Legal Foundations of a Free Society

The În Doi Podcast Series on Stephan Kinsella's Book (Episodes #306–#321)

Full English translations of the video transcripts

YouTube playlist

Prepared October 2026

About This Document

This document contains complete English translations of the sixteen episodes of the Romanian podcast *În Doi* (episodes #306–#321) in which the hosts — Gabi Munteanu, Vali Berceanu, Costel Tăvărache and Alex Chiriac — read and debate Stephan Kinsella's book *Legal Foundations of a Free Society*, roughly one or two chapters per episode. It is the companion to the separate summaries document (*Kinsella_LFFS_InDodii_Series_Summaries.docx*), which gives an overview of the series and a summary of each episode.

Source. The translations were made from the Romanian transcripts of the videos, which are YouTube's automatic captions (the transcript files supplied for this project proved identical to them). Automatic captions contain no punctuation or speaker labels and frequently mishear words, especially names and foreign terms. The Romanian original is not reproduced here.

How the text was translated. The translation is *clean verbatim*: it follows what was said, in order, without condensing or summarizing, but it drops pure stutters and false starts and repairs obvious mis-transcriptions (for example Kinsella, Hoppe, Rothbard, Mises, Block, Van Dun, ANAF). Where the captions are garbled beyond recovery the translation gives the most likely sense or marks the passage *[unclear]*. Book and article titles are in italics; quotations the hosts read aloud in English are kept in English.

How to read it. Each paragraph begins with a grey timestamp *[h:mm:ss]* marking roughly where that stretch of conversation starts in the video, so you can jump to it on YouTube. Because the captions identify no speakers, a change of speaker is shown with a dash (—); the dashes are approximate, since the captions often merge or split turns. The conversation is informal and overlapping, so sentences sometimes trail off or restart; these have been kept rather than smoothed over, in order to stay faithful to the discussion. Each episode also begins with a few minutes of pre-show chatter, which is included.

Limits. Given the quality of the source captions, individual words, names and numbers may occasionally be wrong, and the attribution of remarks to speakers cannot be relied upon. For anything you intend to quote, please check the passage against the video at the timestamp given.

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Video 1 (#306): Introduction: Hoppe's Foreword, the Preface and Chapter 1 (How I Became a Libertarian)

Original title: *#306 | Bazele legale ale unei societati libere - Stephan Kinsella - Introducere*

Length: 1:51:50

Link: https://www.youtube.com/watch?v=8Sv42rSUDFc

[0:00:06] In the foreword he puts James Buchanan in the same category as John Rawls. — Whose foreword, Hoppe's? — Maybe we should do some more Hoppe at some point. — Yes, something by Buchanan. — If we do Buchanan we could do *The Limits of Liberty*, because it's actually a critique of anarchy, you know? — Then there's legal positivism, the legal positivists — Kelsen, the one who held that whatever exists is all that's real and rational: existing legislation, that's it. But that's Kinsella's great advantage, that among libertarians [unclear]… maybe I'll read it too; we'll see on Sunday how it went. — Do you want to throw that away? — No, I want to give him a cigarette — and I'd take one with me too. — Do you have something to throw out?

[0:01:08] — This one? — Aha, okay. — I have to make them thinner, lighter, and I smoke more often now. I'm out all day. — So we have might makes right, social contract, and utilitarianism. — Leave it, I read it to the end. — Did you read the whole book? — No. How long is it? A thousand pages? No. — A thousand pages, no. — It doesn't have a thousand pages, man. — How many, then? — I got scared when I saw "What Libertarianism Is" — I thought, wow, how much is there — but from there on more than half is footnotes and appendices. — Yes. [unclear]

[0:02:27] [unclear] Thanks, let's begin. — Yes. What's the book called, guys? We should know that too. Isn't it that book by Kinsella? — Wait, wait, wait, wait, wait. — The magnum opus. — Yes. Okay. Fine. So it's clear this isn't the Stefan from YouTube. Clearly. Clearly. [intro jingle: "If I told you that authority…"]

[0:03:44] Hello! Welcome to a new episode of În Dodii. Today we begin a new book, Stephan Kinsella's *Legal Foundations of a Free Society*. But before we get into the book, we'll leave you in the hands of Vali Berceanu, who will say a few important words. — With these two little hands I'll tell you a few important words, namely: we've started a new book. Maybe —

[0:04:51] — this is usually the episode with the most views in a book series. So let's tell you: YouTube works like this. For a video to be shown to as many people as possible, you have to hit like. Because if you don't hit like, YouTube says, "I don't care what these guys are doing, let them fend for themselves, I'm not helping them." So hit like to help us convince YouTube to show the video to more people, especially if you happen to be watching during the premiere or in the first few days after it comes out — so if you're watching on a Tuesday or Wednesday, that's one of the first days after release. If you want to be notified when we post a video, click subscribe and the bell and enable all notifications, otherwise it's pointless. If you want to talk with us,

[0:05:57] you'll find in the description a Telegram link — a Telegram group, sorry — where we take part actively too. Also in the description you'll find a link to the author's website, where you can get the book for free, since he doesn't believe in intellectual property rights. So we encourage you. He also writes that, since he doesn't believe in intellectual property, if anyone wants to take it and translate it, go ahead and translate it. So if you want something to occupy yourselves with: the book doesn't exist in Romanian, but you could make a contribution there. Also in the description you'll find crypto and Patreon links if you want to support the effort we make here, and we thank those of you who already do so. And besides the clip — like, share, subscribe — you'll also find in the description a link to an event

[0:07:03] happening next week in Iași: a book launch to which the Mises Institute contributes. We won't be there, unfortunately — I didn't see you two answer, but we won't be there, unfortunately — but quite a few people with a big appetite for liberty will gather. — Yes. The foreword of this book is written by Mr. Hans-Hermann Hoppe, whose book we've already done — you'll find it in our playlist of finished books. He is in fact a friend and mentor of Kinsella's, and he wrote him this lovely foreword in

[0:08:08] which he praises Stephan Kinsella's contributions to the ideas of liberty, including kind words for his contribution on intellectual property. The book is a collection of essays and articles written by Stephan Kinsella over time and gathered in this book even 10 or 20 years later, so most of the articles and essays are accompanied by a great many footnotes, informative and explanatory notes, because Stephan Kinsella's views changed over time. In the foreword, Hoppe addresses how

[0:09:15] anyone who wants to arrive at a theory of law for a free society — yes — such that conflicts between people are as few as possible. — Well — the premise is a bit more general than that. He says that questions about what is just, or what constitutes a just society, precede even philosophy as we recognize it today in systematized form. That is, these are questions without which — questions which, if you have no answer, you don't really know what to do in any kind of setting, today, yesterday, the day before, a hundred years ago, a thousand years ago, ten thousand years ago, etc. And Hoppe discusses here the three

[0:10:23] theories that have been proposed over time. The oldest is that the strongest is right — might makes right. — Yes. — So whoever held physical power in a given territory also imposed the law: this is how it is right for us to behave. Usually the king or monarch in a given area, the tribal chief, and so on. Then he discusses the social contract theory of John Rawls and Buchanan — he gives two examples here, but there are more. And the third theory is that of the utilitarians: right results from whatever gives the greatest satisfaction to the greatest number of people.

[0:11:27] — Something like: a just society is the society that maximizes — happiness — utility for the greatest number of people. Yes. — Yes. After which he returns to the theory of natural law. — Fine, but before he returns to natural law, let's say a few words about each of them, namely this right — of the strongest. — Of the strongest. Hoppe is of the opinion that if those who believe in the right of the strongest set out to explain to you why it is so — that is, if you go nicely and ask "but why should it be so?" — the moment they start explaining, instead of actually punching you in the mouth, they have already undermined the idea. Because what he says is that when

[0:12:35] people discuss, it means they're trying to convince each other of a certain state of affairs, and that presupposes — discussion presupposes both human fallibility and the human ability to correct one's views. So it presupposes that there is a truth, a state of affairs that is correct, right, and that people can reach it on the basis of a discussion, a dialectic, an — argumentation. — Argumentation, yes, since his ethics is argumentation ethics — or, let's say, an investigation. So there is something there that can be discovered. The right of the strongest, by contrast, is that

[0:13:42] there can simply be absolutely anything there, as long as there is someone strong enough to demand or impose it. So somehow, by starting the discussion, you've taken into account certain preconditions that would be impossible in a world where the strongest truly made right. That would be his argument. — Yes, look, he even puts legal positivism in here as part of might makes right. Yes. The state, by fiat, says what is right: by creating laws it says what is right and what is wrong. — Yes. — So legal positivism falls under might makes right. Even if afterward it tries, through

[0:14:45] a kind of cognitive dissonance, to justify itself — not "because I am the strongest," but because of a social contract or a council and so on — it justifies by argument the fact that it gave laws, and so "I

say what is right and what isn't." But for now that's what it says. When the state imposes laws, it behaves as if it operates on the theory of might makes right, but it tries to justify the legitimacy of these impositions by also using the other — contract theories. — Another aspect he doesn't treat here is: what happens in an anarchic society where, not by fiat but through voluntary exchanges, all the people in a certain area arrive at a rule — an ethic that does not

[0:15:53] correspond to libertarianism, to the non-aggression principle. [Not] libertarianism. What happens then? — Is that also a form of might makes right? All the protection agencies or insurance agencies in that area impose a certain conduct, let's say. — Well, validation isn't given by force, by military capacity and such. No, validation is given by the NAP, and the answer is that it isn't. — Exactly. That is — it's true you need force to execute, to implement certain ideologies — including NATO — but that's not what justifies it; the power of those agencies doesn't make them right, the principle does, you know? — You understand? I mean, we agree among ourselves, we do things, all of it voluntary, but redheads have no rights. — Yes. — Look, a court gives a decision, you know? It lets someone off for a rape, you know? — Let's say it's the most powerful agency around. You have to tell them: no, the libertarian answer is that an injustice

[0:16:55] has been committed. — Okay. I just wanted to emphasize that this is a form of imposing law by force at the moment when — so if there's a 100% overlap of this anarcho-capitalist model of establishing law on the basis of relationships and what people prefer, voluntarily and so on — if there's a 100% overlap with the NAP, with the non-aggression principle, very good. But the moment you have deviations, we're back to the idea that force doesn't validate the principle. That seems important to me. Force indeed enables the principle to be functional, to be applied. — Yes. Look — — That's exactly what seems — — But it doesn't validate it. — It seems to me a confusion that a lot of people tend to make — — like, you need [unclear] against libertarians. Man, these people

[0:17:57] — really don't understand that it needs saying — actually they do understand. That's precisely why they propose these polycentric systems in which you can guarantee law. — Yes. Most libertarians understand that there are separate discussions here, which many people don't grasp and lump together, and that's why the mess comes out. Yes. The capacity to impose the law — whatever law, or to impose the code of conduct — by force. Yes, that remains. But the NAP, unlike — the way libertarians ground their code of conduct is that any violation of the code of conduct already presupposes an initiation of force, an initiation of violence. If you violate the NAP, to violate it you must initiate violence, and then you can — you end up having this forceful response in order to maintain

[0:19:02] society — but it's not an imposition by force, which is what happens with fiat systems of law. I know we've had this discussion. I say rightly that it's an imposition, but a legitimate one. Well, legitimate from the point of view — — Well no, the NAP creates obligations. It prescribes obligations, you know? The point is that they're not coercive, you know? You use only defensive violence. — Well yes, that's what I'm saying too. — So no. — Okay. Let me give an example, and let's go into a few details, namely: there's an interpretation, for example, of the use of a resource. Let's say you have a hectare of land that someone finds in the state of nature and appropriates, and then five years pass and he forgets it or doesn't use it at all. Yes. And some say after five years — we'll have this discussion a bit later — — I know, but I want to talk about it a bit here

[0:20:05] now, because — in a certain area, let's say, the protection agencies in that area say: after five years, if you haven't used it at all and haven't been back there — so — the land simply returns to the state of nature. And others in another area — yes — say: he had left, let's say, for another continent. After seven years he comes back and says, "You didn't apply the NAP correctly." And then you can say: that was a right of the strongest, because that's what they say — or it was simply a mistake of

[interpretation]. — Okay, let's take it this way. Why is — so this appears to be a super-hyper-particular case. Yes — because we're not talking — so, for example, if I leave my slippers in front of the apartment block — yes — and they stay there because we live in a civilized world, and nobody takes them,

[0:21:07] — and I leave, I go to Italy, then I go to Argentina, yes? And I come back after three years and the slippers are still there. — Yes. Are they in a state of nature, or does this definition apply only to land? They're in a state of nature too. — Well, are they? Why would they be in a state of nature? — Who, the slippers? — The slippers. My slippers. To be as clear as possible about the position I hold — it's not natural — I hold it. — If they were slippers formed by the wind, let's say. — So all the actions a person takes regarding property — yes — are explicit. Yes. If I want to throw away, to give up — since it's a property right. Yes. — Yes. Already, you see? That's why I was saying that to analyze this situation we'd have to introduce all sorts of concepts that he introduces later. Yes?

[0:22:10] Being a property right, which is in fact a relation between me and a certain object? It's not a relation between you and other people. — He also said that these two ways of looking at things are both found within libertarianism. Yes — it may be a relation between me and other people, but it's also a relation between me and that object. Because in the absence of the object, the relation between me and other people doesn't exist. — In relation to what, Gabi? — I'm the owner of these [slippers] — if the slippers don't exist and never existed. — What relation do we two have if the slippers don't exist and never existed? — None. Well — so I need to have a relation with that object in order to have a relation with you? So how to put it: at the moment you have

[0:23:19] a relation with rights — for property rights to exist as relations between people, they're still grounded in the existence of resources external to people. — Yes. — Yes. Just as we have, for example — the idea of a slipper. No, no — it has to be a conflictable resource. — Leave it, you can argue about this when we get back to it. — No. Okay. Let's not. So — well, he's right that if you don't have a resource — what is property about? About resources, or the body — there has to be something there. — In a moment. So as Kinsella says: the moment you want to define your relation with a certain object — in fact the relation and the property right over it — you're actually telling others, "you may not touch it." — No, it's not inter[personal]. — Yes, but it's a relation. So, okay. You know, and here we come back again — no one.

[0:24:22] — We come to what property rights are, namely the ability to exclude, yes? So you can use it in an — exclusive way. Or — well yes, that's right, but there are three sides to this triangle, yes? Or to this logical scheme. Yes. One goes toward — or there are three points of this logical scheme. One is me, one is you, and the third must be the object. — Okay? — Yes. And as a result I don't even remember what we were talking about. — We were talking about the fact that when — my relation with that object, yes? — Yes. — For example, it can also be one of destruction. Yes. I can destroy the object. — Yes. And what's interesting is that the moment I've destroyed the object, I've also destroyed the relation between us. Yes, because it was based on my relation with that object. — Yes. — And I can also, without destroying the object, cut my relation with it,

[0:25:26] namely abandon it. — Yes. Now there are two things that can happen here. When I abandon it, either I've abandoned it on someone's property, in which case, before cutting my relation with it, I need that person's permission for the object to end up on his property. Yes? Or I abandon it in the state of nature — it's on land that nobody occupies and I threw it there. — Aha. The even more interesting part is that when I throw it there, I might appropriate the land — if I have an interest, because that's my garbage dump; it becomes my dump. — Yes. — Yes. — In which case — yes — third thing: if that's my garbage dump, I haven't abandoned the object, I've just changed its category: it's my garbage. — Yes. And all of these — we come back to what we were saying,

[0:26:29] — but abandonment — the problem we started from is this: abandonment, which let's say there are cases in which I can do — in the sense that I threw it away and don't care, without appropriating the land where it lands. Yes — I threw it away and that's it. That's abandonment. It's a positive, specific action that is among the actions permissible to me as owner of an object. — Yes — yes — yes. — Yes, but it's explicit — that's the point of view. — It's explicit, but in some societies some people say: "It's possible to give up your property implicitly, too." — Glad to hear it. You've left libertarianism. — Implicitly. — Implicitly. That's what he was saying. There are cases where, when he talks about Georgism, mutualism and so on — in which category now. — Well, he doesn't agree with mutualism. He even says that the one he quotes,

[0:27:32] I don't remember his name, something with "Co…" — it's not necessarily Kinsella's view here, but it's possible that certain anarcho-capitalist societies, in their interpretation of the NAP, consider that after five years of non-use, a piece of land, a slipper, whatever, returns to the state of nature. — They can agree on that. Yes — they can agree. They can agree until — and to say that it's in — until — and the question also arises whether from here — might makes right applies to anarcho-capitalist societies when they consider it so. — Well again, they can agree, yes, until they no longer agree. — That's right. Yes. — The moment I no longer — the moment I no longer agree. — Yes. We go back to the theory of [unclear], and at some point in the discussion of the book we'll get to what you can give up and what you can't give up. — Yes. And here we already know, because we cheated and looked back at Hoppe's perspective,

[0:28:38] which Kinsella probably shares — that you cannot give up sovereignty. — Therefore any right of yours that you place into a conglomerate must be extractable from that conglomerate under some criterion. Yes, with certain consequences — and if those consequences aren't provided for in the contract, if exit criteria aren't provided — it's not valid. No — the contract isn't valid and you can withdraw it at any time. The moment disagreement arises, the contract is broken. — Correct. — Yes. So, to come back to the situation you described: even if we all agreed at the start that after five years of non-use the land becomes abandoned, first of all that would still be an explicit action, because we agreed on it. — Yes. So we're still under the NAP and we're

[0:29:42] acting voluntarily. — Yes. And if it isn't regulated by a contract that provides specific criteria for exiting that initial agreement, then the moment we disagree on it the contract has dissolved. And then if you want to impose on me — and I don't agree — that after I left for Italy for six years that land is no longer mine, if you want to impose that because we agreed at some point, I'll say this contract isn't enforceable. I go back to the NAP. Sorry. And if you continue to impose it, you've left the sphere of non-aggression and you're imposing something by force. — More generally, abandonment of property was one example, but there are many other cases in which the NAP is open to interpretation, you understand? — Okay. And the question can be raised: is might

[0:30:45] makes right attributable to an anarcho-capitalist society that interprets the NAP that way, even if others interpret it differently and say "you used the right of the strongest in applying the NAP"? — Well no — if you dispute how that society organizes itself, you end up with arguments like "you're doing what the strong one wants," not to say the biggest [unclear]. — Yes, but it's voluntary. It's voluntary. It's a voluntary arrangement, you know? — Well, it's an arrangement. It can be a voluntary arrangement, but as I said at the start, the moment it no longer overlaps 100% with the NAP — you've become aggressive — no? What Gabi is saying is that it's possible for it to break down, you know? Someone takes the hen because he's the strongest there, you know? We agree — he signed, yes, he's the

[0:31:49] strongest. — Well, again — so be careful: when we speak of "the strongest," when we describe those legal paradigms, strong means aggressive per se. It's not about someone being forceful.

Aggressive — initiating. — He's a tyrant. Yes, a tyrant. — Yes. Think — — or not? — Kids can steal cherries without any repercussions — that's how it is in all of Oltenia. — Right. — Okay. And someone who studies — — can't be — — an anthropologist studying why the cherries disappeared from Oltenia will say that — — plus the hose belongs to the child, to the parent. So — — I don't know what example to give you — stop picking strange entities. — Pick adults. — I'll drop it. — But I understand what you're saying. What are you saying?

[0:32:52] That if they agree to those arrangements, then it's "the strongest." But the question is what "the strongest" is — Hoppe's argument is that if they agree, it's no longer that. — Yes. That's not the sense — — agreement doesn't have — that's something that I — — But you know what I'm thinking? The meaning of "might makes right" was always power, military power, you know? We weren't talking about how you use it — he's strong. As long as — — and that's exactly what I'd started to say: there's a confusion in most people's minds between the two discussions. Because the first discussion is a normative one, which isn't concerned with — so, what a just society would be, not how we make a just society, not how we apply it, what the engineering mechanisms are. No, no, no — strictly at the normative level. So it doesn't even have to be people; it could be ants in this society.

