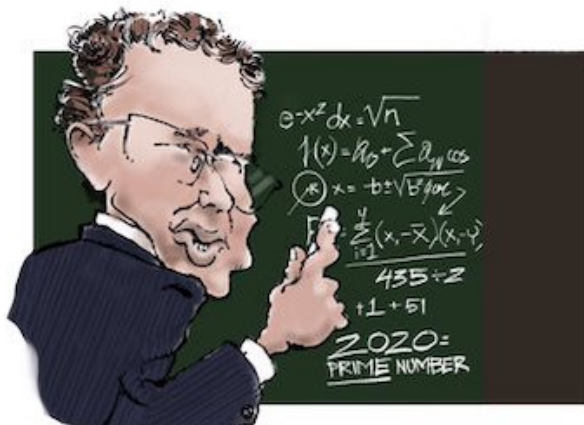




# The Solari Report

July 10, 2020

## Solari Food Series: PRIME Act with Thomas Massie



Congressman Massie has it figured out

### It's Time for

# PRIME

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**Pete Kennedy:** Welcome to the Solari Food Series podcast. This is your host, Pete Kennedy. It's an honor to have Congressman Tom Massie as our guest today. Officially, Tom represents Kentucky's 4<sup>th</sup> District in Washington. Unofficially, he is the Congressman for the local food movement in this country.

Two of the biggest factors that have led to the loss of small farms in the U.S. have been mandatory pasteurization laws and the 1967 Wholesome Meat Act. Congressman Massie has introduced bills to address both problems. He is the lead sponsor on the Raw Milk Freedom Act, and he is also the lead sponsor on today's topic, the Processing Revival and Intrastate Meat Exemption Act, also known as the PRIME Act.

Representative Massie has been working nonstop on *the PRIME Act*; so, let's get into it right away. Congressman Massie, welcome to the Solari Food Series podcast.

**Congressman Tom Massie:** Hi, Pete. Thank you for having me on. I would like to give a shout-out to my bipartisan cohort on these bills, Chellie Pingree from Maine. She is also a leader in the local food freedom movement, and she is on the other side of the aisle. So, we've got a Democrat and a Republican. She is the lead cosponsor on both of those bills that you mentioned, the PRIME Act and the Raw Milk Act. I'm excited to have her and other Democrats on this as well. But thank you for giving me credit!

In the past we worked on hemp a lot. I was instrumental in getting the Industrial Hemp Farming Amendment language in the 2014 Farm Bill. I worked with two other Democrats on that, Jared Polis, who is now the Governor of Colorado, and Earl Blumenauer, who is a Representative still in Congress.

**Kennedy:** And they both also cosponsored the PRIME Act, correct?

**Massie:** Yes, just a quick story about the Governor of Colorado – in case there are any people from Colorado listening to this. We cosponsored all these food and farm freedom bills – the hemp, the raw milk, and the beef bills. He found out that I was going to be out in Colorado, ironically campaigning for a Republican out there. I was going to come out and do a fundraiser for Ken Buck, but Jared Polis caught wind of it, and he asked me if I wanted to come and eat a lot of illicit and unapproved food in front of a TV camera in Denver.

I said, “Sure. What do you want me to bring?” So, I brought beef on the airplane – uninspected beef. I smuggled it into Denver. He had some raw milk. I don’t know who his supplier was. We had kombucha and hemp smoothies and some backyard chicken eggs. None of this had gone through the official government-approved channels.

He found a restaurant in Denver that was willing to let us use their kitchen. I’m not sure which news station it was; (maybe Channel 9 or something) came in and filmed us eating all of this stuff. Then they did a segment that evening.

As I was leaving, I whispered to Jared, “Hey, if you get sick after eating all of this stuff – whether it’s from the food or not – make sure that you go to a veterinarian, not a doctor,” because we would set the food freedom movement back if anybody got sick.

The reality is that we were healthier than ever as anybody is who eats these types of foods, and we didn’t have anything to worry about. But that is my quick story about one of the adventures that I had in Denver, Colorado with the now Governor of Colorado.

**Kennedy:** Like the title of the book goes, Everything I Want to Do Is Illegal, right?

**Massie:** Yes, everything that we wanted to *eat* was illegal that day.

**Kennedy:** Let’s start on the PRIME Act. Tell our listeners what the PRIME Act does and what the problems are that it is trying to address.

**Massie:** Sure. The PRIME Act was conceived on Joel Salatin’s farm in Virginia. I think I was on a hay wagon, taking my fourth tour of Joel Salatin’s farm, but it never gets old. There was a state senator from Tennessee, Frank Niceley. This was in 2015, I think. They were just getting rid of Country of Origin Labeling [COOL] for beef in the United States. Congress did that at the behest of the World Trade Organization [WTO].

We were talking about and lamenting about how difficult it is for farmers to market to consumers and some of the exemptions that existed like the poultry exemption for 20,000 birds or less.

We said, “We need something like that for beef.” So, he and I came up with the idea that if people can sell half a cow to a consumer using a processor that is not USDA-approved and nobody gets sick – and nobody has ever gotten sick from that – then why not let them sell hamburger or steak instead of half a cow. Let the farmer sell cuts of meat and use the same types of processors.

We thought, “Should we limit it numerically? We’re not trying to create some loophole for the mega-processing plants?” Four companies own 85% of the processing capability in the United States. We are not trying to create a loophole for them. In fact, they like the regulations. So, we will let them keep living by the regulations.

By the way, all of the recalls have come from these big processors – none from the small processors. So, we thought that instead of limiting this numerically, maybe 100 steer and 300 hogs, and as long as you stayed under those numbers every year as a farmer or a processor then you could enjoy this expanded exemption. Instead of doing that, we decided to do it geographically. That achieves a couple of things.

