

## RALPH NADER RADIO HOUR EPISODE 505 TRANSCRIPT

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

**David Feldman:** I'm your anti-trusty co-host.

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

**Ralph Nader:** Hello, everybody.

**Steve Skrovan:** In 1971, Lewis Powell, the General Counsel to the US Chamber of Commerce, drafted a confidential memo. A few years later, this memo was leaked and came to be known as the Powell Memorandum, a notorious blueprint for corporate America to counteract the growing power of the modern consumer movement, which at that time was spearheaded by our very own Ralph Nader.

This memo led to the birth of some of today's most influential think tanks—the Heritage Foundation, American Enterprise Institute, the Cato Institute, among many others. And they provided a modern intellectual patina to the laissez-faire capitalist project. But this was in no way the first example of corporate propaganda covering for corporate greed.

We have a long history of what our first guest prefers to call corporate bullshit. Donald Cohen is founder and executive director of the research and policy center, of In the Public Interest. And in his new book, *Corporate Bullshit: Exposing the Lies and Half-Truths That Protect Profit, Power, and Wealth in America*, he outlines the many myths that mask the stench of American corporate capitalism.

In the second half of today's show, we'll turn our attention to the American legal system. Now, theoretically, we all have equal access to the courts and equal rights under the law. But in practice, the law can be prohibitively expensive. Whether we want to sue someone who's wronged us or defend ourselves against a criminal charge, someone has to pay—pay to hire a lawyer, pay to file paperwork, pay to access public court records.

Our second guest will be Michael Lissner, the Founder and Executive Director of the Free Law Project. The Free Law Project curates and provides free public and permanent access to primary legal materials. And we look forward to speaking with Michael Lissner about their work supporting more equitable access to the law. As always, somewhere in the middle, we'll check in with our relentless corporate crime reporter, Russell Mokhiber. But first, let's learn about some corporate coprophilia. David?

**David Feldman:** Donald Cohen is the founder and executive director of the research and policy center, In the Public Interest. He's the co-author of *The Privatization of Everything* and his latest book, co-authored with Nick Hanauer and Joan Walsh, is *Corporate Bullshit: Exposing the Lies*

*and Half-Truths That Protect Profit, Power, and Wealth in America.* Welcome back to the *Ralph Nader Radio Hour*, Donald Cohen.

**Donald Cohen:** Thanks so much for having me.

**Ralph Nader:** Yeah. Thanks very much. This is going to greatly interest our listeners, because it deals with the level of incredibility of business leaders over the decades always predicting disaster—mass unemployment, businesses closing down—anytime there is an effort to establish health and safety standards or Social Security or Medicare or abolish child labor.

When you look back at some of these quotes, you can't really simply say they're lies. There are a lot of lies in this book, but they're just totally off-the-wall predictions of disaster. Like when the modest auto safety standards came out in the late 1960s, Henry Ford said that if they're not reversed or diluted, it's going to shut down the auto industry, which, of course, turned out to be totally absurd.

So I thought we'd get started by you giving us a flavor of just how off-the-wall some of these comments were.

**Donald Cohen:** Yeah. Let me just say for the listeners, this is a book of quotes, as Ralph mentioned. It comes from a several-year period of history of looking back at all the things that you mentioned—on food safety and worker safety and Social Security and Medicare and Clean Air Act and of everything that made progress, and looked at what they actually said would happen before those things got established, because now they're all common sense. And what we found is that there's a pattern. We identified six particular lies or stories or tales, however you want to describe it, that are completely consistent since the end of slavery and child labor. So just to start even at child labor because that's—well, at slavery, because that's actually a current issue now, and child labor is a current issue now.

There's a quote in the book that says—from a canning company executive in 1913, before child labor had been outlawed. And this woman said, "I have seen children working in factories and I've seen them working at home, and they were perfectly happy." And that's an illustration of story number one, which is there's no problem here, one that we are used to. Smoking doesn't cause cancer. There's nothing wrong with lead. It's healthy for you. Climate change. No, that's not a problem either.

So that just gives you a flavor. And then the book goes through different storylines and different examples throughout history that, again, are incredibly consistent and outrageous.

**Ralph Nader:** Well, when you look back on it historically, you do see certain patterns that keep recurring. In other words, these companies, these corporate tale tellers, mythologists, liars, they never seem to lose credibility.

So General Motors throughout the decades kept saying, well, the auto safety is going to shut down this and the air pollution is going to shut down that, and the fuel efficiency standards are actually going to increase pollution. In the 1920s, when they put deadly lead and tetraethyl gasoline, they

raised the price of gasoline. And when they were forced to take it out of gasoline in the 1970s, they raised the price of gasoline.

So contemplate this. Most individuals throughout life, if they're accurately described as serial liars, people stop believing them, and say, something like, that's another bit of magical thinking from Joe. Why is it that corporations and corporate executives never seem to lose credibility with the public even after this is all publicized, they're proven wrong, the public benefits from these health and safety issues and other protections of consumers, environment, workers, children, patients and the like? Why don't they lose credibility?

**Donald Cohen:** That's the key \$64 million question, But I'd say a couple of things, one of which is, in some cases, the things they say when they said them have the patina of plausibility, like maybe jobs will get cut if we make auto companies spend more money on something, things like that. So, they sometimes have a patina of plausibility.

