

RALPH NADER RADIO HOUR EP 291 TRANSCRIPT

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan, along with my co-host, David Feldman. Hello, David.

David Feldman: Hello. In the immortal words of Mike Pompeo, I'll just be sitting here listening.

Steve Skrovan: Okay, very good. You can jump in every once in a while.

David Feldman: I'm just listening in on the conversation just to make sure.

Steve Skrovan: Okay. And of course, we have the man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hello, everybody.

Steve Skrovan: Well, we have a very exciting show today. An epic battle is shaping up between Congress and the White House over the impeachment of Donald Trump. How this constitutional crisis turns out could determine whether the Congress and the executive are, in reality, co-equal branches of government. Events are unfolding swiftly, but as of this recording, the House Intelligence Committee has subpoenaed all the president's personal lawyer, Rudy Giuliani's relevant documents. Secretary of State, Mike Pompeo, has admitted to being on the phone call, as David was referring to, the phone call that took place in July between Donald Trump and the president of Ukraine, but he's hinting that he may not cooperate or let other state department officials cooperate with the committee, terming it as bullying. The head of the Intelligence Committee, Adam Schiff, has stated that any attempts on the part of the White House to stonewall would be considered obstruction and included in any articles of impeachment. And Donald Trump insists he has the right to confront the whistleblower who first reported the phone call, and the president of the United States is throwing around words like "spy" and "treason", and calling the impeachment inquiry itself a coup. Meanwhile, public opinion polls are inching favorably toward the idea of impeachment. That's where we are at this moment. So, first up on the program, we are going to be talking to John Bonifaz, a public interest litigator who has been calling for the impeachment of Donald Trump for a long time now. He's written extensively on the subject and even made an impeachment case for George W. Bush in light of the illegal war in Iraq. So, we'll do a deep dive into all of that with Mr. Bonifaz.

Also, on this show, we're going to talk about the recent climate strike march that took place on the 20th of September. I went to the climate strike here in Los Angeles. It was quite inspiring - more young people than I have seen at any demonstration recently. Estimates put the worldwide numbers at around 4 million marchers. So, to give us his take on all of that is the Green Cowboy himself, our old friend and frequent guest,

David Freeman. Regular listeners know that David Freeman is not only a progressive advocate on energy issues, he knows of which he speaks, because he has actually run utilities both in Sacramento, California, and a little project you may have heard of called the Tennessee Valley Authority. So, we're looking forward to hearing what David has to say about that.

As always, in between, we will take a short break to check in with our *Corporate Crime Reporter*, Russell Mohkiber, because it seems like there's never any shortage of crime in the corporate board rooms. But, first let's hear what our first guest thinks of the case for the impeachment of President Donald J. Trump. David?

David Feldman: John Bonifaz is a public interest lawyer and the co-founder and president of Free Speech for People, which was founded to overturn the Supreme Court's Citizens United decision. Mr. Bonifaz previously served as the executive director, and then general counsel of the National Voting Rights Institute that has been at the forefront of key voting rights battles in the country for more than two decades. In 2004, Mr. Bonifaz wrote the book *Warrior-King: The Case for Impeaching George W. Bush*. Welcome to the *Ralph Nader Radio Hour*, John Bonifaz.

John Bonifaz: Thanks so much for having me.

Ralph Nader: Welcome indeed, John. Let's start with this. I just heard an interview of a Trump supporter in an Upstate New York congressional district, and this was on public radio. And he kept saying, "Where's the crime, where's the crime?" in relation to the conversation with the president of Ukraine and President Trump. Why don't you explain to people who keep asking that, and we'll show them some crimes in a few moments that Trump has committed again and again under the rubric of Constitutional offenses? How would you answer that man? Where is the crime in the context of impeachment?

John Bonifaz: Well, it's really incredible when you hear some of the people trying to defend Donald Trump what kind of alternate universe, they live in. The fact is is what happened on July 25th when President Trump called President Zelensky of Ukraine is he directly solicited from the Ukrainian president assistance for his re-election campaign, foreign assistance in his re-election campaign, which in and of itself, is a violation of federal campaign finance law. He also used extortion and bribery to try to get that assistance.

But, the real question here when it comes to impeachment, is not about whether there's been a crime under federal criminal law, and there are crimes the president has committed under federal criminal law. The real question is whether he has committed Crimes Against the State. That's what high crimes refers to: abuse of power, abuse of the

public trust. And this president has been repeatedly committing abuses of power and abuses of public trust since he took the oath of office.

