



Episode 336 – A Libertarian Gallop Through Political Thought

Guest: Gerard Casey

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WOODS: I want to talk a little bit about some of the themes that are raised in this course that you produced for Liberty Classroom; the second part of your History of Political Thought. I am going to pick out things that seem interesting to me, and that I think are important for libertarians to understand. This course of yours goes from the Huguenots, so we're talking about the 16th century here, all the way to the present. And in fact the course icon—the image that we have that people click on to reach the course at LibertyClassroom.com—is Lysander Spooner, who is not a figure who normally will come up in a course like this.

Let's talk first of all about the modern idea of sovereignty, because that is one of the bookends of this course.

CASEY: Yep, right. Let's fire away.

WOODS: So explain what somebody like Jean Bodin, or really any of these early theorists, Thomas Hobbes—what do mean by sovereignty, and is this simply a gloss on an existing concept or is it an altogether new concept?

CASEY: I think the answer to that is it's a little bit of both. It's an idea that had been emerging through the later Middle Ages, but Bodin was the person who gave it the focus that it now has. And the idea was that up to then, there was really no idea that in any particular state or political grouping that one person or one body had to be in total control, and what Bodin argued was that a state couldn't be a state unless there was a single person or a single body who exercised, in principle at least, total control over every aspect of what went down in that state. That's a new idea.

WOODS: And we can contrast that with somebody like a figure you mentioned—in fact, you've got the subheading as “The Road Not Taken”—Johannes Althusius. I would say the average American certainly has never heard of Johannes Althusius, and I bet even some of my listeners are not familiar with him.

CASEY: Nobody has heard of him.

WOODS: Nobody has heard of him. I know, even the good guys have not heard of him. I have written a little bit about him, but I heard of him only on a lark. I happened to hear a lecture by Don Livingston, and he mentioned Althusius, so I went and read him, and I found him quite interesting. How is Althusius a contrast to these modern apostles of sovereignty?

CASEY: Well, just before I answer that, I think a general point about history—you're a historian; you probably know this. General histories tend to take a straight line through what is a very complicated and multifaceted reality. So when people are doing political history, they tend to say, blah, blah, blah, and inevitably Bodin emerges, and then everything goes on from there. But of course he was only one among many. And Althusius was, in his time, although slightly later, he proposed a rival conception or rather, should I say, he accepts the same concept of sovereignty, but he locates it differently. He doesn't locate it—see, Bodin locates the notion of sovereignty in the ruler, but Althusius locates it in the people and in the people corporately, not in the ruler. This is a very different idea, and it's an idea, which if it had been taken seriously and incorporated in political reality would have changed probably the course of European, and indeed, American history.

WOODS: And, of course, what emerges out of Althusius is a variegated political order of families and households, which can then group together to form villages, and villages can form provinces, and provinces can form provincial councils, and these go on—up and up and up to higher and higher levels, the idea being that each of these has an independent existence of its own, is not a creation of the state, precedes the state, and has liberties that are prior to the state. This is exactly the opposite of the message that we get from Hobbes.

CASEY: Oh, indeed. What's really interesting about Althusius is, well, a number of things. First of all, he could be described as a federalist, not in the U.S. sense of that term, but in a sense that you have, as you've said, individuals coming together in families, and families in local associations, and then cities and so on and so forth, and the whole idea is that each of these groups mirrors in its structure what goes on in the other groups. So there is a horizontal connection between the individuals, and in each case, these individuals agree to setting up, if you like, an executive to serve their own purposes. What's very interesting about Althusius is that in each of these cases, the people, the horizontal level—they are the principal. And the ruler is only the agent. He is their agent. That is very important, right? Rather it being the case for Bodin that the sovereign is the principal, and the people the agent, gets things entirely the other way around. And so you have on these various levels the same structure of emerge all the way through. Now, it would be too much to say that Althusius was a sort of proto-libertarian or a proto-anarchist, but certainly his conception of order is something that I think if suitably modified and developed, would be something that anarchist would, I think in principle, be prepared to accept and to work with.

WOODS: Well, speaking of that, you have here Hugo Grotius, whom I do not think would typically be covered in a course like this. I think people would think of him as a just-war theorist, and maybe they know that he did some work in natural rights and so forth, but I am

not so sure how heavily he figures in, even though he, no doubt, deserves to. So I want to turn our attention there. And of course, I remind listeners, we're talking about part two of a two-part series. It's the second course that Professor Casey has done for us on the history of political thought at LibertyClassroom.com. Of course, you guys who listen to the show can get a discount over there using coupon code SHOW in all caps. You can ask Professor Casey questions. You can take this course while you are driving around—all kinds of wonderful resources for you. It's the education we all should have gotten, but never did. So Hugo Grotius, we know of because he and some of the Spanish Scholastics concurrently worked on just war theory, but there's more to Hugo Grotius than just that. Although you do mention that.