[0:33:56] — Yes. — Absurdly speaking. I know, maybe it can only be about people, that doesn't matter. But — — or ants with human behaviors, who cry — — Yes, yes. Let's say dolphins. Yes. So the idea is that we're not concerned with how it's done, how it's put into practice, but only with what is just and what the rules are. Yes, that's the normative discussion — about rules. What must be done, what is just to be done. — Fine, and the objection makes sense, because, mister, I want this system in my lifetime, otherwise I'm not in. — That objection doesn't make sense here — it's a different objection. A different objection. We'll get there. Yes. The second discussion is how we create this system, how we bring it about among us, how we make it alive — what practices could keep the normative rules alive. Yes. And here — — Yes. Go ahead, I wanted to stop you but

[0:35:03] it was related to something here. — Go on. — At the beginning of the book there's a quote from Samuel Johnson: "I have found you an argument; I am not obliged to find you an understanding." — Yes. — [unclear] Now, if you don't understand it — — "son, I taught you to read; whether you understand…" — Yes, exactly. — There are times when I can't help you. — Yes, it was related to what he says — — Yes, it's arrogant. — Fine. So the idea, the problem, is that people confuse this part, which is clearly executive, clearly practical — namely how we will do enforcement. Yes, well,

[0:36:09] we'll do enforcement — the word itself — also using force where violations occur. Yes, this happens in any system; it will happen. So any normative system will have violations, because people themselves can — why? Because people can choose to violate it. Yes — we discussed at Casey human nature, man being able to choose; he'll choose to violate the system. He can choose, and therefore some of them will choose. But why will they choose? Because that's how things work. That's human. — That's human nature. We'll explain a bit later why they'll choose that. Yes. But the fact that we use force on the practical side — how to put it as clearly

[0:37:14] as possible — implementation — I don't know — in the application — in the application, yes, the fact that we use force in applying the rules in everyday life doesn't mean the rules are justified by force. That's the mistake many people make, including many libertarians. And a system that is justified — and here Hoppe is right, and pretty much anyone is right — a system that says force imposes what is right. Yes. That means at least all — how to put it? — it means at least all the people who are part of that system established rights through clashes of force with one another. Otherwise you're not in a system in

[0:38:19] which force justifies. — It's a kind of positivism. It's worse than that. Yes — — force matters. But the force of ideas. — And there's more — there's one more thing, so you understand exactly what I

mean. Say you claim to be an egoist libertarian, and you say, "Look, the facts across the world are that only force justifies what is right. We live under the law of the jungle, and in fact the one with the biggest club tells you what must happen." And maybe that's so, but the description doesn't describe a system in which force tells you what is right, because you still choose whether to resist or not. And more than that, you try to

[0:39:24] accumulate more force to change things. That's one of the things too. I was in a discussion with a libertarian who said the system is that force makes rights, and that's it. And the response would be: so you submit, right, when you pay taxes? "Yes, I submit." But would you like not to pay taxes, or to pay less? "Yes, I would." Well, why do you want that? — Because force ought to — — Why do you want it? Because you said it's justified to be this way. — "No, but I consider that rights should be otherwise." When you want it, it means you base that wanting on a different normative system. — Or he has the force to avoid them. — No. Either you have the force to avoid them — which is indeed a legitimate option — no — — force, if you have private armies and whatnot — — or you run fast enough, because running is a force too.

[0:40:27] — Yes, but you wouldn't call it a force. It's a capacity — — an ability. — Yes, but not in the sense that you're strong enough to impose yourself. You're more — — more of a rat, you know? — No. — Yes, yes. — That's an ability too. Rat. — An ability too, in the end. — He means force in the sense of intimidation. — No. You take to your heels. You're good at — it's not fight, it's [flight]. — Or look, exactly this: you have a system of laws reached through arguments, through applying the NAP, and then a judge says: "The following legal decision resulted, and we turn to the one with the most force in that geographic area, and he implements it." Does that mean the NAP is implemented — or does the one with the most force in that area tell the judge

[0:41:30] "apply this law," and then he makes that decision? So either the judge obeys the one with force, or the reverse. — What the sentence is also matters — what the law is matters. Because if the one with force says "apply this law" and that law is the NAP — it's again — so it matters a lot. So no — — again, at least at the level of justification you can't draw — — concretely where it comes from. — Yes. No, you can't pull it into the normative realm. — Okay. — As long as there's discussion. — Yes. Let's move on to — — that's why they ended up — they had to resort to social theory, precisely the social contract theory, precisely because "might makes right" can hold up for an evening at the bar, you know, when everyone's tipsy and we're not

[0:42:36] having philosophical discussions — but if you want to analyze it seriously, you hit your head on seven contradictions and you can't carry it as a normative theory. — You can't, from that point of view. — Good. So we've arrived at the social contract. Okay. We're enlightened people, yes? We need to justify legislation in a certain geographic space some other way, namely we apply social contract theory. Many people have racked their brains over this social contract, among them John Rawls and Buchanan, mentioned here — one on the socialist side, the other on the conservative side. Both, however, admit — actually, it was John Rawls who, Kinsella says, admitted: "I wanted to reach a certain result, and I applied a fictional person,

[0:43:41] extraordinary conditions, so as to create this imaginary social contract in order to reach results that seemed very correct to me." — Yes, this relates to what I said many episodes ago, that it's clear Rawls manipulated the interests of the people behind the veil of ignorance, because if they really were behind a veil of ignorance, the first question they should have asked would have been: do we want a world in which it's legitimate to aggress against each other or not? And the rest would follow from that. You know the problem: under the veil of ignorance they should choose libertarianism, because that helps the poor the most. Because he wants to help the poor — that's the point. — That's the socialist

sensibility of socialists everywhere: help the poor. Well, do you help them with socialism or with libertarianism?

[0:44:47] Economics answers that: you help them with libertarianism. So no. Hoppe takes it even more logically and says: "Before the social contract there must have existed people who — praxeologically speaking — think, act, and defend their interests." So you can't say the social contract existed before people acted; people's action preceded the social contract. So there were people who acted without a social contract existing before them. Yes. And that tells you the social contract isn't sound. It throws out the social contract as something natural or self-evident. Yes. And it grounds the idea that all social contracts would have to be explicit.

[0:45:51] — Yes — that's the implication of what Hoppe says here: social contracts can't be concluded in the ether like that. Well, he says that afterward these people tried to argue that there's another person, a collective person born out of [society] and not tied to a body — — and they place it in the mists of time, so that it comes before, it precedes man, as it were, you know? Man, forget the social contract. — Ah, so the contract was made afterward — — was it signed before people existed, or what? — No, no, no. People have always existed, you know? But through their collective actions these bodiless "personalities" emerged, which signed — would have signed — this social contract, which was then applied downward. — Yes. And a sinister conclusion of these social contracts, and of the law —

[0:46:58] of the legal framework resulting from these social contracts — he repeats it: a social contract signed by imaginary persons ends up being applied to real persons, with tangible consequences for Gheorghe, for Vasile, and — — they'd want it to apply only to them, the imaginary ones. — Yes, yes. — But Rawls's point is different. Rawls's point is that you're not biased in that state of ignorance, you know? You say: I don't know whether I'll be rich or poor, how I'll be. So let's choose these socialisms, because these will — — Well yes, but you see, that's what they build on. — That's what Gabi was saying about Kinsella talking about Rawls, and we've discussed this somewhere before: the idea is that if the first question you ask yourself is "I don't know whether I'll be poor or rich," you've already manipulated it. Because the first question you should ask yourself is: I don't know whether I'll be the one giving or receiving.

[0:48:02] — Yes indeed. Aggression. — I don't know whether I'll give or take a beating. That's the first thing you should ask yourself, and then maybe you'd want a world where at least giving or taking a beating isn't justified. — You're saying he also raises this: there are two principles in Rawls. The first principle is the equal right to liberty. The second is the one with [the difference principle]. Well yes — whether it helps the poor. There are two principles. — And he says, "well yes, I'll answer the liberty one — let's not hit each other. But let's go further, because that one — " — Well yes, but if — — that one hasn't eaten — — if to achieve the second you violate the first, it means you're a mess. — Well that's it: you don't realize this contradiction, which is important. So a critique of liberal socialism is that you've violated someone's liberty in order to give someone else unemployment benefits. — Yes. Well, he defines liberty differently, and then that's it, he's solved it. — No, there I think he uses it even in the sense — not in the socialist sense of access to goods, but

[0:49:05] liberty, liberty of action, you know? Not as access to goods and services. In the second sense it's possible that liberty above one million dollars — you're aggressive when you take one more dollar above a million. You understand? You're aggressive, and then we bring you back a bit toward liberty. — No, it's a billion in California. A billion. Yes. So you can have 999 million of your own. But the billion, what do we do with it? Really? — Yes. And then you yourself are no longer free, and we tell you you're freer below this limit. — Yes. — Good. And utilitarianism: increasing the degree of happiness of all, of as many people as possible. I think he says here too: "There's no measurable unit

[0:50:08] of happiness that you can take from some and give to others, or measure whether you've increased it — by building a highway, say, whether you've increased the satisfaction of many people or not." — Mhm. — And so it seems to me that both social contract and utilitarianism leave room for interpretation, and Bolojan and Grindeanu and Hitler and anyone, Putin, can say: "I increased people's happiness." — There at least, okay. Even Hitler — if you have aggressive majorities and they're happy that they eliminated some ethnic minorities. Yes, he increased the degree of — and they took their money too. — Mm. — Yes. He created happiness — in society. — I don't know if I'd — — it's a harsh counterexample to utilitarianism, but that's it. I don't know if I'd agree there with

[0:51:12] Hitler, because it's — — the greatest happiness for the greatest number. — Yes, but they still presuppose that they somehow aggregate this happiness, and presumably they take the minuses into account too, you know? — I mean, to get there — how to put it — I don't know whether the utilitarians — though I've said it many times: utilitarianism is just a method of easily justifying whatever system you want. But I wonder whether some of the utilitarians who are more pro–social democracy would consider the socialist-communist method of achieving unanimity valid from a utilitarian standpoint. Which method is the gun to the head? — Think about it: you don't even have to be a scrupulous utilitarian who actually measures with some device. You can just say: "I think if we put people

[0:52:17] to work on the Danube–Black Sea canal, people will be happy." — Yes — — I'm Ceaușescu and I say it — who can say otherwise? — Fresh air, free food. — Yes — — those won't be real, you know? — I mean — — no — — their preferences aren't those, you know? — That's what it means to be scrupulous: to actually measure somehow. We don't apply the definition of utilitarianism as preference-based in the Nazi case — those people really wanted it, or I don't know — — or it's a possible scenario, you know? — Good. And — — that being said — yes — that being said, we return to the premodern things, namely natural right and natural law. Yes. And these can be deduced from the study of human nature, Hoppe says here, and from here we'll get to the NAP. So what does that

[0:53:22] mean? It means the just principle could be discovered. So human actions have certain characteristics that can be abstracted and conceptualized, and on that basis you can determine certain things, and further these things become a method by which people can all behave — in a non-conflictual way. — Exactly, in a non-conflictual way. Yes, correct. And here Hoppe places the emphasis on the non-conflictual way, because he says that people — so any kind of — let's do it like this. People

[0:54:25] act. Every human action presupposes a certain end, which a person has in performing that action, and he uses various means in the course of that action, either external ones or his own body. Yes? For example, look: I want to drink some Coke. There's Coke in this glass. The Coke and the glass are external. Yes. The hand — the mouth, internal. — The mouth, right. Yes. And the reason I want to drink some Coke was that my sweet receptors — I wanted to feel the pleasure that activating my sweet receptors with the Coke flavor gave me, with that particular combination — because if it were Pepsi instead of Coke — — you wouldn't have reached for it. — I wouldn't have — it wouldn't have been justified the same way. Yes, maybe I'd have done the same action

[0:55:32] because I was thirsty, but certainly not if it were Pepsi here — yes, if it were Costel's Pepsi, for example, the same reasoning wouldn't hold. Yes. I wasn't seeking to achieve the same end. Yes. — Add the external conditions too. So besides means and end, people act within certain external conditions. Yes: it's hot, it's cold. If it's cold, you don't drink Coke, you drink something else, and so on. — Yes. Good. And that means that under these external conditions, man can always — so man always acts, except when only — — or when he's in a coma, or dead — — when he's dead I'd say it's no longer a man; that's another discussion. — Yes. So let's say when he sleeps, or when he's in a state associated with sleep — a coma, for example. Good. And then what is man actually doing when he acts?

[0:56:37] He chooses. He chooses from a range of possible actions available to him. How does he choose? He chooses by predicting — you see, I said it myself. To do this action of drinking some Coke, yes, I predicted that the contact of the drink in this glass with my taste buds would produce the sensation I want produced. Yes. — A small parenthesis. In fact he says it like this: man always acts in order to enter a state superior to the existing one. — The existing one. Yes. — Yes. Into a better state, a more pleasant state. — Preferable. Preferable — I'd rather say it moves you into a state that is preferred. Not even —

[0:57:41] to say that actions — so I was saying that man can choose actions, yes, but before choosing actions, man chooses among all the states he could move toward, and prefers one of them. — Exactly. Yes. So first he chooses — so the potential of all actions can lead him into a whole sea of possible states, if we look at man at their center. Yes. But first he chooses, because he presumes one of those states is more preferred than all the others. For various reasons: it's easier to reach, it takes less effort, it gives him the greatest satisfaction. There's a whole range of possible reasons for

[0:58:45] which he chooses to prefer a certain state. Then, once that state exists, there's an action or set of actions that can move him from the current state to the preferred state. Yes. And these actions are selected based on man's capacity to foresee whether the results of the action will bring him closer to or further from the preferred state. — Good. And from this point of view — not Hoppe but Kinsella, when he discusses the same problem in the preface — Kinsella, discussing it in the preface, makes a nod toward Mises's *Human Action*, where we can use the same idea that man moves toward a

[0:59:50] preferred state, but Mises builds it negatively, in the sense that he prefers those states in order to relieve his discomforts. — Yes. Uneasiness — discomfort, no — — discomfort. Yes. Yes. Good. But coming back now to how Hoppe put it: okay, so people perform these actions, they choose. Good — — that is, through the study of man, by this methodology, by studying human nature, we can arrive at an ethics, at a system of justice. And then, having these presuppositions — that man acts and so on — and having also these conditions — that goods or things outside his body are scarce — we have to

[1:00:54] get to how he acts so as not to — here — — I have this too, with discomfort: I want to act. — He acts. I was saying that, given this study of man — that he acts in order to move from an existing state to a preferred one — the libertarian theory of justice, of law and ethics, is: how do we do this without creating conflicts between people? One of — so, observing in the same way: among the actions people can perform is communicating with other people. Yes. Here we come back into the sphere of Hoppe's argumentation ethics. So you observe: what's that guy doing? Well, look, he's hitting a stone with a club. Why is he hitting it? I don't know, maybe he likes

[1:01:58] the sound, you know? Okay. What's that one doing? Look, he's sharpening some sticks with the stone. Why? I don't know, maybe he'll use them later. And the other one — let's see what the other one's doing. Well, he's going "ba" and pointing at the other people. Hmm, what could that be? And you keep seeing people tend to do this with each other. Yes. And from this emerges people's ability to communicate with one another. Yes. And for example you can interpret that there's a difference between preferred situations. Yes. When people communicate, clearly they prefer to communicate. Yes. And by watching and understanding how and when they communicate, you can determine that communication is a means

[1:03:02] of reaching one preferred situation over another. For example, there's a significant difference between: "Gabi, please give me your glasses for a moment. Thank you. Yes. Here — take them back, put them wherever you like. Thank you." So. There's a significant difference between these two [ways] — implicit agreement. Yes — it's not a significant difference, and the less I know Gabi, the more the difference between the two situations grows. Yes. And what's the actual situation? Well, maybe Gabi didn't feel like having me touch his glasses because I'd get them dirty. Yes, but I made sure — by asking

him to give me his glasses, communicating my wish that his glasses come into my hand — I avoided putting my hands on his glasses without his consent. Yes.

[1:04:07] Which could give rise to a conflict. Basically, that's Hoppe's whole argument. The fact that people prefer to talk to each other means that, by and large, in most cases, they prefer to avoid conflicts, and that's why communication exists. Good. And from here he goes through the steps — well, the glasses thing is a second-hand example; I could say something else, like making use in one way or another of Gabi's body, not necessarily his indirect property, you know? But I was saying that, looking at people this way, a few concepts emerge that must exist in the system. The first

[1:05:12] is the person. The person appears, which we said is necessary before concluding contracts. Self-ownership appears. We observe it: man owns himself, and it's very conflictual when someone else tries to control him physically. Yes. And property. Yes. And property. Good. Here Hoppe also says that if ownership of your body weren't implicit, someone could say — I think here he says — wait a bit. If there were any attempt to control a person's body by another person, it would generate implicit conflicts. Because the direct controller of the body, that is, you

[1:06:15] yourself, can't withdraw from there — at least until we find the right drug for that. Yes. And technology for direct control from elsewhere. So any physical interference with someone else's body — this follows directly — must be consensual, invited, and the two parties must agree. And anything that isn't that is an invasion and is unjust, he says. And the second thing that derives from how we look at people — yes, so the first thing, from how we look at people, we derived the person — and why did you give it? I was handing it to you on a platter there. And the second thing derived from how people behave is private property

[1:07:18] and the way it becomes private property, namely original appropriation. — Mhm. — And then we have contract and exchange: how you obtain other things — you become owner of other things perhaps by original appropriation and then by exchange. I give you what I originally appropriated, you give me what you originally appropriated, and that's how we can change the owners of things between us. — Hm. And I'd say Hoppe's argument is very strong in this sense, that if law itself — or rather, if we've already shown that people communicate with each other to avoid conflict — well, in a primordial state, but there are also people who talk just to

[1:08:22] pass the time. Yes, there are people who seemingly talk nonstop about this and that. But at bottom, and what I'm trying to say is that the fact that a human action can have several uses doesn't preclude one of them being the basic one. Yes. It doesn't prevent one of them being basic. Hoppe's thesis is that we communicate in order to avoid conflict, and that would be the basic function of communication. And further, one can take this argument and say: "Good, we have an ethics of behavior, we establish what is right and what isn't." Yes. And what do we do with it? Well, we communicate it to others. So if we communicate it, that too is an instrument for avoiding conflicts. Yes.

[1:09:25] — You could stop communicating once you've reached that, no? — What? — You could stop communicating. — Well yes, but then you find yourself hitting the other guy on the head, and he doesn't understand why, and — — you communicate afterward. — Well, even if you communicate afterward, it has the same purpose, you know? — Yes. Look what I like: any acquisition of property other than by original appropriation, voluntary exchange or contractual transfer from a prior owner to a subsequent one — other than these three ways — is unjust and is forbidden by reason, he says here. — Yes. — So you can't rationally justify holding

[1:10:28] — theft. Theft isn't — from this point of view, if you understand that it's theft, it's not a rational action. So if you say something that contains a contradiction at a certain level of abstraction, yes? If I

steal your property, I'm saying: I don't recognize your right to property, but I want to have a right to property. So I somehow don't recognize the laws — and one way of masking this argument to prolong the confusion is: the thief believes possession is property. Which is true. But if — then why does he defend himself? Okay, you say: he defends himself to keep possession, very well. But if someone takes that thing from him — he regrets it.

[1:11:31] — That's it. — He doesn't regret having stolen; he regrets not having kept it. — Exactly. He regrets that — so he doesn't accept that someone else dispossessed him of property obtained by [theft] — he believes in property, or — yes, yes, yes. — I mean, when he steals he presupposes — and that's the irrational part. Theft contradicts itself, because it presupposes property rights and denies property rights. — Interesting. So it was a — — and even if he bases it on possession instead of property rights — well then why does he take possession away? Then it's clearly a violation. So either possession is what makes rights, and then what are you doing with your hand on a thing in someone else's possession? Yes. And conversely, why do you regret it when someone else dispossesses you, you know? — I can't say that he — — it's in the other one's possession now. He no longer has it.

[1:12:32] — Well yes, but you can't say he regrets the possession rather than the violation of a norm. He regrets that the guy took his watch, you know? The second — — the second. No, no. He's consistent. As a theory of justice — he admitted — — that the first victim is a theft. He admits it's a theft. Isn't it? On the other hand, only when others take from him he doesn't say "I was robbed." You understand? "I lost possession," you know? — Well yes, but — — but I didn't lose property, because it wasn't property. — Yes, but still — you still regret it. I mean — — you regret it, but no longer the contradiction. You know, it seems to me the presupposition of this Hoppean kind of critique is that you assume universalism. But the thief doesn't believe in universalism, you understand? — It's irrelevant whether he believes — sorry, sorry. — It's irrelevant whether he believes in universalism or not. Precisely, that's precisely the point. — No, he may well believe it. He may believe it, only it doesn't seem to me that he

[1:13:34] contradicts himself, you know? He may not contradict himself. I mean, he admits it's not his property, even if a second thief takes it from me. — Either the concept of property doesn't exist — — Well no, he recognizes it. Look: "I was a thief. I took his glass." — Well, if he says he was a thief and took the guy's glass, it means he recognizes the concept of property, and that property remains at the level of right, not possession. — Yes, he concedes that. — Well, in that case he accepts that property is something at the level of right, he accepts that he didn't obtain ownership of the glass. Yes. But he accepts that he violated that right. — Look — I was thinking — yes, I accept that. I was wondering whether — he'd say he thinks property is legitimate after the fact. — You as a thief — if you accept that theft is theft — yes — the moment you steal,

[1:14:42] you don't want to be robbed of the things that are rightfully yours. Yes, but you rob someone else. That's where you've violated it. It's disjointed behavior. — Yes. If you say nobody should have property and everything is based on possession — yes? — you still violate it, because when you take something out of another's possession you've violated it. So there's no way out of this. — The only way you can escape is if you own nothing. — Well, not even — — and make sure you own nothing. You understand? But if I give you a goat as a gift, your position is finished. — Well no, because I can still reject property rights. — What? — Why? — I contest them. They don't exist — whether you gave me something or not. I don't believe in property rights, you understand? I don't believe. — Yes, you have — — So I don't want private property, or collective property — no property. There is no property. — Over your own body? — No — the body — the body matters least.

