



Episode 1,274: Major Discovery: Previously Lost Works by Lysander Spooner

Guest: Phil Magness

WOODS: Well, how about this? We very rarely get to have a treat like this, somebody whose work we assumed we knew and we had complete, and then we turn around and we have two substantial new essays. How is it possible? Did we just stumble across them somewhere? How'd this happen?

MAGNESS: Yeah, it's been a multiyear process of trying to track these down. So when Spooner died, his kind of protege and heir, Benjamin Tucker, the editor of *Liberty* magazine, published an obituary of him that went through and outlined all of his major life works. And most of these were collected together and published in a multi-volume series back in the 1970s. It was *The Collected Works by Lysander Spooner*. But in Tucker's essay, he mentioned these two economic treatises that had been published around 1876 and 1877, the first one titled "What is a Dollar?" and the second one, which was an intentional successor to that, called "Financial Imposters." And yet there were nowhere to be found in any of his works. What was always assumed to have been the case is — so Tucker moved all of his print shop and materials into a bookstore that he purchased in New York City in the early 1900s, and in 1908, the bookstore caught fire and he lost the majority of his equipment, the majority of his collections. It had always been assumed that Spooner's two books or pamphlets had been in that material that went up in flames. And as a result, they were always assumed to be lost. So what I did essentially was find original references to these two treatises in an old newspaper that was published in Boston for only two years 1876 to '77, called *The New Age*, which turned out to have serialized both of the pamphlets.

WOODS: Wow.

MAGNESS: Yeah, that was the first —

WOODS: Thank goodness they did that.

MAGNESS: First kind of breakthrough was discovering that this existed. And of course *The New Age* is a very obscure publication. It only lasted a couple years. There are very few complete sets of it in existence, so I had to piece together by going to I think three different libraries that contain partial collections of *The New Age* and then just went issue, by issue, by issue, and found the whole essay.

WOODS: That is amazing. And this is not a three=page newspaper article.

MAGNESS: Right.

WOODS: When they serialized something, that means it's a longer work. So this book version of this new, or new to us, Spooner material is a real book-length work.

MAGNESS: Yeah, it's 230 pages.

WOODS: So let's get to talking about it. First of all, maybe you could say a little something about Spooner. I know that long-time libertarians are very familiar with his name, but not everybody is.

WOODS: Yeah, so like Lysander Spooner, he's a 19th century abolitionist, legal theorist, anarchocapitalist, and basically a pamphleteer. So he has a body of work that covers across the 19th century. He gets into political writing in the late 1830s, really jumps on board with the abolition movement, and that's kind of his thing until the Civil War. He's a radical instigator of anti-slavery. You'd put him maybe in the category of a John Brown-type character, where he is trying to instigate a slave revolt in the South, basically on libertarian natural rights principles. So he's seen as a radical's radical, but attains nationwide acclaim and fame as one of the major contributors to the abolition movement until the Civil War.

Then after the Civil War, he's actually so unsettled by the way that it played out politically, that he moves into anarchic constitutional theory, which is a really interesting thing. He's starting to ask questions about the legitimacy and validity of the social contract that's always assumed underlie constitutional government. So for the rest of his life, he basically becomes a theorist and pamphleteer of exploring questions of state legitimacy and alternative institutions to it.

But there's this one unifying theme across Spooner's entire career from his early abolition phase to his death, is he absolutely hates the government and views the government as the source of most of the social ills he's encountered. So government sanctioned slavery, therefore, he's making that kind of his target. That's his focus. When he gets later into his life, government-sanctioned economic interventions, he views them as an extension of the same mentality and a violation of the individual's natural rights in a very similar way.

WOODS: There's been a bit of a dispute about Spooner regarding his actual ideology. You call him an anarchocapitalist, but that's where some people would dispute with you. Or they'd say, he's like one of the 19th century individualists in the tradition of Benjamin Tucker, so he may have some socialist leanings here or there. What do you think about that, and do the works in this new publication shed any light on this question?

MAGNESS: Yeah, so these two treatises are his most substantial things that he ever wrote on economics, by far. There are some other short pamphlets, and there's been debate in some of the literature whether to claim him as a libertarian or, as you say, claim him as a socialist. I think based on this work and based on a few other parallel pieces of information we knew about him, we can conclusively reject the socialist claim to him. And I'll do it on one very clear basis: that is Spooner asserts the inviolable primacy of private property rights. He sees that as the basis of an economy. You cannot have economic interaction without basic, fundamental, legally respected property rights.

