

**Episode 2,364: Gene Epstein: Should We Abandon the Non-aggression Principle?**

**Guest: Gene Epstein**

**WOODS:** So, let's talk about your debate with David Friedman. Now, David Friedman, for anybody who may not know, this is the son of Milton Friedman. You made a playful reference to that, and also very respectful reference in your own statement.

**EPSTEIN:** I made teasing reference also, Tom, but we'll get to that.

**WOODS:** Oh, I loved how you started off talking about what you had read about the dinner conversations in the Friedman household.

**EPSTEIN:** Yeah. And also, I had just looked him up a moment ago. He was on your show, actually, like in 2014. Twice, he's been on your show. At least twice.

So, what that's worth. Very few of my debate opponents have been on your show twice, with the exception of one other, Mark Skousen. But go ahead, yes.

**WOODS:** Yeah, that's true. Yeah. Have had David Friedman. Well, anyway, so I never got to meet Milton, but I met his son and his grandson. But I never got to meet him. You knew Milton Friedman a bit.

**EPSTEIN:** Never in person. But as I mentioned in the debate I called him up at 2 or 3 times a year to chat with him. And I actually had a conversation with him, a useful conversation, about a month before he died. He was still alive and well and had an active mind. Yeah.

**WOODS:** Well, so can you recall roughly the resolution being debated? Because you were arguing for the negative.

**EPSTEIN:** I have it written down, Tom, right in front of me. I come prepared for our little discussions.

**WOODS:** I appreciate that, Gene. Can't say that for every guest.

**EPSTEIN:** That's good. Okay. Yeah, We can't say that for your preparation either, Tom.

**WOODS:** Or me. Yeah, for the host, for that matter.

**EPSTEIN:** Yeah. So, it's a little tortured, but I did it – actually, it's almost word for word from an interview that David had given, ironically at PorcFest two years before to Matt Kibbe.

And it reads this way: *The right way to persuade people of libertarianism is by showing them that its outcomes are superior by their standards, without any resort to the flawed non-aggression principle.*

That was the debate topic that I thought was best for David to take the affirmative on, because that has really been a major theme for him. When I heard him say this on Matt Kibby's interview and defend it, I was a little surprised.

And I realized that I really wasn't up to speed on the later editions of his book, *Machinery of Freedom.* He had completely repudiated what I prefer to call the zero-aggression principle, since, as you know, I'm a disciple of the other guy you interviewed, Gerard Casey.

He repudiated it completely and he felt that what we call "consequentialism" is really all you need to persuade people of libertarianism. So, that was at least the topic that we were debating. So, what do you want to add to that, Tom? Where do we go from here?

**WOODS:** Well, here's what we're going to do. I'm going to be David Friedman for a few minutes.

**EPSTEIN:** Oh, wow.

**WOODS:**  Well, okay, I'm going to be the poor man's David Friedman, let's put it that way. And I'm going to throw at you a couple of arguments that he made.

Because the opening statements on part of both of you gentlemen were long, so I want to hone in on a few arguments in particular and get maybe more elaboration from you on what you would say if you had more time.

**EPSTEIN:**  Okay, Tom. This is going to be a surprise.

**WOODS:** Yeah. So, his first argument basically boiled down to this. He says: My first argument is, nobody really believes the non-aggression principle.

And what he meant by that is if your principle is you cannot initiate coercion, and initiating coercion includes aggressing against the private property rights of another person. If that's what your statement is, then you definitely don't believe it because he says: *I'll give you an example*.

So, he gives the example of somebody falls out a window of a tall building, but somehow by his good fortune, as he's tumbling down, he grabs hold of a flagpole that's all the way up at the ninth floor.

**EPSTEIN:** It was a balcony, in his case.

**WOODS:** Yeah. A balcony, right. And he grabs manages to grab hold of it. But that's the only thing keeping him from plummeting to his death. But then the owner of the flagpole says: I don't give you permission to be holding on to my flagpole.

And Friedman says: *How many people in this audience would therefore let go? Of course, nobody would. So therefore, you don't believe in the non-aggression principle.* That's one.

And then a very similar case. It's almost the same case: *There's a mad shooter who's out there killing people. And there's a gun right next to you that you could pick up and shoot him with. But you know that the owner of that gun has publicly said that I don't ever want anybody else to use my gun.*

*But yet I'm virtually certain every one of you would pick that gun up and violate his private property rights to go shoot the crazed killer. So, again, you don't really believe in the non-aggression principle.*

So I hate to – I won't. I was going to summarize your response. Since you're here, why don't I let you make the response?

**EPSTEIN:** Okay. That's fair enough. That's fine. You know that I believe that our mentor, Murray Rothbard, would have dismissed such arguments by resorting to the old cliche, "Hard cases make bad law." In *The Ethics of Liberty*, I think, Rothbard talked about lifeboat ethics, you cut off people's arms to eat and all the stuff that you do in a lifeboat, that you're starving to death.