[1:15:47] But you have clothes, brother. — What? — You have clothes? — Well, those aren't mine either. — How are they not yours? — They're on me, but they're not mine. — Yes. I don't believe in property,

you know? — Then hand them over. — Even if, like that thief with possession, someone pinches my coat and I get annoyed, I don't believe anything was violated — — You can't — yes, but sorry, that doesn't make sense. In what — the act of getting annoyed presupposes an injustice? — You don't get annoyed that you can't eat that ice cream because someone else took it? The act of getting annoyed — — but I don't believe it was right and legitimate that it be mine. — The act of getting annoyed presupposes an injustice. That's what I'm saying. — It's a utilitarian annoyance. — It can't be. A utilitarian annoyance would be not getting annoyed, because that maximizes utility for everyone. — No, let's not bring in utility. It's a matter of preference: I wanted to eat that, and

[1:16:48] someone took it. — Well yes, but that's not about property rights, is it? I'm annoyed that the guy took my car — — by virtue of what — — what am I annoyed about? — Yes — — man, that's how people are. They get annoyed. I preferred to use that thing and look, someone took it, but I don't believe in property rights. I don't believe he was obliged not to take it. I don't believe it was my property. I don't believe in a world — — if you preferred to use it, it's not — so here you escape, because we're not sitting down to build the whole model. You know? That's what I find funny — the contradiction only appears after we get to the end of the circle. You know? Well, my question is whether it's a contradiction. — That's what I'm saying. He builds it. Let's take another episode and build the whole model. Yes. And you'll see that in the end you hit a contradiction.

[1:17:55] — Look, we've run into argumentation ethics before, because that's what we're discussing now too. Look, when you talk to your slave, would it be — well, you recognize forms of property in him and so on — — you recognize them? — Well — — you recognize them, no? If — — that's the point. If you talk, you communicate; you communicate to avoid conflict. You can avoid the conflict only if you recognize something there. — No, I'm saying — — I mean, you want to avoid the conflict. — Well, I remain clear. You still hold that he's your property, even if you're talking with him. — Well, again, a person can hold — and I've discovered this in practice — as many cognitive dissonances as his brain will carry before it goes pop. But that doesn't mean you don't contradict yourself. That's the principle of cognitive dissonance: behaving in contradiction with your own beliefs. No — — you recognize [his] ownership of his tongue, you let it move, you know? So no.

[1:19:00] — Yes, you do — — he remains — — yes, you do. You recognize him as a person. — Well yes. But that's not what I'm saying — — to talk with him you recognize him as a person. — Okay. You recognize him — — well, if you recognize him as a person, it means — — he remains my property. — Okay. You see, here's the contradiction. — Yes. Okay. What was the problem? Whether it's a contradiction — it's not clear to me that we still know. If you torture someone and talk to him, it doesn't mean you recognize — he talks, but you don't recognize his right, you know? — Anyway, let's move on to Rothbard. — Yes. The greatest contribution Hoppe recognizes here to developing the theory of justice based on natural rights is Murray Rothbard's book *The Ethics of Liberty*. — Not the *Manifesto*, see? And he doesn't — —

[1:20:04] to the *Ethics* he goes, that's it. — Right — published in '82, and Hoppe mentions here that it didn't have much resonance in the academic world. Rather, Nozick's book *Anarchy, State, and Utopia* did — where Nozick mentions him — — being the only mention. Yes. — Which is also a critique of anarchy. — Mm. — Maybe we'll do Nozick at some point, although it's pretty convoluted. We criticized Nozick when we did [Rothbard's] critique, in *The Ethics of Liberty*. — I mean, he had certain assumptions there, he made certain leaps. When people go to the dominant agency, they go fairly forced. So I can't say it's an invisible-hand process by which the state comes about. It's a strong-hand process. That seems to me the biggest mistake. — Yes.

[1:21:05] — Okay. But even though the book didn't have much echo in academia, it had a big echo popularly. Many people read Rothbard's book and appreciated it. It created a very large libertarian movement, especially in the United States. But over time it was perverted, reinterpreted according to the current context — — the conveniences of the moment. Yes, the current context and whatever interests the reinterpreter had. Yes, yes. And Stephan Kinsella's book — the book by Stephan Kinsella, yes, which we're discussing on the podcast these days — brings important contributions, especially in the field of intellectual property, but not only. There are certain clarifications

[1:22:09] in other areas of establishing private property too. — Correct. He tackles these difficult problems. Kinsella is a heavyweight; he goes into the big problems — slavery and more. — Hm. — Yes. And Hoppe ends by hoping that in the future this book by Kinsella won't be ignored as much as Rothbard's contribution was. Moving to the preface, it starts more or less the same way: people have been concerned with what the laws are. But here, it seems to me, there's the first change of tone, which I find interesting. If Hoppe's foreword started with "what is a just society and what is right for people to do," Kinsella goes straight to: what has concerned us,

[1:23:14] us humans, forever, is which laws are just and correct. That is, it seems to me he already shifts: if the first discussion was entirely in the sphere of ethics, Kinsella brings it into the sphere of legislation. And that's one of the things I've been harping on for a long time: there's an overlap that everyone tends to make between the ethical and the legal, and we'll develop the subject further over the course of the book. But look, he says: what's the purpose — why do we need a legal system in society? Why do I need laws in order to live peacefully and cooperate?

[1:24:17] — Yes. Well yes, same thing. I'm saying that in the other introduction, Hoppe's, the same things could be reached through an ethics, Hoppe says; with Kinsella we already need law — — but to arrive at the same place, you know? — They have the same thing in view — — "need" being the sore point. My question is: how do you put cause and effect — in the sense of "we must have these laws as good as possible to come closer to human nature," which we don't know whether it's good or bad, or "we need these laws to live peacefully in society"? Human nature being the nature of the individual.

[1:25:22] — Well, they go together — I don't feel a distinction. — Who undermines the peaceful part? Human nature, with its aggressive parts, you know? They go together somehow, or not. Otherwise you wouldn't need — if we were angels, peaceful by definition, we'd no longer need — — I mean, it's possible that man's nature, for example, could be discovered if one researched enough — people shouldn't, in society — — they won't — — let me say, his nature isn't to [destroy] society — — well, I think, I think empirically no — — you look out the window and see that — — I think empirically no. Well, I don't think you have to go empirical. — This hypothesis. No, no, no. What I'm trying to say is that I think empirically this hypothesis was thrown out the window long ago. — Well, and the state — — even before the first — you see? Yes, but now I'm going further. Even before the first

[1:26:26] ice age, I think, this hypothesis was thrown out — — or with Adam, I can say maybe he didn't feel like it. I don't know. — On the contrary, I'd say Adam precisely did feel like it, because without his wanting it Eve wouldn't have appeared. — No. — Well, not wanting Eve. God said he was sad. — God brought her. — Well, he was sad. — He was sad. Right. God saw he was sad, and made Eve. But — — he didn't say "Lord, …" So he wanted it. Clearly. Yes, yes, yes. — He wanted it, but had no one to want it with. — The idea is that he didn't say "Lord —" — and God said, "Oops, I forgot. Wait a moment, lie down a bit and we'll sort it out." — Yes, but He could have made him — — "We'll sort it out. Lie on your side, I'll take a rib and we'll improvise something." — He could have made him happy without that. — It wasn't on his initiative. — Well, it wasn't on Adam's initiative. Yes, but Adam was just sad. He didn't know it was possible. He wasn't self-aware. He just felt.

[1:27:32] — Okay. — He was in that Misesian stage. He acted. He wanted to remedy his sadness but had nothing to do it with. — He abstained, rather, and abstaining is, for Mises, a form of action. — Yes. — No. The idea is that human nature, the bad parts of human nature, lead to aggression and we must counteract it somehow, and we do that by — — good. The aim of the book, as Kinsella declares it, is to defend — and even more than to defend — — to bring back onto the scene — — yes, to bring back as just the systems of private law developed in decentralized systems, such as — he says — Roman law and common law, but emphasizing, holding as important, consistency, principle and the inviolable rights

[1:28:37] of the individual. That is, private law, private law discovered from the bottom up, but without violating those things. — Yes. — Yes. He'll try to explain in the book what libertarianism is, self-ownership, property — what we'll discuss from his book. Yes. — Hm. That's sort of what he wants — — intellectual property being his most important contribution — — I mean the most distinctive compared with all the authors we've discussed so far. — Yes. And now a bit about Kinsella, because we skipped it. Normally when we start a new author we say who he was, but since he even puts his life history in the preface, we'll talk about him now. Kinsella was born in 1965 in Baton Rouge, Louisiana.

[1:29:39] — In a small town near Baton Rouge — — well, around there. Yes. Yes, correct. In a sub-town nearby or a suburb — I don't remember if he says. — Actually, I think the concept of suburb wasn't — it's not only New York — or there were suburbs at that time. Yes. So, born in Louisiana. He says of himself that he never flirted with leftism. He had a deep need — he had a justice-seeking personality, an appetite for justice, because he was smaller and puny, and [there were] bullies. On the other hand, he was also adopted — — "more of a bully," no? — More bullied. Yes, yes. That's what I meant to say. You're right, I used the wrong word. He was adopted. So it's an adoptive family. But he thanked his biological mother for giving him up for adoption to

[1:30:42] such a good family. — Yes. He also traces to his being adopted one of the reasons he didn't fall into the trap many people fall into, of ascribing many virtues to blood or to various non-voluntary collective traits, whose myths are generally told to reinforce various abuses that happen in families, to put it no more strongly. Good. He comes to libertarianism through the gate of Ayn Rand in high school. One of his teachers there recommends he read *The Fountainhead*.

[1:31:46] It's up there on the shelf at the back. *The Fountainhead* is translated into Romanian. And these Randian ideas resonate strongly with him — ideas of justice and individual rights, and that man can become master of the universe and everything he imagines. He has a science education, a real-sciences background — — for the older generation — — for the older generation; at the time he was doing electronics. Yes. Yes. — He first studied electrical engineering, and only afterward, he says — when his girlfriend told him — when he was looking for a second degree, like any productive Randian. Here I'm teasing him a bit: any productive Randian looks for another degree so he can stay a bit longer on his parents' money.

[1:32:52] And then, because he had already started to be interested in legal problems, it was recommended that he do law school. In the '90s he becomes associated with the Mises Institute. Well, initially he goes to a conference of the Objectivists, he recounts. And honestly, the reason he broke with the Objectivists in general seems a bit exaggerated to me. He recounts that he came to that conference

[1:33:55] as the guest of a certain Objectivist who was about to be cast out of the ranks of Rand's followers — and cast out precisely because he had facilitated the publication of a certain book that the Randians considered a sin, so to speak. And one of those Randians boasted of how he'd burned the book in a ceremony in his back yard. And I think, from a strictly libertarian point of view — — the man had bought the book; it was his property. — Yes. Yes. — And he burned it. He didn't say "we must burn all the books." No — "I burned it, where? In my yard. Why? Because that's my opinion of this book." As the

saying goes — I too, how to put it, if I received donations I'd buy all of Greta Thunberg's books, and how nicely we'd keep warm over the winter.

[1:34:58] — Isn't he criticizing that it was a kind of cult around [Rand]? — Yes, that it was a cult. We can discuss that, but the way he presented it didn't seem to me to violate libertarianism. — If you think of the Popper–Kuhn polemic in the philosophy of science — for Kuhn, a cult means a paradigm: some exemplary scientific achievements, and whatever comes afterward works within that paradigm. Rothbardians relate to Rothbard that way, you know? — That's how it would work even in the hard sciences, and certain humanities. — Well, that's because — the question is whether the current is open or closed. You know? With Randianism, for example, there's a debate about whether Randianism is open or closed — in the sense that if it's closed, Randianism is only what Ayn Rand wrote.

[1:36:00] — Hm. — And beyond that we're not interested in anything else. — No interpretations, reinterpretations. — Exactly. There are interpretations, but they're not part of Objectivism. Well, I said Randianism; they discuss whether Objectivism is open or closed with respect to Ayn Rand's writings. I mean, not even what Peikoff writes is admitted as part of Objectivism. The question is also whether these people were so — what I wanted to say about Kuhn, but also: we too sympathize with this idea that there are things we believe — you know, we adhere to them and don't — — hm — — question them anymore, you know — — mm — — what do you think — not Ayn Rand — okay, we accept the NAP. So no more — — Look here — no, that's not true. We question it fairly often in the sense of — — we question certain interpretations of certain situations. But we never question — — yes — — we never question it. It stays up there. Beyond

[1:37:06] — like with Băsescu. — And yet if it were shown — well, I don't know, I'm supposing absurdly, because it's hard for me to imagine — — I understand what you're saying: something clearer, simpler — NAP level something. Yes, we'd say yes, as we've said about other things: look, it seems this solves the thing better for you — yes — — Rothbard doesn't analyze abortion well. He doesn't analyze it well. But there — there you still don't question the NAP, you question the application of the NAP. — The interpretation. Yes, but I'd say even supposing absurdly that there were another, clearer variant — yes, it puts — when he moves from Randianism to libertarianism, like any confused person who doesn't understand why

[1:38:09] Rand spits on the libertarians when she has so much in common with them. And when they have so much in common — and the problem is that most people aren't necessarily curious, you know — I'd say they haven't correctly internalized the Randian spirit: they don't ask questions, they don't make contact with the people in question, that is, read. Instead of reading the works of libertarian writers, they content themselves with third-hand caricatures of what libertarianism means. But if you're really curious — and I'd say a person in the style of Randian heroes — you sit down and read. The moment you sit down and read, as Kinsella did, you have no choice. I mean — — he saw the contradiction —

[1:39:12] — it becomes clearer and clearer where Rand was wrong. — Yes. — That is, all of Rand's ideas are excellent, except the way she contorts herself to keep the state in force. — Yes, he even says she's a minarchist. Do we bring in estoppel too, or leave it, since it's not exactly his life — it's his intellectual evolution, let's say. Yes. One of the things that marked him was that — but he doesn't know to what extent it happened — — here it is. Yes — — yes, here. To what extent did the transition happen? — Yes. In the meantime we've already reached Chapter 1 without

[1:40:16] noticing — how he came to be a libertarian. — What? — How he got there. Yes, well, he came across Rand. He kept running into libertarian writings and Austrian economists and so on — that is, Mises, Rothbard, and eventually Hazlitt; he had read — — *Economics in One Lesson* — — he'd read

Economics in One Lesson, and eventually he said, okay, I need to read more. He read more and realized that the Randian thing is right — — that Rand is wrong precisely when she defends the state. And he says he came across a theory, which here is called estoppel. We talked about it at Casey, and he mentioned it a bit. The official [Romanian] translation would be *precluziune*.

[1:41:20] Yes. And it presupposes that in the legal system — certainly in the English-influenced one; I'm not sure yet, I'm still investigating whether it exists in the Romanian legal system — once you've taken an action within the legal system, whether we're talking about a law or about a legal argument, so in a trial, once you've taken an action, you can't take another action that contradicts the first action or its direct implications.

[1:42:23] So you can't say, "it was white, but you know, actually it was black," within — so in a way it's a way of legally formalizing logical consistency, the consistency of things. Look, Alex isn't here to complain about consistency, but he will be next time. But if I, for example, hit you, and as a result you respond with violence against me, I can't then go before a judge and say, "this guy beat me, he threw a punch." I can't — — not in the sense of objecting that I punched you. — It's not fair to use [that]. — It's not fair that he — I mean, why did he hit, brother? Well, wait a moment — — yes — — because you explained to him that it's legitimate to hit. — How did I explain that? — Well, you hit. And similarly those who sue their parents for bringing them into life use the fact that they're alive

[1:43:27] to object and sue their parents and demand damages — "why did you put me into this miserable life," let's say. — Yes. I'd say they'd have a much better and more justified case — which we support; well, some of us at this table support it — to sue them for what they did to them after bringing them into the world, not for the bringing itself, you know? The bringing itself. Yes. — I mean for that — — so what was that legal conflict you mentioned, Vali? — You can't use what helps you — what you yourself used — in support of your case. You can't contradict the implications of something you've already done. That is, you can't file a legal complaint — so if you, for example, stole a bicycle, yes, and someone else steals a lighter from you — yes — you can't say — you can't sue that guy

[1:44:32] for stealing your lighter as long as you stole the bicycle. — Harder to — so if — — if you do an action — — don't say the bicycle thing, so it's more understandable. — Well, if you stole a bicycle, yes? So you did an action — yes? And this action has implications. Yes, the implications are that you believe stealing the bicycle is enough to confer the bicycle on you. Yes. — And someone else steals a lighter from you. Something else, not the bicycle. So he steals something else from you. — Yes. You can't sue him — or rather, conversely, he can say: "Your Honor, he stole the bicycle over there." — Ah, but that has nothing to do with — — no, precisely, I'm saying it does have to do with it. So if you sue the guy who steals your lighter — right — yes, and he comes and says, "but this guy stole a bike, I saw him steal the bicycle over there" — — yes, but lawyers get past that,

[1:45:35] lawyers get past that. The whole jury thing is about tear-jerking stuff that [unclear]. So in the logic textbook, the fact that I stole an ox doesn't mean I'll steal another ox — but it's used because probabilistically it makes sense, you know? If he stole it eight times out of ten, it's more plausible, you know, that he — — it has nothing to do with plausibility. It has to do with the fact that you claim a harm: that something was taken from you. Yes. As long as you used the same act to obtain benefits. Something was taken from you without consent. You claim: "I was harmed by someone taking something from me without consent." Well, you too took many things from others without consent. Yes, that's so. Then you have no case. — Well why? — Because that's the principle in law. That's exactly what it says. Exactly what the principle of estoppel says. As long as you're a thief, this precludes your possibility

[1:46:41] of complaining that others robbed you. — Ah, but that's not fair. — Yes, but that's the law. That's the legal principle. That's also why it comes so close — and Kinsella says here that it comes very

close to Hoppe's argumentation ethics and the performative contradiction on which Hoppe's demonstration of argumentation ethics rests. If you want to see the discussion, we have it in the book *A Theory of Socialism and Capitalism*, in the first chapters. And he says of the last — — no, the first — — the first. — Yes, he says — or at least I think so, I'll look again. So he says his contribution — the article he wrote, with which he was published in

[1:47:46] — where was it published? In *Reason Papers*. Initially he tried to publish his article at King's College London, in the university's journal, and there he was rejected, sent packing. In *Reason Papers*, in the fall of 1992, Kinsella's article "Estoppel: A New Justification for Individual Rights" was published, based on this principle. And he says here in the book that he can't know — he believes most probably he first read Hoppe's ethics and then, having it in mind, latched onto this legal principle when he was taught it. He gets to meet Rothbard in 1995, shortly before his death. He's very happy to have a

[1:48:53] copy personally autographed by him, and since then he has been a kind of fellow at the Mises Institute in Alabama. I don't know if he still is, after they quarreled. — Who? Only Hülsmann and Hoppe quarreled. — Only Hülsmann. He didn't take a position. — He didn't take — but I think he's on Hoppe's side and — — yes. He also mentions Guido Hülsmann in this first chapter, whom he supposedly met the first time he went to the Mises Institute. They shared a bus from the airport and have remained friends ever since. Another note I read here is that he also considered J. Neil Schulman a friend — the author of *Alongside Night* — who comes not from the Rothbardian grouping but from the agorist one, Konkin's — the third [strand].

[1:49:58] So Mr. Kinsella has connections in pretty much all the branches of libertarianism. — Good. And the second chapter — — "What Libertarianism Is"? — What libertarianism is. And it's simple: property, rights and liberty. That's libertarianism. No — from this point, do you want to leave it for next time? — Yes, yes, yes. Seems fine, works. So, what is libertarianism? In brief: property, rights and liberty, and more next time. For Costel Stăvărache, Gabi Munteanu — I've been Valentin Berceanu — we've been În Dodii. This was the start of Kinsella's book about — — liberty and — — no, about the foundations of the laws of a free society. Liberty — is that the foundation, or — — on the foundations of a free society.

[1:51:03] See you next time. Stay as free as you can. Goodbye. — God help us.

