

RALPH NADER RADIO HOUR EPISODE 463 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, Steve.

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

Ralph Nader: Hello. The latest issue of *Capitol Hill Citizen* is out. Go to capitolhillcitizen.com.

Steve Skrovan: On January 6th in the year 2021, it was a Wednesday morning, and we were recording the *Ralph Nader Radio Hour* as we always do, and we just so happened to be interviewing Ralph's congressional representative in Connecticut, Representative John Larson. And I remember he had excused himself a little early to get down to the House floor to certify the results of the 2020 election, which of course is normally a routine affair, but we joked about how that seemed like kind of a lame excuse to leave us. Little did we know what was about to happen at the Capitol and how Representative Larson was literally walking into a riot.

So on this program we're going to talk to somebody else who was there. His name is Luke Broadwater, and he's the congressional reporter for the *New York Times*, who has been covering the inside story of the January 6th investigation and even wrote the introduction to the official January 6th report (FINAL REPORT Select Committee to Investigate the January 6th Attack on the United States Capitol, December 2022, 117th Congress 2nd Session, House Report 117-000) So we look forward to getting his behind-the-scenes account of all of that and what went on that day and how the committee uncovered the whole shebang. And along the way, we're going to drop in a segment from our resident constitutional scholar Bruce Fein, because he weighed in with his assessment of the January 6th Committee report behind-the-scenes account and how the January 6th Committee conducted themselves, and we're going to have Luke respond.

If we have any more time left after that, we will dive into the mail bag and Ralph will respond to your questions and feedback. As always, we will check in with our corporate crime reporter, Russell Mokhiber. But first, January 6th has become one of those days, like September 11th, where you need to say no more than the date for people to know what you're talking about. David?

David Feldman: Luke Broadwater is a congressional reporter in the Washington bureau of the *New York Times*. He played a key role in the paper's coverage of the January 6th attack on the Capitol, for which the *Times* was named Pulitzer Prize finalist. His work is featured in the Twelve Books publication *The January 6th Report: Findings from the Select Committee to Investigate the Attack on the U.S. Capitol with Reporting, Analysis and Visuals by The New York Times*.

Welcome to the *Ralph Nader Radio Hour*, Luke Broadwater.

Luke Broadwater: Hi. Thanks for having me.

Ralph Nader: Yeah, welcome indeed, Luke. You're talking to people who read the *New York Times* very thoroughly, some of us have advertised in the *Times*. We have five print subscriptions to the *Times*, which today is almost a record for an organization. We feel that we're part of the effort by the *New York Times* to bring reality to the American people. And so we

consider this interview more of a mutual one where we benefit from your insights and you look at some of our commentary on the January 6th Committee and the following.

Some of us were around during the Watergate scandal and the comparisons are really quite compelling. We're going to have Bruce Fein who had experience right in the Watergate controversy when he was at the Justice Department during the Nixon administration, and we are going to hear his observations and have you react to it from your deep knowledge of the current January 6th Committee subject matter. But first, I want to ask you a fundamental question. The focus was on the insurrection quite properly, but it was much more of a deep conspiracy than that. Going back to John Eastman, the lawyer who was the clerk with Justice Clarence Thomas, and developed a strategy involving state legislatures and alternative elector slates. Can you describe that effort, which was often obscured in the focus on the horrible situations on Capitol Hill?

Luke Broadwater: Yeah, sure. I think you raised a good point. When people hear the phrase January 6th what springs to a lot of people's minds is the violence of that day--the images everyone has seen of the mob storming the capitol and beating police with hockey sticks and the like. But really the events that preceded January 6th and that led to it began many months earlier. I think you can actually trace some of it to even before the election. Groups of lawyers aligned with Donald Trump were already planning how they would fight the election outcome in a multi-stage effort.

At first, I would say this effort begins in the most legitimate way it could, which is in the courts. They filed a bunch of lawsuits almost all of which were completely frivolous. A few disputed state laws, but many of them alleged fraud and the like and were thrown out very quickly. Once that effort failed, they turned to sort of a Plan B, which had been in the works. Plan B was to align these groups of pro-Trump electors in various states. They targeted seven states across the country that voted for Joe Biden. And while looking at the various state laws, they saw in some states a requirement to assemble at the state capitol on a certain day to certify the election for the winner. And so in some cases they snuck in people to state capitols; they recruited through the Trump campaign various false electors who would attest that Donald Trump won the state and not Joe Biden. And they signed what were essentially false documents in a very coordinated effort. Looking at all the emails, it's clear they all flowed through the Trump campaign and through Trump allies. And they got these false slates of electors and they eventually sent them to Congress.

But that isn't their only effort to try to overturn the election. Donald Trump personally tried to pressure people in the Justice Department to replace the attorney general. They explored the seizure of voting machines. They tried to pressure various state and local officials to decertify their elections at the state level, or very famously to find votes that didn't exist for Donald Trump so he could be the winner of the state and local elections. Eventually he tried to pressure his own Vice President Mike Pence, to throw out the will of the voters and to install him. In their effort to try to make that happen, to put the maximum pressure on Congress and Mike Pence, they started amassing a crowd at the Ellipse, located in President's Park.

So it really was a multi-part plan to try to keep him in office despite losing the election. And eventually you can see how it starts in the courts and ends up essentially in the streets and with mobs storming the capitol. It involves many, many, many people, not just Donald Trump. Of

course it's all about Donald Trump. Without him, nothing else could happen. But there were something like more than 200 attempts to pressure or cajole state and local officials to go along with this plan. So it was very widespread and many, many people were involved.

