Episode 874: Snappy Answers to anti-Libertarian Questions

Guest: Zack Rofer

WOODS: You've got this great eBook that you're just giving away for free — because you're just a benefactor of mankind? What's in it for you?

ROFER: Well, you know, I didn't want people not to read it because there was a cost associated with it, and I felt there was a lot of value that people would get from reading it and so I didn't want to discourage anybody. The book began as a project to summarize everything I'd learned in my transition to becoming a Rothbardian, and I wanted people to benefit from it.

WOODS: Well, it is a great book in that it gives you a nice, quick defense. It covers a lot of great material. There's no fluff in it, and you walk away thinking, Whoa, I just got hit by a 2x4, figuratively, after reading this thing. So I want to know, first of all, what were you before that you became a Rothbardian? Were you a million miles removed from this or where you a little bit close? Were you a Milton Friedman guy?

ROFER: Well, if you'll indulge me, it's a little bit of a story. I came to libertarianism I think via an uncommon route. It seems like most people get there from reading Ayn Rand or listening to Ron Paul. I actually got there through Austrian economics. I grew up in a politically conservative, Republican Party-type household. I voted for George W. Bush. I supported the Iraq War. I was besotted by the military. But in 2007 when Obama was running for office, I couldn't believe the ridiculous things he and his supporters were saying primarily but not only in the realm of economics and how people would soak it up.

But I didn't feel I had the intellectual tools to properly explain myself, so I made it my mission to start reading copious amounts of free market economics books. And I had read Ayn Rand's *Atlas Shrugged*. I read Hayek's *Road to Serfdom*, Sowell's *Basic Economics*, Friedman's *Free to Choose*, and then, believe it or not, Mises' *Human Action*. And it was during my re-education in free market economics that I came across the Mises Institute, and from there, I really came to appreciate what I would regard as the exquisite logic and credibility of Austrian economics.

But once I started using Mises Institute resources, I came across this weird political philosophy called libertarianism, about which I didn't really know that much. And my research led me to Rothbard. Once I read *For a New Liberty*, I was hooked. And from that moment on, I really couldn't get enough of Rothbard, Hoppe, Locke, Kinsella, Woods, etc. So yeah, I'd say the intellectual in me really found a natural home

within libertarianism. I came to appreciate its justness, its cogency, its consistency. And I'd been a contrarian all my life, but in hindsight I realized that I was, as you would put it, probably in the bottom right corner of the 3x5 index card of allowable opinion. Somewhat shamefully, it never occurred to me that it was not only possible but reasonable to wander off that card and question its entire contents.

I did have a temporary stop at minarchism, but as the joke goes, the difference between a minarchist and an anarchist is six months. And once I got over the issue of national defense, I was a full-blooded Rothbardian.

WOODS: Well, very interesting. All right. I like your layout here, because what you're doing is dealing with a lot of myths associated with libertarianism and myths associated with the state, and these are things that we face all the time. These are misconceptions that, no matter how often you answer them, people who have never heard the reply are just popping up all the time. So you start off with myths about the nature of the state. Now, recently, I tried to talk about the social contract thing and how the state is acting by consent, and I think I'm going to be revisiting that also later this week, so we'll leave that one out for the time being just to avoid repetition. But you start off with myth number one being, "The state is a moral actor." Now, first of all, who is it who believe this and what are they trying to say when they portray the state as a moral actor?

ROFER: I think statists believe that the state is a force for good, and I guess there are different ways to think about that. Arnold Kling a few years ago wrote an interesting book called *Three Languages*, and he had this theory that the left, the right, and libertarians each come at every point on different axes. So the left sees everything on the oppression spectrum, so there's the oppressed or the oppressors. The right as he was describing it comes at everything from a civilized spectrum, so there's the barbarians or the civilized. And in both cases, they look to the state to even things, from the oppressed to the oppressors or to civilize the barbarians. And so in that respect, they see the state as being a force for good, but I think that what they overlook is that, by my definition of morality anyway, the state cannot possibly qualify as being a moral agent.