Video 2 (#307): What Does Libertarianism Mean? (Chapters 2–3)

Original title: *#307 | The Legal Foundations of a Free Society - Stephan Kinsella - What Does Libertarianism Mean?*

Length: 1:44:34

Link: https://www.youtube.com/watch?v=kHQO8CmEraE

[0:00:00] There's a post going around on Facebook from someone who [attacks] Noica. He did it, but I don't know where it started. "How rich his father was — he was in the top 0.1% of the population, and that's why he had" — well, time to — — "access and privilege" and blah blah, and so what? — Well, everyone made comments — and where are you going with this? He just — — that we should hate him because — — Yes. That he was rich. We were all supposed to — — hate him because he was one percent. — Well, he was 0.1 — — he was one of those — — between, brother, among the best. — He was one percent. — [Like] Malaxa. — It's the same argument, pointless. — Yes, yes, exactly. It's the same argument. Yes. So we should hate him because he was special. Why? Because his father was smart. Well, and

[0:01:03] — So all the discussions in the public space seem to me to be with things already presupposed. "This guy's rich, therefore blah blah." What? "Therefore blah blah proves he stole" — a poor man and a rich man; it proves he stole and — — Well, we're not angry at him. Their presupposition is that — — it can't be otherwise. If they can't do otherwise, then neither could he — he went to school because he had better chances than someone poor. No, yes — — no. Though the solution to this is sortition, or whatever it's called: everyone who governs is drawn by lot, in a super-transparent system, and then you'll have everyone from the bishop to the peasant. I didn't think these things still happened nowadays, but apparently they do. — What exactly? — This is like the communists in the '50s, you know? — Ah, yes. — Not having the right "origins" — — well no, but envy is — — eternal. — I'd say — I'd put it differently, you know?

[0:02:06] — Mm — — but I don't think it's only envy — — why do we — you also have a misunderstanding. You say it's such nonsense. — Say it, Vali, what do you want me to say — as people — — to choose a justification system for the selection of leaders that is controlled by envy. Because if you want to make sure envy doesn't result from it, it means the system itself that you chose is controlled by envy. — Yes. — Yes. — What is that? A contrariety or a contradiction? Well — — wait, I haven't finished the question. — This is not a pipe. — Why must we choose a justification for a system controlled by envy, for a leader-selection system controlled by envy, when naturally, in the natural state,

[0:03:12] the system that emerges is a meritocratic one that doesn't control for envy? — Wait, you're saying "naturally" — but there is no such mode. — I mean, instead of choosing the best leaders — — yes — — with leadership abilities — — right — — we choose the best leaders who don't generate envy, — which is something else entirely. — Correct. — And when you do that — the burden of justification is on them — — on the leaders — — on those who choose the system. — Ah, yes. Okay. Yes — — I mean, all his astonishment: we should say, "Let me tell you why it's good to choose someone with healthy origins who writes philosophy books and ban those who were privileged" — and describe for me what "origins" means and what "healthy" means. — Exactly. — Because — — because in principle it sounds pretty

[0:04:14] much like a racist theory. — Yes. Yes. What do you want? What would you want? If we have to check everyone's origins — not to mention that checking people's "healthy origins," which is where Gabi got the term, is something that happened under communism. — Yes. — Which, I remind you, was

condemned in Parliament as a criminal regime. — But its symbols can still be displayed. — Yes. — Without any problem. Well, not that I'd ban them — I've always argued, at least be coherent: if you ban [one], ban the hammer and sickle too. — Yes — — but otherwise I'd leave them all, though with the sorrow that people don't discern properly. — If you ban the extreme — the extreme left — at least ban all of it. — Yes. Thank you. — Yes. To annoy [them]. Did you see? Lamb of God says: nothing but criminals and socialists around us, who lump together

[0:05:18] — Exactly. Because we have criminals and socialists around us. — So what do we do? 2, 3, 4 — — yes — — or what can we do? — Let's see. — Pull the cat's tail — — with God's help. — Sit down. Careful, I'm about to go. Don't be scared. Yes — — no. Be patient, be patient. — Wait, I'm sitting down — getting down or — — get down. Not-gentle cat. [intro jingle] Hello! Welcome to a new

[0:06:44] episode of În Dodii. We continue Stephan Kinsella's book *Legal Foundations of a Free Society* with Chapters 2, 3 and perhaps 4. But before continuing Kinsella's wonderful book, Mr. Berceanu will say a few adorable words. Now I don't know — you judge whether the words are adorable or not. You can say it, but do it like this. — Briefly, yes, as briefly as possible. We'll ask you to like the video when you come across it on YouTube. The reason being that this way YouTube understands it should show it to more people. Convince the bot. — You do. — Yes. Also, if you want to hear more from us, click subscribe, click the bell, otherwise it's pointless. Again, I don't understand why we have to

[0:07:48] fight with this platform. If you want to find a place where you can get the book, you'll find it in the description. If you want to talk on Telegram, you'll find a Telegram group in the description. If you'd like to support us in some way other than likes, you'll find crypto and Patreon links in the description too, and we thank those who already do. Chapter 2: What is libertarianism? Here we run into this question in pretty much every book we discuss, and each has a definition. Mr. Kinsella being a lawyer — — how was it, Costel, that thing? Who said "if you ask me"? — Aha. Saint Augustine on time. "If no one asks me, I know; if I wish to explain it

[0:08:52] to one who asks, I know not." — Okay, sorry. — Okay. — However, Mr. Kinsella lists here various opinions of philosophers on what libertarianism is, and says it isn't capitalism, it isn't the free market, it isn't the non-aggression principle, it isn't individual rights, but rather a legal system based on a particular allocation of property rights. The state and other socialisms also allocate property rights, but libertarianism has a particular procedure, a particular method of allocating these property rights in one's own body and in objects external to the legal subjects, let's say.

[0:10:02] And I want to tell an anecdote I saw on Reddit. — Oh no! — I hope you wore a hazmat suit when you went in there. — Yes. And indeed we discuss here — people have told me, "you deal with excessive subtleties there, when people have very basic questions," namely — — solutions, not discussion. Someone asked: "Should we fight capitalism, the big corporations? And to achieve this goal and abolish capitalism, we should make sure there's a local market where we can buy vegetables, produce — — local bananas." — Yes. And someone replied: "That's capitalism too." — Well yes. And the author of the post, surprised, said

[0:11:06] "What do you mean?" — so he was baffled, contradicted, because he associated it with corporations. — Yes. So — — yes. So these things are actually — — strictly for the author of the post, who won't watch anyway — but maybe you go back, work up the courage, go back to Reddit and post a clip from exactly this moment. For the author of that post, the answer is as follows: in libertarianism you wouldn't need to fight the big corporations. And that covers it all: big corporations, if they get big, get big because they do you good, and they won't get very big because fierce competition will bring those local markets where costs are lower, and all the rest. You wouldn't need to

[0:12:09] fight the big corporations if you had libertarianism, I say. — They fight each other. That's it, that's all. — Yes, but what do they fight each other for? For customers' money. And here — — you can fight voluntarily or — — no? But here I always emphasize that this is the business of the population, the people in society, members, whatever — they must have certain standards for their lives and go and ask, or not buy. Not buy just anything: "Oh, I absolutely need it today." Okay, buy one, not ten in a row. Anyway, it's the business of the ordinary person who wants things a certain way to defend that way. And how to defend it? In this case by buying the services he prefers over others — or, in the present situation in

[0:13:13] which we live, by not buying what he doesn't like, not paying what isn't fair, and demanding more options. As I've said, one option is competition with state services, so they no longer have a monopoly. And we talk more, we make more friends — and then there isn't a moment where — we keep saying "the free society." — A free society can be a nice moment that lasts X, but people have to defend it, because everything in the world changes, right? Change is constant. If you want things to stay roughly where they are, you have to steer left, right, left, right — not on the political spectrum, ha, but on a bicycle. The point is you have to maintain — — and people expect — "I bought a car, I don't need to change anything about it." — Look how this dynamic plays out, in this confrontation between conservatives, let's say, who go for stability,

[0:14:16] and progressives, who go for change — what's the libertarian position? Do they want change or immobility? Well, the answer is: if the rule is good, it should stay; if not, change it. So change per se doesn't matter. — Yes. Or preservation. — If the rule is good — if you have libertarianism [and change it] to socialism, it's not good that you changed; it's bad that you changed. — It's good to stay a thousand years, or forever, under libertarian rules. — I was thinking about that — if a person really thought "I bought a car, I'm done" — you know? It would be an idea, but then he calmly goes and pays for the right to use it — — hm — — to the state, year after year. That doesn't make him flinch: "I bought the car." — Yes. You have a tax. Let me digress briefly. So we have a tax on things we bought with already-taxed money. Why isn't everything we

[0:15:19] own taxed? They're working on it. They're working on it. — Well yes, precisely because they're working on it — — in California, for example — — people should consider that nothing you own should be taxed. Either you have it or you don't. Leave me alone. — Yes. And speaking of having — let no one imagine that property rights don't exist under communism or social democracy or other legal systems. They do; it's just that when the state uses its — — power to tax or regulate or — — the guards — — I won't even say. Yes — — oh my. [It assigns] property rights over a person's body or over property external to him to someone else — a state agency, — hm, — another person, and so on.

[0:16:23] So property rights exist everywhere. The only difference libertarianism brings is the way property rights are assigned to someone. And first of all, all property rights are assigned to persons, to people, to individuals. — Only persons can choose, so only persons can be responsible. — Yes. That would be the peculiarity of libertarian property rights: they're necessarily individual, — attributable to persons, — not abstract entities, institutions — — with first and last names. Or we could say — though maybe we're going too far and falling into another discussion — or to legal persons, but those too are constituted as an extension of — — natural persons. — Of natural persons. Yes — — that's an administrative thing. — But does God own property? — Yes. — What? — If you suppose — if you suppose God is a natural person, you can say

[0:17:27] that. — Well, everything He created? — Well, He didn't give them to people to — people only take possession of them. — Look, let's look at — — no, but with that we've solved the question of [unclear], you know? Well no, we haven't solved it, because He gave them to Adam — — right — —

those too. And in libertarianism property rights are assigned once over one's own body — you are the owner of your own body — or over external things, through initial use, through transfer, or through rectification — — restitution — — restitution. Yes — — only through these three ways does libertarianism assign property rights. Any other method of saying a thing belongs to someone

[0:18:30] violates libertarianism. — And never mind that it violates libertarianism. I always argue that it violates a coherence that holds everywhere. That is, if you make another system you'll have contradictions at some point, and — but people don't go that far. They say, "We want flying pigs." Okay, we can do it, but some nasty things will happen at some point. I wonder to what extent — — look, this somehow looks ahead to something in Chapter 4 that we'll discuss more, but I wonder to what extent we libertarians haven't also fallen into — — well, fallen — fallen into — — every man is a fallen creature — — some trenches,

[0:19:34] some accidental intellectual trenches. — Hm. For example, we've had this discussion several times, I think, about ownership of bodies. Yes, we say the concept of property is in fact somehow derived from the concept of aggression. Yes — he also says the concept of aggression presupposes the concept of property. You can't have aggression without property. Yes — — but because of this, and because it's very clear what interpersonal aggression means — — yes — — and because, you see, here's the problem: if you start looking — — there's not much talk of lack of consent. Lack of consent is somewhere — where we've arrived. Yes, but in Rothbard, for example, it's not about lack of consent; aggression is defined as the initiation of the use or threat of physical

[0:20:43] violence against the person or property of anyone else. — Yes. — Aggression is synonymous with invasion. Okay. Rothbard's definition, however much we appreciate Rothbard for exactness and so on, is already far too particular, because if we look strictly from the standpoint of consent, this was an aggression. [takes the microphone] — It wasn't. — Man, how much violence did we have here? It was, because I didn't have his consent. Well, he gives it back, never mind. But the idea is — — did you have it [his consent]? — Assume I didn't. — Yes, but it's a term, Vali — a technical term, "violence." You know this thing with the finger is violence in the libertarian sense. It doesn't need to overlap exactly with commonsense usage, so to speak. — Well, I'd say that to make libertarianism — — if you want. — I'd say that to make libertarianism as easy to understand as possible

[0:21:47] we should concern ourselves with this. No — it isn't understood. Because look, for example, many people have a problem with threats. — Yes. — Whereas if we referred to aggression as the use of someone else's property without consent — — yes — — that's the better definition. — If we talk about that, clearly we cover that one too. Well, no — excuse me, and when I say consent I mean freely given consent. Yes. We also cover the case in which the person can't consent because he lacks the capacity to give consent. We cover the case in which consent is given under threat — — yes, because that's clearly not freely given. We cover everything directly with one thing. And now comes the second part — could you use consent like that — I don't know — of the discussion I'm talking about. What do you mean? If someone says "your money or your life" and you give it to him, you know? — Well, it's under — it's not freely given. It's not even consent.

[0:22:51] — I'd rather say — no, what Vali says wouldn't bother me, but I'd talk about — I'd concede constrained will. A slave is constrained, although he gives you his will so as not to die. You know? Listen — — but I wouldn't say it's consent. — So exactly in these words — for me, because we're talking about a legal system, it seems to me a legal quibble from the area of letter of the law vs. spirit of the law. "Sir, he said the words, so he gave consent." That would be the letter of the law, but the spirit is that you have a person who has the faculties who can — not even — not even the letter of the law. You can sign. If you signed with a gun to your head, the signature is invalid under the letter of the law. — Okay. Yes,

but think that there are lots of [cases] in which it can't be proved — — proof is irrelevant. Here we're still in the normative zone. — Yes, yes, yes. Okay. — What can or can't be proved is irrelevant, and either you signed with

[0:23:54] a gun to your head or you didn't. — Maybe if you have good law you don't even have this letter-vs-spirit discussion. — They go together. So no. Yes — — ideally. Yes — — maybe that's because it was written by idiots, you know? But to say that many of the criticisms of libertarianism come from the fact that Rothbard or Hoppe — here we're only wrestling with these two — — said something at some point that seems to contradict a fundamental argument they make at another point — — namely — for example, I don't remember where — — Rothbard talks about — the emergence of self-ownership. Yes. The emergence of self-ownership. — Yes. And this makes me wonder — — I think it was in Chapter 4. — I wonder whether

[0:24:58] Rothbard, who said at some point that all individual rights are property rights — — yes — — hm — — if you say that, you're forced to find a formula of property over your own body. You're forced, I'd say, to construct a model that presupposes a separation between person and body. — Hm. I mean, yes, sorry — — theoretically you're forced to do that because — — well, that's how it is. — Well, and that thing does the job. Well, let it be — — well, that's my point: maybe — I don't know, I'd like us to think once about something like this — that maybe if you don't separate the man from his body, a lot of potential problems in libertarianism disappear. — Well, that's the whole discussion, but instead of generalizing, saying that aggression is — because if you have to say that

[0:26:01] aggression is about using — or not — how does he say it — the initiation of force against property, — yes — and all rights are property rights, you get pretty stuck in this paradigm. Whereas if you start by saying that aggression is the use of someone's property, or of the person himself, without consent — — which was more — so that the body — wait — the body isn't the private property of an abstract entity, and the body and the man are the same thing. I am me — — ah, the metaphysical discussion, if you like, mind–body — you know why, Vali? Because they want to unify — like in physics, where we look for an equation, a formula that covers everything — — and the formula is: they're property rights, and they've included the human body too.

[0:27:04] — That's what I said: if all rights are property rights, you're forced to — — legally. — It's that if you don't include your body as property, — then it's something else. — Then you have to develop — — and apply — — all these, let's say, principles to something other than — — yes, yes. We still have a fairly strong intuition that it's something else — — because Rothbard at some point — and you said this too, Costel — Rothbard at some point contradicts himself without realizing it. Well, yes, without — clearly without realizing it. It's hard to believe Rothbard contradicted himself and realized it. "I'll say it this way and let these guys debate for a hundred years what I meant and what I didn't." — Yes, well. Yes, a stone. — No, no, I don't think that's compatible with his personality — — up to then. Yes,

[0:28:06] — well, it depends. If his perception — — so when I say he contradicts himself without realizing it, it's that when he says — how does he put it — you don't have property if you can't sell — something like that, I was saying — — you don't really own, you're not the owner if you can't sell, and if you're the owner it follows you can sell. Now, if you're owner of your body it follows you can sell it — whereas Rothbard's position is that you can't sell the body, explicitly — — and that would be a contradiction — — and that, I'd say, is another clue that should tell us maybe the whole model needs rearranging a bit. — Yes. Or the interpretation. My position is good, but the interpretation is wrong. — So I'm saying normatively, philosophically, you can say a man is his body. When you hit the legal domain,

[0:29:10] you could very well treat it as a property. Who? Ownership of himself is a property — why? So that you can dispose of various resources — I don't know, I sell my hair, I give such-and-such, I receive, I

have something installed, whatever. Yes. And how do you do that legally? With property. Well, and who — — is the owner of this? He himself. — Wait, that's exactly the discussion — it seems to me there's a significant difference — between my hair — hm — which I've had cut and is lying on the barbershop floor, — yes — and me with my hair attached to my head. — Aha. — Yes. One thing is if you put your hand on my hair lying on the barbershop floor — — then it's me — — it's my property — — and possibly it's me in [that case]. — Yes, but distinct and separable. Yes. And another thing is — even

[0:30:16] in terms of what rights you've violated. — Yes. For example, you can put your hand on my hair that was cut and is on the floor. Yes. What will the restitution be? It certainly won't be that I can pull your hair. — No, the solution is — — whereas if you put your hand on my hair and try to move it aside with my head attached to it, — you won't manage, because the hair is strong. — No. The restitution will be that I can pull your hair. — No, I think — look, I was wrong. I think a solution is: man is his physical body, and whatever it produces is his business — how he can — — separate — — separate, transfer, whatever. Those are, well, capital goods already, no? — Those are another kind of property already. Yes — — not what you want. Which, with the body — which I reject — I'd try [to get rid of] the abstract entity, the person

[0:31:23] whom we don't know and who is never described — — exactly — to anchor the person together with the body in the same entity, and get rid of the concept of self-ownership, and see whether the system itself stays functional. I say it does. My intuition is that it remains functional, and just as universal. Well — — no, because look, Kinsella says — — no, look, we have a whole chapter concerned with when self-ownership appears — — or he says it's because I use the body — but they never tell you in these stories who this "I" is. Yes: "I use it, so I originally appropriated it, so it's mine." Fine, but who am I? The one who's awake — but when I sleep I'm no longer me, or what? — You're thinking of that academic trend of pulverization — not even a self anymore — a product of — — Ah, bravo. — — all sorts of forces, you know? — Yes, bravo. Yes,

[0:32:26] — it doesn't even exist. And of course you have endless discussions. How it annoys me, many people — you ask them to tell you a sentence, a phrase, an answer, and they give you a paragraph, even if spoken, and I say: come on, I didn't ask you so I could listen to you talk, I asked you so we could get somewhere. I don't want to hear myself talk either. — No, sometimes it can be the difficulty of the problem, the complexity of the problem, because you don't know how to solve it. — Ah, yes, yes. Patapievici said this — — that the soul–body paradigm — mm — — appeared with Plato or around that period. Until then, for example in the *Iliad* and *Odyssey*, there's no mention of this duality. So I am me — — and that's it — — and that's it. The question doesn't arise. — "Sir, I'd like to run, but this body won't listen to me." So it's something

[0:33:31] different. — "I want not to eat so much or drink so much wine, but this body is a stranger," as it were. — He has that metaphor of the chariot with two horses, one pulling one way and one the other, you know? And you have to rein them in with reason, as it were. And until then and since then we've been sitting and thinking, like Rothbard: "I am the person, but my body is my property," you know? But in fact — — but who am I? — You know, that's possible too. Let's come back though — it means it's been impregnated in the culture and in how we grew up. Yes. In this duality: you aren't really this head, mouth and these hands — — no? And in the good spirit of what we usually discuss, you could say: "Okay, we live with this duality. How do we verify it? How do you verify the components,

[0:34:35] since there are two — — the body — — and the spirit. — Fine, — since the body — say spirit, soul, psyche. Well, it's the same thing — — in defense — you know, now I'll be the devil's advocate. In defense of this duality — — yes, man's nature is a dual one in the sense that his capacity to conceptualize and formulate abstract ideas places him — maybe that was the idea — on a plane of

concepts: he has an existence in physical reality and another existence in conceptual reality. You can look at things from that point of view, but my argument would be that here we're concerned strictly with what man does. Yes — libertarianism itself is a philosophy, well,

[0:35:40] legal or non-legal, we're talking about — — well no, these interactions matter, I mean. Yes, sorry. — Legal or non-legal. I'd say you can establish a more abstract level of analysis that is in fact ethical. Yes. Which is concerned with man's actions, his actions that bring him closer to or further from certain ends, and by this they're good or bad, whatever. Yes. — Okay. And you can say on top of that that you have to make a system of laws that creates an inter-personality of acceptable ethics, so that only one remains. But again I'd say: if it's an intersection of ethics, I don't see why it should be legal and not still an ethics. But anyway, coming back, since we've already talked a lot — — that's the thing. What other business do we have?