What the PRIME Act says is that you can sell meat to a local consumer using a local processor as long as the local processor is in compliance with county and state laws. They don’t have to have a full-time USDA regulator on site, and they don’t have to abide by a lot of these onerous regulations as long as you are in the same state as the farmer, the processor, and the consumer. They all have to be in the same state.

So, we use the geographic exemption instead of the numerical exemption because sometimes the small business exemption just keeps small businesses small. What we really wanted to do was, if there is going to be some constraint, let’s keep local food local. So, that is what it does. It just says, “Knock yourself out. Sell hamburger, sell steak, or sell a roast to your neighbor using a local processor as long as you are all in the same state.”

That also is basically how all of the laws should work at the Federal level. If there is no interstate nexus, then why is the federal government involved? There is a pragmatic reason for the way we’ve designed this bill, but there is also a Constitutional reason.

**Kennedy:** Right. This is the third session that the PRIME Act has been introduced. The first couple of sessions I think it had between 20 and 25 sponsors each session. In this session it just exploded. It now has 50 sponsors on the House side.

Why don't you talk about the developments over the last few months in the conventional system that have led to that?

**Massie:** The conventional system has always been broken, but nobody knew how broken it was until COVID-19 exposed all of the weaknesses and brittleness that is in the supply chain as far as getting food from the farmer to the consumer.

What we saw during COVID was shortages in the supermarkets. Even at Wendy's you couldn't buy hamburger for a while here in Kentucky.

So, we saw shortages in the supermarket; we saw rationing in the supermarket, and we are still seeing some of that. More than anything we are seeing higher prices in the supermarket. Meanwhile, farmers are seeing all-time lows for the animals that they are selling to processors.

This problem has existed for a long time. The fact [is] that farmers are having a hard time selling locally to consumers and, therefore, the meat processing has been monopolized, and the big meat processors are the main benefactor of these regulations. The [regulations] keep the little guys out. The big processors can exploit the farmers who can't get much for their animals and have no other outlet or opportunity to sell their animals other than to sell to this oligopoly.

That is why I introduced *the PRIME Act* five years ago, but you are right. We have double the number of cosponsors; we are over 50 in the House, and we have about nine cosponsors in the Senate. For the longest time it was just Senator Angus King, who is the prime sponsor.

By the way, what a name to sponsor a bill called the PRIME ACT! I have to remind people that this is also for pork and lamb, but Senator Angus King, his name alone is a great marketing tool for this bill in the Senate.

Again, he is another person on the other side of the aisle. Even though he runs as an Independent, he caucuses with the Democrats. He and Senator Rand Paul have been sponsors. Then this year we picked up both of the senators from Tennessee. We've got senators from Montana, Utah, and North Dakota. We are picking up a lot of support this year because consumers are concerned – and rightfully so. They are paying more attention now that they can't get the meat.

The congressmen and senators who I've been talking to for five years now understand this problem. It finally came into focus for them when the COVID outbreak happened and we saw several of the big processing plants shut down.

**Kennedy:** We've always been on this cheap food/high healthcare cost paradigm, and this is one of the biggest shifts I've seen over to people spending more of their money on food and hopefully less of their money on healthcare.

You know of what you speak about this, you being a farmer yourself. Could you talk a little bit about your farm operation and the demand that you and other farmers that you have spoken with have seen over the last four months?

**Massie:** Sure. Part of my farm is a hobby farm, I'll admit. I've raised some chickens and processed them myself. But the part of our farm that is full-scale is our cattle production. I have 60 cattle, and these are beef cattle. I manage the herd myself. I rotate them from pasture to pasture. I haul them to the processing facilities myself. I market them on Facebook and my wife markets them and my daughter helps market them. She lives in Louisville, Kentucky, which is more of an urban center than where we live. So, she is running shipments of meat down to Louisville every now and then.

As a quick point, my wife sold half a steer to her hairdresser. Under the lockdown, my wife couldn't go to her hairdresser for the longest time. So, after three months she finally got to go to her hairdresser. She texted me, and she said, "I just sold my hairdresser half a steer."

Thirty minutes later she said that the other hairdresser in the salon bought the other half. So, you talk about shifts!

I was thinking about this. That is a couple of thousand dollars of meat. When my wife got home, I said, "How did they afford that? Did you have to give her a discount or something? Can we still make money on this animal? Why are you selling your hairdresser \$1,000 of beef in one sitting?"

She said, "She charges me \$130 to do my hair. Don't worry about it, honey!" At which point, I became a little distraught that my wife spends \$130 on her hair. But anyways, to your point, you do see a shift. You see people who haven't been seeking out healthy, wholesome local food who are now seeking it out – and not for a lower price but because they want a better product.

**Kennedy:** You also see existing customers increasing their orders, right? They are a little bit more worried about their food supply.

**Massie:** Yes. My daughter's fiancé works for General Electric, and he designs these assembly lines that manufacture the appliances. If you've tried to go buy a deep freezer here recently, you've noticed the same problem you have with beef: There are shortages and the prices have gone up. The inventory is at zero because people are more concerned about food security, so they are willing to buy in larger quantities. Maybe it's not the kind of quantities they are buying toilet paper in, but they are willing to buy a bigger quantity of beef – especially when they find a good supplier for it. Temporarily it has become easier for farmers to market this beef. Simultaneously farmers are spending more time trying to find these outlets because they are getting crushed at the stockyards when you go to the auction and sell animals.

By the way, Pete, for full disclosure, I'm in Congress, and I don't have time or the resources to market all of my cattle directly. Occasionally, I go to the stockyards and I experience the humiliation that comes with running eight animals into the ring and watching them sell for less than what you could sell them for if you just turned them into hamburger – even if you ignored the steaks.