Ralph Nader: Well, the framers of our Constitution made it very clear, did it not John, that high crimes and misdemeanors do not have to be statutory crimes. But, let's go down to the table where this man was asking the question, "Where is the crime?" Well, first of all, he violated the campaign finance laws. You cannot ask a foreign leader to help you against a domestic political opponent in an upcoming campaign. That is crime number 1. Crime number 2 is he's also engaging in dragnet surveillance, and without a judicial warrant, that is a violation of the FISA Act, which carries a five-year jail term [and] is a first-class felony, i.e. he's committing crimes regularly, daily, under his regime. Number 3, he's violating one of James Madison's greatest triumphs, which is to put the spending power exclusively in Congress. And Trump has cavalierly and regularly, whether it's not spending money for the national parks, or whether it's diverting 3.6 billion dollars from the Pentagon budget appropriated by Congress to build this infamous wall and other similar things like moving to suspend, in mid-year, foreign aid, which is appropriated by Congress. That is a crime under the Federal Antideficiency Statute. And that's not just a Constitutional impeachable offense; that is a crime. And of course, his intimidation of the whistleblower, under the Whistleblower Act, that's a federal crime. And he has made it clear that he's going after this whistleblower, intimating that in the old days, such people were traitors and were executed. So, let's get rid of this notion that Trump has not committed crimes. And of course, that doesn't even touch the Emoluments Clause, right? Why don't you explain that in detail?

John Bonifaz: Yes, I agree fully with that list. I would just add two more before getting into the Emoluments Clauses. We obviously know, based on the Mueller Report, that he was engaged in 10 separate incidents of obstruction of justice, all of which are crimes. And then we also know he was named individual one by the Southern District of New York U.S. Attorney's Office for directing a criminal conspiracy to violate federal campaign finance laws for those secret hush-money payments prior to the 2016 election for which his then-private attorney, Michael Cohen, is now sitting in jail for having committed that crime. So, there are many crimes, you're absolutely right, that this president has committed under federal statutes. But, it's also true that he's committed constitutional violations, and the Foreign and Domestic Emoluments Clause violations were the very first that he committed. This president, before he took the oath of office, refused to divest fully from his business interests all over the world, setting himself on a collision course with the two anticorruption provisions of the Constitution. The Foreign Emoluments Clause makes clear that no elected official shall receive any foreign payments or foreign benefits from any foreign government, and yet this president, with all his business interests around the world, repeatedly has been receiving, since his time

in office, illegal foreign payments and foreign benefits. In addition, the Domestic Emoluments Clause applies only to the president and makes clear that the president shall not receive any benefits from the federal government or any state government other than the federal salary for the office of the president. And again, we have Trump, having not divested from his business interests, operating businesses in the United States with the Trump International Hotel right there in Washington, D.C. receiving all those illegal benefits. So, this is a president who has had disregard for the Constitution from the moment he took that oath of office.

Ralph Nader: And John, he brags about it. Unlike Nixon, who slinked into a corner, he brags about it; he boasts about it. He even allowed the Pentagon to spend a half a million taxpayer dollars for their personnel to stay at his Scottish hotel, which was a long distance from where they were doing their business. So, he actually has written the articles of impeachment, bragged about it day after day, but he's oblivious to any distinction between right and wrong. He keeps saying, "I've done nothing wrong; I've done nothing wrong." He's never admitted one mistake of violating laws yet. So, let's explain this obstruction of justice, because people keep talking about that without completing the paragraph. When you are obstructing justice, like the 10 times in the Mueller Report, and Mueller Report was like a patsy. So, when he says 10 obstructions of justice, that's pretty serious. Spell out what obstruction of justice means and how it destroys any concept of the rule of law enforcement.

John Bonifaz: Yes, well obstruction of justice is that act that someone commits when they're engaged in having committed a crime or trying to hide a crime from letting any accountability come to that individual. And in this case, this president was engaged in a massive cover-up, has been, around what happened in the 2016 election cycle. But, even if one doesn't accept that he was involved there, the obstruction itself is a crime regardless of whether there was an underlying offense that occurred. And the reason why it's so serious is that the judicial system is set up in a way that makes sure that we should not allow those who are engaged in trying to cover up their wrongdoing to get away with it. And if you obstruct justice, if you prevent the law enforcement from carrying out that accountability measure through the process, then that itself is a crime separate and apart from the underlying crimes that are being investigated.

This president repeatedly tried to have Robert Mueller fired. He fired James Comey, the former FBI director, which set us on the course with respect to the Mueller investigation. He has sought to denigrate and undermine that investigation, and frankly then, the last obstruction of justice that he really committed, which wasn't in the Mueller Report, was that he put Bill Barr in there as attorney general to shut it down.

Ralph Nader: But also, he's ordered his staff, or former staff, not to testify under oath when they are required to by subpoena. He has refused, across the board, not here and

there, from respecting subpoenas, from law enforcement officials, and from Congress for materials from the executive branch. There's no such thing as executive privilege vis-a-vis Congressional investigations, especially under an impeachment inquiry. The Supreme Court has never ruled that the president has executive privilege in this area. So, he's blocking the sheriff; he's blocking the grand juries; he's blocking the state-enforcement officials who are trying to get his tax returns. It's one thing to contest these things in court under full due process, but it's quite another thing to use the force of the presidency to bully people to commit crimes themselves, in effect to obstruct justice themselves, and not testify under oath about what they know in the process of an official investigation. Here's what I think the worst impeachable offense is. It's almost never mentioned. The president of the United States must faithfully execute the laws. He has been putting in office officials at the Environmental Protection Agency, OSHA, the Auto Safety Agency, the Food and Drug Administration, the FAA--on and on--people who do not believe in regulation, people whose only qualification in some of these agencies, like Scott Pruitt, nominated to head the Environmental Protection Administration, who thinks the agency should be dissolved, and others in charge of the public lands think that the public lands should be sold off to private owners and businesses. So, the result is that the health and safety and economic well-being laws of our federal government are being paralyzed, if not destroyed day after day; lawsuits underway being pulled back, regulations being revoked, and in the process, more people are dying, more children are getting asthma, more people are being stolen from by the commercial corporatists. He's, in effect, shut down the Consumer Financial Protection Bureau, which was designed to bring Wall Street to accountability and to deal with the financial rip-offs of banks and credit card companies over millions of people, like the Wells Fargo criminal racket, and he's virtually shut that one down. Now, this, in its totality, John, is a massive impeachable offense, wouldn't you say?