[0:36:43] Discussions, not solutions. — Since we've already talked a lot. Coming back, even if this duality exists — that man exists in physical reality and in the reality of concepts — given the limitation of ethics, which can only check actions, and actions take place in physical reality, man could be reduced to a single agent and we wouldn't need to impregnate him with this duality. — But also the English term, which is "self" — — self-ownership. — No, but I know it was something more neutral, you know? Including *For a New Liberty*, I think — — so it goes to the will. No — — not self — self — and "self" too, as if it pulls you beyond — — of [height]. — Anyway, whatever name this — — yes — — person who owns the body — — you can consider it as an extension. Like a nail grows, you say

[0:37:47] a will grows on you, a psyche grows on you, a soul grows on you, out of matter. And ideas likewise grow out of the matter in your head. Let's say — — it may not be very different from what you said. It may be quite plausible. Exactly. When it grows on you — — yes — — you know — — good, coming back to — so we close this parenthesis. Maybe — that's all I was saying: maybe it would be useful to think about how the libertarian model would look without this separation. — We come back, however, to the model — — and we come back because, as we saw on Reddit, things are much simpler. Well, "self" is somewhat neutral, you know? It doesn't lean toward dualism. You don't own a whole, you know? You own what you own — I don't know. — Well, owning — the act of owning separates you from what is owned. — Owning itself can't be unified; it's ownership. It has two ends. — It's like pliers. — On one side of the pliers is

[0:38:51] — the one who owns. — The one who owns. In the pliers is the owned. — He said it suggests dualism. — As we don't want to be owned. — Owning, to be — — self. Self-ownership says you're on both sides of the pliers. — Whatever. Yes. Besides these subtleties, in everyday life we actually fight not with those who say "neither the body nor the soul owns you," but with those who think other people, or even the state itself, own you partly or completely. Yes. So we have much more serious things besides these subtleties of — — why? I mean, we don't know what owns. Maybe the state owns nothing. Yes — — no, but there really are, I'd say, some things that if we keep insisting on this model, we could take forward and say: yes, look, instead of you being

[0:39:56] your own master, in certain respects your master is Bolojan. — Well no, the state owns only your soul. You go with the body first. Yes, no — the soul is the Lord's alone. Not even the church owns it. — The fight for the soul is fierce. The devil fights for it too, and God, and — — so it would be the most valuable and you at the highest price. — Yes. To the devil — — and libertarianism, in this conception, looking at it from the standpoint of who owns you — yes — says unequivocally that the ownership is total and individual, and the argument he gives further is that

[0:40:59] this kind of ownership would be the only one correlated — not correlated — compatible, — compatible with concepts such as what he says here: civilization. Where — — not "be good, be a moral

man," but an ethics: justice, peace, prosperity, cooperation, civilization. — Yes, — he says this quoting — why are we first — — this. This is what we wanted too, but you wanted democracy. — Quoting Hans Kelsen, the one we talked about last time. — Yes. — Mm. Why are we concerned with who owns a person's body — the person himself or someone else — because it's a resource — not scarce — he modified his position here — but conflictable, it generates

[0:42:03] conflicts. Because once the state says, "Don't go out on the street, don't dispose of your body as you think," and you want to go out, you want to go to Vienna to see something, and the state says, "No — you must carry on you a piece of paper attesting certain aspects of you." So you can't dispose of this resource, your body, like a true owner. Yes. — Hm. — And because of this conflict we have to establish who should decide what happens with this body: you yourself, or other persons, or other organizations, other criminals, offenders, or socialists. Yes. And I'd like to — what does he say here? What's this *Grundnorm*? Sorry. Well, that's what we were talking about

[0:43:07] — further: justice, peace, prosperity and — — are these some general values, or what — — fundamental. He refers to a philosopher, I said, Hans Kelsen, who used this term as the base term, ultimate source, or primary source of legitimacy of a legal system. So a legal system should draw its legitimacy from these basic norms. Is it the constitution — they make the constitution, the [basic] laws. — Mhm. Okay. — And he'd say — the idea he repeats, and it's indeed worth repeating — is that the only system that can be based on all three — justice, prosperity, true cooperation and civilization — is the libertarian system. Because we have

[0:44:11] this rule, this principle: you own yourself. — Is it written somewhere? Is there somewhere in the constitution or somewhere — where the state, or the statist legal system, says "you don't own yourself"? — It wouldn't allow itself to say that; it would be too transparent. — Okay. It says it differently — like "the state owns you partly," things like that. — Exactly. It has the right to institute laws and obligations on its citizens? Yes. Parliament, or whatever the hell it is — if you want, I'll find it — Parliament has the capacity to — — it can say it has the obligation, doesn't matter. Yes — — but it says — I mean you can't say — there's one more place where it tells you this explicitly. — Right — — citizens have the right to convene a constitutional referendum, with

[0:45:16] the exception of taxes. — So see what you're not allowed to criticize. — Yes. No. Yes. I wanted something much more explicit — these things for a normal person are very — how to put it — they can mean several things. — It doesn't horrify you directly, as if it said "the state partly owns you, your body belongs partly to the state." It would be something like — — what was it — — well, look. Let's take it this way. You say "I don't know what." Yes. Very good. Look: "Romania is a national, sovereign and independent, unitary and indivisible state." It has taken from you the right to — — withdraw with your property from this arrangement. — Hm. — Yes. It took that right from you. "The form of government of the Romanian state is the republic." It took from you the right to choose another form of government than the republic. Yes. I could — the next one is longer,

[0:46:24] — anyway. Yes — — no, indeed, it's possible this could be horror-inducing. — Mm, — but because people know them and they've become [normal], it doesn't, you know? But if you explain to them, "this actually means you don't own yourself" — — listen — — it hasn't — — it's hard to make that connection. People haven't thought about it over a beer, I mean, you know? — No, I'm saying it didn't go [that far]. — Yes, have a beer. "So I own myself," you know? It's hard to connect this with that, you know? — Yes, but at certain moments they do. — Yes. During the pandemic, for example, many people realized what all this actually means. — Exactly. So what seemed a libertarian laboratory discussion about "I own myself" and whatnot became very — — very — — the article — Article 2, paragraph 2: "No

group or person may exercise sovereignty in their own name." — Shit. That's what it says. — Article 2 of the Constitution, paragraph 2, on sovereignty. — That settles it. It settles it for you.

[0:47:25] — Any other questions? — No more. Done. Yes, we'll go to Twitter, Facebook with this — — after I leave here. — Aha. Article 2, then. Yes. One. — What? — Paragraph one. — Paragraph one says sovereignty is exercised in common. — Oh my — — "National sovereignty belongs to the Romanian people." So this national sovereignty is a property. Yes. Owned in common, which it exercises through its representative organs — constituted through free, periodic and fair elections. — Man, so look, this metaphor of — — as well as by referendum — — so the state also has a body with organs. — The people, — the organs are — — the organs are representative. They're — — yes, yes, yes. So, — yes. So it has its soul, its spirit — and by the way, this is wrong even grammatically, because the organs

[0:48:28] aren't constituted through free elections; at most they're populated through free elections. — Constituted, they're constituted by the constitution — — or by norms, rules and blah blah — who does what — or whatever others there are. — Good. So I understand. — Listen, just briefly. — Briefly. — People, when you tell them — — every time you start writing something, it's like observing particles: you have to choose one thing at the expense of others. You can't write something that lets you do anything. Not that you're not allowed — I'm saying it seems to me logically you can't. You'll choose. "Nobody can enter." And some will say, "Yes, but I want to choose someone to enter, well, to manage, whatever." Anyway, what I want to say is that people are overwhelmed, as by — I don't know —

[0:49:35] a room full of many things. "Where do I even grab this problem?" If you tell them, "these things are bad" — "Why?" "Well, they limit you." "Well, what do you want? Chaos?" That's clearly the problem. I mean, better the evil I know — they've gotten used to it — than potential — — prosperity, civilization and peace — — and yes, — no — than a greater evil; that's the choice. — Yes, it seems to them — — a small evil and a greater evil — — the lack of clarity is, for them, a greater evil. — Okay. — And Mr. Kinsella says here: why do you own yourself? So he takes the route of — — "if not you, then who?" You know? That's roughly the argument. — As the song says: you have immediate and direct control. Because of that you own yourself. If I say now "I'll put the glasses on my nose" and I've put them on, it means I have direct

[0:50:40] and immediate control. So it means I own myself. No other person can justify belonging over my body — — because I have this — he has, anyway, a — he has indirect control. — To have control over my body, he must first have control over his own body. — Mhm. — To exercise control over my body. — In — — it's the eternal — yes. Well. Yes — — I wonder whether that isn't what's called the naturalistic fallacy, you know — going from fact to norm. — If you can do that thing, it doesn't mean — — you have the right to do it, that you're permitted to, you know? — Same here. — Look, — if someone can rape someone, factually it's possible. That doesn't mean he has the right to do it. — Yes. Correct, correct. Here — here's a good point, an argument, a question that deserves an answer, because I'd push even harder — I mean they shy away

[0:51:45] from this, but I'd push the argument even harder, and add that naturally this link — because the mere fact that today there's no technology that can separate you from your body, send you on vacation, yes? That is, simply sever the conscious link between brain and functions, and I could interface and get to control it. Again, it's not direct, because there's an interposed means, but it's as good as direct because I no longer need to use your will. I used it so you'd take the thing that gives a pause, you know? But I'm saying technology could exist — well, could theoretically exist — that makes this possible, and then their argument, to be future-proof, would have to say that naturally — — hm

[0:52:49] — you control yourself directly and immediately, and any attempt at direct control by someone else nonetheless presupposes some means of making it possible — that interface possibility — and your

possibility of extracting yourself completely from there. But the moment I add the word "natural," what Costel says becomes twice as relevant. — Yes, because he makes two mentions there. In the same sentence he says that at least in one sense the body is — and this is emphasized, italicized here — — is that — so the body is that person and vice versa, the person is that body, — so he also puts it that way. — Hm. — Take your pick. You can take it that way, which seems to me — again, because this approach settles all the discussions.

[0:53:52] — It settles the discussions, yes, but the other one too, with immediate and direct control over the body, settles a certain legal aspect, namely the problem with estoppel. So the moment another person says, "No, you don't own yourself" — estoppel. Okay. So this expression from law — estoppel says: you can't rely on a principle and then act contrary to that principle. So the moment you grant yourself — "I own myself" — and by means of this principle I prevent Alex from exercising control over his own person, it means I deny control over my own person, in fact, to

[0:54:56] be consistent, and — — under the assumption of universalism. That's what the argument presupposes: a man can say "no, a tyrant —" — no, here I've thought more about what you said. It's not — no. The moment a tyrant can say — any man can say that — but then you're no longer on — you're no longer on normative ground. — Yes. Yes. No, you're not, because that man should — so if you bring me a subjective norm, that's not a norm. — Well, what was I saying? What's the discussion? — Well, that's not — not a norm. — If ethically — well yes, but your presupposition is that it has to — like Hoppe and these people — it has to be universalized, but otherwise, well, it isn't — — well, otherwise it's not a norm. It's in the definition of a norm. If I normatively say "you have the right to steal," that's as much a norm as "stealing is forbidden." — — it's just — — it's a norm because it prescribes — — because it prescribes something to others. I mean, I've

[0:55:59] — well, I prescribe it to others. So I involve others. The tyrant prescribes to others. — Oh boy. Costel says it's as if it were just a normal instrument. So it doesn't tell you whether it's valid — the important component is universalizability. — Well, that's what I'm saying. Well — — that's what he says. I'm not saying that. I'm saying it's not necessary in order to have a norm, you know? No, no, wait, wait, wait. Then I didn't understand. Relative — to say "only I have the right." — Well yes, but you — only you have the right. It may be universalizable, but then you have to come to me with a theory behind the idea of why you have the right — relativism. — Well no, relativism isn't relativism. You're substitutable with him. You have to tell me why you're unique, to justify this right. — Well, relative to — — I mean, whatever — no, but this has happened. I mean, there have always been normative systems that concentrate certain rights in the hands of some and take them from others. But all

[0:57:05] these normative systems, in order to survive and actually be normative systems — — and not just whim and caprice — — presupposed a justification for the existence of this class of privileged people who have rights the others don't. Either they were God's chosen, or they were their father's son. They exist today too; it's not a thing of the past, and today's democracy too — correct. You want — — but even that, you know? Today's democracy too has a universalist justifiability. That in a norm, the way you feel it, there should be absolute coherence — or because, yes, you can have good norms, bad ones, up, down. — Well no, the tyrant's can be made coherent. You know? "I have the right to rob you" — the norm is given. By fiat, or by something? — Well, it's still given by something. That's what I'm trying to say. — You understand? So there has to be something that

[0:58:09] individualizes you, that gives you the power to give those norms. You understand? There has to be — for norms with two sets to exist. You understand — for example, yes, the Nazis had different norms for Germans and for Jews. Why? Where from? Because they were the chosen people. Ironically, now the others are also the chosen people, within their own narrative. — Yes, — crazy. It is crazy. But

that's what I'm saying — you can't — again, it's that idea I've said before, you know? If you take everything to the end — I mean, don't treat it sentence by sentence. A norm. — A norm means imposing the acceptability of this component on others. It intrinsically has its universalization, even if it's universalization over a mass of population and we're not talking at a universal level —

[0:59:14] universal across that community of acceptance, yes? To generate that community of acceptance, you still presuppose something universally accepted within the community, namely that you have the right to do this. Why? Because God gave it to you, or the sun god gave it to you. — Well, I'd say "generally accepted" versus "universal," because it's not universal. If I, the tyrant, have the right to steal and you don't have the right to rob me — that's a position — careful — between "I have the right to steal" and "you don't steal" — it's a contradiction, you know? — I can't adhere to both simultaneously. But the tyrant doesn't say that. He says: "I have the right to steal, you don't have the right to." — No, that would be the norm. That would be a norm — universal. — It's not one, it's two. — More — — no, the single one in which nobody has the right to rob anybody would presuppose a universal norm. Yes. "I have the right to steal, you don't have the right to steal" can still be part of a normative system.

[1:00:17] Yes. To the extent that the basis of the difference between us — "I have the right to steal, you don't have the right to steal" — is accepted universally, accepted within the community as universal. You'd need a value — — I mean, you need — yes. You still need an accepted universal value. I mean, together we have to accept that I'm God's chosen one and that's why I have the right to steal. — I agree. — But why not? Yes, because otherwise you won't accept the norm, and then it's no longer a norm; we don't give a damn about it. It's preference — — and you'll have conflicts among them — — and you'll have conflicts. It won't be a normative system anymore. — Well yes, today don't you have double standards? It works. — Well — — well, but you have a double standard. You have a double standard because the basis for the existence of the double standard is accepted throughout the community. "We must tax her so we'll have a budget."

[1:01:19] — That's not clear either. — No, for example — — look, it's not clear to me that it's accepted. It isn't accepted. — By the majority it's accepted. — Costel, I say accepted. Accepted through actions. So you see an opposition — — not accepted. Well no, it's that you have no chance. But no — if that guy had a chance he'd chase him [off]. — Well, and here we get to where [you] concede — — here we get to where we were last week, or two weeks ago — last week we didn't do an episode — — two weeks ago, where we said that in this way that stupidity — force, might makes right — ends up being raised to the level of a norm. Because you have no chance against him, and then — — because you have no chance against him, and then you say "yes, in this world the strongest makes right," and that's the norm that ends up being accepted by those who don't rebel.

[1:02:23] — Anyway, the idea is that the approach is usually, unfortunately, like in kindergarten, no? — It's simplistic: "he's bigger, I won't mess with him." That's the whole philosophy in society. — That doesn't mean he conceded, you know? — He didn't concede. He didn't concede to being robbed himself, you know? He concedes to robbing Gabi, you know, but not me, you know? — Ah, I know, but you're saying — — that's the asymmetry. And that's why I say people don't accept; they can't do otherwise, you know? They haven't thought of anything else — — and unfortunately I fear they can't think of — — and they won't, you know? Not ever. Good. Back to it. So we've finished with self-ownership. Now we move to ownership of external resources. — We solved it — — or exterior? Exterior to whom? — To the body. — Eh — — to whom? — They're also external to you. But — — it's an entity. It's an entity. — Why are there pastries you can also put inside? And they have one more

[1:03:28] characteristic that I could determine: one of the qualities of external resources is that they're alienable. — Mm. — Transferable. — Yes, yes, yes. — Or appropriable. But that's still a form of transfer — — no, appropriation, you say, is also when — — as distinct from [self-]ownership. — Yes, yes, yes. I understand. — Your body from your person. — Ah, sorry, something silly crossed my mind. Look, dad. — So — so yes, as proof. Look how ugly I'm being. So when you say what happens with an apple, you appropriate it. Yes. That is, you make it your own. — Yes. I mean — I mean before, you had that property — your own —

[1:04:31] I'm my own. Yes. You have a pun. It passes — — no, something like — no, that's how Kinsella says it, something like you can't do that unless that, you know? No — — one of the ideas — — not etymologically speaking. If you want to think that way, okay, property has the sense of belonging to another concept. Yes — if we think only directly in the world of objects — let's say a microphone, not this one, but the concept of microphone in general — has the property of being sensitive to vibrations. — Ah, okay. — Okay. It's a property. It's subordinate. — Ah, okay. — Sub — yes. It owns it. — Then — then the body, unlike a microphone in the state of nature, always has an owner. Yes — you yourself. Whereas a natural resource, yes, can exist

[1:05:35] in the natural state without any owner, unowned. — It's free. — Yes. What — ah, I have — — a boulder on Pluto. — I have — no, no, no. The body. — Ah, the body. — The body. Body. — We go with the Kinsella version. — Yes, well, even with the Kinsella version: your body remains after you when you — after you kick the bucket — yes — the body remains. You no longer — you're no longer around. A moment ago I said we'd settled the body and — — well no, that's exactly what you used. You said your body only exists in a state where it has an owner. — Yes. — You. — Yes. — Well yes. But when you're no longer here and your body remains? Well, it might belong to no one if you're on — — then it's in the state of nature. But that contradicts what you said earlier. — That's what I'm saying. — Yes. — Well, because it no longer has an actor. — I started from there. That's what I'm saying.

[1:06:40] — Or he himself no longer acts. But Mr. Kinsella says this: unlike us, unlike persons, — resources external to persons can be in the state of nature and unowned. — Hm. — And how does someone enter into possession — how do they become owned by someone, become someone's property? Mm — — and he says here: by the Lockean principle, whoever first used that resource is the owner. Now various problems arise — the way you first use that resource, yes — that you fence it, that you transform it with your labor. He doesn't put great emphasis on that. Yes — — he passes over it quickly — — he says use, which can also be just — — he develops it further on. — He develops it further on. Yes, but for now, for the purpose of this chapter,

[1:07:43] it's okay. — It's okay. Right. So use, and after that you can own other things by transfer. So after you've become owner of a thing, another possibility of legitimately owning, of being the legitimate owner of a resource, is by transfer — so by sale, purchase, or by restitution. Yes. Someone who — — good. Here I'd say two things. Because he says why these things arise: because he holds that libertarianism seeks the best method of assigning these property rights so as to minimize conflict. We mustn't forget — — that the purpose — yes, the purpose for which he proposes the legal system — the libertarian legal system — is minimizing conflict, so as to

[1:08:48] arrive at cooperation, prosperity, peace, whatever. Those are a kind of the colors of the flower — — somehow — and somehow that's why he justifies everything by minimizing conflict; he justifies self-ownership that way too — — because in fact any attempt to use someone else's body — — creates conflict — — would create a conflict, because that person is there. That would be the reason, and that's why it's the default. To minimize conflict we must give it to the one who's there. — If you pull someone's hair it creates — — depends. Depends on the length of the hair, whether you grab it well or

not. — Yes, it doesn't matter how long my hair is. — Yes, yes, but he can say that the second one was first. No. — Mm — — contradiction. It's not a contradiction. — Well no, because the first did nothing with that hair. The second exercised [control]. — Well yes, but then why do we call him first?

