

14 HARD QUESTIONS FOR LIBERTARIANS

ANSWERED



**Effective Replies
to Common Objections**

TOM WOODS

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WHAT IS THIS BOOK?

I launched the [Tom Woods Show](#) as a Monday-through-Friday podcast toward the end of September 2013. Ever since I'd started filling in as a guest host on the former Peter Schiff Show in 2011, people had been asking when I'd have my own show. I was flattered, but I was also pretty busy.

Fast forward to late 2013, and the idea seemed more and more attractive. The main reason was this: the work I was doing for [Ron Paul's homeschool curriculum](#) was so time-consuming that I could no longer do the writing and blogging I once did. But if I had a daily program, I could still address the issues of the day, and still feel like I was contributing to the cause, even while my homeschool work was otherwise consuming me.

And incidentally, although I'll discuss Ron's homeschool program in Appendix A, let me give you an idea of what's involved. Each full-year course in this K-12 curriculum runs 36 weeks, with five lessons per week. That's 180 video lessons per course. Plus edits, finding readings, formulating, assignments, etc. Now multiply all this by three and a half courses, which is what I am creating, and you are at 630 videos on history, economics, and government. It is exhausting. It's also the most important work I've ever done.

So the podcast was a way I could continue to help spread knowledge and information, while still pouring most of my energy into this unbelievable workload.

Now when you cover a different topic in liberty five days a week, week after week, the resulting transcripts amount to a veritable primer on liberty. That's when it dawned on me to produce free eBooks out of these gems I was producing month after month.

For this eBook in particular I've brought together episodes of my show dealing with interesting and controversial topics you'll need to know about if you're going to answer critics of liberty.

Let me warn you: some of the answers are quite radical, even for some libertarians. They involve taking the nonaggression principle to its logical conclusion: the stateless society. Even if you can't follow us that far, I know you'll find it stimulating to consider these ideas.

Be sure to subscribe to the show (free, of course) on [iTunes](#) or [Stitcher](#) so you don't miss your daily serving of liberty education. You can also view the archives at [TomWoods.com/episodes](#).

Happy reading!

QUESTION 1

HOW CAN YOU FAVOR LEGALIZING DRUGS?

In episode 204 I spoke to Judge Jim Gray, a retired superior court judge and a member of Law Enforcement Against Prohibition. He ran for vice president of the United States on the Libertarian Party ticket alongside Governor Gary Johnson in 2012.

WOODS: I want to start off with your own personal situation. You started practicing law in the early '70s. Then you were a municipal court judge. You were a judge for 26 years. Were you always against the drug war, or at least some aspects of the drug war, or was this something that you came to through experience?

GRAY: Tom, I was a former drug warrior, never really gave it much thought. I was a criminal defense attorney in the Navy. I actually wrote charge sheets for my shipmates, a lot of which were drug involvement. I was a federal prosecutor in Los Angeles, held the record for the largest drug prosecution in the Central District of California back in 1978 – 75 kilos of heroin, 165 pounds, was and is a lot of heroin. Then you started looking around yourself, particularly when you're on the bench in your own courtroom, and now the record prosecution is 18 tons of cocaine in one place, and you're churning low-level drug offenders through the system, and you're arresting, convicting, and incarcerating even big-time drug dealers. Does that mean that heroin or cocaine is no longer available in whatever city? No, it's just an employment opportunity for someone else, and you see that probably, as Governor Gary Johnson says, 90 percent of the problems in this area are drug prohibition-related problems. About 10 percent are with the drugs. And I'm not minimizing those, but most of them are about drug money.

You finally conclude that we couldn't do it worse if we tried. So back in April of 1992, as a sitting superior court judge, I held a press conference, a somewhat unusual thing to do, and stated the absolute truth to anyone that would hear: that our nation has to look into and change away from drug prohibition because it's bringing on unbelievable harms, far more than the drugs themselves.

WOODS: If you had legalization, it seems to me that you would also have, of course, a fall in the price of drugs, and so drugs would be more readily available. Given what we know about economics, if the price of something falls, the quantity demanded is going to rise. I think we have to be honest and concede that there would be more consumption of drugs under a legalization scenario. Are you saying that that's

a price that we're willing to pay because the price of trying to suppress it, which is entirely unsuccessful anyway, is just too great?

GRAY: Well, don't just listen to me. There have been so many neutral studies out there by foundations, by governments. They all conclude that even if it would result in greater drug usage, we still should go away from drug prohibition. But I am going to contest that a little bit. Drugs are fully as plentiful today, particularly for young people, as they could possibly be. In fact, you ask the next ten teenagers you find: which is easier for you to get today if you want to, marijuana or alcohol, and every last one will tell you it's easier to get marijuana. Because the illegal dealers don't ask for ID.

And then if you go to other areas such as Holland – they have decriminalized these drugs in Holland for decades – or Portugal, the drug usage is pretty much the same as it was before. However, teenage drug usage has actually gone down. Why? You take the glamour out. You take the rebelliousness out of them. And in Portugal, why should I use drugs and go see a doctor? That's no fun. So I will question even whether we would end up with greater drug usage, particularly if you were to regulate and control them like you do wine, for example, and then make treatment available. In Holland, where they actually have decriminalized all drugs, as I said, problem drug usage has gone down by 50%. Do I need to say it again? Fifty percent. Because now, instead of getting a citation to come see me as a judge, they get a citation to go see a medical team, and they start dealing with them, working with them, helping them, and problem drug usage has gone way down.

WOODS: Unlike you, I wasn't involved in the drug war, but I just reflexively supported it because I had gone through all the elementary and high school propaganda about drug usage. I'm not minimizing the damaging ways in which people can abuse drugs. But the item that really got my attention and that emphasized to me the utter futility of it was judge – Volney Brown, maybe – who tells this story about how law enforcement officials in San Diego had all decided that on one particular day they were going to take down all the heroin dealers on the same day. And they somehow did it. So for about two weeks, you couldn't get any heroin in San Diego. But within a month it was exactly as it had been before, after the most unprecedented effort of law enforcement coordination ever seen. It was back exactly the way it had been before, except this time they had no idea who was selling the heroin.

GRAY: Tom, that's funny, because Volney Brown was a federal magistrate, and I practiced before him. When I came out against our nation's drug policy, and I started getting some criticism, he wrote about that story in the course of supporting me. I didn't have any idea that that's where he had been. He did it twice. Once was in Denver, and the second one was in San Diego. As you say, they had no idea who their drug dealers were, they were a lot more violent, and he ended the story by saying: we want our old drug dealers back. Because they had no idea what was happening thereafter.

I gave a talk one time before a very conservative group here in Orange County, California, and there were three prison wardens in the crowd. I made the comment: look, you can get all the drugs you want in prison, for heaven's sake. How do you expect to keep them off the streets of your towns and cities? And only one of them laughed and said, oh, you can't get *all* you want. And it's true. You know, Charles

Manson, a bad guy, was actually in solitary confinement in prison here in California, and he was found to be selling drugs from his prison cell. So let's face the reality. The drugs are here to stay. Let's try to work with them, reduce the harm, and help with quality control. For example, people do not die from heroin. They die from unknown strengths of heroin. They die from the unknown quality of the heroin. So we can work with people, save thousands of lives, and do that. We all know smoking cigarettes is harmful for your health. That's clear. But at least if you go to a local mini-mart and buy a pack of Marlboros, you're going to know it's not laced with methamphetamines, or it doesn't have pesticides in it, that sort of stuff. I've sentenced, myself, several young men for being under the influence of methamphetamines, and they would say at time of sentencing: I just smoked marijuana; I didn't know it had methamphetamines in it, and I got myself hooked. Those are problems that we can address, and should, and must, and then deal with the people's actions. That's the secret.

You know, Robert Downey Jr. is a lifelong heroin addict, and he's doing really well now, and he's a gifted actor, but he's going to have to be careful. He'll always have that craving. But putting Robert Downey Jr. in jail for that which is a medical problem is the same thing as putting Betty Ford in jail for her alcohol problem. That's a medical issue. Bring them closer to medical professionals that can help them, but if Robert Downey, Jr., Betty Ford, you or I, Tom, drive a motor vehicle impaired by—you name it—alcohol, which is my drug of choice, marijuana, methamphetamines, whatever—bring them to a judge. Why? Because now they are putting our safety at risk, a legitimate criminal justice issue. But as far as what I as an adult put into my body, it's none of the government's business any more than what I put into my mind. So that's my libertarian view, and I think pretty much everyone else, if they thought about it, would agree.

WOODS: As a judge you would have a particular perspective on this, and a policeman might have a particular perspective on this. Sitting there in a courtroom, you would be able to see the misallocation of resources, because you know there are violent crimes that go on out there, and that law enforcement has a difficult time keeping up with them all, and then you have some poor, misguided soul who has a drug problem, who is dragged before you, and it's some small quantity, and it takes up the resources of six people in a courtroom and half a day, and all this—for what? It accomplishes nothing. Right? Is that one of the aspects? That's not the most important thing, but did you ever just shake your head – I can't believe I'm using my time for this?

GRAY: Yes, yes, very much so, and there's so much to talk about there, but the bottom line is that the tougher you get with regard to non-violent drug offenses, literally, the softer you get with regard to the prosecution of everything else. In fact, I wrote a book called *Why Our Drug Laws Have Failed* and devoted a chapter to these sorts of things, quoting statistics that in 1980, we were twice as successful in prosecuting homicides as we were nationwide in 1990. Why? Because the Reagan administration, again, ramped up the war on drugs and used all of these resources to prosecute the drug issues, and that meant homicide prosecution was only half as successful 10 years later. It just goes on and on.

I went on vacation one time for a week, talked to my court reporter, and when I got back—and she was with other people—and said what did you do? Well, I worked on felony preliminary hearings. I said,

okay, how many did you work on? She said 10. Okay, of those, how many were drug offenses? And she thought for a moment and said there were six, and the last one was the stupidest because there was this homeless guy pushing a cart, begging, panhandling, and the rest until one fine day he sold a bindle of cocaine, which is \$10 worth, to an undercover officer. So now this poor homeless guy is being brought through the system. As you say, we had four police officers waiting to testify, and we had the judge, we had the reporter, we had the clerk, we had the prosecutor, and the criminal defense attorney, and the witnesses, and all that sort of stuff. What a colossal waste of time. And is it going to make any difference at all as to the availability of drugs in our communities? No. And he was homeless anyway and probably mentally ill. So these are things that you just shake your head at and finally realize that, look, let's get smart on crime instead of tough on crime and put our resources where they will serve to keep us from being damaged by others instead of people we're mad at.

WOODS: Another strategy here, if you can't deal with the demand, is to deal with supply. Has the U.S. government ever come anywhere near the amount of seizures that would be necessary to make a dent in the drug market here in the U.S.?

GRAY: Of course not. Well, why don't we just go into Thailand, or Burma, or Afghanistan, and just buy up the whole crop? And that'll be great: we'll get all the worthless stuff, and then they'll go into the back forty and raise really quality stuff, and then they'll win both ways. The government makes a mess of anything it gets involved with. They would go down to Colombia and spray this, in effect, industrial-strength Roundup, and then the wind would blow—of course, they don't figure that out, so you kill the bananas. You kill the crops. You have kids with sores on them because they've had this Roundup dropped on them from the sky, and then you wonder why they hate us. It just doesn't work. We pour all of this money down into South America or Afghanistan. Finally, the DEA has given up trying to eradicate it from Afghanistan because it was so destabilizing. We do the same thing here at home. Today, Tom, the federal government is literally bribing the police forces in cities and towns all around the country by giving them law enforcement grants—ah, but the strings, ropes, and chains attached to that money is you have to use them to fight the war on drugs.

When I was running for Congress I sat in the offices of two sitting congressmen – Republican, conservative guys here in Orange County. They brought up the issue of drugs – I didn't – and they told me in their own words, almost verbatim: Jim, you're right, most people in Washington realize the war on drugs is not winnable, but it's eminently fundable and they are addicted to the drug war funding. We're talking huge, mammoth amounts of money here, and it's an amazing partnership between the good guys and the bad guys. They are all making huge amounts of money because of the war on drugs. So it's just simply a question of talking about this. A minute ago it was mentioned on your show [in the bumper music]: Thomas Jefferson and Tom Paine, they'd be libertarian. They would be outraged at what the government is doing today with regard to the war on drugs.

The states of Washington and Colorado are witnessing the end of marijuana prohibition, and when marijuana prohibition is over, drug prohibition is close to follow. We're almost there. And then I guarantee you and all of our listeners people will link arms about two or three years after we repeal drug prohibition,

look back, and be aghast that we could have perpetuated such a failed system for so long.

WOODS: Well, you're right that there are vested interests involved, and that this is why the progress has been so slow. One of the talking points that I have in some of my public speaking is that it's not enough to say, look, I was the captain of my high school debate team, and I can make a really good argument against the war on drugs. That doesn't matter when people's livelihoods are wrapped up in this thing, and they are wrapped up in it at the local level, the state level, and at the federal level. But yet, as you're suggesting, even with all those vested interests at stake, eventually you can reach a point at which public opinion is so opposed to an existing policy that it can finally actually wash it away, even in the face of those vested interests.

GRAY: And you're right.

WOODS: So how do you see this unfolding? In the states where it's started to happen are they actually just going to lie down and say, well, it was fun getting all that federal money, but all good things must come to an end? In other words, you're saying that eventually we're going to win in terms of drug prohibition. But how does it happen? What is the pathway to it?

GRAY: Well, we're there now. If you check the polls, and a lot of people do in Colorado, Washington—all the government was against this initiative to treat marijuana like wine, but the people trumped them, and they overrode that. We in California tried to have something on the ballot called “Regulate Marijuana like Wine” in 2012. We didn't get the money needed to get the signatures. We needed 808,000 valid signatures. But we did send it through the attorney general's office. So we got the language back that would have been on the ballot had we been able to get the initiative on the ballot, and it guaranteed success. It said we will save tens of millions of dollars by this measure every year in California on enforcement costs and generate hundreds of millions of dollars in revenue. Now, look, the marijuana is here anyway. It's the largest cash crop in our state and probably yours, all around the country, but at the moment, who's making all the money? We're getting it to Mexican drug cartels, and juvenile street gangs, and other thugs. Wouldn't it be better to use these tens and hundreds of millions of dollars to pay our firefighters and pay our teachers and fix our roads and regain the quality and make drugs less available for children, and not so strongly encourage our children to follow that path and sell drugs for a living because that's where the money is? So again, I call this the biggest failed policy in the history of the United States of America, second only to slavery. We couldn't do it worse if we tried. So let's go back to our libertarian roots, back to our constitutional roots, and understand that the Ninth and Tenth Amendments still are there and allow each state to decide how best to serve and protect its people in this area and many more. And as Governor Johnson said, that will result in some spectacular successes that can be copied as well as some noteworthy failures that can be avoided. But truly, the federal government does not have all the answers in this or any other area. Allow each state—Colorado, New Mexico, wherever—to choose how to address this. It's called the concept of federalism. It will work, and we will finally get some liberty back along the way, too.

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QUESTION 2

WOULDN'T BANKS BE UNSTABLE WITHOUT GOVERNMENT OVERSIGHT?

Professor Charles Calomiris of Columbia Business School is co-author of Fragile by Design. He was my guest for episode 213.

WOODS: The thesis of your book has to do with bank crises, and that these are not just spontaneously occurring events that have no cause or that have no explanation, or that the explanation is that banking is just inherently unstable, or that the free market yields us these outcomes. You are saying something like the opposite of this.

CALOMIRIS: Well, yes. The first clue to that is that banking crises don't happen everywhere and always. And in fact, in some countries they never happen, and in other countries they happen quite frequently. The most obvious examples are the U.S. and Canada, where over the last couple of centuries the U.S. has had about 17 major banking crises, and Canada has had zero. Canada is a more volatile, primary exporting dependent economy than the U.S. It's a democracy. It started under British rule, like the U.S. It has a lot in common with the U.S. in many ways, the same language, they can even travel among us undetected. But somehow, despite the fact that they have more banking credit relative to GDP, not less, and that they're a more volatile economy, they don't have banking crises and we do. So that's an example. That's a clue. Of course we go into things much more systematically, but that's a clue to the fact that banking crises are not a mechanical consequence of having a banking system, and they are not even the mechanical consequence of operating a democracy, but they are the consequence of particular kinds of political arrangements, and those in the case of the U.S. run very deep. So that's what our book tries to explain. These banking crises are not just random events. They aren't, as you said, just intrinsic to the operation of banks or capitalist society. They come from particular kinds of political arrangements, and the U.S. unfortunately has had a sorry history of those kinds of arrangements occurring over and over again.

WOODS: When we deal with a term like hyperinflation, we're dealing with a phenomenon that people generally know when they see it, but all the same, there is a scientific definition that it has to be at least 50 percent price inflation per month. Likewise, for banking crises, I think people know it when they see it, but is there nevertheless a more or less scientific definition of what constitutes a banking crisis?

CALOMIRIS: I would say there is a consensus, and that there are different gradations. So let me give

you what I think a banking crisis is. It turns out to be absolutely crucial to analyzing these things. As Aristotle recognized a long time ago, you have to categorize things before you can understand them. So a banking crisis, I think, in the academic literature or even in common sense, means one of two things. Sometimes they happen together. Sometimes they don't. One thing is, suppose everyone is running into the street demanding their money back, sort of like *It's a Wonderful Life*, but writ very large, and banks don't have all that money in the vault, as Jimmy Stewart pointed out, and so the bank run happens: banks have to close down, have to stop providing this access to liquidity for the general population, leading to a crisis of confidence in the banking system. So that's one thing, just a very disruptive set of events. Those things didn't always result in huge numbers of failed banks, but they were very disruptive nonetheless to the payments and credit processes of the economy.

Another kind of phenomenon is when lots of banks are failing, not just one, but a lot of them in some sense relative to the size of the economy. Now, exactly where that cutoff is is somewhat debatable. But let me explain to you why it's not such a hard issue. There were in U.S. history—we had these banking panics of the first kind that I described in, for example, 1857, 1873, 1884, I could go on—several of them, but from 1873 through 1907, although we had six panics, the worst of those in terms of bank losses as a fraction of GDP—that is, failed banks' negative net worth, to be formal—was 1893, where it was only one-tenth of one percent of GDP. Now by any modern standard that is a very small number. To give you an idea, the Great Depression in the U.S. was about 2.5 percent of GDP of the negative net worth of failed banks relative to GDP. So when we see something that's about one percent of GDP or bigger, I think we can call that a major banking crisis in terms of failure; less than one percent is kind of debatable. So I like to use as a simple metric of the second kind of definition of a crisis: about one percent of GDP. To give you an idea about the past, from 1874 worldwide to 1913, about a 40-year period, there were only six such events in the world, banking crises defined in terms of the negative net worth of banks, failed banks, relative to GDP in excess of one percent. And in the U.S. we had six liquidity crises, none of which, as I said, got anywhere near one percent of GDP. So there were about 12 crises that were severe liquidity crises all in the U.S. or severe failure crises over that period. So as you can see, we have ways of defining these things, and by that kind of flexible definition of either a liquidity crisis or a major solvency crisis, there are only about a dozen over that 40-year period. If we apply that same definition, as two IMF researchers, Javier Valencia and Luc Laeven did, we'll find more than 100 such crises over a similar 40-year period that we're just ending. And the severity is also much greater. The losses of failed banks relative to GDP in that historical period where I talked about those dozen, averaged about two or three percent of GDP for those dozen crises. For the ones we've had worldwide in the last 40 years, it's about 16 percent of GDP. So we've had, let's say, about 10 times as many crises—that is, they happen about 10 times as often—and they are about five times as severe. So I think that I've made my point. We do have a way of measuring it. We do have a lot of data on it, and the key thing to recognize is we're living in the middle of a global pandemic of banking instability.

WOODS: I love statistics like these that tell a story that runs 100 percent contrary to what most people would expect. If I were to go to MSNBC, for example, any host on any of those shows would think that because the experts have increasingly been in charge over the course of the twentieth century, that we must have had more stability, and these stupid rubes who are critical of the system or the central bank

or whatever just don't know what they're talking about. These uppity peons should stay in their places and be happy that the experts are in charge. But as you say, the results have not been so good.

I want to look now at what the institutional features are that seem to lead to these results. This is something you cover in the U.S. case in chapter 6 of your book, which is provocatively titled, "Crippled by Populism: U.S. Banking from Colonial Times to 1990." Now, if there is one thing that American history textbooks cheer it's populism: these were well-intentioned people who were fighting against economic behemoths. You're trying to complicate this picture, I understand.

CALOMIRIS: Well, I don't think we're saying anything that is unusual within the literature of experts on American financial history. All we're doing, in fact, is summarizing, at great length with lots of footnotes, the consensus of the literature of all the economic historians. In fact, Tom, one of the amazing things about how there's a disconnect between scholarship and what's reported in the media is that the answer to the question about historically why the U.S. was so volatile is not controversial among American economic historians. There is no controversy. Populism is absolutely understood to be at the very root of it in this period of what we think of as this alliance between this weird U.S. banking ownership structure called unit banking and rural landowners, sometimes called populists. When you think about how important this rural populist movement was historically, it really subsumed people that we think of as the major figures in American history—Thomas Jefferson, Abraham Lincoln, William Jennings Bryan—these are all figures that were really a pantheon of populist thinking from the standpoint of agrarian landowners, and those people had very specific ideas about the kind of banking system they wanted to have. And that's the kind of banking system that creates huge trouble and that was creating the huge trouble of the continuous process of bank failures and bank panics in the U.S. during the period you mentioned, primarily the nineteenth and early twentieth century, mid-twentieth century.

WOODS: Now, this is because unit banking regulation will make any individual bank artificially unstable or fragile—well, fragile by design, as you say in your book—because they can't diversify and all that?

CALOMIRIS: That's right. Yes, I want to emphasize: this is an idiosyncratic sort of thing of the U.S. When we talk about other countries and why they are currently involved in this pandemic, it's a completely different story. But let's focus on the U.S. historical story. Yes, the U.S. decided that it wanted to create banks that had one location. And what was the point of doing that? It was basically to create mutual dependency of banks on their local communities, particularly agricultural communities. So if you're local, where I used to live in Champaign-Urbana, Illinois, basically there are two crops in Champaign-Urbana, Illinois, pretty much, and they are corn and soy. And so if you are a bank lending in that local economy, you had a very undiversified portfolio. In fact, any business operating in that local economy would be susceptible to changes in the prices of corn and soy. Of course, that leads to a very necessarily unstable banking system, for two reasons. First, the bank's lending is very undiversified, but secondly, it's not a very competitive banking system. The reason is that the overhead costs of operating a one-branch bank, a bank that runs its own headquarters, are very high, so you don't get a lot of entry and competition into those local markets. So the interesting question is, why would landowning farmers be so supportive? And by the way, in Illinois in the 1920s they even had a referendum where there wasn't just a backroom

deal. It was popularly, strongly supported to limit any branching.

The answer that I would put forth is that by having a bank tied to you, even though it was charging you more interest because of the non-competitive environment and the risky aspect of the lending, you knew that during moderately bad times that anchor was still going to be lending to you, because what choice did he have? He was going to be a little bit more forgiving during lean times than maybe a bank that has more options, more geographic spread, more different places that it can lend. Of course, when things get not just moderately bad, but very, very bad, you're both going to go down together. So I look at it as kind of an insurance arrangement, if you like, that agrarian landowners liked having banks that were tied to their local economy. I think that's a story that fits very nicely with a narrative that we see throughout especially the Midwest but most of the country that links together these people who really didn't like each other very much. If you read *The Grapes of Wrath*, there's not a lot of love lost between the local banker and the farmer, but nonetheless, they were a powerful alliance for preserving this very uncompetitive and risky banking structure, which was unique to the United States. There was no other country on the planet that structured its banking system in this way.

WOODS: Charles, you say that really what you're doing is just summarizing the findings of a lot of the specialized literature, but that's the point: the typical American history textbook author is not exactly known for keeping up with this literature. So the old morality play continues to be played out in the textbooks. Meanwhile, people like you and me vainly try to wave our arms in the air to tell people that, you know, there is something other than this comic book version of history that they need to bear in mind. Now, let me add here: Milton Friedman was very fond of citing a statistic involving bank failures in the U.S. and bank failures in Canada during the Great Depression. Do you know about those figures?

CALOMIRIS: Well, I don't have the specific figures on hand, but I do know them. We spent a lot of time in the book talking about the difference between the U.S. and Canada, and we do even focus on the Great Depression because Canada suffered, in terms of GDP loss, a very severe loss during the Great Depression, basically similar to the United States, but it didn't suffer bank failures. There may have been one or two, but there were not large bank failures.

WOODS: Now, the last issue I want to hit on, just for today, I want to say something about the current crisis or the housing boom and bust, because the question that needs to be answered here is: why did banks make so many bad loans? And there have been a lot of red herring discussions about deregulation, but the deregulation that did occur does not seem relevant to what actually happened during those years. So why did they make all these bad loans? What were the factors leading them to have that incentive?

CALOMIRIS: Well, there were several factors, and they are all sort of traceable to government policy in one way or another. And I also want to say another academic consensus, again, not very well covered in the literature, the popular literature of the press, is that protection of banks is the reason globally for the pandemic of banking crises that we've had, thinking not just within the U.S. but all over the world. If you look at, I would say, about 100 articles that have been written and published in academic journals, and all of the researchers are working at let's say the IMF and the World Bank as well as the Federal Reserve

System and the academy, we're all in agreement that the protection of banks has been the most important influence driving this pandemic of banking crises. And the U.S. is no different. Banks, especially during the merger wave that occurred in the U.S. in the 1980s and the 1990s, when we finally moved away after almost 200 years from this unit banking system, that merger wave happened in a particular way. It coincided with an increasing protection of banks: the expansion of the safety net, deposit insurance, the bailout of Continental Bank in 1984.

So if you protect banks, if you tell banks that there is no downside to them from more risk, guess what, Tom? They take more risk. So that's the first ingredient. There was also a lot of monetary policy that was goosing things up from 2002 to 2005, creating a lot of excess credit in the system, driving the mortgage lending. But the most important influence of the three from the government in the U.S. was the subsidization of mortgage risk that was happening through a *quid pro quo* that was happening in the merger process. In order for those banks that wanted to merge in the 1980s and the 1990s and the 2000s, to get permission to merge, they had to go to the Federal Reserve Board, and they had to sit through a merger hearing, and in order for them to get Federal Reserve permission, they had to demonstrate that they were good citizens. How do you demonstrate that you're a good citizen? Well, the government had set this up so that you had to get community groups, self-appointed so-called community groups, basically I like to call them urban activist groups because that's more descriptive, to come and testify on your behalf that you're a good citizen. How do they know you're a good citizen? Well, you do what a good citizen does, which is to give them money. How much money did the merging banks give contractually with paper contracts through these urban activist groups as *quid pro quos* for mergers? From 1992 to 2007, \$867 billion of directed credit.

WOODS: Wow!

CALOMIRIS: The total amount that they gave to the groups through additional so-called voluntary agreements, plus those specific *quid pro quos*, was about \$2.5 trillion. That was funneled through those groups and their constituents. We go through this and document it at length in the book. So the point is, a political deal was hatched. You get to merge if you share the rents for merging, which are big because you are now going to be a big, protected, merged bank operating nationwide. So you've got lots of advantages, market power, government protection, but you've got to share those advantages. In order to get them, you have to commit to share them with specially appointed groups. Now, that is the essence of a political deal that created this very risky mortgage boom in subprime lending. Those three elements are working together: government protection of banks, government subsidization of mortgage risk, particularly to low-income, inner-city people, and monetary policy.

And I want to emphasize something about the subsidies to the low-income people. They are not the cause of the crisis. But in order to get the credit that was mandated to them to occur, banks and the so-called GSEs, Fannie Mae and Freddie Mac, had to lower their mortgage standards, and they couldn't lower their mortgage standards, Fannie and Freddie couldn't, without lowering them for everyone.

WOODS: There you go.

CALOMIRIS: So that's how we got zero down payment and undocumented mortgages being the norm, and once they became the norm, they became the norm for everyone. So it's not just a story about low-income, inner-city people, of course, but the politics does trace back to that influence, which ultimately expanded credit for everyone. But when you combine loose monetary policy, protection of banks, and targeted subsidization of risky mortgages, guess what, Tom? You get a disaster.

WOODS: Charles, before I let you go, I want to back up to this point about protection of banks, because I can imagine the average person saying, yes, I understand the incentives that banks have when they realize that there is no downside risk to being riskier with the money that's been entrusted to them, but at the same time, I as an individual need those banks to be protected because when those banks are protected, my deposits are protected. I don't care that the bank is 40 percent riskier than it would be otherwise. At least my money is safe thanks to the FDIC. What do you say to that average guy?

CALOMIRIS: Well, unfortunately, the jury is in on this question. In the theoretical literature, you can argue in favor of deposit insurance and other government protections, saying, well, you know, maybe it makes everyone safer because the government is protecting them. The problem is you've got this offsetting effect that protection makes you take more risk, and so you're a depositor, yes, you get protected, but you're also a taxpayer. You have to pay for that protection. As I said, the average of the over 100 banking crises that we've had has cost those countries' taxpayers about 16 percent of GDP to bail out those banking systems. So yeah, you're getting protection in your right-hand pocket as a depositor, but you're paying for that protection out of your left-hand pocket as a taxpayer, and there is no question that you are on balance much worse off by creating that protection. So if you remember the statistics I quoted at the beginning of our discussion, going back to the 40-year period from 1874 to 1913, which was the period where there's lots of banking all over the world—very, very free capital flows, we were under a very rigid monetary system called the gold standard. You might think, oh, gee, all of that unprotected banking must have been a disaster, but in fact, it wasn't. What's interesting is it was a disciplining system.

Here's the way I like to put it to my students. If bankers aren't scared, we're not safe. In the old system, bankers were scared. Whom were they scared of? Their depositors. They were scared that if any semblance of misconduct by them got out, they would experience a run. They very rarely experienced runs because they were scared, and when they were scared, they were careful. We've lost that. Deposit insurance and other government protections have taken that away from us. Unfortunately, you put your finger right on the problem. It sounds very good and is very politically popular to protect bank depositors, and of course, bankers use that to get the political protection that they depend on to hatch their risky strategies, and of course, they are the ones laughing all the way to the bank with their very high salaries, and their big stock options, and all the rest of it.