CASEY: Yes, indeed. He really, I suppose, to some extent is often taken to be the father of international law. Now, I slightly dispute that in my account. I argue that to some extent as the result—one of the deleterious results of the Reformation was a split between north and south Europe. And Grotius gets credit to some extent for work which had already been done by his Spanish predecessors and, indeed, Spanish contemporaries. But once you have a situation arising as happened in Europe after the religious fracturing of Christendom, you have to work out how individual states are going to relate. It was no longer just a matter of what happens within a state, but since each state is as it were an empire in itself, what, if anything is going to be the way in which they relate? Do they relate as proto-Hobbesian individuals, who are going to be permanently in the state of war with each other, not necessarily in conflict, not necessarily fighting and so on, but being ready to fight at a moment's notice, or are there some principles which govern their relations? And so Grotius was the most prominent person to work out some kind of theory of international law. This is very important. If anyone has had the misfortune to read Grotius's *Rights of War and Peace*, you realize it's a 2000-page treatise, which is exhaustive and exhausting. The downside for Grotius is that in some ways he is retrograde, and his account of sovereignty—though largely a kind of Bodinian conception of sovereignty—is actually confused and very confusing, and a lot of that passes into later thought and indeed up to the present day, causing similar confusions.

WOODS: Let's jump ahead. Of course, in the course itself, you would spend a substantial amount of time on each one of these thinkers, but I want to give people at least a sampling of at least the beginning topics. I am interested in the English Civil War period because there you get the appearance of a group of people known as their Levellers. Based on their name, of course, there's been a lot of confusion over the years. People no doubt think when they hear "Levellers," these must be radical egalitarians, but in fact, it was the Diggers who were the radical egalitarians. The Levellers were perhaps egalitarian in the functional sense that no one should be able to lord it over other people. But talk about the Levellers and their significance in the history of thought. Rothbard was a big fan of the Levellers.

CASEY: Yeah, and in fact, I think that this period of the English Revolution—what happened in England between, say, 1630-1640 and the Restoration of 1660, is hugely significant. It is the first time, I think, in history—certainly in the history of the West—where a genuinely popular

movement almost achieved political prominence. The position taken by the Levellers would not now seem extraordinary. They were looking for representation for all people, people being able to vote and have a say in what happened to them—universal suffrage of some kind, at least, limited universal manhood suffrage, and so on and so forth, without necessarily requiring or demanding a fundamental redistribution of property. This was the main difference between them and the Diggers. In the course I point to the Putney Debates, which is an extraordinary event, one that I think doesn't get anything like the attention it deserves, an extraordinary event in history where the lower ranks in the victorious parliamentary army managed to get the attention, if you like, of their leaders, including Cromwell and his son-in-law Ireton to take seriously their proposals, so these discussions were going on. There was a real possibility that change would be taking place.

As it happens, they were overtaken by events so that the Leveller position receded. The discussion in the Putney Debates was very interesting because Ireton, who was Cromwell's son-in-law, pointed out that in fact even though the Levellers may not have claimed to be in favor of a widespread redistribution of property, a consequence, a logical consequence of their position was that this was it implied, right? Very interesting thing. And so unfortunately, as I said, because of the events that took place and these came through the king and so on, the discussions hung far [inaudible], and so things didn't proceed. But this was an unusually significant moment in history, another road in a way that was not taken.

WOODS: Well, by the time we get to the end of the 17th century, we've got John Locke. And I don't remember where he said it, but at one point Rothbard said John Locke is one of these cases in which the conventional wisdom is correct, that he was an important classical liberal, Rothbard's view is that a lot of historians get a lot of things all wrong, like they totally mischaracterized John Stuart Mill, for example, but they more or less got John Locke right. There are some outliers who try to interpret Locke in ridiculous ways, but basically he is an important classical liberal thinker and the culmination of what the Levellers were groping toward and what some of the late Scholastic natural rights theorists were groping toward. Give us the good in Locke, and then maybe we might talk a little bit about what you consider to be the confused in Locke as a political theorist.