And he dismissed that as irrelevant to the real world. And my initial instinct was to realize that perhaps I could counter with the another case that I didn't even mention. Jean Valjean tries to steal a loaf of bread, breaks the window. But he committed a crime – that's in *Les Miserables*, you know

**WOODS:** Which we just saw in London, by the way, last week.

**EPSTEIN:** Well I'd ask you how it was, but we don't want to digress.

**WOODS:**  So, I'll tell you later, though. It was the best performance of it I've ever seen. But go ahead.

**EPSTEIN:** Wow, that's good to know. Yeah. I spoke to our mutual friend Stephan Kinsella, who is a lawyer and whose specialty is, of course, the philosophy of law and the rest of it.

And he confirmed my view that it's really not glib or just a play on semantics to say that. That in all cases, in those two cases, you have committed a crime.

And that therefore we unflinchingly say that simply because under certain rather bizarre circumstances – I thought that flagpole story was pretty crazy.

Because as I jokingly said, if somebody grabbed my flagpole, my balcony, I wouldn't press charges. Because, by the way, in the libertarian world, the injured party presses the charges.

I would just marvel at his physical dexterity since it is a rather fantastic story that you could break your fall by grabbing onto the flagpole. And I would say: *Look, I'm only happy my flagpole was there to save your life*.

But the point is that doesn't change the fact that it would be a crime. And all I said was that – or, I said it in different ways. Because David challenged me later in another way, which I want to get into, about this particular point.

I said that it's always and absolutely a crime to invade somebody's property. But in certain extreme cases there are extenuating circumstances. And Stephan kept pointing out in most cases the injured party wouldn't even bring charges against the person who committed the crime. That's possible, too.

So, the crime is absolute. The question is, what is the penalty? And in so much of law, the extenuating circumstances are often considered by the judge and jury.

But when David later on seemed to be shocked that said I would commit the crime, he said: *Well, if you would commit the crime, how can you call it a crime?* I said: *Well, maybe because I'm a criminal.*

*Just because I would commit the crime under the circumstances that he mentioned, that I'm saving the world from extinction* – that was another example he had.

Which is that I steal $100 worth of equipment in order to prevent an asteroid from destroying the world. And the fact that I would do that means that it's not a crime? Just because I am prepared to do that doesn't mean it's not a crime.

I would be prepared to do that under the certain rather bizarre circumstances that David set forth. And I don't think that it's glib to point that out. I use the analogy with murder. You're driving a truck, your truck kills somebody.

And then as a matter of law, the question is, to what extent are you guilty? If your tire blew out, then the question is, were you tending to your tires? Maybe you had new tires. Maybe it was just a tragic accident for which you can't be held accountable.

But in all cases, a murder was committed, somebody was killed. So, my point, again, was that the extenuating circumstances apply, but it's always and everywhere a violation of rights. And merely because you're willing to do it doesn't mean it's not a violation of rights.

What's your reaction to that argument, Tom? Do you think that I'm just sort of fiddling around with semantics or doesn't that have a certain amount of force? What's your opinion, Tom?

**WOODS:** Well, in a way, that's kind of the way I've thought about these kinds of issues, because these are the issues that would be brought up not just by libertarian opponents of the NAP, but opponents of libertarianism might well say: *If you really took your principles seriously, you would have to believe in these crazy outcomes.*

*You'd have to believe in somebody actually saying, "Yeah, you're right. I'll let go of your flagpole and I'll just plummet to my death so I don't violate my principles."*

Let me come back at you, though, with a little bit of Friedmanism to get clarification on how you'd respond to him. Because he was saying that some people – he said this at the beginning.

Some people (and I think he meant you as among them) would say in situations like this, that what you can do in this kind of situation is throw yourself on the mercy of the property owner or the mercy of the judge and say: *Look, using a reasonable person standard, anybody in that situation would have done what I did.*

*And yes, I realize that I trespassed, I violated his private property rights, and that strictly speaking, he has the right to punish me in return. And I accept that. But I just hope that given his knowledge of the circumstances he'll forswear to do that.*

And the problem with that, according to David Friedman, is that as soon as you start talking like that, that yes, okay, it is sometimes all right to violate rights as long as you sort of make good later to the property owner, he says, isn't that the principle of eminent domain? I can violate your property rights as long as I throw some money at you when it's all over.

**EPSTEIN:** Okay. Again, I'm wary of trying to think that I'm playing with semantics. I wouldn't want to put it that way, to say that it's "okay" for me to steal. Again, the better example, I was asked a question: *What if you damaged the flagpole and there's $10,000 worth of damage?*

I'm obligated to pay the damages and possibly some fine. The example that I preferred was I stole the $100 worth of equipment. It wasn't "okay" in and of itself for me to do anything of the kind. And therefore, the person whose rights were violated has a perfect right to try to prosecute me to the full extent of the law.