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QUESTION 3

WHY DON'T YOU WANT TO BAN SWEATSHOPS?

Benjamin Powell was my guest for episode 126. Ben is a professor of economics at Texas Tech University, where he directs the Free Market Institute, and the author of Out of Poverty: Sweatshops in the Global Economy (Cambridge University Press).

POWELL: ...Even if companies accused of sweatshop conditions were making billions in profits, they don't suddenly turn into charities when you say: you're going to have to pay more for your Third World labor. These firms are trying to maximize profit, and they will keep hiring Third World labor right up to the point that it's no longer profitable. If you do something that mandates them paying more to these workers, they are going to use fewer of these workers and substitute more First World unionized workers or capital for the workers. Some of these Third World workers will get higher wages, but some who used to work in factories will get unemployed or they will compete with the even poorer workers in the informal sectors of these economies and push down wages there.

Wages are determined by two factors. One, a worker's productivity. That's the maximum that a firm is willing to pay them. If they can create two dollars a day in revenue, the firm is going to pay a maximum of two dollars a day. But they'd like to pay zero. What makes them not pay zero is whatever the workers' next-best alternative is. That's the lower amount. So actual wages fall somewhere between those two bounds. Now, that means that it could be near the lower bound, and there could be room for firms paying more to get up to that productivity level, the productivity top bound. But when we study wages across economies, about 85 percent of the variation in wages is explained by productivity differences. This means in talking about that wage gap, and this is the bargaining power part, at most 15 percent of the differences in wages across countries can be explained by that. And that includes our error term. So it's not just that 15 percent comes from bargaining. *At most* 15 percent can come from bargaining. The real game is increasing productivity in these countries to raise that upper bound and get compensation up.

WOODS: In giving this answer, you're inviting us, in part, to consider the alternatives that are available to these people. How does the sweatshop compare to alternatives. You have a chapter in your book on comparing sweatshop wages to the alternatives, to what's being paid by firms that are native to the country as opposed to these sweatshops that come in from international concerns. How do they compare? The chapter is called "Don't Cry for Me, Kathy Lee." She got in trouble because I guess she had invested in or was in some way responsible for some Third World firm that was paying sweatshop wages, and

she professed to be outraged and appalled at this. You are suggesting maybe she shouldn't have been.

POWELL: That's right. She actually cried on TV with an encounter with a young girl, Wendy Diaz, a 15-year-old who was working in her Honduran sweatshop for I believe \$0.31 an hour and she cried, apologized and said that she would make amends. But everyone was comparing the \$0.31 an hour to what someone might earn in the United States. It's the wrong comparison. Significant chunks of the population of Honduras at that time, large chunks, were living on less than \$2 a day of earnings, less than \$1 a day of earnings, and this girl's income was actually higher than those big chunks of people that were stuck in poverty, and she was only 15. And in fact, actually if you annualize her earnings, she was earning more as a 15-year-old girl working in the sweatshop than the average Honduran earned at the time. Her job was not one of the bad ones in that country. Instead, the informal sector, the agricultural work, and this is the norm. So the point here is that when these cases—and the Kathy Lee case is not an anomaly. What we did is we studied sweatshops across a number of countries from 1995 to now. In fact, what we used was U.S. news sources to identify places that had been protested as harmful sweatshops, documented the wages there, and then converted it into purchasing power parity, so we're trying to control for differences of cost of living across countries so that we can compare it with these poverty thresholds of \$1 and \$2 a day. What we found was the average protested sweatshop in every country, including Bangladesh—the poorest of the bunch—got their workers above the \$2 a day threshold while large chunks—in Bangladesh about 80 percent of the population lived on less than \$2 a day.

We also compared it to average incomes in these countries, and we found sweatshops, some of them paid two to three times the average annual income. Most of the average sweatshops in these countries paid somewhere around average income, and there were a few that were significantly lower. But interestingly, almost all of those involved cases of migration—you'd find the sweatshops in Brazil paying a smaller percentage of the average income in there, but you find, though, that it's illegal immigrants from Bolivia who are working in Brazil, and if you compared it to the Bolivian alternatives it's far above average. So the general thing is these sweatshops job seem bad by our standards in the U.S. Compared to anything that's realistically available to the workers in these countries, these sweatshops are by and large much better.

WOODS: Well, what would be the harm of just having governments in these countries pass more stringent health and safety and working conditions laws? If we could get some kind of modest improvement, it would be forced on everybody who's in the country. They would have to do it. It would be a very, very minor blip on their bottom line. So why not just do that? And maybe we could come up with a continent-wide policy. Let's say all throughout some portion of Asia. Just in theory, imagine we had some regional government and it could impose working-conditions laws and safety laws throughout that whole region, wouldn't that make those people better off because then the workers would have to be offered these improved conditions? It would be against the law not to offer them.

POWELL: Sure! And in fact some countries do have such laws. It's just they largely go unenforced or ignored. But let's say you do it worldwide, through a trade agreement. You're still going to have a shift in labor: as you raise the cost of labor in these poorer countries, more of the jobs will go to wealthier

First World countries that already have good conditions. But secondly, to the extent that it does actually improve conditions in these countries, it's going to be at the expense of the workers—and I know that sounds weird, Tom, maybe not to you or to your audience, but for most audiences it does. Employers are relatively indifferent between compensating workers in wages or in other forms of compensation, be it improved working conditions, vacation time, shorter hours, what have you.

For the employer, a cost is a cost is a cost. It comes off their bottom line. If they have to pay the worker \$1.50, what they care about is the total of the \$1.50. They couldn't care less whether it's \$1.50 in wages or whether it's \$1 in wages and \$0.50 in improved working conditions. Who does care are the workers. Workers care about their mix of compensation. These workers are desperately poor and trying to feed, clothe, and shelter their families. When you are in that situation, you want the vast majority of your compensation in wages. Over time, as productivity increases and you become more productive and wealthier, you demand more of your compensation in these other things. These are what economists call "normal goods." This is the process that happened in the United States and Great Britain. It didn't come about through labor laws.

In fact, this is a mistake that many people make. They see our labor laws, and they think it's because of these laws that we escaped the Gilded Age and the industrialists exploiting us. Hogwash! These laws came in after the fact, after competition that already improved health, safety, working conditions, child labor, etc.

WOODS: I had George Reisman on the program last year talking about whether robots are going to take all the jobs, and somehow we wound up transitioning into the subject of working conditions. He just has this methodical, step-by-step, relentless, laser-beam presentation of exactly what you just said, and it runs so contrary to what people think that it's immensely frustrating sometimes to try to convey it. But once you see it, you see it.

And of course, you can think about your own situation today. If we just extrapolate and apply the same principle to the idea of maximum-hours legislation, we could all work 120 hours if we want. But eventually we got to a point where we're able to earn enough in 80 hours, or 60 hours, or 40 hours, that we prefer the leisure time. And so to impose on us maximum-hours legislation before we were prepared to prefer that leisure time, may seem like it's helping us, but of course it's just diminishing our options.

You have a chapter called "A History of Sweatshops, 1780-2010." I think when economists make the sorts of arguments that you make about sweatshops, what they are saying either explicitly or by implication is that the history of sweatshops is such that over time, sure, you start off with terrible conditions, you start off with sweatshops, but these countries gradually wind up with more prosperity, higher real wages, greater productivity, better working conditions. Is that what has happened, and what is the process? What is the process by which I go from earning a sweatshop sort of wage, and then 40 years later things have changed, and I am earning a much better wage? How does that happen?

POWELL: You and I both have experience with this, Tom. You are a North Shore Boston guy originally

as well. So we group in the area where sweatshops were in the United States. I am from Haverhill, Massachusetts—that's known as the "shoe city" because it was the big shoe producer in the United States at the turn of the century. What we had there and in Lowell, and in other industrial cities at the time were what sweatshops are in Third World countries today. The proximate causes of economic development of higher standards of living are capital and technology. What do sweatshops bring with them? Capital and technology that start improving productivity. Where did the United States get ours? You are a historian. You know we stole the technology from Britain initially, and then a lot of capital and investment actually came from Britain throughout the century, and we accumulated our own. Our process and Great Britain's process of course, was a 100- to 150-year process if you want to date the start of the Industrial Revolution to something that looks like post-sweatshop working conditions, because all of the capital had to be created anew. All of the technology had to be discovered.

Today that process can go much more quickly. If I said, "Tom, what's a sweatshop country?" and we were talking in 1960, it's going to be Hong Kong, Taiwan, Singapore, South Korea, even Japan a little bit, maybe. These were the places that garment production shifted, post-World War II years too, and that—except for Japan—had pre-industrial standards of living, under \$3,000 per capita for the year.

These textile factories had these same poor working conditions that we had had in Britain and the U.S. and that exist in Bangladesh and India today, but in about a generation, a generation and a half, they went from pre-industrial, to post-sweatshop First World living standards to today, with some of their cases, like Hong Kong, being wealthier than the United States. It's because the world has so much more capital and technology now that when you get your institutions right, these things can flow in and drive the process of development much quicker. Some people mistakenly characterize this as a race to the bottom: that as soon as the country gets richer, those sweatshops leave and go find poor labor somewhere else. Well, yeah, but it's not like Hong Kong was left in shambles when the sweatshops left. The problem was labor got too productive in Hong Kong, so it was too valuable to use in making garments, and garment factories could not bid enough to get those workers there compared to the other industries they were competing with. So they left and went to another place. Sweatshops are the bottom or second-to-bottom rung on the ladder of economic development, and as they leave your country, it's a sign that you've graduated to a higher standard of living and someone else is about to get on that train.

WOODS: Ben, what about the issue of child labor? How does that come into your analysis?

POWELL: Sure, save the children. Listen, children don't work—and you know this—because their parents are mean. Children work because their families are desperately poor and need the income. Banning products made with child labor does not change that. Those families are still desperately poor and need the income. Most children don't work in manufacturing that exports products to us. Most children in countries where sweatshops are located work in agriculture or household services. In both of those sectors, the pay is lower than in manufacturing, and in the case of agriculture it's also more dangerous for the children than working in manufacturing. So when we ban products with child labor, it shifts them into these other, less productive industries where they are also going to build less human capital to have higher future earnings.

In some cases it's disastrous. There's a famous case in the '90s when a congressman, Tom Harkin, proposed banning products from Bangladesh made with child labor, and in response Bangladeshi factories fired a bunch of children and Oxfam—no right-wing group here—went in and investigated and found that many of them became child prostitutes or starved. So the same analysis that we apply to adults applies to children, too. Child labor disappears as income goes up. If you get up to about \$11,000 per capita, child labor vanishes. Countries with \$11,000 per capita do not have child labor. And really, the only countries where child labor is prevalent is when you're down around \$3,000-\$4,000 per capita or less, you get about a third of children working.

As you escape poverty, children cease to work. That's what happened here in the United States, too. In fact, we didn't even have national child labor legislation until 1938. Adjusted to today's dollars, our income at the time was about \$10,500. So once the process of development had eradicated child labor, we passed a child labor law that said children couldn't work. Until then, we didn't have a prohibition at the national level. Some states did, but they were non-binding. My home state, Massachusetts, had the first child labor law I believe in the 1860s, and it said something on the order of: children under 12 are not allowed to work more than 10 hours per day in a factory. It simply wasn't a binding constraint. So these laws, just like health and safety ones, come in and codify it after the process of development has already happened.

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QUESTION 4

SHOULDN'T WE RESTRICT GUN OWNERSHIP TO KEEP PEOPLE SAFE?

For this question I'm bringing in material from two episodes. My guest in episode 168 was John Lott, founder of the Crime Prevention Research Center and the author of numerous books, most famously More Guns, Less Crime: Understanding Crime and Gun Control Laws. All the way back in episode 7 I talked to Larry Pratt, executive director of Gun Owners of America. We'll start with John.

WOODS: Tell us about your forthcoming center. I will let you spill the beans about it.

LOTT: A number of other academics and I are putting together something called the Crime Prevention Research Center. My guess is a lot of people have heard of the \$50 million that [former New York Mayor Michael] Bloomberg announced last week that he's going to be putting into gun control efforts. That's \$50 million on top of money that he's already had for his other groups—Mayors Against Illegal Guns and his Moms Demand Action. Plus he's also spending literally hundreds of millions of dollars pushing gun control research. He's realized and others have realized that the way things have been going for them politically, they just haven't gotten the traction that they wanted to get, and so they've decided that if they can control the data that's used out there in the gun control debate that maybe then they can be more likely to win. And Bloomberg keeps on putting out studies. But it's not just him: George Soros is putting up tens of millions. A year ago, President Obama met with the heads of 23 large foundations like Kaiser and Wellness, where they've all agreed that they're going to move away from focusing on health care generally to primarily focus on gun control. And of course, Obama is using the federal government now to put in tens of millions of dollars into funding this type of research.

And the problem is just how shoddy it is. I will just give you an example of a couple of recent Bloomberg studies that have gotten a huge amount of attention. He just had one that came out over a month ago, claiming that there have been 44 mini-Newtowns that had occurred since the horrible Newtown tragedy, with a total of 28 people killed. If you look at the media, he had over 2,000 news hits on that claim within two weeks after it came out. It basically became the received wisdom in the media. And yet if you actually look through the news stories that they had for those 44 mini-Newtowns, you see that it's nothing of the sort. You have 40 percent of the cases involved as lone suicides, virtually always late at

night after school's been out for hours. Some of them not even right on school property, some of them just near it.

So you may have some 44-year-old who committed suicide at the periphery of school property at 2:00 a.m. Those are tragic. There is no doubt about it. But to go and claim that a 44-year-old who has nothing to do with the school committing suicide at two in the morning is a mini-Newtown is just not right. About a third of the cases involve gang shootings—again, virtually always outside of school hours, again, not even on school property. You are also including legitimate self-defense cases in there. You have one case, for example, at Eastern Florida State College, a student who is 24 years of age who had a permit to carry a concealed handgun—in Florida, if you have a permit, you are allowed to lock your gun in your car on school property. He was attacked by two men. Fortunately, he was close enough to his car that he was able to retrieve his handgun and wound one of the attackers. All law-abiding; no laws broken in doing that. And yet Bloomberg claims that that is a mini-Newtown, somebody going and using their gun in self-defense like that.

I could go on with the errors, but they put out these reports and they get this uncritical coverage, and it affects the debate in many ways. The number that they put out on injuries involving guns for young children—a huge number of errors in there. They make it sound like young children under age five are being injured in accidental gunshots in the home. That's the examples that they give—the couple that they have there. Whereas 75 percent of the injuries involve 17-, 18-, and 19-year-olds involved in violent criminal assaults on them. Basically, the gang violence that's there. Gangs are, again, an important problem, but to go and lump that in with the risks of somebody having a gun in their home and the risk to young children is just unconscionable. But they want to exaggerate the risks of people owning guns in the home in order to scare them into not owning guns.

I know where the data is. I know where it comes from. The other academics that we're working with understand that also. But it's important when these types of claims come out that somebody can quickly respond, to explain what the errors are in the news cycle that occurs, and that's what we're trying to do.

WOODS: It seems to me, John, that this is a problem across the board with the left and statistics. I remember growing up as a kid in the '80s and in college and grad school in the '90s hearing statistics like 100,000 women every year die from complications related to anorexia. This was meant to indict our patriarchal society for imposing an impossible standard of beauty on these women. It turned out that fewer than 100 died. Or remember Mitch Snyder, the homeless advocate, made up the figure that there were 3 million homeless. He hadn't done any studies. He hadn't gone around with a clipboard. He just invented the figure because he thought that would get attention. That's exactly what they do.

LOTT: Yeah.

WOODS: Now, Bloomberg, though—I want to ask you about Bloomberg. A lot of times today when we hear there is a gun control measure that's being proposed in some state or at the federal level, when we look closely at it, almost none of these measures are actually saying we want to completely disarm

the public. It's usually: we want to establish background checks, we want to limit your ability to get this or that type of gun. Is Bloomberg aiming at something more ambitious than that? Is he really trying to go back to a draconian style of gun control, or is he just trying to keep "safe schools"?

LOTT: Well, one can go and look at the proposals that he has. He is against people being able to carry permit concealed handguns. There are 11 million Americans right now that have permits to carry concealed handguns. He has supported legislation in many states. In Maryland he was a strong supporter of the rules that they have there now. It costs \$350 to go through the registration licensing process to go and get a handgun in Maryland. He supports the high fees in Washington, D.C. In Washington, D.C., the cost of registering and licensing a handgun is over \$530. Who do you disarm there? When you have those types of fees it's basically poor minorities who live in high-crime urban areas who are prevented from being able to have guns for protection. If my research convinces me of anything in *More Guns, Less Crime*, it was that those are the very people who are most likely to be victims of violent crime, and therefore, they are the people who benefit the most from having the option to go and protect themselves.

WOODS: What are the statistics or what are the general conclusions that we can draw about the effects of concealed-carry laws? Have they been positive? Have they been negative? And compare that to the version of things we're likely to get reading the *New York Times*.

LOTT: Sure, well, there a lot of academic studies, not just my own. You've had several dozen peer-reviewed, academic studies by criminologists and economists that have looked at that, and what you find overwhelmingly is that allowing people to carry permit concealed handguns reduces violent crime. The more people who carry, the greater the risks that there are to criminals attacking people, and the greater the reduction that you have in crime rates. So just as you can deter criminals with higher arrest rates, or higher conviction rates, the fact that victims might be able to defend themselves can also protect people.

WOODS: What about that study that claims that people are more likely to be harmed in their homes—

LOTT: Right.

WOODS: Somebody in the family is likely to be harmed by the gun, more likely than an intruder is to be repelled. What's the truth behind that?

LOTT: What the comparison is, is the rate at which you are more likely to kill yourself or a loved one versus killing a criminal. It's just really badly done research. It's probably one of the common claims that you hear. What they do is they'll find somebody who died in or near a residence over the course of a year, and they will ask the relatives of the deceased whether or not a gun was owned in the home, and then they will just assume if the person died from a gunshot and a gun was owned in the home there, then it was that gun that was involved in the death. In fact, when people have gone back and looked at the data, the first of those studies looked at 444 deaths. Only eight of those could actually be attributed to the gun that was in the home. All the rest, all the other 436, were due to weapons brought in from the outside. You fix that one fact, and it completely reverses the results.

And that's not the only problem that's there. There are other problems. I can give you one other. They just look at cases where the attacker has been killed. Well, that's not the only benefit that's there. Simply wounding somebody or brandishing a gun and causing them to run away, that produces a benefit. The victim there is saved. It seems like you should want to count those as benefits, and yet they are not given any weight. You fix that also. Just that one thing by itself. You only *kill* people in defensive gun uses maybe one out of every 1000 times a gun is used defensively. And so you're ignoring all those other cases.

WOODS: John, I want to ask you about these sorts of comparisons we hear between countries. A lot of times people like you will make comparisons between states and say in this state it so happens that it's easier to get guns, and lo and behold, the crime rate is lower, and in other states it's harder, and the crime rate is higher. But people will say: what about international comparisons? You have heavy gun control in European countries, and yet their violent crime rates are lower. What's the truth about all that?

LOTT: Right, well, usually I don't like to make this comparison across places because it's very hard to control for differences. One fact I will just mention to you: every place in the world that's banned guns has seen murder rates and violent crimes go up after the ban. There's not one single time where murder or violent crime rates have gone down. But you can look across countries—if you go to the Crime Prevention Research Center website and go to the category that's More Guns, Less Crime, you can see data across countries, the crime rates. You can see how the United States compares with its murder rates compared to other countries. We're well below the mean. We're well below the median country. But then also look at measures of gun ownership across those countries, and in fact, when you look at all the countries for which the data is available, you in fact see that the countries that have the highest gun ownership rates have the lowest murder rates. Even if you look at just developed countries, you'd see the same type of relationship there.

And now for my conversation with Larry Pratt.

WOODS: What about that statistic we used to hear about people being more likely to wind up injuring somebody in their household than use it in self-defense, so it's counterproductive anyway. Is that even true, and what's the response to that?

PRATT: It's not true. It's a study. Mainly they point to a study done by a Dr. Kellermann, and he defined self-defense as "having killed the attacker." Well, give me a break. From all the available data, self-defense uses of firearms almost never result in killing the attacker. Once the bad guy sees that, "Uh oh, I hadn't figured on this," he leaves. In fact, one of our members told me that he was the subject of an attempted carjacking, and he reached down by his right hip, pulled up his handgun, and when the guy saw that handgun, he said, "Oops, wrong car."

WOODS: Fair enough.

PRATT: That's the right measure of self-defense.

WOODS: I want to get back into my Guns 101. A lot of times people use terms that they assume everybody just knows, but everybody doesn't necessarily know them. I want to give you three terms, and you tell us what they mean. We've got "automatic weapons," "semiautomatic weapons," and "assault weapons." Maybe there's some overlap here, but can you just describe what these things mean?

PRATT: One and three are the same. An assault weapon, a machine gun, is almost always one that has a selector switch on it, so you can choose whether to fire one bullet with one pull of the trigger, which is actually a semi-automatic function, or most machine guns—assault weapons—will have a middle position where you can fire a burst of generally three rounds. Or you can go full auto, so the gun keeps firing until you pull your finger off the trigger or until you run out of bullets, which will happen very quickly at that rate of fire. Most gun owners for a self-defense situation would not choose a machine gun or an assault weapon if they're firing full auto. A 30-round magazine could be empty within a couple or three seconds.

WOODS: When the media is talking about assault weapons, though, are they always being careful to distinguish between automatic and semiautomatic?

PRATT: To ask the question is to answer it. Of course the media are not. They are trying to make it sound as if the average American who has an AK-47 is somehow a Muslim terrorist attacking a busload of Jewish schoolchildren. The truth of the matter is that the so-called assault weapon—the AK-47, the AR-15—only fires one round every time you pull the trigger. If you're going to get it to go bump, bump, bump, you've got to pull the trigger.

WOODS: What makes this semiautomatic?

PRATT: The way the gun is designed in its internal workings, it cannot fire fully automatically. You must reengage the trigger. You must pull the trigger again in that semiautomatic to get another round of fire.

WOODS: How about this kind of objection: "I have no problem if somebody really feels the need to have a handgun in the house, but surely no American needs an AK-47. The gun people like Larry Pratt are being completely unreasonable and maximalist in their demands. Are we going to have people driving down the street in their own tanks?" What do you say to the "an average American doesn't need a weapon like this" argument?

PRATT: Anybody who talks that way has no understanding of a life-threatening situation and how it can come about and what it might be like. The Korean merchants who were defending their businesses in Los Angeles during the riots in the 1990s absolutely needed large magazines with their semiautomatic rifles, because they were fending off mobs of people. This was not Marquess of Queensberry. This was a horrible anarchistic situation, and they were standing in front or on top of their businesses with these rifles, with these large magazines. It's very interesting that where they were, those particular neighborhoods were not torched. Only where stores were undefended.

WOODS: I want to say something about the legislative prospects for gun control. It seems to me that even though you do see the Obama people talking about the use of an executive order, gun-control measures in the legislative branch, which is where serious gun-control measures would have to be introduced, are simply not popular. Weren't there a couple of legislators in Colorado who just got voted out of office over this?

PRATT: That was delicious. The president of the Colorado state senate and the committee chairman, Angela Giron, who had rammed through the ban on many firearms, magazines, over a certain size, and I don't know what else, were defeated on a recall election. Chairman Giron had afforded the opposition something like 50 or 55 minutes, and that was it. Whereas anytime before in the Colorado senate, if enough people were interested in saying something for or against a measure, they had the time. If it took four days, there were times when they had gone that long hearing witnesses.

So the issues on the ballot in Colorado—Republicans, I hope you're listening—were two things. Guns and arrogance, and that's what sank those two legislators. Giron from Pueblo, which is a kind of artsy-craftsy, neat-looking place but über liberal, voted 12 points against Miss Giron. She got smashed by Democrat voters, the so-called Reagan Democrats would be the best explanation, who apparently come out of hibernation when they hear a Republican convincingly sound like a conservative. Then they're all in. Memo to the GOP.

WOODS: Doesn't it seem, though, that Harry Reid's heart wasn't really in it when dealing with gun issues? I think they know these issues are a loser. They might as well expend their political capital on something else. What would you say to a cynical person who would accuse a group like Gun Owners of America or even some lighter gun group like the National Rifle Association of thriving on panicking the population into thinking that gun control's right around the corner when legislatively it doesn't seem to stand a chance? Would you answer that it's precisely these groups exist that these things don't have a chance?

PRATT: During the fight to kill the Toomey-Manchin bill that would have expanded to virtually all sales—the so-called instant background check—the NRA said nothing. It turned out Manchin said that they were actually undercover working for the measure. They had written the original background check, and now they were trying to enlarge it. The Citizens Committee for the Right to Keep and Bear Arms openly endorsed it, so Gun Owners of America was pretty much alone up on the Hill fighting this thing. We were able to convince—before the NSA scandal erupted, this is mid-April—the Congress, the Senate, that the government can't be trusted.

As it turns out, after the NSA it's real easy to explain this. If they want to listen in on what Aunt Susie's talking about with Mary, don't you think they want to have a list of who bought a gun and what kind of gun and where that person lives? I mean, duh. We were able to make that case even before NSA. Now that the NSA scandal has broken out into public attention, I think we've got them. Now the real issue is, "Okay, Congress, when are you going to get rid of the background check altogether?" I think out of like 11 million background checks they've brought cases against not even 40 people. Now that's really

a useful crime-fighting tool, wouldn't you say?

WOODS: That answers what I was going to say, which is I think the average person who has no ideological axe to grind one way or the other might think, look, there are interests to balance on both sides. We have liberty and we have safety, and you have to have a little bit of both. But if 40 out of 11 million is the real number, it may as well be zero. That's completely negligible.

PRATT: Yeah, because they don't win all the prosecutions they bring, either, so you are approaching zero. Mathematically it's really a null figure. This is not a crime-fighting tool. Cops know that. The only reason the government does it is that they are nosy. You know what? Instead of them knowing what kind of guns we have, we ought to know which one of them has guns and where their guns are being kept. I think that's more important for us to know.

WOODS: Did you happen to hear about this incident several months ago in Concord, New Hampshire where the local law enforcement was applying for a federal grant for a BearCat, because they said, "We're besieged by the potential for domestic terrorism because of the Occupy movement and because of the Free State Project." Whatever you want to say about either one of those groups, they don't strike me as the types who are going to commit acts of violence. Yet this application went through.

PRATT: The only violent act I've seen of the Occupy movement was to poop on a cop car.

WOODS: Presumably you can deal with that with a spray bottle and some paper towels.

PRATT: It's not a life-threatening activity. That's for sure. I mean you've got to be a lowlife to do something like that, but that's not life threatening. Come on. Take a breath.

WOODS: Isn't it interesting that on the one hand we have all kinds of antigun propaganda on TV, but very, very little—at least in popular culture or on the news channels—about the shocking level of militarization of the local police forces?

PRATT: That is something that has been studied by some, and it's a very concerning matter. We've got police departments that have militarized. Let me make a comparison. When I was in the Virginia legislature in the early 1980s, I decided that it would be a good idea to go around and spend part of a day with a cop. I got in this cruiser, and we rode around. He did various things, and he came to a nice suburban house here in northern Virginia where Gun Owners of America lobbies the Congress, and he said, "Just stay here in the car." He went up to the door. It was around 10:00 a.m. Evidently the young man had just gotten up. He certainly looked groggy. The cop said a few words, went into the house, the door closed. I'm sitting here waiting and out comes the young man. I think he was cuffed. But anyway, he put him in the back seat of the car, took him into the cop shop, and booked him on a drug charge.

One cop. I don't even recall that he had his hand particularly close to the holster. I mean, he had his right hand over the holster on his right hip, and I'm sure he was prepared mentally. But he wasn't steroidal

about it. Last year, in the county south of where Gun Owners of America's located, still in very suburban Virginia outside of Washington D.C., there's this guy sitting on his front porch, and I think he'd been doing numbers. Of course, the government doesn't like competition with their lottery, so they were going to arrest him. The cops came up on the guy's house, guns out—this is for a numbers charge, right?—and one of the cops criminally had his finger on the trigger, boom, and he kills the guy. What a difference in 30 years.

WOODS: Wow. The thing is that cases like that don't become the national fixation of the country the way we might say more politically correct cases turn out to be.

PRATT: That's right. That's exactly right.

WOODS: We've got ten minutes, and I feel like I really want to do as thorough a job here as I can, so I guess we have to shift gears and talk a little bit about how you deal with the most common objection on the issue of guns. It involves comparisons between countries, and they say, "Look, this other country has very strict gun laws, and everybody's happy. There are no murders, and here we are in the U.S. and it's like Yosemite Sam in the old West." What's the customary response to that?

PRATT: To start with, the old West was the wild West only on the screen. In reality, because virtually everybody was armed, the old West, as you more properly put it, was quite a place under control, peaceful. The shootout at the O.K. Corral was very atypical. Let's go over to Britain, because you pointed to them. In Britain they do have a very low murder rate. But in Fairfax County, Virginia, where Gun Owners of America is located, where people can obtain a concealed-carry permit for a firearm rather easily, and where you've got to assume that there's a whole bunch of folks here in Fairfax County that are armed, we have a murder rate at one per 100,000. Whereas over in peaceful old England, it's 1.7 per 100,000, and their violent crime rate, apart from murder, which admittedly is very low—their violent crime rate ranks them as the fourth most violent country the world after Jamaica, El Salvador, and Honduras. Boy, how's that gun control stuff working out for you now, old Great Brit?

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QUESTION 5

WHAT WOULD THE POOR DO WITHOUT GOVERNMENT SCHOOLS?

*In episode 238 my guest was James Tooley, director of the E.G. West Centre at Newcastle University and the author of *The Beautiful Tree: A Personal Journey into How the World's Poorest People Are Educating Themselves*.*

WOODS: After I had Pauline Dixon, also of the E.G. West Centre, as a guest earlier this year, I got a bunch of emails urging me to have you on to continue this conversation. What she told us in that appearance was quite surprising, and I'm sure you get the same response when you go around telling people about a phenomenon, namely low-cost private schools in the developing world, that no one would have any way of knowing about.

TOOLEY: It's still extraordinary to me. I have been talking about this actually for nearly 14 years now. Fourteen years ago I first came across this phenomenon. I've been talking about it almost since the day I found it, and I still get people who are surprised by it, even in their own country. So I'm in India recently, I tell people—still there they don't know about it. And certainly when I go to new countries to do further work—I've been recently in Liberia, South Sudan, and Sierra Leone, a country that's going through a terrible time at the moment—the same phenomenon exists. But even there, you talk to people in government or NGOs, non-government organizations, or middle-class people, and they don't know about. So it is extraordinary. The poor are doing something for themselves all over the world, and yet somehow people refuse to accept that they are doing it.