John Bonifaz: It absolutely is, and I would add to that the fact that he's incited violence, giving aid and comfort to white supremacists and neo-Nazis, and undermining Constitutional protections of equal protection under the law, which would also fall under that rubric of taking care that the laws be faithfully executed. You know, this president has engaged in such abusive behavior since taking the Oath of Office [Article II, Section 1, Clause 8] that it's incredible, really, that we're just now starting a formal impeachment investigation in the U.S. Congress. It should have happened a lot earlier, and we've been pressing for this from the moment he took that oath because of the Emoluments violations. But, there's now 12 that we have identified on our site at the ImpeachmentProject.org, and they include many that you just cite.

Ralph Nader: Yes, ImpeachmentProject.org. Let me elaborate for people who are still not convinced on the destruction of the rule of law by Trump in the health, safety, and economic area. We've heard him, many times, say he wants clean, beautiful coal to

proliferate and burn more of. He's also said our air and water has never been cleaner. He's also repealed standards holding down coal-burning pollution and coal ash emissions. So, basically, and we'll get to his chronic lying, which is classically fulfilling the dread of Alexander Hamilton, who called an impeachable offense an abuse of the public trust. He is basically pursuing all of the things he says he's doing the opposite of. He's good for workers? Well, manufacturing is way down. No. And he said factories are coming from foreign countries back to the U.S.; nonsense, it's false. Manufacturing is declining. He says that the drinking water is going to be cleaner than ever, and he is allowing worse emissions into the water supplies of our country by turning back water pollution prevention or containment standards. And here's one I just learned about by listening to public radio. He has shut down the silicosis unit in the Occupational Safety and Health Administration--shut it down, not just weakened it, not just pushed out scientists the way he did at EPA and elsewhere, not just bullied civil servants who take an oath to enforce the law, as passed by Congress, as signed by prior presidents. Well, now there are 100,000 workers who are working in the area of manufacturing of tabletop counters for kitchens, etcetera. Companies have developed this new engineering of composite materials that increases by almost tenfold the silica dust that's breathed by these workers. And now, they're coming down with fatal silicosis disease, and he shuts down the unit that was designed to save the workers' lives. So, these are clearly impeachable offenses, Trump voters. Wake up to the realities. How do you focus on lying? Do you think chronic lying, by the day, by the hour--over 12,000 documented lies and misleading statements about reality by *The Washington Post*. How would you weave that, if you were in the House of Representatives, into an impeachable offense?

John Bonifaz: I think the way we would weave it is to demonstrate that there's a pattern here of abuse of power and abuse of the public trust, and that it certainly comes into that realm of high crimes when a president so defrauds, really, the process of engaging and governing to the point where up is down, true is false, and everything goes to his personal gain. That's how we would define it. The other impeachable offense we haven't talked about is what he's doing to children and their families at the southern border. This is a president who is engaged in overseeing cruel and unconstitutional imprisonment of children and their families at the southern border. Supreme Court, long ago, has established that when you cross the border anywhere in the United States, regardless of whether you have papers to cross, you are entitled to due process, protections. You're entitled to be able to apply for asylum. Instead, what he's done is he's locked kids in cages, separated them from their families, eight kids now having died in subhuman conditions. There's a former Nuremberg prosecutor who's been tracked down by Michael Moore. You may have seen this interview he did with him in which he defined this as a crime against humanity which happened to these children and to their families. Congresswoman Jan Schakowsky called it "state-

sponsored kidnapping". I mean, this is the kind of behavior that is certainly a high crime; must be faced in terms of accountability via the impeachment process, and yet it is not, right now, part of the discussion in Washington. We accept and certainly are glad to see that the Congress is moving forward on the Ukraine scandal and the impeachable offenses arising from that, but we will continue with our allies to demand that they expand the scope of that inquiry to cover all of his impeachable offenses because, the danger here is that we set a precedent going forward that just those kinds of impeachable offenses, under the Ukraine scandal, is how he'll be held accountable, and all the other impeachable offenses, he gets away with without any accountability. That's too dangerous a precedent to set in our view.