Ralph Nader: Well, I want to just describe briefly the *New York Times* compilation here. They printed the entire January 6th report, but they have an introduction, sort of an eyewitness account of the tumult, by Luke Broadwater. And then they have a very useful summary by Luke Broadwater and some of his colleagues. And they have almost a minute by minute breakdown of what happened on January 6th, starting about 1:00 Eastern with great graphics on how they penetrated different parts of the Capitol, at what time, and who was fleeing where. These are all page after page of new graphics, the detailed likes of which I've never before seen, and some 34 pages or so, called The Story So Far – and this is where I want to summarize what Luke just said about the investigation before we get to the four crimes that the committee referred for action to the Justice Department – Peter Baker, your colleague who's the chief White House correspondent and is amazingly prolific, said, "Those who warned of worst-case scenarios, only to be dismissed as alarmists, found some of their darkest hours realized."

And then it goes on to describe how intricate a conspiracy this was. I'm quoting, "There was a failed legal strategy that clogged the courts with fantastical conspiracy theories about voter fraud." the Trumpsters actually lost 62 out of 62 cases, all over the country; they lost, it didn't matter whether conservative or liberal judges. And continuing, "Then there was a plot to twist the Justice Department into backing Mr. Trump's repeated lie that the election had been rigged, he and his allies pressured state officials into defying the will of voters. They considered directing the military or the Homeland Security Department to seize voting machines. And Mr. Trump tried an elaborate scheme to put forward false electoral electors in states that Mr. Biden had won and to subvert the electoral count in Congress--the final constitutional box to check before his opponent could become president, trying to bully Mr. Pence into taking part.

When none of it worked, the investigation – January 6th – found Mr. Trump knowingly urged an armed mob of his supporters to march to the Capitol when Congress was meeting to affirm his loss, unleashing a brutal effort to disrupt the peaceful transfer of power. When he was told that he could not join them, the president raged at the Secret Service and spent hours in the west wing refusing to call off his supporters." And of course, some of them were shouting "hang Mike Pence," his vice president. Now with this background, we go to the recommendations of the January 6th Commission. Can you tell us what they were and what you thought they might have missed?

Luke Broadwater: Sure. Probably the most significant of the recommendations was for Congress to declare that Donald Trump was an insurrectionist and to bar him from holding office ever again under the 14th Amendment's prohibition against insurrectionists. There are a number of other ones. There are some that have to do with capitol security. There are some that have to do with...I think there's enhanced penalties against threatening election officials. But to be frank, some of the recommendations are vague and they're left up to Congress to implement. Continued oversight was one of them. And my recollection of the most significant one was to bar Trump from holding office ever again.

Ralph Nader: And they acquitted him on fraud, which was vague. Their final recommendation included four what they called criminal violation referrals to the Justice Department. And the

Justice Department doesn't have to obey recommendations by a thorough investigative committee of Congress, although their recommendations should carry some weight with Attorney General Garland. But did you have any concerns about what they might have done, because you were right on top of it day after day after day? Did you speak with any staff that said that there were certain conclusions they could have reached and they didn't--certain people they could have put on TV that they didn't? Did you see any of that?

Luke Broadwater: There was internal debate between the committee's members and also the staff and the committee about certain directions to take. That's true. For instance, Congressman Jamie Raskin from Maryland, had wanted one of the recommendations to be dissolving the Electoral College, which he believes is an impediment to democracy. But Liz Cheney wasn't in favor of that, and there was debate about it, and ultimately the matter was dropped. Some of the recommendations, as I said, are kind of vague like more oversight of the capitol police. Well, who would object to that? And maybe there should be a rewriting of the Insurrection Act, but it doesn't exactly say how the act should be rewritten, and that doesn't seem unreasonable.

The report's findings also include a notable one--- that Congress, should have higher enforcement power for its subpoenas. As you'll recall, many people simply ignored the congressional subpoenas, including new House speaker Kevin McCarthy, as well as some of his top lieutenants, such as committee chair Jim Jordan. And chairman of the House Freedom Caucus ignored a subpoena as well. Basically there was not much they felt they could do about that within current law. Another significant recommendation was to increase Congress's enforcement power for subpoenas.

I am not one of these people who thinks that secret findings were tanked or hidden from the public, that the committee found some dynamite stuff that they hid. I know that there's a belief out there on the Internet about that. I haven't seen any evidence though. So as best I can tell, ~~In my mind~~ if damning information was revealed or discovered, for the most part they put it out.

Ralph Nader: Well, in your *New York Times* substantive introduction, after your introduction, called The Story So Far. you wrote, At the final presentation of its findings in late December of 2022, the committee formally accused Mr. Trump of committing four federal crimes and recommended that the Justice Department prosecute him for 1) inciting insurrection, 2) conspiracy to defraud the United States, 3) obstruction of an act of Congress, and 4) conspiracy to make a false statement." Of course, Trump violated all kinds of federal laws when he was president. He violated the Hatch Act, a criminal statute, which was designed to prevent an incumbent in the White House from using the power of the federal government against their electoral opponents. He had political events on the White House lawn. It was blatant. He signed the treasury checks going out to millions of people, muscling Secretary of the Department of Treasury Steve Mnuchin. He violated a lot of other laws and he got away with it. A lot of people around the country, regardless of what they think of Trump, think that he's going to get away with it again, in part because the Congress hasn't been forceful enough as it was in the Watergate.