WOODS: And in the book *The Beautiful Tree*, you give us an overview of what's going on in a number of countries, and that is interesting, too: we're not dealing with an odd cultural attribute of one particular people in one part of the world. This phenomenon seems to replicate itself among cultures that have not interacted with each other. It seems to be going on all over the place.

TOOLEY: Yes, that is an extraordinary finding, isn't it? You've put it very, very well. I first came across this phenomenon, actually, it was in Hyderabad in India, and that's exactly what happened. People took words out of your mouth and said, oh, it's just a cultural phenomenon happening amongst the Muslims in the old city of Hyderabad; yeah, we know about it, but it's not happening anywhere else.

And then I got research money from the John Templeton Foundation. They trusted I was talking about something sensible. We went to Ghana, Nigeria, Kenya, Zimbabwe, India, several parts of India, and even rural China. The same thing was happening in each of these places, and the same response to inadequate government schooling or no government schooling. Poor people were setting up their own schools, charging roughly the same amount in each of these places relative to the income of the country. And the schools were performing better than the alternative. The similarities were even to the extent of the proportion of children in private schools in each of these places. In urban areas, think of the great majority—65 to 75% of children in these low-cost private schools in urban areas and perhaps a quarter to a third in rural areas. The same picture—you can drop in any country, and you’ll find the same thing going on. It’s quite remarkable.

WOODS: One of the reasons that it must be hard for some people to imagine is that we know that the daily income of these people is so low that the amount of money they could possibly have that we could conceivably think of as disposable income would be vanishingly small to nothing. How can a private school sustain itself under those conditions?

TOOLEY: Poverty is terrible, of course, but never overdo it, because remember the cost of living in these countries is incredibly low as well. And so the amount of money people have is enough, it turns out. It’s not an *a priori* argument. It’s not sort of sitting here saying, what can people afford? It turns out that even those on the poverty line, and we’ve done a lot of work in our recent studies in Sierra Leone, Liberia, and South Sudan, and Nigeria looking at the poverty line—that internationally respected poverty line of \$1.25 per day, that poverty line—even on that, families can afford private school for their children. The fees are incredibly low, which means—now critics say this, so I will jump at it straight away, they’ll say, ah, it means the teachers are paid very little, and therefore you are exploiting the potential teachers. Well, it’s true: the teachers are paid considerably less than teachers in the government schools, maybe a third, some places even a smaller fraction than that. But typically there’s no shortage of teachers wanting that work for that price. So it suggests that these schools are not exploiting their staff. They’re actually providing employment for local teachers in those communities and doing a valuable job there. So, yes, they are very low cost, and typically we’re talking in African cases maybe five to ten U.S. dollars per month equivalent. That’s the figure we’re looking at. Maybe three to seven, eight dollars per month equivalent in India. But it can be provided. It’s a fact it’s there. And when you look through the accounts of these schools, you can say, oh, yes, I see how you do it. I see how it’s affordable. We see what you’re doing.

WOODS: Americans, and I suppose British people as well, have certain expectations when they hear the word “school.” They can picture the schoolhouse. They know it goes from about 9:00 a.m. to 3:00 p.m., that there are certain subjects that are taught. So I suppose that what we’re dealing with in many of these cases is something rather different. What kind of subject matter is discussed? How long are they in the schools? I bet there’s no one answer to this question given the diversity of places.

TOOLEY: Yeah, but again, I would challenge you on what you just said. These are recognizably schools. They’re recognizably a school building, which starts whether it’s 8:30—8:00 to 9:00—whatever it is, and carries on until 3:00 to 4:00 in the afternoon. It has timetabled lessons. The subjects are very familiar to

a British or an American audience: mathematics, English, science, social science, and of course, local languages. And the building: they vary in quality, of course, immensely, as you would expect. But nonetheless, there is a recognizable building on a recognizable plot of land doing a recognizable curriculum. So this is not something that American listeners will think, oh, I won't even be able to spot this. No, you will spot it. You will see it. You will recognize it very much as a school as you know it.

WOODS: I wanted to give you a chance to answer that question because I could imagine that one criticism would be: maybe you're defining schools so liberally that a small co-op of parents qualifies as a school. I wanted to make clear that this actually would be a school environment that would not be altogether remote from the experience of many people listening to this program.

TOOLEY: Yes, it's very important to stress that. In our research, whenever we publish research in academic journals, whenever we specify that we are not describing what other people might call non-formal, after-school, alternative education. No, no, we are describing regular schools, and they are everywhere. Maybe 300,000 of these local, private schools in India alone. Maybe 100,000 in Anglophone West Africa—an amazing phenomenon, but very much schools as you know them.

WOODS: Now, what's going on in this regard in China? It's surprising that there would be a chapter on China. I could understand some countries aren't engaged in formal education simply because maybe they lack the infrastructure to do it, and the parents have to fend for themselves, but I would think with a regime like China, education serves a very important ideological service. So what's going on there? How can they allow any sort of competition to that?

TOOLEY: Very interesting, and China, as you say, is a chapter in *The Beautiful Tree*, and I have done work since then in China. There are two sorts of low-cost private schools in China, and they are both very much, as you say, under the radar. A bit like the independent churches you might get there. They are a similar sort of phenomenon tolerated by the government, but perhaps one day there might be some more pressure on them, as there is in a lot of countries. But the two types: one is the one I described in *The Beautiful Tree*. These are in the remote mountains or the foothills of the Himalayas. We were in Gansu Province, one of the poorest provinces in northwest China, but there there is a public school provided. It's not terrible. In India or in the African countries, the public schools are terrible, but this school is not terrible. The teachers are just about turning up there. It's okay, but it's too far away. The children might live two, three, four hours walk away in further mountains. They are not going to be able to go to that school every day. They can't afford to board, or the parents need them at home. So therefore, these entrepreneurs set up private schools in their own villages. So government schools are there. Public schools are there, but they are too far away.

The second type, and this is very interesting, is in the city, and so big cities like Shanghai, Beijing, and so on, and that's where the migrant workers—the floating population, as the Chinese culturally call them—from the rural areas come to the cities. Now in China, they're not really legal citizens of the cities. They're not really supposed to be there, so they come in, and they can't really access public schools, or if they do, are discriminated against, and in any case, they may have more than one child. So some of

the children won't even be, as it were, legal children. But, again, entrepreneurs have low-cost private schools in the poorer parts of the major cities catering for the migrant population. So it's very interesting. Again, very much the government is controlling schools still with the curriculum and so on, so they still will transfer the sort of ideological message required. But nonetheless, there are entrepreneurs working there. Very fascinating.

WOODS: One of the questions I asked Pauline Dixon involved the quality of the education, and it turns out that there has actually been work done whereby you have a benchmark of comparison. You can compare these schools in some cases to government-run schools where the students are of the same demographic. You've got as close to a controlled experiment as you could ask for, and these low-cost private schools seem to come out quite well.

TOOLEY: Yes, we've done quite a lot of studies ourselves. I think in *The Beautiful Tree* I report on the studies from Kenya, Nigeria, Ghana, and a few parts of India and China. We have now done studies from Sierra Leone, Liberia, south Sudan as well, and there are many other people, as it were, coming in on this, giving evidence. A recent review from the British government—Department of International Development, DEPID—came and said this was one of the most robust findings: private schools, especially as low-cost private schools, outperform government schools. It's a robust finding across many countries and many studies and in the vast majority of the subjects there. As you say, we've tested many, many children. You're able to control for the background variables. So they are not just looking at the raw test scores where the kids in the private schools are doing better. No, this is controlling for family background, mother's education, income in the family, proxies for wealth, and so on. These private schools are doing better. And when you go to government schools in these places, it really is not much of a surprise. A few government schools might be okay, but in most of them the teachers are not turning up on time, they're not teaching when they should be, they're getting the kids to do stuff for them or leaving them to play. So it's not really such a surprise in schools where the teachers are on task, the kids will be doing better, or they are doing better, and it's wonderful. One can celebrate this private entrepreneurship at the grassroots doing something for themselves and doing it better than the government alternative, which has got, amongst other things, billions of dollars of aid thrown at it in order to improve. It's not working.

WOODS: Now, this is a wonderful story, but I wonder if you've ever had any critics who have said: this is a nice story you're telling, but I think James Tooley has an ideological agenda here. His main subject matter really is not the developing world, it's the Western world. He probably wants to cut education funding in the Western world, and he's using this as one of his arguments to do it.

TOOLEY: Yeah. Let's be honest: one has a lot of critics, and a lot of critics will throw whatever they can at you, including these sort of *ad hominem* attacks and ideological attacks and so on, but I think it comes across in *The Beautiful Tree*: I didn't go out there to find this. I grew up as a young man who was very much against this sort of thing. My doctoral thesis was supposed to be against the privatization of education. It was really reading, studying philosophical arguments, and then seeing this evidence that has led me to the position where I am now. So I didn't come ideologically predisposed to find this, but the evidence when you see it is pretty overwhelming.

But as for coming back to America, coming back to the UK—as it happened, I spent most of my time over the last 10 years or so overseas, away from the developed West. I am interested in America. I am interested in Britain. I have papers coming out in the *Social Philosophy and Policy* journal there, where I actually say could this be relevant to America, too, and it's based on the realization—of course, you've got charter schools, you've got various initiatives which are giving choice and alternatives to poor parents, but these charter schools have huge waiting lists, and I remember reading about these waiting lists and thinking, okay, those parents, now they're being frustrated. Maybe they would like some low-cost alternative. Could you create a low-cost private school alternative in America that could attract those parents? I'm interested in that. But it's certainly not the basis of my work. But nonetheless, it could be an interesting result of what I'm talking about.

WOODS: Well, given the nature of my audience, I can't help asking about some other work you've done where you've evaluated some of the common claims about the need for government provision of education, and you've responded to them. So would you mind walking us through some of them? I have an audience that is very hardcore libertarian. It's a very big audience, and it's very hardcore libertarian, and I think this is one of the issues on which when they are talking to their friends they run into the greatest objections. They run into the most brick walls. Their friends say, look, I understand we don't want price controls on milk. We get that. But we do need government provision of schools, because otherwise everyone would be illiterate and worshiping Thor.

TOOLEY: The answer to that is it's not true. I can't talk about the American evidence from memory. I can tell you the evidence from Britain from memory, and the evidence from America is somewhat similar, but before the state got involved in England and Wales in 1870, there was almost universal provision from the private sector. That includes the churches, it includes the philanthropists, and it included these much-maligned, what we called dame schools, but they were, in effect, low-cost private schools. So this movement was there in England and Wales before the government got involved. Similar evidence is from the American states as well, and the government got involved and eventually crowded out the system. So the first argument is, no, it's not true that without the state you can't have any educational opportunities. In fact, educating your children is as natural to parents, including poor parents, as feeding and clothing them. As soon as they got any chance of social mobility, they want their children educated. The vast majority do. Only a small minority, a tiny minority, maybe 5% in England and Wales in the nineteenth century were not getting their children educated. The second argument is, okay, people then talk about equality, or equity, or social justice. Taboo words, perhaps, for your audience, but nonetheless, this is the argument they'll get thrown their way. What about social justice? What about the poor? That is why my work is so valuable for this argument, because first of all you say, well, social justice is not served by public education anywhere in the country we are working in, and I bet a lot of people feel the same way about poor parts of America, too.

Social justice is not being served by the public sector. The middle classes, the richer, the elite, they can always get the better public schools. They can have school choice through house prices—that's the case in England—and obviously, they can afford something else. But what this work is saying is the poor can afford private schools which cater to their needs, are responsive, and the social justice argument about the

poorest of the poor, well, you can have targeted assistance for those families, for those students, maybe through some sort of targeted vouchers, scholarships. But also, allowing entrepreneurship to flourish because entrepreneurship in a competitive market can bring down prices. And this is what we're seeing in some of work in West Africa in particular, where we're working with entrepreneurs and seeing how actually you can bring down the price even more to make them even more affordable to the poor. So I think there's a couple of arguments. Historically, it certainly wasn't true that the state was needed to provide educational opportunities, even in Britain and America, and certainly social justice is not met by public education, but it can be met through private schools, which are responsive to the needs of the poor, plus some targeted philanthropy.

WOODS: James, before I let you go, you are director of the E.G. West Centre at Newcastle University, and this question that I just asked you I think is a nice segue into discussing just for a minute, if you would, the work of E.G. West—who, of course, did work on the history of education in its pre-state and post-state provision.

TOOLEY: Exactly, and of course, it was his work I was citing just now when I spoke about the history of the education system, as it were, the private system in Victorian England and Wales, and he's also got evidence from New York and Massachusetts as well as New South Wales in Australia. Professor Edwin George West: he finished his career as professor at Carleton University in Ottawa, but he began his career in this building where I am speaking to you from now, in Newcastle. It was here, he was a lecturer in economics. He wrote his masterpiece really in 1965, *Education and the State*, which was published by the Institute of Economic Affairs here. It's been republished by Liberty Fund in America. He really put the cat amongst the pigeons of the statist who came up with those sort of arguments—oh, you need government to bring education. And he was the major influence on my life. I hinted early when I started my Ph.D. I wanted to be writing against the privatization initiatives in education or the so-called privatization there. I read E.G. West's *Education and the State*. It changed my life, because it made me think the status quo of public education—we take it for granted so much, and we assume any modification to it has to be justified. Eddie West said the status quo of state education has only been there a hundred years. It's only been there for a while, and it was imposed upon a free market of educational provision. It needs to be justified. It has to be justifying itself, not us trying to move away from it. That was the key insight that Eddie West's work brought to me.

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QUESTION 6

DOESN'T GOVERNMENT DETER VIOLENCE?

AND

CAN'T WE JUST LIMIT GOVERNMENT?

*Michael Huemer is a professor of philosophy at the University of Colorado at Boulder and the author of **The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey**. He joined me for episode 243. (And yes, I realize we're cheating by covering two questions here.)*

WOODS: Just to recap before we dive into the second half of your book, give the audience again an idea of what you're trying to accomplish in the first half of *The Problem of Political Authority*.

HUEMER: The first half is designed to refute the idea of political authority. The idea of political authority as I define it is the idea that the state has a kind of special moral status which explains why the state is entitled to coerce people, to force them to obey the state, in circumstances in which it would not be permissible for any other agent to coerce people. This idea of authority is also supposed to explain why the citizens have an obligation to obey the state even though they would not be obligated to obey anyone else who was making similar commands. So, in the first half of the book, I address theories that people have given for why the state has this authority. Basically, it's argued that none of the leading theories work, and thus that the correct conclusion is that there is no authority and the state should be subject to the same moral principles that we apply to all other agents.

WOODS: What is the consequence, the radical consequence, of applying the same moral standards to the state that we apply elsewhere?

HUEMER: So basically, you have to be a libertarian. When you think about the controversial policies that libertarians advocate, they're all things that would be completely uncontroversial if we were talking about anyone other than the state. So, for example, consider social welfare programs whereby the government takes money from some people in order to use it to benefit the relatively poor. If we were talking about anyone other than the state, this would be considered completely impermissible. If I'm running a charity, it's not okay for me to forcibly take money from contributors in order to help the poor. Even if it's a beneficial charity. Even if I'm really helping the poor. It's not permissible for me to

just force people to contribute to it.

That's one example, but you could take basically any other libertarian policy. Consider the drug war. If we were talking about someone other than the state, it would be considered completely impermissible for someone to decide that some substances are unhelpful, and therefore they're going to kidnap anyone who's using those substances and lock them in a cage for some period of years. If I decide to go to my neighbor, and take him captive at gunpoint and lock him in a small cage because he's consuming some substance that I think is dangerous to his health, I would be a horrible criminal. That's basically what the current drug policy is.

WOODS: So what you're trying to do in the second half of the book is to take people all the way to the conclusion of the argument. Because at first you're striking down the kinds of claims that have been made on behalf of the state that so many people have imbibed through the course of their education and in popular culture. We've imbibed some version of the social contract, or whatever the excuse is, and you've dismantled all those arguments. That leaves people standing there wondering, well, then what would we do in the absence of this institution? And then you're going on to say, this is how things might work.

The argument that I left us with last time was, what if somebody said to you: I agree with you that all these arguments for government are extremely flimsy, and they all rely on the idea that government is some entity that's entitled to behave in ways we would consider outrageous in any other situation. I get all that, but I'm afraid we can't live without it. That would be the thing that would still be in people's minds. And here's what you're going to try and take apart in the second half.

I'd actually like to go to Chapter 9 and start with the classic Hobbesian claim for why it is that we need government. I think in one form or another, whether people are outright Hobbesians or not, they do adopt that view.

HUEMER: Many people feel that if there were no government, there would be this war of everyone against everyone, people constantly attacking each other to steal each other's stuff and murdering each other. Hobbes starts with the assumption that people are completely selfish. The way that I would characterize it—it may sound uncharitable, but I think it's actually correct—is Hobbes basically portrays human beings as sociopaths. That is, no moral sense, they only care about their own self-interest. Then he thinks, given that, people are going to attack each other if they don't have a government. They will attack each other partly to steal each other's stuff. You might attack other people just because you're afraid they might attack you in the future, so you have to try to kill them first.

Another thing is, he says people will attack each other in order to force other people to express respect for you. So you feel that some other person is not respecting you enough, so you decide to start a fight with him. Then according to Hobbes, the only way to stop this is for all of us to band together and agree to establish one person who will have total power over us or one organization that will have total power. So they get all the guns. Then they will be able to stop us from fighting with each other, and of course they will do this. This is the sovereign. The sovereign will keep us from fighting with each other,

basically, because he wants to be able to exploit us to get more money for himself. The fighting will not be good for business.

I think that's basically Hobbes's argument. The argument really doesn't make a lot of sense. To start with, there's the assumption that if you're completely selfish then what you should do rationally is to attack other people whenever possible. This seems to me to be the opposite of the truth. If you're concerned with self-preservation, you should try to avoid fights with other people whenever possible. Bizarrely, Hobbes actually says that people are approximately equal in the state of nature, meaning equal in the sense of having equal power to threaten each other.

WOODS: Right.

HUEMER: If that's the case, then it's completely irrational to start fights with other people. If you start a fight with other people, that means that there's about a 50% chance every time you fight that you're going to die. Even if you think maybe you're a little bit stronger than other people, or you think you're a little bit better with a gun. Even if there's only a 10% chance that you're going to die, it's still irrational to start fights with people. One of Hobbes's reasons why there would be fights between people is that you're afraid that somebody else might attack you, so you decide to attack them first. If there are these people out there who are starting preemptive fights, who would they be starting preemptive fights with? Wouldn't it be with the people who have started the most fights in the past? If you're afraid that somebody might attack you wouldn't you be most afraid of the people who have previously attacked you?

WOODS: Sure.

HUEMER: And what that means is that if you go around attacking people, then other people are going to be afraid of you, and that means they're going to decide that they have to attack you first. So it's a completely irrational strategy to start conflicts.

The other part of the theory that doesn't make any sense is the theory that once you establish this organization with total power over everyone, they will be nice and respect everyone's rights and protect everyone from each other. No. Why won't they just use their power to completely exploit everyone and to kill anyone that they don't like? And sadly, this is not just a hypothetical. This is the sort of thing that actually happens when the government gets absolute power, as you see in cases like the Soviet Union or communist China or Nazi Germany.

WOODS: But what about people who say there does seem to be some plausibility to the Hobbesian argument, because I can think of examples like the collapse of state x or state y, and I can recall it being followed by disorder in the streets and people shooting at each other. And isn't that what it is that we're fighting against? I wonder if that's not a case of people living in the expectation that a new state will eventually be formed. So it's hard for us to think outside that box, and they begin trying to establish themselves as the new state.

HUEMER: The thing that I was saying a minute ago is that it's irrational in the sense it's not in your interest to start fights with other people. However, it might take a little time for people to figure that out. So they might not realize that the first day, but after you've been going around for a few months starting fights with people, and you've gotten your arm broken, or you've gotten shot a couple of times, then you might start thinking, maybe I should stop doing this. The real point is, the anarchist view is not to just get rid of the state and then that's it. It's not replace the state with nothing. It's not that nobody should be protecting anyone's rights. The anarchist view is that the services that are provided by the state should be provided, but they should be provided by somebody else. Namely, they should be provided by businesses for profit.

WOODS: You have here in the book a claim that when you're dealing with the question of violence between human beings, it's a relevant consideration to bear in mind that violence between states is much more difficult to deter than violence between individuals. What do you mean by that?

HUEMER: Typically, if you start a violent conflict with somebody else, you yourself and the other person are personally at risk. If I go fight with my neighbor, there's a pretty good chance I'm going to be seriously physically injured or killed. On the other hand, if Obama decides to send more troops to Afghanistan, he doesn't have to worry that he's going to be personally injured or killed. When George W. Bush started the war in Iraq, he had no fear at all that he was going to get shot in the war. So the people who are making the decisions when it comes to war between states are not personally at risk, so they don't really have the incentive to avoid the conflict that you would have if you're personally involved.

WOODS: You also note that there are cultural values that can make a society with or without a state more liable to be violent or crime-prone than otherwise.

HUEMER: There is some research on this that there are some societies in which there's less social trust, so if people in the society, in general, don't trust each other as much, in those societies if you do these prisoner's dilemma experiments, people are more likely to defect. In other societies, with more social trust, people will cooperate. There will be an assumed norm of cooperation.

I have a friend who recently came back from Africa and was telling me about his experiences there. One of the things he was saying was that it's a very communal sort of society, and in some ways that could be good but in some ways harmful. It makes it very difficult for somebody to build capital, because as soon as you acquire a little bit of money, you're expected to start giving it away to extended family members. That's not even a matter of the government. That's just a matter of the custom in a culture. That could make a big difference to their economic progress.

WOODS: That's been one of the arguments that Peter Bauer used to make for many years, that there are some factors that have to be dealt with on a cultural level. It's not enough to send foreign aid to particular places. If the cultural preconditions don't exist, then there can be perverse results.

I think we can all see what happens in a totalitarian state. That's obvious to people. What's not so obvious

is predation under democracy. I think people have absorbed the idea that we govern ourselves, that “we are the government.” We are making the decisions. So the idea that there could be any predation is excluded by the very way people frame the argument of democracy.

HUEMER: There’s a sense in which in a democracy, that people are under control of the government. But it’s a much weaker sense in which in the capitalist economy you affect the market. The way that you control the government is you have a vote which gives you a one in 10 million chance of affecting who is in office. But the problem is for a one in 10 million chance of affecting the outcome of an election it’s not worth doing anything. I mean, it’s not worth any measures to make sure that your decision is correct. It’s not worth spending any time doing research to find out who the best candidate is, to find out what their voting records are. It’s not worth taking the time trying to eliminate your political biases. It’s not worth making any effort if you only have a one in 10 million chance of affecting things.

WOODS: If people are inclined to reject this idea, compare this to the amount of time and research you put into buying a car. You look into all the different models and all the different features and what exactly you need, because you know that you will affect that outcome. As soon as you slap down that money, you will get that exact car, and you’ll get it immediately. And you will enjoy the flow of benefits that come from it, or the flow of headaches that come from making a bad choice of car.

I want to do a lightning round here. You’ve got a number of subheadings under predation, under democracy. I want you to give me no more than a 30-second summary of the problems of democracy as I tick them down one at a time. Are you ready?

HUEMER: I’ll try.

WOODS: Here we go. This one shouldn’t be too hard. The tyranny of the majority. I think people are aware of this.

HUEMER: Obvious problem is that the majority might just vote for something that is against the interest of the minority. For example, white people voting for laws that are prejudiced against black people.

WOODS: How about the second one: the fate of nonvoters.

HUEMER: There are various people who don’t get a vote but are affected by the government’s policies. There are children, there are criminals, and most importantly there are foreigners who are affected by the government’s foreign policy, by our trade policy. When we go to war, we could kill hundreds of thousands or even millions of foreigners, and they don’t get a vote on that.

WOODS: The news media, the sleeping watchdog. You say that it’s not in the interest of the news media to keep close watch over the government. Really?

HUEMER: That’s right. For one thing, the audience doesn’t know the facts, so they won’t know whether

the news media's doing a good job or not. The news media's trying to sell advertising time, so what they really need to do is make entertaining programs. It doesn't so much matter whether it's true or not. If they criticize the government there's a possibility that the government will retaliate on a very relatively minor level. Government officials will refuse to give interviews or give information to a reporter who they suspect might be critical of the government.

WOODS: How about constitutional limits? We could put a constitution in effect, and that will limit the government to certain activities.

HUEMER: You could just look empirically at how this has worked.

WOODS: Right.

HUEMER: In my judgment, over 90 percent, probably 99 percent of all the activities of the U.S. government are obviously unconstitutional. For anyone who doesn't realize that's the case, read the Ninth and Tenth Amendments, where the Tenth Amendment says basically that anything that's not listed in the Constitution is something that the government cannot do. And virtually nothing that the government does currently is actually listed in the Constitution as something that they can do. The problem is that there's nobody to enforce the Constitution other than the government. So it's like saying we're going to stop bank robbers by having the bank robbers police themselves; the bank robbers will just arrest themselves.

WOODS: What about citizen activism? Can't they keep an eye on what government is up to?

HUEMER: They might, but again, you only have a one in 10 million chance of affecting the outcome of an election, so it doesn't really make sense for you to become informed about it. You can maybe slightly increase your influence by writing to your congressman. But you're still only one of 500,000 people in the district or something. And there are so many different issues, a normal person doesn't have time to stay informed on all the different political issues where politicians are voting.

WOODS: Of course, I do this every single day of my life. I have a show. I talk about all kinds of issues—and I'm sure I haven't covered the tiniest sliver of the things that government is up to, and this is from a guy who does it all the time, every single day.

What about checks and balances? I learned in elementary school that checks and balances keep the government somehow on an even keel. It's not clear to me why checks and balances would keep government limited, by the way. There's no reason to think that. But what are they supposed to do, and why don't they do it?

HUEMER: The theory there is unclear. The theory appears to be that the different branches of government would restrain each other to make sure that none of the other branches abuse their power, but there is no explanation at all of why they would do that. Why can't each of the branches of government use its powers to interfere with the correct execution of the other branches, or why can't they collude with

each other to expand the power of the government? No account was ever given of how these different branches of government would be in competition with each other rather than making common cause in extending the power of government at the expense of the liberties of the people.

WOODS: Jefferson actually said this in the mid-1820s. He said the three branches will just gang up on the public. It seems to him likely that that would be the result, so the much-vaunted checks and balances were unlikely to have the results that people hoped for.

What about your section “The Rewards of Failure”? How could government actually benefit from failing to solve the problems it purports to?

HUEMER: I have a favorite example under this heading, which is the 9/11 terrorist attacks. Right after the 9/11 terrorist attacks, George W. Bush’s approval rating went through the roof. In fact, I think it was the highest that anyone has ever had since they started doing those polls. Imagine if you had a security company that you hired to protect your business.

WOODS: I know where this is going.

HUEMER: You just found out that your business was bombed during the night, and they destroyed a bunch of property. Then somebody asks you, what do you think of the job that your security company is doing? What do you say? Best security company ever?

WOODS: Exactly, that’s right. With a fist pump. I don’t think so.

HUEMER: For some reason, when the government fails, they actually get more resources and more power. This is partly because there’s no competition. As another example, if we have a crime wave, people are going to call for there to be more resources given to the police, more money and more power. What that means is that it’s actually in the interest of the police for there to be a crime wave. That means that government agencies, it’s in their interests for the problems that they’re supposed to solve to get bigger, not to actually be solved.

WOODS: Then finally, the miracle of aggregation. Talk about that for a minute if you would.

HUEMER: There was a theory that some people have had in the economics literature that democracy could possibly work even if the majority of people are totally uninformed. Say you have 90 percent of the voters, and they’re totally uninformed. So their votes are completely random. If 10 percent of the voters are well informed, and they vote for the best candidate, the result is going to be the best candidate is going to win 55 to 45, because the ignorant voters will just split 50/50, and the informed voters will all vote for the better candidate. The better candidate is still going to win.

The only problem with this is when people don’t know what the best candidate is or the best policy, they don’t just pick randomly. If only they did, then we’d be okay, but in fact, they are more likely to

vote on the basis of biases. There's actual literature. There's empirical evidence of some of the specific biases people have, so incumbents benefit from ignorance. Basically, if you don't know anything else then you're more likely to just vote for the incumbent. Also, there's a slight bias in favor of Democrats. If you don't know anything else, you're more likely to vote for the Democrat.

WOODS: I know Bryan Caplan summarizes some of the literature on this in *The Myth of the Rational Voter*, on the subject of the so-called miracle of aggregation. Turns out it's not a miracle, because it doesn't exist.

HUEMER: Right. Actually incumbents in congress almost always win. Their win rate is something like over 85 percent, I think. So this means that if you're in Congress you can get away with almost anything other than a sex scandal, which will get you in the news.

WOODS: Then you'll have to retire for two years, and then you come back. What interests me, though, is you would think—given that people tend to be dissatisfied with things, in general, always wishing they could be earning more income or whatever, and sometimes they'll blame the political system, rightly or wrongly, for their own personal situation—that ignorance would lead them to go against the incumbent. Angry ignorance would lead them to just go down the line and vote for whomever is the challenger. I don't even see the logic in why this would favor incumbents.

HUEMER: I'm not really sure. I think it's a common attitude that we need to get the bums out of Congress, but not my bum.

WOODS: Yeah.

HUEMER: They want the people in the other districts to get rid of their congresspeople, not their own. You might think the fact that this person won an election might mean that they're charismatic, or just that they're connected, but they have a good campaign machine that they have contributors that give money. And the challenger will frequently not have these advantages. They will not have the connections. They won't have the campaign money.

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QUESTION 7

DON'T WE NEED GOVERNMENT TO PROMOTE RENEWABLE ENERGY, AND DISCOURAGE THE USE OF FOSSIL FUELS?