WOODS: Precisely because it does not act by consent?

ROFER: Well, no, I think the way I've described morality is sort of a code of behavior that should apply to everyone. And I guess I get there through two different thought processes. One is if we regard all men as being born equal into the same species, then there's no cogent reason I'm aware of as to why one man should be entitled to live by a different code of behavior than another man. And so to me, the essence of morality is a universal code of behavior. But then there's also a technical question: is there a code of behavior that, as a technical matter, everyone can live by concurrently? And as many others have discussed, really the only way you can get to that conclusion is through a negative rights philosophy, things you cannot do to others.

So when you combine the two, it seems to me that whatever else morality is, it's a universal code of behavior for interaction between men that can work, and the issue with the state is that it really relies on having two separate codes of behavior. There's one for the rest of us. We're not allowed to kill; we're not allowed to rob. And then

those individuals at the state are entitled to live by a different code, where they are entitled to kill — although they call it war — and they're entitled to rob — although they call it taxing. So it seems to me that if morality is a universal code of behavior, that since the state relies on having two separate codes, it can't be a moral agent.

WOODS: I want to talk about "The state acts for the common good," because I don't think I've actually ever hit that particular point any time on the show, and here we are at almost Episode 900. You get this all the time: we need the state for the common good. The common good, the problem with that is not that you can't conceive of what it could mean, but the problem is I could imagine many different people, each one having his own conception of what constitutes the common good and each one having his own list of people whose interests will need to be sacrificed on behalf of this idol. And that's what worries me about it. But how do you handle it? Isn't there some general good that we might all be aiming at that we might all be able to conceive of that transcends our individual good? Is that really inconceivable?

ROFER: Well, I think you hit the nail on the head in the first part of that question, because I think everybody in their mind has a conception of what they want out of life, what they would expect out of others, and I think it's logically impossible for — it's highly unlikely that if you asked a hundred people to write down what the common good is, they would come up with the same list of items.

And so then if people do have these conflicting visions of the common good, then the question is: how do you reconcile all of those? The problem with using the state is that the state is only going to pick one list. It may happen to coincide with any individual's list, but more likely it'll be the list of the person at the state who's issuing the regulations. And therefore, it's again unlikely to be that the state homes in on the few things that everyone cares about and only those things. The state has a habit of expanding. The state is obviously fodder for special interests, and so you end up with, however theoretical you might start out, in practical terms when the state's taxing and issuing regulations — find me someone who believes that it's really hit the nail on the head in terms of the common good.

WOODS: I think there are a lot of cases where people use this idea of the common good because they can't conceive of private property solutions to certain problems. So they'll say, We need to think about the common good because private businesses think only about their own bottom line, and so they don't mind dumping sludge into our drinking water, so we need to think about the common good, not just their private profit. But of course the question becomes: who's in charge of that drinking water? Whoever's in charge of it, whoever owns it, is running it ought to be able to take action against the polluter. And if it's a private spring or something, then the spring should have its property right respected. There's no need to bring in this mystical, impossible-to-nail-down concept of the common good. Just quit dropping your sludge on my property. Problem solved.

ROFER: I think that's right. I mean, another way I think about the common good is the Coke and Pepsi analogy that I mention in the book. So in the private sector, if you like Coke and I like Pepsi, Coke produces Coke and you buy it from Coke, and Pepsi produces Pepsi and I buy it from Pepsi. And everyone's happy. But the analogy would be if we ran the Coke-Pepsi situation through the state, we'd all vote, and if Coke got

the most votes, then Pepsi would be outlawed and we'd all have to drink Coke. And I don't think, when put that way, people want to live that way. So it's a question of: do you have a one-size-fits-all solution? And if you do, then who's making the decisions about property? And if you don't and you have property rights respected, then everybody's making decisions about their property in accordance with their requirements, subject only to not violently interfering with anybody else's rights.