Ralph Nader: Well, on the border situation, he's basically refused to enforce the Asylum Act, and so he shoved that back to Honduras where they came from, which has one of the highest homicide rates in the world with all the criminal gangs and drug cartels and all, and he was reported, reliably, in the *New York Times*; I think they had some of the White House aides tell them that, in a meeting with the White House recently, the White House aides, Trump pounded on the table and said, "Shut the border. Close the border entirely," and the aides said, "Mr. President, this will strand tourists, American tourists; it will strand kids that go to school back and forth across the border; it will block 200 billion dollars of aid and send the stock market into a tailspin and drive the corporations up the wall because they can't get their goods in order to assemble them and sell them in the United States," and he flushed red; he looked at him and said, "I'll give you a week, a week to take care of this problem, otherwise, I have the absolute power to shut down the border." No president has the absolute power to do anything. The word "absolute" means that there are no constitutional restraints at all. They have discretion, but they don't have absolute power. And he goes around shouting, "I could kill 10 million people in Afghanistan, but I don't want to, even though I could end the war in a week," and I could do this and I could do that. It's as if Congress doesn't exist, which gets us to the really ipso facto constitutional violation, which is he is blocking the exercise of Congress's constitutional authority. He's defying subpoenas; he's defying requests for testimony by his aids, and he's defying the impeachment inquiry. Would you say that defiance itself, never mind anything else he does, that that deviance itself, over a period of time, is a grave constitutional issue?

John Bonifaz: Absolutely, it's created a constitutional crisis. It was the reason why the House Judiciary Committee passed in 1974, the third article of impeachment against then-President Richard Nixon, and that was an article focused on then-President Nixon's obstruction of Congress. And that's what this is. This is direct obstruction of Congress and its oversight responsibilities, particularly in impeachment inquiry. It is one of the gravest of crimes, high crimes. And this is also why Congress should not prolong this process much further. As much as they have court fights that are pending--

trying to get Don McGahn to testify, trying to get the grand jury materials from the Mueller investigation--the reality of it is, right now, we are in this urgent moment where Donald Trump, almost on a daily basis, attacks our Constitution, our democracy, and the rule of law. He's a direct and serious threat to our republic, and he needs to face impeachment proceedings now. So, we have issued with other allies-- CREDO Action, By the People, and others--a deadline of November 1st for the House Judiciary Committee to issue articles of impeachment out of that committee and November 15th for the full House to vote on those articles and send them to the Senate for a trial. We don't need many more weeks of this. We do need to tell the American people all the evidence, that Congress needs to show all of that in summary proceedings. But, the continued obstruction of Congress that this president is committing demonstrates why we need to move forward swiftly with this process.

Ralph Nader: Well, Elizabeth Drew writing in the *New York Times* the other day, said the House of Representatives under Nancy Pelosi would be making a mistake just going forward with one article of impeachment. That is the whole Ukraine travesty. And that they should go with all the major articles of impeachment if they're going to inform the public, get the backing of the public, start fracturing the Republican base for Trump, which is already showing signs of doing so in Congress, and making the full case, because, if you just go forward with one, and it can be bulldozed, and distorted, and whatever; you don't have another chance to come back. What's your... do you agree with that, John?

John Bonifaz: I agree fully with what Elizabeth Drew has written. I do agree that it is both politically and constitutionally unwise for Congress, solely to focus on the Ukraine scandal. And look, the reality here is that what's happened and transpired over the past couple of weeks with this scandal is what has been building for many, many months. People want to say, "Well, this was Speaker Pelosi finally moving forward and looking at a scandal that she says is simple for the American people to understand." No, what really happened here is that, for many, many months, there's been sustained pressure on members of Congress by a people's movement demanding impeachment proceedings. You know, former Congresswoman Elizabeth Holtzman has said repeatedly-- she sat on the House Judiciary Committee in 1974 during the Watergate era, [that] they didn't start that impeachment inquiry against then-President Nixon because of a special prosecutor's report or because grand jury materials came forward and were made available to the House Judiciary Committee. No, they started in October 1973, that impeachment inquiry, because the people demanded it, and here, the people had been demanding this impeachment process begin, and the Ukraine scandal was the final straw to all this, and that sustained pressure finally moved Pelosi, and others who were on the fence, to get on the right side of history. But they need to feel the continued pressure to not solely rely on that scandal and those high crimes, but to

demonstrate to the American people all the high crimes that this president has committed starting with the moment he took the oath of office, treating the Oval Office as a profit-making enterprise at the public expense.

