from Hawaii, Paul Deslauriers, about how to reclaim democracy. Thank you, Ralph.

Ralph Nader: Thank you, everybody. And our listeners, you want to become empowered as citizens and not simply go through life saying, whatever will be will be, the fable, *How the Rats Re-Formed the Congress*, is really dedicated to your interest in taking over Congress. People are ordering it 5 at a time, discounted. See why. Go to ratsreformcongress.org. [Music]