I've seen both sides of this coin in my own small business endeavor. By the way, another disclosure is that sometimes I've had people on Twitter say that I am just trying to enrich my own bank account by pushing the PRIME Act. They say, "How much do you stand to benefit from this, Congressman Massie?"

I say, "Well, I've got approximately 50 cattle." At the time I had 50 cattle. There are 50 million beef cattle in the United States. So, if this bill passes and I'm able to direct market all of my beef, I could receive 1/one-millionth of the benefit that this bill would convey to Americans. And that is before you even consider pork and lamb, which I don't raise.

**Kennedy:** The other thing that I've heard you say, Tom, is that, if this bill passes, you could just put your truck in neutral and roll down the hill to your custom house. So, you would save a lot on your gas bill, too, wouldn't you?

**Massie:** It's a very green bill. I believe this is why Democrats support it as well. That is true, Pete. I told you that I've sold at the auction in the sale ring, and I've also sold direct to consumers. But on the direct to consumer route, I've used four different processors. The USDA processor that I've used is about three hours from my house. I have to take my old pickup truck and load this trailer up and make sure that there is air in the tires and that the lights work, and drive this thing on the interstate for three hours, drop off the cattle, drive an empty trailer back three hours – although I usually do the return trip in two and a half hours.

Then when the meat is ready, I drive three hours again to go get the meat and then drive back with it. That is not very green. Meanwhile, I've got a processor who is three and a half miles from my farm. In Kentucky we have some hills. My farm – the field where I load my cattle – is about 600 above sea level. His facility is about 200 feet lower than that at about 400 feet above sea level. So, I could put my truck into neutral and literally coast to the local processor and use virtually no fuel getting the animals there. Then when it's time to pick it up, either the customer can go to him and pick it up – and technically you're not supposed to do this and it's questionable whether the USDA would like to hear me say this or not, but I'm going to say it, and they can come and handcuff me if they want – or I can go pick it up and take it to the customer. I do that sometimes.

In any case, with a processor that is three miles from here and downhill, it doesn't get any greener than that. He is non-USDA. So, when I'm selling through him, I have to sell a half of an animal at a time, not a package of hamburger or a steak at a time. That is the difference we have here.

**Kennedy:** By the way, Tom, I have checked, and the USDA will not slap handcuffs on you. You can be an agent for the owners of the animal getting meat from you. So, you are good on that.

**Massie:** Good!

**Kennedy:** What we are also seeing is the backup [of the slaughterhouse scheduling] for these local farmers, the ones who market direct to the consumers. They have always had a tough time just scheduling slaughter dates, but now it's crazy. I talked to one farmer in May who said that his local USDA facility is booking out in 2022. A lot of the custom houses are booking out in 2021 right now. What do you hear from the farmers who you speak with?

**Massie:** The USDA facility won't even book me now. We tried to get an appointment. Either they are embarrassed about how far out it is, or I suspect that they are doing the financially sane thing, which is that they have a retail outlet and cattle at an all-time low, and they have got the magic facility that takes a very low-priced commodity and turns it into a very high-priced commodity. So rather than shop out that facility to other farmers, I suspect that they are doing more of their own in-house at this point and marketing that directly.



By the way, I talked to Joel Salatin, and he is a part-owner in a USDA facility. He was joking that we would make more money selling options on the opportunity to have your animal slaughtered than he would on the animals that he is having slaughtered at his own facility.

So, my USDA place is three hours away, and they won't even put anybody on the calendar now. My local non-USDA shop, my custom slaughterhouse, is three miles down the road. He was backed up until April of 2021 when my wife made an appointment last month. He went from being August 2020 to a few weeks later being into December to a few weeks later being booked into April 2021. Now I expect that if I called him it would be a full year before I could get anything done there.

When you are in business and you have got to invest capital to expand your facility, you have to try to recognize what is a fleeting market demand and what is a constant market demand. He is expanding his facility some to deal with this demand, but he can't be sure that it's still going to be there after the virus goes away. That is why the PRIME Act is important.

If you want to see people make a permanent long-term investment, you have to prove to them that the conditions in the market are going to be favorable for them to earn a return on their investment – not within six months, but over the next six to ten years.

**Kennedy:** Right. The way the PRIME Act works is that once it passes Congress it's still up to the state to pass laws allowing the custom sale. As if we needed more evidence that the PRIME Act needs to be passed now, you see all of these different states raising money trying to expand their slaughterhouse capacity.

We saw Utah was sending out feelers to the custom houses to see if they were willing to become a state-inspected slaughter facility. Mississippi [issued] an emergency rule on [custom] slaughter so you didn't have to order at least a quarter of an animal; you could order any quantity you wanted.

You were telling me that in Kentucky now the Department of Agriculture is dipping into the Tobacco Relief Fund to help custom processors. These states are searching everywhere for the money now.

**Massie:** In Kentucky there is a board that administers tobacco settlement money. A few years ago, the tobacco companies were sued by the states, and some of the states chose to take all of that money and invest it in healthcare. Kentucky was one of the states where they put some of it into healthcare, and I think they kept half of it to try to help farmers. There have been some dubious investments of that money.

My hat is off to the farmers who have tried to do some creative things instead of raising tobacco, but I actually believe that probably the best use of this tobacco settlement money that we've ever seen here in Kentucky is to invest it in matching grants for those facilities that choose to expand. The grant is 75% from the state tobacco settlement money and 25% from the farmer. But here is the irony, Pete. The PRIME Act doesn't spend any money. You don't need to spend any money. The market will respond. These people who have the custom slaughterhouses are some of the most entrepreneurial people you could meet, and they will respond if the market conditions change permanently. You won't need to spend money if you just tell them that they have a new opportunity here.