Ralph Nader: And it's hardly a secret. I mean, for example, repeatedly, he has said that he could launch military strikes anywhere in the world that he wants. No, he can't. Only Congress has the authority to declare war. Impeachment offense number 1. He's involved in nine wars right now around the world. Sure, he inherited some from impeachable offenses of prior presidents who got away with it. But, he's already now in Libya, Somalia, Yemen, Syria, Iraq, Afghanistan, Pakistan--Al Qaeda, and ISIS areas--and where's the Congressional authority for that? I mean, it's true, Congress has been a coward. They've abdicated their congressional duties. But he keeps basically saying, "I can inflict armed force on anyone." And then the second thing he thinks he can do is spend money any way he wants, even against the dictates of congressionally appropriated programs. That's another impeachable offense. He was once heard saying that, "The Constitution lets me do whatever I want as president. I can do whatever I want as President." That's a widely quoted refrain from him. So, when you combine all this obliviousness [i.e.,] he doesn't read; I'm almost certain he hasn't read the Constitution. He doesn't like to read. He looks at TV a good part of the day. He doesn't preside over the executive branch; he just puts people there to do the bidding of big corporations and Wall Street. He's been used to being the head of the sheriff. He's been ahead of the law, violating the law, catching up with him as a business executive. He hired hundreds of undocumented Polish workers in hazardous conditions building one of his buildings, for example, and then had to be sued by their lawyers because he wouldn't pay them their full pay. I mean, this is a deranged individual, and the consequence of this is summed up in his chronic, day after day, lying. Now, lying means, John, to me, it means government secrecy and cover-up. That's one thing lying provides. Lying tells the American people that things are happening that are totally not happening, like manufacturing is going up. Lying means that we can't defend our country using the federal government against climate disruption--hurricanes, tornadoes, floods, droughts in plain sight--scientists' warning every week about, "It's getting worse. It's worse than our own predictions," and he calls it a "China hoax". He calls it a hoax, climate disruption, a hoax from China to make money off the United States. So, we're dealing here, if you had a neighbor who wildly slandered and inaccurately slandered people who couldn't defend themselves, who wildly lied about everything that he didn't do, did do, should do, would do, a person who lied about the whole reality in the community and had power over you as a neighbor, or as a city council person, or as a mayor. What would people think of neighbors or local politicians like that? So, he's really a candidate for the 25th Amendment. Explain that.

John Bonifaz: Well, the 25th Amendment does provide for removal of a president based on incapacity to carry out the duties of the office. And there are clear issues here with this president and his mental capacity to carry out a duty. The challenge with the 25th Amendment is that it needs to be invoked by cabinet members. Now, Congressman Raskin has a bill in the Congress to deal with setting up a commission that would allow for Congress to also invoke the 25th Amendment. But, for now, it seems very unlikely that his Cabinet members, who are lapdogs, will invoke the 25th Amendment. But I want to come back to another point you've rightly made, Ralph, which is about his view of absolute authority here. Timothy Egan, of the *New York Times*, a columnist, wrote a very important column the other day, in which he reminded everyone of how Nixon had this famous statement, "If the President does it, it is not illegal." And what he paints in that column is that is Donald Trump's motto times 100 because it's not just if the president does it, it is not illegal. It's really if Donald Trump does it, it is not illegal. His whole life has been about disregard for the law, disregard for rules, and he's gotten away repeatedly with many other violations even before becoming president. So, he really, I think, does believe that he can get away with it. He has that Fifth Avenue line of shooting somebody on Fifth Avenue and getting away with it. I think he really believes that, and the sad reality is, until now, just until now, I think he saw that he was getting away with it. And now, all of a sudden, Congress has finally grown some backbone and decided to move forward with these impeachment inquiry. The question will be will they go beyond the inquiry? Will they actually issue the articles of impeachment? And then what will happen in the Senate? And every member of the Senate, Republican and Democratic alike, must be forced to vote on this question. Do they condone this outrageous, lawless behavior of this president or will they stand up to it and defend our Constitution at this critical moment in our history?

Ralph Nader: Well, actually it's worse than that. In the last few days, he's inciting the prospect of civil war if he is impeached. If he, Donald Trump, is impeached, there will be a civil war, which is a way of giving signals to people who might take him seriously. You know, the adjectives he uses to describe people, he calls people "sick, treasonous, low-IQ, disgraceful, crooked". They all can just be turned around in describing him. At what point does his words become incitation to riot? Isn't that a crime?

John Bonifaz: There's no question he should be charged via an article of impeachment for inciting violence. We know that the El Paso shooter, who engaged in that horrific mass shooting in El Paso, cited his language of an invasion happening of immigrants coming across the southern border for why he went and committed that horrific act. We know that this president has called out four members of Congress, known as "the squad", all of whom are American citizens, three of whom have been born here, and he said they should go back to where they came from, which raised physical threats and violence against them to a higher level. This is a president who is very dangerous in the

Oval Office and precisely why he needs to face impeachment proceedings. Too many people, up until now, have been saying, "Well, we'll impeach him at the ballot." There is no such thing as impeachment at the ballot. We hold elections every four years to deal with who will be president. We hold impeachment processes to deal with direct threats to our republic, and that's what this president is.

Ralph Nader: Well, the danger, of course, is as he goes around the country for his campaign in front of huge rallies where a lot of people come for the entertainment. They don't just swear by him. And he points to reporters, or he points to people who are standing peacefully with a sign objecting to his policies, and he incites the others, who are hollering in his favor to violence, and they inflict it on these people. Can he be prosecuted?

John Bonifaz: I believe he can and should be, yes. And I also will add that I don't believe that Robert Mueller or anyone else who's in a prosecutorial authority position should be ignoring the responsibility to hold this person accountable in the court of law. The policy of the Justice Department is not binding on prosecutors--should not be seen as binding. In fact, there's no requirement whatsoever in the Constitution that somehow you can't indict a sitting president. And I think part of what we're dealing here with is a president who knows that he, at this point, has faced immunity for the crimes he's committed in terms of a court of law, and that if he wins re-election or somehow is declared the winner that may very well may run out the statute of limitations on some of those criminal statutes. So, he has a real incentive to do whatever he can to rig the process, to seek foreign assistance in our elections, to do anything else to ensure that he somehow stays in that Oval Office. And this is, again, why impeachment is so critical as a remedy to address this crisis now.