And I would feel that – in that case, I saved the world from extinction. In fact, I didn't have the time to make the joke that there's a fair chance that the jury would give me a slap on the wrist and then throw a banquet in my honor.

At least there's something to be able to say that these cases are almost so bizarre, none of them seem to have ever happened in the history of the world. I wonder how many cases there are of people falling from balconies and saving their own lives by grabbing onto a flagpole.

I don't know if that's ever happened. And of course, the $100 worth of equipment to save the world from extinction, it's just – I mean. So, that's part of the point. And that to then apply that to eminent domain.

Okay, you might say, indeed, I guess, that the state is seizing your property, but there are extenuating circumstances. Well, I would say the state is indeed seizing my property. Are they saving lives? What are they doing? Just making it cheaper to build a road or build a bridge in order to seize my property?

I guess maybe I'm groping here, but of course, when David said that necessarily means that eminent domain is okay, none of this is okay. You're violating somebody's property.

And of course, cases that – oddly enough, to compare bizarre cases like extinction of the world or grabbing onto the flagpole with the eminent domain seems a little bit of a stretch.

But in the case of eminent domain, it's clearly the state is seizing your property and not in order to save lives or prevent the extinction of the world, but basically in order to save some money.

And basically, in the cases of eminent domain, it's simply that it would be more costly to do workarounds if you won't sell them the property.

So, that's why I don't think the analogy holds. And again, I guess all I can say, the real point in thinking out loud about your challenge, Tom, is that I would never say or never want to say that invasion of property, that violation of the zero-aggression principle is ever okay.

In it of itself, it's always wrong. So, that's my best defense, I guess. But of course, beyond that, the related argument, which of course we want to get to in a moment, is that I believe that David has his hand tied behind his back, to use the fighting analogy, if he refuses, in all of the cases that I cited (and I could cite more) to invoke the zero-aggression principle when he's trying to make a case for libertarian reform.

Of course, I'd be curious to have you discuss this with Stephen Kinsella. He might be more eloquent than I being our great legal scholar on this whole point. No, it's never okay. So, I guess that's still a little bit unsatisfying, Tom, what told you?

**WOODS:** Well, I think it is fairly compelling that the kinds of examples we have to give are so ridiculous to the point where we've never heard of them ever happening, and it's entirely possible that they've never happened.

If this is what you have against the non-aggression principle, then I think this could be applied to absolutely any principle whatsoever.

**EPSTEIN:** Exactly right. And I made similar points, that I talked about assault and battery and that, as I mentioned, this crazy guy shakes your hand and he breaks the bones of your hand. Clearly, you have an actionable offense.

The painful injury is clearly actionable, but what if it's just some hearty, friendly guy who likes to give firm handshakes? And I pointed out that, of course, in this bizarre world, if you say something that another person finds offensive, they might be able to sue you.

So, of course, in a way, the world has gotten a little bit crazy with, as I mentioned, almost every rule that David himself would respect. Do we want to throw out the idea of assault?

David had this other example, if you recall, that suppose you shine a laser beam into somebody's home because you're some creep and you make it difficult for them to walk around their own apartment.

Well, that's bad. But then suppose you just strike a match or turn on the light. Where do you draw the line? And I said that – you know, David has this fertile imagination. And indeed, in a sane society, all that any judge and jury has to do in judging complaints is to use reasonable standards.

But in a world gone mad, I guess even the things that David respects could indeed be misapplied. So, there too, I think we run into problems. I was challenged from the audience in a sort of way, oddly.

Somebody asked me, how would the non-aggression principle, the zero-aggression principle, be used to defend yourself when you talk about somebody shining a light into your apartment or somebody turning on a light bulb in his apartment and invading your space that way?

And I said, no, the zero-aggression principle is not what you invoke, the zero-aggression principle. It's simply what happens in all societies, which is prudent societal standards are applied when it comes to assault, when it comes to murder.

That one I thought was most useful because there are so many degrees of murder having to do with intent, having to do with accidents. All of it can often make for difficult judgments.

So, there too, even laws and rules that David would respect run into the same kinds of problems that he keeps invoking.

**WOODS:** All right. So, that's the basis of at least the first of his objections. Now, I will say that I took a mischievous delight in your raising something that Milton Friedman himself said.

Now, obviously, David is not obligated to agree with everything his father said, but it's almost like his father left this for you as a gift. Because it was – I think you know where I'm going.

Where you're talking about the war on drugs. Milton Friedman said something like: *My opposition to the war on drugs does not come from thinking that the war on drugs causes more problems than it solves. It comes from this moral principle that you can't tell an individual what to do.* Etcetera, etcetera, etcetera, with his own body and all that.

And so, you're able to throw that at him. Now again, he could just say: My father was wrong. And he did think his father was wrong on some things.

**EPSTEIN:** Well, actually, I didn't even mean to put it in front of you, but it was a nice Miltonian Friedmanism, "I do not believe the state has any more right to tell me what to put in my mouth than it has to tell me what can come out of my mouth."