Another reason as to why the custom houses are so backed up is because the cattle prices have gone way down. Farmers are looking at going and taking a beating at the auction ring if they take their cattle there.

Hay was at an all-time high last winter, and it's hard to even pay for the hay you fed the cattle last winter when you take them to the auction house. So, they are looking for alternate paths.

Even if just 5% or 10% of cattle farmers sold directly to consumers using the opportunity that the PRIME Act presents, I think that would force the oligopoly or the four meat packers that control the industry to pay a fairer price for those cattle if the farmers had the option to go somewhere else.

When you're at the table and you can't walk away, you're going to get the worst deal that there is. But any time you go to the table to negotiate and you have the ability to walk away from the table, even if you only walk away from the table one in twenty times, or even if only 5% of farmers sell direct to consumers using the PRIME Act, that will give them an option to walk away from those big four, and the big four are going to have to pay a more fair price.

**Kennedy:** Right. You can see the analogy with pasteurized milk and raw milk. If raw milk is illegal in a state, a farmer can only go through the commodity system, and they [get] a fraction of what they could get just selling raw milk direct to the consumers.

Tom, further contributing to the backed up slaughterhouses, I spoke with a farmer from Oregon yesterday who basically got kicked out of one slaughterhouse that he was using. What was happening was some of these hog farmers in a state like Iowa, instead of euthanizing their pigs – which I know you’ve spoken about – what they will do is they will sell them slaughter-ready pigs for maybe \$100 to people around the country. That happened out where he was, and now he doesn’t have a big enough order for the slaughterhouse, so now he got pushed back further in line. He is now having to look for another slaughterhouse.

**Massie:** We saw that in Ohio on Facebook. People here in Kentucky were driving up to Ohio because there was a Facebook ad. Ohio raises more pork than Kentucky does. Kentucky is more of a beef state. We are the largest cattle producer east of the Mississippi, but I would say that Ohio dwarfs us in pork production. People were driving up there and buying those \$100 or \$200 hogs that were ready to go. They were getting creative, either trying to find a processor or doing it themselves.

**Kennedy:** Have you heard of that many of these commodity farmers just breaking off and trying to sell their cattle or hogs direct by marketing directly right now? Or is that something that you think will happen more down the line?

**Massie:** You’ve got states like Iowa where a lot of production is concentrated in one state. If every citizen in Iowa ate pork for breakfast, lunch, and dinner, and that is all they ate, they still couldn’t consume all of the pork that they produce in Iowa. So, I think they have got a problem there. For the mega facilities it is going to be hard for them to go direct.

I don’t even think that they have the trailers and the equipment to haul the stuff. A lot of times that is contracted out and it’s done by the processing plant. So, it’s hard for them to go from zero to sixty. I think some of the smaller folks in the margin have done that, but it’s mostly more the smaller independent farmers who have done it. I see it happen more with cattle here in Kentucky, but maybe that’s just because I’m surrounded by cattle.

**Kennedy:** I don't know how much you've talked to state officials in other states, but about half the states right now don't even have their own meat inspection program, like Kentucky, Florida – where I am. They need the PRIME Act even worse than the other half of the states.

Are you seeing any interest on the state level? Are you seeing state officials getting involved with their congressmen and encouraging them to cosponsor the bill?

**Massie:** I've talked to our Ag Commissioner, Ryan Quarles, and tried to put this on his radar – although this is a job for me to pass in Congress. I see interest in it, but in a state like Kentucky the legislature only meets once a year for a few weeks. Our legislature is out of session. Someone could pre-file a bill now, but we need to be talking to these legislators now so that when they go back into session – in Kentucky they go into session in January – they can implement these programs.

In Kentucky my local processor is the custom slaughterhouse. Even though there is no state inspection program that could fill in for the Federal inspection program in Kentucky, my local custom slaughterhouse is still inspected by the local health department, just like any restaurant. If you've got a kitchen back there *that* has to be periodically inspected, he is subject to the same sort of inspection *that federally inspected facilities are*.

Also, he is still subject to surprise inspections by the USDA. He's had them roll up and inspect his facility. He says, "Look, I've got nothing to hide. Look around. Knock yourself out."

At any moment *USDA* could do that. They don't call ahead. It's not necessarily adversarial, but I was just explaining the regime in Kentucky. You've got local inspections by the health departments for the custom shops, and then they are subject to surprise *federal* inspections.

I don't know if the answer is to add more bureaucracy and regulation at the state level. I'm hesitant to encourage Kentucky to adopt their own inspection regime. Nobody is getting sick eating half an animal or a quarter of an animal using a local slaughterhouse buying from a local farmer, so I would encourage them to use the PRIME Act – if we can get it passed. The *farmer* could *take advantage of* that exemption and use *any* local processors [inspected by] the local health departments. I don't really think that there is a need to implement more regulation.

**Kennedy:** Right. You see a couple of bills in Congress right now that would allow state-inspected meat to be sold in interstate commerce. The thinking is that the states have to be at least as strict as the Federal rules anyway, so why can't they sell across state lines just like the USDA facilities?

**Massie:** Frankly, I was shocked to find out that they couldn't. Kentucky doesn't have a state program, so I've never had meat processed under one of those state programs. So, I wasn't aware that you couldn't sell it across state lines. I think that is a great bill. It is mostly being pushed by the states, by senators and congressmen in the states that have state programs. I would be very supportive of that.

It would expand the opportunity for a processor in a state like Utah or like Iowa. Does Iowa have their own state program?