*For this question we'll begin with a brief selection from my discussion with Robert Bryce, author of **Smaller, Faster, Lighter, Denser, Cheaper: How Innovation Keeps Proving the Catastrophists Wrong**, from episode 156. For the remainder, I'm sharing my discussion with Alex Epstein, president of the Center for Industrial Progress and author of **The Moral Case for Fossil Fuels**, from episode 285.*

BRYCE: This idea—the president has said I don't know how many thousands of times—it's oh, we're for all of the above. No, we're not for all of the above [energy sources]. We're for all of the ones that make sense. Let's agree that the bad ones we need to get rid of and quit supporting the bad ones. Well, what are the bad ones? The bad ones are the ones that are not dense. Density is green, a point that I made in my last book, *Power Hungry*. The point I make in the new book: density is green. If we're going to be supposedly green, if we're going to protect the environment, we need small footprints. We need to have the minimal amount of incursion into the natural world as we can. On its face it makes sense, right? We don't want sprawl. We want compact cities. We want compact farms. We want compact energy. The reverse of that is what we're seeing with the biofuel scam, in particular the corn ethanol scam, and what we're seeing with the wind energy business. I have a lot of critics from the left. I don't support wind energy. No, I don't. I think it's a bad idea. Why? Because of the energy sprawl, and that is due to basic physics, which is low power density. It's the same problem that afflicts biofuels. Power density and wind energy is one watt per square meter. If we wanted to replace coal-fired capacity in the United States with wind energy, we'd need to set aside a land area the size of Italy. We're not going to do it, but yet there's this steady drumbeat, oh, this is the answer. The same thing with biofuels. We've been scammed. We've been had by the biofuels crowd. The power density of biofuels is measured in fractions of a watt per square meter. You can't get there from here. I don't care what you're putting in your moonshine, it doesn't work.

WOODS: Why do you think environmentalists emphasize these forms of energy when nuclear power is pretty clean? Is it entirely because they are losing sleep about the safety of nuclear power? What do you think the real agenda is?

BRYCE: Well, let's take the last part of that. First, Tom, the radical environmentalists—and in the book I take issue with some of these points that have been by Bill McKibben because I think he fits under that heading of radical environmentalist. McKibben has said that he thinks we need a 20-fold reduction in our hydrocarbon consumption. That's our consumption of coal, oil, and natural gas. Well, in the book I go through the numbers. Okay, so you want a 20-fold reduction in global hydrocarbon consumption. We're using roughly 215 million barrels of oil equivalent per day. That's in oil, natural gas, and coal combined. A 20-fold reduction would take us down to about 11 million barrels of oil equivalent per day. That's about the total amount of energy that is now consumed by India. Then we're going to have the entire planet run on that quantity of coal, oil, and natural gas? Today we're using over 22 million barrels a day just of gasoline. So the idea that suddenly we're going to have a 20-fold reduction and replace it with what? So we can't count on unicorn farts to save us. It's not going to happen. We have to use the forms of energy that we have now and the ones that are proven that are scalable, are low-cost, and they are abundant. That's coal, oil, and natural gas. So when you ask what the agenda of some of these environmental groups is, I think it's a very radical one. It's a romantic one that we're going to go back and live on the land, and we're all going to hold hands and sing kumbayah with Mother Nature. It's just not going to happen.

And now for my conversation with Alex Epstein.

WOODS: You've approached fossil fuels as a moral issue. In what way is it a moral issue?

EPSTEIN: I think ultimately everything in life is a moral issue, in that certain things have positive impacts on human life and certain things have negative impacts on human life, short-term and long-term, and we have different moral estimates of them. I think the justification for calling it *The Moral Case for Fossil Fuels* is based a lot on how we think about fossil fuels today.

There are really two views that almost everyone adopts to one degree or another. One is what's called the unnecessary evil view, that fossil fuels are an unnecessary evil, that they can be replaced by renewables, and that we should get off them very quickly. And then conservatives or even oil companies will counter with, no, they're not an unnecessary evil, they are a necessary evil because we can't get off them for a while. So their view is also that we should seek to get off them slowly, or as quickly as we can, but there's a farther off expiration date than the environmentalists tell us.

My view is that if you actually look at the relationship between fossil fuel energy, both its benefits and its risks, if you really look at those in a full-context way, it's an unbelievably positive thing that you should want more of, just as you would say: I'd really like more people in the world to have access to antibiotics. You wouldn't say, oh, it's a necessary evil because it has side effects. You'd say, someone is welcome to do something better, but as long as this is the best, we want more of the best.

WOODS: I hadn't thought of it that way until I read your book. I do need to ask right off the bat about the peak oil thesis. I don't see an index entry for it, and in the chapter on sustainability, I didn't see it spelled out or identified using that term. The peak oil people would say that somebody like you is too

optimistic about the long-term prospects for fossil fuel use. You know the whole thesis, that we're past the point at which we're going to continue to see what we saw previously, which was inexpensive and abundant sources, and they say that production has been declining as compared with the amount of discoveries. What's your response to that?

EPSTEIN: I deal with the issue of peak oil, in a sense, extensively in the book, but I don't focus on that terminology because I think it's a very confusing way to think about the issue of resources. I think there are two basic things you need to understand about resources, and if you do, then the idea of peak oil is bizarre. One of them is just the standard economic point of substitution, which nobody seems to know in the energy industry: if demand increases relative to supply and the price of something goes up, that both invites competition to produce more oil, which is what we've seen with the shale oil, and it invites competition externally. Of course, competition is always invited in a certain sense, but it's even more of an incentive.

With most products, we don't think in terms of the way we're doing things today can be sustained forever. I'm sitting in front of a MacBook Pro. I didn't buy this, and nobody buys this, and thinks, can we make MacBook Pros for the next billion years, or are some of the materials going to get depleted? Well, who knows? Maybe some of them would get depleted. Maybe they become too expensive, and you'd do something else. Yet in energy there's this dogma that gasoline and diesel, and all of these other forms of oil, are just going to disappear. We're going to have a peak production, and we're going to fall off a cliff. It's really a non-understanding of the role of the human mind in terms of making resource allocation decisions.

And that relates to the second point, a non-appreciation of the mind in the realm of what I call resource creation. I think this is a less understood point, and it's been made by Julian Simon, it's made by Ayn Rand, it's made by George Reisman in various ways. I'll put it in my own words: nature doesn't give us much in the way of resources. What we call natural resources aren't naturally resources. So, for example, aluminum: aluminum was not a resource 200 years ago. It's one of the most abundant metals in the ground, but we didn't have the knowledge to know how to turn that raw material into a resource. It's the same with oil, and it's the same with every variety of oil. At the beginning you could only get oil from 69 ½ feet. That was the first major oil well in the U.S. Then you could go a little bit deeper. Then you can start to use high-sulfur oil because of certain innovations by Standard Oil. And today, the oil that we get from shale: That really wasn't a resource 20, 30 years ago. So if you get that, you don't think of it as there's a giant pool. There's this, actually, not that giant of a pool that we sort of drained half of. We might have used half of our current inventory. But it's more like, no, the world is just a giant ball of raw materials that we can turn into resources, and we haven't even scratched the surface.

WOODS: What would be the harm, though, in diversifying? That's the claim that's made: maybe we don't have to go completely off fossil fuels, but why don't we try to make more use of wind and solar power? I asked Robert Bryce this. I feel compelled to ask you this because this is the sort of thing that college kids face all the time—propagandists on their campuses are talking about this kind of issue. What's the pithy response to that?

EPSTEIN: I was going to give an elaborate one.

WOODS: Please, do whatever you like, sure.

EPSTEIN: But my response is, yeah, go ahead. I am more than happy for you to use whatever form of energy you want to buy as long as I don't have to pay for the lunch money and college of the founder's kids. And you are welcome to try to sell me energy that I would rather buy than the one that I buy. The interesting thing about both questions that you've asked so far is there is really just foundational—so some things in this book, I think, are just linked to fossil fuels, but there are some—and they are very misunderstood about fossil fuels. But these issues are just profound. There is a lack of economic education and ability to think carefully about the why of why we use something. It's this idea of we all collectively have chosen to use oil for 93 percent of our transportation, and maybe that's the wrong choice, so let's hold a vote. And, no, I went to the car dealership. I thought: do I need a car, first of all. And then I went there, and then I had certain options, and I chose one that runs on gasoline because it was the most cost-effective for my needs in the same way that I bought my iPhone 6 in that way. And if that changes in 10 years, terrific. But that will change by people coming up with something better.

It's interesting that what people propose—what they desperately want to work—are the two worst energy technologies of the last 150 years, which are solar and wind. I live in southern California. I'm looking outside. It's sunny right now, but there are a couple of clouds. Wouldn't that affect the energy? And then there's this thing called night that we run into on a daily basis, which really restricts your ability to get energy from the sun. And then, of course you know the wind doesn't blow all the time. So what I talk about in the book is, there's ultimately a moral perspective that's driving us that really isn't focused on human life. It's a more religious perspective that our goal should be to not impact the world around us. Solar and wind are seen as natural, as taking in the wind and sun in a harmonious way with nature, which turns out to be completely false. But in any case, that ideal is what's driving this rather than their actual ability to improve human life, which is very, very low right now.

WOODS: One of the objections that you're bound to run into, and that you've anticipated in the book, is the issue of climate change and the relationship between fossil fuels and climate change. We'll get into that 97-percent-of-scientists statistic in a minute, but you have a number of unique responses to this. One of them has to do with looking at the annual rate of climate-related deaths today as compared to the past. This is a brand new way of situating ourselves and contextualizing this issue, at least to me. Can you talk about that?

EPSTEIN: This is why the book is called *The Moral Case for Fossil Fuels*. One issue I raise in the first chapter that I have found very clarifying and that many who read the book find very clarifying is the issue that we need to define what we mean by moral, how we measure moral, what our goal is from the outset. And I am very explicit: I am a humanist. I believe that human life is the goal—human flourishing, human happiness—and as I put it, human life as a standard of value. And it's really, really important that in every issue we discuss we're clear about, okay, are we orienting ourselves towards human life, or have we been inadvertently disoriented? It turns out there's a movement, and the leading environmentalists,

if you look at what they say—and in the case of fossil fuels I document pretty extensively what they say—they say explicitly, no, human life is not the standard of value. The standard of value is human non-impact. Our goal should be to leave nature alone as much as possible, and as Bill McKibben puts it, “human happiness would be of secondary importance” in the kind of world that he wants. The reason that I am prefacing all the climate stuff with this is that it turns out that most of the confusion about climate is failing to carefully think about things in terms of human life.

Now, you get the question, do you believe in climate change? This is a very vague and manipulative question. What’s interesting is that people assume that if there is any man-made climate change, that that must be a bad thing. The expectation is if you can demonstrate that we have changed anything in any way, you have hit the rhetorical jackpot. And my view is, wait a second: how have we changed climate? Isn’t it possible that we can change it positively or that it would be mild or inconsequential compared to just about every other issue? So for example, especially if we learn in school, hey, CO₂ is plant food. Isn’t it possible that putting more CO₂ in the atmosphere might yield a net benefit? I am not saying that this is how it turns out or not. That’s not the point. The point is that we assume that it’s negative. We assume that any change we create in our environment must be negative, and we assume that every element that the rest of nature contributes to our environment is positive. I call this human racism because we have a bias against our own race. Anything we change is bad. Anything other things change is good.

If we strip ourselves of that bias, the question to ask is: if we look at the big picture, how are the CO₂ emissions impacting human life on their own, and then how are they impacting them in the context of we’re getting all this energy. They are a byproduct of getting this energy. And one great statistic to look at just for climate, leaving aside all the other benefits of fossil fuels, is climate-related deaths. I was introduced to this by the writings of Indur Goklany from the Cato Institute. The real source is what’s called the International Disaster Database, and we’ve mined it probably more extensively than anyone has. You see in the book it’s just crazy, because since the beginning of these statistics being collected, the numbers just plummet. So we’re 98 percent below where we were in the ’30s, and last year was one of the record lows, if not the record low, of climate-related deaths in the world. You’re talking 30,000 people compared to millions in the ’30s, and that’s a much smaller population. So think about it. Less than 30,000 people—this is supposedly the worst year in climate history, and what that points to is they’re not looking at it by the standard of human life. They just think it’s inherently wrong if we’re putting CO₂ in the atmosphere and impacting anything. And we are impacting something. My idea is that, well, in the big picture, this impact is part of something very, very good and we should absolutely keep going.

WOODS: What are examples of climate-related deaths that we had so many of them in the past?

EPSTEIN: It’s the whole gamut of things that you hear blamed on, well, they say blamed on climate change—there’s a whole discussion about why that’s really a manipulative term—but blamed on fossil fuel use, ultimately, but drought, flood, extreme heat, extreme cold. Drought is interesting because drought turns out to be by far the biggest, and it’s relevant certainly in California this year where we supposedly have the worst drought in history. And one interesting fact is that drought-related death has decreased even more quickly than the others—something like 99.98%. You can’t think of climate danger as just

what nature does. Climate danger is a function of interaction between what nature does and what human beings can do. And it turns out that the natural climate is inherently variable, it's inherently volatile, and it's inherently vicious. So that's a constant.

So climate is a huge problem that we have to deal with as human beings in any era, whether we have fossil fuels or not. And what energy allows us to do is to master that. In the case of drought, through technology we're progressively really redefining drought or almost making it nonexistent in many ways. Because once you can purify water, which we can't do as well as we want in the future, but to the extent you can, to the extent you can move it, and to the extent you can move crops, as a friend of mine put it: drought used to mean I die; now it means the price of strawberries goes up by a dollar.

WOODS: Well, in fact, I think this is largely what you're driving at in your chapter on the energy effect and climate mastery: that the energy that we get from the fossil fuels helps us to cope with various aspects of climate that have plagued human beings for an awfully long time. So it's wrong to think of fossil fuels as a negative—that fossil fuels are creating climate change and this and that, and we'll get to climate change in a minute—since it's fossil fuels precisely that allow us to cope with these acts of nature that we have just thought are unstoppable or that certainly that their consequences are unstoppable, but it turns out they're not.

EPSTEIN: Yeah, and I like the analogy of antibiotics and disease, although I think the case for fossil fuels is even stronger than that. The starting point to think about antibiotics is, you have these certain categories of diseases that are going to kill you, and you need a way of dealing with them. So if somebody says, well, the antibiotic will create—what if they create like a 5% disease multiplication, which these kinds of things can do in complex systems, would you say well, you shouldn't use antibiotics? And you say, no, let's use the technology—this kind of technology both to cure all the “natural” diseases and then any diseases that emerge as problems as we're trying to solve the first problem, but overall you're going to be much, much better.

The same thing with climate. The main thing with climate is it's hugely unfavorable by the standard of the kinds of lives we want to live and the rates of survival we want to have. If you want to have a good chance at the kids in your family living, and even the majority of them, which historically is very difficult to do, you want to live with your friends into 30s, 40s, 50s, 60s. This is not something that nature provides for us. You can think of every environment in terms of resources and threats. The natural climate doesn't provide us enough resource in terms of the reliable weather and the reliable water that can guarantee bumper-crop years, and it provides us lots of threats that we can't naturally deal with. So climate is fundamentally a problem to solve, and fossil fuels are an essential part of the cure. That's the baseline before worrying about, well, are we making the natural climate a little bit more volatile? But one thing that you notice is we never hear about climate mastery. It's just this Bizarro world where we have the safest climate in history, as anyone from 300 years ago could tell you, but we're terrified of climate in this very theoretical way, which unfortunately has a lot of really bad policy implementation.

WOODS: Alex, you mentioned George Reisman earlier on. I'm reasonably certain that Reisman has

said that supposing for the sake of argument that the climate change, global warming people are correct, if it would require in effect the dismantling of industrial civilization to reverse it, wouldn't it be a better approach to simply try to figure out, taking all our industrial ingenuity, how we might cope with it? Is that more or less where you come down on this in the hypothetical situation that these people are right?

EPSTEIN: Well, I definitely recommend George Reisman's stuff on this to anyone. If you just search his name and resources and global warming, and I certainly was influenced a lot by just reading his stuff. He does say, look, this is a serious issue. Why not just view it in the same way as if the rest of nature had caused the issue? That is, if this is a natural byproduct of our means of survival and flourishing, then take it as if there's a natural fluctuation in storms. Now, I would qualify this in the sense that we can talk about climate danger; you do need to investigate these things. So part of what I'm talking about so far is mostly common sense, although it's never utilized because we're not taught to focus on the human. I researched the different quantities involved and included a lot of them in the book. But you have to investigate: if somebody says there's a serious threat, and you know that you're making some change in the system that's not completely trivial, that's important to investigate. Imagine if it was the kind of scenario of, oh, we're becoming like Venus. That's like almost someone declared war on you. It's an emergency situation. So we can't rule it out based on first principles. But first principles, so to speak, can tell us that we have to look at the full context of human life, and so if you were talking about labeling this as some sort of mass rights violation, you would have to reach an unbelievably high threshold of danger. What we're seeing is the climate is becoming less dangerous. So it's a non-issue except for maybe some theorists should be keeping an eye on it in case something changes.

WOODS: Can you take on, as you do in the book, this claim that we hear all the time that 97% of scientists say that there's global warming and that human beings are the primary culprits? How do you break that down?

EPSTEIN: Well, can we just go Socratic dialogue right now?

WOODS: Sure.

EPSTEIN: Okay, so what would you say as a person asserting that?

WOODS: Well, I would say that this means that really there is no debate. You are being completely unreasonable if you want to take a contrary position to that of the vast majority of specialists.

EPSTEIN: And so what's the position that's unreasonable for me to take?

WOODS: That either the temperature trends that they are talking about are non-existent, or they're being caused by something other than human activity.

EPSTEIN: Okay, but that's not what I said. That's not what a lot of people said. What I said is I'm against President Obama's and the UN's plans to restrict the vast majority of fossil fuels over time. So

what does it have to do with it? How does it prove me wrong to say that the majority of warming has been caused by human beings?

WOODS: It doesn't prove you wrong, but it shows that you have little concern for human welfare because certainly we need to stop this trend, and we can do it by reducing fossil fuel use. I hate being a UN bureaucrat, by the way. I'm doing this just for you, you know.

EPSTEIN: I appreciate that. I'm just curious what makes you think it's bad, because from my reading of the statistics I've studied fairly extensively, every indicator of human life has been going up as we've been using these fossil fuels.

WOODS: Well, that could be, but we could get to a tipping point at which the benefits no doubt still exist, but they have to be weighed against some catastrophic results in terms of ocean levels and ice and melting and all kinds of concerns of this nature and fantastic cases of storm activity that wouldn't have existed in the absence of this. We have to weigh these things against each other.

EPSTEIN: So I'm just curious. How much warmer have fossil fuels made it?

WOODS: All right, well, in this case they'll say so far not that much, and most of the warming took place before we had such intense use of these fuels, but look at the trend. They would say look at the way it's going or could go, and I know you could come back with, well, what's been going on in the past 15 years, and I guess they've got like four dozen excuses for that.

EPSTEIN: Yeah, it's just interesting because it's, again, this issue of connection to life. What you have is a 0.8 degree Celsius, or like 1.31, 1.4 degree Fahrenheit change over 150 years, and as you indicated, most of it not—not most of it, but a significant portion of that where we weren't using large amounts of fossil fuels. This is an amount of temperature change that would be imperceptible were it not for the fossil fuel civilization producing the science and technology to have the precision instruments to measure it. And this is viewed as a catastrophe that—it's viewed as a point that if you can establish that we cause the majority of the 0.8 degrees in 150 years, then that is this death blow against fossil fuels, which has in the last 150 years increased life expectancy by decades and made it possible for billions of people to live. It just shows that the operational standard of value for people is not human life. It's human non-impact. So what they're saying is, see Alex, we have impacted things. And I am like, whoa, I didn't say we haven't impacted things. Build a building in Arizona, and you have a heat island effect. The center of Phoenix is 10 degrees warmer than the outskirts. Everything we do impacts things.

My question is overall are we doing—is it good or bad? And I think this is really, really good. So I just wanted to bring out the point that people aren't operating on a human standard. There are a million books on these subjects, and I don't like writing—you're a writer, too, and I'm sure you don't like writing something unless you feel like there's a real problem to be solved, something that's really not known. And one of the things that I thought was not known in this book is how to think about these issues with precision from a human perspective. That's why I'm going back and forth.

Now, as a matter of fact, the same lack of precision that leads to this kind of garbage reasoning on the significance of human beings causing a majority of warming. That same caliber of reasoning is at work in coming up with this 97 percent, which is just bizarrely wrong. So I go into some of the data about it. Essentially they equate anyone who doesn't completely attack it as we agree with it, and the vast majority of these papers do not say over 50 percent, but then the author takes it as, well, if they say any warming at all, then that's over 50 percent because maybe they didn't dispute that it was major. It's remarkably dishonest. This just pretty much outright dishonesty about what scientists say enables the administration to just say case closed. Nobody can debate with my executive power to restrict fossil fuels—no evidence, no logic, no positive connection to human life, and yet, this sort of scientific certainty, or pseudo-scientific certainty, and you wonder how did eugenics get practiced? How did Lysenko's non-genetics in agriculture get practiced? So this is that kind of methodology—just the butchering of science.

WOODS: Alex, take a minute to address the pollution issue, which would be the other strike against fossil fuels.

EPSTEIN: One thing I notice the more I look at fossil fuels is that the strikes against them are some of the biggest benefits. Pollution is the issue of environmental quality. How does using fossil fuels impact environmental quality? Ask that to 100 people in the oil industry, assuming they've never heard any of my work on this, and at least 90 people will talk about only negative things, and they will try to put them in context a bit. Look, if you're in oil sands in Canada, like, we have fewer tailings ponds than we used to. Or we don't mine. Those other guys mine. And yeah, we're trying to restore all the trees that we had to cut down, and we're trying to use the road less, and that's our environmental impact.

Okay, go back 300 years ago, before we used fossil fuels. I make up this character Thomas because Thomas Newcomb invented one of the modern steam engines now 302 years ago. And it's just you take Thomas, and you take him from his environment back then and bring him to our environment now and say which is better? And he would look at you like you were asking him an insulting question, because obviously this environment is amazing.

Think about it. I had so much trouble getting clean water. Either I had to walk a long distance or the local brook would have bacteria or giardia or something in it, and now I can just turn on a faucet and I have clean water as much as I want whenever I want it. The air: I used to be huddling by wood or have massive indoor air pollution, and now I can go even live in a place near a supposedly bad coal plant. How about agriculture, this food you're surrounded by. Environment means surrounded. Our surroundings are so healthy compared to what they ever have been. It's just remarkable. It's made possible by a process of using energy to fuel machines that can then transform the inhospitable environment of nature to a far more hospitable human environment. Fossil fuels—their energies are the ability to use machines to improve our lives, and a huge part of that is transforming environmental threats into either an environmentally neutral state or an environmental resource.

So there are certain chemicals, for instance, oil—you can take oil, which used to be a nuisance, and turn it into an artificial heart. It's just remarkable how good our environment is. You have the issue of,

well, in the process of improving our environment, aren't we adding risks and byproducts? Well, by definition, whenever you do something, you add risks and byproducts that wouldn't exist before. There were no computer problems before there were computers. But there were no computer solutions before there were computers, either, and the computer solutions far outweigh the problems. So with fossil fuels, there's definitive evidence that you can have a lot of health hazards if you deal with them the wrong way pollution-wise, and that's why it's important to have laws that protect property rights, and it's important in conjunction with that to use technology to improve them. But the common approach is to say, well, if there's a problem with them, let's renounce them, and let's go to this other thing that seems problem-free. And guess what? They used to say that about nuclear: nuclear is really bad, and that's a whole other discussion and mythology. So I guess coal is better? Oh, no, coal is evil. Let's go to gas. Oh, no, gas is evil. Let's go to solar or wind. As soon as solar and wind, if they ever become practical, which doesn't seem to be very close, what are the human, non-impact people going to say? They take up too much space. Look at all these toxic chemicals. How are we going to dispose of the stuff? There's all these waste lands that we've irreversibly contaminated the land. The solar panels emit sulfur hexafluoride when you make them, and that's an even more potent greenhouse gas than CO₂. So, again, human life as a standard clarifies a shocking number of these issues.

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QUESTION 8

HOW CAN YOU OPPOSE FOREIGN AID?

Christopher Coyne is the F.A. Harper Professor of Economics at George Mason University and associate director of the F.A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics at the Mercatus Center. He is the author of Doing Bad by Doing Good: Why Humanitarian Action Fails, the subject of our discussion in episode 154.

WOODS: I want to talk about your thesis in *Doing Bad by Doing Good*, but I want people to have a sense of what the record has been, let's say, since World War II in state-led development efforts. We have the ledger now, and what it is telling us?

COYNE: First of all, you raise a very important point, which is that since World War II, governments, nation-states, have become the central or dominant player in international affairs and humanitarian action and foreign aid, and this is very important for understanding the effectiveness of aid. Now, the record is mixed depending on how you measure it, but the clear consensus, if the goal is promoting long-term sustainable development—by that I mean, development and reductions in poverty that do not require continued external assistance—then foreign aid has failed. Now, some people, typically advocates of aid, will point out individual cases of success, whether it is things like building infrastructure, or schooling, or hospitals, but when you look at the long-term trend related to growth and development and improving standards of living, foreign aid has been a failure.

WOODS: We need to understand why it's been a failure, because it would seem, at least from a superficial glance, that sending money to impoverished countries ought to do some good. I think it comes as a surprise to people that it generally either hasn't done good, or in some cases has even retarded progress. Why should that be?

COYNE: You're exactly right that on the first blush the problem seems quite simple. There are people that are poor, and the idea is, look, these individuals are basically living at subsistence levels, so they consume everything they produce, and they can't save, and in order to promote economic development you need capital investment. You need to forego consumption and invest in more roundabout processes of production, and the argument goes that they are stuck in a poverty trap where they can't do that. The idea behind foreign aid, or one of the key ideas, is that wealthy countries can break that cycle by filling the investment gap and by giving money to these people that they then can invest. But of course, the

problem isn't that simple, because humans are involved, and so decisions need to be made about who is going to get aid, how it's going to be allocated, and then the recipients, of course, have to make decisions about how it's going to be allocated as well.

There's really two core reasons, if I had to summarize it, why aid fails. The first is the famous Mises/Hayek point on economic calculation, which is: outside the market process there is no way for central planners to know how to allocate resources to their highest-valued use—which, of course, is a necessary prerequisite for development. You need to continually reallocate resources to new and better uses from the perspective of consumers—in other words, producing things that people value, not just producing random outputs as determined by a planner. And this logic doesn't just apply to central planning in the context of socialism—which, of course, is where Mises and Hayek were focused—but also to foreign aid, which is kind of the new form of central planning, if you will. Supposedly enlightened experts who are typically very well educated in top ranked schools, get together and decide how much aid a country is going to get, and then allocate that aid and tell them how to spend it and attach conditions to it and so on. So really you have the planner's problem in the context of foreign aid.

The second issue, then, is politics. You have a fundamental problem: you don't know how to best allocate the aid, but then you dump millions and millions and millions of dollars into already corrupt and dysfunctional political institutions, and the outcomes are extremely predictable. You don't just get the money wasted or stolen, but you also perpetuate those dysfunctional institutions, and the costs tend to fall on ordinary citizens who are already suffering.

WOODS: So the issue here, then, is not a matter of having good people in charge of the programs, that maybe we have had people who haven't been as effective as they might be, and if we can only get more competent people in charge of the system, things will work. The problem is the assumptions behind the whole approach. You start off the book talking about “the man of the humanitarian system,” who thinks that these problems that we observe around the world can be solved if people of good will just put their heads together, organize resources, and go over there and get things done. But it's not a matter of good intentions. It's not a matter of organizing properly. There's a problem at the heart of the whole system.

COYNE: That's exactly right. The man of the system idea comes from Adam Smith and *The Theory of Moral Sentiments*, and he characterizes this kind of mentality, or this idealized type of bureaucrat, who comes up with a plan that they view is a beautiful plan for society, and they think that they can move around people as if they are pawns on a chess board. That's really the kind of mentality that is prevalent throughout international relations in general, which is that supposedly enlightened experts can solve all these problems if they just have enough resources and enough smart people. But of course, this ignores the fundamental knowledge problems and the fundamental incentives that both the planners face but also on the recipient side as well. If this happens over and over again, if you read pretty much any government report on foreign aid at the end there's always a “lessons learned” section. It's typically always the same thing: we need better coordination, more resources, better planning. But that completely ignores the fundamental problem which you just mentioned.

WOODS: In order to evaluate humanitarian programs and efforts, I think it's helpful to ask this question: how, if we were to generalize across experiences of many countries, have poor countries become wealthy?

COYNE: Of course, the history of each society varies greatly, but at the core of economic development is private property rights and innovation and the subsequent developments that follow from that process. And of course, it's a never-ending process. We know this. All economists know this. It's just an issue of where the emphasis is placed. A lot of economists make the argument that you need to centrally plan markets in order to then get the subsequent development generated by markets. But of course, there's a fundamental irony there, which is that markets are desirable precisely because they don't need anyone to plan them. They are self-ordering and self-correcting, and they generate desirable outcomes on their own, and markets can't be planned. It's just like the outcomes of markets can't be planned. So that's ultimately what's required for development: freedom, economic freedom, and the protection of private property rights.

WOODS: I think today when people think about humanitarian intervention, they don't think about the state-led development programs, the very ambitious programs of the '60s and '70s. I think they are thinking precisely about finite projects like the ones you mentioned at the beginning—well, can't we get clean water to this area for x-billion dollars, and can't we vaccinate this many children, or can't we build schools over here, and if you're saying well, by and large those do seem to work, then how does that not undercut the case against humanitarian intervention?

COYNE: When I first started writing this, I was focused just on short-term, immediate relief, things like you're pointing out—vaccines, food, water, shelter, and so on. But very quickly I realized that it's very hard, if not impossible, to find a state-led effort that is narrowly focused on just those things. In reality what happens is, it's a combination of short-term aid but also long-term development, and the idea was that in the 1990s the humanitarian community got together and said, look, we can't just keep giving short-term aid because that might help them today and tomorrow, but what about the next day? And what about next week? Are we going to stay here forever and just keep giving them handouts? And they said, well, we can't do that, so we have to create the conditions for development so that we can leave eventually. So very quickly short-term development efforts transformed into a hybrid of short-term humanitarian aid plus long-term development.