Really, I wanted to sort of "out" David as Milton's son. And I liked Milton and I liked the whole idea, I want to get to that funny passage in the forthcoming biography about Milton involving David. But I'm a huge fan of Milton.

As matter fact, I actually recommend that if you want to get the best of Milton, he did do that Free to Choose series in the early 1980s, which is a lot of fun. But actually, when he was on Phil Donahue and the audience were tossing questions at him left and right, and Donahue was also.

And he was batting it back like some brilliant tennis player. That was sort of Milton at his most delightful. And I think that – you see, David got up, as you may recall, once I mentioned Milton and I said Milton would probably agree with me.

I figured David would cut me down about that, which he did. And I said: *Look, David knew Milton Friedman a lot better than I, so I have to concede that he must be right about Milton much more than I am.*

My perception of Milton Friedman, my conversations with him over the phone, but really over the course of several years for a few hours, and also seeing him on TV, is that with a part of him, he really was a rock-ribbed, zero-aggression principle believing libertarian.

He had a lot of ambivalence. But indeed, when he forthrightly talks about "what goes into my mouth, what comes out of my mouth" that really was, in my own metaphysical opinion, the essence of Milton. But I'm sorry, you were going to say something about my using Milton against him.

**WOODS:** Well, first of all, I liked it. But then also – now, I think maybe this was something that you and I talked about in a lunch conversation. But I know that David did address it in the debate. And now I'm afraid I'm at a loss as to exactly how he addressed it.

But one of the arguments you've made is, if we're just going to argue from consequentialist perspectives, if we're just going to say the war on drugs is indeed creating more evils than it is alleviating and it's doing more harm than good.

The problem is a world in which we go from where we are right now to then everything is legalized, this next world that we will march into is a world we can't predict. And maybe it's true that a lot more people will wind up addicted to drugs.

I mean, some people say they won't, some people say they will. Some people point to Portugal. Well, whatever. But we can't strictly know that for sure.

And so, I think your argument has been, given that when we're talking about a world that doesn't exist, we can't point to the future and say: *The world will be so much better, and I know this with certainty, if we implement the libertarian solution.*

We can't do that in a way that's persuasive to everybody. But we still have the moral argument in the form of the non-aggression principle.

And I think that's one of the things you're saying, is sometimes consequentialist arguments are very convincing, but sometimes when they're talking about something like this, with such momentous potential consequences and you can't predict exactly how they're going to go, they need to be supplemented with a bit of moral “oomph”.

**EPSTEIN:** Well, fair enough. I would put it more strongly than you. Of course, that was indeed – and of course, I would generalize from that. That was indeed the essence of my point. I want to mention one other thing.

There was some confusion in a couple of ways. I actually had a little Bastiat Society salon about the debate in my home yesterday afternoon. I showed the debate on my big screen and I had questions. And some young people were asking me: *Are you giving advice about how to convert people to libertarians?*

I said: *No, this is just on a higher-level abstraction.* All I meant to say was that. But the "oomph" part of it, I think, Tom is, so to speak, insultingly minimizes my whole point.

My whole point, Tom, is that just as Milton said that the core of my objection to the drugs is rights, but then it does do far more harm than good.

All I said was that if you want to do the necessary and complete conceivable case for libertarianism with respect to drugs or the libertarian solution with respect to other things, then it's not just that it gives it oomph, it's that the zero-aggression principle is essential.

Now, that doesn't mean that the complete and unabridged argument for the libertarian solution is always the argument you lay on people when you're talking to them. It depends upon your listener. It depends upon the person you're having the conversation with.

Sometimes it's strictly consequentialist, But my point is that for a complete argument – or, in fact, the way I'd put it is to say the most honest argument is to say in the extreme that I can't rule out the possibility that 80% of the population is going to be collapsing on the streets from drug addiction, and the other 20% is going to go hungry because nobody's working.

I can't rule out nightmare scenarios if you completely legalize drugs. All I can say is that you bear the burden of proof. Precisely because we can't predict the future, you have to show us that putting people in a cage for putting chemicals in their bodies that could only potentially harm them is justified because you think that it avoids so much more harm later on.

That's why it's not just the "oomph" argument, Tom. It's really that you can't leave home without it when it comes to the ultimate argument. I also want to make just another clarification because it had to do with what came up in the discussion that I had yesterday afternoon.

Is that people get a little confused, and in a way, justifiably, by talking about consequentialist arguments versus the moral argument, that all I said was that it's a slightly arbitrary cut off, what's the best example?

Or, the best example has to do with free trade, that it's just that the moral argument is simply that the government has no right to force you to buy what you don't want to buy. It has no right to prevent you from buying what you do want to buy.

So, that's the moral argument. It's essentially an assault on your property rights. And so, we're just arbitrarily saying the moral argument is on the other side, and the consequences, of course, are something else.