And so, Luke, with your indulgence, I want to have about a few minutes of Bruce Fein, who has covered these scandals as a constitutional lawyer, testified over 200 times in Congress, was in the Justice Department during the Watergate and then get your reaction to it. You're full of details about what's happened. Nobody has talked to more members of the committee and the

staff as you. You almost lived on Capitol Hill. I don't know when you had a chance to sleep. So listen to Bruce Fein and then we'll get your reaction.

Bruce Fein: Thank you, Ralph. Again, I don't want to impugn the motives of the January 6th committee and the staff, but I do find very glaring deficiencies. Perhaps the greatest were the belated subpoena of Donald Trump and then throwing away their subpoena, not enforcing it as they have inherent contempt power to do; never even subpoenaing Mike Pence at all, although he is the one that has the so-called smoking gun, since he was present with Mr. Trump on several occasions by himself during which he was subject to the harangue to try to get him to flout the 12th Amendment and not count electoral votes, which is a clearly flagrant violation of the Insurrection Act.

Luke Broadwater: Sure. This committee never issued a subpoena to Mike Pence, nor even spoke him. There were negotiations with Pence's team, Marc Short, his chief of staff and Greg Jacob, his top lawyer; both of them agreed to testify. And the committee accepted, as part of this deal, that the testimony of those two people would be sufficient for their investigation. Greg Jacob, if you recall, spoke publicly at one of the hearings in great detail about all the attempts from John Eastman and Donald Trump, including details of some meetings to try to overturn the election to get Mike Pence to go along with it, and the advice he gave to Mike Pence and Mike Pence's reactions. But we didn't hear from Mike Pence himself. And I believe that is an extremely fair criticism that the committee, in negotiating this testimony, set it up in a way where we didn't hear from who I think is person number 2; the second most important person to interview after Donald Trump himself would be Mike Pence. That said, they did get a ton of information on Greg Jacob and Mark Short in their defense, and perhaps they would have not gotten that cooperation had they not cut this deal. I don't know, maybe we'd still be litigating this stuff in court and we wouldn't have heard any of it. So that was the deal they cut, for better or worse. I won't defend it, but that's what happened.

As for Trump himself, there's a lot of criticism, and I think some of it fair, that they waited much too long to issue a subpoena to Donald Trump. And they essentially set up a situation where they knew Trump would sue to try to block the subpoena. It would be litigated and then they would run out of time because the committee dissolves on January the 3rd of this year. I think that's fair. If they had wanted to, they could have tried to issue a contempt referral to the full House for Donald Trump's lack of cooperation. The full House could have voted and they could have sent it to the Justice Department if they had gotten the votes. They did not want to do that. There was some internal debate among the lawyers that that would be a losing proposition in the courts. They thought it might embarrass the committee that they believe Donald Trump had some separations of powers arguments. But they also felt like they had to try or at least show the public they were trying, and so they did issue that subpoena although it was quite late--in the fall of last year when this investigation had been going on for 18 months. They could have tried to issue him a subpoena early on.

I talked with some of them who said that from an investigative standpoint, evidence needed to be amassed before taking it to the target or whoever, the main subject at the end. And so that was the strategy they were using, and they just ran out of time because there were so many people to interview. They also believed that Donald Trump would never have agreed to an interview. So for the most part it was kind of nice to do and they had to do it, but they never really believed he would ever come in. And so in their view, it's a false criticism when I bring this up to them

because whether we subpoenaed him on day one or day 100, he wasn't going to comply. So what's the point?

Ralph Nader: Bruce has an observation on that. Go ahead.

Bruce Fein: Also, the committee was deficient in not using the inherent contempt power to compel the likes of Mark Meadows to testify. It was deficient in accepting claims of executive privilege of Pat Cipollone that he doesn't have. The law is very clear, when you're a governmental lawyer like I was, there is no executive privilege to protect an incumbent. You are an employee of the government and the Constitution is your only client.

Luke Broadwater: I guess I would disagree slightly with the point about Meadows because they did try to go to the mat on Meadows. They referred him on criminal contempt to the Justice Department and essentially tried to throw him in jail for not complying, but the Justice Department declined to charge. So, I think that if there is blame about that one, I think that goes more to the Justice Department than the January 6th Committee. For Cipollone though, they did agree after lots of negotiations with him that he would testify up to the point of direct conversations with Donald Trump. He was adamant that his view of executive privilege was he couldn't share any information, any attorney-client conversations, and he viewed Trump as his client, and he wasn't going to talk about that. And so for the most part, the committee accepted that in exchange for him sitting, I believe it was like a six- or eight-hour interview that came later in the process and they did not try to force him to talk about things he claimed were executive privilege.

I understand the Justice Department may be going beyond what the committee did with Cipollone, that they've had some preliminary rulings, closed-door rulings, in their January 6th investigation in which Cipollone and his deputy, Pat Philbin, may be forced to talk about some of the things they wouldn't with the January 6th committee. So it's a potential that the Justice Department may get that testimony, thanks to a judge's ruling.

