



WOODS: All right, these first couple episodes were a little on the technical side, but again, the nerds also deserve some episodes, right? They deserve some episodes. But this one is for nerds and regular people. This one is very ecumenical. I've got a number of questions submitted by listeners that I've just accumulated over time, and now I've got you, and I'm going to ask them of you. Because I mean, I suppose you could make a whole episode on each one, but I think it would be a boring episode. So instead, I want to cover a few —

MURPHY: We're going to concentrate the boredom, so it will be a rapid-fire snooze fest.

WOODS: Yeah, exactly, exactly. So that's going to be the format for the next few episodes. So to give people an example of the kinds of questions I might want to ask, it's easy to understand how you would have a property right in your house or in a consumer good or your car or whatever.

But it's not as easy to understand how rights to things like hunting and fishing would be allocated. And yet, you can imagine that we would want to have some kind of right acknowledged and recognized in those areas in order to prevent over hunting, because if there are no property rights in it, then everybody has an incentive to just go and hunt everything right away rather than thinking about tomorrow. Because anything you don't shoot somebody else will just shoot, whereas if it's on your property, of course, you don't want to shoot all of them, because you're thinking about next year. But if you're just struggling out in the wilderness against everybody, you'd better shoot as many as you can right now, or any that you don't, it's not like the other people are going to think about the future. They're just going to take it.

So how do we establish such a thing? Or is there such a thing as hunting rights or fishing rights? And also, how do you claim ownership to fish or deer that roam from place to place?

MURPHY: Right, okay, great question. Actually, this reminds me of when I was in college, I was on the debate team — I know that's probably shocking to some of the listeners; they assumed I was the backup quarterback — and the resolution was something about developing the Earth's ocean resources, or it was some boilerplate like that, where it was clearly like an environmental topic, but we took it for the affirmative. We said yes, and we privatized the oceans. And we never lost that case, Tom, because the other side, they never even knew what to do with. They're like, are you kidding me? And we just steamrolled them, because they didn't even know how to deal with that.

WOODS: Wow, okay. Well, how about that?

MURPHY: Yeah, so there's an anecdote plus some answers here on Bob Murphy Week. Okay, so just to flesh out what you were saying there, because this is really is an area where knowing some economics really helps make sense of the world and the crazy things. So right now, like if the government controls a certain lake, they might have restrictions on the fishing that you can do there, because as you say, Tom, if they just let it be wide open, oh, laissez-faire would mean everybody would just over-fish, and after a while, all the fish are gone, because there's a technical limit that you should do, at which point you should stop and let the fish replenish.

But the way that the restrictions typically work when the government's running it is it will do things like restrict the size of the engine you can use or to say you can only use nets or things like that. So it's like making the fishing less productive per hour of the fisherman's labor rather than just saying something like, okay, you can only catch so many pounds or the fish you catch have to be above a certain size. And just having the arbitrary like hunting or fishing seasons, things like that. So that would clearly not carry over if it were all privately owned. So with some of this stuff, it's pretty simple, and if it's a small-enough thing, like some company or some organization could own a pond or a lake or whatever, and just have their rules for how that would be carried out.

When it comes to stuff like whales or things like that, when we were getting into this for our debate, when we were preparing our case for it, for some of those things, it seemed like probably what would make more sense is if you actually just tagged the animal. So in other words, what you would own would be the giant sea creature, and you could have a little radio signal or something that you put on them, and that's the way you would — just like with horses, you can brand a horse to show this is mine, likewise, with some large sea creature, you could put some kind of electronic device on there nowadays with technology, and that's the way you could establish ownership.

Or more generally, you could just have large areas of the ocean saying that so-and-so owns this, and any tuna that are caught in this area, you have to pay the fee to this company that owns that stretch of the ocean. And presumably if that were the arrangement, if that's the way the legal system shook out, then there would be economies of scale, and nobody would want to own just a tiny little fraction of the volume of the ocean or down to a certain depth. You'd want to own large amount to make sure that you captured most of the — so like you say, Tom, so that people refrain from overfishing, that the beneficiaries would capture that economically. So having just a tiny little stretch of the ocean owned by individuals, if the rule were any fish you catch in that volume of water is yours, that would be inefficient for the reasons you're talking about.