And this comes entirely out of Spooner's constitutional tradition. Remember, he's a legal thinker first and foremost, so his economic ideas are basically derived from the legal principle of the right to contract. You cannot have a right to contract unless you actually have ownership of your own property, unless you actually have a stake in the game and a legal right to engage in that contract. So he's building up an entire economic system based on private property and contract around it. And that essentially becomes the inviolable thing that the state keeps coming in and intruding on, taking improperly, ordering people to use their own private property in ways that he would view as illegitimate. So what you find in Spooner is fundamentally the makings of a very core, free-market-style, property-rights libertarian in the classical tradition.

WOODS: It's possible to write a work on competitive currency and banking and still not quite get all the economics just right, or to come to these conclusions on the basis of faulty assumptions and so forth. And as you say, Spooner is not primarily an economist, so I'm grading on a curve here. The fact that he even wrote anything that you could plausibly put under that heading is, you know, a feather in his cap. What's your overall assessment of his work in this area? Is there any bit of it that you think is a little bit crankish? Or is it mostly okay?

MAGNESS: Yeah, so it's very idiosyncratic. It's from that period in the late 19th century when the economics profession is in flux — so for example, Spooner is not a theorist that has made his way into the marginal revolution. That would be the first divergence I would cite here. And if you think about the timing — so Carl Menger writes in 1871. This is 1876. That has not diffused into the economics profession.

He is also, I wouldn't say he's the most sophisticated when it comes to a cohesive theory of monetary economics, although he does have some very interesting ideas about monetary policy and what he sees as some of the problems of his day. So a large part of this book is actually a response to government disruption and intrusion into monetary politics, government actions that artificially expand credit or attempt to manipulate the ratio between gold and silver. So these are the big political issues of the 1870s.

One in particular, the Panic of 1873, is kind of the instigator of what turns his attention to this. And his great question is: can we attribute elements of instability in the financial system we see all around us to government action? And his answer to that question is: absolutely, yes, what we are seeing is artificial currency constrictions that result from how banks process and take in cues that are coming from the federal government's attempt to essentially monopolize coinage.

WOODS: Ah, okay. Now, do you think his analysis here — of course, the general idea that government may be to blame, may have some role in this, I receive very sympathetically.

MAGNESS: [laughing] Yes.

WOODS: But do you think he's coming at this from the right point of view, roughly?

MAGNESS: I'd say so, based on the information he had around him and based on the type of analysis that his intellectual circles in Boston are engaging in at this time. His monetary questions are a big thing. He's asking the question: one, why do business cycles occur, and

number two, why do they almost always tend to harm the least well-off in society? So there is kind of a social element where he does very much care about the poor. But what he sees as the problem here is the poor are being denied access to free and open credit.

And the reason they're being denied access to free and open credit is because the government has monopolized the monetary system, which defuses into banks and causes banks to be unwilling to contract freely and openly with poor people. So he's basically seeing government monetary constraint and manipulation on the federal level as having the consequence of denying people the ability to enter into this great and wonderful competitive capitalistic system of free exchange, denying people to basically obtain credit on their own property, to obtain a mortgage, for example. And he sees this as almost like a rent extraction that's occurring on behalf of the empowered political class that is basically screwing everybody else over. And it comes to its greatest fruition, its worst demonstrations when there's some structural uncertainty in the economy, such as a financial panic. So that's where he's seeing kind of the fruits of government monetary manipulation inflicting their worst damage on the masses of society.

And we see this in the 19th century over and over again. What happens whenever there's a financial panic, the very first thing that banks do is they start suspending specie payment. And he sees this as a reaction to federal policy, but it's a reaction that has harms upon most of society by denying them basic access to mediums of exchange, effectively.

WOODS: Well, so this sounds — I'm not really sure what to make of it, but is he critical of monetary over-issue on the part of the banking system? Or is it — because I'm not sure that's what I'm hearing.

MAGNESS: Right, right. I think there's an element of both. There's almost kind of a quasi-early-Milton-Friedman-ish, monetarist-type argument that he makes that it should actually be a mechanism to respond to depressions and recessions by loosening credit a bit, but he also sees credit manipulation as introducing distortion, structural distortions, economy-wide. So for example, when the federal government devalues its currency, he'd be absolutely horrified by this. I'd say the big driving mechanism, the thing that he says is the source of the problem is these are not market decisions. Whatever you choose to do with your currency, these are not market decisions that are occurring; they're political decisions, and political decisions are subject to political manipulation by interests that are engaged in politics, basically for self-gain at the expense of the public at large.