Now, in the post-9/11 world, a whole new element got added, which was the militarization of humanitarian aid. So now the U.S. military got involved, and it's a combination of short-term relief, long-term development relief, and squashing supposed insurgents. You saw this in Afghanistan with the whole idea of a government in a box, which was the military is going to go into an area, kill the insurgents, and the humanitarians are going to follow. The military then provides short-term relief, and then the development experts are going to come in and provide long-term relief and build democracy and the supposed good stuff that we're going to bring to Afghanistan. And we know how that turns out. Same issue in Haiti right now. It was supposed to be immediate short-term relief and the promise then was long-term development. The motto was "we're going to build it back better." That perfectly captures the man of the system type mentality that we can build Haiti the way we want to, we being the experts.

So you can't really separate those things. On top of it, even if you look at short-term aid, even if you do isolate that in things like health care, vaccines, and so on, the record is very mixed. You do see cases where the U.S. government and other governments have successfully provided aid. But you know, if you step back for a moment, this isn't that shocking. If I said to you, look, I want you to buy more water, and I handed you money to go buy more water, and you bought more water, I wouldn't count that as a success. That's the logical outcome of spending more money on something. The more shocking outcome is that more often than not, the U.S. government tries to deliver short-term aid and it never arrives to the people in need. It's either stolen, it's sold on black markets, or the money is just wasted if we spend it on things that—by “we,” I mean the U.S. government—people don't need, and so even in those cases it's unclear that short-term aid is successful.

WOODS: Now, in terms of the long-term development aid programs, the key figure of course is Peter Bauer, who was a voice crying in the wilderness for many years, and then in the 1980s he began to be vindicated as more and more people were taking a second look at these state-led development programs and saying they've had disappointing results, to put it mildly. Even the *New York Times* by the 1990s was saying well, everybody knows these programs don't work. It's funny for them to say that now, because I'm sure they thought they worked and were a good idea in the '70s, when everybody was laughing at Peter Bauer.

But as the 1990s wore on and we got into the twenty-first century, we started to hear something called the “new economics of foreign aid.” That yes, yes, yes, we know that if you send money to a bad person, a bad regime, you're going to have bad results, so we're going to try to target the money to good regimes. What's funny about this new economics of foreign aid is that they've been trying that for years. Even Jimmy Carter, who prided himself on his commitment to human rights, spent half of his foreign aid budget on black Africa in what was then Zaire, giving it to Mobutu, one of the worst people in the world ever. So number one, they've supposedly been trying to target it for many years, so I don't trust them to start with. But secondly, let's give you the most difficult possible case. Let's imagine they are able to isolate individual political leaders who are like Chris Coyne, but they are in charge of a government somewhere, and they just want to promote the free market. What if we send them foreign aid? What if we help kick-start investment in their countries? What would go wrong there?

COYNE: Here is the interesting irony behind all that. The people or the governments that have the capacity to handle aid the way we want to, in other words, to use it the way the U.S. government wants, don't need it. The reason why is, if they are already committed to limited government and limiting corruption and not taking stuff from people, then investment will follow. The problem in countries that can't attract foreign investment is simple: people don't want to invest their property where there is predation and confiscation by government. So it's actually relatively simple in terms of the solution, which is that governments need to stop taking stuff. And it's a simple test, just stop it or don't. It's no foreign aid. Foreign aid is not going to help the problem, because if you're already committed to this you can adopt policies conducive to that. If you're not, and you say, well, I need foreign aid in order to adopt these policies, then you should have no confidence that they are going to actually adopt them, because they already have proven they can't overcome the dysfunctions in their own political setting. So the

money is more likely than not going to be wasted. So again, foreign aid is most likely to work where it's needed least because the state capacity already exists. It's where it's needed most because the people are suffering the most—it's going to work the worst because state institutions are so dysfunctional, which is what the cause of human suffering is.

WOODS: And of course, it's going to encourage these state institutions to persist in the very policies that have driven their countries into the ground. Why should I reform if I keep getting money the poorer the country is?

You made brief mention earlier of Afghanistan, and I think a lot of people do know a little bit about what happened there, but I bet the average person really just knows a few headlines. What was the problem in Afghanistan, from your point of view, in terms of humanitarian intervention? Was this even a humanitarian intervention to start with anyway?

COYNE: Well, you know, in the book—in *Doing Bad*—the way I tried to define it is very broad because again, I realized very quickly that lots of people mean different things by humanitarianism. So I defined it as efforts undertaken by the state with the stated end of improving human well-being, so the end as stated by government officials. From that standpoint, Afghanistan falls under the definition because the idea was, we're going to not only root out insurgents that are a threat to the U.S. but also nation-build and bring liberty, and freedom, and democracy to Afghan citizens. The problem with the effort was—well, there's numerous problems, but the main one was that the U.S. government, just like all governments and all social scientists, actually doesn't know how to nation-build, doesn't know how to build a free society from the ground up. On top of that there was a blatant disregard for history. General Stanley McChrystal—who, of course, oversaw the Afghan forces for several years—in 2011, he was speaking at the Council on Foreign Relations, and he admitted: “We didn't know enough, and we still don't.” “Most of us,” and he says “me included,” had “a very superficial understanding of the last 50 years.” And so these people didn't even bother to read a basic history book about what had happened in Afghanistan over the last century. And of course, if you go back to the attempt by the Russians to invade, we know what happened there. There's a lot of lessons to learn there as well. Really what's happened now is that the U.S. government is stuck in a terrible spot because about 95 to 97 percent of the country's economy is dependent on foreign aid. The main kind of crop is poppy, and of course, the U.S. is pursuing counter-attacks there. One is they have, of course, the War on Terror, and the other is the war on drugs. So if they, and of course, the U.S. flip-flop on this policy during the Afghanistan occupation, they started destroying the poppy crops as part of the war on drugs, but then they realized that Afghan citizens were going to revolt against them because that was their main staple, their main livelihood, and so they shifted policy multiple times. There is no semblance of any kind of national government. But of course, in Afghanistan the history of the country is such that there's never really been a strong national government. So the idea that the U.S. could supposedly just put one in place in a matter of a couple of years was pure nonsense.

WOODS: Now, of course, when we're talking about things like improving water quality or spreading education, that's one thing, but I could imagine some people saying people suffer from things other than lack of access to education, clean water, and things like that. Sometimes they suffer from a government

that is outright murderous. Sometimes there are atrocities taking place around the world. Can you extend your analysis to include interventions to help people in situations like that?

COYNE: Yes, and I think that's a very important aspect. Early on in the book I talk about something called the responsibility-to-protect norm, which was this norm adopted by the United Nations in the early 2000s. The idea, the typical kind of international relations story, and of course governments oftentimes don't follow it, is that there's national sovereignty, and you don't intervene in a sovereign state unless they are threatening or attacking your state. That's the simplified baseline version. The responsibility-to-protect norm said governments have a responsibility to protect their citizens. If they fail to do so, if they commit genocide or crimes like perpetuating famine or things along those lines, the international community, meaning other governments, have a moral responsibility to intervene and to correct the situation. President Obama invoked the spirit of this norm when he justified the U.S. intervention in Libya, and my analysis fits actually quite nicely because Libya is a perfect example of something that to many people seems like an obvious, clear-cut case for intervention, but it's a disaster. People said, "Look, there's not going to be any U.S. boots on the ground. It's a short-term commitment. What can go wrong?" The basic logic of the seen and the unseen which, of course, we emphasize in basic, core microeconomics, which is you just don't focus on the observable but also the whole chain of consequences that emerges.

In the context of Libya, the scene was you had Gaddafi, who was a terrible person violating human rights. Of course, we forget that the U.S. government was his friend on and off for decades, but we'll put that aside for a moment. So the U.S. government helped overthrow him. So what's the unseen? Well, domestically it's chaos there now. It's the equivalent of a civil war. There are militias throughout the country that are imposing significant costs on other citizens. There's no national government that has any kind of strength or ability to create order. On top of it, the chaos spilled over regionally, and right after the U.S. government overthrew Gaddafi, the French had to intervene in Mali. The reason is that Gaddafi's security forces fled to Mali and attacked the government there. Of course, on top of that, arms are flowing out of Libya into Syria, helping create chaos there and feeding that chaos.

So the broader point is, here are things that appear to be obvious cases where we should intervene, meaning the U.S. government and other governments, but are not that clear-cut at all, and when you take into account the complexities of the world and the idea that the alternatives aren't (a) Gaddafi or (b) a limited government that is constrained in any kind of way, the kind of cost-benefit analysis becomes very murky very quickly.

WOODS: And then, of course, although this is not central to your thesis, Americans are faced with a media that is going to feed them what the political class feeds to it, and so we're likely to get an extremely distorted view of what's happening in, Libya, Syria, and a variety of other places, which further constrains our ability to make a sensible decision.

COYNE: That's exactly right. In some sense it's even worse than that, because these things are like passing fads. Foreign interventions have become like the flavor of the week. So it's not only the misinformation, it's, you know, Libya is the hot topic today. Syria tomorrow. Now Ukraine. Tomorrow there

will be something else. And even if you were an ordinary U.S. citizen who goes to work every day and reads the newspaper, and even if you wanted to get the details, it would be quite hard to do just because you would be overwhelmed constantly by the new threat and the new supposed crisis that is happening somewhere else in the world. So it's overwhelming from that standpoint, and it's very easy for, as you said, the political class, but also the private sector that benefits greatly from these interventions, what's known as the military-industrial complex—they have an incentive to constantly create new threats and crises, and voters, the average citizen just can't keep track of it.

WOODS: At the beginning of your book you inform the reader that this is not a how-to book. This is not going to tell you how to improve people's lives. But you have to anticipate that that is the natural question someone will ask. So if you had to give advice based on what you know, having written this book, and the case studies that you've looked at, what would it be?

COYNE: When I say it's not a how-to book, I do have an argument for what's a better course for helping people, but the standard kind of practice with books on foreign aid and international relations is you point out the problems, and you come up with a nice, clean list of, you know, the U.S. should do these five things. Usually very simplified steps that promises if you just follow these this time it will actually be different and will fix the world. But here's what I call for at the end of the book. Instead of the outward orientation of there's us, meaning the U.S. and the First World and them, which is everyone else that we need to fix, I want to focus on a shift to an inward orientation. By that I mean what we in the U.S. or other First World countries do to help the poorest people in the world, those who are suffering, those whom the supposed humanitarians claim they want to help. My argument is there's lots we can do, and there's a few simple policies that we could adopt, the U.S., if we truly cared about the poorest people in the world.

First of all, trade barriers. The poorest countries in the world are typically have agriculture-based economies, and of course, if you look at the U.S., if you look at the European Union, what they do is pass massive barriers to agricultural products, as well as a whole host of other trade barriers. Again, we know why they do this: special-interest groups in the agricultural industry benefit from them. Costs are imposed upon those people who are suffering. So if we truly care about those people, removing those barriers is something that U.S. citizens, as well as anyone concerned with humanitarianism, should agitate for.

Second is migration, barriers to migration. Allowing people to move around is one of the best ways to help them. I have this example at the end of this book because of course, someone might make the counterargument, well, these things might benefit people long term, but what about short-term crises? And we have a great natural experiment, which is after the earthquake in Haiti hit in 2010, there were 200,000 Haitian citizens who were in the U.S. They were here legally. They had the appropriate paperwork, but those papers expired, and so instead of sending them back to Haiti, given the destruction, the government granted them temporary extensions. Those Haitian citizens, those 200,000 Haitian citizens, it's estimated by the World Bank, sent \$360 million in remittances back to family and friends in Haiti. That is more than the amount of foreign aid the U.S. government gave in 2010 that year. And so imagine what could happen if you doubled that number to 400,000 or 500,000 or so on. And you can see why this could have

a major beneficial outcome for people who are suffering, because people who send remittances back, money to their country of origin, have a stronger incentive to make sure it's being used to actually help people, as compared to some bureaucrat who's sitting in Washington D.C. or some field office spending other people's money and checking off a bunch of boxes of output measures for success.

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QUESTION 9

CAN YOU HAVE LAW WITHOUT THE STATE?

Robert P. Murphy holds a Ph.D. in economics from New York University and is the author of numerous books. We had this conversation in episode 136.

WOODS: The subtitle of your book *Chaos Theory* is *Two Essays on Market Anarchy*, and it couldn't be simpler: one of them is private law, and one of them is private defense.

Let's start off with private law. That's how you start off in your book. These are the areas where people think you have to have government, and they can't see how society could function otherwise. You give the most persuasive demonstration of how things would be likely to work that I have ever read.

How does private law work? What does private law consist of?

MURPHY: Well, I think the first thing to get people warmed—to think about it—is to refresh your memory as to why we don't like government monopolies in other areas, where we can conceive of what a private alternative would look like. You don't want to have the government monopolizing the production of cars or computers or food, things like that. Why wouldn't you want that? Well, because the quality would be bad. They would have no incentive to serve their customers, especially if it was something really important like food. It would just be monstrous to have the government monopolize that, because people would have no choice but to take whatever the government gave them or else they would starve to death. The prices would be really high and so on. You can see the benefits of bringing in competition in those arenas, and that's just standard. Everybody should see that in two seconds.

So the first thing to point out is, everything that is bad about government monopolies in other areas is also true of government provision of police services and judicial rulings. If you just think about it for a second, I mean, there's cases of police brutality, there are corrupt judges, there are all sorts of things that people just take as a fact of life, and oh, well, that's the way it is; you've got to have police. So if the police shoot some unarmed man 57 times, and they don't even get in trouble for it, well, that's just the price we pay to have people fighting crime. So there should be this sliver of doubt I am hoping to raise in people's minds saying, does the system have to be like that, or is there a way we can bring in all the benefits of competition that we see elsewhere? People should be wanting to see how could there

be a better way, and now we just have to try to show them and sketch a framework, and say what would private law look like?

So to finally now address your specific question, I think one way to look at this is just to realize what is it that judges actually do. They render an opinion. And that's actually the terminology that we still have, that when a judge makes a ruling, it's called the opinion. Ultimately there's still this idea that we retain that the law is this objective thing that's out there and that the judge is just an expert who comes in and renders his or her opinion on what the law says for a particular case. And for me that's the starting point, that people have disputes—no matter what kind of social arrangement you're going to have, people will have disputes, even well-meaning people—over contracts, or someone alleges that somebody else stole his property or committed violence against him, so they need to settle that in a public forum, and that's what a judge does. You go to the court and you have both sides present their cases and then the judge is supposed to render a neutral opinion on the case and who the judge thinks is in the right and in the wrong as the law dictates.

WOODS: When we look at the evolution of law in the Western world, we know that before we had legislatures every year churning out reams of legislation, we instead had courts that more or less did what you're saying, that rendered opinions, and then these opinions over time began to form a body of law that everybody recognized, that gave a certain predictability to human activity and so on. But those were government courts all the same. So are you saying that in a private law system there would be an analogous situation except the courts would be private courts with private judges that would operate on the basis of trying to establish a reputation for fairness so that they could get more and more customers?

MURPHY: Yes, I am saying that. The historical record, though, in terms of jurisprudence, is actually a little bit more nuanced. One distinction I think we need to make is that between law and legislation. This is a point that Hayek talked about. In order to have civilization, there has to be a set of norms and rules, and people have to believe that there are things that you just can't do. There has to be that set of rules that most people in society abide by. Otherwise it would just break down. You can't have people walking around thinking cannibalism is fine. You couldn't have society like that. So the idea of law, that there's a bunch of rules that you just can't violate in a civilized society, that's very ancient. But this idea of legislation, that humans have the competence and the authority to just make up what those rules are and to tweak them in order to improve society, that's a fairly recent innovation. That's one thing that we should keep in mind when we think about historically how this developed.

What would it look like? There would be competing judges, and so when people had disputes, both parties to the dispute would bring it before a judge that they agreed upon, so the judges would be competing in that they would be vying for the service of providing legal opinions. In the vast majority of cases both parties would agree and pick the same judge. This happens all the time right now, so this isn't science fiction stuff: when businesses have disputes with each other, they very rarely literally take it to a government court. Usually they decide on arbitration because that's just so much quicker. In most cases people don't want to actually go to a government court because they just know they're going to run up huge legal bills. It's going to take forever. They want to get a reasonably fair ruling quickly without spending

too much money, and so that's why they take it to outside, private arbitration.

I am saying that ideally you would just codify that system in its entirety. You wouldn't need this government judge to rubber stamp the agreement that the parties had actually under private arbitration. So all the benefits of competition would accrue in this sphere as well: if there were a judge who just was notorious for always siding with the plaintiff, then people accused of things wouldn't ever agree to pick that judge, and so that person would go out of business. Likewise, if somebody always was bending over backwards, taking the side of defendant in a case, saying, oh, well, his parents abused him, or what have you, no plaintiff would ever agree to have that judge hear the case. So there would arise a market, and judges would get a reputation for actually being fair and just, and that's how they would stay in business. And there would be a standard for that.

I think empirically the reason people might think that wouldn't work is they are going to ask, how could anybody ever agree on having a fair judge? They would always just want the judge that was going to be sympathetic to their perspective. But we just see that's not true. Empirically it does work. There is private arbitration. Companies, when they have disputes with their employees and so forth, and they have clauses in the contracts saying "private arbitration," they go to these people. It's not like there are widespread allegations of unfairness. If there is a market for arbitration services, the way you stay in business is by having a reputation of doing a fair job of it.

WOODS: That's right. Of course, it's easier now to make these kinds of arguments now that there is a fully developed system of private arbitration in the United States. You don't have to appeal to people's imaginations. You can say, "Look around you." I could imagine 50 years ago somebody making this argument and being laughed at, and being told there could never be private arbitration because of these 12 reasons, but now who are you going to believe? That guy or your own eyes? They are actually out there.

You also suggest in this book that in my ordinary dealings every day, and the stores that I visit, the restaurants that I visit, there would be a hybrid of an implicit and an explicit contract between us. Implicit in the sense that I don't expressly sign anything every time I walk into a restaurant, but explicit in that it's sitting right there available for me to see at any time—that if I cause damage to that restaurant, or I steal from them, according to the satisfaction of some arbitration agency, then I consent to have the case heard by this or that arbitrator. And so in advance these things are already taken care of.

MURPHY: Right, that's the way I'm trying to get around the issue of or address the issue of how we have rules and yet not violates somebody's liberty. I'm saying that ideally people who interact with each other would have agreed upon that framework in advance. If you're going to rent a car from some company or you're going to rent an apartment or you're applying for a job, clearly all those things where you're literally signing contracts with people, there would be clauses in there saying things to the effect of, this contract will be governed by the interpretation or the rule book as codified by Acme legal agency and the list of arbitrators as maintained on this website here of arbitrators in good standing with the community, and if there is a dispute, the two signers to this agreement will select a mutually agreeable arbitrator from that list. So that nobody can say, wait a minute, I never agreed to this and claim that they

are being imposed upon. The other party can say, no, you agreed to this beforehand. That would be the ideal arrangement.

And then as you said, in the interest of brevity, you're not going to literally sign contracts every time. Just like when you go into a restaurant and you sit down and you order—forget about anarcho-capitalism, just normal free-market scenarios—they can't just come up and then give you a bill and say, we're charging you \$50 for sitting there, and then we're also going to charge you on top for the food you ordered. You would say, what are you talking about? I never agreed to that. So there's some inkling of the community expectations and what that entails. On the other hand, if you ordered something and then you later said, you know what, give me a piece of pie as well, and you didn't actually see the menu, and then they gave it to you, you wouldn't be able to claim after the fact, well, you actually didn't tell me how much it costs so I am not paying you anything for that pie. You see what I mean? There are all sorts of norms that are built into social expectations as to what is happening when people engage in commercial transactions without having to explicitly sign a contract.

And so to connect with what you were saying, I tried to argue in *Chaos Theory* the same sort of thing, that when you enter a shopping mall, they could have a sign posted, perhaps, but it would be understood that we subscribe to the community norms as to the type of laws governing what happens when you enter this mall, and so you are implicitly endorsing that when you come onto our property.

WOODS: You also use this kind of analysis to explain how it could be legitimate, how it could work out that a wrongdoer could be taken off to prison. In a sense he has consented to this in a similar way.

MURPHY: Yeah, I think this is the one that intrigues people the most. The issue is, you guys are obviously pining for a really free society, and yet the problem is, what if there's a serial killer? What if there are people doing clearly anti-social things, and they are not going to sign contracts beforehand and say, well, if I am convicted of serial killing than I agree to such and such. So what do you do about things like that? And don't we have to at some point just arbitrarily say, well, we're going to violate this person's bodily integrity because he violated a bunch of rules that we think are important, whether or not he agrees to them?

The way I try to handle these really nightmarish scenarios is to say, first of all, in a truly free society along the lines that somebody like Murray Rothbard would have pictured, every piece of property is privately owned. So there's no such thing as so-called public land, and so no matter where you are standing, you are physically on somebody's property. Now, if it's your own house, then you're standing on your own land, but in general you are on somebody else's property in such a society. Let's say that there's a serial killer and the victims bring the evidence. They call the detective agencies and so forth, and they present evidence in various courts. They say to the public, we think this guy is a serial killer. He doesn't show up to his defense, and so there's not an issue of him choosing the arbitrator or he just refuses to show up and say, no, those guys are all crooked. And so in various courts with reputable arbitrators, judges all agree that yes, the evidence beyond a shadow of a doubt says this guy is a serial killer. We've got video surveillance.

Okay, so the community now has labeled this guy as a pariah. It is well known that he is a convicted serial killer, but still he's just walking around because he's crazy. I'm saying that there don't need to be any pre-existing contractual arrangements between the various members of the community. They all own the sidewalks and the roads and the shopping malls and so forth. Everybody in the community who has been alerted to who this guy is can say, you are not allowed on my property. The point is, no matter where he is standing he is going to be violating somebody's wishes and be on their property. So everybody says, get off my property. And so where is he going to end up?

Well, we can imagine companies building facilities that could contain violent individuals, and they could have an outstanding offer to these pariahs: you can come onto our property, but we have certain rules you have to abide by. Of course, we're going to search you when you get here to make sure you don't have weapons. We have specially trained staff. You're going to stay in certain types of rooms where there won't be steak knives lying around, and that sort of thing. We are going to perhaps make you see counselors. Whatever it may be. But we're going to give you a cubicle where you can work; if you're a brilliant engineer or something, you can still do that. We're not going to have you do something silly like make license plates or smash rocks that serves no purpose for anybody. And if there is this pending judgment against you that you owe somebody \$600,000 because of all the crimes you committed, you can come here and work that off over time.

So we're giving you this opportunity to do that, and of course, we're going to charge you a fee for this, and we'll deduct that out of the amount that we allow you to work. But as it is right now, no one is going to sell you food. Electricity companies aren't going to deal with you. You are going to just be an outlaw running for your life unless you come in here, where you know you'll be safe.

And the other thing is, these prison companies would compete with each other for the inmates. Because you would have the right to leave, even go to a separate facility. So the guards couldn't be sadistic in these organizations because if they were, the inmates would just go somewhere else that says we welcome outlaws here. You just have to follow our rules if you want to stay here. So that's the framework that I'm picturing. It's not that we're some agency that goes and grabs people and physically drags them off and puts them in jail according to a bunch of rules they never agreed to. It's that everybody says, or most people in the community say, if you are a convicted murderer, then get the heck off of my land—which, of course, they have the right to say to anybody. Then these so-called private prisons would arise to say, we're an oasis for people like you to rehabilitate you and so forth, and they are doing it to make money. It's a profit-making business.

WOODS: You're envisioning a system in which people would take out insurance that would help in case, let's say, they were found liable for damages or something. They may have caused some damage by accident. They don't have to be out-and-out criminals, but people would be carrying policies of some sort. Can you flesh that out?

MURPHY: Yeah. Just to alert your listeners: this is the one area where I deviate from the standard Rothbardian tradition. I just want to make sure that they realize that. The other stuff you and I have been

talking about, I think most people would say that what I am saying has been compatible, at least, with the ways somebody like Murray Rothbard or Hans Hoppe would have described it. What I am about to talk about right now is a twist on that.

Thus far we've painted this picture where private judges would render an opinion and say, this is what we think the law says in this situation, and so the problem is: let's say some husband gets drunk and comes home and sees his wife cheating with his best friend and shoots them both. Then the estates of the victims come, the relatives, and they bring the case before the judge and the judge says yep, you're guilty. You owe \$300,000 to each of the victims, and that's my ruling. The problem is, what if he doesn't have \$600,000 on him? He probably won't. Most people aren't going to be walking around with that kind of money. So what I said is, there would be a role to have insurance for these types of contingencies, and so to the extent that everybody is insured then you know the victims of crimes are going to be indemnified immediately. The insurance company is going to pay them. Then it's just an issue of the insurance companies dealing with their client who caused the transgression and was the reason to trigger the payout.

When you hear that, at first it sounds kind of pie-in-the-sky, but my point, and I raised the issue in *Chaos Theory*, is wait a minute: we see examples of this all the time, right now, in the real world. The most obvious one is medical malpractice suits for surgeons. In order for you to be a doctor and work at a reputable clinic or a hospital, you have to carry medical malpractice insurance, so that if you do something wrong on the operating table and kill the patient, and then you are found guilty and you owe a bunch of money to the estate of the person you killed, even though you're a doctor and have a bunch of money, maybe you don't have that much, and so the insurance pays for it. That's a precondition to be able to work at the hospital, to carry that kind of insurance. Or just to be able to drive on the road you have to have automobile insurance. Now that's technically required by the state, but you can easily imagine privately owned roads having a similar requirement, saying if you're going to come onto our road knowing that you're agreeing that if you smash into somebody recklessly, that you owe them a bunch of money, we want to make sure that you actually have the ability to pay that kind of money, so we're going to check to make sure you have insurance to be able to ride on our privately owned road. So you can see that kind of mechanism. By the same token, if you apply to be an employee somewhere, the company could say, we want you to have a policy with a reputable insurance company saying if you come onto the work site one day and go nuts and start killing people, then we know you're covered and your insurance is actually going to pay the liabilities for that and pay off the families of the victims and that sort of thing. And so that kind of framework, I think, is what would happen in a large civilized society where most people would have insurance like that. The insurance would be pretty cheap in most cases since most people aren't going to be criminals, and so actuarially, the insurance company doesn't need to charge a lot for homicide insurance. Very few of their clients are actually going to be convicted of homicide. It also gives the insurance companies the motivation to actually investigate these people.

Part of why I like this idea is it kind of solves the problem of, some random stranger wanders into a city who has never been there before, and in your libertarian utopia how the heck are the store owners and the apartment owners and things like that supposed to know who this guy is? They've got to go do background checks on everybody and spend a bunch. There should just be a central agency that keeps

tabs on everyone, according to the standard view, but no, there doesn't need to be that. It's rather: all they would have to do is say, before I let you rent an apartment here in my building, I want you to provide proof that you've been insured by some reputable insurance company. So it's the insurance company that does the background check, and there is also competition there. If somebody has some blemish on his record that's unfair, if some agency reports that he was convicted of a crime in Albuquerque when actually it was some guy with his same name but it wasn't him, well, then there's a profit opportunity there for some other insurance company to get it right and to give him the policy. That's the basic framework, where I am just kind of flipping it and saying people have insurance to indemnify others for crimes that they might be convicted of, and so that's the way you know that victims get paid immediately—in contrast to the present system, where if somebody kills a guy, the best that that family is going to hope for usually is that the government might take him and throw him in a cage, and that doesn't really help the family of the victim.

WOODS: Bob, there's an analogy in your book between what you are saying here, in which the insurance companies play this important role, and a case like airline safety. People would say, in your libertarian utopia—by the way, we never use the word “utopia,” and yet that's always thrown at us—everybody would have to investigate each airline and each airplane for himself for safety, the qualifications of the pilots, and so on. What you point out here is that again, the insurance companies that have to pay out if there are crashes are the ones who want to prevent crashes. They have skin in the game. They are the ones who are going to subject the airlines to inspections and they are the ones who are going to require background checks to be performed on the pilots to their satisfaction. We thereby ensure that there's a socially optimal amount of regulation placed on these airlines. If there's too little regulation, then there are too many crashes and the insurance company has to pay out too much and they go out of business. Too much and the firm goes to another insurance company. This way you balance it all out.

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QUESTION 10

DON'T YOU CARE ABOUT THE ENVIRONMENT?

*Walter Block, my guest in episode 119, holds the Harold E. Wirth Eminent Scholar Chair at Loyola University, New Orleans, where is a professor of economics. He has written over 400 peer-reviewed articles as well as numerous books, most notably **Defending the Undefendable**.*

WOODS: Let's start with the hardest issue of all, I think, in terms of the environment. I think some people understand that property rights mean that the environment gets cared for better than if the government cares for it. Not the whole general public, but libertarians, at least, get that. So let's start with an area that even libertarians probably have some trouble with: the general case of air pollution. I want to first talk about how Walter Block would handle air pollution, and then I'm going to introduce to you the so-called free-market environmentalist idea of tradeable pollution permits, and then you'll tell us what's wrong with that. But let's start off with what your ideal solution to the problem of air pollution is.

BLOCK: My knowledge of environmentalism comes from Murray Rothbard, as does a lot come from Murray. Murray had this magnificent article originally in the *Cato Journal*, "Law, Property Rights, and Air Pollution." The view is that air pollution is a trespass. If I take my garbage—eggshells, orange peels, coffee grounds, crap, whatever—and I just dump it on your front lawn, we all know how the law actually would work and should work. Someone in the white suits would come and grab me, or maybe the in the blue suits, and say, "Hey, look, you can't put your crap on Tom's lawn or on his property without his permission. What are you thinking? What are you, a maniac?"

However, if I grind this stuff up into little cinders and dust and stuff like that, and then waft it over your house, well, we do have laws against that nowadays, too, although we didn't always, and I'd like to go into a little of the history of this. But the point is that there's little difference in principle between dumping, let's call it macrogarbage, on your property, and then microgarbage, which is all ground up into fine dust mites that you might not even be aware of unless you put your laundry out there on a clothesline, as in the old days, and you'll come back and it'll be a little dirty.

Let me give the history again as I get it from Murray Rothbard. What happened was that in the 1830s and 1840s and 1850s in the U.S., the law was pretty good. If a little old lady put out her laundry on a clothesline and she put it out there wet and clean, she came back two hours later and it was dry and dirty,

and she went to court and said, “Hey, that there factory two miles away—you can see the smokestacks and black smoke coming out of there and it got onto my laundry. And I want two things. I want an injunction, and I want damages.” An injunction is a ruling from the court saying cut that out, otherwise we’ll put you in jail, and damages for the harm you’ve done to the little old lady.