**Kennedy:** Yes, they do.

**Massie:** I'm just thinking of states that are net exporters of animals. That would be an issue for them.

**Kennedy:** There is a cooperative interstate shipment program right now where states that have their own state inspection program--if they get approved by USDA--they can allow small state-inspected plants with 25 or fewer employees to sell the meat in interstate commerce. But I think that there are only seven states out of 27 that have a state meat inspection program that have joined that right now.

So, I agree with you. I think that bill would increase access, but nothing would increase access like the PRIME Act.

**Massie:** Here is another thing, Pete. I'm not against it; I'm for free market. But it won't foster local food in the way that the PRIME Act does. The PRIME Act is about allowing people to sell to their neighbor; it's not about allowing somebody in Kentucky to sell in California.

**Kennedy:** Right. When you think about a processing revival, one part of that is just bringing back the community abattoir, which we've lost so many of over the last 50 years or so.

Then another part [of the processing revival] with the PRIME Act – and maybe the most important part of it – in the rapid increase of slaughterhouses is that these custom houses right now are not subject to the HACCP regulations. The HACCP regulations that the USDA have are these extensive paperwork requirements. Joel Salatin has talked about them. He said that if the PRIME Act passed his cost would go down 30%, and he could pass that on to the consumer just because he wouldn't have to fiddle with all of the HACCP paperwork.

Under HACCP you are supposed to devise this plan that is naming possible hazards and critical control points in your facility. The USDA wants a written plan about what you are going to do to address these hazards at their critical control points.

One of the problems with it is if an inspector doesn't like your HACCP plan and you [ask] the inspector, "Well, what do I need to do?"

They say, "That's up to you to figure out."

It can be used as a club against the facility. I know you've said that you've talked to a number of these slaughterhouse operators or former slaughterhouse operators who still have a building and are willing to start up again if the PRIME Act passes. Do you think that they would start up if there had to be an onsite inspector or there had to be a HACCP plan?

**Massie:** No. Again, you are asking them to put everything at risk to something arbitrary to one person – one bureaucrat – who could shut you down if they don't like their commute. I just think it's not something that they would do. I've heard Joel say that it does add 30% to the cost there, but he also says that by the time the meat gets to the supermarket – if you are *looking at the increased cost* to the consumer – that becomes 50%.

If you are going to open a local facility and you have to sell ground beef at \$6 a pound right next to ground beef *from the big meat packers* that is selling at \$4 a pound, it is going to be tough because those HACCP regulations that you are talking about are the same regulations whether you are processing 1,000 animals or a dozen animals. The percent of hassle and overhead goes up when you have fewer animals and you have to deal with that.

Joel Salatin says that these are 'size-prejudicial' regulations. He's got some great words, but they've got four or five syllables.

**Kennedy:** *This is* what we are seeing right now with these organizations. The Farm-to-Consumer Legal Defense Fund just did a survey, and the greatest concern among the members responding to the survey was ‘lack of access to slaughterhouses’.

You can just see week by week how all of these facilities in just about every area of the country are pushing back deadlines of when farmers can book. Eventually if something like the PRIME Act doesn’t pass, it might get to a [point] where these small livestock farmers marketing direct just have to make a choice: Do I go out of business, or do I break the law?

**Massie:** This whole food supply chain disruption is sort-of like a slinky. The first disruption was that restaurants shut down. So, the packaging wasn’t proper for the outlet and the demand. In the beginning you had a little bit of a glut of frozen beef reserves because it wasn’t packed for direct-to-consumers; it was packaged for restaurants, and the price went down. That was the first bottleneck.

The next bottleneck was the processors weren’t able to process. You saw this also in the milk industry. You saw them pouring out milk and whatnot.

The next part of the slinky that we are going to see, Pete, is that farmers are acting rationally. They see all of the things stacking up and piling up, and they’re not breeding back the sows as quickly. If they have no certainty that they can market the hogs when they’re grown, why even have a pig give birth to one, right? So, they are not breeding them back.

In the case of dairy *cattle*, *USDA facilities can do custom slaughter*. It’s sort-of like a unicorn – the one that is three hours from my house. They will do custom stuff, but it’s a USDA facility. It’s more expensive than a regular facility.

I saw dairy cattle being dropped off there the last time I dropped cattle off there. When you take a dairy cow – and these looked like productive dairy cattle, not old cattle – and you take those out of the dairy system, it takes three years to get another lactating cow from conception. So, what we are seeing now – and I think you are going to see this later, too – is because farmers are scaling back, some of them are going out of business. Some of them are just throwing up their hands and saying, “I’m not playing this game. A year ago, I decided to double my scale because I wasn’t making money, and now I’m losing twice as much money because things got worse, not better. I’m going to give this up, and I’m just going to raise soybeans and corn or tobacco.”

There is a farmer that I talked to here in my district recently. He said, “I went from 100 to 200 cattle because I bought the story that I needed a bigger scale. By the way, I raise soybeans and corn and tobacco. I’m operating on a 3% margin right now, and I’m losing \$100 a head on the cattle. I can’t keep this up.”

Folks like that are going to get out of the cattle market. The dairy farmers have been hit for 30 years. We’ve seen mass extinction of the dairy farmer in consolidation. So, our capacity is going to go down.

Here is what I’m afraid of, Pete. We are already starting to see this: I think that we are going to end up importing more of our food. This is the sad thing: It’s because of our own stupid regulations that are putting our farmers out of business, and it is keeping our consumers from accessing the meat that the farmers are producing. So now we are going to buy from foreign countries, and even if they somehow get a USDA label on that meat when it comes in, I can guarantee you it’s not raised as conscientiously or as healthy as the domestic food is.

That is the real tragedy here. The irony is that I’ve talked to the USDA about the PRIME Act at fairly high levels, and one of their objections was, “It will probably run afoul of our trade rules. If we let our farmers have some relief from regulation, and we don’t give the same relief to the imported products, then we will run afoul of the WTO and the USTR.”