CASEY: As a political theorist, you have to see Locke, I suppose, to some extent in contrast to Hobbes and the different positions they take in what they can see others being—the state of nature in which human beings live. Hobbes notoriously sees man as being in a permanent state of war with other human beings, and he doesn't think that there is any law in nature prior to whatever is set by convention once we have established political society. Locke, on the other hand, thinks that even in the state of nature there are laws that obtain. So the reasons for moving simply from society to a political society are because of what he regards as inconveniences of nature, not least of which is the fact that he thinks that in the state of nature, each man is a judge in his own case. Therefore, there is a danger that violence will break out because people will not be able to resolve their differences peacefully. So that is the strong

thing. The other thing is he is, although perhaps the time is ambiguous, he is one of the first—I think I am correct in saying this—he is one of the first to pay serious attention to the relationship of property to political thought. Harrington, during the period we have just been talking about at the end of the Civil War, had actually thought about it as well, but Locke was probably the person who brought it into general consideration. So Locke's account of property, how it's acquired, and what belongs to it and so on, this is going to be foundational for all political theory from this point on, whether you agree with him or disagree with him. Any political thinker after Locke has to take account of his account of property.

WOODS: And that property begins with a property in his own person. Those are Locke's words. This is not the very first time that this idea has been talked about—the Levellers made reference to a property in one's own person—but what does Locke then do with that idea?

CASEY: Well, as you say, there had been anticipations of it prior to Locke, but Locke is probably one of the clearest exponents of this. He thinks that every man possesses a natural right to life, liberty, and the state, words which are echoed almost word for word, of course, in American significant documents except that that state becomes something else. And there is a connection between our natural rights to life, liberty, and the state and that each man's property rights then in external things derives ultimately from his property right in himself and his labor. In other words, it's because we own ourselves in a significant sense that we can come to own things other than ourselves, and there has to be a connection between these.

WOODS: He talks about private property as something that flows from the property that we enjoy in ourselves, and he talks about mixing one's labor with previously unowned goods, or goods that don't have any individual property title attached to them, and this renders the thing yours. I know that you have said, and you're not alone in this, that there is a kind of confusion in his idea of the mixture of labor and with the idea that if I mixed the labor with something this makes it mine. That opens you up to the Robert Nozick objection that if I pour a can of tomato juice into the Atlantic Ocean, that doesn't mean I own the Atlantic Ocean. I remember that when we have talked about this in the past, you added an important clarifying note to all of this.

CASEY: Yeah, I think the image of the mixing of labor is obviously very important—a historically very important image. The trouble is it's taken from a limited case—a limited set of cases in which we come to acquire property. It would be, for example, the situation where you took some clay and you shaped it into a particular form and then fired it and then made a cup or a bowl. The trouble is, if you take that as being somehow a constituent of what property is in all cases, you're going to run into difficulties. For example, if you put a fence around a field, in what sense have you mixed your labor with the entire field? You certainly have mixed your labor with the portion of the ground into which you have driven the stakes holding up the fence, but you haven't actually done anything else to the field. So it can't be a complete account.

What Locke is really talking about is a notion, which is dominant at the period and later, the notion of improvement, the idea that if you do something or make use of things in a certain way to improve them, to improve their productivity, primarily, for Locke. In other words, to make them more productive, transform them in some way. And there are a range of ways in which you can transform them, one of which is by mixing your labor in the case of the clay, but not in all cases. Then you have established a claim to the ownership of that thing in a way that other people who come after you do not. And he envisages a situation in which there are first comers, as it were, and the first comer takes priority in this case. And one of the ways you take priority is that you have the right to exclude those who come after you from the use of that property.

Now, Locke, of course, perceives a situation where when you start off in the situation, there's going to be plenty of resources left for everybody else so that other people will inevitably be left in a situation where they won't be substantially made worse off by your acquisition of property. However, the problem arises eventually that eventually all of the significant natural resources have been appropriated, and they are still going to be latecomers. What do you do then? And that's where his notorious provisos come in. So the second proviso was that you're entitled to take property into your own ownership if you leave enough and as good for everybody else. Now, Locke's way out of this, and this is not entirely satisfactory, but you can see why he's going in this direction, is to say that once somebody takes property into their ownership, the productivity increases enormously, so that land that is unimproved is quite unproductive, but land that is improved—he thinks producing something like a hundredfold in terms of what it would have done before, and in that sense, even though I as an owner have taken something from the common stock, nonetheless because of my productivity I have made many, many times more available to everybody that would have been the case had it not done so. So that he thinks in those cases the proviso will, in fact, be observed.

WOODS: Yeah, I was going to ask you about that. I know that Rothbard didn't think much of Locke's proviso. He said that the introduction of money into some degree solves the problem because for one thing you don't have the problem of spoilage because now you have the easier prospect of facilitating exchange?