Or there was another case where a farmer would have haystacks on his property and 300 feet away there’d be this railroad coming along, and it would have smoke and dust particles, and it would set sparks. It would set the man’s haystacks on fire. Then the farmer would go to court and say, “I want damages and an injunction,” and not always, but pretty much the courts would uphold the plaintiff. These would be the environmentalists. You would have to prove it. The burden of proof would be on you that it came from that railroad or that factory and not any other. But the courts were open to it, and often, not always, as in the real world, the plaintiff was upheld.

Now this had several very, very good effects. One, the factory was swayed as if by Adam Smith’s invisible hand, to use slightly more expensive anthracite coal, which would be more expensive but very clean burning, rather than the sulfur coal, which was cheap but dirty burning. It would also give the factory owner an incentive to put something in his chimney, some sort of mesh, to catch the smoke before it went out.

Now look, you never had zero smoke. There is such a thing a *de minimis* in law. The law does not concern itself with trifles. We all breathe out. We all breathe out carbon dioxide. So we’re all polluters, but that sort of polluting doesn’t count. It’s *de minimis*.

But there were several good effects, and you even had in the 1830s and ’40s people with little microscopes trying to figure out, well, where did this dust particle come from? And also the railroad had an incentive to install smoke prevention devices and spark catchers so the sparks didn’t go 300 feet, they only went 20 feet or whatever, or they were caught entirely, and things were pretty good. Perfect, no. Not perfect.

And there was even environmental forensics, and we all know what forensics is—you know, hair follicles and semen and blood and stuff to find out who the murderer or the rapist is. Well, in those days you had the burgeoning environmental forensics movement or industry to try to figure out who done it. And there was no problem. There was no crisis. There was no market failure. There was no nothing. Everything was sort of okay, and technology would have improved and would have found better ways had we followed this pattern.

However, we then got to the Progressive period, and in the Progressive period 18, I don’t know, ’70, ’80, ’90, 1900—a new, how should I say, philosophy overtook the courts, and at that time who is number one in the world? Great Britain. And who wanted to be number one? The United States. We wanted to kick butt. We wanted to be an imperialist country. So how do you become an imperialist country when a little old lady is bugging a manufacturing plant or a stupid farmer is bugging a railroad?

If you want to have battleships and tanks and stuff like that, you have to favor heavy industry. The law changed slowly, and in the Progressive period when the environmental plaintiffs came into court, the

reaction was very different. The reaction was, yeah, yeah, they're violating your property rights, yeah, of course—who could doubt that? But your stinking, lousy private property rights are selfish and greedy, and there's something more important than that and that is the public good. And what does the public good consist of? Pretty much manufacturing. Let me read a quotation that I actually pulled out of Murray's article, and this is the case *Coleman vs. Athens Empire Laundry Company* (1919). The Supreme Court of Georgia declared: "The pollution of the air, so far as is reasonably necessary to the enjoyment of life and indispensable to the progress of society, is not actionable."

Get that? It's not actionable. Well, if it's not actionable, and you are a green businessman or, say, a religious businessman and you don't want to be polluting people, and you'll use the anthracite coal even though it's a little more expensive, and you'll stick the mesh into your chimneys to catch pollution because you don't want to be a pain in the neck to other people, well, what's going to happen to you? The Adam Smith invisible hand is going to work in the exact opposite direction, namely it's going to penalize you. Because *ceteris paribus*, you now have a competitive disadvantage vis-à-vis your competitors, and they'll drive you out of business. As a sop the courts did say, okay, look, little old lady, we're not going to bug the manufacturing plant, but I will tell you what we'll do: we'll have minimum smokestack smoke regulations. Now before, the smokestacks were oh, 10, 20, 30 feet high, and now the smokestacks had to be 200 feet high. So in effect, we pushed the problem not under the rug but into the clouds. So the situation is just horrible from the Progressive period.

In the modern era, right before the Clean Air Act, we discovered, much as China is discovering now, that if pollution is not actionable, meaning that anybody can dump any crap on anyone else's land provided they pulverize it finely enough into dust, well, what you're going to get is vast pollution. I remember seeing a cartoon, I think in *New York* magazine, and there was a mother and a daughter eating lunch in an outdoor restaurant, and you'd think the mother would say to the daughter, "Hurry up, dear, eat your food before it gets cold." Instead she said, "Hurry up and eat your soup before it gets dirty." So we now had to have a Clean Air Act because obviously you had market failure—I am being sarcastic here. There was no market failure. There was a government failure to uphold private property rights. Government seized the monopoly of courts and said we'll protect private property rights, and did the very opposite, and then we inherited the whirlwind.

WOODS: Walter, let me raise an objection that a lot of people might have. They might say, this is a good story Walter Block is telling us, and yes, of course it would be nice to hold polluters strictly liable in this way, but maybe the regulatory approach of government is superior after all. Because suppose some concern somewhere is polluting my water or polluting my air, and it's giving my kids cancer, and I'm waiting two years to get into the government's crummy courts to go have them hear my claim. Meanwhile, we're all dead. It seems like a very slow approach. Whereas a regulatory approach would be, look, we're going to stop you from emitting X amount of pollution to start with. It's not ideal, but it's more or less given us a livable situation in the U.S. How would you answer that?

BLOCK: Well, it's a very strange objection, not unusual but strange, illogical in the sense that it seems that one branch of government will be super-*uber* efficient, and another branch of government will not

be efficient at all. To me all government is inefficient, but why we should single out branches of government and say that the courts will be very inefficient while the regulatory powers will be efficient, I don't know, I just don't see it. Another objection along these lines is look, you can't sue everybody. Right now, I don't know how many people own cars, and assuming that there were no catalytic converter and EPA regulations, what are you going to do? Start suing 100 million automobile owners? Murray's answer to that is, yes, that would be very inefficient because each automobile contributes very little pollution, unless it's a really smoky car. So each one could say, I am hiding under *de minimis*.

Murray's answer is we have to privatize the highways—which is a whole other subject that I got from Murray. I wrote a book on that as well. And now you don't sue each individual car owner, of which there are millions, but rather you sue each highway owner or street owner, of which there would be, oh, I don't know, hundreds of thousands in the whole country. It would be much more malleable, and much more effective, and much more efficient that way. In effect, you're suing each car owner for, I don't know, being a bawdy house—like if there was a nightclub making a lot of noise, any one person probably isn't making all that much noise, but if you get 300 to 400 people in the nightclub, together they make a terrific racket. So you wouldn't sue each individual partygoer for going or making noise. You would sue the nightclub or the place from which the noise is emanating. So it would be similar. You don't sue each car owner. What you do is you sue the highway owner or the street owner, and that makes it much more effective.

WOODS: Let me now raise the point of view of the free-market environmentalists, we might say. I learned this from Martin Feldstein years ago as a Harvard freshman, actually. The idea was this: yes, we understand that in the old days we had this stupid, top-down approach to pollution abatement. We would just say: all right, everybody, cut 30 percent of your pollution across the board. And then we realized that it was a heck of a lot more expensive for some firms to cut 30 percent than it was for others, for whom it would be relatively easy to cut 30 percent. So maybe we could try to say instead, here's the overall amount of pollution abatement we want, but how it actually gets abated, which firm does more pollution abatement than any other firm, that doesn't really matter to us so much. So we'll introduce tradeable pollution rights so that the firms that can abate pollution very inexpensively can just do so, and they can sell their pollution rights and earn money. They won't need to use those pollution rights because they are not going to pollute. They will just spend a little money, get rid of their pollution, and they can sell their pollution rights to a company for which it would cost a fortune to abate pollution, and it would be a lot cheaper for them just to buy the pollution rights. And this way we get the same amount of overall pollution reduction but at a much lower cost to society. What's the matter with that from Walter Block's point of view?

BLOCK: Well, at the beginning of this show you did say that Murray and I and the people associated with the Mises Institute, people like that, you know, weirdos, are very radical on free-market environmentalism. Well, there are the Chicago types—people who are free-market by and large, sort of, or quasi-, demi-, semi-free-market environmentalist. It would be similar to ITQs for fish, International Tradable Quotas on fish instead of private property rights in fish—very similar to Milton Friedman's view on, what is it, educational vouchers, where you buy and sell vouchers. By the way, I think the technical term

is not tradeable pollution permits but rather tradable emission rights, but I am not sure. I think that both terms are in vogue.

The problem here, talk about, buying and selling pollution rights. Well, how about buying and selling rape rights? Look, we don't want rape. Rape is a bad thing. Maybe one rapist can reduce his rape rate at a much more efficient rate than other rapists can reduce their rape rate. I hope you get what I am trying to say here. I don't want the *New York Times* to get on here and say—

WOODS: *I get what you are trying to say, yes.*

BLOCK: [laughs] I can just see the *New York Times* saying well, Block comes out in favor of rape, and he wants rapists to trade rape rights. No, no, no. This is a—

WOODS: Yeah, just for the record, let's just clarify that Walter is against rape—

BLOCK: Yes!

WOODS: —in case any blockhead with an IQ of 50 is listening.

BLOCK: Yes, I mean, I oppose rape. Rape is bad and it violates the non-aggression principle. What I am trying to do is make a *reductio ad absurdum*. In other words, how can you have the right to violate rights? It's sort of a contradiction. On the other hand, I have to admit that the Chicagoans have something to be said for them. In some sense ITQs are better than the tragedy of the commons, and in some sense Milton Friedman's voucher system is more efficient than central planning. It's sort of like market socialism, you know, the socialism of Tito in Hungary. It had certain advantages and other disadvantages. I on net balance come out against ITQs. I come out against Friedman's schemes. I come out against all these Chicago-type schemes where you have semi, demi, private property, or you have "market-based"—that's a big one: "market-based." Well, I am against market-based. I only see the markets, and this is sort of the inside-the-Beltway people, but I have to admit that if you have to reduce pollution—let's say there are three polluters, and each of them are polluting 50 units of pollution per time period and somehow we've decided that the maximum we can stand is 100 pollution. Well, one way to do it is to say, okay, each of you guys has to reduce from 50 to 33 and that way we'll go from 150 to 100. On the other hand, why not allow one of them to reduce pollution not at all, maybe even increase it, and then other two decrease it a lot, so that together they come down to 100. But this is not really free enterprise. This is market socialism. This is Chicago-type free enterprise and inside-the-Beltway-type free enterprise.

It has certain advantages and disadvantages compared to the tragedy of the commons or the having no law against pollution at all. On the other hand, it's hardly exactly what you want to write home about. It's not really the essence of free enterprise. The problem is so tragic because one, the full free-enterprise system is more efficient than the quasi-market system, and two, it sends the wrong message, that somehow there is market failure and the government has to come in and fix it up, and the way they are going to fix it up is to be quasi-market oriented, and then these people are saying, well, we're really

free enterprise. They're not really free enterprise. They are muffling the free-enterprise trumpet. The free-enterprise trumpet is the Rothbardian trumpet of pure private property rights.

WOODS: Walter, let's switch to species extinction and endangered species. Here I think it's easy—for a person of good will, anyway—to understand the logic of our position, that you tend to be better stewards when you have property rights and you think about the long-term capital value of your asset. You don't just think about consuming it in the immediate run for the income it gives you. I think people can get that. In the case of the U.S. government, I have in my book *Rollback* an interesting statistic: the net recovery rate, out of over 1300 listed species on the endangered species list, is six! Not 600. Through all their spying and police work and hangmen to try to save the endangered species, they've got six? And the incentive that it gives people is to kill endangered species they find on their property. Because of course if there's a member of an endangered species found on your property, they basically take over your property. It becomes a protected habitat. So of course, if I find the spotted owl or whatever, I have the incentive to shoot him in the head instead of to preserve him. So how then could the marketplace, could the private-property order, be brought to bear to try to solve this problem?

BLOCK: Oh, yes, this is a very good example to show the virtues not of government ownership, nor of non-ownership. We have the tragedy of the commons and nor of quasi-markets, but of pure markets. There is this woman, Elinor Ostrom, who won the Nobel Prize recently, and she attacked Robert J. Smith, who was a devotee, a lieutenant of Murray Rothbard in the old days. He was part of the living-room crowd. Bob Smith made the rational point of the tragedy of the commons. When you hold stuff in common, you tend not to take as good care of it as when you own it individually.

If you have a can of soda, and I slip in the straw a monitoring device that shows how fast you sip your soda, well, if you own it, you'll sip it whenever you feel the urge, whenever you feel thirsty, but you're not going to rush to drink it up before I get it, because I can't get it, because you own it. Whereas if instead we had a bigger can of soda, and now we had two straws in there, we would each say, maybe I've got to slurp it up before that greedy Block does, and I will say, evil Woods is going to sip up my soda, and if you have hundreds of people doing that, then you're going to dissipate the resource very quickly. So there is such a thing as the tragedy of the commons, and unfortunately Elinor Ostrom got the Nobel Prize by attacking the very concept, which is just ridiculous.

Take the elephant. Right now the elephant in Africa is endangered in many countries. And what is the response of the people in charge? It's to get ivory tusks and to burn them and to have this thing called CITES, Convention on International Trade in Endangered Species. They want to stop trade and they want to focus attention on the problem by burning very precious ivory. Right now the problem with the elephant is that they are not owned. They are not fully owned, and when they are not fully owned, nobody is going to be protecting them. And the poachers go out there and just kill them to get the ivory. They don't care whether it's a young, pregnant elephant or an old elephant. They just grab the tusks and run. So of course the elephant species are going to be going extinct.

On the other hand, if we privatize them: think of a big barnyard with electric fences and a big barnyard,

not just a couple of acres, but a couple of square miles—these elephants need space to roam around in. People think that the reason they are endangered is because they are valuable. No! The reason they are endangered is because they are not owned. Horses in Canada are pretty valuable. Dogs are valuable. You know, some dogs, the very expensive breeds, are tens of thousands of dollars per dog. No, the reason that animals, the elephant and the lion, are going extinct is not because they are valuable; their value is the main reason why we'll keep them alive if we can only own them.

The example I am fond of using is the cow and the buffalo. The cow and the buffalo are about the same size. They are both about the same weight. They both smell alike as far as I know. I have never really been that close, and isn't it amazing that the buffalo almost went extinct, whereas the cow never came within a million miles of extinction? And you have these horrible movies, *Dances with Wolves*, which give the left-wing view that the reason for the extinction of the buffalo is that white men are evil and capitalism is evil and greed is evil. No. The reason is that people own cows individually, and if you slaughtered a cow, that was a very, very expensive operation for you, because you wouldn't have a cow tomorrow. So the cost here of losing a cow today is you don't have the cow tomorrow. Whereas the buffalo, if you shoot it, you're not going to have that buffalo anyway. So the cost is virtually nothing, just the cost of the bullet.

So the buffalo were being slaughtered with impunity, and people were not allowed to own buffalo for many years. Nowadays in the United States people are allowed to own buffalo and there's no problem. It's the same thing with the crocodile and fish and just about anything, any animal. Well, as far as I am concerned, the elephant is just a buffalo with a big, funny nose and big, funny ears. And what saved the buffalo can save the elephant and the rhino and other valuable creatures. Just allow people to own them privately and then they will have very, very strong incentives to protect them. Look, was there ever cattle rustling? Yeah, there was cattle rustling, but you know, one or two percent compared with buffalo. Buffalo were just being shot left and right. So allow people to own buffalo. They will take care of them. They will have barnyards. They will not only be able to take advantage of the tusks, the ivory, but also be able to take advantage of the skin, of the meat, and will you be allowed to kill an elephant under private ownership? Sure! If I owned some, and you wanted to be a safari hunter, and you shot an old, male elephant, well, I might charge you \$20,000 or \$30,000 or whatever it is. You want to shoot a young, female elephant, okay, sure. But now it's going to cost you \$3 million, or some much, much higher figure because female, young females are the limit on the biology.

So if we had full, private ownership—no quasi, demi, semi, market-based anything, just private ownership, treat elephants and rhinos just the way we treat cows and horses and dogs and cats—the whole problem would go away.

WOODS: There are so many other environmental issues that we could hit on, but I think that will have to be the last one, unfortunately. I do have to ask one last thing, though. Suppose we are talking to a radical environmentalist. I am not talking about the soccer mom who in the abstract would like to see the environment cared for, and would like to see species protected. I am talking about the absolutely radical, all-life-is-equal environmentalist. Suppose we're dealing with somebody like that. I am not sure

libertarianism, although I do think it can appeal to basically everybody, can appeal to them. Because their view would be: I shouldn't have to buy up the different species; they have an inherent value whether or not they have immediate use for human beings. There will be species that we have no immediate utilitarian use for, and yet I still don't want to see them die out, and I don't want to have start a nature conservatory every single time there's an endangered species. I just demand that everybody curtail his activities in the face of these species. Is there any way that you can reach somebody like that?

BLOCK: Well, you know, there's a joke. One economist was asked, "How is your wife?" And his answer was, "Compared to what?" Supposed to be a funny joke.

WOODS: Yeah, but I've heard it too many times, Walter.

BLOCK: Okay, you are a lousy audience, Tom. Now we're going to tough row to hoe to convert this guy, but compared to what? And I think the message we can give to the Gaia-ist—you know, even when you plow you're invading the earth mother, you are using violence against her—is we'll give you a better deal than those guys. Those guys, the animals are going to go extinct. At least with us they won't go extinct. So it's true you're not going to get the whole loaf with us, but you'll get part of the loaf; you'll get something.

You know, another problem with the Gaia-ist is that they believe that all animals have rights. Well, suppose a lion kills an antelope. Should we consider the lion guilty of murder? It would appear that we would have to, based on their own position. So another way to deal with them is to try to show that they're illogical because none of them believe that lions are guilty of murder, and yet if they believe that lions have as many rights as human beings, then the lions should be accused of murder. Then there's also the *reductio ad absurdum*: okay, look, you Gaia-ist, I see you have a leather belt there. Take that leather belt off. Oh, you're not a vegetarian? Well, you have to be a vegetarian. But even vegetarians are not good—scientists have put laser-driven microphones into plants, and when they pull a plant out of the earth, there's like a shriek. So if the Gaiaists are consistent with their principles, they would have to say, well, we can't eat plants, either.

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QUESTION 11

END THE FED? THEN WHAT?

Jeff Herbener is chairman of the department of economics at Grove City College. He joined me for episode 269. He created a course called “What’s Wrong with Textbook Economics,” a chapter-by-chapter Austrian critique of a popular college textbook for my LibertyClassroom.com site.

WOODS: Some people talk about ending the Federal Reserve System, but it’s less clear what would come next. What do they want to replace the Fed with? I’m not interested in people who want to replace the Fed with having the federal government issue the money directly so that Nancy Pelosi can issue the money for us. Talk about missing the point completely! I’m interested in the different proposals that have been advanced by free-market economists, but specifically your proposal, which is not the same thing as saying let’s go back to the gold standard. What’s wrong with saying let’s go back to the gold standard? Fiat money has yielded us debasement and has yielded us the boom/bust cycle. Why don’t we just go back to the gold standard? Why is that not a good solution?

HERBENER: Well, it all depends upon, of course, what we mean by the gold standard. There have been many different gold standards in history, and the usual meaning of that by the proponents is to go back to what’s called the classical gold standard in the nineteenth century. But the problem with that system is that the government under that system could in fact, and did, issue fiduciary media, that is, unbacked claims to money, so the Treasury certificates produced in that system were only fractionally backed by reserve gold money. So a better system, of course, and what those of us on our side want to go to, is a completely private production of money. So we just want to, as Hayek said, denationalize money, take it completely out of the hands of the state and turn it over to private enterprise. Then the problem becomes: what do we do in the transition? That becomes the difficult question. How do we transition to this system? But hopefully it’s not too hard for our listeners, at least, to see the advantages of the private production of money.

WOODS: Let me note to everybody that you can read an old blog post of mine: “[How to Return to Gold.](#)” What I’ve done there is link to some of the proposals by well-known economists like Hazlitt, Rothbard, and some others regarding how to transition back to a gold standard. Jeff is going to be talking today about having a complete and utter separation of money and state and how that would actually work. You can read a systematic exposition of Jeff’s view at TomWoods.com/money. In fact, tell us about the circumstances here. You delivered the most astonishing, elegant overview of exactly what the separation

of money and state would look like, and you did so in the most unlikely of places.

HERBENER: I was invited to testify by Ron Paul and his subcommittee on money in Congress. Peter Klein and I were on the panel. Peter presented an efficiency of organization—why private enterprise is a more efficient organization for the production of money compared to bureaucratic production. I offered a more social analysis of the characteristics of production generally and then applied this to money. Basically, my point was that if we want to maintain private property and the morality of the private property system and the efficiency of production in the market economy that stems from that, we need to see that this efficiency depends upon the value of what's produced relative to its cost. If we apply this basic notion to money production, the efficient, or we might say the optimal, amount of money to produce in the economy would be that amount that is profitable to produce, just like the optimal amount of men's dress shoes is the amount that's made profitable by our demands. Money is no different in this respect, or at least it doesn't need to be any different in this respect. It can be produced and integrated into the general production system of the market, and this is the advantage of private production.

WOODS: I think it's easy for people to see how shoe production can be profitable. You look at your inputs and you discount it by the interest rate, and you evaluate whether you've earned money or lost money, and then you say whether or not your shoe business is profitable. But you're doing that in terms of money. It seems hard to imagine how this would work for money itself. How do I make a profit in effect selling money? How do I sell money? How does this work?

HERBENER: It works in the following way. Of course, the cost side is fairly apparent. So we have cost of production of gold coins: there has to be a mining operation and then a minting facility, and the labor is hired and the capital equipment and so on. So that, again, is no different from any other business. So that side seems fairly clear. There is a difference on the selling side of money. If I have a business and I produce men's dress shoes, the way I generate revenues is I sell the shoes for money, and then the money stream revenue appears on my accounts, and I compare that to my cost. But if I am producing money, I just have the money, and so the revenue stream is the money, is my output. The only difference is, I don't have to sell the money in order to generate monetary revenue. So that step is missing. But aside from that, it's exactly the same accounting technique. I produce the gold coins, and that is my revenue, and then I compare that to my cost of production.

WOODS: All right, that's going to be the key to answering my follow-up question, which would be: if the money, then, is your compensation—the product that you're producing is your compensation—what would stop you from just producing it without limit?

HERBENER: As I produce more and more of this money, then the prices of my inputs would be bid up by the monetary expansion, and so they are just like any other process in the market—there is a self-correcting dynamic that eliminates the profit of further production. So again, it would be exactly the same as men's dress shoes. If it was wildly profitable to produce a new style of men's dress shoes, that profit would be eroded by the adjustment process of resources in the market, because as I produce more and more of the output of men's dress shoes, the price will moderate which I can get. So if I am producing

more money, the actual purchasing power of the money will fall, and this will moderate my profit. And then, of course, in men's dress shoes, I'd be bidding more intensely and my competing firms with me would be bidding more intensely to buy the input, and they'd bid input prices up. So the same thing would happen in mining and gold production. If it were wildly profitable to produce more gold coins, then entrepreneurs would rush in to do this. They'd bid up the input prices, and their extra production of the money would moderate the actual purchasing power value of the money.

WOODS: And so just as with any other good, you get to a point at which it's not profitable to keep on producing. You reach a point at which it makes sense to stop in the same way that, as you say, I wouldn't keep producing dress shoes until there was just no room for them anymore, and everybody would have, if they wanted to, 20 pairs of shoes available for them on the shelves. It regulates itself.

Now, you were talking about the costs associated with mining and with coining gold coins. Who says they have to be gold coins? Who says there has to be any mining involved at all? Why can't bank so-and-so just start creating pieces of paper?

HERBENER: On the production of money substitutes, we would advocate a system where private property is left intact. With money substitutes, these—like checking account balances, or bank notes, or things of this sort—are just legal claims to money, and so they, too, cannot be expanded beyond the base money supply since they are nothing more than legal claims to money. And in a private property system we can't have multiple legal claims to the same piece of property. So this would seem to rule out on-demand, at-par legal claims to money, or what we call money substitutes, having a fraction of reserve for the bank, again, like in our system, can just almost indefinitely increase these fractional reserve-backed checking account balances because it's indefinitely profitable to produce more and more of them. But in a purely private system it would not, because in order to issue the checking account, you would also have to buy or secure a gold coin for a reserve against that checking account deposit dollar for dollar.

WOODS: I think Joe Sixpack on the street is inclined to say this would be an inefficient system, and he means inefficient in the colloquial sense that there would be a lot of suppliers of money. Whereas today, yes, there are problems with there being the one coercive supplier, but at least there's uniformity. I know that this is a dollar bill, and I know how much it commands, but wouldn't I be likely in this system to get all different kinds of money? Now, you could come back and say, well, they'll all be money substitutes for some weight of gold, but are we saying that it's ruled out a priori by the way the question is going to be framed legally that you could have some people issuing money that isn't fully backed?

HERBENER: Well, to take a slightly different tack on answering this question: it is possible. I didn't mean to limit the competitive activity of the entrepreneurs in a private system to just gold, but of course, this is just an entrepreneurial decision as to what would best cater to people's demands for a medium of exchange. So there could be gold coins, silver coins, platinum coins, and so on. There could be various forms of bank deposits that serve as highly liquid assets and so on and so forth. So we would have this open, competitive system where everything was consistent with private property. We could have electronic money substitutes. We could have cryptocurrencies. Entrepreneurs could try those out and see whether

people would demand them. So it is true that in an open, private enterprise market, we get competition and we get competing products, and there is some variation that would have to be dealt with, but with respect to money, there is also a tendency for people to prefer uniformity in the basic money, and this is because of doing accounting and the need to engage in economic calculation, and the difficulty of engaging in economic calculation with multiple monies. So the anticipation would be that people would, in fact, demand a more uniform and less diverse set of things as money proper.

WOODS: In other words, the thing that's backing it, whether gold or whatever else. And then even if you did have different money substitutes, it would just be a matter of simple arithmetic to compare them.

Even in the situation that we have now, where you have a coercively imposed system in which different countries have different monopoly monies, nevertheless, even then private enterprise has figured out more or less how to deal with that. When you're a tourist, for example, you can take your Mastercard and spend it in some country where they use a different currency, and you'll be billed for it in your own currency. It's not a perfect solution, but it's something. It's the way the market has dealt with the government situation that it's been given.

Looking back on the discussion, we've established that under a private enterprise system we would have profit-making business producing money in the same way that it produces everything else. And we've noted that it has certain incentives. It will use economic calculation, the concept that Mises talked about in his famous article about the problems with socialism, in order to determine the quantity of money that it should be producing, in the same way that any producer of any good makes a determination of how much of something it ought to produce. In other words, the quantity of money is regulated by profit, so there's an incentive to produce at a certain level. How does that compare to the incentives that face either a central bank or a government when they're issuing money?

HERBENER: These issues of fiat paper money by a central governor or a central bank, of course, cannot be regulated by profit if the central bank, if the Fed were to take the rule that we'll produce all the fiat paper money possible as long as it's still profitable to produce more. Well, then they'll hyperinflate the currency, because if it costs, say, 25 cents for them to print the dollar bill, they will just keep printing dollar bills, earning 75 cents profit on each one, and then when the additional money supply leads to the bidding up of their input prices so that now the paper and ink and so on costs two dollars to print a one-dollar bill, they will print a five-dollar bill, and they will print a hundred-dollar bill and then a thousand-dollar bill, and we get Zimbabwe.

The same kind of problem exists for banks issuing money substitutes that aren't backed by a money reserve. This is because banks issue these checking account balances to their customers by extending them loans, and so they earn the interest on the loan, which is profitable for them, and yet to write account balances, these loan balances into their accounts cost them next to nothing. So again, a bank must have a policy rule that limits their issue of fiduciary media, these unbacked money substitutes. Otherwise, they would bankrupt the bank.

WOODS: So in other words, they have what we would consider to be from an economic point of view an arbitrary rule.

HERBENER: Right. That's exactly right. A rule that would never be imposed upon the general system of production of any other good.

WOODS: In the [Liberty Classroom course](#) you have on Austrian economics, you make this point, and you say that the issuance of money is determined by policy. Whereas in the market it's determined, as everything is, by profit and loss, which is a shorthand for basically what society wants to be produced. And so when you say it has to be determined by policy, you mean it has to be determined basically arbitrarily.

HERBENER: Yes, that's correct: arbitrarily with respect to what is efficiently satisfying our preferences in society. That's correct.

WOODS: What about the boom/bust cycle? How is the boom-and-bust cycle, or the business cycle, affected by the separation of money and state? For people who say, well, we had booms and busts in the nineteenth century, let me refer you to my resource page tomwoods.com/panics so we can leave out the 19th century for now. I want to know from your point of view, moving ahead into the future, what would be different in terms of cyclical patterns in the economy?

HERBENER: If we had private production of money along the lines that we've discussed, then there could not be monetary inflation or credit expansion. The supply of credit would be determined by people's time preferences as they lend to banks and then banks intermediate the credit to borrowers, and people's demand for money, as we've seen, would be regulated by their desire to have the medium of exchange. And so it isn't possible in a private system like this for there to be the fuel that generates the boom. Now, it is true, of course, that even in the system we're describing that there would be what Murray Rothbard liked to call business fluctuations. There would still be some industries that rise and other industries that fall. But we wouldn't see this economy-wide process of lengthening out the entire capital structure of the economy in the boom and then shortening it through liquidation and bankruptcy and so on, unemployment, etc., in the bust.

WOODS: If that's true, then this is the most important economic reform that could possibly be made, pretty much, right?

HERBENER: That's absolutely right. It also has the advantage of limiting the extent to which the state can command resources. The state uses monetary inflation to support its debt issues, and this gives it much greater command over resources than if it had to rely just on taxes.

WOODS: Well, I'd like people to read your entire exposition, and as I said before, talk about pearls before swine, you delivered this before a room full of congressmen. But what a gem it is. I really think that someday a libertarian historian is going to be going through the old records and saying: hold on a minute, wait a minute, I just made an unbelievable discovery—a guy made the case for the private

production of money sitting there in a committee room of the U.S. House of Representatives. I can't believe this occurred. But the records don't lie, right? There it is in black and white.

Jeff, thanks for your time today. I want to urge people to check out your full testimony because it really is the full argument: tomwoods.com/money. Jeff, you are a gem. I can't say that enough. Thanks so much for being here.

HERBENER: Well, thank you, Tom, and better than some historian in the future finding out about what I wrote in the past would be if we actually adopt these reforms and forget about what the history was, right?