So in other words, Tom, there's no I think one-size-fits-all. I think it depends on the specifics. But in terms of, okay, well, how do we get there, it doesn't really matter. And that's kind of the beauty of having freedom and voluntary transactions, is so long as somehow the property rights were codified, then people could rearrange who owned what in order to make it sensible. So in other words, Tom, if the rule were for some reason that you can't own specific animals or creatures, you can just own either the water, or if we're talking about hunting land, you'd just own the forest and then any deer that you happen to shoot on your land is yours, then that would just lead to companies buying out their competitors and having large tracts of land or ocean. So I'm being a bit vague, but my point is, if there were some crazy outcome that that system spat out, people could just rearrange contractually and figure out a way to preserve the value of economic resources by rearranging who owns what.

WOODS: I don't know how much you know about this sort of stuff, but as far as you know, does the state try at least in some way to approximate this kind of arrangement now in order to prevent exactly the kind of outcomes we're describing?

MURPHY: I mean, so let me answer you this way. When we were explaining our proposals for like, *Oh, so rather than having these crazy rules like you can only use shipping boats without any engines and things like that or nets of a certain small size* — which were real. Like, we weren't pulling those out of the air. We were pointing to real-world restrictions on fishing, the ostensible purpose of which was to prevent people from going in and completely destroying the fish stock. And so we were saying, oh, rather than do all those crazy things, instead, a much more rational system of property management and wildlife conservation would be blah, blah — and we listed our proposal. And we were saying that's what would happen in the private outcome.

And so I remember our roommate or whatever, this kid down the hall was like, "Well, why wouldn't the state just do that?" Like in other words, if you're just showing better techniques, then just go and tell that to the bureaucrat. And the answer was, the bureaucrats had nothing to gain from that. In other words, if you'd made some change in policy that increased revenues by 40%, the bureaucrat who's in charge of the forest and wildlife for that four years or whatever doesn't get the pocket that money. If he did, he'd go to jail. That would be embezzlement or stealing public funds.

So what happens right now, Tom, is where you see over-cutting or clear-cutting of forests and things like that where it doesn't make sense ecologically is where the government owns the forests, because they have an incentive, the bureaucrats who are in charge of the decisions for leasing or whatever to outside logging companies, their incentive is not to preserve the capital value of that asset for the federal government. Instead, they want to give a sweetheart deal to the logging companies, so that then when they're out of office, the bureaucrat who made that deal or signed off on it, then maybe they somehow get reimbursed, whether it's explicit or just kind of an understanding that if, oh, yeah, you treated us well; you're going to get a nice consulting position among the National Loggers Association Conference Board or whatever.

So yes, Tom, I think some of the people that go in there, they're aware of these issues, but as with all this stuff, when it comes to critiques of state action, *Gee, why can't we run the government like a business?* well, institutionally, no, you can't. It's not just a matter of you've got to get some entrepreneurs in there who think big and look outside the box. No, because the incentives are all screwed up.

WOODS: All right, completely unrelated question, but one that I get an awful lot and that involves consumer safety. Now, you've done a thing on this, and maybe we've talked about it a little bit, but it came up the other day in the Democratic debate, because Elizabeth Warren gave the example of toasters that would light on fire, that you would put some toast in there, and you'd go to the other side of the house to help the baby, and you'd be there a little longer than you thought you would. You come back, and your curtains are on fire. Well, thankfully, the government stepped in and now the manufacturers have inserted heaven-knows-what into it, and things are better. And to think that anything short of that, any alternative approach could work is just naive, people would say. It's naive. You can't depend on companies to produce safe products. They'll say, yeah, yeah, yeah, obviously they don't want to kill all their customers, but that seems like a pretty weak response. So what would be the correct response?

MURPHY: Well, first of all, I want to point out that scenario, it would be crazy for someone to put toast into a toaster. You might put bread in there, I grant you, but why would you put toast in? That's silly.

WOODS: [laughing] Yeah, that would be silly. Fair enough. You would deserve what happens to you.