WOODS: Now, before we move on to some of the maybe more easily grasped and more common myths that you have to deal with, I do want to ask you about, "The state dispenses criminal justice." Because after all, doesn't it?

ROFER: Well, I guess the question is: what is a crime? Because the state allegedly acts to prevent or punish crime. So the first thing is crime as defined by the state is not following the edicts of those who run the state. It doesn't comport with causing actual damage or loss to individuals or their private property, and so you end up with a lot of people getting in trouble with the state over things that by no general standard people would think is wrong. So if you fail to file a certain piece of paperwork, if you ingest a substance into your own body without harming somebody else, these are things that the state calls crimes. If you don't declare how much you earned in a year faithfully, these are things the state calls crimes. So the first thing to ask about dispensing criminal justice is: how does the state define a crime? And I would argue that there's no linkage to causing actual damage or loss to individuals' bodies or their private property.

And so that's sort of the notion of the victimless crime, but then there's a complete separation between the victim's interests and the state's interests, because the state pursues criminal proceedings as if it were the injured party, and it marginalizes the actual victim where there is an act of violence. So if A assaults B, the way the state dispenses justice is the state assumes that it has suffered and it's going to go after A. And from that point on, the victim is really a bystander, in terms of whether to prosecute the case, how to prosecute the case, whether to settle, and in terms of punishing the offender.

So the issue is when the state's criminal justice system marginalizes the victim, it doesn't take account of his or her interests. So I wonder how you could call it a criminal justice system, because inevitably, those at the state who are involved in the system are not beholden to the victim or acting on behalf of the victim; they're acting on behalf of the state.

WOODS: All right, let's go on to — again, it so happens, just by interesting happenstance, that just in recent episodes I've hit a few of the topics you have here. But you have so darn many that that doesn't even matter. Let's talk about anti-competitive behavior. That's something we need the state for according to almost everybody.

ROFER: Well, the first thing to note is that there's some irony in that, because what this is is the state saying, We have to take action against monopolists. But of course, the only true monopoly is the state. In a free market where competitors are free to enter and leave and where there are no restrictions on entrepreneurs creating firms and going about their business, other than violently infringing on other people's

property rights, then there would be no monopolies, or no enduring monopolies, I should say. The only enduring monopoly is actually the state, because it can forcibly prevent people from competing with it. So there is that irony.

But secondly, the whole idea of entrepreneurs having monopoly power and using it to drive down prices and force out competition and then jacking up prices again and taking advantage of the fact they're a monopolist, it is a bit of a fiction. I mean, I think Tom DiLorenzo's done a lot of good work on this, that that's never happened and it actually makes no economic sense. But more than that, it mistakes whose interests are critical, because really if you have a large player in an industry driving down prices, that's actually good for consumers. I mean, consumers never really complain to the antitrust authorities. If a large company wants to drop its prices, that's good for consumers.

What really happens in antitrust is the inefficient firms who can't keep up with the large competitor on the competitive playing field, they go and rent the state's coercive power and basically try to shut down or restrict that large player. And by in a sense reducing competition, restricting lower pricing, it helps the inefficient company that gets the state to work with it, but all it does is hurt consumers.

So in a sense, the state's prioritizing its crony businesses over the welfare of consumers, and this is often stated to be, Well, we need to protect jobs at the inefficient competitors. But I think when it comes to the balance between jobs and the welfare of consumers, as I point out in the book, I think it's the welfare of consumers that has to have priority. The purpose of economic activity is not to create jobs; it's to satisfy consumer wants, and antitrust is more about protecting inefficient firms and allowing them to garner more resources than they should have in the economy and the usual justification is to sustain jobs.

WOODS: But you could imagine a situation where the left could say, suppose you have a situation in a grocery store. You've got only so much shelf space in a grocery store. The store has to be very discriminating in what products and what brands it features on the shelves. And it could have a very well-established brand that every shopper wants to see on the shelves say to them, If you put this upstart product on your shelf, you can't run our products at all. And that would be argued by the left to be an anti-competitive thing, and they would say that's anti-consumer. Consumer choice is limited. So it's conceivable that you could see a situation where something a private actor is doing would seem to the average, not-particularly-ideologically-ferocious person to seem unfair. And the state could level that.