WOODS: That's right. Then the historians can say, well, you know what I think the tipping point was? That Herbener speech. (laughs) All right, thanks again, Jeff.

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QUESTION 12

HOW WOULD LIBERTARIANS DEAL WITH EBOLA?

Robert P. Murphy holds a Ph.D. in economics from New York University and is the author of numerous books. We had this conversation in episode 270.

WOODS: I've had a lot of requests to get somebody on to talk about Ebola and what would libertarians do—what would you do in a stateless society? How would this be handled? What is the Murphy framework for understanding how to deal with something like Ebola and quarantines?

MURPHY: Here I'm relying on the framework that I developed in my essay "Private Law" that's in the pamphlet *Chaos Theory*. So if people want to learn more about this general framework I am describing, I would refer them to that. A free society—what do we mean by that? We mean that people have well-defined property rights that are generally respected. So right off the bat you can't have the notion of a modern state, because that systematically violates people's property rights. But in a society where the general rule is that people and institutions respect property rights as they are defined, how do you deal with situations like this? I think the starting point would be that in order to have an institution like a big airport—how would you even get the permission to build that, because that's kind of risky? All the local landowners having these huge, metal objects flying overhead back and forth filled with all sorts of flammable material, namely jet fuel. You know, that's sort of risky.

So how would that happen? I think even to build an airport, you would have to have contractual arrangements with people around you to have the permission to do that. In particular, I think insurance companies would play a large role in all of these negotiations. Local landowners might receive a pledge from the people wanting to build an airport that says if a plane should come down or a piece flies off it and smacks into my house and kills me or blows up my house or whatever, you, the people running the airport, pledge to indemnify me. They would need to have reputable insurance companies backing that up. So there would be risk analysis and that sort of thing involved because the insurance companies would have actuaries to price these risks and know what premiums to charge and so on. And that's how I think air travel would be "regulated" without having the FAA. The insurance companies would be there to offer the airlines policies to back up their flight in case the plane crashes and all the people die. The customer who's flying would also probably want clauses in the contract saying if the plane crashes, we get a million dollars from the airline, or whatever the number is. So the insurance companies would do a lot of the regulatory spot checking and make sure the pilots aren't drunk and stuff like that.

So that's the general framework of how I am picturing "regulation" occurring in a genuinely free society: everybody agrees to this stuff on the front end. Nobody is being forced at gunpoint into this. It's just saying, if you want to buy this land and develop it and so forth, the original owners have the right to demand certain concessions.

So in that context, the public right now has this intuitive feeling that surely it's not unreasonable that people flying from Liberia into JFK should receive more scrutiny than people coming over from Canada. People would know that maybe that wouldn't be such a bad policy. Maybe that wouldn't be outrageous discrimination in a situation like this. And yet, they also know I don't trust the government to just say, oh, there's a danger of contamination, and so therefore we can just lock people up until we say they're safe, and we can keep people under house arrest. People also recoil at that, and that's correct, and that just shows why you cannot trust the state to perform needed social functions. Just like education is important, roads are important, having the ability to defend yourself from foreign military attack is important; those are all important things. But anarcho-capitalists are against the federal government doing those things because it does them poorly, and because then it will use that power against its own people. It doesn't mean we're against education or transportation or military defense. It just means giving the government the power, A, won't achieve the stated goal, and B, will be used against you to hurt you. So it's the same thing; that's the general framework. But I just want to remind people that the state cannot be trusted to protect Americans, or whatever country we're talking about, from a contagious disease just like the state botches everything else, and then if you did give it the power to do that, it would use those powers not to protect you from disease, but to take away your liberty.

WOODS: Bob, have you heard anything about the Ebola-killing robot, because apparently it uses ultraviolet—it basically sterilizes everything in a room so that you don't have to worry about contamination. You can presumably use it on some of the hazmat suits. In other words, you can decontaminate rooms very easily with this thing, and yet it looks like the CDC was either completely unaware of this technology or was aware of it and inexplicably hadn't acquired any. And yet this is the thing that will get people to go back to the hospitals. That hospital in Dallas is absolutely hemorrhaging money because no one is coming through the door out of fear of Ebola. But they would be reassured by this type of technological innovation. They don't trust the government's word, but they would trust the private sector coming up with a gadget like this.

MURPHY: I don't know the specifics of that particular device. And probably we should give the disclaimer that neither Tom nor I are medical doctors.

WOODS: Yeah, and we don't play them in any conceivable role. That's right.

MURPHY: But yeah, I think your general point is right, and again, we can move it away from the terrifying issue of what could be a highly contagious disease, and just say in general, government agencies are inefficient in terms of achieving their stated goals, and so why would you—if there really were a very cheap solution to this, you wouldn't expect a government agency to go for it because it's in their interest to have this huge public outcry and then say we're underfunded, we need more money. And whether you

want to be really cynical and say they are doing it on purpose in order to get money or just to say it's the institutional structure and the bureaucrats are promoted and rewarded who have that mentality, and they genuinely are incompetent and don't see the simple solution staring them in the face, either way, the result is the same, that you should not be surprised that government agencies overlook obvious things. Even people who aren't ideological and who weren't predisposed to distrust the government, they can all see how the U.S. government has responded to this crisis makes no sense at all.

I tweeted out the other day—I was just being a wise guy about it—saying the federal government is saying to foreigners, sure, you can come here and spread Ebola; just don't try to get a job. That's what I'm trying to say in terms of how the government and the Obama Administration deal with border control: they're saying, oh, you can't come in here and steal our jobs, but hey, it would be completely unfair discrimination to hold up people coming from Liberia just because they might have Ebola. That would be crazy. The federal government has no business interfering with the freedom of travel, and yet they do that all the time. So it's not that they actually care about interfering with people's abilities to go where they want geographically. They just are selectively applying those principles in a way that makes no sense whatsoever as far as the normal person is concerned. It makes total sense if you think that that what the government is trying to do is come up with ways to scare people and have a pretext to expand its power.

WOODS: Bob, of course there has been a lot of commentary on this by libertarians precisely because critics of libertarianism have been saying things like: there is no libertarian response to something like Ebola other than sitting around and watching everyone die, because you're so wedded to your so-called liberties. That's the kind of response that we've seen.

MURPHY: Yeah, should we maybe talk a little bit about what we could do, practical stuff?

WOODS: That's what I want to do. I want to ask, first of all, if you're read what other libertarians have been saying to try to parry that criticism, and then contrast it with your own approach, and this would be your chance to flesh it out more.

MURPHY: Without naming too many names, I have seen some libertarians who are only focusing on the fact that the way the government is doing it is bad or inefficient or dangerous, and hey, wait a minute, I don't trust these guys. So in other words, I have seen two different types of, let's just call them conspiracy theorists. Not that that's a derogatory term, but I'm just trying to get people to understand the sort of critique I'm talking about. And some people will go the full route and say, yeah, the U.S. government invented this. It's a weaponized version. That's why it's catching healthcare workers, because it's doing things they weren't prepared for, etc. And so, clearly, in that case, if you think the U.S. government originated it, then obviously the correct response is not to say let's give the people in D.C. more power to deal with this. But then on the other hand I've seen people say, oh, no, this isn't a threat at all. Don't worry. This is crazy. This is completely manufactured by the mainstream media. They are just trying to scare us, and that's why the government doesn't need power. So those two extremes—I think the danger is it almost concedes that if there really were a naturally occurring, highly contagious disease, then yes, in a free society we'd be sitting ducks.

WOODS: Exactly, which is why I think those writers are obligated in those articles to say for the sake of argument, let's just imagine that Ebola really is as bad as they are saying it is. Here's how it would be handled—instead of just leaving that floating there.

MURPHY: Right. The general approach, again piggybacking on that framework of, remember, every parcel of real estate is owned by somebody, and that I think in order to develop a shopping mall or a hospital for sure, if you're going to build a building where lots of sick people are going to be coming and going in order—it's not like everybody in a John Locke fashion homesteaded all their property on day one of the free society. I think there would be plenty of plots of land that would have been owned by one person or institution and then developers would come in and have to buy the rights of that and then put the hospital on it. So I'm saying there would be a framework where they would have to get permission from various people in the region before going ahead with their plan. There would be all sorts of contractual arrangements such that if somebody comes into the hospital with the threat of having a contagious disease, the hospital would have procedures saying, yeah, you can come in here, and we'll treat you, but you are agreeing once you check in, if we think you have a contagious disease, then we get to hold you until our experts sign off and say that you're not contagious anymore. Or they can have backup things like: if you highly disagree, you can have outside people come in, and then you can get transferred to a different hospital using an ambulance that our experts tell us is safe and won't leak into the outside community, etc.

And insurance companies would be backing all that up saying, hey, if you live down the street from the hospital that's treating these really contagious people, then there's contractual arrangements that if somehow there's a mistake and your family gets the thing, then the hospital owes you a million dollars per case. I'm just making these numbers up. I just want to show you can imagine a contractual web dealing with these sorts of things. It's not like only government bureaucrats have the imagination to realize there is such a thing as contagious disease. In a free society, people would have all that information. There would be competition. If one city somewhere came up with a really clever solution, everybody else could copy it. Whereas right now if all our eggs are in one basket, we're hoping the federal government does it right, and if they get it wrong, well, tough luck for us.

WOODS: Well, let's imagine we're living in Murphyville, and Ebola breaks out, and let's say that somehow you can detect Ebola without being diagnosed in a hospital. Let's say that somehow by looking at the person, you know that person has Ebola so that you can see two people on your street in two different houses. They both have it. What now takes place in Murphyville? What's the next step?

MURPHY: Well, I think clearly people who own shopping centers and apartment buildings and things like that are going to have the right to say you're not allowed onto our premises if you're testing positive for this contagious disease. Rather than viewing it as we need to have the ability for an armed group of people to go grab somebody and kidnap them and put them somewhere else on their lockdown, it would rather be the community. There could be a company that springs forth and says we track such people, and we give a heads-up to everybody. So they are getting funded by the general community, and their function is to warn people that there's a guy who tested positive for this thing, and right now he's here.

Right now he's here, and you're allowed to give information to people. That's not breaking anybody's privacy or anything, and so that would give a heads-up for the people who own those roads. They'd say, no, you're not allowed on here. Get off my land, and if you refuse to listen to me, well, then I am allowed to have people come and forcibly remove you from my property.

So I'm saying it's a lot of what people are intuitively realizing has to be possible, like, if there really is somebody who's got this—let's not even say it's Ebola, let's say it's something much worse, that if you get anywhere near that person, you get sick, and then you end up dying two days later also, and those people are—let's just say there's some guy walking around trying to infect as many people as possible, we kind of have this idea that I don't know whether we call it a crime or what, but surely we don't have to just sit back there and let that happen. Surely there's got to be some way we can stop that guy. And I'm saying, yeah, if all the land is privately owned, then you have the right to tell such person: get off my land. Don't come on my land, and if you do, we'll take whatever step is needed. And the police, or whatever you want—the security agencies responding to that specific threat would, of course, have done the research, and their personnel will have the suits on or whatever to make sure that they don't get sick.

The stuff isn't perfect that I'm saying, but nothing in human society is. The point is the incentives are going to be there, and there's going to be competition, so that if one group does it wrong, and they send their security team and they end up getting sick, well, then they're going to quickly react to that, and all the other competing security firms are going to say, whoa, what did they do wrong? Let's make sure that our people don't get sick and have better equipment.

WOODS: People can extrapolate from what you've just said to seeing how the idea of a travel ban would be dealt with in this sort of situation. You wouldn't strictly need a travel ban. It would be a matter of private property owners saying, well, you can travel to any place that will have you, but I personally will not have you, and that's that, right?

MURPHY: Exactly. In a free society there's no such thing as this abstract right to go wherever you want. No, the right is that you have your property, and you can use it as you see fit, and other people can't use the threat or application of force against you to stop you from using your just property. So in a free society, if you don't own the road, you don't have the right to walk onto it against the wishes of the owner. But other people say wow, it sounds like your world could be a totalitarian nightmare. Well, there's always competition, and so if some road owner is really paranoid and is listening to medical experts who really don't know what they're talking about, and he thinks that this guy over here, Jim Smith, is a walking time bomb in terms of contagion, and he says, Jim, you can't come on my property, but really Jim is fine, Jim just has the flu, well, there's going to be plenty of other road owners with other advisors, medical advisors who are going to capture his business. Just like if there's one employer who's really a racist or something, that's not going to cripple the free society. It's just that he'll miss out on potentially good employees that'll get snatched up by other employers who have more correct views.

It's the same thing here, that there's this tension between the situation of a highly contagious disease. There's no getting around the fact that people in general have this desire to contain the spread of it, and

yet you don't want to be unfair and lock somebody up in quarantine who really isn't contagious, right? And you want to be, of course, compassionate to the people who are sick and try to get them cared for and whatever. So I'm saying in a free society, various desires are going to be balanced as humanely and efficiently as possible.

WOODS: All right, let me ask you the million-dollar question. I think in this brief discussion, you've laid out a plausible scenario for how people would handle situations like this in the absence of official coercion, but you're going to get this objection, and it's not a stupid objection by any means. We don't live in Murphyville yet. Maybe Murphyville is a desirable place, and maybe someday we'll get there, but we don't live there now, and right now we have on our hands what could be a major health issue. Now, maybe it won't. That doesn't matter. In theory we could potentially someday be faced with a really serious health issue, and we don't have all the property in the world privately owned, and we're contemplating travel bans as the lesser evil because the greater evil would be a pandemic that wipes out half the world's population. Surely a travel ban has to be the lesser evil. How does a libertarian sort that out?

MURPHY: Well, my sort of dodging-the-question response is to say on these types of issues, I don't think there is a clean, purist response.

WOODS: Exactly. I don't, either. But I am just curious to know what your own personal—and also, I think I want to even put a caveat here and make sure people understand that whatever Bob's answer is going to be, you cannot write him out of the libertarian movement for it, because when you're dealing with this situation of the state exists, now, how do we cope with it, there are all kinds of different possible responses. Walter Block has one. Bob has one. Because it isn't the world that we want, and it doesn't obey the rules of libertarianism, so in a way, you have to deal with it pragmatically.

MURPHY: Right, yeah, so it's sort of like a soldier saying I'm going to either shoot that adult over there who's 35, or I'm going to shoot these 10 kids who are one year old, and we don't know who's got the potential. Which one should I do? What's your input? And you want to say do neither, but that's not an acceptable answer. Go ahead, tell me.

WOODS: Exactly, and so either answer you give, people say, oh, my gosh, he's a murderer! Murphy is not a murderer, and he doesn't want to spread disease, and he doesn't want to stop people from traveling. We're just working this out just as an intellectual exercise.

MURPHY: My personal gut reaction to what's going on is I'm concerned that the U.S. government is going to try to use this to expand what the public thinks is an acceptable use of its power, like, it will want, just like with the Boston bombing and how they locked down that whole area and just had police going literally door to door searching for those two. I think part of that was they want to get the American people used to seeing armed men just roaming the streets searching house to house and for people to think, oh, yeah, that's the kind of thing that does happen in America now. And so to me I'm not as concerned about this turning into a pandemic that this is being exaggerated and being used as a pretext to expand the police state and to make it normal that, well, yeah, if there's an emergency, of course the

government can just grab somebody and say he's got to stay under house arrest until they deem him safe, because that principle, of course, could be very convenient to the people in power.

What I would prefer is that the airlines themselves voluntarily said either we're not for the foreseeable future accepting inbound flights from Liberia or the affected regions, or they said we're going to have a special extra screening thing as a courtesy to our other customers because we realize you might not want to fly this air—such and such if you think you're going to be sitting in the waiting lounge with somebody who just came from Sierra Leone. So as a courtesy to you, we're going to have these extra procedures. So I would much prefer that these common-sense precautions were voluntary, and I don't know that the law—for all I know it would be illegal for the airlines to do that. They might get hit with an anti-discrimination lawsuit. So it's a really unfortunate situation where the U.S. government has so many regulations it's almost like they make it impossible for private firms to do sensible things in a case like this.

WOODS: Bob, I don't usually finish our discussions this way, but on a topic like this I want to make sure you've said everything you want to say. Is there anything I didn't hit on that you want to cover?

MURPHY: Well, I just would want to reiterate the fact that we can't fall into the trap of thinking just because there's some issue that would require a lot of coordination among different people, therefore coercion is the only way to achieve that. As a general rule, giving one group the power with guns to just impose their will on everybody else—history and theory show that that's not the way to achieve solutions to admittedly thorny problems where there's various competing desires, and it's not obvious what the tradeoff should be in a certain situation just as in general, having the government spy on people in order to protect us from terrorists—that doesn't mean terrorists don't exist. There really are terrorists, and we want to be protected from them. But giving the federal government the power to spy on people to protect us is obviously going to give us neither safety nor freedom. By the same token, there are such things as contagious diseases, and humans should be able to adapt to them, but giving the federal government power to achieve that outcome is a foolish idea. Don't look at all the conceivable problems you could imagine with the free-market response and compare that to a super-perfect government response. Look at what the government in the real world is doing. Look at how ridiculous it is that the nurse has got—we're getting sick under the current system, and you can't just say, oh, well, that was the hospital's fault. Right now the CDC exists. The government has a monopoly on certain things, telling us we need to have this system in place because freedom would be horrible. So all the results that are occurring right now have to be laid at the feet of the government's door.

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QUESTION 13

WHY DON'T YOU SUPPORT "NET NEUTRALITY"?

Berin Szoka, my guest for episode 174, is founder and president of TechFreedom.

WOODS: What exactly is net neutrality? What is the problem that people who favor net neutrality say they are trying to solve?

SZOKA: Well, it depends who you ask. They say they are trying to solve a few different problems, but normally the way that this is framed is in terms of Internet freedom, the openness of the Internet, freedom online, is all put in terms of net neutrality. And the basic idea for the folks who have been advocating for regulation for the last decade essentially is that unless the government does something the broadband companies are going to shut down the open, free Internet and replace it with a closed, controlled one. So they've captured the language of freedom and set this debate up as being over censorship, and they all allege a number of different harms. Sometime it's anti-competitive harms—Comcast potentially trying to slow Netflix. Sometimes it's news media—a censorship of dissenting voices. Sometimes it's additional redlining. It's an allegation that most companies are just waiting to squelch minority voices. So the harms are alleged to be many, but the evidence is really quite sparse.

We've had ten years in which there really hasn't been an enforceable, legal regime except for a very brief period after 2010, and the SEC just lost on that, and the Internet is doing just fine. People will say that they couldn't have started companies like Reddit, but they did. And they didn't have enforceable net neutrality rules. So we can get into what they did have, but from my perspective the first thing to understand here is that the record for harms is exceedingly thin. The FCC alleges essentially four incidents, only one or two of which would even be dealt with by their rules, and what I and others have said for many years is that there are other, smarter ways to deal with potential harms if they arise, and that most of the harms that are alleged are really about potential anti-competitive conduct, and we already have laws to deal with that. There might be a way to craft a more sensible legal framework here to deal with some of the reasonable or plausible concerns. But that's not what's being proposed, and the people who are driving the train here are really driving the FCC off a cliff.

WOODS: All right, there's an awful lot here to talk about, but I first want to know what kinds of policies are the people you are talking about advocating, and if I may play devil's advocate for a moment, wouldn't these policies essentially be harmless anyway if they did restrict the freedom of action of some

of these big companies? What's the big deal after all? Why should we be crying tears over the rights of these big companies? Who really cares? The freedom of the Internet will be maintained thereby.

SZOKA: Well, there's some truth to that, so I will explain what the three rules are. The short version is actually most of them are not that controversial, and if you asked broadband companies, you would actually get agreement, but on the margins there is important disagreement, and so that's number one. Number two is the legal precedent, the legal approach here really matters. It's just one of those issues that you can't simply reduce to what's the right answer. You really have to think very carefully about the legal framework that you put in place and what it means for the rest of the Internet. So let me explain the three rules. Then we can talk about the broader context and implications here.

At its core net neutrality as the FCC tried to impose it the last six years is really about three rules. One is a transparency mandate that says that broadband providers have to disclose their network management practice. Do they block or slow certain traffic? How do they run their networks? And in principle there's not a lot of disagreement about that. Most people would agree, even the companies. If you put this up to a vote in Congress, I think it would be pretty easy to get legislative agreement on that that there's going to be some degree of transparency. There's now arguments over exactly what it should look like, and those are not unimportant, but that's not really the core of the debate.

It's the second two rules that the FCC lost on back in January, and we'll talk about that history, but those are number one, the no-blocking rule, which says that broadband providers may not block legal content or devices from their networks, and that's in response to the concerns about censorship, and the second is a non-discrimination rule. And the question there is: what exactly does that rule look like and how does it work in practice? And just to start, we already have some version of that with antitrust law. If you have market power, and you discriminate against your rivals in a way that harms consumers ultimately, that's already potentially illegal, so the question for that rule is, how do you structure it? And the short version is, it was created in 2010 as essentially a ban, de facto ban. No, the FCC didn't exactly say this on allowing broadband providers to return to arrangements with a particular content provider to prioritize their traffic to give them premium delivery within the network. So that's really where the debate is. How should that rule be structured?

WOODS: Is there a reason from the point of view of the public welfare that, leaving aside private property and the rules of the free market, we should favor allowing companies to make these kinds of deals with other institutions?

SZOKA: Yeah, that's a great question. That's really at the heart of this debate. I will say that there hasn't been a great demand for that in the past, but I think you're starting to see more services where that's likely to be relevant. One of the things that people get confused about in these debates is they think that when we talk about making some form of prioritization legal, then suddenly the Internet is going to fundamentally change, and that there is going to be prioritization of lots of services and other services are going to be in the slow lane. I don't think that's ever been realistic. I think what we're talking about here is on the margins. Certain kinds of services that are very bandwidth intensive like Netflix, which

right now takes 30 to 40 percent of peak traffic on the Internet in the U.S., or certain services that require premium delivery—doing telemedicine, VoIP, talking on the phone—there are certain kinds of services that are fundamentally different from browsing the Internet, and so the issue is some of those providers might very well want to pay for premium delivery of their content. And to answer your question, I think that’s actually very much for the good that, in particular, although this debate often gets set up as a debate over broadband companies trying to kill small, so-called “edge” providers of content services, in reality it’s the smaller providers that actually probably stand to benefit more from being able to pay for prioritization because that can help them level the playing field against well-established, large content providers that already have built, through the expenditure of billions of dollars, the delivery networks that get you your Google, and your Facebook, and Netflix. So there are actually good reasons to think that prioritization can allow for innovative business arrangements here as in the rest of the economy, and then on the whole, that those are going to be good for consumers. And we should presume that they are lawful, and that the burden should be upon the government or private plaintiffs to assert why a particular arrangement might actually harm consumers. That’s how antitrust law works, and that’s how reasonable regulation of net neutrality might work, but that’s not really what the SEC has been trying to do until now.

WOODS: What’s the deal with Comcast and Netflix, then? I know that the Internet was not initially designed for large-scale video streaming, and yet that’s a very substantial portion of the type of activity that goes on over the Internet. How is that related to why Comcast might want to slow down Netflix? What interest would it have in doing this?

SZOKA: Well, from my perspective Comcast has never been trying to slow down Netflix. The debate, framed properly, is whether Comcast should be allowed to prioritize certain services whether Netflix—or, more importantly, the competitors of Netflix, should be able to strike a deal with Comcast to pay for premium delivery within Comcast network. But what Netflix has done has been very politically smart. They really, more than anyone else, they have so demonized this issue that they’ve caused the FCC to potentially change course a little bit by conflating net neutrality, which is what happens inside the Comcast network—remember, the Internet is a network of networks, so the Internet is not Comcast, it’s all the networks that connect. I get Comcast. You’re on Verizon. There’s a bunch of stuff in between, a bunch of companies out there like Netflix. Net neutrality is about my connection to Comcast, the so-called last mile, and Netflix has really managed to conflate that issue with what you might think of as the first mile. How does Netflix get their content to the Comcast network? And essentially Netflix has always had to pay for doing that. In the past they paid other companies. And Netflix decided that they might be able to save money by striking a deal directly with Comcast, which they did. But why not try to get it for free? So they have been claiming that they shouldn’t have to pay anything at all.

WOODS: I see.

SZOKA: And that essentially would mean that other users of the Internet, people who are not Netflix subscribers or who are only light Netflix subscribers, that they would have to subsidize Netflix users or heavy Netflix users. So that’s not a net neutrality issue, but it’s gotten confused with net neutrality.

WOODS: And it also confuses all kinds of important concepts, because it sounds as if what we're talking about is the free flow of information and the transmission of video, and this all sounds in the abstract like something very important and something that's fundamentally libertarian, but of course, it has to take place in an atmosphere of mutual respect and mutual consent. It can't just be one firm badgering another into interacting with it on its own terms. Both of these institutions have terms on which they'd like to interact with each other.

Now, normally on the free market when there is some firm that behaves in a way that offends consumers—let's say you had some institution that was blocking independent voices that consumers wanted to hear. Well, consumers have ways of making these institutions pay. They have ways of making them feel pain. Do consumers have any way, in case these nightmare scenarios that net neutrality proponents are describing should actually come to pass, on their own to bring pressure to bear, or would this have to be resolved by government?

SZOKA: Well, first, you're absolutely right that this issue has confused people who care about freedom more than any other I can think of, because it's been cast as: regulation means freedom. To answer your question, some those people will say, okay, well if we had 10, 12 broadband providers, then maybe we could just let the market work. Competition would take care of things. But we don't. So it's not going to work. So the government has to protect us. And they do have a certain point, which is that we are talking about a uniquely capital-intensive industry. So the cost structure here for broadband is unlike just about anything else in the economy—maybe similar to building streets, but unlike streets, we don't just have one. It's not what some economists would call a natural monopoly. We have at least two broadband providers out there, and in many markets we're starting to get a third.

So the debate really comes down to this: how much competition do you think is enough? And my point has been that there is no cable monopoly. That's a myth. It's true that the FCC and the federal government for a long time made it hard for telephone companies to compete with cable companies. They were actually barred from doing that for a long time. And it's also true that companies like Google Fiber, which are trying to deploy a third type, have had a hard time mainly because of local governments. But those barriers to entry are primarily government created. They are primarily actually streets, that most of this comes down to getting the right way to put your fiber, or cable, or whatever, under the public street. So there are some smart ways that you could deal with that problem, if you think about it. The only thing that's truly a natural monopoly here is the conduit under the street, and so there are cities—and the federal government has talked about doing this—that have had a dig-once policy where they put in an empty tube that anybody can rent space in, and then you can deploy your broadband system there, and that lower broadband deployment costs by about 90 percent, and it decreases the cost of the road project by about one percent. So if we were serious about promoting competition, we would be talking about things like that. And Google Fiber has been great because they've gone out and actually done this, and they've demonstrated that it's really cities, cities like Baltimore, that basically made it so hard for Verizon to deploy its fiber network that they gave up.

So government could get out of the way, and we could have more competition here, but it's never going

to be enough for people who think about competition in simple, lemonade-stand economics. They have to recognize that this is going to be a market where you might have two or three players, but you're not going to have 10. So that's the first level of this for people who care about markets, to be realistic about what competition actually looks like. And then to ask, well, what happens in so-called "duopolies"? Is that really enough? And we have a lot of good data that Verizon is causing cable companies to significantly upgrade their speeds. Google Fiber has prompted both cable companies and Verizon to up their speeds. So I actually think the market's already working. I think that the people who are claiming that it won't, that consumers couldn't switch if there were a net neutrality violation, are probably wrong in that net neutrality is a lot more durable as an idea than most people give it credit for. To the extent that we want net neutrality, it's probably going to happen in the market anyway, and to the extent that there's going to be deviation from that it's going to be on the margins, and it's generally going to be a way that doesn't hurt consumers, and we just need a way to figure out how to regulate those instances where it might.

WOODS: Berin, I'm looking at an article of yours, co-authored from earlier this year, with an intriguing title: "The Feds Lost on Net Neutrality but Won Control of the Internet." Can you tell us about the second half of that equation?

SZOKA: Briefly, the term net neutrality was coined in 2002. The Republican chairmen at the FCC, two of them, created this monster in a way. The first chairman talked about the four freedoms. The second chairman, Kevin Martin, talked about enforcing them. The FCC in 2008 tried to enforce that policy statement. There's no legal, binding rule against Comcast for slowing down BitTorrent traffic because it was copyright infringement, and in 2010, the D.C. Circuit said the FCC can't do that. They have to have formal rules, and we're not sure what their authority is. So in 2010 the FCC issued its rules for the first time, and they cited a bunch of provisions in the Telecommunications Act that they claimed allowed them to regulate, and earlier this year, in January, the FCC lost again at the D.C. Circuit. So the first part of that article title was that most people heard the headline as "FCC loses," and as I said the FCC did lose on the no-blocking and the no-discrimination rule, and the transparency rule was upheld, and this is the really important and subtle thing.

The reason that the court upheld one of the rules and didn't just strike everything down was that they accepted the FCC's claim that this previously obscure section of the Telecommunications Act of 1996, Section 706, which says that the FCC should promote broadband deployment—the FCC claimed in 2010 after they lost in that First D.C. Circuit decision that that allowed them to regulate net neutrality as well as anything else. Basically, anything in any way that they think will promote broadband deployment so long as they don't violate some provision of the Communications Act. And so in that case the D.C. Circuit said, yep, FCC gets to regulate whatever it wants provided they don't violate some provision of the Communications Act. Here we find that these two rules, the no-blocking and non-discrimination rules, are illegal because the Communications Act says you can't make a common carrier, like a public utility, you can't impose public utility-style regulations on lightly regulated information services under Title I.

And so now the debate is, the FCC is considering new net neutrality rules, and the details are still to be worked out. They have two avenues for doing it. They can either use Section 706, which allows them to

regulate, as I said, pretty much anything, but they can't go all the way to common carriers. They can't force you to treat all companies that come to you asking for service equally. That doesn't sit very well with the net neutrality hardliners, because they say that's not enough, and commercially reasonable terms could still mean prioritization and fast lane.

So they don't like that option, and so they want the FCC to take broadband out of Title I, which is the lightly regulated information services that the Clinton Administration first started putting broadband into and put into Title II, which is the regulatory system that was designed for the monopoly phone network. So the debate that we're having right now in Washington is both about net neutrality and about this fundamental question of how the FCC regulates communications in general and whether they should apply this regulatory framework that basically is from the 1930s but actually really is from the railroad era. It's 1870s-era regulation for what were natural monopolies.