[1:09:51] — What? — Then why do we call him first if he did nothing — — he had other parts, but not the hair, okay — — just so we can identify him. — Good. So using the same logic, we come back. The first person who uses an external alienable resource — yes, the first person who uses it becomes owner because there's nobody to ask. No — he can't generate a conflict. Whereas the second person does have someone to generate a conflict with, and that's why we give it to the first. — Yes. And any other variant in which — — any other variant in which we wouldn't give it to the first would generate conflict both with the first — — and with the following ones, and so on. — Yes, exactly. Yes. Going upward with the following ones you have unlimited, infinite potential for conflict, one might say. Going down you have a place where you can get to zero. — Look,

[1:10:54] that Georgist came to the café once — — yes — — and I forgot to tell him this. "If I see an apple here, do I have to wait until the end of the ages to ask everyone whether that apple should come into my possession?" — Yes, yes, it's easy with phones. You call quickly. — No, because you run into this space–time problem. — So either all external things are the property of everyone regardless of time, and then it's also the property of the unborn. Same place. — Aha. And you can't — — and you can't ask those from the future. The Georgist's big problem is: "I wake up in the year 3000 and all the land has already been taken as property by others who came before me." — That would be the Georgist's problem. — Right — — for him. That's it. And the libertarian's problem is that if I don't have property, you won't even get

[1:11:58] to the year 3000, because we'll all have died by then. What's the Georgist — what's his problem? — His problem is that he was born too late — — and all the land is appropriated — — he doesn't have the possibility to — — appropriate — — appropriate in the state of nature a piece of land, because all the land has already been assigned — — ah, that's the critique of capitalism, or what? — Of libertarianism, of this Lockean principle — — of first use — — well, normally, and I get annoyed too. Anyway, I'd say it's the Lockean principle, and he had a solution — not to digress — but he had a Georgist-type solution, Georgescu-type. Georgescu-type. — Well, the Georgist solution is that everyone pays into a fund — — yes — — in order to hold land. — All the landholders pay a tax — — which is distributed to those who don't hold land. — Rent. Ground rent. — Ground rent. Yes. To compensate those who didn't have

[1:13:02] this luck of being first users of a piece of land. — Okay. — And the problem with any taxation system is that it's arbitrary. First of all, it can't be established on the basis of universalizable principles. Why is it 1% and not 2%? Why in dollars and not rubles? Why in — there's no answer to that in principle. Well — — from whoever has. — No, but you can — — that's why it's not a normalized principle. You skip over things. So suppose no one bothers with regulating such details and leaves you complete freedom: you can pay the taxes in whatever you want. — Well, but we're not talking about that. Here we're still at the normative level. — Why? Yes, exactly. But why do such a thing? Not even why. The answer is "why," but the problem is that once you've proposed a transfer of

[1:14:06] value, of property, of anything at the normative level, — you also have to quantify it, otherwise — — you haven't — you haven't finished the theory. And any quantification that has no justification — yes, what's the justification? Five yellow, six yellow? How do the Georgists propose some kind of justification? — I haven't forgotten — — one, and if they propose it as an absolute value, clearly it'll become obsolete, because you can debase the currency. Yes. Plus value itself, whatever it is as value, is subjective. So you've left an objective system, or one that aims to be objective. If you propose a

percentage of what you produce from that, why that percentage? Why one, why two, why three? I mean, you can't really justify it from this point of view,

[1:15:09] you know? It isn't. And by the way, to give you an example so the difference is very clear: when we talk about justice in Rothbard — there is a justification. I've said it before: for 1x and for 2x there's that justification, and for the 2x I'm inclined to think it's stronger. — One because you gave up, and two because [unclear] — — you say. — I mean, why do you have that "two"? I'm still not convinced. If the market gives you 6x, as was seen, it's fair. I understand fair things. — Fair. Well, if they agreed — — the parties. — Ah, well, and — — well if — if they agreed — wait a moment. How — — no, I don't know what you'll say. That there was greater pressure from the state and naturally he paid — — it could — exactly — the state could arbitrarily say 30x. — No, no. Suppose the state has a law and locks you up. It locks you up, and for you the cost is 20x. — Well, under threat they didn't agree. It's consent under threat. — Yes, yes, yes. Okay — — we'll think about it some more.

[1:16:14] — But yes. Okay. Yes. It's not the same context. Yes. — There's a difference between owning — being owner of a resource — and being in possession of a resource. Yes. Yes, of course. — If you're in possession of a resource because you're a tenant, or you work in that field — "I gave you this tractor so you can dig or whatever" — you're in possession, but you don't have the right to sell it, to — — yes. With [authorization] you can use the car and do the necessary paperwork. — Yes. So to own, to be owner of a thing, in fact means to have the right to sell it, to break it, to — — usus — — and abusus. Yes — — from Roman law — — and Brutus. Yes — — and that's a good one — — no? How, I mean — use, enjoyment of the fruits, and destruction — whatever "abuse" does.

[1:17:19] — And see, that's why I'd say it's essential to keep abusus — — property only at the level of separable things. — Yes. The state can't do abusus — inalienable. — The state can't — they said all three must be in the same [hands]. — The state can't do abusus because it's not its own. You know — — no? — Yes. — Then it's no longer abusus. Exactly. — Good. I like a clarification here that seemed funny to me, regarding consistency and principle. — Hm. Also in this chapter it begins with the following sentence: "Not only libertarians are civilized." Here I tend to contradict him, but I'd say conversely: many believe they're civilized, but they aren't. — No, we need more words. I think he means "polite."

[1:18:23] — We could say Kinsella is a consequentialism — a consequentialist. — Yes, he pursues — he justifies all this by civilization, peace, — avoiding conflict. — He doesn't go with something natural. — But I think — I think he chose to do this deliberately. — It's natural. It's naturalism. — I think he chose this approach deliberately because it's much more pragmatic. Lord, where are we going? You don't go into a world that's completely hard to define at the level of axioms, you know? So people have a problem saying, "I believe in this, and without this you don't understand." — Well, I think he — no, but he didn't want to make a book with what he believes is good, although he wrote a lot, but he didn't want — foundationalism versus — look, if you want to say it more cleverly, you know? Foundationalism versus consequentialism, where you say: look, if we adhere to this we get things you like too, certain consequences,

[1:19:25] — whereas if you say, "I formulate the NAP, that's it," you know, as Thatcher said, "this is what we believe," you know? Well, why do we believe it? — which — no, here he says it comes from — — that's it. That's why it seems to me he shies away, exactly. So that we don't fight on philosophical ground, but have some things — tac tac tac — and because they deliver something and because [they exist]. Yes, they do. — And he wants to — — win the case. — Yes, rather — he said. Well, and so. — No — — but what do you have in mind? In the sense that the legal system deals with consequences more than with "I don't care." If you look at the chapter — — if I avoid conflicts — — intention — what nonsense. If you look at the next chapter, the one on libertarianism, you'll see the conflict, you know,

between the position here — where he's somewhat utilitarian, as I see it too: we want to avoid conflict — and the position over there where he says, no, [it's about] systematic [ethics], I don't care that it won't happen — that's a bad objection. Well, that — I think it also has to do with the fact that the two chapters weren't

[1:20:29] conceived as chapters in the same book, but are actually separate writings, published at separate times. — Yes, but he didn't have to put them one after the other, you know? — That's it. He didn't want to — Kinsella says in the first chapter that he didn't want to bother with editors, so he could get the book out at once. — Well, that's one of the costs he took on, let's say. He says he chooses a legal system and chooses these *Grundnormen* precisely because there are three things happening here. He says: the legal system has the following particularities. It's made by people for people. Yes? Therefore, if it's made by people, it has a purpose. Every action man takes has a purpose. Yes. And it also has something to rest on, because the philosopher we mentioned earlier wrote — yes — Halsley or H— — yes, that Kelsen guy, Hans Kelsen — — Kelsen put

[1:21:32] the foundations of what should come out of a system, how to build a legal system so that — what tendencies to go toward — and that's why it doesn't necessarily help him; rather it helps him additionally not to step outside this framework. — Hm. — Since it's a negative [thing] anyway — something like "whatever the latest regulation is, that's good," you know? — Whatever's on the market now, that's good, you know? That's legal positivism, which pretty much means that — — well, it's quite possible the fundamental bases he lays are nonetheless correct, and he applies them wrongly or — — no, the axiom–theorem relation — he said something; anyone could have said anything. Yes, but it stayed — I don't know — — he has, let's say, another nuance here and says: civilized people have a certain — it bothers them that they have to enter into conflict with other people.

[1:22:35] — Mm — — he says that — — and he quotes Mises here. He says, yes: when I want that microphone and Vali wants the same, it bothers me — let's argue, let's see: "but it's actually mine," "but it's actually yours" — and so we create this system for assigning property rights so as not to have this — — hm — — and he says civilized people behave this way — — and create these — this legal system and these justifications. So only civilized man justifies a certain principle — why must we assign property rights? So that we [work out] — — hm — — the elaboration of principles and laws so that we continue to be civilized and not quarrel. That's roughly it — — further — — he says here.

[1:23:38] — So I see a small contradiction here, just to laugh, as a joke. It seems to me that if you have a society of civilized people who don't want conflicts, you don't really need this, because there won't be conflicts — they're civilized. — And they don't want — they must maintain civilization through a set of rules everyone adheres to, [otherwise the] civilized would fall out of this civilization and conflicts would arise. Well then they're no longer civilized people. Well no, but the answer would be, okay, which — — which justice, Alexandru? — Well, if you have no trouble — — which — which would be the opposite — if — let's put it this way — — if they're civilized, it's a world without sorrow. — We have the concept — we have the concept of civilized people. Okay. — At least for people who come. — What's the opposite of a civilized person? — Uncivilized. — Okay. And that means — — savage. That would indeed be an option, but if you think of civilization as coming from the root of "civil,"

[1:24:43] the opposite would be — — socialist. — That's true too, but the opposite of civil would be military. So the opposite of civilized people would be people who — what do soldiers do? They're warriors. Yes. So they'd be bellicose people. — War. Bellicose. Correct. Yes. — Yes. To return to the old root of the word. Yes. — Yes. — And a society of bellicose people — what will it prefer when they have a conflict? — To measure their strength, — to settle it by — — means — by [force]. — By means — yes, — exactly. Yes, correct. Yes. — By swords and — — and he concludes here: to be consistent, a libertarian is

— not because the state is an aggression — to be civilized you have to be a libertarian and an anarchist. He mentions it right then, so as to move on

[1:25:48] to the next chapter. — Because yes, Kinsella likes "anarcho-libertarian," he says, so we don't have to bother with economics — instead of "capitalist" he says "anarcho-libertarian." — What kind of libertarian? Anarchist, or — he — — he's welcoming. He's welcoming. All sorts of kinds of libertarian. — I don't really like it. — Man, I know. — It seems to me God isn't one anymore. Oops. Let's not waste time. When someone has too many gods, clearly not. — I looked a bit at the notes — in the book, besides the chapter, there's a separate set of notes. Yes — — notes, footnotes to the chapter. And in these he says: I said there that the property right is the right to dispose of that resource as you want — to sell it, whatever. It's actually the right to exclude others from controlling it — to sell, break, [etc.].

[1:26:54] — Yes. — Yes. Well, that's a clarification, it's clear. — It was a note here — — but it's good. We've talked about it. It's the right to exclude others from the use of this resource. Yes. — Yes. You can still use it. You know there's still this literal interpretation in which people say, "wait a moment, if the property right is equivalent to the right to exclude, — why do you have the right to use it?" It's not subordinate. It's one of — it's presupposed in the right to use it. If I don't have the right to exclude Alex from using this thing, I can't use it, because when I put my hand on it he puts his hand on it too and uses it as well, no? Because we already talked about the other qualities of property. Yes. Usus, fructus and abusus. Yes. I can't do any of them if I don't have

[1:27:56] the right to exclude him. So we have appropriation, transfer and restitution. Do you want to say anything about restitution, since transfer is clear? — Well, he doesn't say anything about restitution in this chapter either. Only in the next — — yes. — The contents, for now — — only in the next. In Chapter 4 he starts talking a bit about restitution. Chapter 3: What is anarchy? It's a state. It's simply a romantic state; he says [anarchism] here is the rejection — — of the use of violence. Of aggression, sorry — so of initiating violence. — Yes. Many, many libertarians even

[1:29:02] reject this, saying it can't happen in our lifetime. Some say never. And so let's go for minarchism or other variants of libertarianism. And he says: "That can't be. Even if it's not possible here, the proposition 'I am an anarchist' — — is a proposition — — of normative ethics, and I don't care whether in reality things — — don't happen according to — — what we consider good." — Hm. And — — he says: anarchism in fact presupposes — it's a consequence — a consequence of rejecting a two-speed theory, like the ones Costel mentioned earlier: that someone has the right to do something and someone else doesn't,

[1:30:06] — because that someone could be — anarchism, could be theocracy, could be — — bureau- — — bureaucracy, as we have democracy today. Yes. — Yes. And those who oppose anarchism say: "Kratos was power," or — — two aspects characterize these people: aggression is justified — they don't go into detail for what reasons — or — the state doesn't — what the state does is not aggression per se. — Yes, that's what most say. It's not — it's a consensus. And — — yes — — the social contract was actually signed; you just didn't see it. Look harder. — Yes, it's a consensus decided most of the time by some appointed people who don't ask you on those subjects, and

[1:31:09] when there are votes, it's chosen by a majority of those present, which may be — — yes, but you voted. You voted with your feet. The fact that you didn't leave means you gave your consent. — Look, Kinsella — — but I didn't do anything bad. Let them leave. Kinsella immediately disposes of this — of "the state doesn't — " — he disposes of aggression: it taxes, so it's aggression, end of subject. — He dealt more with the first — — "there are certain situations in which aggression is justified." He lumps the socialists in with the criminals and says: "There are criminals and socialists among us who say that yes, for a certain good, for a certain general good, in certain situations, aggression is justified." Yes. —

Yes. Even with the socialists it's not clear — even with the socialists, I think — — this is an interesting thing,

[1:32:14] because — — common sensibility, common sense, holds that Machiavellianism is bad. Yes. It's not preferable. Yes. But Machiavellianism — one of the things it holds is that the end justifies the means, no? Therefore, if the end is desirable, it can justify any means used, and then all of utilitarianism is nothing but Machiavellianism. If a socialist were here in front of you, he'd say: "Yes, we need taxation because we're lifting marginalized children out of poverty." — Very good. Machia[vellian]. — The key word, the key word here is the ending: "we need." Yes — you all need. "Aggression — you say no?" Yes, but aggression seems like — "I'm the

[1:33:17] bad guy for not wanting aggression." — No — you say it works without it. Wait, look at Africa, it works. — Yes. — Well no. The answer is: we don't need it. Yes. — We can help poor children by other methods. — Look, this one may show it much better. — Look, even a classical liberal will concede to you the utilitarian part about the economic consequences, let's say, of a centralized [defense] — he'll say: yes, look, private armies would work better — but the probability of adoption, of implementation, you know, is zero, you know? It's zero and will be zero, you know? — So the economic discussion could be conceded: yes, brother, Rothbardian protection agencies are better than a state. But it's not — — listen, man, I — — you wonder in what sense — sorry — in what sense it is. Yes, it's one of consequences too. I can say it's a pragmatic objection, you know? That we'll never get to those consequences. "I concede them to you, only we won't get there," you know? Exactly. That's the direction I wanted to go too. There might —

[1:34:21] there might be a natural limit, which we won't detail now, that stops people from managing such complex things. I mean, look, we too rack our brains over them, and we say it's not natural — the limit is cultural. It's not something in human nature that — — for me it was — — [like] not buying puffs unless you're forced. It's not — — I was afraid that the level of complexity may be high, and a natural limit for many. — It's not, if you're interested, I'd say. — No. Because as long as the state deals with this problem of defense — — it seems to you, you know, — hard to conceive how it could be done otherwise, you know? Overwhelming. Yes. — Overwhelming. — After 5,700 years of — — living under such a danger, you see how certain aspects are realized for you. How does — — happen after — — but one thing, the solution is automatism. People do extremely

[1:35:25] complex things. — Yes. But they automate them, and it's possible, and then they can learn other things that they automate, and others. — But he doesn't understand how, with defense — someone asked me how you'd do defense, and I said: well, like with oranges — [entrepreneurs] anticipate some preferences, people pay money. — How do you mean, how does it happen — — to buy? — There'll be entrepreneurs: some try this way, some that way, some another way. You see which go bankrupt, which don't, and can — — how do you give money for a tank? Well, you do now. No, but — — you do now, but it costs more and the tank is worse. — So maybe all sorts of things that are peaceful — roads, oranges, whatever — maybe people can understand. But when it comes to violence, because they're not — — but — — willing or able — they say, "I won't get into that." — Roads and oranges happen without war too. I mean, no — — well no, but I want to say between peaceful things and violent things — yes. There's such a huge exposure to this message.

[1:36:27] — Yes. Yes. — Where there's exposure to people with old thoughts. So no. And if you wondered why Kinsella nonetheless prefers the criminal over the socialists, the answer, as Kinsella explains here, is that criminals don't — — at least they're honest — — don't justify the tendency — they don't have the tendency to justify aggression. I mean at least the criminal — — the difference between a criminal and a socialist is that the criminal robs you and tells you he's doing himself a favor. The socialist robs you to do

himself a favor, but tells you it's for the good of all — — gaslighting — — including yours. Yes — — because maybe — and maybe this is Rawlsianism. Maybe you'll be in — — that state too, you'll be poor. Okay, you have money now. — Well, why would I end up poor? Because of you — — what did we do — in Rothbard, where the socialists likewise raised this objection to him:

[1:37:30] "If you agree with defense, why don't you agree with healthcare too?" And he just thought: I don't agree with either. — Minarchists have long been the opponents of the anarchists — those who sweeten the soup and say: "Anarchy won't work, whereas with us — — it'll work." — How? And Kinsella says: "Don't worry, your minarchist dream is just as idealistic, just as utopian." — Yes, it's a good one, a good objection. — So don't worry that — — that they look down on you with this kind of superiority. — Woe is you. Well, and where are you? — I'm — — two steps from — — two steps behind you. You know? I said it the other way around. I was a minarchist for a long time — even a strange combination of minarchist and monarchist. And at some point I listened to one

[1:38:35] of Michael Malice's podcasts, which focused exactly on this: the transition from minarchism to anarchism. That is, what holds you back from taking this last step? — And — yes. I didn't find a good argument — — for which to stop myself from taking this step. I mean — — the argument is social pressure. — Social pressure: it seems to you you're not the same — how the hell can I be an anarchist? — Yes. — You're not as respectable, you know? I think that's it. — Yes. — It sounds too — it's too much, you know? I won't sign it. — Yes. No, I didn't think of it in those terms, so I took the step. — No, but I think it's a psychological speculation. It may also be — yes — the argument of being convinced it can't be done. You know? — And in support of the supporters of anarchism is the fact that, okay, we support anarchism as a utopian ideal. Even Kinsella says it won't happen. I don't know why. I still hope — what does it rest on?

[1:39:38] — Yes, what does it rest on? I still hope, but as a reply to those who hold "let's not bother with anarchism and let's live and work in statism," it would be: that would mean we ought to support — and he says it this way: I don't support murders, or theft, or other crimes, but human nature is such that these things happen in the world, and then I don't have to change my normative position, to prefer, okay, let's justify or sweeten these crimes. It's always that distinction, not made explicitly, between what would be right and what can be done today. What are we talking about? We usually

[1:40:42] talk about what's right. People say, "Well, it can't be done." Well yes, but for me that's another discussion. We've talked about — look, when we did Huemer, we also talked about premises for tomorrow, you know? Yes, yes, yes. — And Huemer's position isn't an agnostic one, like "we don't know the future, man is — " — No, but it seems to me people overlap these things. So if I can't do it tomorrow, then it's not right, or it can never be done — which for me is strange. Well, he says that too. — I mean, okay, maybe you'll never get there, but you'll pull in that direction. If you say it can't be done, you won't even pull. That's — — it all remains — the argument is that it's like a benchmark, you know, by which you evaluate: are we better off today because it resembles anarcho-capitalism more than Romanian communism, or is it better, you know? Always worth checking whether — which is Kinsella's point in this chapter: "Bring me ethical objections. Stop coming with this nonsense." — And this nonsense makes sense, because

[1:41:45] if a person really is pragmatic and wants it in his lifetime — there are people who parted with liberty that way, no? "If it's not in my lifetime, well, I'm not in." — But I'm in — — but funnily enough, again, things overlap. Funnily enough, for me it seems they don't exclude each other. So you can do what can be done pragmatically for your lifetime — — yes — — and say: but the target is [there]. — Yes. They didn't expose — — as Javier also said — — Milei. — Yes and no. Yes and no. Because look, a realpolitik discussion: if Milei had gone too [far], he wouldn't have won the election — — yes — — to

have come with a discourse like — Milei comes with "the state is the supreme thief" — — we abolish such-and-such — — but then we keep it small — — and in practice, yes, he didn't do what he said, but — — no, I'm saying he didn't exaggerate the big critique — — in the campaign you don't see him — — you understand — talking about the head — he talked those messages

[1:42:48] — "I don't wipe my butt with the state" — yes, well, he did say something about anarcho-capitalism. He said it at several moments, you know? But I mean when you're, I don't know, at a televised debate, he'd start — I don't know — "let's take property over children, let's discuss — " — ah — — "legalizing drugs" and — — like at the café. — Well no, but he too talked about more — so Milei's aim from this point of view was indeed a pragmatic one; it didn't presuppose resolving the questions of libertarianism. — No, but in conflict — that's what I mean, you know? Plus you do that with libertarians, not with socialists. — That's what the conflict is about. That's what the conflict is about. You know, we, doing this, allow ourselves to say — if we worked for the state somewhere and wanted small reforms, we wouldn't do this, you know? — We wouldn't say it there, you know? — There we'd say "the deficit must be kept under control, deregulate" — tame messages like that. Here we don't do that. Here we haven't talked about — — abolishing the state. So that's not the target — it's not. So yes, those who

[1:43:54] watch us are looking at four abolitionists. — Yes. From the abolitionists, we wish you much liberty. — Keep following us. For Costel Stăvărache, Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu — and the state answers: slave, think of liberty too. Goodbye. Ha.