ROFER: Well, I guess you could extend that argument and say that if there's something consumers want but it's not being produced, who do we go take action against? The firm that wants its products on the shelf and no one else's, it's still providing a benefit to consumers in the product that it supplies. If there really is consumer demand for these other products, then in a free market the entrepreneurs who perceive that as an opportunity would find a way to offer those goods to consumers. It may be offered further away and consumers would have to drive to get it, but the point is to force any firm to supply a particular good or to price it in a particular way is an interference with that firm's private property rights to do business as it sees fit.

I mean, obviously consumers don't have a right to require anyone to sell a particular good, and so I think the problem with that type of argument is it gets to a more fundamental issue that there's no appreciation of private property rights, because it's perceived that if you want something, you have a right to get it. And there's no conception that, well, someone else has to supply it, and to do so, they'd be using their own resources. So I don't think you can compel someone to use their own resources. But with the left in particular, it's difficult to have that discussion because it's a more fundamental point.

WOODS: All right, let's move on. Let's look at some other juicy one. All right, "Libertarians, you're utopian." Oh, I am so sick and tired of this one. So can you just handle that? Because I'm just tired of it.

ROFER: Well, it's actually somewhat humorous, I guess if it weren't sad, because it's really the reverse. I mean, when you think of what statists are aiming for, the statists, it really goes back to Thomas Sowell's unconstrained vision, that the statists believe there are no limits on how more highly developed humans can change the less developed. And the idea is that if there's an imperfection, that the state through the use of force can better perfect us or society. So that's what statists are aiming for. They're really aiming for perfection.

Libertarians have much more modest targets. Libertarians are aiming for justice. That is, that people are entitled to live their lives without interference, provided that they don't interfere with anybody else. And I think justice is a much more modest and by no means utopian target than perfection. So I think it's almost the reverse. When statists believe that using force to attain perfection, centralize one-fits-all planning is likely to lead to a better outcome than responding to individual needs by entrepreneurs, I think all of that is in some sense the reverse, that it's the statists who really are utopian.

WOODS: Well, I think just as common as this accusation is the accusation that libertarians are just shills for powerful people, powerful forces, and they are of course the ones who want to see libertarianism triumph. Of course none of these people make any donations to libertarian causes, so there's something a little fishy about this claim.

ROFER: Yeah, so I think there's a myth that since libertarians are for the free market, they must be in favor of businesses. And what that gets translated into is big businesses, the behemoths, the robber barons, things like that. And I think there's just a misconception of what it means to be pro-market, and maybe libertarians should say, We're not pro-market; we're pro-consumer. So really, what we're saying is the problem with the state is that the larger businesses lobby the state and rent the state's coercive power to tilt the playing field in their favor and make things less competitive. And what that means is that they restrict supply and cause prices to go up, there's a stifling of innovation. And so through all of that activity, because these businesses are renting the state's coercive power, they're actually anti-consumer, whereas the libertarian is arguing that without a state, there would be no coercive power to rent, and entrepreneurs would have one mission, and that is to compete to please the most consumers. So I think that's the first point about being pro-business or pro-consumer.

The second point is that when you' think about being an entrepreneur, in today's statist world the person who wants to start his own business faces stifling regulations, taxes, restrictions on his activities. And so for the average Joe who's trying to start a business, he can just face a wall of problems, and obviously the average Joe who might have been laid off and wants to start his own business is now having his options curtailed by the state, whereas from the libertarian perspective, without a state people would be free to start their own businesses and provide for themselves.