But the second is we don't go back and say, you said that before and it didn't happen, and you said that before and it didn't happen, and said that before and it didn't happen. They just go forth. They've learned that you come up with your talking points, you say them, you hammer them, and they've been effective. What we need to do is ridicule them. Say, what you're playing here is a game with lives and the planet, which is – again - the purpose of the book.

Every time they say something, our natural instinct is to debunk it, which means we're playing on their playing field. We want to pre-bunk it by calling it bull. Say you're just playing a game and listen to how you've done it in the past. Many of the quotes in this book are hilarious. So, we want to make fun of them, and we're hoping that this becomes a little bit of a vaccine going forward.

**Ralph Nader:** Well, you talk about the sanction of shame, that you want to have people read this book and then say basically shame to these corporations and to shame them, ridicule them, expose them. Is that enough?

**Donald Cohen:** I don't think it's enough. The other word I would add is dismiss them. You remember Reagan used to say to his opponents, "Oh, there they go again." It was the best dismissive line. So, we want that. But no, it's not enough. You've got to have the power to take it all the way home in America. You've got to pass laws that expose their self-interest, not expose their lies. You could do that, but it's really to expose their self-interest.

You talked about lead. The interesting thing about lead is they said lead is healthy for you all the way from that period of time when it was in paint and when it was in gasoline, early part of the last century. And then, more than halfway through the century, standards were established where lead was taken out of paint and gasoline. They knew, just as the fossil fuel companies, the opioid makers, and the tobacco companies. They knew the scientific truth.

So, these were lies, and they were in their self-interest, and lives were lost because of it. So, part of the shame is to say, it's not just a game, but it's a game that you're playing with people's lives and you know it.

**Ralph Nader:** Millions of lives we're talking. We're talking the denial that coal dust creates coal miner pneumoconiosis. That's a half a million lives in the last century of coal miners lost, horrible asphyxiation deaths. Then there's the 450,000 people who die from smoking related, tobacco related diseases. Just add that up year after year. And then there's at least 300,000 people, workers mostly, who died from asbestos exposure.

All of this was denied. There's no proof asbestos creates cancer or mesothelioma. There's no proof that tobacco smoke creates cancer or heart disease until the Surgeon General's report started coming out in the mid-1960s. This is more than just lies, falsehoods, off-the-wall predictive phoniness. It's more than that. It's deadly.

In other words, it's not just rhetoric. It's not just craziness. It leads to the suppression of the society's response to foresee and forestall hazards, rip-offs, and the like, and to engage in preventive activity, regulations, opening it up for lawsuits under tort law, and deterrence. So, we're dealing here with not only a malicious pattern of rhetoric, we're dealing here with deadly delays. A lot of these phony denials delayed the reaction, as you point out in the book, delayed the reaction of the public to correction.

By the way, readers should know that in this book called *Corporate Bullshit: Exposing the Lies and Half-Truths That Protect Profit, Power, and Wealth in America*, it's not just corporations. It's not just the trade association like the US Chamber of Commerce. It's academics. It's publications like the *National Review*. It's reporters who should know better in terms of their reporting. It's headline writers that have inaccurate headlines because of their predisposition against the content of the story, like broadening health care protection in the country.

Here's an interesting transition, Donald, that you probably have thought of. People listening to Trump starting out in 2015, his campaign, look at this guy, he just lies every day. Just in four years as president, he made 35,000 lies or false statements, according to the *Washington Post*, which tracked his rhetoric day by day, led by Glenn Kessler, the reporter. And people would ask me, how does he get away with this? Why do people believe this? One simple answer is that millions of people have been believing phony advertising for years. This product is good for your nutritional needs when it's phony. This color product is pretty, and it will attract your kiddies when it's bad for them. All kinds of phony assurances in the credit industry, in the auto industry. These pharmaceutical products, over-the-counter pills, they're safe and effective. And so, people were predisposed in their consumer activity to believe these advertising lies.

So what Trump did was he just took that kind of pattern and moved it big time into politics. And he had a constituency that was already programmed, so to speak, to be gullible enough or trustworthy enough to believe these corporate advertisers. And they took in his lies and his falsehoods. Any comments on that?

**Donald Cohen:** I think we all know repetition is key to propaganda and advertising. We know that if somebody says something, many times and long enough, it penetrates into a belief. It goes past the intellect, and it becomes a fact that we believe is true. That's part of what Trump is doing. He just says it over and over again, and then people decide they believe him. And once they decide

they believe him, then everything he says is the truth as well. So, I think that's really what's going on.

Corporations say it over and over and over again, so we believe it must be true. And then one other thing, part of the assault on the specific things that we've been talking about in terms of the laws and regulations and health and safety and all that, is in parallel, there's been an assault on government, on the idea that government, the institution, government needs to do things. There's this drumbeat for 50 years. So that's the sea we're swimming in politically, in public opinion.

So, if the next thing you say is, *another regulation is going to be bad for all of us*, it's not operating from scratch. It's operating on top of what have become negative attitudes towards government action.

**Ralph Nader:** Well, has anybody quoted in your book - wild lies, falsehoods, deliberate denial that the product is harmful, like tobacco - ever lost their jobs as a result, to your knowledge?

**Donald Cohen:** No. I'm sure there are examples here and there, but fundamentally, they're all rewarded. The Sacklers are people I like to talk about. Did they lose their job? They're going to lose things, but they're not going to lose their wealth.