The consequences of free trade are that a lot of people in some factory town are out of work. So, that's a consequence that we regard as different from morality.

But sometimes when they talked about vaccines, why does the government have a right to force you to put a chemical in your body via a vaccine, take the jab, which is obviously invading your body and therefore in most deepest sense, invading your property rights?

Well, they would argue: Because 50 people are going to die unless they do that. So, in that sense, they're saying: Well, the consequence is really that it's like self-defense. Those 50 people are defending themselves.

Hopefully that clarifies a few things, Tom. Maybe got a little profound. Let me just back up and say, no, the moral argument is absolutely essential when it comes to making the real and complete argument for libertarian solutions.

That's my only point. What's your point, Tom?

**WOODS:** I like the point about free trade because it is true that overall, yeah, free trade yields more wealth than if you didn't have free trade. I mean, that's not debatable. That really is not debatable. The only debatable thing, really, is whether or not I should care about the overall creation of wealth.

Maybe I should care more about the creation of wealth just among my own people. And maybe there are trade arrangements that I feel like could benefit, rightly or wrongly. I feel like could benefit my own people.

Yep, it's true. The overall number of widgets created in the world will be lower, but the welfare of my individual people and the dignity they'll have keeping the jobs that they have will be increased.

**EPSTEIN:** Yes. Okay, Tom. Yes, indeed. But you know, Tom, you had me on your show about three years ago, four years ago, discussing this very issue where I made that very point. And of course, then made the point during the debate, which is that you should care about what you care about most.

The whole idea of the gains from trade, if it doesn't turn you on at all, then that's your perfect right. I used the analogy of the Jews who wouldn't buy German cars for about 30 years after World War Two, even though the cars were good buys.

My own father then decided later that he would only buy American-made cars for patriotic reasons. And in fact, when you had me on – maybe you should put that in the show notes page, Tom.

When you had me on discussing free trade, I said that the guy you had on who was talking in these terms, I said, just start a "Buy American" website. People are open to these arguments.

The very fact that we are Austrian economists means that we mean in the general sense that people have goals. If your goal is to make sure that Americans who make cars or make widgets should keep their jobs, organize Americans to just buy widgets made by Americans.

All of those things are perfectly possible and could have a huge effect. And so, that's the reason why there are many options with respect to free trade.

And we don't have to surrender to the idea that if we simply argue against the right of the government to prevent you from buying from abroad, that that means that you necessarily will buy from abroad.

There are all kinds of attitudes that people have which they can implement through the free market. And I'm only saying then that you're being a bit too deterministic about it.

And of course, as an Austrian economist, you certainly should not be. And that's why when – although no, I was going to say that in fact my own personal attitudes are that buying from abroad means I'm enriching, helping to lift out of $2 a day poverty, some guy in China.

Then that also turns me on. I have an internationalist perspective. I care about foreigners in China as well as caring about workers in the Midwest. So, that just happens to be my attitude. It doesn't have to be yours.

So, that's my only point with respect to that. The broader notion of how you can exercise your right to do whatever you want with your money and without necessarily accepting the idea that the government should be involved in imposing barriers to your right to buy wherever you want.

**WOODS:** Gene, how did the debate come out in terms of the numbers?

**EPSTEIN:** Well, this is kind of part of the funny joke, which I'll tell you. Which was that, first of all, it was a squeaker. In my view, it was a squeaker. David picked up 8.7% and I picked up 15.9%. And so, I was a clear winner in that sense.

I had about a seven-point lead over him. And why do I say it was a squeaker? Because I believe that the perhaps somewhat arbitrarily, but clearly a five-point spread is within the range of statistical error. That people make mistakes, you're only sampling the audience.

So, you have to win by more than five points in order for it to be conceived of as an Oxford-style win. So, I won by seven points. So, I had the two-point lead and therefore basically the Tootsie Roll went to me. David did pick up points.

But here's the funny part about David – and of course I want to tell the story that came out of that forthcoming book about Milton Friedman. When I said goodbye to David on the stage, it was clear that David, who'd been raised on debating – let me tell the story in the book, which I think is pretty funny

The book about Milton Friedman says that he regularly conducted debates with his wife and kids, and David is quoted as saying that he was a senior in high school before he began to realize that there were loads of conversation other than arguing and debating.

I regard that as almost unbelievable. And David, being David, didn't correct me on the facts. The only thing he wanted to say about that when he responded was that he skipped a couple of grades in school and that he was actually 15 years old when he was a senior in high school, not the normal 17.

So, David wanted it clear that he was at least 15 years old before he realized that there are forms of conversation other than arguing. And also, apparently he said in the bio that there was a method at the dinner table.

If you flashed a two, a number two, it meant that you conceded the debate. You know: You were right, I was wrong. So, David clearly had this sort of ingrained background about debating. And when I just sort of shook his hand and said goodbye, he immediately told me that he thought he won the debate, that I didn't win. He won.