WOODS: I noticed that Spooner makes some reference to the example of free banking in Scotland, and that's been a historical example that a number of free bankers have pointed to. Now, there's some criticism of the Scottish example. Rothbard is pretty, pretty tough on Larry White on using the example of Scotland. But all the same, it's been a source of discussion in libertarian circles for at least 30 years. But now here's Spooner talking about it in the late 19th century. What's the point of raising the example?

MAGNESS: Yeah, so Spooner's whole thesis is that political manipulation of the monetary system introduces instability and it introduces what we would call today business cycle disruptions. So he's looking to history for examples that could potentially test this thesis he's laid out. And the one that he gravitates toward is the Scottish free banking period or what is always referred to as the Scottish free baking period. It lasts from just past 1700 to really 1844, 1845, is when it dissipates. And it's a historical period where banking institutions in

Scotland are comparatively unregulated to the Bank of England, to the English monarchy's and English Parliament's central banking system, which was adopted effectively as war finance measure.

And what you have in Scotland, rather, is, even though it is regulated — and this is always the Rothbardian critique. So it does come under subject to state regulation of the Scottish government at the time — it is much more fluid in granting multiple charters. Instead of having one single bank of Scotland, they have three chartered banks. And then simultaneous to that, you also have unchartered banks that are basically issuing their own script. They're issuing their own paper currencies on credits that are connected to what they retained in their own vaults.

And Spooner's big point here is you can have either a monopolized system that's run through a central bank and regulated by a central bank, which is what was going on in England, or you can have this comparatively diffuse, comparatively deregulated system that takes place in Scotland. And the latter is a mechanism to test competition between banking institutions, competition that plays out on the reputation of the bank itself. So if you do your banking with an unchartered bank in Scotland that is operating under a looser regulatory regime than England, that's on you. That's your choice. But banks have an incentive to be competitive in the market, to adopt internal policies, to self-regulate in ways that make them credible to their customers. So it's basically introducing market forces into competitive banking.

And Spooner sees this period — e does a deep historical study of it, goes back to source testimonials on how Scottish free banking point out vis a vis the British system. And one of the big findings and themes he keeps stressing is that every time there's a financial panic or period of uncertainty or recessionary, depressionary event in England, one thing keeps happening over and over, and that's the Bank of England, and therefore everything under the Bank of England, suspends it specie payments. But he sees at the same time in Scotland, this is a much less likely event to occur, or even if there is a specie suspension, it's a shorter period. In other words, the individual competitive banks in Scotland are much more able to adjust to financial instability, system-wide, than what's going on in England at the time. And he sees this as proof of why we should deregulate the banking system, why we should get government further and further away from this inclination towards central banking that he sees in his own time. So he's got this great historical example that he teases out, and that's kind of the natural experiment of why he says his system will work

WOODS: And his system involves, at least in part, the idea of competitive currencies. How does he envision that?

MAGNESS: So he is almost free rein on that. He's basically of the idea that banking institutions should be allowed in a completely unregulated system to issue their own coin or issue their own slips of paper that are representative of an asset. He says, of course, most banks are going to be building around what were traditional assets at that time, so silver and gold holdings in their own vaults. And this is the traditional play out that occurs in Scotland as well. It's chained to a metal as a monetary base.

But he also envisions, he says, you know, maybe there's going to be experimental banks that they issue paper currencies that are backed by land, or they're backed by some other real estate property holding or some other asset. He doesn't really know, and he says it's not really our place as the government to prescribe this on to a bank. That's really a process of market

discovery itself, so if there's a financial innovator who comes along and discovers a new way that they can link a piece of paper issuance that will be accepted and tradable in a market to, say, farmland that they hold out in the West, for example, well, he's like, let the market decide. People will see the value of that real estate holding, and they'll discover whether or not this is in fact a legitimate basis for this private currency that's been issued. So he has a very elaborate system of viewing the possibilities that should come up here. He doesn't really have one single one that he favors. It's rather: let the market decide in the absence of monetary monopolization where you have a government that says only gold is currency, and not only that, only gold as set by the value that we have established through either our central bank or through federal legislation and everything else is off limits.

WOODS: Does he have anything favorable to say about gold? Is he willing to say, if the market chooses gold, he'd be at peace with that, or is the anti-gold?