**Ralph Nader:** Explain what they did with the opioid fatalities.

**Donald Cohen:** The Sacklers, Purdue Pharma, created, manufactured and sold OxyContin, opioid [narcotic pain medication]. So that's fact one. Fact two is there's an opioid overdose epidemic in the country. So how did that happen? It happened because the Sacklers and their teams used aggressive, predatory marketing to sell as many of these pills as possible. They made it as easy to buy as possible. Through their recommended dosages, they made it more addictive as possible because they wanted to sell as many as possible.

Right now, there are lawsuits and there's action against them. Their names are being taken off museums and things like that. They've been lying for years. The documents exist that it was a strategically designed propaganda campaign to sell more—blame the abuser, it's their fault, it's the weak person, when in fact it was corporate strategy.

**Ralph Nader:** And, of course, they got off. They weren't criminally prosecuted. They cut a deal, and their wealth was reduced from \$14 billion to \$9 billion. They had to give about 5 billion to the law enforcement and to be used to help people who were addicted by their products turn their lives around.

**Donald Cohen:** They should be in jail, in my personal view, as well as the fossil fuel company executives who for many years, when they knew that climate change wasn't human-made—they knew, everybody who knew committed a crime, and they ought to be held accountable for that extent.

**Ralph Nader:** Well, you've organized your book, *Corporate Bullshit*, in a very understandable manner. Chapter one is where they deny there's any problem at all. Asbestos, no, that helps prevent fires, it's no problem. The second one is *trust the free market*. If the free market ends up

buying a lot of the products, then that's the proof that everything's good. That's the verdict—the free market. The third is, *it's not our fault, the corporations. It's your fault. You're the one who took that drag on the cigarette hour after hour, even though you were told for decades that it helped your concentration, and it wasn't harmful or addictive.* Chapter four is *it's a job killer*—that's right up to date. Anything that deals with restraining corporate greed, corporate harm, corporate control, corporate corruption, they say *it's a job killer.* Chapter five has *if you keep trying to reform us, you're only going to make the situation worse. We're going to have to shut down the factories, hollow out communities, and go to other countries that let us do what we're doing. And then there's the old reliable, chapter six, it's socialism. Everything is socialism.* Social Security is socialism, Medicare is socialism, US Postal Service is socialism, public water departments are socialism, the Tennessee Valley Authority and a thousand municipally owned utilities: socialism. Of course, nobody asked why are all these so popular? So, if it's socialism, what about corporate socialism? We now have a system of government-guaranteed capitalism, as you pointed out in your other great book, *The Privatization of Everything*, which is another way for saying the corporations want to take the public schools, they want to take the post office. They want to take everything that's public and turn it into commercial ventures where everything is for sale, and they can pay off the politicians so they can do what they want.

There's so much in this book, Donald, that it's hard to tell our listeners why they should buy it, read it, give it to the library, talk it up.

**Donald Cohen:** So, here's a few things. Every law or regulation that we just mentioned that there's a quote about or we talk about in the book, is a law that's common sense today, that's popular today. So, number one, it's like, yeah, nobody thinks we should have slavery again and the Clean Air Act. Now these are common sense stuff. Number two is that you open the paper every day, or I open the paper every day and read these same arguments about current debates. On worker safety, now there are some states looking at on-the-job regulations. You hear the same arguments. There's a debate still going on about the IRS providing a free file opportunity that you could file directly with the IRS, so you don't have to pay TurboTax and all that. We are hearing exactly the same arguments from the tax prep software companies.

So, the point of this is when you get coffee table book, you can pick it up and look at a chapter. You don't have to read it cover to cover. It's not a novel. What we want is this book to be, like I said earlier, a vaccine so you will be aware of these six storylines, and when you see it, call BS on it. And you got to do more than that. You got to become active with your organizations and write letters and all that. But the first thing to do is expose it before we fall into the trap of just saying, *oh, that's not true, let's debunk it.*

**Ralph Nader:** It's a very handsome hardback book. And page 76 caught my attention, because when we were pushing for the disability rights laws to give more access to people with disabilities to give more recognition of their talents and not stereotype them, the *National Review* - which was started by William F. Buckley - in 1990, mind you, this was in 1990, not 1910, said the following, "Under the guise of civil rights for the disabled, the Senate has passed a disaster for US business." It's proved to be anything but a disaster. And a lot of corporate executives now are touting a whole new source of dedicated and skilled labor that was marginalized, out of sight, out of mind. They

couldn't even go to the schools because there were no ramps. They couldn't pick up the student in a wheelchair. And you can imagine the long-term consequences of that kind of exclusion.

**Donald Cohen:** That's right. Let me tell you one other thing, Ralph, that we want people to do. If they go to a school board meeting or a city council meeting, a state legislative hearing or congressional hearing, and hear elected officials say this stuff, you have ammunition to respond, *oh, yeah, what about this, and what about that?* They've been saying it forever. So, the public can actually weaponize these quotes and put it into the debate. Buy the book and give it to your local elected officials.

**Ralph Nader:** Exactly.

**Donald Cohen:** These are valuable tools.

**Ralph Nader:** Yeah. And when the Republicans blocked the extension of the child tax credit in January 2022 and the Democrats didn't make it a big campaign issue, unfortunately, they were predicting disaster. The same corporate mentality that Nixon bought into after he had signed these environmental laws and consumer product safety laws in OSHA, he balked at one bill that these companies said would break up families. Can you explain that? And he vetoed the bill, and families have never had that protection since. I thought that was a very telling part of your book.