MURPHY: Okay, so here, there's different layers of it. So one thing is just to point out that, with all this stuff with consumer safety, there's typically a tradeoff involved, or at least at some point, there would be a tradeoff involved, that there's no such thing as saying, oh, I want products to be safe or dangerous. In the real world, in practice, it's more of the products can be safer, but then they're going to cost more. There's going to be some other downsides. So like with a car, to say, oh well, should you be allowed to sell an unsafe car? Well, what does that mean? The cars that people drove in the 1950s were a lot more dangerous than the ones now, but on the other hand, people still die in car accidents now. You could have everyone just drive around a tank at ten miles an hour and that would be pretty safe in terms of traffic accidents. But of course, that would be so expensive that most people wouldn't be able to drive in the first place, and probably more people would die from all the fallout of not being able to get around quickly.

So, with a lot of this stuff, again, I think people need to break out of this idea of products need to be safe, and the government's going to come in and just ensure a minimum level of safety. No, so even if they did it correctly, but then on top of that, the issue is if you have the government come in to do it, again, with the incentives or whatever, who's to say they're going to get it right in terms of insisting on minimum standards that make sense and actually are worth the cost? In other words, to insist that something be done in order to meet some level of safety that might make the product so expensive that, no, given the realities of the situation right now, you're actually hurting people by driving up the price and the safety of the product.

So that's one thing, but now in terms of, okay, so if you didn't have the state coming in to impose its own levels of minimum standards, what would happen absent that? So like you say, Tom, the ultimate check is just reputation, and people can go and you look at consumer product reviews and things and, oh, yeah, this TV blew up in my uncle's house last week, so I'm not buying them; I'm giving zero stars. I mean, that sounds goofy, but ultimately, that's — I mean, what's to prevent serial killers from infiltrating and all becoming Uber drivers? Well, at the very least, Uber when somebody starts killing passengers is going to kick them off. So that's the ultimate check whether murder is illegal or something in the society. You don't have to really worry about large-scale serial killing occurring amongst Uber drivers.

But obviously you want more refinements than that, so there's things like the retail store, right? So like a Walmart or whatever the analog would be in a Rothbardian world, they would probably have a whole set of minimum standards, so a lamp that you buy at Walmart that blows up when you plug it in, whether the manufacturer is liable or not or owes you some kind of compensation because of a clause in the contract, you're certainly not shopping at Walmart anymore. You're going to be upset with them. And so there's a layer right there, an intermediary where they would be the ones to evaluate. How it plays out, whether there's third-party testing agencies like Underwriters Laboratories, or whether the big company like the Walmart or whatever has its own team of safety people that evaluate products: before we give a big contract to this manufacturer and buy 16,000 of their units next month, we're going to randomly sample some of this stuff coming off their assembly line and make sure it's safe for our customers. So there'd be that level.

And then another thing, too, though, just legally speaking, I think there are things — for example, Tom, if somebody's selling chicken noodle soup and actually it's full of arsenic and the customer dies, like I don't merely think that restaurant's going to go out of business, I think that's clearly fraud and that the next of kin would have a criminal case, or at least a civil case for sure, against the person who sold that product, because that's not the conventional understanding of what chicken noodle soup is. And so I think, likewise, you know, it would be dependent on the culture and so on, but I think it's reasonable that someone buying a lamp in our day and age doesn't expect when you plug that thing in, it's going to blow up or that if your hands happened to be wet or something that you plug in and you're going to get electrocuted.

And so I think the legal system itself could have certain standards in there. Again, whether it flows out of just whatever the standard protections against fraud would be, because if you're advertising it without a bunch of explicit disclaimers, the consumer wouldn't actually believe that when you said this is a lamp for sale you meant a lamp that won't electrocute you, that kind of stuff.

WOODS: Yeah.

MURPHY: Maybe one last thing is like the airline — because I this is my favorite one, like if you got rid of the FAA, then, oh, I guess planes would be falling out of the sky.

WOODS: I love this one, by the way. I've used this one myself. So yeah, go ahead.

MURPHY: And as King of the Airport, this is something near and dear to you.

WOODS: Yeah, this is a little bit up my alley.