I just thought, “Wow! This is irony.” The beatings have to continue is what they are telling me.

**Kennedy:** Another irony is that the USDA has this campaign called ‘Know Your Farmer, Know Your Food’ and with these Country of Origin Label laws that you mentioned earlier, you can’t even know your country.

Could you explain how sometimes people think that they are buying ‘Made in the USA’ beef and they are not?

**Massie:** When I got into farming cattle around 2003-2004, I saw this organic label, and I thought, “I’ll go organic. I know I can’t make money this other way.”



By the way, I started out with eight calves. When I sold the first calves at the stockyard, I was like, “How is anybody making money at this? I’m not even counting my labor yet or the opportunity costs on my land, and I just lost money on my first set of calves. I need to do something different.”

So, I looked into organic. I went shopping with my wife, and I started buying all organic stuff. I pulled some apple juice off the shelf. It said, ‘Certified USDA organic’. I stuck it in the cart, and before we got to the checkout line, I looked at the label and it said, ‘Product of Turkey’.

I fell for it myself. I thought, “If something has a USDA sticker on it – particularly if it’s organic – then certainly it must be from the USA.”

By the way, what I ultimately decided was that the organic label – and I don’t know if it is this way in all endeavors – for beef it was practically impossible to do in my region. I couldn’t buy hay here. There is nobody who raises organic hay near me.

What I see and what I’ve fallen for myself before I got into farming is that when I see that USDA label and there is no other label on there, then I am going to assume that that is USA. That is basically every package of meat in the supermarket that doesn’t have a Country of Origin Label on it.

They say, “You could do voluntary Country of Origin Labels.” Well, in 2015 when Congress repealed the Country of Origin Labeling law, I offered an amendment to replace it with a voluntary labeling that would say, “This meat has got to be born, raised, and slaughtered in the USA,” if you want to put the USA label on it, and you could do it voluntarily or you don’t do it voluntarily. But they wouldn’t even allow that. They wouldn’t even allow a vote on that amendment. They shut it down in the rules committee.

I thought that was disingenuous of them because they’ve always said, “You could do voluntary.” But what does it mean to have voluntary labels if you label it ‘USA’ or ‘USDA’ and the animal spent 12 hours in the USA before it was butchered? That doesn’t mean anything.

**Kennedy:** All they have to do, Tom, is repackage it or just do minimal processing once the meat arrives from a foreign country, and they can say ‘Made in the USA’?

**Massie:** My impression is that they bring them in as live animals and butcher them here, although maybe they are bringing in parts of it and then repackaging it. I don't know.

What I do know is that when I tried to offer some guidelines in Congress, they refused to let us vote on it. So, if there is any kind of regulation, it would be some regulatory whim from the USDA. It wouldn't be any law that Congress has passed.

**Kennedy:** Concerning the WTO, it is maddening that food policy or food laws can be made in Geneva or Brussels instead of Washington, especially when food is really your front line of national security, and a country needs to be self-sufficient and it needs to have the ability to feed itself.

You mentioned earlier that you were interested in finding out if Canada or Mexico have laws that may be similar to the PRIME Act. I think that Mexico needs a look. It seems like if there isn't legal non-inspected meat there – from this report that I saw – I think that there is a lot of bootlegged meat being sold in the markets there.

Who is it for the WTO to tell the U.S. how to handle such a crucial national security issue for this country?

**Massie:** Allow me to indulge in a little bit of conspiracy theory, but I don't think that I'm very far off the mark here. If you follow the money, this is the way that it would go down.

The U.S. was sued, not by Europe, not by China, but by Canada and Mexico. This was not under NAFTA; this was under GATT, which happened a year before. They cited GATT in the lawsuit. They sued the United States for a mandatory Country of Origin labeling law. They said, "You are depressing the price that meat packers in the United States are willing to pay for Canadian and Mexican animals because they have to keep separate lots, and it costs more to build another lot if they want to keep the animals separate, to keep them one country from another."

So, they came up with this whole tortured reasoning. By the way, your vegetables are still labeled, your fruits are still labeled, and your fish is still labeled. Your car, your shoes, your tools, your computer, and your phone still have Country of Origin Labeling. But they came up with this tortured logic for why it was prejudicial against foreign beef to have a Country of Origin Labeling on beef in the United States.

Here is where my conspiracy theory kicks in: I don't think that there were elected officials or even bureaucrats in Canada and Mexico who said, "You know what? I think that we should sue the United States." They didn't just wake up one day and say, "I think that we should sue the United States."

It was a trade organization, and there were some lobbyists who got to them and said, "We think that you should sue the United States." I suspect that that trade organization is a conglomerate that includes the meatpackers in the United States. I believe it's the four companies that control 85% of the meat processing in the United States. It's not that much of a conspiracy and going out on a limb to believe that they are the ones who put Canada and Mexico up to suing the United States government.

Ostensibly this was a battle between governments and some extra-constitutional government called the World Trade Organization, but in reality I think that it was these meat processors in the United States who wanted to process foreign animals, sell them with the USDA label, and not have consumers know any different. In that way, they can also take the U.S. farmers to the cleaners when they go to buy their cattle. That is my theory on how this thing all went down.

Then at the end of the day when I tried to rally the beef association and even the Farm Bureau to help me fight the removal of Country of Origin Labeling, they wanted nothing to do with the fight. In fact, the beef association wanted to get rid of Country of Origin Labeling. The United States National Cattlemen's Beef Association was in on this to get rid of Country of Origin Labeling, and the Farm Bureau was in on it, too.