**Donald Cohen:** They put us on the defense when they say it's going to kill jobs. And we say, *no, no, no, no*. We want this book to be a tool to put them on the defense. *But wait a second, you said it, take the minimum wage, you said it in 1936, you said it in '42, you said it in '54, you said it in '73. You said it every time. And boy, it's never happened. Answer that.* That's what we have to put back—we have to take the offense on their bull.

**Ralph Nader:** It's a great book, listeners. You'll develop a very well-honed, documented sense of skepticism, not cynicism, skepticism. And you'll call out this stuff whenever you hear it on television or read about it in the print magazines or on the Internet.

I got to say one thing personally, Donald. Books that expose corporate crime excite people. I'm coming out with a book in a few days on 12 CEOs who I've admired over the decades, because they did just the opposite of what you show in this book. They told the truth. They leveled with people. They even sometimes called out their corporate peers. And I guess that this book is going to be received as being dull. The truth often is viewed as being dull, boring. Well, it's getting to be so rare that maybe you should be as excited about the truth, people, as you're excited about looking at diamonds.

Any observations on CEOs who got it right in your research?

**Donald Cohen:** There are a million companies just in general. I'm anxious to read your new book. We need to be pointing out stories that are counter to the bull. There's got to be company leaders who are doing the right thing. They're just people. They got a job. It's in our interest to draw the distinction between them and those that are greedy and self-interested. There's also lots of—this is a slightly different point, that although people don't like government in America, there's a ton of

great things happening in school districts and cities and even in federal agencies right now that are below the surface, but they're actually doing good things. And there are public sector workers who are doing good things when they go to work every day. And that's part of the truth that we need to be telling people. It's not all bad and we've got to surface the good while we attack the bad.

**Ralph Nader:** Right. And if we don't talk about good news and alternative responses that are beneficial to society, we have no yardstick by which to measure and evaluate the avaricious, greedy, power-hungry CEOs or other corporate interests. People are left without any standards of evaluation.

We've been talking with Donald Cohen, who is one of the co-authors of the new book, *Corporate Bullshit: Exposing the Lies and Half-Truths That Protect Profit, Power, and Wealth in America.* He's the co-author, with Nick Hanauer and Joan Walsh. Thank you very much, Donald Cohen.

**Donald Cohen:** Thank you so much for having me, Ralph.

**Steve Skrovan:** We've been speaking with Donald Cohen. We will link to his new book, *Corporate Bullshit* at [ralphnaderradiohour.com](http://ralphnaderradiohour.com).

Access to the courts is one of America's inalienable rights. Up next, we'll talk to someone who's trying to protect those rights. But first, let's check in with our corporate crime reporter, Russell Mokhiber.

**Russell Mokhiber:** From the National Press Building in Washington, D.C., this is your *Corporate Crime Reporter Morning Minute* for Friday, November 10, 2023. I'm Russell Mokhiber.

Earlier this year in Texas, DuPont pled guilty and was sentenced for criminal negligence in connection with a 2014 accident that left four company employees dead. On November 15, 2014, DuPont released approximately 24,000 pounds of a highly toxic flammable gas known as methyl mercaptan into the air. In addition to killing the four, the chemical release injured other DuPont employees, and it traveled downwind into the surrounding areas. The company pled guilty along with Kenneth Sandel, 52, unit operations leader of the Insecticide Business Unit, where the accident occurred.

For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

**Steve Skrovan:** Thank you, Russell. Welcome back to the *Ralph Nader Radio Hour*. I'm Steve Skrovan, along with David Feldman and Hannah and Ralph and the rest of the team.

Why is the judiciary the only branch of the US government that isn't subject to freedom of information laws? David?

**David Feldman:** Michael Lissner is Executive Director and Chief Technology Officer of the Free Law Project. The Free Law Project is a nonprofit that uses technology, data, and advocacy to make the legal ecosystem more equitable and competitive. They build open-source tools to make legal information more accessible, and they host major open databases of opinions, federal filings,



judges' financial disclosures, and oral arguments. Welcome to the *Ralph Nader Radio Hour*, Michael Lissner.

**Michael Lissner:** Thank you very much. It's wonderful to be here.

**Ralph Nader:** Welcome, indeed. And listeners, please listen carefully to this. It's not something you've heard about probably, but it very much affects the operation of the judicial system in our country and how it can serve you. Michael, why don't you explain what the Free Law Project is all about?

**Michael Lissner:** Sure, I'd love to. I started the Free Law Project about 10 years ago now with the idea that the legal sector just isn't working for a lot of people. Anybody who's interacted with it knows that it's expensive, it's inaccessible, it's hard to understand. And people need lawyers. They can't afford them. People will take themselves to court, but it's difficult to prepare properly.

And so our thing when we started this is that we wanted to try and find the root causes of that and start cutting away at those. Since then, we've been working on this, and we take a bit of a technical approach where we work to make the legal sector more competitive by offering the tools people can use to help themselves, including some tools that lawyers use to help people. We also work on the advocacy side to try and find root issues that are preventing the legal sector from working for people.

**Ralph Nader:** All right. So, your more immediate concern is the commercial takeover of judicial data and judicial reported cases. Why don't you explain that? And I want to say that your operation is out of Oakland, California.