And then finally, I would say, thinking about the small guy as a consumer, as I mentioned, the problem with the state is that with all the regulations and taxes, there are fewer goods, they're priced higher, and there's less innovation. And so the average Joe as a consumer suffers. And so for all these reasons I would say that the myth that libertarians are shills for the powerful is, again, the opposite, that libertarians are actually, in arguing for no centralized state with coercive powers, they're actually in favor of the consumer and the small guy.

WOODS: Now, of course, you're hitting a lot of the objections that a lot of the listeners have to deal with, so the environment's in here, Somalia naturally is in here. A lot of stuff that you're expecting to find — libertarians don't care about the poor — all of that. I'm interested in this one, because this has come up once in a while over the years. "If it's so good, why hasn't it ever been tried?" How do you answer that one?

ROFER: Well, I think, first of all, there are historical examples and current examples, and then there's sort of more fundamental arguments. So when you look in history, there are plenty of examples of stateless societies or portions of societies that have existed. Unfortunately, what happens is when you raise that with statists, they'll say, Well, how come they haven't endured? So maybe there's a problem with that. But that's why I think using current examples is perhaps more interesting.

So the most obvious current example in my mind is the international community. So you have individuals at the state who perceive themselves as living by a different set of rules as regards to their domestic population, but when it comes to foreign relations and state-versus-state interaction, all of that happens in a situation of political anarchy. I mean, states are regarded as equals. There's no one-world government telling various states what to do. The states in general recognize each other's property rights. All — other than war, which I don't want to minimize. But all other interaction between states is done on a voluntary basis through treaties and joining organizations or leaving organizations. So in many respects, the international community is a current example of political anarchy, in terms of states vis-à-vis states. It's just a problem that those at the state don't want to allow for those within domestic borders to live the same way.

The second example really in my mind is every private association in society. So think of a place of employment. You're not forced to join there. You decide whether you want to take the job or not. The employer is not forced to hire you. He decides whether he wants to hire you or not and on what terms. He sets the rules, and if you break them, you're not thrown into a cage, you don't have someone come and seize your property. You're not incarcerated; you're simply asked to leave. You're excluded. And think of any voluntary association in practice today, whether it's corporations, religious institutions, households — you name it. These are all voluntary interactions

which operate in a sense in a state of anarchy. I mean, but the statist is really saying, Yes, but there's an overarching state above all of that, but I would argue that in most people's daily lives, their interactions with each other are based on the types of interactions that we as libertarians would argue could be the basis more broadly.

But I think that by far to me the most compelling argument is sort of the "So what?" Just because there hasn't been enduring stateless society doesn't mean that it's not feasible or superior. I mean, by that logic, the present form of any idea is always optimal. And I think statists always try to improve the way the state operates, and I think everyone understands that what you have now isn't necessarily the best thing. And in the book, I ask, Can you imagine if before the first modern democracy, if a monarchist had pointed out that the idea of democracy can't be valid because it's never existed in modern times — or perhaps that may be a little fictitious. But consider the abolitionists in the 19th century trying to make their case against slavery. I mean, at that time, slavery was a global phenomenon and had always been part of the world order. So are we to believe that the abolitionists didn't have a valid case if someone said to them there's never been a world without slavery, so therefore what are you talking about? I think that's just a logical argument that statists need to better appreciate.

WOODS: Well, of course people should read this book. It's not going to cost them anything. It's a nice gift to receive from you. It is available at TomWoods.com/874. That's where I've got a download link for it. It's called *Busting Myths About the State and the Libertarian Alternative*. At this moment, anyway — I'm not saying this is always going to be the case, but at this moment as of this recording, this is the only place you can get this eBook. Am I right about that?

ROFER: That's correct.

WOODS: Wow, how about that? Exclusively. You can't get this anywhere else. I don't care how big the libertarian website that you're thinking of, it does not have this book that you can get for free at TomWoods.com/874, and it's all at this level of quality that you've heard in my conversation with Zack. Well, thanks so much for doing it, for talking to me today. I mean, free book, come on. Everybody's going to love you. So thanks again. I appreciate it. Great conversation.

ROFER: Thanks, Tom.