They would say, "We didn't want retaliatory tariffs on our soybean and corn farmers," because that was what was going to come next. The WTO was going to authorize retaliatory tariffs on other farm products from the United States into Canada and Mexico. That was their story.

Why am I going into all of this? Because I have a front row seat to all of this in Washington DC. I see it, I hear it, I talk to the groups, I try to get them to rally behind these efforts for farmers, and they either sit on their hands or they are working in the other direction. So if you are a farmer and you are listening to this and you belong to one of those organizations like the Farm Bureau or the National Cattlemen's Beef Association, pick up the phone and ask them what the hell they are doing for you.

**Kennedy:** Another argument that the packers and some of the other major associations you referenced are using against the PRIME Act, Tom, is the food safety issue. They are playing the fear card. What they are saying is that no inspector is present when the animal is being slaughtered and meat from the animal is being processed *so the health risks are greater..*

When you look at the way the industrial system goes, and this has been in the media with Bloomberg News the last few months. Bloomberg had a story where they said that 50 plants account for 98% of the beef production in this country, and you are talking about plants that are processing 300-400 animals an hour; so, they have *to have* an inspector there.

Even with an inspector, what is the quality control when you are processing 300-400 animals an hour compared to a custom house where you might process 3-6 beeves in an entire day? They do more animals in a day than most of these custom houses do in an entire year, and they are making this food safety argument. I don't think that this is an argument that they are entitled to make.

**Massie:** And where are all of the recalls from? They are from all of the USDA facilities.

The USDA label doesn't guarantee food safety; it launders the accountability and the liability for the meat processor. That is basically what it does. If they've got the imprimatur of the US government saying that that food is safe, then when you get sick from that food, who do you blame? You blame the government. You don't blame the meat processor. That is what the USDA label does for you.

I told you before that I sell cattle into both markets. I sell them direct-to-consumer, and I sell it into that other market. By the way, Pete, I eat beef. Unlike Joel Salatin, I will stop at McDonald's and eat a hamburger. He is way more pure than me, and you may be, too.

I will eat a steak in a restaurant. But I'll tell you what. The steak that I eat from a local processor, I will eat that thing as rare as you want to cook it. But when I go out to eat, I don't really want to see any pink in my hamburger because I know that the recalls for E. coli do not come from local processors; they come from the big plants.

By the way, like you were talking about, at scale when you buy a hamburger that is produced in one of those large facilities, they aren't processing one animal at a time. You can't do 100 animals an hour and do one animal at a time. You've got a grinder that is set up to do hamburger, and you may have dozens of animals in that hamburger that you are eating if it came from a supermarket.

I'm not saying that these are different species of animals; they are all cattle. But they could be from different farms or different breeds raised differently, and one of them might have been sick. You don't know that, and that is the problem, and that is why it's safer when you do the processing in small batches instead of large batches.

Again, I'm not trying to create some kind of panic in the overall larger market. I will still buy and eat hamburgers and steaks. The steaks I won't eat as rare as I do from a local processor, and their hamburgers I won't eat pink at all.

**Kennedy:** In 12 or 13 years of working on this issue, I've never heard of a single food-borne illness outbreak attributed to a custom house. With USDA, you get these cases – these multi-state outbreaks of E. coli in beef or some pathogen in pork – where there could be hundreds of people sick at a time.

The inspectors have a thankless job there with some of the long complex supply chains they are dealing with and all of the imported meat coming in these days, but it just seems like if you want the safest food safety system, then you would get as much of your food as possible produced locally. The single biggest weakness in the local food system right now by far is the lack of slaughterhouse infrastructure.

**Massie:** One thing that I've heard as an objection to the PRIME Act is that the supermarket chains won't carry the local beef. Even though the PRIME Act would allow you to sell in a supermarket, the supermarket chains wouldn't carry it because they are worried about the liability of it. So, people ask me, "How do you address the liability?"

My answer is, "I want liability. The problem that we have right now is that there is no liability."

If the supermarket chains' bureaucracy and their understanding of liability doesn't permit them to sell it, then that is fine. That is another reason to go to your local grocer who is probably going to know the local farmer and the local processor, and they will have no problem whatsoever selling that unique product that is not a commodity at that point; it is something that you have got to go to this store to get. But at least now the farmer has an outlet for that in the normal commercial means.

**Kennedy:** One of the big problems that the farmers have is that these grocers require product liability insurance. As you know, it's expensive and it's not always that easy to get for small livestock farmers.

This brings us into the sub-PRIME Act which you have spoken about. People are talking about possible compromises on the bill. The original bill would have allowed the states to pass laws allowing sales to grocery stores, restaurants, and direct to consumer. There have been a number of people saying, "What about if we reduce the scope of the bill and just allow sales direct to consumer?"

What is the feedback that you are hearing on that? Is there any kind of consensus formed on that?

**Massie:** It's hard for me, having so much personal ownership and pride in this bill, to figure out ways to brain damage it so that it could be more easily passed in Congress, but I have undergone that exercise because I do want to get something done.

One way that I refuse to brain damage the bill is to make it a pilot program for a limited period of time. If you do that, then you won't see the main benefit of the PRIME Act, which would be to encourage processors to expand their facilities and encourage new processors to go into business. They're not going to do that for a pilot program or something that could go away in six months or a year.

But there are ways that I think you could reduce the scope of the bill that would still give some freedom to farmers. For instance, I've heard people say, "The problem with the PRIME Act is you could have unsophisticated customers who don't understand the product that they are buying."

How is that any different from what is happening right now?

If you took out the supermarket or grocery store sales, and let's say that the sale had to happen directly between the farmer and the consumer or between the processor and the consumer, it's hard to say that that is not a sophisticated consumer and they think they are buying the same thing that they were buying before. They are going to know that it's different if they are buying it directly from the farmer or from the processor. There is a tighter chain of accountability there. That would still be a big win for farmers.