Clearly, he was a little bit miffed about the seven-percentage point loss. And the logic of it has to do with this. And let me give you a simple example in order to explain it. Suppose David went from 10% to 20%, that the initial vote was 10% in his favor, and then it went up to 20%, so he picks up ten points.

Now suppose that I went from 40% to 60%. So, the initial vote went 40% in my favor. I go to 60%, so I picked up 20 points. So, on the basis of the Oxford style rule, I had 20 percentage points, he had ten percentage point pick up, so I won the debate.

But then the logic that immediately occurred to him would occur to him in this case is that: *Ah, but he went from 10% to 20%. Isn't that a doubling of the percentage?* I went from 40% to 60%. Isn't that an increase of 50%? So, if he had a doubling and I increased by only 50%, he won the debate.

So, this is what he thought, that in proportionate terms he did better. Now I hadn't looked at the numbers closely at that moment, so I said: Okay, David, hey, I'm going to give you the Tootsie Roll. He said, Oh, no, no, no, you don't have to give me the Tootsie Roll.

But then I later checked the numbers shortly thereafter, and it turned out that I actually did go up by 50% by that metric, and he went up by one third. So, I actually beat David even on the basis of that other way of putting it.

So, anyway, that's a long-winded story. David felt a little bad about losing the debate at the table. He had to flash the two at me. It was basically a friendly debate. And by the way, I do think – and I certainly said it in the debate.

But I do think especially that when David sort of audaciously says things like: We can show progressives that by their lights, the free market will achieve what they want.

And indeed, I said that yesterday at the salon. That a good part of the time when I talk with socialist leaning progressives, I do say to them: *You want greater equality? You want to abolish poverty? If that's all you want, the free market can do it a lot better than the proposals that you advocate*.

So, I do think that if David's going to stick to that specialty of going strictly for the consequential solution, it will still be a very productive endeavor on his part.

**WOODS:** I was going to say that I feel like in a libertarian audience like that, particularly the PorcFest audience, I think he had a tougher task ahead of him because I think people are inclined to be sympathetic to the non-aggression principle.

They might not have looked at it in a lot of detail. They might not be able to defend it the way a philosopher could. But I think they have an instinctive kind of a loyalty to that principle.

And so, if he's able to move people in that kind of an environment at all, I think that actually speaks well for his performance.

**EPSTEIN:** Well, he gave a great performance. And the only thing I would say to that is that obviously the Oxford-style rule is very imperfect.

But the irony about the Oxford-style rule that you are at this moment ignoring is that according to the Oxford-style method, what you just said should have counted against me.

Now there are various reasons why it might not have. But essentially because you take the initial vote, that should have count against me because whatever they would have done to vote in favor of me initially would have counted against me because I've got to do better than that.

**WOODS:** You've got nowhere to go but down. It was like when I debated Bob Murphy on the Contra Cruise about pacifism. Now he probably did a better job. He probably deserved to win that.

But all the same, I mean, I don't remember the numbers off hand, Gene, but I'm sure you'll agree with me that it was almost the entire room was on my side. So, all Bob had to do was peel a few people off and make them have second thoughts and I lose.

**EPSTEIN:**  Right Tom, perhaps you don't quite remember that. Of course, when we're all cruising, when we're all stuffed with wine and pancakes, we all get a little woozy. You got a little woozy. And toward the end of the debate, you started to recommend to people that they vote for Bob's side.

**WOODS:** Oh, but it was jokingly. What I said was – I'm actually very pleased with this. And you can't find this debate anywhere. It's only for my supporting listeners. So, supportinglisteners.com, one of the benefits is you could watch my debate with Bob.

But at the end I said: *Now look, I know a lot of you may be tempted to vote for Bob because you may say, you know, look, Bob, I mean, like, every debate he's in, he loses it or whatever*. Like, we were having fun with each other.

And I said: *So, you might think just as some kind of a token to acknowledge his contribution to the Liberty movement, you might just say, "Bob's got to win something one of these days. Let's just hand it to him."*

But I would caution you before doing that. So, it was meant playfully. I didn't actually want them to vote for him. But in fact, another time I stuck it to him – because we do this to each other, right? I mean, it's just like a Michael Malice, in a way style of ribbing each other.

But I was in Vienna, and I won this award. And the first thing I said was: *I'd like to thank Bob Murphy for not being good enough to win this award and beat me to it.* That was my first remark from the podium.

**EPSTEIN:** That was an appropriate one. Since you mentioned Michael Malice, there's also something else I want to say. The last time I was on your show, I also discussed another debate and I talked about strategy.

And I began to get a little bit bothered that I was talking a little bit too much about debate as though it's just a chess game.

Our mutual friend Dave Smith, whenever he talks about debates, he always just immediately starts analogizing it to a boxing match, "and he landed a blow and landed a blow here" and talking about it in that way.

And I bridled a little bit because I don't want people to think that what we do in debate is just strictly a game. What it is, is it's a mode of exchanging ideas that has strengths and limitations, just like every other mode of exchanging ideas has strengths and limitations.