Video 3 (#308): Slavery or Self-Ownership? How We Come to Own Ourselves (Chapter 4)

Original title: *#308 | The Legal Foundations of a Free Society - Stephan Kinsella - Slavery or Self-Ownership?*

Length: 1:40:03

Link: https://www.youtube.com/watch?v=vFSlySX7Z0k

[0:00:00] Now there's no one to nag me. You're the mother, the father I love, actually. Now I'm here. — Here's your son on drums. — He's not anymore — he left. — He didn't find himself anymore — yes. He didn't find himself in the lack of money. And — — what? No, they didn't pay well. — You realize no band actually pays well, and — — man. I went to the Maiden concert last night. — You went? — Yes. — Cool. Were you afraid of the dark? — What? — Were you afraid of the dark? — I wasn't afraid. I was afraid — of the light, hard — — it was beastly. "Fear of the Dark." — Vali's afraid of the light. — So Galați fell first. Man,

[0:01:02] — yes — — I was waiting for Alexandria to come. — They were tired. That guy didn't look tired at all. — I don't know. I'll [listen] to them too. — Took me many years to get to the point of liking Iron Maiden. — But you always liked Dorm, right? — Yes, from the start. — Well, that's it. So we take the Argeș road down — — up the highway — — or what? — Up the highway. — Yes, on the highway. To the right, not up. Don't change position. I have to look to see if — — fine, but I'm not changing it, so you're comfortable. It's okay. But I have to look — — I have to look to see you're in frame. So I change it to max — — so like this, let's say. And max would be like this, if you see me.

[0:02:08] Let's see. Here's fine. — [unclear] — No problem here. — You know it? I guess. — [unclear] — It's okay. — Yes. That thing of Vali's still seems great to me — that the state isn't legitimate because of its founding act. That solves many problems, including this one with the war, you know? I mean, it settles the defense I'd made — that you could give money to the Ukrainian state, that it's legitimate defense, you know? — Yes. That's how they're given. — But if the entity isn't valid, the donation itself isn't valid, you know? You don't — — it's as if you threw that money away, you know? He abandoned it. It can't enter

[0:03:13] their ownership. — It's not valid. The donation isn't valid. — Not valid. [intro jingle] Hello! Welcome to a new episode of În Dodii. We continue

[0:04:17] Kinsella's book, *Legal Foundations of a Free Society*, with Chapter 4 — part two: rights. Chapter 4 is about how we come to have the right to own ourselves. But before we get into the chapter, Vali Berceanu will say a few words. — A few words. Thank you. — Like, share, subscribe. You know you also have to press the bell for the subscribe to count. Look in the description; you'll find a Telegram group where you can talk with us in real time. Also in the description you'll find a link to Kinsella's site, where you can get the book without any problem. It's also available in podcast format if you need an audiobook. It's distributed free. In the description you'll also find a crypto link and a Patreon link if you want to support the efforts we make here, and we thank those who already do.

[0:05:28] Kinsella says: "All the evils of this world come from the fact that people's rights to own themselves are simply violated. The state, through regulations, through the various actions it undertakes, arrogates to itself this right to be owner, to decide what happens with ourselves, with our bodies" — when it criminalizes taking certain substances, or criminalizes not taking certain substances, as it decides, when it drafts you into the army, and so on. It's in fact a control: it's a partial owner of your

body. — It's a slaveholder. — Yes. People didn't make the association during the pandemic — those who opposed — and I think they don't make it

[0:06:31] even now — those who opposed compulsory vaccination: if you'd asked them "are you for drug legalization?" — the mechanism is the same: man's right to own himself. They were against it, even if they were anti-vaccine. Yes. Well, remember, we did a show with [Diaconu] and I asked him: "If you were there and they told you there's an imminent Russian attack with nuclear bombs, whatever, you know?" Would he force people to stay home because staying home is safer, or whatever. Yes. And, as they say, at the time he was the standard-bearer against compulsory vaccination. Yes. — Man, speaking of this story and what revelations what happened in the pandemic can produce for you. I, who wasn't

[0:07:36] 100% libertarian until — — we came out of the pandemic — — until the pandemic started, let's say — I didn't even question the idea that compulsory childhood vaccination against various diseases must be done, because the argument was: well, you expose the others to risks. Without it ever crossing my mind that the reason you end up exposing other children to risks is that the state actually forces you to bring your child to be exposed in a setting called school — the state education system. — Yes. — Yes. — Well, he says here too, for example,

[0:08:40] with the right to free speech likewise — nowadays everyone progressive, liberal says: we should have free speech because it improves political discourse — — the search for truth. — Yes. That thing. — Who, the progressives? Progressives still seek the truth? I don't think — — they want that. Even if not — — whereas libertarians say: "You have the right to free speech because you own yourself, and it's your mouth and you can say what you want, and nobody should tell you how to move your lips." Yes — — it's your website. Yes. So that's the reason you have the right to free speech, the right to ingest substances or refuse to ingest substances. — Well, also because these free-speech arguments appear in Mill, he being a great theorist of utilitarianism, maybe the greatest, and naturally he goes by consequences: look, if we stop expression, we stop truth.

[0:09:43] Okay. — I hope the sound problem's been fixed. Here he says something interesting: "This thing of owning yourself should be intuitive not just for libertarians but for anyone, including socialists." And I was thinking of classical Marxist socialists, who distinguish between means of production and the fact that you own a coat, or consumer goods, or own yourself. Maybe they'd agree: yes, man should own himself partially. Partially, yes. They admit personal property — a toothbrush, let's say. They aren't, from this point of view, if we remember applied socialism — — right — — yes? So socialism — wait, let's take it this way — socialism light, social democracy, denies you the right. So I'm not

[0:10:46] interested in what a man says, as usual when we evaluate an ethical system. I'm not interested in what he says. I'm interested in what he does. Yes. What it does is take from you through taxes to redistribute. Therefore it doesn't recognize your right to self-ownership, because it taxes you. Yes. Let's take stronger socialism — like — — right, wait, wait a bit. Taxing — I don't think that's an aggression against your own body. — Yes, it is an aggression against your own body, because it doesn't recognize your right to benefit from the fruits of your labor. You work partly for yourself, partly for the state. You don't work for the state voluntarily; you're obliged. You do things with your body when you make that capital good — or do they forbid? — Well, that's how it should be. Yes, if you work — — well, but he says that too — — at producing a tractor and you make your tractor: "it's a means of

[0:11:48] production, so we're taking it." — Well, but we're not even talking about — — or if I make a pencil and write with it — — yes. Here you're already going to stronger, more communist socialism. Yes. Up to that point — if we look at stronger, more communist socialism in practice, doesn't it enslave you to the point of putting you to do "patriotic work"? Yes. More than that, it puts you to work where it wants — the communist unit — not where you want. Remember, in the planned economy, you couldn't

do what you wanted. If you graduated, you were assigned a job. — If you don't go to your job, you're sabotaging the economy. — And there's also this tension between property — let's say first property over capital goods — and personal property. Well, if the state owns the toothbrushes, let's say, which are consumer goods — so it owns the materials toothbrushes are made from —

[0:12:51] naturally that affects the toothbrushes too. Same with free speech: if it owns the websites and printing presses, again you can't express yourself. I mean they're linked. That's what I mean. That's a classic argument Hayek made: "it's not quite like that — they've taken everything else and you're free," you know? — But is man himself, in a company, also a means of production, or — — he's a factor of production. A factor of production. Yes — labor is a factor of production, well, labor is a factor of production — — not the body. The man. — Well, let's take it this way. If the man — not the body — is what the man uses to produce labor. But if it's to — or to apply labor, or create labor, whatever you want to call it — but if we think about it, look: a man who sits in an office all day, does nothing, doesn't move a paper, doesn't write a calculation, doesn't open a computer, nothing, doesn't even fan someone working next to him. Yes,

[0:13:52] — well, and the state absolutely — — that man — does he still represent a factor, a so-called holder of a factor of production? — Yes. — If he doesn't work, no — — he doesn't work. Okay. — No, but I can use his body as a capital good. I don't know — I make a horror film, you know, and do something with his body, you know? — Well yes, but that's already — — then it's not used as labor; it's used as an object. — No, that already presupposes he works — not that. — Well no — I mean, he doesn't do anything — — well, he has to consent to what happens there. — Well no, that's what I mean, that I can use him as an object, you know? — Well, if — — many people somewhere in — — if you use him as an object — — you didn't say it's a capital good. No — I wouldn't say it's a capital good, because again, if you use him as an object you enslave him. I mean, if his will doesn't count in how you use him, you've made him a slave. — I'm thinking of cases that don't involve — look, you put a slave to dig something,

[0:14:55] you know? You don't give him a hand, you know, or things like that, you know? — You're saying it's still — — well yes. Yes, as — — in the context of a film, all those who stand in the background of a shot and say nothing and do nothing are working. They're even paid for it. — No, the question was what he was doing, not what others do with him, you know? And I said he's treated as a capital good, you know? As an object. No, we can't talk about labor here. The others work; he doesn't work — he's a victim. That's what I had in mind. — Well yes, yes, yes. If he's a victim, from the standpoint of the question whether he owns himself or no longer owns himself — which is where we started — the answer is you've pretty much settled it. — Yes. Yes. He doesn't own himself. — Okay. And Kinsella mentions here that Rothbard was right that all human rights are actually property rights.

[0:15:59] He transforms this concept of human rights that people use in today's media and says: these are property rights and we must treat them as such, and then, having a theory of property rights, we can create the legal foundations of a free society. I don't know. I'd say, okay, before we get to "all human rights are property rights" — which, as I've said in the past, directly generates the problem of the body–person dichotomy. But before we get there, I'd also like to draw attention to the fact that it's not necessarily needed to — but even looking at them that way,

[0:17:03] indeed people need to understand, to somehow get it, that the state itself is the biggest slaveholder. Well, we could probably say the Chinese or Indian state is the biggest slaveholder, going strictly by the size of the herd of Chinese and Indians it keeps as slaves. But even the Romanian state, yes, the Romanian state treats you like a slave, and the Romanian state injects — as they say, we talked

in past episodes about how it is represented by its freely constituted organs. Yes — it injects into its rulers, the people in positions of political leadership,

[0:18:08] it injects into them the same slaveholder behavior. Yes — you eat — I mean, or I don't know how to — actually, why hide behind words? You lap up the shit democracy sells you, that we go and elect our representatives. Yes — you elect your representatives, who represent you by mastering you. Because the propaganda that happens in schools means the slaves consider themselves free in the current system of — — yes — — representative democracy, or whatever it is. — In this system where 70% of everything you produce is taken by the state, taken by the master, for him to consume. About 70%.

[0:19:11] — But you also have to see why the mainstream is convincing, you know? It somehow mimics, you know? It mimics innocent voluntary acts, you know? "There too you make a contract, there too you exchange things," you know? And a person says: "Well, just as I choose an orange, so I chose Drag[nea]." It's the same. — Yes, it's exactly the same. What libertarians say is that they don't talk much about the fact that you eat the orange and then shit it out or throw it away — and the politicians you elected likewise. No, actually they shit on you. Yes. — No, that's here too: "Well, I don't like it anymore, I don't eat it anymore," you know? "I don't like PSD anymore, I don't vote PSD anymore," and you see, it comes very close to voluntary exchanges, you know? Well no, because it doesn't come close to voluntary exchanges. Because even if you don't vote PSD anymore, it doesn't matter — PSD still rules you, or USR, or whoever. Yes, even if you don't eat anymore, yes? If you don't eat anymore, you

[0:20:14] don't digest, you don't shit. Yes, but over there the shit keeps flowing. — You don't decide on taxation, that's important, or on other things, you know? You don't decide on the system. Rothbard said this. You decide about things inside the system. As if a slave decided, I don't know, whether to be free on Fridays, let's say. — Yes, — but he doesn't decide whether to be a slave or not. No, never — — well, in the American South — — that decision is excluded. Many more conservative voices today say: "The slaveowners were very good to their slaves, a large part of them, so why should the slaves complain about their situation? They were treated well, had food to eat, weren't beaten," and so on. So the fact that afterward they had to

[0:21:17] — but this happens in the American North too, no? I mean, it kind of happens in Canada, kind of everywhere, no? Including the slaves. Many said: "It was actually better before than now, when I have to bear my own burden" and so on. I mean, from generation to generation, perhaps in certain slaveholding families, things were so good materially and spiritually that some slaves had forgotten what freedom actually means. — Yes, that's something you might think about a bit when you defend this wretched slaveholder called the state. Yes. During the war between North and South in the United States, whole hordes of slaves fled from the path of the Northern army

[0:22:25] together with their families — families in which they recognized the masters. Yes, they fled. Why did they flee from the armies until they had no choice when they were caught up? Because they feared freedom, the chaos that would have been created when they no longer had a known order. Yes. And more than that, there was a large layer of slaves who, right after being freed, had — what Gabi said — regrets for the old regime. — Yes, unfortunately — — just as some do today with the state, when we come with the proposal that it shouldn't exist. Look, here's an empirical question: whether in certain particular cases those people were still slaves if relations were so good, you know?

[0:23:28] If they weren't allowed to flee, they were slaves. — Yes, if they weren't allowed, they were slaves. But if they were allowed, were they slaves? — If simply through education — — they were slaves only in name, but not — — if through education I make you, when I say "bring me tea," not grumble, and go bring me tea when I tell you, and think it's good and normal. You don't even imagine "I'd like to

be free and say no, today I don't feel like it" — — or "I can leave." Well yes, it still stands: if I have the possibility to leave, I'm no longer a slave. — It's like a job, you know? — With education it works, but if it were only verbal, only the education part, we wouldn't have prisons, we wouldn't have fines, we wouldn't have — — and we wouldn't have the state, because — — we wouldn't have threats. — Voluntarily — so voluntarily everything that happens today could happen — — and it would be okay. — It would be okay. Yes. No, but I was thinking that after whole generations, maybe the first

[0:24:31] were beaten, you know, but then the Black slaves got the message so that afterward they weren't beaten anymore — — always. There were always new slaves coming to the plantation and — — good — — examples were made. — Examples were made, yes. Or they also had the example of freedom. Didn't they think, "look, that one's free and I'm not," you know? No. — Yes. They thought. — Yes. They thought, they did think — — and there were slaves who ran. Yes. Plus the abolitionists also tried to — — spread this propaganda. I'm thinking it's not just a matter of education; it's also a matter of weapons. It's not that people accept the legitimacy of ANAF, you know? ANAF is also blunt — it hits; it's not — — a matter only of education. "I convinced three neighbors," and — — good.

[0:25:33] And even those who today say and maintain that things are voluntary, yes, that they comply voluntarily — you can tell they don't actually understand the situation and don't comply voluntarily, because they don't pay anything extra. — Just exactly what's imposed. — Yes, that's Huemer's argument: why don't you give more, if — — yes. Because it's clear it's not enough. I mean, look, all those who, for example, all those who would have been voluntary taxpayers — yes — man, last year when Bolojan jumped up, "brother, we have a deficit, we must raise taxes," and after we raised taxes we still have a deficit. Yes. Contribute, brother, put in an extra coin. No — it's not enough, you understand? It's not enough, and you believe the state is legitimate and we must fund it as it is. Where's your coin?

[0:26:37] — I should have made an appeal to — — yes, but still educa— — but still education is important, because look, the harshness of ANAF or whatever, of the force institutions, is still a matter of ideas, of education, of ideology, you know? — Yes. — Yes. You get more through education than by applying brute force, and — — always, if you manage to subvert man from within, it's easier to control horizontally than vertically. — Yes. I mean, all education stays here. I wanted to get to the point that — — it means — — you have conflict or conflict: weapons and ideas, you know? You have weapons and ideas. That's how you try to conquer them, and it's cheaper and easier to achieve your objectives through the use of ideas. — It's cheaper. I don't know if it's easier — — in the sense that

[0:27:45] once you've convinced, let's say, you know, it then runs by itself. You don't have to apply corporal punishment to everyone. — Your [costs] fall, yes. — The investment falls, and especially over generations, decades, hundreds of years, things already permeate, you know? — No, I'm saying it's cheaper. I don't know if it's necessarily easier. — Yes, in fact man also thinks on his own. — Depends — depends what characteristics you want to measure to say whether it's easier or not. — Hm. Well, I don't know — I think in money when you have [it]. No — — no, I wasn't thinking of — — time. — Time, and not whether — — and the problem is how long until other ideas than the ones you've inculcated appear in the citizen's head. I mean you have to keep coming back with different approaches to keep convincing him. — So weapons and ideas are means. Yes. — These means must serve

[0:28:48] an end. Is the end to establish a libertarian world that believes in libertarian principles, or what is the end? — The end is — no, for the state. The end is to hold a society of slaves who believe they're free and are productive and give us as much as possible in taxes from their labor. — Well, we're already discussing several ends here, but — — competing ends — — a society of slaves. That's the first. — Yes. That's it. Who believe they're free. — Believe they're free. That's the second: slaves who believe they're free. Yes. — Yes. And the third was to increase their productivity. — No, that's a consequence of the fact

that they [believe they're] free. They're slaves. — Okay. Good. So because they believe they're free, they're productive. — Must be. — Yes. Then not even weapons are — weapons aren't a means to facilitate the end that people believe they're free.

[0:29:52] — You know what I'm thinking? This is a situation like that, apropos weapons — — only ideas remain. — Only ideas remain. — So the Austrian position, that ideas win. If it's not a chicken-or-egg situation, you know which came first? You know, chicken or egg. Because you're saying even ideas — if these people — that's what I wanted to say, one up, you know? If they don't have weapons, those ideas won't — — won't arrive. Won't arrive. — Yes, yes, yes. — Won't arrive. — Well no, you first need a slave society and then you can work on the slaves to believe they're free. — So first you use weapons and then ideas. — Yes. Well yes, but someone can say: no — ideas tell you how weapons are used. — Ideas give the weapon its direction, you know? — Ideas give the weapon direction. — That doesn't mean they're — — that doesn't mean ideas produce the weapons. Unless you mean ideas like:

[0:30:58] from a metal — if you make it in that shape, you have an idea to produce — — no, social ones, not necessarily technical — how to make a weapon — not that it's legitimate, you know? The dominant idea is yes, it's legitimate. — Yes, it's legitimate. The dominant idea is that ANAF is legitimate. — And yet the first time — the first time ANAF appeared — because if you ask who was first, man or chicken, egg or chicken, you have to regress to the first ANAF. Yes. The first ANAF appeared imposed by force. — Well, that's the pro-ideas [point] too: we make plans whatever we do, you know? I'm going to the market. I have an idea, you know? I think I'll go to the market. Ideas precede actions. But shooting with weapons is an action. You know? Ideas — ideas precede, correct, but ideas can also be used as post hoc justification. — No, I'm saying they have to be

[0:32:01] before. No, I'm saying they can be — — they can be — — I'm saying they can be after too, and if they can be after, you no longer have that necessity that they be before. "Thief" — before committing the action of robbing you, he has an idea, you know? "I have to rob this guy." Right. — So does the idea precede action, or are you thinking of idea in a more philosophical sense? — Well, I'm thinking — I'm thinking of a justifying idea. Yes — when you talk about the justification for ANAF, yes, it didn't come first from "we need to pool our resources," with a pretty justification after. And — — wasn't it in Chapter 5 — from Papinian or someone — "it's easier to commit a crime than to justify it," something like that? — Yes. — Something like that. Ah, you know, the idea would be the more

[0:33:04] lordly, ideological thing, whereas the thought of robbing someone wouldn't quite be an idea, let's say. It's — — look, for example, for example — I think the discussion makes sense — — makes sense when you think of complex systems of social organization that appeared somehow after philosophy. Yes. So first philosophy is born, the science of ideas, and then this science of ideas starts dissecting a social order. Yes, but before philosophy you already had tribes, states, organizations — things imposed by force. — Yes. The council of elders. — Ah, yes. The distinction would be between more elaborate ideas and ideas like "I'll go eat something or drink a beer," which you wouldn't call an idea. — Okay, it's a thought, a project, a thing — well, any action is preceded by a thought, let's say. You have the thought of drinking

[0:34:10] a beer and then — — what does the second A in ANAF stand for? National Agency — — of Administration, I think — — Fiscal Administration. — We're administered. — Yes. — Administered. — It administers. ANAF administers. — It administers to you? — Yes. It administers to you without Vaseline, but you don't complain. — All political systems assign property rights according to certain rules. The only difference between libertarianism and the other political systems is that it assigns property rights to individuals, not to organizations, states and so on, on the basis of — — so the first, the first difference, yes, is that in libertarianism all rights — — of property are individual, and even if someone wants to

[0:35:16] stir things up: "Well, wait, you have corporations, and corporations aren't individuals." Yes, that's right. They're corporations, but those corporations are actually constituted by a contract representing the will of individuals. "Well, and then there's no personal liability anymore." Depends. That's what we're discussing here. — Come on, you have that too. — You have that too. — If you want it, you have it. — Yes, — but the state doesn't. And the second thing that particularizes this assignment of property rights in the libertarian system, unlike all the other systems, is that, being centered on the individual, it tries to generate universal principles, because all individuals are equal from the standpoint of the rights they have. Yes, there aren't two categories of people in libertarianism,

[0:36:18] otherwise we'd have said individuals and super-individuals, yes, for example, or slaves and masters, as with the state. Yes. I was saying that all rights generated in the libertarian system must be universalizable, or universal, and coherent — that's a sub-condition of the universalizability of those rights. And Kinsella adds here "just." Yes — — that this condition, that it applies to everyone equally, also makes them just. — But how do you see it — socialism, that property is collective? I mean, what can't you do? You can't do — which in that agreement — no, that would be the idea. In capitalism you decide. So declaratively in socialism property belongs to everyone. Empirically, in fact, yes, it belongs to the masters.