MURPHY: Yeah, they're threatening your kingdom. So with something like that, again, the conventional thing of, well, gee, if some airline's always not doing maintenance and their planes are crashing, that's not good for anybody. But that leads people to think, oh, so you've got to be like Rain Man — if some of your listeners, Tom, remember that Dustin Hoffman movie where he was afraid to fly because he knew all the statistics of all the different — and no, the average consumer wouldn't need to do that. For example, one way of solving that problem would be that when you bought an airline ticket, part of the ticket was a clause saying if there's a crash and you die, then the airline is going to give your estate whatever, \$500,000 compensation.

And so suppose that just becomes the industry standard, and then the airlines don't want to be on the hook for that — in other words, they don't want to have to be rolling the dice every time a jet takes off where they know they might lose \$30 million depending on how many passengers are on that thing, so they would want to go get insurance coverage for those events. And so the insurance companies then would come in, and before they would grant policies pledging to indemnify the airlines in case one of their planes went down, of course, they would have standards in place.

So the insurance companies would be the ones that might say, okay, sure, we'll underwrite you for these humongous policies — and of course, the airlines would pay them a premium — but in order for us to be willing to do that, you're agreeing that we're going to randomly send in our people to give random drug tests to your pilots, or we're going to randomly show up unannounced and then go and inspect your engines and whatever just to watch to make sure that when the plane lands and your ground crews come out, you do the proper maintenance things that we think you ought to be doing.

So there would be something analogous to the FAA with its own team of inspectors and standards; it's just it would be a private party doing that and they would be the ones on the hook. So if they were wrong, if their standards actually weren't good, or they weren't enforcing them properly, like if their inspectors were actually taking bribes under the table — you know, like they show up at Delta, and actually, the Delta ground crew isn't doing the right maintenance checks, but they give the guy from the insurance company \$1,000 to look the other way, well, if that's what's going on and then that plane crashes, the insurance company just lost \$30 million, right? So it's in their interest to make sure that their inspectors aren't corrupt or on the take. Whereas with the FAA, there's a plane crash, what happens? They go to Congress and say we're strapped, we need more money. And their budget goes up after a plane crash. Who's going to cut the FAA's budget after a plane crash?

WOODS: All right, as I've said, I've used that explanation as a way of letting people understand that, on the one hand, we could have every single plane thoroughly inspected after every single flight. That's conceivable, but everybody would see that's overkill and that's going to use way more resources than makes any sense. But on the other hand, we could have Bob Murphy inspect the plane. We'll give him ten seconds, and he knows nothing about what he's looking for, and then that'll be the inspection for the year. Obviously, that's too little. So the only non-arbitrary way of figuring this out, what is the — I hate to say optimal, but you know what I mean. What amount of inspection and regulation in effect makes sense? And you can only do that through the market.

MURPHY: And real quick, too — I know you want to get to another one, but it doesn't need to be the same for every customer. So obviously with plane crashes, that's a little tricky because then if you're flying over houses and stuff. But like when people say things like, "Oh, gee, I like taking off my shoes and my belt stuff for the TSA to keep me safe," well, if that really did matter, that kind of stuff, well, then maybe some airlines would do that. And then those ones might have cheaper tickets or something, or they would have bigger clauses for indemnification if there's a crash. Whereas the ones that don't have that screening might say,

well, we're not going to indemnify you, because for all we know, there's a bomb on board. But hey, at least we're not groping you at the security checkpoint. So I'm just saying it doesn't need to be that there's one point on that spectrum of privacy versus security, if that's the way you want to frame it. There's some leeway there. Just like not everyone has to drive a Cadillac, you can drive a junkier car, but it's cheaper. We don't force everyone to choose the exact point on that trade-off of price and quality.

WOODS: All right, now, I know this is actually a hard one, so I wonder if maybe given the time left if I shouldn't give you such a difficult one. So instead — that's the beauty of Bob Murphy Week. What I don't ask you today, I can ask you tomorrow. All right, so let's actually skip ahead to one that is tricky but — you know what? I'm going to skip that one too. All right, how about this one?

MURPHY: *Should the government control money? Go.*

WOODS: Well, this one is a bit obscure, so maybe it doesn't have a super-long — like, how do we take care of poor people might have a kind of a long answer. I don't know. But suppose there's some mad scientist out there, and he's doing wild, unethical experiments. I mean, maybe he's doing human-animal hybrids or whatever. How does he get regulated, so to speak, or taken care of in an ancap society? Now, I know you could say, look, even under the state, you could have some guy who is secretly running experiments like this that nobody would know about, and there's no solution to that now.