Ralph Nader: John, this notion that you can't indict a sitting president, is just an opinion by the Office of Legal Counsel in the Justice Department?

John Bonifaz: Yes.

Ralph Nader: That doesn't have the force of law. Why did Mueller acknowledge it? Why do even democrats refer to it? It's total nonsense because it is not an opinion from the Supreme Court. It's just an opinion from a bunch of lawyers who were hired to support the president. When did that occur?

John Bonifaz: Well, it occurred back during the Watergate era, actually, and it was a policy that was initially drawn up around the investigations of Agnew--Vice President Agnew at the time, and there was a concern somehow that if Agnew got indicted as he was facing tax evasion charges, that then the president might face indictment for other crimes he'd committed. So, they drew up this policy. They drew out an exception that made no sense from a constitutional perspective. But, you're absolutely right. It has no

basis in the Constitution, and I believe when the history is written on the Mueller investigation, we will learn that there was most likely a fierce fight within that team as to whether to issue an indictment. We already know, out of the Southern District of New York, that Donald Trump was named individual 1 for directing a federal criminal conspiracy, and then lo and behold, William Barr becomes Attorney General and that investigation ends. Michael Cohen goes to jail, but that's it. So, we know there were prosecutors in that office who thought there should be further proceedings, and I think there most likely were prosecutors in the Mueller investigation who thought that as well.

Ralph Nader: Just to complete the point here, the Supreme Court has never adopted the principle that a sitting president cannot be indicted.

John Bonifaz: Not only that, but in *Nixon v. U.S.*, the Supreme Court made it clear that the president had to turn over the tapes and that he was not immune. He didn't have that absolute power that Nixon tried to claim. So, I'm fully in agreement with you that not only is there no Supreme Court precedent, but that policy should not be cited with any authoritative basis by anyone in power in the government, and they should proceed to hold this president accountable.

Ralph Nader: You certainly can't refer to the Office of Legal Counsel's opinion acceptably and still say the president is not above the law.

John Bonifaz: Absolutely.

Ralph Nader: Because, that allows him to be above the law. He can't be indicted no matter what he does? Anyway, these are some quick reasons for opposing impeachment that we've seen floating around. Well, if the House impeaches Trump, the Senate will acquit in the trial, so why bother?

John Bonifaz: I think the reason why we need to proceed is that the articles need to be issued; the charges need to be issued. This President needs to face accountability in the House. If the Senate votes to acquit, the trial itself will be a critical educational opportunity for the American people, and the president will have been yet the third president of American history to be impeached. It'll be a stain on his presidency forever for history to mark, and we will have, once again, an important accountability moment. Obviously, we're going to fight to ensure that senators vote the right way; there's a removal that happens, but even if we don't prevail in the Senate on this, the process of issuing those articles of impeachment is critical for setting a precedence for future administrations and ensuring that this president be held accountable.

Ralph Nader: We're talking with John Bonifaz, lawyer and leader of the impeachment drive in the civic community in our country, a long-time public interest advocate.

There's another reason--the impeachment clause in the Constitution is not based on a political calculation. It's based on a constitutional duty. It's like a fearless prosecutor prosecuting someone who is very popular in the community, but the prosecutor does his or her duty. And also, don't discount, skeptics, the effect of 10 or 20 nationally televised hearings in changing public opinion even more than it's changing as we speak. It's already shifting more against Trump on the impeachment inquiry. It's now into majority territory. Here's another argument against impeachment--the American people don't care about the impeachment. They care about healthcare; they care about a clean environment; they care about jobs; they care about public facilities being repaired. Why is the House of Representatives under the democrats distracting away from those things that the House should be focused on? Your reply.

John Bonifaz: Well, first is the answer that you just gave on the constitutional requirements of members of Congress. When faced with this kind of constitutional crisis, they have a duty to engage in impeachment proceedings and issue articles of impeachment. Second, we can walk and chew gum at the same time. We can proceed with impeachment proceedings and have Congress also engaged in all their other responsibilities to improve the lives of American people, to help and support economic justice, to protect the environment and so forth. It's not like we can't do both, but it is true that we're facing a constitutional crisis today and Congress has a responsibility to protect and defend the Constitution. Each member of Congress took an oath of office, just like the president, to protect, and defend, and preserve the Constitution, and that's what this is about. The other point I would make is that people said, "Well, the polling showed that the majority of the public did not support impeachment," and you know, there were polls that were in the 30s and 40s showing support for impeachment, which is quite high, given that an impeachment inquiry had not begun. But the polling numbers were higher than where they were at the start of the impeachment inquiry with Richard Nixon. Now, just in a week's time, we see polling that shows majority support for this impeachment inquiry, 55% under the CBS news poll that just came out supporting this impeachment inquiry. So, it's actually not true that the American people don't support this. They do. They recognize that no one is above the law, not even the president of the United States, and this president needs to be held accountable, but I also think this is one of those moments where the principle and the politics are aligned. Yes, we have to put principle over politics. But, the fact of the matter is the American people want to see bold leadership; they want to see people who will stand up for the rule of law and stand up for accountability against entrenched power that violates the Constitution, and that's what we're seeing already in the polling as a result of the announcement that they're moving forward, and we're going to see that continue to rise, and people recognize that this man needs to be held accountable.