Bruce Fein: Also, we have the committee refusing to move forward and issuing and enforcing subpoenas against five members of Congress who met with Trump the day before January 6th, plotting to try to install a new attorney general who would do his bidding and make these phony letters to state legislatures saying, you should withdraw your electoral votes because we have a criminal investigation outstanding concerning alleged fraudulent voting. In all these ways, this was really, really important to have these star witnesses. And it's very important as well because in the Watergate situation, we had the star witnesses who appeared in person. These were John Dean, John Mitchell, HR Haldeman, John Ehrlichman, and Alex Butterfield who disclosed the tapes. It was vivid that the American people were riveted. There were no star witnesses who were shown in the January 6th hearings. These were all second- or third-tier people. Even someone like Pat Cipollone was interviewed in private, not in public. And that's why I think the impact was so much less than in Watergate. You're never going to get a public to oppose a president based upon paper documents, and not flesh and blood where the public can make their own evaluation of credibility. That's one of the reasons why I thought the claims and the impeachment against President Clinton failed. They never had any human beings there. It was just Ken Starr's report.

A third deficiency in the committee's actions, I believe, was the failure to at least pass a resolution finding Mr. Trump complicit in insurrection against the United States under Section three of the 14th Amendment, which would set the stage for his disqualification if he seeks to obtain a ballot for president in 2024. Insurrection is defined as preventing the enforcement of laws of the United States by force or violence, and the evidence was overwhelming that Mr. Trump was behind the January 6th effort to hang Mike Pence and otherwise prevent him from counting electoral votes in violation of the Electoral Count Act and the 12th Amendment. And in all these respects then I think I would not give high grades to the January 6th Committee as opposed to Watergate.

Ralph Nader: The Section 3 resolution would go to the floor of the House and Senate by simple majority?

Luke Broadwater: That's right. There's no super majority that's required in order to move forward with Section 3. Simple majority; the Democrats had majorities in both chambers.

Ralph Nader: The other point he's making, Luke, is really a crucial one and very few people on Capitol understand the plenary power of Congress. Congress doesn't have to go to the courts to enforce subpoenas that are defied. They can issue a contempt citation, they can find the violator, and they can detain them. I spoke with Nancy Pelosi once and she said she didn't want to go to court anymore because it takes too long. I told her she was right, but the Congress has the plenary power to finish the job, close the circle completely. And actually, there was a case in the 1930s when they detained someone in a cell at the bottom of the House of Representatives.

So that was an excuse that was a crippling factor in how far the committee could go to get the witnesses before the committee live the way it occurred in the Watergate situation. It was really crippling because they kept saying, you go to the courts, it's gone/delayed for three years, which is true. But they didn't have to go to the court. So let's just talk on Section 3. They could have proposed the resolution, and passed it in the House and Senate. Since they had the majority, at least they could have tried, and then Biden would have signed it, and Trump would have been prohibited from running for public office forever. That's one. What's your response on that? They did talk about it, but it wasn't very prominent. As Yale Professor Bruce Ackerman said in a recent *Washington Post* op-ed, they mentioned it but they didn't pursue it.

Luke Broadwater: Yeah, so that was one of the committee's final recommendations. Why they didn't pursue that earlier, I can't really defend other than the political realities that the Senate was unlikely to go along with it. And so it would have been largely symbolic. But this is...

Ralph Nader: But no, it's just majority vote, Luke. Kamala Harris could have broken it.

Luke Broadwater: You don't think that would have been met with the filibuster in the Senate?

Ralph Nader: No, it's just majority vote.

Luke Broadwater: My understanding was that they expected that to be killed in the Senate.

Ralph Nader: Whatever it is, they didn't explore it enough you know, for the public.

Luke Broadwater: Yes.

Ralph Nader: And then they aborted their investigative power by the way, they interpreted these subpoenas--and Trump by the way, defied over 150 subpoenas in his four years, according to Jamie Raskin. They kept saying, if we go to court, it'll end up forever, and the Justice Department will get tired and how many cases you want to take, but they never faced up to their plenary power.

Luke Broadwater: Um-hum, you're talking about the inherent contempt in the '30s, when they , they put that guy in the jail cell.

Ralph Nader: Yeah, yeah, right.

Luke Broadwater: Yeah, I know they were aware of that, but I don't think it was ever a matter of serious discussion. As you know, Ralph, Congress is a place that, for better or worse, prides itself as its own island of niceties. And you're not supposed to criticize another member by name on the floor, and you're supposed to pretend that you're all colleagues and there's a level of respect between people. And it was seen on the Hill, again for better or worse, as very aggressive that they even issued a subpoena. And they felt in the end that the way to punish people for not complying was to send it to the Ethics Committee, which means absolutely nothing--because we all know the Ethics Committee does essentially nothing on the Hill--rather than try to use inherent contempt or refer it to the Justice Department, or do something that could actually result in some real penalties.

And so was it playing with kid gloves? I think that this is a fair criticism, but that it also has to do with the traditions and the understanding of how Congress works as a body or how they view it as how it works. For instance, they didn't subpoena any senator, right? Or the Senate Sergeant at Arms or anyone involved with Senate security, because it was a House investigation. And the House doesn't investigate the Senate and the Senate doesn't investigate the House. And they abide by those rules. It was still a congressional investigation at the end of the day. They're still legislators, politicians who were elected and were carrying this out, and they were still playing by the rules of Congress, or what they perceive the rules of Congress to be for the most part.

