

Before the House Special Committee on December 21, 2020

Chair: Rep. Paul Holvey

Members: Rep. Daniel Bonham; Rep. Christine Drazan; Rep. Andrea Salinas; Rep. Barbara Smith Warner; Rep. Duane Stark

### **Testimony in opposition to HR 3**

Chair Holvey and Members of the Special Committee:

Before this committee rushes to judgment to send HR 3 to the House floor with a “Do Pass” recommendation, it would behoove you all to watch the security camera footage from the West entrance on 21 December 2020 one final time without narration or outside commentary. This time, though, really open your eyes to watch and clear your minds of all the notions that have been planted by media reports and false narratives spread by those with obvious animus toward Rep. Mike Nearman. <https://www.npr.org/2021/05/01/992713857/oregon-lawmaker-who-opened-state-capitol-to-far-right-protesters-faces-charges>

While watching, take special note of the following:

- His stride — it is purposeful; he does not break or pause as he approaches the outer door as one might expect him to do if he saw several people immediately on the other side, so as to give them time to back away from the outward-swinging door as he opens it. Nor does he pause at all as he passes through the doorway, even as he steps around one young man. This leads to two inevitable conclusions: 1) he saw a clear path past protesters and 2) one cannot prove he intended or expected anyone there to actually attempt to enter the Capitol.
- His demeanor — He makes no sign of acknowledgment or salutation as he steps through the inner door and to the outer door. Rather, he appears to be either in deep thought about what he wants to do once out of the building, given the short amount of time he has to accomplish those tasks before returning by way of the State St. entrance, or is intent primarily on getting through the crowd of protesters he knows is about the building.

At this point, the most that one can point to as wrongful is his use of the West door in the first place, if my understanding about a security rule in place on that day directing all in the building to use only the State St. doors is true. The nonsense about the manner in which he flung the doors open so wide as he brusquely passed through them does not hold because such action is common. One cannot reasonably ascribe either negligence or malicious intent to it.

Other items to note:

- Not one of the men who enters through the door upon Rep. Nearman’s exit displayed or brandished weapons of any sort. One man held a flag on a pole.
- No one in the crowd was ready to “storm the Capitol”; despite frantically waving at people to urge more to enter by the first two who caught the doors, it was a full 20 seconds before a third person — a woman — entered the vestibule; she strolls toward the double doors rather than the open door into the Capitol hallway. Police arrive immediately afterward through the double doors. No one entered further than the vestibule.

- Capitol police cleared the vestibule between the two doors without incident. The man holding the inner door used by Rep. Nearman moves off that door, allowing it to close, when an officer blocks the woman and attempts to push her back outside.
- The police fail to re-secure the building by closing the outer door. Instead, they spend 20 minutes keeping the people outside (at times with resistance). Repeated calls for reinforcements bring police both inside and outside. Even once they have established superiority of force and position so that they could easily have closed the door, they do not.
- The police were attacked by others outside the building in the midst of verbal disputes as the police did not close the outer door. When the police decide to retreat through the double doors (leading to parking garage?) they still failed to close the outer door. It is only after police are off the scene that a lone person carrying a rifle steps into the doorway. He turns around and leaves almost as soon as he arrives.

One can draw several conclusions, none of which supports the hyperbole and overwrought drama spread by Speaker Kotek and others in Democrat leadership. First, once the police cleared the vestibule of the three or four individuals who had finally wandered in, all connections to Rep. Nearman are closed off. Everything that happened after that has to be owned by the police in their failure either to quickly close the outer door or, realizing that no one could get further inside the building, simply leaving — as they ultimately did in the end.

Second, because police acted as quickly as they did AND the protesters acted as slowly as they did, people inside the building never faced any real danger from this incident. All the concerns expressed by Members and staff are nothing more than the overactive imaginations of people who want to believe the worst about people with whom they disagree. Perhaps they should have a chat with Andy Ngo, who could tell them what it's really like to fear for one's life facing a group of real rioters.

Third, these protesters obviously were not at all similar in desire, skill, organization, or strength to those rioting in Portland. Other than resisting when pushed and refusing to leave the area, they generally showed respect and deference to officers. You saw one woman engage for at least a minute with an officer in the doorway!

Nothing Rep. Nearman did on 21 December 2020 rises anywhere close to what is required to expel a Member. Speaker Kotek has already exacted more punishment than deserved by stripping him of all committee assignments. In reality, she has actually punished his constituents by depriving them of effective representation. She has also exacted supreme punishment on all Oregonians by closing the Capitol without just cause.

Rep. Nearman should be cleared of all charges and fully exonerated. Every Member of the House owes him an apology for the mistreatment they have wrought. The House should immediately seek dismissal of all criminal charges against him and restore to him complete access to the Capitol as the duly-elected Representative from House District 23.