Ralph Nader: We're out of time. We've been talking with John Bonifaz, who is a civic leader, lawyer, and a leading advocate for the Congress to impeach and convict President Donald J. Trump on a whole series of grave and repeated violations of our Constitution and criminal statutes. Thank you very much, John. Can you, once more, give our listeners the website.

John Bonifaz: Yes, people can learn more about this impeachment campaign at ImpeachmentProject.org, and they can learn more about our work to defend our democracy and our Constitution at FreeSpeechforPeople.org, and I really appreciate this opportunity to talk with all of you about this critical question facing our nation today. Thank you.

Steve Skrovan: We have been speaking with John Bonifaz. We will link to the Impeachment Project at RalphNaderRadioHour.com. Right now, we're going to take a short break and check in with our *Corporate Crime Reporter*, Russell Mohkiber. When we come back, we'll welcome back the Green Cowboy, David Freeman, who's going to give us his take on the recent worldwide climate strike march. You're listening to the *Ralph Nader Radio Hour* back after this.

Russell Mohkiber: From the National Press Building in Washington, D.C., this is your *Corporate Crime Reporter* "Morning Minute" for Friday, October 4, 2019. I'm Russell Mohkiber. Corporations keep breaking the law and the Justice Department keeps refusing to prosecute them. The Department of Justice's chronic refusal to bring criminal prosecutions against big banks, big pharma, and other big businesses that violate the law, has led to a failure to deter repeat offenders. That's according to a report from Public Citizen. Instead of prosecuting corporations, the Department starting in the early 2000s has increasingly relied on agreements that prosecutors and corporate defense attorneys negotiate behind closed doors to keep corporations, usually the largest, out of the criminal justice system. Under President Trump, corporate prosecutions have plummeted to the lowest level in more than 20 years. Corporate leniency agreements, deferred non-prosecution agreements, however, are on the rise again. For the *Corporate Crime Reporter*, I'm Russell Mohkiber.

Steve Skrovan: Thank you, Russell. I was at a gala for Public Citizen in June, and there were two people in the crowd who were quite easy to spot. That's because they were both wearing cowboy hats. One was Jim Hightower, America's number one populist, and the other was our next guest.

David Feldman: David Freeman is an engineer, an attorney, and an author, who has been called an "eco-pioneer" for his environmentally conscious leadership of both the Tennessee Valley Authority and the Sacramento Municipal Utility District. He's also a noted anti-nuclear activist, and the author of a number of books on energy policy,

including *Winning our Energy Independence*, and his latest, *All Electric America*. Welcome back to the *Ralph Nader Radio Hour*, David Freeman.

David Freeman: Yeah, I'm delighted to still be around and to be back.

Ralph Nader: Well, David, you're 93 years of a bundle of dynamic energy, and when I saw all those young people around the world hitting the streets, skipping school sometimes, having good signs on climate disruption and action... They're not looking for words; they're not looking for praise and a pat on their head by their elders. They're looking for action, and I foresee that the 4 million that came out a few days ago are going to be 8 million and 20 million and 50 million, which means they've got to have a strategy. They've got to have tactics and a strategy. They've got to go to the next step, and the next step is where you come in. The next step is what, specifically, they should demand, and who should they demand it from--lawmakers, governors, city council people, whatever. How should they direct this kind of energy? Because it's gonna become the greatest mass demonstrations in the history of the world, in my opinion. Take it from there, David Freeman.

David Freeman: Well, we need to go, and they know it; we need to go from slogans to proposing laws. And we need to go to everybody. It needs to happen at every level of government, and it can, and with the help of all these kids, it will. You know, I went to one of the rallies at Howard University recently, and I doubled the average age just by being there. But I was impressed that AOC [Alexandria Ocasio Cortez] got out there after the old guys spoke, and she just very calmly said, "We're going to try, and we'll fail, then we'll try again, and then we're going to try again, and we're going to be here until we succeed." And I think that that's their spirit, but it's time to go from slogan to laws. You know, the problem with us older people is we've got 170 IQs trying to solve a 110-IQ problem, and the problem is fossil fuels. It's 70% of the greenhouse gases being emitted, and the answer is old fashioned. We need to outlaw the goddamn stuff. I mean, we need to pass laws at every level--at the city council level, at the state level, at the federal level especially, but all of the above. And, I'm old enough to remember Pearl Harbor, and if you listen to the climatologists, we have a threat that's far greater than even the Nazi movement? It threatens to eliminate the only home we've got. And what happened then was we told Detroit to stop making cars altogether and make tanks and airplanes, and we won the war. We had gasoline rationing, and nobody gave a second thought to whether that's the appropriate thing. We haven't yet decided as a nation, or as a population on Earth that we've got to do this.