Ralph Nader: Yeah, but what Bruce is urging is comparing Congress under Watergate in the 1970s. Nixon defied four related subpoenas and one obstruction of justice. The impeachment counts from the House Judiciary Committee were that you, Richard Nixon, violated four congressional subpoenas and that you obstructed justice and we're going to impeach you. And everybody knew that he would have been impeached in the House and convicted in the Senate, which is why he quit. Now Trump has violated scores of subpoenas, including the one issued, belatedly, by the January 6th Committee. And obstruction of justice, according to John Bolton's book *The Room Where It Happened: A White House Memoir*, was a way of life in the White House. So you can see how withered the congressional assertiveness in the congressional Democratic Party has been since Watergate. It's a remarkable immolation of their own plenary powers, even by comparison with Watergate. And Watergate was like petty larceny compared to what Trump did. So that's what Bruce is trying to bring forward, a framework of history that shows the degree to which Congress is abdicating its authority, vis-à-vis the executive branch in this case, a criminal conspiracy of many facets in the White House under Trump. The larger question is that we could never get the media to probe these things at all. They just didn't want to go into any of these areas; even columnists didn't want to go into any of these areas.

Luke Broadwater: In the Democrat's defense, they did impeach Trump twice, and including for January 6th. They just didn't have the votes in the Senate.

Ralph Nader: They did. Hear again the context. We presented Nancy Pelosi with 12 impeachable offenses, had a discussion with her on the telephone. She just wanted to go with the Ukraine affair. She said she wanted a slam-dunk impeachment count. I said there are a lot of slam-dunk impeachment counts. How about recidivist violating congressional subpoenas? Well, you want to talk about are impeachable offenses a slam dunk. When is 150 not enough? It wasn't good public relations either.

Luke Broadwater: Just a counterpoint there. The political realities were different in that there was a Congress willing to throw Nixon out. He was a sitting president. America had not yet entered the post-shame era of Trump where there were no consequences to actions anymore and no one cared. The party didn't stand uniformly with him. I mean it's just a very different political reality. If you had the Senate of the '70s, you probably could have convicted Trump and barred him from office forever.

Ralph Nader: That's true. They had a different sense of their own significance under the Constitution. When they started investigating Nixon, and you had Woodward and Bernstein writing, the odds were not in favor of impeaching and convicting Nixon. They used the hearings for huge public education and they had the major players there. And in this case, if they'd had the major players there, more would have come out. Because when (Alexander) Butterfield was put on--

Luke Broadwater: That was a very different media environment, right? It was like three channels(ABC, NBC, CBS) and people took to the radio to listen to the Watergate hearings at the beach on vacation. It was a very, very different media environment. Fox News didn't even carry the primetime January 6th hearings. They ran Tucker Carlson or Sean Hannity instead. So if you're a conservative in America and you wanted to avoid this, you definitely could. You could find your silos and not listen to a word of it.

Ralph Nader: No doubt. But you see, in talking to Trumpsters, they say they didn't even give Trump and Pence the chance to defend themselves. It was a kangaroo court. Well, we know what's behind all that. But you can see that it would have fortified the committee to do that. And I think part of it is your point. They would have been reviled by Carlson and Fox and the whole mad internet gulag, which affects members of Congress far more than we realize. They really are terrified by day after day the stuff that comes into them. So it is different.

Luke Broadwater: They did want Trump to testify live. And if he had done it, you're right, it would have been the media event of the year by far, if he had come in there and testified live. But no lawyer in their right mind would let him do that; no lawyer would ever permit Donald Trump to come in to testify about these things.

Ralph Nader: And he would have perjured himself in the first 30 seconds and never stopped. That's what his lawyers were quite afraid of. Well, you were essentially fleeing from severe danger. What do you think would have happened if that elevator was, one minute later, that took you to the basement and it stopped on the first floor?

Luke Broadwater: Literally one minute; we were that a one minute from the mob. And, I don't know what would've happened. You saw what they did to police. We had a photographer who got mugged and her camera stuff was stolen. You saw how they wrote murder the media on a door, how they smashed up crews' cameras and equipment. It was very violent and angry and aggressive. I don't know what would have happened.

Ralph Nader: Steve, David, do you have any inquiries of Luke?

Steve Skrovan: I wanted to ask you about your experience on that day. If you could take us through the story of you being an eyewitness to this.

Luke Broadwater: Sure, yeah. I remember coming up to the Hill that day and there were already protesters up there. And I interviewed some of the protesters. This was before on the east side of the building, and it was just sort of normal. And there was not the same-- it wasn't what it became later. It was "Stop the Steal" stuff but not as aggressive or crazy yet. So I go inside, they start objecting to the election. I'm sitting up in the Senate press gallery and I remember a call comes over the intercom that's like, get away from the windows or doors. And I'm like, what is that about? So I look up through the window and I can start seeing the mob coming down from the Ellipse on the west side and they're walking all over the grass and they're kicking over bike racks. And it's starting to get real nasty. And this was not like any other protests we had ever seen before. There's lots of protests on the Hill all the time, but not like this.