**Michael Lissner:** That's right. It started as a program out of University of California, Berkeley. The way we look at things is that open information is really how government works. You don't have a law unless people know it exists. You don't have a law unless people can understand how it's understood.

You can imagine if the Supreme Court didn't publish its opinions. Right now, you can go to their website and find their latest decisions. But you could imagine a system where people went to the Supreme Court, they decided who was right and who was wrong, and they told those people, and that was it, and they didn't explain themselves. It wouldn't work very well because we wouldn't know how the laws are being interpreted.

I hate to say so, but when you get a little bit away from the Supreme Court, you go down to the appellate courts, you go down to the district courts, you go to state courts, as soon as you start going down a little bit further and further, you realize that's the system we have. And Ralph, I think back in the '80s, you were fighting this same problem. There was a system where the Department of Justice had access to this information, and the idea was to get that out to the people.

But we've spent the last 10 years trying to collect the decisions from different courts, trying to make it easier for these courts to put these decisions online so that people can understand the law,

so that people can follow the law, so people can represent themselves in court, so attorneys can understand the law. And remarkably, it's a big, messy problem.

**Ralph Nader:** Well, it's, of course, messier with the scandals that are now coming out of the Supreme Court and other parts of the federal judiciary. But you want to use the Freedom of Information Act [FOIA] to make it possible, as you say, "for innovators to render basic legal services, eliminating monopolistic advantages in the legal sector, and making it possible for the public to freely access court proceedings."

That's exactly what these giant corporate law firms don't want done. So what's their role? And are you constantly trying to challenge their domination of the system that they profit from on behalf of their corporate clients?

**Michael Lissner:** Yeah. There's a lot going on there, and we're playing a role in everything that's coming out of the Supreme Court these days. We collected the data that was behind some of that scrutiny.

The big law firms are interesting. They move very slowly. They don't say much about their concerns with the system. They're in it. The system is working for them. But in our experience, there's that upper crust of big law firms where if you're Google or Apple, you're going to hire them, and pay them \$500 or \$1000 an hour. But below that upper crust, there is just a mass of solo law firms, nonprofits that are helping people, legal services agencies, and attorneys that are doing small practice. And all of those people, they get it, because they have this problem where they can't get access to the information they need.

We do hear this really interesting problem that is—because we talk to a lot of people that are trying to build the next hot new tool for attorneys. And they're going to make attorneys super-fast. And we've heard several times that those tools don't sell because attorneys charge by the hour, and if you make them faster, you're taking money out of their pocket. And there are definitely attorneys that see things that way, and it's hard to argue with somebody's own rational self-interest.

**Ralph Nader:** Your point is that the Freedom of Information Act applies to the executive branch, but it doesn't apply to the federal courts. It doesn't apply to the judiciary. It doesn't apply to Congress, by the way. And you want to change that. You want legislation so you can open up the federal court system to the rays of sunshine. How's that going?

**Michael Lissner:** That's absolutely right. One of our big advocacy efforts, is to first get the word out there that, *hey, FOIA doesn't apply to the judiciary*. And part of the problem is we don't know what's happening inside this massive branch of government. So first we need to get that common knowledge out there. Journalists every day are looking at problems and saying, *hey, I wish I could dig into that. I wish I could file a FOIA request*. And you can request documents from the executive branch, but not the judiciary. So, if you see a problem there, good luck.

So, we're trying to raise awareness around that. The first step is to get awareness among journalists. That's pretty easily done. The next step is to get interest and awareness among Congress and get congressional members to start pushing on this and get some model legislation

going. A project we're working on is to demonstrate the need. And our strategy, I'll just unveil it here, is going to be to ask the judiciary, in the most polite and formal manner possible, for a number of things that the public should know about, but which the judiciary doesn't want to tell us—super basic stuff that would have a public benefit. And the judiciary is going to have no choice but to say no, because again, rational self-interest. And when they say no, we'll take it to the press, and we'll spread the word about how don't you wish you could have access to these things.

**Ralph Nader:** All right. So, let's go into another large nook and cranny where there isn't enough sunlight. What is PACER? And why do they charge us high prices, for what, to the public?

**Michael Lissner:** PACER is really interesting. I am pretty sure it is the biggest paywall in the world, and most people don't know it exists. But the way you start a lawsuit, like many things in life, is by filing an electronic document. You take a PDF, and you upload it, and that's how you initiate a case.

And so, you do this into PACER, which is this website run by the government. And every document in every federal case is in PACER. It's over a billion documents. There are over 100,000 more documents every day. It's run by the government. And here's the kicker. Everything costs money. So, the government makes over \$100 million a year selling public documents back to the public. They've been doing this for years. They've made over \$1 billion selling PDFs to you, me, and everybody else. And that's what PACER is. It's this system where all these documents are filed, run by the government, and it forms a slush fund for them. That's why the judiciary likes the money.

**Ralph Nader:** You talk about documents. What are these documents?

**Michael Lissner:** I can tell you some popular ones, because what we do is get the documents out of PACER and put them on our website to share them with the public.

So, it's all the federal court cases you read about in the news. The top three documents we've had in the last year or so, one of them was Trump's indictment. People wanted to read about the former president being indicted, and millions of people came to our website and did that. That is a beautiful example of the public caring about the raw information. They might have read an article, and they took it to the next step and they said, "What is this article based on?" And they went and they downloaded that raw piece of information from our website.