CASEY: Yes. The proviso we've been talking about is the second one. The first one was, of course, that you had a right only to take as much and to keep it but not allow it to spoil. So the image here was, for example, if you were to come across, let's say, a grove of apple trees growing naturally, you couldn't grab all the apples and sort of put them in a bin and then eat five or six and allow the rest to rot. Locke thought there was something seriously wrong with that, but of course, once money is invented, then your use of natural resources is not confined to your own particular use so that you don't have to eat all the apples. You can, of course, trade them to somebody else for money, and in that case, since the money normally is something like gold or silver or precious metal or jewels or something, then, of course, that can be maintained, and there is no danger of spoilage. That's his way out of that particular problem.

It's a funny one to start with, right? Nobody really pays a lot of attention to that, although, in a sense, Locke was an economist as well, but he doesn't make much use of the notion of money or its origin or indeed its functions apart from the ones we just mentioned in the context of his political philosophy. But he does mention it in the first proviso, but the one that has attracted all the attention is, of course, the second proviso, and of course, some form or other of this I think now continues to this day so that Nozick, pays attention to it in *Anarchy, State, and Utopia*, and the so-called left libertarians—that would be Michael Otsuka and others, those people who are libertarians in the sense they take liberty as a preeminent political value but nonetheless believe that this is consistent with some kind of egalitarian distribution of primary resources—continue to pay attention to something like some form of the Lockean second proviso.

WOODS: I know we're coming up on the limits of time here, but I just can't help it. As long as we're galloping through political thought, there's one more person I want to bring up because I find him utterly maddening, and yet, you can't avoid him. You have to talk about him. And that's Jean Jacques Rousseau.

CASEY: Why did I suspect you—

WOODS: You knew exactly which person I had in mind. Well, I would really like to talk about the *Discourses* and the *Social Contract*, and of course, I know that every professor in the world would be appalled that we would try to do this quickly, but the *Discourses*, what people walk away with is his idea that institutions are corrupting and that man in his natural state is noble. Now, is that a caricature? Or is that roughly what he is saying?

CASEY: It's partially true. In fact, Rousseau's conception of what a human being is in the *Discourses* is very peculiar. Somebody described it as man for Rousseau is sort of like an amiable ape. He's like the sort of ape that sort of wanders around benignly. He's not actually, in an sense, really a moral being at all. He's not either bad or good because he's not a moral being. Just for example, if your dog bites you, you don't normally reprehend it morally. Dogs biting you is just dogs biting you. The human being for Rousseau is very, very peculiar. Now, he's gifted with a desire for self-preservation on the one hand, but then has a sort of equally native propensity to feel pity for others and sort of ambles around the world in this kind of pre-human—it's almost like a pre-human stage. It's like a stage of Edenic innocence, but without rationality, in effect. It's a very peculiar idea.

WOODS: How does property enter into all of this?

CASEY: Oh, property, well, I am glad you asked that. Property for Rousseau is the snake in the Garden of Eden. We were doing just fine until some smart guy got the idea of claiming—more or less Rousseau's words, but slightly phrased differently—this is mine and excluding others, and from that moment Rousseau thinks, okay, we've been in trouble. So in a way, what he's doing, I mean, this is his story, but you can get a slightly more sophisticated version, and indeed, there are contemporaries who write in this particular way, that one of the causes of

social/political evil has to be traced back to the first agricultural revolution in the Neolithic age, and it was human beings settling down and producing goods in excess, which allowed, if you like, the rise of political and social inequality from which we have suffered ever since. So Rousseau is giving us an early version of this idea.

WOODS: Let's talk instead about the *Social Contract* for a moment, then, because it's tricky to get a grip on exactly what he means by his concept of the "general will." Here what he's struggling with, it seems to me, is the Enlightenment's discomfort with the idea of authority. They know that in some point in society, somebody does have to give commands. So they have to make it seem as if the command is really emerging from you. It's really you commanding yourself. So it's not like things were in the bad old days when the king told you what to do. This is really you telling you what to do.

CASEY: I often think that you're right. It's a very mystifying idea. I often think that it's Rousseau's version of the Holy Spirit. First of all, the general will: A reader reading this for the first time might think that what he means here is something like the democratic consensus in society.

WOODS: But he's not.

CASEY: And he's not talking about this at all. In fact, it's a mystery. It's his attempt really to capture the idea that a community has a personality of its own, which is not the personality of any of its members, nor is it the sum of the goods of its members or a community personality. This transcendent will embodies the whole spirit of the community. One way to think of it, I suppose, is to think of the body politic as being the state, and the general will, to some extent, is an aspect of the state's soul. It's just like a human being has a soul and will and intellect and so on. So the politic, has a will, and that will is the unitary will of the unitary body politic, not to be reduced simply to the individual wills of its constituent parts. This is a mysterious notion, to put it mildly. How do you know what it is, for example? Is it enough, for example, that—how would you know when the general will is speaking to you? How do you know what it's actually commanding you to do? And, in fact, curiously enough, Rousseau then introduces—just to make the mysterious even more mysterious—the figuratively so-called Legislator with a capital L. This Legislator, if you like, is sort of a bit like the 18th century *deus ex machina*, the god in the machine who sweeps down to solve problems. When individuals are arguing and can't get their story together, he is the one who appears to sort things out—a bit like the sheriff in a western, right? It's really strange stuff.