In Mississippi you said that the Ag Commissioner issued an emergency declaration to say that any number of people could buy ownership in a live animal and therefore use the USDA exemption that allows you to use a custom slaughterhouse if you own the animal. It would be akin to that, but it would be making it a law instead of a decree, and it would be giving some certainty to the farmers and to the processors. So that would still be a win. That is one way that you could do it.

You could limit the number of animals that are processed. I've heard people say, "The big guys will use this exemption, and they will produce shoddy meat, and they will scale up." You could limit the number of animals you could process in a day or a year, although I'm not really keen on that because I think that the small business exemption keeps small businesses small when you hit that limit. But that is something else that you could do.

Because we have the 20,000-bird exemption for poultry and that hasn't started any trade wars with other countries, that could be a good example for some way to construct this bill. I'm open to amendments. This could avert any sort of trade wars, which is one of the objections that are raised. They say, "We can't do this or else there would be unfair differential treatment for domestic suppliers versus foreign suppliers."

If they had to limit it to 100 animals a month or something like that, I don't think that would be considered unfair.

**Kennedy:** Have you also had people discuss with you the possibility of limiting the number of employees in these plants so that the big meat packers couldn't step in [to the advantage of the PRIME Act]? I've never heard of a strictly custom facility with even 25 employees. Is that another proposed compromise that someone has run by you?

**Massie:** I haven't heard that one, or maybe I've heard it but forgotten it. I would be open to that. I am basically open to anything. I call it the 'Sub-PRIME Act' or the 'Choice Act' or the 'Select Act' or any grade less than prime, but I really think that the full PRIME Act would be the best way to go. You do get a little bit of pushback from some of these small processors who have decided to make the big jump and do the USDA certification. Now they are invested in the bureaucracy, and so some of those processors are against the PRIME Act.

Ironically, most of the smaller processors that are USDA, or at least the one example that I know which is the one that I take my cattle to, are in favor of the PRIME Act.

I asked them, "Why would you support the PRIME Act? You've gone to all of the cost and expense and aggravation of doing the USDA certification. Why would you support the PRIME Act?"

They said, "We still have the benefit that we can sell interstate. Even when the PRIME Act passes, we can still justify the added cost of *still operating as a USDA facility* if it allows us to sell interstate. But frankly we want more local processors because we can't supply the demand, and we know that our demand goes up and is more certain if consumers get used to buying local food."

So, the USDA facility three hours from my house is actually in favor of the PRIME Act, even though ostensibly on the surface it doesn't look like it benefits them.

**Kennedy:** Right. It's growing the pie instead of worrying about who is going to get what out of the existing pie.

**Massie:** Right, growing the pie. I like that analogy – any food.

**Kennedy:** There is some talk about upcoming possibilities for the PRIME Act. There are some of these multi-subject bills [that the PRIME Act could be tacked onto], and the stimulus bill might be one. You've had success with that in the past. You mentioned earlier that you worked on the 2014 Farm Bill, and I think it was some hemp pilot research project that you got included. Could you talk about the strategies on working on some of these multi-subject bills and how you are able to succeed with them?



**Massie:** The hemp pilot program that we got on the Farm Bill in 2014 was a permanent pilot program. In other words, it never went away. It wasn't of a limited time, so people looked at it and sized it up and said, "I think I can go into business using this pilot program, and it's not going to go away."

So that is a good analogy. Also, it was germane to the Farm Bill because it had to do with farming.

I would argue that because COVID has surfaced the problems that we have in our food supply, we now know that it is too brittle. We now know that our food supply as it is currently constructed, to get from the farmer to the consumer is a national security issue in times of a virus or some other national emergency. So, I think that it would be germane to put something like the PRIME Act on the next COVID relief bill, although it doesn't spend a lot of money.

The one thing that everything in that bill seems to have in common with the other parts of the bill is that everybody is trying to spend money or grease somebody's hand somewhere. This doesn't do that, so it may be incongruous to the people in Washington DC, my colleagues who are crafting the next bailout bill, but I think that it is very congruous if you realize that what it does is it makes our country more food secure and addresses not just the issue of this virus but any further potential future virus or bacteria or disruption. This bill would make our food supply more robust without spending money.

**Kennedy:** No doubt about it.

Tom, there has been a lot of support for the PRIME Act over the last couple of months. It's getting close to where we've got the potential of getting something done, what can people do right now to help support the legislation?

**Massie:** That is the most important question you have asked me today. The main thing that you can do is call up your congressmen and senators. Don't tweet at him or her or Facebook them. Pick up the phone and call their office. Call the Congressional switchboard if you don't know their number. Ask your congressman to support H.R.2859. It's called the PRIME Act. Just tell them that you are supporting Congressman Massie's PRIME Act if you can't remember the number of the bill.

There is a senate bill [S.1620], and I don't remember the number of it, but you can remember the sponsor, Angus King.

All I am asking you to do is make three phone calls because everybody has two U.S. Senators and one U.S. Representative. Don't call Nancy Pelosi and don't call Mitch McConnell unless they are your senator and congresswomen. Call the three people you can vote for: your two Senators and your U.S. Representative, and ask them to sponsor *the PRIME Act*. That will give us the biggest and best chance of getting this bill on the floor or in a committee for a hearing or into the next COVID bill.

**Kennedy:** Congressman Tom Massie, I greatly appreciate your time. Best of success in your general election this fall, and best of success with the PRIME Act.

**Massie:** Thank you so much, Pete. I will talk to you later. Take care.

## MODIFICATION

Transcripts are not always verbatim. Modifications are sometimes made to improve clarity, usefulness and readability, while staying true to the original intent.

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