MURPHY: He's probably getting funded by the state.

WOODS: He's probably getting funded by them, right. But all right, let's leave that kind of escape hatch aside. Can you conceive of a way that we handle a guy like that?

MURPHY: Okay, sure. So like you said — I mean, I am going to go down that path originally just to complete the answer, that, yeah, with a lot of these things, the standard economist response is: compared to what? And so if you're going to come up with some really tricky problem that it's hard for a voluntary society to deal with, that's not necessarily a strike against the voluntary society. You've got to check: okay, would a coercive one do it?

And I'm not being facetious when I say, yeah, in terms of if the danger is somebody with a lot of funding behind him doing really despicable things without any check, right now, that's what happens with states. I mean, it's not science fiction. The US government really did fund projects trying to do mind control and doing experiments on people in mental hospitals that are just horrifying. And so that stuff's not completely made up. There really is real-world things that generated the treatment in the fiction and stuff like that. So that stuff really does happen.

Now, at the very least, in a free society, there would be no agency that would have all the legal power and the bulk of the money behind it, and so at the very least, this sort of thing would be less of a concentrated problem. It would be more of an eccentric guy maybe with a bunch of money at his disposal, so at least the problem would be somewhat contained. So if it's someone doing something to people against their will, then there would just be standard — if people could figure out, wait a minute, there's kidnapped people in that building over there that have experiments being done on them, there'd be legal standing with those people presumably, and I would expect the institutions in a free society, like their versions of police detectives or what have you to get to the bottom of that and not be corrupt and let the rich, eccentric guy pay them off the way would happen right now. Like if some billionaire's doing crazy stuff on his property right now, a lot of times the police might look the other way or whatever because he's buddies with the mayor or something. So I think that stuff's less —

In the limit, though, if there's something like technically there's nobody whose rights he's violating but if it's something that's just absolutely horrendous that 99% of us can agree, *That's awful. We want this guy to stop. What can we do?* well, then they can just boycott him, right? So the electric company can stop selling him electricity, and the grocers can stop

selling him food or whatever. So you're allowed to do that in a free society, right? That wouldn't be construed as discrimination or the way technically right now, depending on the type of company and what the rationale was, you're probably breaking the law if you just say, "No, I don't want to sell to this customer." So ultimately, they'd be allowed to do things like that, too.

WOODS: I think the problem is that there are so many possible wild scenarios that you can come up with. And as you say, it's not clear that — I mean, there are ways of handling them, but given the way human beings are, you're always going to be dealing with perverse people and bad situations. Just look at the newspaper. Look at the horrible crimes we see people committing. We see people who have been torturing people and children for years undetected. So we have to bear in mind that what we're trying to do is minimize these cases. And what is the institutional arrangement best ordered to minimize cases like this?

MURPHY: Right, and I know you know this, but all the examples people are pointing to right now of how awful humans are, are all things happening right now when the state allegedly prevents that stuff. So it is weird rhetorically how people will point to all the things that happen under the state and say it's a good thing we have the state; otherwise, this kind of stuff might go on. That's a weird argument.

WOODS: Right, right. No kidding. All right, I've got a whole bunch, let's just say — I've got a whole bunch of these. I want to pace ourselves properly, however. So tomorrow, we're going to talk a little bit about this coronavirus problem, because we have already done Ebola. We did a whole episode on that, so I'm going to refer people to that. But we'll still, because people are thinking about this, cover that a little bit tomorrow, but then there are other tricky questions too, like children and child welfare, that we need to get to.

So a lot of great stuff still to come, but make sure, for heaven's sake, you check out all the Bob Murphy links at TomWoods.com/1604, including the link to BobMurphyShow.com. Bob has a podcast, and it's really darn good and very eclectic. And it's got Bob's smarts and his guest's charisma — that came out wrong. You have charisma too. Smarts and charisma, all bundled together in one. So make sure you're also listening to *The Bob Murphy Show*, and we'll see you tomorrow.