WOODS: It's an idea that Bastiat objected to strenuously. Any time he comes across a thinker who conceives of the legislator as someone who takes the raw material of the people and forges them into something—makes them into a People with a capital P—this terrifies him. This is totalitarianism, ultimately.

When we talk about this general will, the idea is that the state will operate according to the general will, and that when we try to figure out what the general will is, we try to think of what

the will of the collective would be if we could abstract out any self-interest that you might have, any selfish interests that you might have. If you put that to the side, and you know, people will have interests in both directions. They will cancel out. The rest that is remaining will be the general will as people are responsibly thinking about what is best for the population as a whole. And then if the resulting law is something that you perceive as oppressing you, well, it's not oppressing you because it really is your will. And if you say, but I objected to it, then the answer would have to be, well, that's because you weren't thinking clearly, or you were thinking in terms of your own individual well-being. If you were thinking clearly, you would see that this is the general will, and it's not an imposition on you. It liberates you, because it really is your own unfiltered will.

CASEY: Yeah, you put your finger on it. This is a really, really important point, and it's not just purely historical. It doesn't just live and die with Rousseau. This idea that somehow the general will is the expression of what is really and truly good for you, as opposed to what you might in your ignorance think is good for you, finds expression, for example, in Kant in Hegel and in Marx and in Rawls, and even to some extent, in Burke. One very common version of this is the sort of Marxist idea of false consciousness. You find this—this is a rampant idea, of course, in a post-modern world. Let's suppose you were talking about feminism, and there are different forms of feminism, and some radical feminist is arguing that women really want something, and you say, well, lots of women don't or don't appear to or some of them supposedly say that, and then they will say, yes, but that's because they are indoctrinated or they don't really know or they are prisoners of a false consciousness, and if they were only to know what is really in their good, they would desire it.

Now, it gets us kind of counterfactual, the undermining of people's actual inclinations or their actual desires in favor of some hypothetical one. And here the thing is, I always want to know, how come you know what is truly good for me, what is truly good and fulfilling? And of course, the man on the street, and this is the point that is brought up against Rousseau: why is it that if I want something, and I really do, and I know that I want it, and I have thought about it and have reflected on it, and nonetheless, you have the right to come along and say to me, well, look, really, you're deluded? If you really knew what was good for you, you would choose this. What is this most reminiscent of? Well, it's most reminiscent of the relationship that is obtained between parents and very young children, where parents have the responsibility to see that the children don't kill themselves and where we intervene to override a child's choice when we believe on the basis of our experience, and indeed, on the basis of our responsibility for them, that they are not entitled to do certain things until they reach a certain age. So what Rousseau has done is to institutionalize, this form of paternalism, and we see this echoing down the halls of history all the way from Rousseau through Hegel, even through Burke, Kant, and all the way through Marx, and down to the present. It's with us. You'll probably never get rid of it. It's a germ.

WOODS: Before I let you go, give us a 60-second pitch for your book, *Libertarian Anarchy: Against the State*. I will make sure and link to it on the show notes page, TomWoods.com/336, and I'll link to the episode in which you came and talked about that book. I think that was all the way in episode 117, if I am remembering this correctly. But this is TomWoods.com/336. Tell us about that book.

CASEY: Okay, well, this to some extent is meant to be both an introduction to the idea of libertarian anarchism on the one hand for people who don't know anything about it, and then also an attempt to try and introduce some more difficult themes. So I kind of start with a history. I work my way through and then go through the idea that law can be produced without a state, and finally, I attack one or two of the basic arguments that are used to justify the state in the end. I don't answer all the questions. I hope to raise more questions than I answer, but I think anybody reading it who isn't a libertarian, even if they aren't a libertarian when they finish it, will at least have their faith shaken to some extent.

WOODS: Right, I can testify to that. I have heard some great testimonials from people who went into it without an axe to grind on either side and came out on the other side very intrigued, and of course, I love the book and have been urging people to read it. So Professor Casey, thanks for your time. It's crying out—the audience is crying out for more, so we'll have to have you back on soon.

CASEY: Very good. Thank you much, Tom.