The second most popular one is Trump's other indictment. There's a lot to be said about that, but I think we can skip it for today. The third one is maybe a little more humorous. It was a lawyer that used artificial intelligence. The artificial intelligence made up some cases because there's no perfect database of all the cases. So artificial intelligence made up a couple of cases, lawyer got in a lot of trouble. And there are headlines, I think around the world, about that. And millions of people came to download the, I don't know what to call it for on the air here, but to download this bad information and learn what the lawyer did.

**Ralph Nader:** Do they have to pay for this?

**Michael Lissner:** To download the documents? No, because we provided them. But somebody did have to pay for it initially. Somebody paid for it and then gave it to us, and we gave it to the public.

**Ralph Nader:** You should know that we had on this program quite a few years ago, someone who was challenging the corporatization of natural gas safety pipeline federal regulations. He couldn't get the federal regulations for natural gas pipelines without paying a large sum of money. And this is really the bigger picture that you're trying to challenge here—the corporate entanglements of what is basically public law, public court decisions, public regulation.

When I was in law school, Michael, we studied appellate cases in a big fat casebook, like on contracts, property law, securities regulation. And they were printed by a company in Minneapolis called West publishing company, which still operates. And after a few months, I noticed that in the property and contract case- books, there was not a single case on slaves being sold, which is a major area of litigation. Plantation owners buying, selling slaves, separating families at auctions, appealing decisions.

And I later found out that the reason why West publishing, a private corporation, kept these cases out of the casebook that thousands of law students studied, was they didn't want to alienate Southern states and Southern lawmakers by embarrassing them. Now, West publishing is still powerful. Tell us how it's powerful, and its control over court decisions and how it establishes copyright by adding some headnotes and page numbers.

**Michael Lissner:** It's a fascinating story about the slave related cases. I know that there is work going on now to make amends for that—to try and give those cases their due and get them not only published properly, but also into curriculums. As well, I think there's a reverse of that, which is trying to get racist cases flagged that way and out of the curriculum.

But you're right. West is this huge multinational corporation, and they've got a stranglehold on this raw information. Relatively easy, with some resources and dedication to gather the actual case law, the actual decisions as they come out from the courts. But where that gets really sticky, is what you said—these headnotes and the page numbers and the citations. Most people don't realize this, but the Supreme Court publishes things on their website. There's no proper citation for the things the Supreme Court puts on their website until it appears in one of West's books. And those books can take years.

So, for years that you know which volume number it's going to come out in because it's going to be in the next volume, but you don't know what page it's going to be on. So, until you have that page number figured out, it's hard to cite that. It's hard to talk about that case. You might know what the case is about, but you don't have a citation for it.

So that's the first problem. Then what happens after that is, okay, one day they publish the book. Great. Now you know the page number it's on, but there's no way to get it. West law doesn't share that except from a book. So, what you have to do is go to the library, scan the book, and figure out

where everything starts and stops and where the pages are and all that just so you can talk about things properly. You can't go to court without proper citations. You just can't. You're going to look silly. You're going to look like you don't know what you're doing, like you don't have good tools, you don't have good information.

And it's this private publisher that controls the citations. They control how you talk about the cases. And it's a real problem. There is a solution that, Ralph, you've been on the vanguard of, I think, for decades now, and it's called Universal Citation. I think of it as the people's citation because it takes the citations back away from these corporate companies.

And just to give a scale of this problem, I've been talking about the Supreme Court, but beyond that, all the other decisions from all the other courts end up with the same exact problem. It's not just you have to go to the library and look at this one book/thousands of books. It's a huge, monumental challenge to go and get these citations just so you can talk about the law and look like you know what you're doing when you show up in court.

**Ralph Nader:** You've been one of the leaders in judicial ethics. Do you think Clarence Thomas, Justice of the Supreme Court, given all the revelations, some of which you've dug out, should resign?

**Michael Lissner:** That is a big question for us. We, for the most part, don't take stances that are quite that political. So, I don't think I'm going to answer that question directly. He has done a huge disservice to the legitimacy of the judiciary. A lot of judges are upset about it, because most judges are quite scrupulous and quite careful, and then they see him rubbing elbows with billionaires. And that needs to stop. The scrutiny that we're seeing on it is absolutely correct. It's a shame that that scrutiny is just ramping up now and that there hasn't been this oversight on the judiciary until now. And resign or not, we need change. This can't keep going on because...

**Ralph Nader:** Just in case people don't know the details, give us a summary of his lavish trips to billionaire spas and the gifts he's been given, many of which he has not disclosed. This is Justice Clarence Thomas.

**Michael Lissner:** At this point, there's too much for me to even keep track of. But the big picture is that every year, judges, and justices are supposed to write down in these very official forms all of their potential conflicts—money they owe to people, money their partners owe, assets that they hold, whether it's property or whatever gifts they've received.

It's a pretty detailed report. And the instructions are very clear. And the big picture is that Justice Thomas has basically just not been doing it. He's receiving all these trips, various places, and he makes these excuses like, the trip wasn't a gift because the seat in the private airplane would have been empty if I wasn't sitting in it. He stays at these lavish resorts. He goes to conferences. It's a pretty long list. He even had a billionaire buy his mom's house. Somebody gave him an RV.