So they yelled, "In or out, in or out." We all had to run to the Senate, and abiding the weird rules of Congress, I just left my phone outside so I couldn't communicate with anybody because you're supposed to take your phone into the Senate. And inside you could see the senators starting to get worried. I remember Amy Klobuchar looking at her phone and saying "Someone just got shot in the House." And we didn't know at that time it was Ashli Babbitt that had been shot over on the House side. And sort of everyone was getting more and more worried. And you got to remember a lot of these senators are older and immobile. At some point they start helping everyone out of their seats and they're helping Mitch McConnell walk down the hallway and they're evacuating everyone. But they didn't tell the press what we were supposed to do. And so we're up there in the gallery and I think someone shouted like, "What do you want the press to do?" And someone said, "Go to the tunnels." And so we all rushed out to take this elevator down. And we didn't know at that time that the mob had already breached the building. It was on the first floor. And if we had stopped on that first floor, we would've been right in the middle of the mob. And the mob ends up getting outside the Senate literally like one minute after we had left. And you remember that guy with the crazy hat and everything coming in with his bare chest and all those guys coming to the Senate chamber and they're rifling through the senator's papers. At that time, we're now down into the tunnel and we're being rushed through the tunnel. And there's like a phalanx of police set up, like a wall in case they did come down to the tunnels, which to my knowledge they didn't, to block them if they were going to follow us. So we're walking along with all the senators, and we end up getting in this big room altogether. And they didn't like that because they don't like the reporters hanging around them all the time because we're nosy and we write down everything. And so they make us all go into this other room.

And we, yeah, we get to work. I remember my-- I don't think I had it as bad in the Senate like my colleague Emily who was in the House. I think it was much scarier in the House--more dangerous because rioters got up to the door. People were pulling the guns on people at the door,

and they're all being told to put on their gas masks and lay on the floor. And that was extremely terrifying.

Anyway, the two of us were writing. She's writing what she's seen in the House. I'm writing what I'm doing in the Senate. And we're at work. And I remember there being discussion among the senators about whether they could even try to reconvene. And eventually there's an announcement that they're going to go back. And this is after SWAT teams have come in, guys with big guns and helmets and bomb-sniffing dogs and they've kind of got the place under control. And I remember walking back through the tunnels again being right next to the young aides who were carrying the Electoral College ballots. The rioters literally wanted to take and burn or destroy or something the very votes of the people that were about to be counted. I was thinking this is the most insane, but also historic day that I'll probably ever witness as a reporter. And then they came back and went to work. And I remember people being very angry with the Republicans who continued to object at that point. A bunch of them backed down and changed their votes and realized this has gone too far. But some of them kept doing it. And that was seen as a betrayal almost that even after all this violence, even after all the lies, you saw what these lies brought upon us, you continue to do this thing. And then I think after we covered all that, we all paired up to drive people home because it was terrifying. I don't think we got home like-- I didn't get home till like 5 in the morning. And then the next day there was a fence up around the Capitol and the National Guard was there. And it was like a totally different world for about the next year or so. What had been a really kind of open building that was easy to walk into was now kind of a fortress. So it was a day I'll never forget, that's for sure.

David Feldman: Wow.

Ralph Nader: What a story. David?

Ralph Nader: Yeah, I'm a little reluctant to ask you this question after hearing what you just said, but I'm going to go ahead. I have a proverbial big-picture question and running the risk of sounding glib about the physical danger you were all in, let me, if you don't mind, play devil's advocate, and challenge the orthodoxy that we have no idea how close we came to Trump succeeding. Again, not to discount how horrific January 6th was. But big picture, is it fair to say that Trump's conspiracy was doomed from the start, because in the waning days of his presidency he was only surrounded by lunatics? In order to orchestrate all this, Trump needed to go outside the White House. He had to bring in the feble-minded Giuliani, Sidney Powell. He needed to go outside the Justice Department and try to install Jeffrey Clark, who was in the Justice Department but not really. He was going to make Jeffrey Clark the attorney general, but then he was warned there would be mass resignations. Mark Milley, the chairman of the Joint Chiefs of Staff, signaled the military wouldn't obey any of his orders. Again, not to discount January 6th, but wasn't Trump's insurrection doomed from the start because the system, for better or worse, wasn't willing to hand it all over to intellectual lightweights who are clearly mentally ill? Did we really come that close to Trump succeeding?

Luke Broadwater: So, here's what I'll say about that. You're correct in your assessment that basically sane or responsible people that were surrounding Trump abandoned him for the most part in the end. They were disgusted by what they saw and they left. And in their vacuum was a hive of conspiracy theorists. That said, let's say the Senate goes along with it. I mean 139 House Republicans voted to object to certifying the election. If the Senate had also agreed... remember,

the Senate was controlled by Republicans at the time. If Mitch McConnell says, you know what, we're all in for Trump; we're going to vote to object to this thing. Then we would've had two chambers of Congress saying we're not going to certify votes from these 50 states or 70 states. We wouldn't have had an Electoral College threshold reached for Joe Biden to be president.

I still think this whole thing they're doing is illegal what and would lose in the courts. Eventually it would go to the courts and they would lose. But you would have much more turmoil in the Congress where if McConnell goes along with it and they're all objecting, and Mike Pence would be like, well, what do I do? I've got two chambers. If Mike Pence had gone along with it too, I don't know what would've happened. Certain Republicans would stand up to Trump. So if Pence and McConnell went along with it, I don't know... we'd have a situation where Biden wouldn't have had the Electoral College votes. We've got to get to this threshold; nobody's at the threshold. They'd say we're kicking it back to the states. What would the courts do? I think the courts would've still sided with Biden; would've said he's the legitimate winner and Congress is insane. But we'd have a mess that could have gone on for quite a while, I think.

And you'd have three Trump judges on the Supreme Court, and who knows... so I think that was the plan; that was kind of a crazy plan. But I think it came a lot closer to succeeding than people want to give it credit for, if he could have flipped a couple more of those powerful Republicans.

Ralph Nader: And Trump could have incited riots all over the country. Remember when he said they'll be riots in the streets if I lose? The further it went, David, the more he could have incited all kinds of convulsions.