My short legal analysis is, I don't think that either one of those is going to work. I don't think the Title II reclassification is feasible, for reasons I can explain, but I also think that ultimately the Supreme Court will find that the D.C. Circuit, now that there's another court that just ruled the same way, that they were wrong to give this vast deference to the FCC, and that the agencies in general really shouldn't be able to interpret ambiguous statutes in such a way as to rewrite the entire statute to allow themselves to regulate anything they want. That basically leaves me with saying to people who think there's a problem here that if you want the FCC to do something that's legally sustainable, you need to tell the FCC that they need to ask Congress for a new communications act, which I think just about everybody in this field would agree is necessary, because the 1996 Telecommunications Act really wasn't even written with the Internet in mind. The world looks nothing like the way that the Telecommunications Act actually works.

WOODS: Berin, I'd like to back up to something you said at the beginning, that one of the scare tactics that apparently we sometimes encounter from the net neutrality folks is that a site like Reddit supposedly couldn't have been started, and yet, it was started. So I don't understand why they would say that. What would be the perceived obstacles to the starting of a Reddit, and how did Reddit get started in spite of those obstacles?

SZOKA: Well, this is why the history here is important. The people who say that essentially are claiming that we've had net neutrality in place since 2005, but as I explained, it wasn't until 2010 that the FCC actually issued regulations, and those were challenged immediately and were struck down. So on the one hand almost everyone in Silicon Valley has convinced themselves that we used to live in this world where we had net neutrality, legally enforceable, and then in January we lost that. Now we have to get it back. And that's just not true. We never really had enforceable rules except for that period from 2010 to January, and those, again, were subject to legal challenge, so it's not even clear that would really change conduct. But what they're concerned about, again, as I said at the outset here, is they imagined that somehow without net neutrality that a site like Reddit would have to pay broadband companies to get carriage, but less if they were a cable channel, or to be noticed, or that somehow as soon as Reddit started that Comcast would have said, oh, we don't like Reddit. We're going to launch our own version of Reddit. We're going to kill Reddit because our version of Reddit will load faster. Well, frankly that's

just not a realistic scenario for normal web browsing. If you're talking about video delivery services, that premium delivery really does matter.

So in other words, for infrastructure-intensive businesses like YouTube, this potentially matters. For websites this really doesn't make a difference. It's not feasible to think that somehow by not paying for premium service, it's going to harm me. But if you're really concerned about that, what the FCC is proposing now in its proposed rules, it's actually a pretty reasonable way to deal with the problem, which is to do essentially what the broadband companies seem to want to do anyway, which is to say something like, we're going to get everyone a basic, best-efforts network level of service, and if you want to pay for something more than that, you can. So that's where prioritization can come in, but that's only going to be used on the margins. That's not, I think, going to affect a site like Reddit anyway. But you see, those people have in their minds that the ability to have fast lanes means that everyone else is in a slow lane, and so they are jumping up and down right now about any prioritization on the Internet, and they have also convinced themselves that if only the FCC would reclassify broadband as a Title II public utility, common carrier, well then it could ban prioritization, but that's just not true. That's not even how common carriage is. Common carriage, like with railroads, means you can charge different rates. You just have to publish a schedule of prices, submit them to the government, and then charge the same rates to similarly situated providers. So there's just a lot of ignorance of not only telecom law but basic law around businesses and public utilities here that's really driving this debate to a frenzied level.

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QUESTION 14

DON'T WE NEED GOVERNMENT TO PROVIDE POLICE?

*Bruce Benson is chairman of the department economics and distinguished research professor at Florida State University and the author of **The Enterprise of Law: Justice Without the State and To Serve and Protect: Privatization and Community in Criminal Justice**. He joined me for episode 145.*

WOODS: Give us the one- or two-minute reason that our superficially plausible belief that government has to provide law and law enforcement might not be right.

BENSON: There are actually a few reasons. One is that everything in the area of law enforcement, including criminal law, has at one time or another been handled by the private sector quite adequately, and in some places it's occurring even today. The second reason is that in fact the law and law enforcement are not public goods. Public goods are supposed to be goods that everyone has equal access to and that the private sector will not provide. As I said, the private sector does provide these things, and furthermore the idea of equal access to justice is just not true. We have scarce resources being used in law enforcement and adjudication and prosecution and in punishment, and so the use of these resources for one thing means they are not being effectively used for something else. There are tradeoffs. The vast majority of crimes that are reported to police are never resolved. The vast majority of crimes committed are never reported to police. So the belief that law and law enforcement are public goods simply doesn't stand up to reality.

WOODS: I think some people assume that the government-supplied system we have today is just the way things have always been. There's always been a publicly supplied police force, and it's engaged in the kinds of activities that it does, and it throws people in prison, and this is the way things have gone since time began. But that's not really the case.

BENSON: No, and in fact it's far from the truth. The first true public police force in the United States was created in the 1840s, I think. Before that, most policing was done by community arrangements and that sort of thing. If we go back to England, the first public police were instituted a little earlier than in the United States, but going back through history we see that many of the offenses—in fact, virtually all of the property and violent offenses that we think of as crimes today—were actually treated more like torts, where community, voluntary organizations pursued the offenders, supported each other to the degree necessary to bring an offender to trial, and the trials typically resulted in compensation payments

to the victims or restitution. So the belief that we've always had a public criminal justice system is false.

The shift that we see in England actually predominantly occurred after the Norman invasion, when you get establishment of a very strong kingship, and the first use of the word "crime" actually indicated that the payments by the offender went to the king instead of to the victim. So there was a distinction that developed between civil and criminal at that point, but it was about who got the money, and the kings over time expanded the scope of crime so that they could get more and more of the money. Of course, the result was that the private arrangements, the voluntary arrangements to pursue offenders and so on, broke down because people were no longer getting compensation for the harms that they endured, and so ultimately after centuries of the king trying to force local communities to voluntarily perform criminal policing and their refusal to do so, we start seeing the development of public institutions for that purpose.

WOODS: You have a chapter in here looking at the process by which the public sector came to be so involved in this area, and it really punctures the myths that people might have been led to believe—that the reason that the government is involved is it's deeply, deeply concerned for justice in the abstract. It has no interests of its own. It's simply pursuing justice in the abstract. As you pointed out just a moment ago, the real explanation might be slightly more mundane than that.

BENSON: One problem I always have with these public-good or public-interest arguments really is that public officials, people who work for the government, are just like everyone else. They have their own objectives. They are concerned about job security. They are concerned about taking care of their families. They may be concerned about the wages they get or the kind of power or influence that they have and so on. So the idea that public officials are both omnipotent and also totally altruistic is simply a misrepresentation of the human mind.

WOODS: Let me read a passage from page 224. You say, "After the first true public police force was established in New York in 1844, other cities followed suit shortly. From the outset, however, these police departments were used primarily for political purposes. Crime control was at best a secondary concern. First of all, local elected officials used their police departments as a way to reward political supporters. A new elected mayor typically fired virtually the entire police department and replaced it with his own supporters. Bribery was often necessary to obtain a position on the police force. That practice was financially reasonable, given the potential payoff from police corruption." At any rate, mayors and their political machines then used their police departments to control the city for their own benefit, and you point out that it doesn't seem to be a coincidence that this very moment is when the modern private security industry developed as, apparently, a perceived response to the total inadequacy of public provision. Well, thank heavens, Professor Benson, we've done away with police corruption today.

BENSON: Yeah, that's fortunate except for the repeated stories—virtually every week, it seems—like in newspapers about police corruption some place, I guess we've done away with the rest of it.

WOODS: (laughs) I guess we've been tiptoeing around the key question, which would be: why should we favor privatizing either—we'll focus on law *enforcement* here because the law itself is the subject of

your book *The Enterprise of Law*—but why should people favor this? It seems like a leap in the dark or yes, there may be some historical precedent for it, but it's way, way in the past.

BENSON: Well, first of all, it's not in the past. Today in the United States it's estimated that we employ probably three times as many private security personnel as we do public police. The private security industry is one of the fastest growing industries in the country and has been for quite a long time, as people turn to private alternatives to try to make their property safe or their persons safe. So it isn't just a thing of the past. Today, for instance, the railroad system in the United States and Canada is policed by private policing organizations that have police powers. They, it turns out, resolved many more crimes committed against the railroads than public police do against the people they are supposed to be protecting. They also have a larger proportion of the crimes committed that are reported to them because the railroads expect their police to do a good job, whereas the public citizen oftentimes expects no response, no consequences from reporting to the public police except perhaps that they get hassled and have to go talk to different people and miss work and that sort of thing.

WOODS: What about the complaint somebody might have in advance of seeing how a system like this would work, that certainly if we were to privatize security and police, the rich would be favored?

BENSON: Well, first of all, when I talk about privatization, I don't just mean markets. I mean voluntary organizations as well. There are voluntary neighborhood watches and that sort of thing all over the country in poor communities as well as more wealthy communities. Secondly, when there is an opportunity for serving a segment of the market that isn't being effectively served, entrepreneurs in the United States will try hard to find a way to do it. One example is a private security firm that is headquartered in Tampa, Florida. An individual recognized that the low-income housing areas of the city were not being effectively policed by the public, and so he started his firm with a \$2,000 loan from his father and offered various landlords the service of protecting the housing projects that they have, including the tenants of the housing projects. The landlords found this was a tremendous deal for them because it, of course, reduced turnover rates, reduced vandalism, all those sorts of things, and the tenants also benefited dramatically, as the crime rates in these housing projects declined by an estimated 50 percent. So now someone will say well, the tenants had to pay for that because they are paying rent to the landlords. But if the cost to the landlord of things like vandalism and turnover and those sorts of things fall enough, the tenants end up not paying any more for a much more secure environment. This particular individual very quickly expanded his firm into several other cities. He's written a book about how to go about doing this, and it's been a dramatic example of the private sector protecting the poor much more effectively than the public sector does.

WOODS: I think people inclined to believe in the free market would hear what you're saying and be inclined maybe to revise their own skepticism, but if I were talking to somebody let's say on the so-called progressive left, where there is tremendous suspicion of the private sector in general, the idea that I would want security provided by the private sector would be viewed as hopelessly naïve—there would be abuses of power the likes of which I could not imagine. What would you say to that?

BENSON: Well, first of all, a private security firm is liable for damages that arise through abuses by its employees and so on. They are subject to lawsuits, and therefore their incentives are very strong in terms of hiring the right kind of people, who are not going to be abusive, and making sure the people they hire are not abusive. On the other hand, we see things like the Rodney King incident and so on cropping up all the time with public police, in part because they are rarely liable for those sorts of things. They might be reprimanded. Sometimes they might even lose their job. But they are not going to be sued into bankruptcy. The public officials who run these police programs generally aren't liable at all. The taxpayers are sometimes liable for such damages, but it's very difficult to sue the public sector anymore. So the incentives for abuse, and I believe the level of abuse, are much higher in the public arena than they are in the private arena. People forget that we have a legal system where abuses by private individuals can result in substantial costs to the individual, and I think that oversight really is a big flaw in the typical arguments against privatization of anything. Sure, we have abuse occasionally by private individuals, but one response would be do a search on the web looking for police brutality, police corruption, police abuse. And then do a search looking for private security, corruption, private security abuse and brutality. I suspect you're going to find way more stories about public police than you are private security, and as I said before, there is about three times as many private security as public police in the country.

WOODS: Also, I don't think it's particularly controversial to say that judges seem to have an inclination to give the public police the benefit of the doubt, by and large, which I don't think they would do if it were some private security company. I think they would look more impartially in that case. Whereas we think of public police as being a special class of people, and when it's your word against the police they are inclined to support the police. I don't think they would be so inclined if you were dealing with a private firm.

Let's say something about restitution, because you are proposing a system that would be based less on retribution and more on restitution. Can you elaborate on that? Because that's, I think, the most attractive part of all this.

BENSON: Well, as I pointed out earlier, the earliest forms of law and law enforcement that we find involve voluntary organizations pursuing compensation or restitution for victims, and we've totally moved away from that, and we call it criminal justice now. We don't call it victim justice. There's very little concern in a relative sense about trying to make the victim whole or at least compensate the victim to a degree compared to the concern about making the criminal pay. But the criminal isn't paying anything to the victim. He's just spending his time in prison or something like that. So my proposal is to refocus the system on victim justice, victim restitution. That would create much stronger incentives for victims to report crimes—much stronger incentives for the private sector, like insurance companies and individual consumers, individual communities that form, joint policing arrangements and so on, to pursue offenders because they are expecting compensation from the offenders. Obviously, you can't collect compensation from everybody, but I think if we look at what's going on around the world in terms of prison work programs, with firms going into prison and contracting with prisoners to work in secure facilities and so on, we would see that in fact, it's quite possible for a lot of criminals to work off their debts to victims over time. And so I would expect that an increase in these kinds of private policing, private security,

private investigation, private contracting with offenders in order to use their time productively rather than just locking them up and leaving them to sit in jail would have a tremendous impact throughout the entire process. And of course, if more victims are reporting crimes and more of them are being caught, as with the railroad police and that sort of thing, then crime should fall through deterrence effects, and so the whole system would improve.

WOODS: I understand you have an article coming out this summer in *The Independent Review*, which is the academic publication of the Independent Institute, in which you are taking the thesis of this book and updating some of the data. Are the trends positive or negative?

BENSON: I think they are very positive. We've seen actually very interesting developments in the area of adjudication—for instance, the development of victim-offender mediation programs, and community mediation programs are cropping up around the world and handling more and more kinds of crimes. When they first started they were typically minor crimes or juvenile crimes or something like that, but now we're seeing some of these victim or offender mediation programs dealing with felonies and serious felonies, and over, I think, 92 percent of them result in an agreement between the victim and the offender that involves compensation for the victim, and something like 90 percent of all of those contracts are fulfilled. So the potential there is tremendous. And of course, we have a huge private adjudication process in contract law and labor arbitration and so on anyway, but I would see tremendous relief for the public court system with that. Another example was the reaction to the private bail bonding market, where individuals, if they want to be released before their trial, had to pay a bond, and so a public alternative was created, and initially there was a big shift to the public alternative. But judges have been so dissatisfied with that that they are not—well, the portion of released prisoners before trial that are being dealt with by the private bail industry is growing over time due to judicial pressures. So in addition to private security we're seeing private investigation and pursuit. We're seeing private adjudication. We're seeing private firms contracting with prisoners for their labor. All of these things are happening in increasing amounts.

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APPENDIX A
ANOTHER FREE E-BOOK FOR YOU
– NO STRINGS ATTACHED!



Here's a veritable primer on liberty, filled with topics freedom-lovers need to know and objections they need to answer. And it's a ton of fun to read, too. For a PDF version of the book, [click here](#). For the Kindle version, [click here](#).

Check out the [guests and topics from 2013](#), and you'll see why you need this free eBook.

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APPENDIX B

FREE HOMESCHOOLING COURSE

If you enjoyed this book, and if you have children, you'll be interested in what I'm about to tell you. It ends with a free homeschool course. (Be patient: I promise we'll get there!)

Ron Paul had been wanting to create a homeschool program since at least 2008, when he first raised the idea with me. He thinks of it not just as an effective way to carry on the ideas he has promoted all his life; it is, to his mind, truly indispensable. If the tradition of thought that he represents is not handed on and cultivated, it will wither away.

So he's launched it.

As parents, though, we're interested in more than just advancing ideas. We want our children to get the best education they can. I am convinced that students who use our curriculum will get both.

When students complete the program at RonPaulHomeschool.com, they will know an enormous amount about the freedom philosophy – because, unlike the traditional classroom setting, we also present the other side of the story. **How many times have you read something by Ron Paul or a Ron Paulian scholar about history, or economics, or government, that you didn't learn in school?** How many great thinkers have you discovered in adulthood who were never introduced to you as a student?

Students in this program won't have the same problem. The people, events and perspectives left out of the usual presentations of this material will actually be taught to them. They'll graduate knowing who Ludwig von Mises and Frederic Bastiat were, which is more than we can say for more than 99 percent of high school (and even college) graduates today.

In addition to getting an education in which the freedom perspective is systematically incorporated rather than ignored or presented in caricature, students will also:

- (1) learn how to speak in public with confidence;
- (2) become a good writer – a skill few adults share;

- (3) learn (with their parents' permission) how to run a blog and a YouTube channel;
- (4) learn how to start a home business.

Our students won't just have a lot of valuable knowledge, in other words. They will be effective communicators in speech and in print, will have a leg up on their peers in promoting themselves and their work online, and will have absorbed a healthy entrepreneurial spirit.

Each of these courses consists of 180 video lessons, plus reading and writing assignments. I am preparing four courses: three full-year courses, and one half-year course. My courses also include an audio file for each lesson so parents, too, can listen during their commutes to what their students are learning.

I'd like you to see the titles of the lessons, at least for my half-year course on government. Let's start with my half-year (90-lesson) course, Government 1B, pitched to ninth graders. **(N.b.: None of my courses are taught at a level that would insult the intelligence of an adult who wants to learn as well. You will not feel talked down to if you take my courses, I promise.)** I'll leave out the subheadings that organize the various parts of the course; trust me, therefore, that there's an overall coherence to the order of the lessons.

Lesson 1: Introduction

Lesson 2: Natural Rights Theories I (High Middle Ages to Late Scholastics)

Lesson 3: Natural Rights Theories II (Locke)

Lesson 4: Natural Rights Theories III (more recent theories)

Lesson 5: Week 1 Review

Lesson 6: Locke and Spooner on Consent

Lesson 7: The Tale of the Slave

Lesson 8: Human Rights and Property Rights

Lesson 9: Negative Rights and Positive Rights

Lesson 10: Week 2 Review

Lesson 11: Critics of Liberalism: Rousseau and the General Will

Lesson 12: Critics of Liberalism: John Rawls and Egalitarianism

Lesson 13: Critics of Liberalism: Thomas Nagel and Ronald Dworkin

Lesson 14: Critics of Liberalism: G.A. Cohen

Lesson 15: Week 3 Review

Lesson 16: Public Goods

Lesson 17: The Standard of Living

Lesson 18: Poverty

Lesson 19: Monopoly

Lesson 20: Week 4 Review

- Lesson 21: Science
- Lesson 22: Inequality
- Lesson 23: Development Aid
- Lesson 24: Discrimination
- Lesson 25: Week 5 Review

- Lesson 26: The Socialist Calculation Problem
- Lesson 27: Working Conditions
- Lesson 28: Child Labor
- Lesson 29: Labor and Unions
- Lesson 30: Week 6 Review

- Lesson 31: Health Care
- Lesson 32: Antitrust
- Lesson 33: Farm Programs
- Lesson 34: War and the Economy
- Lesson 35: Week 7 Review

- Lesson 36: Business Cycles
- Lesson 37: Industrial Policy
- Lesson 38: Government, the Market, and the Environment
- Lesson 39: Prohibition
- Lesson 40: Week 8 Review

- Lesson 41: Taxation
- Lesson 42: Government Spending
- Lesson 43: The Welfare State: Theoretical Issues
- Lesson 44: The Welfare State: Practical Issues
- Lesson 45: Week 9 Review

- Lesson 46: Price Controls
- Lesson 47: Government and Money, Part I
- Lesson 48: Government and Money, Part II
- Lesson 49: Midterm Review
- Lesson 50: Week 10 Review

- Lesson 51: The Theory of the Modern State
- Lesson 52: American Federalism and the Compact Theory
- Lesson 53: Can Political Bodies Be Too Large?
- Lesson 54: Decentralization
- Lesson 55: Week 11 Review

Lesson 56: Constitutionalism: Purpose

Lesson 57: The American Case: Self-Government and the Tenth Amendment

Lesson 58: The American Case: Progressives and the “Living, Breathing Document”

Lesson 59: The American States and the Federal Government

Lesson 60: Week 12 Review

Lesson 61: Monarchy

Lesson 62: Social Democracy

Lesson 63: Fascism I

Lesson 64: Fascism II

Lesson 65: Week 13 Review

Lesson 66: Marx I

Lesson 67: Marx II

Lesson 68: Communism I

Lesson 69: Communism II

Lesson 70: Week 14 Review

Lesson 71: Miscellaneous Interventionism: Postwar African Nationalism

Lesson 72: Public Choice I

Lesson 73: Public Choice II

Lesson 74: Miscellaneous Examples of Government Activity and Incentives

Lesson 75: Week 15 Review

Lesson 76: Industrial Revolution

Lesson 77: New Deal I

Lesson 78: New Deal II

Lesson 79: The Housing Bust of 2008

Lesson 80: Week 16 Review

Lesson 81: Are Voters Informed?

Lesson 82: Is Political Representation Meaningful?

Lesson 83: The Myth of the Rule of Law

Lesson 84: The Incentives of Democracy

Lesson 85: Week 17 Review

Lesson 86: The Sweeping Critique: LeFevre

Lesson 87: The Sweeping Critique: Rothbard

Lesson 88: Case Study: The Old West

Lesson 89: Economic Freedom of the World

Lesson 90: What Have We Learned?

Are there any parents reading this book who *wouldn't* want their children learning material like that? I've packed the learning of a lifetime into one course.

Then, my Western Civilization I course covers Western history from the ancient world through 1492. When high schools offer Western civilization at all, they cover it all in one year. Ron Paul's program covers it in two: one year for Western Civ I, and one for Western Civ II.

I have a sense that a lot of adults feel they should know something about Aristotle, the Crusades, or the Renaissance, or indeed about a whole host of topics that run through the history of Western civilization. Here's how an adult can learn them painlessly, and how a student can acquire a command over material most adults won't know.

Here's a taste of the topics covered: the ancient Hebrews, Greek drama, Greek science, Greek art, Socrates, Plato, Aristotle, Alexander the Great, the Hellenistic world, the rise and expansion of Rome, Roman literature and art, the rise of Christianity, early Christian texts (New Testament, Didache, Apologists), monasticism, Diocletian, Constantine, Rome and the barbarians, Augustine, Charlemagne, the Carolingian Renaissance, Islam, Byzantium, medieval art, feudalism, William the Conqueror, the Great Schism, the Gregorian Reform, the medieval Church, sacraments and liturgy, the Crusades, the Magna Carta, the growth of the English and French monarchies, the rise of the universities, Scholastic philosophy, Thomas Aquinas, just war theory, the cathedrals, the Holy Roman Empire, Dante and the *Divine Comedy*, Marsilius of Padua, the Avignon papacy, the Hundred Years War, the Great Western Schism, the Renaissance, humanism, and the Age of Discovery.

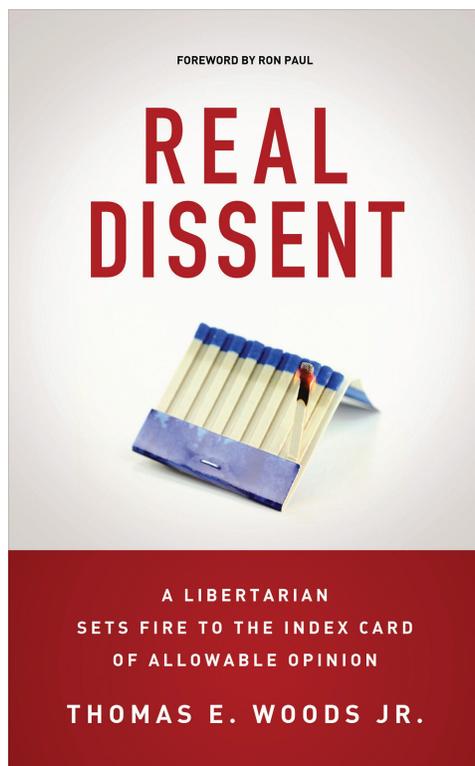
For the full list of topics for my Ron Paul Curriculum courses (two of which are complete as of this printing, and two are in process), visit TomWoodsHomeschool.com, where I make the courses available a la carte. They are also offered through Ron Paul's K-12 curriculum at RonPaulHomeschool.com, as I've been noting here.

And now for the free course: join Ron's program through this link – <http://www.RonPaulHomeschool.com> – and I'll send you a FREE 10-lesson bonus course on the foundations of liberty, suitable for junior high and above, in time for the 2015-16 academic year!

To get your free course, just drop me a line on my contact page – TomWoods.com/contact – once you've [joined Ron's program](#) and I'll get it out to you!

APPENDIX C

FREE AUDIOBOOK



For my 2014 book *Real Dissent*, I narrated the audiobook version of one of my books for the first time ever. (The book is also available in paperback and in an inexpensive Kindle edition.) Visit the book site, RealDissent.com, for more information and for a link to a free copy of the audiobook version!

APPENDIX D

THE HISTORY AND ECONOMICS THEY DIDN'T TEACH YOU

In 2012 I created LibertyClassroom.com, a project separate from the [Ron Paul Curriculum](#), out of frustration at the kind of history and economics people were generally learning in high school and college. I have no control over the composition of college faculties. What I do have control over are my own time and efforts.

I wanted an adult enrichment site for people who'd like to learn the real thing, but don't really have time and lack reliable sources.

At LibertyClassroom.com, people can download courses that can be watched or listened to (we have both video and audio files for every lecture) on a computer or on mobile devices. We have Q&A forums in which you can ask faculty your questions. We also offer recommended readings, and host a monthly live video session with faculty. Every year we add several more courses to our offerings.

As of this printing we have twelve courses: U.S. History to 1877, U.S. History Since 1877, Austrian Economics: Step by Step, American Constitutional History, Western Civilization I, Western Civilization II (these are not my courses for the Ron Paul Curriculum; these are much shorter courses, taught by Professor Jason Jewell), Introduction to Logic, History of Political Thought (parts I and II), The American Revolution: A Constitutional Conflict, John Maynard Keynes: His System and Its Fallacies, and What's Wrong With Textbook Economics? (a chapter-by-chapter refutation of a popular college textbook in economics).

These courses are taught by me and by people I trust, like Jeffrey Herbener (associate editor of the Quarterly Journal of Austrian Economics), Kevin Gutzman (biographer of James Madison), Brion McClanahan (author, *The Founding Fathers Guide to the Constitution*), Jason Jewell (associated scholar of the Mises Institute), G.P. Manish (Troy University), Gerard Casey (University College, Dublin) and, beginning in 2015, Brad Birzer (Hillsdale College) and economist Robert P. Murphy!

Just for reading this eBook, you can get 50% off a year's subscription at LibertyClassroom.com with coupon code COURSES (all caps).

ABOUT TOM WOODS



Thomas E. Woods, Jr., is a senior fellow of the Mises Institute and host of [The Tom Woods Show](#), which releases a new episode every weekday. He holds a bachelor's degree in history from Harvard and his master's, M.Phil., and Ph.D. from Columbia University. Woods has appeared on CNBC, MSNBC, FOX News Channel, FOX Business Network, C-SPAN, and Bloomberg Television, among other outlets, and has been a guest on hundreds of radio programs, including National Public Radio, the Dennis Miller Show, the Michael Reagan Show, the Dennis Prager Show, and the Michael Medved Show.

Woods is the author of twelve books, most recently [Real Dissent: A Libertarian Sets Fire to the Index Card of Allowable Opinion](#), [Rollback: Repealing Big Government Before the Coming Fiscal Collapse](#) and [Nullification: How to Resist Federal Tyranny in the 21st Century](#). His other books include the *New York Times* bestsellers [Meltdown: A Free-Market Look at Why the Stock Market Collapsed, the Economy Tanked, and Government Bailouts Will Make Things Worse](#) (read Ron Paul's [foreword](#)) and [The Politically Incorrect Guide to American History](#), as well as [Who Killed the Constitution? The Fate of American Liberty From World War I to Barack Obama](#) (with Kevin R.C. Gutzman), [33 Questions About American History You're Not Supposed to Ask](#), [How the Catholic Church Built Western Civilization](#), [Sacred Then and Sacred Now: The Return of the Old Latin Mass](#), and [The Church and the Market: A Catholic Defense of the Free Economy](#). His [critically acclaimed](#) 2004 book [The Church Confronts Modernity](#) was recently

released in paperback by Columbia University Press. A collection of Woods' essays, called *W obronie zdrowego rozsadku*, was released exclusively in Polish in 2007. Woods' books have been translated into Italian, Spanish, Polish, Lithuanian, German, Czech, Portuguese, Croatian, Slovak, Russian, Korean, Japanese, and Chinese.

Woods edited and wrote the introduction to five additional books: *Back on the Road to Serfdom: The Resurgence of Statism*, *We Who Dared to Say No to War: American Antiwar Writing from 1812 to Now* (with Murray Polner), Murray N. Rothbard's *The Betrayal of the American Right*, *The Political Writings of Rufus Choate*, and Orestes Brownson's 1875 classic *The American Republic*. He contributed the preface to *Choosing the Right College* and the foreword both to Ludwig von Mises' *Liberalism* and to Abel Upshur's *A Brief Enquiry into the True Nature and Character of Our Federal Government*. He is also the author of *Beyond Distributism*, part of the Acton Institute's Christian Social Thought Series.

Woods' writing has appeared in dozens of popular and scholarly periodicals, including the *American Historical Review*, the *Christian Science Monitor*, *Investor's Business Daily*, *Catholic Historical Review*, *Modern Age*, *American Studies*, *Intercollegiate Review*, *Catholic Social Science Review*, *Economic Affairs* (U.K.), *Quarterly Journal of Austrian Economics*, *Inside the Vatican*, *Human Events*, *University Bookman*, *Journal of Markets & Morality*, *New Oxford Review*, *Catholic World Report*, *Independent Review*, *Religion & Liberty*, *Journal of Libertarian Studies*, *Journal des Economistes et des Etudes Humaines*, *AD2000* (Australia), *Christian Order* (U.K.), and *Human Rights Review*.

Woods won the \$50,000 first prize in the prestigious Templeton Enterprise Awards for 2006, given by the Intercollegiate Studies Institute and the Templeton Foundation, for his book *The Church and the Market*. He was the recipient of the 2004 O.P. Alford III Prize for Libertarian Scholarship and of an Olive W. Garvey Fellowship from the Independent Institute in 2003. He has also been awarded two Humane Studies Fellowships and a Claude R. Lambe Fellowship from the Institute for Humane Studies at George Mason University and a Richard M. Weaver Fellowship from the Intercollegiate Studies Institute.

A contributor to six encyclopedias, Woods is co-editor of *Exploring American History: From Colonial Times to 1877*, an eleven-volume encyclopedia. He is also a contributing editor of *The American Conservative* magazine.

Woods lives in Topeka, Kansas, with his wife and five daughters. His website is TomWoods.com.