MAGNESS: Oh, he's absolutely. He is absolutely accepting of the notion of gold. He just sees it as a too-constrained definition of money. So he's favorable to gold, he views it is something that's historically valid, but he just questions the notion that the government has established gold through statutory primacy, because he sees this as the government opening up its own opportunity. So once you establish gold as the only statutory currency — so in Spooner's mind, that just means also that the government that's established it can come in and regulate it. When they come and regulate it, they start to manipulate it. When they start to manipulate it, bad things happen.

WOODS: Well, very interesting stuff. I think, first of all, it's amazing detective work on your part. That really — I mean, if I had come across this after following those different steps, and there it is being serialized in that newspaper, I think my heart would be beating like right through my body.

MAGNESS: [laughing] Yeah.

WOODS: Like, oh, my gosh, I am on the cusp of a discovery here. That's really, really amazing.

MAGNESS: It's like being the first person to read this in over 120-odd years, 130 years. Because we have letters where Spooner's friends read this and responded to it. There are some newspapers in Boston that make reference to it that say, "Mr. Spooner has a new monetary treatise out." And they give a very, very rough overview of what it contains, but this has been inaccessible since at least the turn of the century. So the first time I opened this and start poking through it and I see Scottish free banking: *Wait a minute, Hayek was talking about that in 1978. Here's Spooner a century before him using this great example.*

WOODS: That's really amazing. I mean, the only thing that comes close in my case was — it was not anywhere approaching the detective work you did; I just almost literally stumbled upon it. I was in the stacks in the library in grad school and I was looking for something, and I came across a box in the stack. So naturally, you see a box, you open it. I opened it up, and in there was a series of old pamphlets on various political questions from the early 19th century. And one of them was Abel Upshur's commentary on nullification.

MAGNESS: Oh, wow.

WOODS: Yeah, I mean, he had been a cabinet official, but he had also written a systematic reply to Joseph Story. So, you know, not a small figure in the history of, you know — I mean, obviously, in the typical textbook, he's a pretty small figure, but to me, he's a pretty significant guy. And to see this and realize no one has seen this in forever, and I started looking at it, and it's really powerfully written. So I took it, and I ended up reproducing it in the appendices of my book *Nullification*.

MAGNESS: Oh, yeah, yeah.

WOODS: And that brought it to the light of the world. But it wasn't like I knew that he had written this thing, and so I was on a quest to find it. I didn't know if — you know, I know anything. I was a guy who found a box. But the point is, I opened that box, and a lot of other schmucks had gone through there and seen that box and just walked on by.

MAGNESS: Right, right, not realizing the significance.

WOODS: Yeah, the lesson is: you see a box; doggone it, you open it up. All right, so how do people get this?

MAGNESS: So we are releasing it through the American Institute for Economic Research. It should be available on our website, which is AIER.org. We have a bookshop on there. There's also the other standard way to do it, and that is to order off of Amazon. So we put it out as an inexpensive paperback, available to — we want people to rediscover this work, so the idea is to make it as widely accessible as we can at a minimal cost and reintroduce this line of discussion. It actually feeds into just everything we're talking about today. Competitive currency is a big theme of the moment in political and economic discussions, as Scottish free banking. That's a big part of Austrian banking theory that has been developed and debated. So the idea is to make this as widely accessible as we can. But again, they can go to AIER.org and check out our bookstore or the conventional way, as well, on Amazon.

WOODS: All right, I'll do both. I'll link to AIER and I'll also link to the Amazon link at TomWoods.com/1274. AIER, I guess, is his title president? Is that what Ed Stringham's title is?

MAGNESS: Yes.

WOODS: Okay. Ed Stringham's been a guest couple of times, and I just think the world of Ed. So the fact that under his imprint this is coming out is another feather in his cap too. So I'm glad you guys are doing it, and it's really amazing to think that we've got some more Lysander Spooner. How about that?

MAGNESS: Absolutely.

WOODS: So thanks to all you guys. TomWoods.com/1274 is where to find all this information. And we have to talk now — I mean, now that we've — this was a nice little conversation about a hero to libertarians and some new material and it's very exciting and scholarly. Now we've got to get back to smashing bad guys, because I know you're good at this, and I know you take every bit as much pleasure in it as I do. So let me know when you have some good, juicy stuff, and we'll do that again.

MAGNESS: Absolutely.

WOODS: All right, thanks, Bill.

MAGNESS: Thanks again.