It's a lengthy list at this point. And I think journalists at *ProPublica* have been doing an amazing job uncovering all of this. It's one of these things where it's not just the crime, it's the cover-up. He didn't just do these things. And I don't want my justices to be friends with billionaires. I don't want

them operating that far from me. I want them to understand what it's like to be me, not to understand what it's like to be a billionaire. So that bothers me in itself. But then he doesn't report it. And the reporting requirements are very clear. And that is really wrong.

**Ralph Nader:** Well, some of these billionaires have cases before the Supreme Court over the years, or they could have cases coming up before the Supreme Court. So, it's more than just large donations of lavish gifts and hospitality services at rich watering holes around the country. It's worse than that, I think.

You don't want to take a position as to whether Clarence Thomas should resign. So let me ask you a historical question. Back under the Lyndon Johnson Administration, Justice Abe Fortas was revealed to have taken a grant from a multimillionaire in Florida to one of his foundations. That's what he was accused of, to one of his foundations, and he resigned. There was an uproar and he resigned.

Now, given that Clarence Thomas has done much worse over time in these situations of largesse and gifts and undisclosed services and so forth by billionaires, in retrospect, Michael, do you believe that Abe Fortas should have resigned?

**Michael Lissner:** That's a few decades before I was born. I, again, am going to be a little cagey answering that. But generally, the problem is that the court has become so political, and so how do you depoliticize the court so that when there's a scandal and the people are angry and the court is delegitimized, the obvious thing happens, right? There's no way Thomas is going to step down or resign during a Democratic administration. It's just not going to happen, even though they have a supermajority, and he could be replaced, and the conservatives would still have majority on the court.

**Ralph Nader:** What about the Senate Judiciary Committee?

**Michael Lissner:** How do you mean?

**Ralph Nader:** They're investigating, and they're going to come to some conclusion under Senator Durbin from Illinois.

**Michael Lissner:** Sure. But I don't see them forcing him to resign.

**Ralph Nader:** Well, on that sad note, let's go to Steve.

**Michael Lissner:** Terribly sorry, Ralph. I don't think they've got the power, and I just don't see it happening.

**Ralph Nader:** They certainly can put out a very powerful report that will put even more pressure of public opinion. The real laggards here are the bar associations, the American Bar Association and the [state] bar associations. They're deeply into reviewing or recommending judicial appointees, and they have been completely silent.

**Michael Lissner:** Yeah. I have a number of criticisms over bar associations as well. They are, for the most part, standing behind the status quo in a number of areas, and they should be doing more to help people and less to help lawyers in the establishment.

**Ralph Nader:** Steve?

**Steve Skrovan:** Yes. Thank you. Always happy to come in on a sad note.

**Michael Lissner:** Sorry, Steve.

**Steve Skrovan:** That's okay. I'm going to ask you a question that I really know nothing about but was fed to me by someone on our staff, which I presume you know about. What is the Flight system and what happened to it?

**Michael Lissner:** The Flight system, I believe, was related to the JURIS system. So, the JURIS system was a system developed by the Department of Justice (DOJ) to keep track of legal information. And this is, I think, was back in the '80s. And they had this big challenge around the public. One of Ralph's crusades, I believe, wanted access to it. And they had all these problems around copyright. Again, they were getting data, I believe, from West, and lots of question marks started coming up about, okay, what if we do start giving it to the public, what will happen?

Ultimately, as I understand it, West said, *look, if you give it to the public, we're not going to maintain it. So, we're just going to stop maintaining it now because of all the uproar around this.* And from there, West went fully corporate. They started selling it as a service, not just to the DOJ, but to everyone. Now the DOJ, since that time forth, has been paying to access the information that it was gathering itself for free.

**Steve Skrovan:** I'm being told here that, I guess, the Flight system was the Air Force compiled federal case law, and West pushed to have it destroyed. So, it sounds like a similar –

**Michael Lissner:** That's right. Yeah, it's a similar story.

**Ralph Nader:** Hannah, quickly.

**Hannah Feldman:** I'm wondering about how useful access to case law is to people who aren't attorneys or journalists. One example of note, recently, the Smithsonian American Women's History Museum rescinded an offer to Nancy Yao, who they were going to hire to be their new director, when the *Washington Post* published an article revealing that she, at her previous posting, had been sued for wrongful termination and complicity in sexual harassment.

That, to me, seems like a case that highlights the various ways that access to these types of documents would be useful, say, if you're hiring someone or if you're looking for a place to work and want to know who you're going to be working for. Could you speak to the applications for this information that maybe an average person might be interested in. What would hook someone who isn't a lawyer?

**Michael Lissner:** I love that question. It's a base level, why does this matter, question. And that's a great example that you gave. A lot of misdeeds are recorded in the legal system, and there is value in surfacing that, as the Smithsonian Museum decided. They learned that fact and they said, "Okay, maybe this isn't the right fit."

We have to be a little bit careful here around, for example, people that might have been accused of something, and then they were found to be innocent, but then their record goes online. And so it haunts them for the rest of their lives, and that happens a lot. We are always trying to straddle that line between publishing data in order to expose misdeeds, as well as keeping things private in order to protect people that need that protection. It's a tough challenge.