Ralph Nader: Okay, David. You're a very practical person. You're an engineer, a lawyer; you've run four giant utilities: Tennessee Valley Authority, two giant utilities in California, one in five; there you are. And you've closed more nuclear plants than anybody else put together, starting with the Sacramento, replacing it with energy

efficiency. So, our listeners are saying, "What, you mean he wants to outlaw fossil fuels? You can't do that immediately. What do you do with a car? What do you do for electricity?"--and so forth. So outline exactly your practical plan that you've put before governors and members of Congress.

David Freeman: Well, the first thing we've got to decide is the electric power industry is used to being regulated, and we need to give them a fresh set of orders. All new power plants must be zero emission. It's a very simple law. You have to reduce your emissions of greenhouse gases at least 5% below current levels every year until you get down to zero. And if you don't do it, it's against the law, and I would fine them a huge amount of money and not allow the fine to be passed down to the customer. I mean, how in the hell do you think we got scrubbers put on the coal-fired power plants in the '70s? They took a law, and you of all people, Ralph, know how you got seatbelts in the cars. It took a law. We have passed laws in the past that require things in the public interest, but first you've got to demand it, and going around just with slogans about environmental justice is the beginning, but that has to be translated into specific law. And the idea of talking about a carbon tax, that's a sophisticated way of saying that you can pay to pollute. No, this stuff is poison. It's burning up the only home we've got. It's on fire. Listen to the climatologists and act on that basis. So, we have to propose laws. And let's start at the city. Most of the big cities are governed by mayors, most of them who have taken a pledge to 100% renewable. They've taken that pledge because it's easy and it sounds good, and everybody applauds them, but they're not doing a damn thing today. And the pollution is still going up. So, I say to my grandchildren, and that's what they are, is let's start at the city level. Let's take downtown of every city in this country and say you can't burn gasoline downtown anymore, and then widen the circle every year until you can't burn gasoline in the city limits in most of the cities anymore. I mean, we have to recognize that the climatologists are not saying that it's okay to wait 12 years and then do it. We've got to start now. The assumption is that if we start now and go down to zero steadily that we might still have a place where some of us can live. And therefore, all the democratic candidates who are getting by with just making tired pledges; the big debate is 2040 or 2045. Well, who gives a damn if we're doing nothing or not even demanding that they do something in 2020 or 2021? So, what needs to be done is very clear. We need to be proposing laws that say, "Everything new" ...and it's the same with cars. Give Detroit five year's notice; that's reasonable. Say, "Every car you make, starting five years from now, has to be zero emission." Tell all the taxi cabs in this country, "You got five years; all your cars have to be zero emission." And that's for Lyft, and Uber, and all of them. And you know what the byproduct will be? We will stop giving kids asthma. There's still terrible air pollution problems in all the cities in this country. Imagine if you didn't burn fossil fuels in the cities anymore? You have a byproduct immediately of eliminating a major source of lung disease.

Ralph Nader: You know, David, you make a very important point. The people who argue against climate disruption, they're arguing it at a too-high level. They can make the arguments to the climatologists, but they should also say, "Look, one byproduct of dealing with climate change is less air pollution in the lungs of your kids," like you just said, asthma. Another byproduct is you're going to get more energy per dollar because energy efficient burning, until we get to the whole renewable, is less productive of greenhouse gases, so, you save in the pocketbook; you save in your health on the ground, and you're saving the planet up there.

David Freeman: Yeah, well you know, you don't have a better deal than that anywhere on Earth. I mean, as I say, we're using much too sophisticated...and everybody they teach say we need more research, needs to shut the hell up. We don't need more research.

Ralph Nader: Explain that.

David Freeman: Because, the modern-day Edisons have learned how to harness the inexhaustible, everlasting, free power of the sun and the wind. And now, we have technology that is just like the dams that the old New Deal built. Once you build them, the fuel is free and they're virtually maintenance-free. And the plain truth of the matter is the green jobs are in building the solar plants and building the windmills. But, after they're built, I can tell you what the cheap power in America today is; it's the dams that were built under Roosevelt. I ran the New York Power Authority, and I sold hydropower out of Niagara Falls for one cent a kilowatt-hour and I made 90% profit on it. There's seven people up there that run that power plant. The same will be true of the solar and the wind, and if you drive an electric car, the cost of the electricity is the equivalent of about 75 cents a gallon gas. So, we're going to have a cheaper energy economy as well as a cleaner energy economy.

Ralph Nader: We've been talking to David Freeman, who is an engineer, lawyer, he's run major utilities, advised governments all over the country, and everybody on the other side that opposes his views, I dare you to debate him. Thank you, David Freeman.

David Freeman: Thank you, Ralph. Bye, bye.

Steve Skrovan: We've been speaking with the Green Cowboy, David Freeman. We will link to his work at RalphNaderRadioHour.com. I want to thank our guests again, John Bonifaz and of course David Freeman. For those of you listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call "The Wrap-Up". A transcript of this 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's weekly column, it's free, go to Nader.org. For more from Russell Mohkiber, go to CorporateCrimeReporter.com.

Steve Skrovan: And Ralph has got two new 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.

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: Thank you, everybody. Put your citizen hat on, listeners. Washington, D.C. is going to go through tumultuous times in the next few weeks.