You can't talk back to a book. I could go into strengths and limitations of doing an interview, Tom. But obviously it's some value. In fact, I think it's a great value because it does focus on the clash of ideas.

You mentioned our mutual friend – I like him, although I don't know him that well, that's Michael Malice. Michael has had debates on his show and I've listened to a couple of them, I listen to his show a fair amount.

And on a couple of occasions – you know what Michael says: I hate debate. We're not going to run a debate. He actually does run a debate. What does he hate about debate?

He keeps saying that what he hates about debate is that neither side will ever admit to the other that the other might be right about something or other. Well, first of all, that's really not true. I kept saying – and of course it's often to your benefit.

I kept saying that David's consequentialist arguments have great value. Obviously, though, if you are debating, then you're debating because there is a disagreement. And you know, it's funny, Tom, since you talk about your own history of debates.

I was talking about talking to a friend (who actually I met on the concert cruise) about Michael's recent debate and what he said about how he hates debates. And you know what the guy said?

He said: *Michael's probably saying that because he lost to Tom Woods a long time ago. And he said that's why he hates debate, because Tom Woods rolled over him when they debated Alexander Hamilton.*

And said: *Maybe so. I just think Michael likes to say outrageous things whenever they come to his mind, oftentimes they're right*. By the way, since I'm knocking Michael, I think he wrote a great book recently – I forget the title.

**WOODS:** Oh, *The White Pill.*

**EPSTEIN:** *The White Pill*. And the best compliment I can give that book would be the criticism that I only wish it were longer. And I think he ought to do an expanded version and cover a lot of other people who were involved at the time of denying what was happening under Soviet communism.

So, that's a digression about Michael. Anyway, the point is that, again, I think that the debate format is valuable. It does have limitations. When I talk about strategies with respect to debate, I'm talking about the time limit. But think that people do learn something from the direct clash of ideas.

And I, of course, particularly believe in a one-on-one debate because think two versus two often gets too diffused. I wanted to mention one other thing that I thought you might have brought up, Tom.

Which is that, of course, David, there's the other thing that amused me, which began in my intro but wasn't preserved. David and I are almost exactly the same age. He turned 78 in February. I turned 78 in November. I'm 12 weeks older than he.

I said: *You're going to get a couple of 78-year-old Jews giving you wisdom.* And indeed, that's hopefully what happened. But of course, David – I was sort of like buried in different jobs. David, in a way, he's a sort of icon.

He's way up there in terms of the intellectual history of libertarianism. And I imagine, Tom, you have some recollection and some awareness of the essay that Murray Rothbard published in July of 1977 called, "Do You Hate the State?”

**WOODS:** Oh yeah, I know that very well.

**EPSTEIN:** Yeah, well, you recall that he specifically mentioned David's book, *The Machinery of Freedom* in that. Do you recall that?

**WOODS:** I do.

Yeah. Well, I mean, I wonder if it can be chalked up to rivalry, but not really. He compared his own book, *For a New Liberty* with David Friedman's *Machinery of Freedom*.

And he wrote rather critically, *"It is evident that David does not hate the state at all. That he's merely arrived at the conviction that anarchism and competing private police forces are a better social and economic system than any other alternative.*

*Or more fully, that anarchism would be better than laissez-faire, which is in turn better than the current system. There is no sense in Friedman that the state, any state, is a predatory gang of criminals.”*

And I do think that there's a certain truth to that, and that is David's limitation. Also, I want to mention a related point, which is where I thought David was sort of moving on to cloud nine.

When David said in our debate, in our exchange that, of course, you can never predict the future. Of course, you can never figure anything out completely. And then I pounced on that, and I said: *David just made my own point.*

I said: *David's point is that you can't figure things out completely, and that's why the zero-aggression principle tells you where your default position is. Who bears the burden of proof?*

And then David, to my surprise, said: *But that's true of all life. You can't predict things completely*. And that's where I responded to that. Oddly, David didn't see the distinction between the limitations of the libertarian argument and real life.

He said: *Whoever you marry, the career you pursue, the city you move to, none of that is a libertarian issue.* *All of that is, of course, your best hunch.* I mentioned entrepreneurs. Entrepreneurs can't go on the zero-aggression principle.

They want to bring about a product or service that people want to buy. They're going on hunches, on intuition, on their visions. All of that is quite true. But the zero-aggression principle and the libertarian case has to do with a relatively narrow set of (albeit still important) issues having to do with the predations of the state.

That's where it becomes important, having to do with war, having to do with sex work, having to do with free trade. So, it's a narrow issue. But I was surprised that David thought it was a good point to make that, well, in so much of life we are indeed riding on a smile and a shoeshine.

We really don't know where we're headed. But somehow he was confusing that with the narrow issue of where we libertarians are objecting mainly to the dominance of the state. Just one final point – I keep saying "final point".