Luke Broadwater: And there was talk about occupying state capitols as well, remember? I mean it could have been worse is my opinion.

Ralph Nader: Before we close, Luke, I want to talk about journalism in Congress. There are about 500 full-time journalists covering Congress, according to the *Washington Post*.

Luke Broadwater: That sounds right. There's a lot of journalists in there.

Ralph Nader: And a lot of it is official source journalism. Right after you joined the Times, I had a conversation with you and you expressed how much it would interest you if you could just go off to Capitol Hill and dig up stories, not just cover hearings and official source events. And we, of course, agree with that because the civic community that used to get a lot of media in the '60s and '70s, and connect with members of Congress and changed the consumer, worker, and environmental framework of legislation in those golden years, is no more. And the civic community is now shut out beyond my wildest nightmares from what they're trying to do to change Congress and get the executive branch to be more responsive in the courts.

So we started a newspaper called the *Capitol Hill Citizen*. The fourth issue has just come out. And we tried to get it to reporters. But because so many of them work at home, it's almost impossible to get this to reporters. It's in print only. We're trying to counteract the madness of the Internet and get people to read newspapers like they used to without the distraction and all kinds of Internet clutter. So we're trying to experiment. Have you received the copy?

Luke Broadwater: I have. I think I only got the first one, though. But there was, I think it was probably someone working for you, delivered a stack of them to our little nook on Capitol Hill,

above the Senate where the *New York Times* reporters sit. So we have the 1st edition, but that was some time ago though. I want to say that was maybe almost a year ago or so.

Ralph Nader: That was March.

Luke Broadwater: March last year?

Ralph Nader: Yeah, last March. You're talking about the press gallery?

Luke Broadwater: Correct.

Ralph Nader: Yeah. So I want to ask you, how do we get it to the congressional press physically? We're willing to deliver it.

Luke Broadwater: I know the press gallery gets something like four or five papers delivered, and then reporters have access to them. The *Times* and the *Post*, the *Wall Street Journal* and a couple others are in a stack. So, I would guess you could probably deliver them to the press gallery and put them out beside those papers that people could pick up when they arrive in the morning.

Ralph Nader: Can we put the names of reporters on?

Luke Broadwater: I would guess so, yeah. And there's the House and Senate press galleries, which has a place for traditional daily newspapers, the TV and radio galleries, the periodical gallery, which has magazines and their websites like Politico along with others.

Ralph Nader: And all these are contiguous with what we know as the press gallery?

Luke Broadwater: Yes. But there's different areas of the galleries reserved for different people and it's a very weird setup, but each one has its own governing body and contact person connected to a board that's elected among the press for it. It's almost like Congress infiltrated the press with this system. But yes, there's a governance to each one of the multiple press galleries of who's in charge and they each have a staff and a board. And I think all the papers pay a little dues to be part of it. If I recall, they do things like give out a scholarship or have an awards banquet, things like that, depending on the press gallery. But the *New York Times* is a member of the press gallery, so that's where we sit.

Ralph Nader: Okay, before we conclude, anything else you'd like to say, Luke? This is a huge subject. Any point you want to make?

Luke Broadwater: Yeah, just thanks for having me. And we worked hard on the book to try to provide some things that would help the reader before they read the January 6th Committee report. So there's a timeline of events, there's detailed graphics, there's bios of the names they're about to encounter. So hopefully, if they do read our version of the January 6th report, they'll find some value in the things that we contributed.

Ralph Nader: Well, likewise, if more of *The Times* people read the *Capitol Hill Citizen*, they might get great leads. As you'll see from page one of the 4th edition, none of us are smarter than all of us. So we'll get the remaining editions over to you, and you'll see what I mean when you leaf through it. We've been talking with star *New York Times* reporter, Luke Broadwater, who wrote the introduction to the *New York Times* version of this January 6th Report. It includes the

entire report, findings from the Select Committee to Investigate the Attack on the U.S. Capitol with Reporting, Analysis and Visuals. *New York Times*. So not only is it the official reproduction of the House committee report, but there are great visuals, great graphics, commentary, and summaries to help you get through. The original report was 800 pages; it's very easy to read the *New York Times* version. And it's been published; it's in bookstores. You can get it online; it's also on audio for about two dozen hours if you want to read it while you're commuting back and forth to work. Thank you very much, Luke. And to be continued.

Luke Broadwater: Great. Thanks so much for having me.

Steve Skrovan: We've been speaking with *New York Times* congressional reporter Luke Broadwater. We will link to his work and the January 6th Committee report at ralphnaderradiohour.com. Up next, Ralph is going to answer some of your questions. 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, January 20, 2023. I'm Russell Mokhiber.

The *Capitol Hill Citizen*, a new newspaper covering Congress, last week released its Top Ten Corporate Crime Books of 2022.

"Crime in America is rampant," the editors wrote. "And Congress needs a muscular police response to bring it under control."

"What better place to start than The Top Ten corporate crime books of 2022?"

Number 10. *Killer Airbags* by Jerry Cox.

Number 9. *The Spoils of War* by Andrew Cockburn.

Number 8. *Atomic Days* by Joshua Frank.

Number 7. *When McKinsey Comes to Town* by Walt Bogdanich and Michael Forsythe.

Number 6. *Division of Power and Light* by Dennis Kucinich.

Number 5. *Wastelands* by Corban Addison.

Number 4. *Servants of the Damned* by David Enrich.

Number 3. *Corporate Crime and Punishment* by John Coffee, Jr.