The other thing about the legal data that needs to be said here is that more and more people are representing themselves in court. And so, the premise that you're only going to find this when you're hiring somebody or something like that, the numbers are off the charts. Something like 80% of low-income individuals can't afford legal assistance, so 40% to 60% of middle-class needs are unmet.

Putting this information out there allows people to help themselves when they need to. And particularly with all the AI tools that are coming out, it's becoming a lot more accessible than it was even six months ago. It used to be you had to know the specific term or even the statute to solve or research your problems. The AI tools make it way more accessible. You can ask questions in lay terms. And there's a lot of organizations that are jumping into this, building on the data that we've collected over the last decade in order to provide these kinds of new tools.

**Ralph Nader:** Very thoughtful question, Hannah. We're out of time. We've been talking with Michael Lissner of the Free Law Project. How can people reach you, Michael? How can they get more information?

**Michael Lissner:** Our website is [free.law](http://free.law), so F-R-E-E, dot, L-A-W. You can start there. We're on Twitter. We're on Mastodon. We're on all the other Twitter clones that are out there these days. Send us an email, get in touch. We'd love to hear from people.

**Ralph Nader:** Thank you very much, Michael. To be continued.

**Michael Lissner:** Thank you, Ralph.

**Steve Skrovan:** We've been speaking with Michael Lissner. We will link to his work at [ralphnaderradiohour.com](http://ralphnaderradiohour.com).

Well, the crisis in Gaza is ongoing. We've covered it for as long as it started. And, Ralph, you have some closing words you want to say about what's going on right now.

**Ralph Nader:** Our government has failed with its leverage over the right-wing Israeli regime in getting them to temper their savage destruction of a 2.3 million populated enclave called Gaza, that's about the size of Philadelphia. Massive bombing day after day, destroying anything that's



on the ground—schools, mosques, hospitals, other health care facilities, water towers, electric infrastructure, homes, apartments.

And we're led to believe that there are only 10,000 fatalities. Hamas has an interest in lowballing the fatalities because it shows their futility and not protecting its own people. Why is our press not understanding that when you drop 12,000 precision bombs on a civilian population, you're going to create all kinds of collateral deaths, like severe injuries that cannot be treated because the hospitals are shutting down for lack of fuel, elderly people, babies that are born with death certificates before they can issue birth certificates, as one physician pointed out. Contagious diseases, deadly polluted water, lack of food, and the implementation of the order by the Defense Ministry of Israel that the siege is going to involve no food, no water, no medicine, no electricity, and no fuel. That's a death sentence. That's why international law experts say this is a textbook definition of genocide under the legal wording of the Genocide Convention.

And here's our Secretary of State, our President, our Secretary of Defense suggesting to the Israelis not to use 2000-pound bombs. Use bombs that are a little lighter, so they don't have such devastating consequences on the periphery of the target. That's where we are as a country. The United States helped create Israel through the United Nations petition in 1948. And what has Israel done in the last few weeks? They've blown up UN schools, UN feeding centers, UN facilities in Gaza, killed to date, 90 UN staff, not counting their families. That's quite a reverse to an institution that created the State of Israel in terms of international law.

Our government has disgraced itself, the Congress even more, having members of Congress like Senator Tom Cotton saying he wouldn't mind if the Israelis made the rubble bounce in Gaza and other cruel statements. And now they're going after Congresswoman Rashida Tlaib, the only Palestinian-American, because she had the temerity to use the word genocide when she made a statement that she thought Joe Biden was aiding genocide. The Congress is open checkbook for the Israeli military machine. \$14.3 billion, no debate, no public committee hearings. They don't even know what's in it to vote on it, but they're whooping it through the House and it will go through the Senate. Bipartisan, Democrat, Republican.

On the contrary, the largest rally in several years in Washington, D.C., occurred with close to 200,000 people on a Saturday marching from Freedom Plaza to the White House. Very peaceful, all kinds of signs. Only one minor arrest due to a spray painting. And what kind of coverage did it get? It got on page 28 in the *New York Times*, next to the obituary page. And in the *Washington Post*, the biggest event by far in the nation's capital for a long time, it got on page 3 of the Metro page. It's not a Metro story. It's a national and international story.

And that's what the Palestinian issue has been dealing with over the years—minimal coverage and marginalizing a growing public opinion in the polls, that there's got to be a ceasefire and there's got to be a two-state solution over there.

**Steve Skrovan:** Thank you for that, Ralph. And I would encourage our listeners to seek out our previous four programs that go into this issue in great depth with some incredibly knowledgeable guests.

I want to thank our guests again, Donald Cohen and Michael Lissner. 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", featuring "In Case You Haven't Heard" with Francesco DeSantis. A transcript of this program will appear on the *Ralph Nader Radio Hour* Substack site soon after the episode is posted.

**David Feldman:** We have a new issue of the *Capitol Hill Citizen*. It's out now. To order your copy of the *Capitol Hill Citizen*, Democracy Dies in Broad Daylight, go to [capitolhillcitizen.com](http://capitolhillcitizen.com).

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

**Ralph Nader:** Thank you. And I'm about to release my latest issue of the *Capitol Hill Citizen*—forty pages chock-full of great stories, proposals, reforms that empower you to become a Capitol Hill citizen. Go to [capitolhillcitizen.com](http://capitolhillcitizen.com) where you can see how you can obtain it and obtain other copies to spread the word with your friends, neighbors, and coworkers, that without Congress under the control of the people, our country will continue to go downhill.