But it has to do with schooling, where I often find that my arguments against compulsory schooling do often mean that it's important to bring up the rights of young people not to have their time taken away from them with things that they aren't interested in and may not do them any good anyway.

My grandson Ben, who's now 16, told me that there was a class at school that was driving him crazy, and that he didn't like the way they were encroaching on his time in his life. I said: *Well, try to daydream through it.*

So, he came back at me and said: *That's 15 minutes of my life that I will never get back*. And I think that the zero-aggression principle is also important in the libertarian case against compulsory schooling.

I'll finally shut up, Tom. That's all I have to say.

**WOODS:** Well, I just want to clarify one small point about Michael Malice and me.After the debate we had on Alexander Hamilton, as people were mingling and heading out the door, Michael and I had a moment to talk to each other.

And we both conceded that the other one had done a good job. And he said that I made strong arguments and I said that he made as strong a case for Hamilton as I could have imagined anybody making. And so, yeah, it's true, on the debate stage, we didn't make that type of concession.

But that's okay. I mean, I want to fight it out the best we can, and then afterwards say – in the same way that if we were playing basketball – could you imagine that? If we were playing basketball, let's fight it out the best we can, play the best basketball game we possibly can.

And then after it's over, we say: Hey, you played a great game. But not during the game. Like, while he's dribbling, I'm not going to be telling him: *Hey, that was a great shot you took!* I'm not going to do that.

**EPSTEIN:**  You put your finger on it. That's a good point, Tom. You put your finger on the strengths and the limitations of debating. I could discourse on the strengths and limitations of interviews, essays, books, all that stuff. But indeed, that's a good point.

And of course, I want to add, Tom (which of course, you'll remember) is that you and Michael had a very amicable exchange, I guess it was on your show, subsequent to that debate. You spoke together for about 30 minutes on your own show subsequent to that debate about that debate, where you guys added some points to the exchange.

So, there too, it was even clearer as a matter of public record that that you had a lot of respect for each other. So, there, too, that happened.

**WOODS:** That's right. All right. Well, of course, we have to say TheSohoForum.org.

**EPSTEIN:** Yes, please.

**WOODS:** Can you tell us what your next debate is, not necessarily featuring you?

**EPSTEIN:** It's going to be on Tuesday, July 25th, on the subject of immigration. We're going to be revisiting the subject. I have a high regard for Alex Nowrasteh, who is one of the triumvirate people, including Bryan Caplan, whose focus and obsession really is the argument for immigration.

Some of it does get back to Milton Friedman's old statement about the dilemma that you can have the welfare state or you can have free immigration, but you can't have both. Nowrasteh in particular has done work on that empirical issue, as has Bryan Caplan.

So, he's going to have a go at that issue of immigration. He's going to be opposed by a brilliant lawyer named Francis Menton. And I think that will be quite worthwhile. I look forward to it. We're actually going to have the comic Lou Perez, who I think has been on your show once or twice, a great comic.

I've told Lou Perez when he does those Latino accents, it reminds me of the hilarious Margaret Cho imitating her mom. And you ought to do more on that with his relatives. And so, he's going to be my warmup act. He's going to do his immigrant relatives as a warmup act to my immigration debate.

So, it's Tuesday, July 25th. And of course, I want to play the Tom Woods card. I think those plays that Tom likes, *The Play That Goes Wrong* and – what's the other one, Tom

**WOODS:** Well, there's also *Peter Pan Goes Wrong* but that's a limited run. That's closing soon.

**EPSTEIN:** Oh, but it's not closing by July is it? Anyway, I should have done more of my homework.

**WOODS:** I can't be sure. I know that it's coming to a close in the next few weeks. You might barely make it.

**EPSTEIN:** Okay, look it up, guys. I'm only trying to tell you out of towners that we get a lot of people from out of town and we love to have them. So, it's a Tuesday, so come in the weekend before.

There's actually another one-man show called *Just for Us*. It's a one man show with Alex Edelman. I saw it on off-Broadway. I saw it again. Alex Edelman is this Jewish guy who crashes a racist America First party or nationalist party in Queens.

It's a hilarious, classic bit. I recommend that particular play. There are others I can recommend. All I'm just saying is that have a nice weekend in New York, culminating with the debate at the Soho Forum on Immigration Tuesday evening, July 25th.

And as usual, there is a great afterparty two blocks uptown at my loft apartment hosted by my beautiful wife, Hisako. People stick around till 11:00, 11:30. A good time is had by all, so you won't want to miss it.

Thanks for allowing me to deliver that plug, Tom.

**WOODS:** Very glad to do that, Gene. Very glad to support the Soho Forum. So, everybody check it out. TheSohoForum.org. I'll also have linked, the debate itself that we've been talking about, linked at TomWoods.com/2364 if you'd like to watch that.

Thanks a lot, Gene.

**EPSTEIN:** I appreciate that, Tom. Bye-bye.