Number 2. *Empire of Pain* by Patrick Radden Keefe.

And the number 1 Corporate Crime Book of 2022, *Flying Blind* by Peter Robison.

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. We're going to do some listener questions here. First one is from Linda Okamura. "Hi. Ralph has spoken and written many times about "how we, the people,

could take back power by working through town halls within our congressional districts. Does Ralph have or can he create a simple step by step for us -- we, the people to follow to take back power? Maybe an infographic so people realize that it's possible. Something people can look at and realize, 'yes, we can do this.' I have so many Progressive friends trying to reform the Dems from the inside by running for ex:CADEM" - whatever that means – "I just don't think this will ever work. Thank you, Ralph and friends, for all you do." Oh, this is a softball, Ralph

Ralph Nader: Well, that's why I wrote this little book, *Breaking Through Power: It's Easier Than We Think*. It's full of examples. And the examples include the steps that people take to breakthrough against what was formerly considered pretty long odds. If what you're asking for is a step by step on how to get a town meeting with your senator or representative, in the latter part of the book, *Breaking Through Power*, there is printed a formal summons. You can fill in the blanks depending on the issues you want the town meeting with your in-present Senate member or House representative to cover. It's really a simple process. You decide what you're going to want your senators or representative to come to your town meeting about. You decide how many clear, legible signatures with their occupations you want on the petition. I've said that 500 clear signatures will get a member of the House and a thousand will get a member of the Senate to your own town meeting, in town hall or some school auditorium.

And then it's really up to you. It's up to the stamina and the persistence. If they don't react to 500, you up it to 700. You get press for it. But this little book, *Breaking Through Power: It's Easier Than We Think*, is a good start. Thank you.

This is one of the most intelligent civil letters we've ever gotten. Calling me out and said, "Hello, Ralph Nader and his team. And it's by an Apple employee who works in the retail part of Apple, I guess a retail store. And he said, "I am a loyal listener, active Congress Club member and grateful for the important work you do."

And then he says that, when I stated that what Apple and Google are deliberately doing relating to privacy, he begged to differ. And he listed several ways that Apple is championing privacy. They put full-page ads that I've read, taking some of the other social media companies to task for invading people's privacy, including companies like Facebook. And I was informed by our producer, Matt Marran, that indeed they do have significant safeguards for individual privacy and that some of them that are pointed out by our listener are so strong that they actually protect people from interference by government security agencies and not just corporate profiteers, including one called lockdown mode. So thank you very much, listener. This letter should be posted on our website as a perfect example of a criticism by someone who knows what they're talking about and lays it all out.

It does provoke me to make one more contrast, however. I don't think Google has a million serfs working in China under horrendous conditions by the Chinese contractor making iPhones and computers to Apple.

Steve Skrovan: That's a pretty big caveat. But yes, I guess on privacy, you can give them some props there.

Ralph Nader: Does that accord with what you know, Steve, Hannah and David?

David Feldman: Yeah, in fact, they cost Facebook-- one of the reasons Facebook is doing so poorly is because of the privacy. Facebook can't sell advertising to iPhones properly the way Facebook wants to because of privacy.

Ralph Nader: Yeah, okay, so we came out the right way. Good. Well, you know, someone who's looking at an Underwood typewriter can't be right all the time.

Steve Skrovan: Yeah, that's true. That's true.

Ralph Nader: You want to use that, Steve?

Steve Skrovan: Oh, definitely. Definitely.

Hannah Feldman: I was going to ask if what security measures do you have in place to prevent us from sneaking in and reading the tape from your typewriter?

Ralph Nader: They never get the ribbon, Hannah. It's not plugged in. They never get the ribbon. It's not a chance in hell, even if they had sonic penetration, they couldn't do it.

Steve Skrovan: And your fingers get all the ink on them. It's just a messy business.

Ralph Nader: You can use that one on Apple anytime. And we need to put it up too. So you can't read it all, but you need to put it up. It's very impressive if you haven't read it.

Steve Skrovan: I have that's why I sent it to you.

Ralph Nader: No, I don't mean you. I mean David and Hannon. Jimmy, if you haven't read it. You should read it. It's almost a perfect example of how to rebut somebody.

Steve Skrovan: Yeah, and I can't think of anybody else who would say here's a good rebuttal to something I said. That's a show of strength.

Ralph Nader: I grew up that way. My dad would say, "Your best teacher is your last mistake."

Steve Skrovan: Yeah.

Ralph Nader: If you don't obey that, it completely changes your personality and character throughout your whole life. You get resentment. You're blistered by moonbeams. You introvert yourself. You don't learn new things. It's one of the most important things I ever got out of my parents. And that's saying something.

Steve Skrovan: Yeah. I want to thank our guests again, Luke Broadwater and, of course, our resident Constitutional scholar Bruce Fein, for weighing in. For those listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call "The Wrap Up." And as always, a transcript to 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. Join us next week on the *Ralph Nader Radio Hour* when our guest will be

Nason Maani, author of *The Commercial Determinants of Health*, which addresses how various industries affect our health.

Thank you, Ralph.

Ralph Nader: Thank you, everybody. Remember, the *Capitol Hill Citizen*, all 40 pages full of articles about Congress and your well-being that don't appear in the mainstream press. Go to capitolhillcitizen.com. Order copies for yourself, your friends, your neighbors. Anybody who reads it loves it, not only because it's only in print, but because it opens windows and reflects its motto, which is "Democracy Dies in Broad Daylight."