[0:37:24] You're slaves. — Let's take it declaratively. Well, if socialism were declarative we'd run into the impossibility Rothbard draws attention to, which we've discussed too. — But the idea that you don't decide on your own, no? So if the three of us decide [about] this table, I can't leave with it, you know? Not to — — well, but in a firm too we can have such rules. — Yes, and in a firm such rules, but they're voluntary — — subscribed. — Yes. Well, actually, that's the key element then, because that way we can jointly own a yacht, or — — yes, several of us can own it. Yes, — yes — — even in equal shares. Even with — — at least the water, at least the water in it, at least the water in it or the bottom of the water. — A table we decide on collectively. Look: we do this, we always vote "what's done with the table?" All three of us have to vote on this, you know? We make a rule, or Vali decides — doesn't matter — but the idea is that we agree, you know? Yes, yes, yes. Yes, but there's agreement — I mean, there are

[0:38:27] obligations assumed by contract — — not social — — voluntary. — Yes, the contract is a voluntary principle. — Whereas in socialism you have obligations just because you passed through. — Or rights, just because you passed through. — Or rights, just because you passed through. Yes. Let's say we wanted to do anarcho- — the anarcho-communists in Spain would say: "We want to establish communism on the whole planet, and we'll start slowly. We don't want to steal from others — from others' labor, others' property. And we start with what we have: in the commune right now we have three pens and two sheets of paper. Good, with these. Then we start — I don't know — we buy a little piece of land, we do more, we pool it, until they buy and own everything." — Right.

[0:39:31] — Yes. — So that would have been nice. — Yes, but anarcho-capitalism — that's not it. Yes, but that would be anarcho-capitalism — — people owning things in common, you know? — And that's the problem. — I mean, it would have respected property sufficiently. It would have respected it. But I'd say it isn't. If you don't have the aggression part, that's not communist; it's not. — Yes. — That's the key element. Not that we own things in common — we always own things in common. That's not the problem. Good. And Kinsella then goes on to how we become owners — that is, how do we have the right to decide what happens with a thing and to exclude others' right to decide and do things? — What are the principles on which the granting of property rights in libertarianism rests? Yes. And one principle would be the right that arises from first use of a scarce resource. Yes — if I have access to this mug, which is in the state

[0:40:36] of nature, and I'm the first to use it, I'm the owner. — Here we go from Locke. Yes, who said you have to mix your labor with a natural resource and then it becomes yours. He referred especially, back then, to land. Then Kinsella asks: but with one's own body, how do we decide? Because when you become owner of a resource external to you as an individual, first you own yourself — you use your body, so you're owner of the body, so that afterward you act and manage to own. In fact the contradiction appears in that, for obtaining the resource, for obtaining ownership of the scarce resource,

[0:41:39] libertarians, on the Lockean theory, seem to point the finger at the first user, the first to have used — not to say the body, but the object, the resource. Good. With the body there's a small — a big problem, namely that theoretically, first of all, you can say the matter the body is made of was produced using the labor or scarce resources of two other people, namely the parents. Yes. And also you can say, given that "use" can mean taking this and putting it to one side or another, or taking it and holding it in your hand — yes — the fact that the child stays nine months, more or less, in the mother's womb: theoretically she uses that body first, and from this point of view, excluding

[0:42:45] the Christian view in which the soul descends at conception — yes, when you have two cells — it's hard from a libertarian standpoint to attribute "person" there — — atheist. — The concept of — not the concept of person itself as it is. Libertarians have trouble attributing the concept of person even to born children. It has nothing to do with atheism there. Some libertarians have this problem. Yes — — well, they don't have this problem, because they go with: let's not include Christianity in arguing our theory. Because if they included God and everything that follows, things would be a bit different. They try to

[0:43:49] justify this libertarian theory by reason — yes — the Aristotelian method. That's why — — yes. — Good. And given these things, how does a child become — how does a person, from birth, become his own owner? Yes. How does he have a property right over his own body? This question arises and Kinsella tries to answer. Kinsella first takes the idea: let's see — if we start from first use, it would follow that the parents should be — — that's the conflict — — the owners. That's the conflict — — the owners of the child. — Those can kill the child because — — some libertarians — — accept it. — Unfortunately they accept it. They have no problem. I say unfortunately because they do the movement a disservice. — Who are you thinking of? Who am I thinking of?

[0:44:53] — Certainly. — Yes, you have to delimit. That's the solution. Say this applies only to material goods. Say people by default have self-ownership. They own themselves. — Yes. Kinsella introduces a theory here, a bit like the social contract. He says: "Maybe in the past some great-great-great-grandfather told his son: 'Okay, I make you your own — — I leave it to the descendants — — I let you be free, own yourself, I no longer own you, I give you freedom on condition that you do the same for your children.'" — And then the children of that man are — have the right to own themselves. Yes, because of the fact that — but nobody knows whether such a thing happened or not. — There's a hole in the way he says it too, because if I —

[0:45:59] let's say I'm that parent who frees the child conditionally, yes — if I free the child conditionally — the problem has many holes. First and foremost, I accept human slavery. I'm no longer at the level at which the system itself applies to everyone and is universalizable. Yes. Because I accept that slaves exist. Yes. And I even accept the idea that the slave must be freed, and if he's not freed for whatever reasons, then he remains a slave until the master dies. Yes. And if theoretically the master bequeaths him, then since I accept that he's a slave, he remains a slave.

[0:47:02] — A journey in time. — So — — time travel to the first one — — I'd say that would be the first strong argument against the idea that parents should own their children — so that children are

property. Now, coming back and saying that if I'm the one who frees him conditionally, yes, I have two problems here. One: I can't make a contract with a slave; I can only make a contract with a free man. Yes. Therefore, whether he accepts or not, emancipation is an act performed on an object. — Yes. — Whether he accepts it or not. Therefore I can't make it conditional on anything, because a condition presupposes a contract between equals. But while he's my slave he's not my equal.

[0:48:05] So this whole construction collapses if you take it — if you take it legally — from a legal standpoint. And the third thing that's problematic with this construction: suppose we get past this bit and say that in that second, that millisecond, both things happen at the same time. Very well. If my offspring at some point refuse to respect the contract, what actually happens? How is it enforceable? They can't become my slaves again, because I'm dead. — So that's why I'm saying it's given there, but not thought through to the end. — Yes, that's another discussion. — Good. And — — but the answer that emerges from all these discussions is that either we say parents don't own their children —

[0:49:10] — mm — — and then it means that if we want to look — and Kinsella goes a bit further here, but I don't necessarily want to skip the next part, the other possible solutions he proposes. We'll address them. But just to finish what I have to say: if parents can't become, can't be regarded as owners of children, it means the first-user principle isn't enough — — and libertarian property must be grounded on another principle, and Kinsella will get to it. — Ah, the first appropriator. Yes. Look, Rothbard too encouraged this confusion on the problem of children, saying the parent has over the child a kind of management-type ownership. But what we know from libertarianism is that management isn't ownership. A manager isn't an owner, isn't a

[0:50:12] shareholder. So it seems to me he simply erred — he used a misleading thing, because we — — so I was left with the impression that it's a kind of co-ownership: the child owns himself partially. And he even encourages something like that, you know? No. The child is the boss, the shareholder; the parent is a manager, indeed, a delegate. That's the correct solution. — Good. And now people will jump up: "What? The child controls?" We'll get to Hoppe and explain what happens there too. Let's see what other solutions Kinsella proposes. I'll go straight to the correct one, the one I support, the one that seems correct to me, namely — — fine, let's see what solutions Gabi proposes — — that the parent — — go on — — Ceaușescu — — the parent is — not that the parent is — toward the child, just as when he pushes another person into a lake

[0:51:15] he has a positive obligation to pull him out of the lake, and when he sees he's recovered and can walk, to let him go. So just as while he's saving him — when he's flailing in the lake, when he's lying breathless on the bank, until he realizes he can resume his life as it was — it would be normal for him to [return him to the state of] a healthy man before he pushed him into the lake. Right. And a parent with a child must proceed [the same way], because he brought him into this world in a state where he can't ensure his existence, a state of incapacity, and until he becomes able to support himself, the parent has this positive obligation. Yes, even though libertarians are usually against

[0:52:18] these positive obligations — toward the child in this situation, the parent is obliged to maintain him, to bring him to a state — — in which he can support himself. — Here Kinsella falls out of the lake into the well — I mean he swallows an elephant. Libertarians reject — what does "positive obligations" mean? I don't know. "The right to education" — "Vali is obliged to pay for my education." A socialist right. So that's what we associate it with. On the other hand — — Kinsella seems to have in view the linguistic shell he must use for someone. As a rule libertarian obligations are negative: don't do this, don't do that. Don't steal, don't kill. On the other hand, he says these positive obligations aren't aggressions. Well then they're not positive obligations. The positive linguistic shell doesn't matter. They're not. — Well yes, but they derive, for example, from a negative obligation not to kill him. —

Okay, they're negative then, if they result from a negative obligation. It seems to me he uses — I mean, I don't know — he concedes too easily to

[0:53:21] — No — they're seen as positive obligations because, like the other positive obligations people impose — yes, like "you must pay for my education" — yes, it's something you didn't assume; it's imposed on you. — Mm — — paying for state medicine in common: did you assume it? It's imposed. Having to send your child to school: you didn't assume it. It's imposed. Yes. They're imposed by an external party. That's not their characteristic — one of their defining characteristics is that they're not directly assumed through a contract between two parties, and libertarians call these obligations toward the child positive because you didn't assume them by contract toward the child. They're not assumed. And somehow if you don't fulfill them

[0:54:25] you're punished, just as the state punishes you if you don't pay. I mean it's this similarity of not being assumed. You can call them positive, or not call them positive — call them unassumed. On the other hand, Kinsella — and here I think Gabi wanted to step in — says you assume them by the fact that you produced a situation in which a human being is helpless. You're the direct cause of that situation, and therefore you have this obligation to bring him to shore. — That's not it. I don't make that distinction. For me a negative obligation — — isn't aggressive and forbids an aggression. That's what obligations look like. — I wrote an article on Mises [Romania] where I analyze exactly this story. — We'll put it in the description, because there seems to be a lot of confusion. A positive obligation is aggressive. What Kinsella says here — that you save the one from the lake, and the child, and whatnot — those aren't positive obligations; they don't prescribe an aggression. Those

[0:55:28] aren't aggressions. — That's how I use the terms. — But here's what I say: there's something imposed — careful — a positive obligation. I must give Costel 2,000 lei. It's imposed on me because I stole 1,000 lei from him two months ago. It's been proven. I stole from him, and this positive obligation is imposed on me. Yes — — it's not positive. It's [restitution]. — No, that really isn't positive. — It isn't. — It's a sanction for violating a negative obligation. No. — Well, it's a sanction. Yes. Then — — no, it's not a sanction. It's — — it's not even a sanction. It's a restitutive right that Costel has. — Yes. Put that way too — — a restitutive right. Then I can say parents have a restitutive right toward the child — — and a positive obligation. Well, they don't have an obligation — they have the obligation not to kill him; it's a negative obligation. — Yes. Not to — — feeding him — — right — — ticks off that obligation, you know? — No, because, okay, here come the libertarians. I'll be the devil's advocate

[0:56:32] now, because I don't hold this position, but I can say what they say. Yes: not killing him is different from not letting him die. Completely different. Killing is an action. It's an action in itself. Yes. Letting die can happen without any action on your part. Yes. Yes. — And that's where they focus — why they say that, to not let him die, you must perform an action to prevent death. Therefore, having to perform an action is the definition of what they call a positive obligation. — In our case, the child's, letting him die *is* killing him. You know, if you take him to the hospital and don't feed him, you kill him. If you pass someone on the street, let's say, and he dies — if [you didn't cause] something, he's left to

[0:57:35] die and it's not an aggression. Whereas the first case is an aggression, because you acted; you caused the situation. — Because you caused the situation. That's the difference — exactly. That's the difference I arrive at: in the child's case, it's not letting him die, or what we'd intuitively call letting him die — it's not letting him die, it's murder. You know? That's what I'm saying. That's my interpretation, you know? And it seems to me that you — including Rothbard — don't see this, because Rothbard says, "Yes, I can let him die." I say no, I can't let him die, because you violate a negative obligation, you know? — Good. Here, since we're at this point, I'd up the ante a bit. — Yes. — Do you want to leave it? — What? — Do you want to leave it? And I'd say there are two — two things which — yes, well, actually

we'll get to Hoppe to discuss them. Leave it, let's move on; when we discuss Hoppe's position I'll come back. Good. So I was saying that therefore

[0:58:43] there's this invalidation of the first-user rule, and so we must find another rule, and Kinsella arrives at — — the direct link. He says you own yourself because when you say "I'll raise my hand" — — he says link — — objective link — — objective link, which in the case of the body is — — made through — executed through direct control, unmediated control — — the objective link, and so when I say I raise my hand and I raise my hand. That means I hold an objective link and therefore I own myself. — Yes. What does the objective link mean, from

[0:59:46] Kinsella's point of view? It's the idea that between owner and property there's an objective link that can be perceived intersubjectively and formalized on the basis of principles. Yes. And perceived — careful, this is very important. It must be perceived by several subjects so we can agree. Again, behind this whole discussion is the fact that the system of property assignment in libertarianism is built so as to minimize conflict between people. — Yes, — without this assumption — we must always keep it in mind when we look at — — at Kinsella's argument. So when the state says that people under it, on its territory, must raise three fingers, and it's seen that this doesn't

[1:00:49] happen, then the state doesn't own you, and so you're free and own yourself. That's a simple experiment you can do at home. — Well yes, but I'm thinking the state catches on to social engineering — making you raise your hand, you know? Or a hypnosis specialist. Whose body is it? — It's still not a direct link, because he uses some means to induce you to raise your hand. I mean, as I was saying — — it's mediated. It's not unmediated. — That's what I'm saying. It's not unmediated. As I was saying — — you know the state says "no, I'm — you're the indirect one, I'm direct" — it can say — — in an episode a while ago, that even with the invention of an interface technology and a drug that could withdraw the will — so a technology interfacing a mind with another body, and a drug that withdraws the mind from someone's body —

[1:01:52] even when we get there, the idea is preserved that you have a direct, unmediated link with your body, because — — the other will — — the others — you have the interface, which is a means; you have the pills, which are a means; and there still has to be an agreement given for such control. Good. And this objective link, when it comes to external resources, to objects, can be instantiated through the first controller. Yes. The one who first controlled the resource, the first user, or whatever we call it — whereas with

[1:02:55] bodies, where the first-controller principle doesn't exist, or is — what's the word — — ambiguous. — Ambiguous. Yes. There you have the direct-control principle Gabi described earlier. — I was thinking: when state institutions do inspections, isn't that mediated control? — It's very mediated, because they look at documents, which are a means. Documents you're obliged to keep — — or you can say it's — that it's subjective. — What other work do you do — — listen, you can say — — for your master? I can say they're subjective, the way Obama sent the IRS on the — no, it isn't objective, it's subjective. — Yes. — Another question arises, namely: okay. If over a natural resource like this glass I become owner by the fact that I already have a body, what happens with

[1:04:02] my body? How do I become owner of it when I don't have a body? So how does this happen? Body. — Well, he says — — ah, that here it would be absurd. — Yes. Through first use — — to use, you must have a body in order to use something, and then it's easy to talk about appropriating something from nature when you already have a body. But how do you own yourself? How do you become owner of the body? So before, what did you have? — Well, the answer — the answer is you hitchhike on the Holy Spirit. — No, that — that's the premise — — Christian. — You hitchhike on the Holy Spirit and He put you there. No — — I don't know. For me it would be enough. Look, he struggles with — or I think

Rothbard too doesn't simply postulate. I'd be satisfied with postulation. Look how Nozick says it: people have rights. Likewise here: people own themselves.

[1:05:05] — Well — — and I don't start again. "Wait, it's an objective link; wait, it's the first user." No: people have rights, they own themselves, then we discuss. — Well no, because I reject that — — he makes a distinction here between — — "to reject that you need the right to reject it" — — and that with the body you have the direct link, you know, and objective, and because of that. So he makes a distinction between the way you appropriate your body and the way you appropriate a resource external to the body. And for the body he brings in this direct link: you are the body, and why — intuitively. — Yes, yes. We talked about this last time. That's the naturalistic fallacy, so to speak: deriving norms from factual things, from facts, you know? — Yes. So the fact that you can do something doesn't mean you ought to. — Yes, but the "ought" there is given by — that's what I was saying we must remember in

[1:06:08] the context of the discussion. The "ought" there is always given by minimizing conflict. Yes, you have to insert it somehow, you know? You need it there, because look, we talk about rights, but we have certain entities that have rights — hens don't have the right to — — any ethics. Any ethics, as I've always said, has an end. Ethics is the way of measuring means — — the end — — and the end given here is minimizing conflict. Because he says here: "We minimize conflict by assigning Costel's body to Costel. Because if we assigned it to another group or another person, or to all other people except himself, we'd create more conflicts. So it's better to let Costel own himself. Because Costel controls his body directly, and anyone else who tried

[1:07:13] to control Costel's body would have to do it indirectly." And here review what I said ten minutes ago about — even if the technology existed — — you can't solve it formally, as with anything coming from entities — whatever ethics you had, you establish a domain over which those rights operate, you know? And you'd say: "Well, we'll always commit the naturalistic fallacy — we established that Vali is human, then decided he has a right," you know? You can solve this problem formally: by amalgamating factual things and normative things, you know? "If he's human, you must respect his rights; but Vali is human; therefore you must respect them." — And that's a formula, how to put it? — The domain of libertarian ethics is human actions. No — — did you understand what I said? You mix factual things and normative things and so have sound things, logically, you know? I mean you no longer commit the naturalistic fallacy, you know? Yes. "If he's human, then I must respect such-and-such." See, I've combined a factual thing and a normative thing,

[1:08:15] you know, into a conditional. "Vali is human. Therefore I must respect his right." So you have a syllogism that mixes both. — Okay. It's more complicated, but whatever, to avoid that objection — and it was very subtle — — and here, by assigning Costel's property right — — to Costel's body through this argument that you have direct control over your own body — that too is a mixing of — — you can formulate it that way too. I told you. I wouldn't even bother, you know? It seems to me the level at which people have the right, you know? We don't — — we don't discuss anymore. — Yes, but well, the man tries to — — probably in his casework, which he encountered in law — — what does he add when he tells me it's because of control, because it's direct control, or because it's first use? But what I suspect is that he ran into certain aspects in the cases he

[1:09:19] saw in the courtroom — — in which he had to make — — a differentiation of this kind to prove something. It's clear what the problem was: the problem was those children whom their parents butchered. — Those children whom their parents butchered was an — — instance of a theory. So the first premise — the homesteading principle applied to persons. That's — — the first premise. Yes, exactly. The first premise is that libertarianism wants to have one rule for all. Yes. That is, to be

universalizable you mustn't have two categories. Yes. And here, even if you didn't have two categories of subjects, you had two categories of objects. Yes. Over which — so the way property was obtained was one way with objects, with resources, and another way with people. Yes. And then you also had another problem inherent in the way

[1:10:22] Rothbard solved it. Yes. In which he says the child can run away. The moment the child runs away he demonstrates his self-ownership. Yes. Or the moment the child wants to run away he demonstrates his self-ownership. That was the first. Afterward he added that he must also be able to support himself and so on, but initially his position was: when the child runs away, that's it, he owns himself. — And we discussed this topic quite a lot when we did *For a New Liberty*: that merely running away isn't enough. And not only isn't it enough, it introduces yet another conflict, namely: if the child is in the parents' ownership and decides unilaterally to run away, this is the only case in which theoretically property is obtained through theft — which again is a problem. Yes, because

[1:11:25] — he administers it. If I decide to take the parent's property — if I, the child, decide to take the parent's property and run off with it without the parent's consent, that's theft. — Because the parent represents his interests; he's dust. — Okay. So there are very many — — you know what else I thought of, with the first man? Let's say — — do we have anything else? First man. First man. Let's say homesteading. There's this matter of transmission and I don't know. — Right. — First — — it's there. It's harder there. Now — — he — he received self-ownership from his creator — — so we don't go into other details. — And the creator and — — where did He get it? His creator got it from the birth of the universe. Yes, there's a problem with the first man. Let's say you don't need theological assumptions, you know? — Well — — and I told you the problem arises even if you have theological assumptions. God

[1:12:28] owns Himself. — That's exactly what I'm saying: what Kinsella finds here is nice, because it solves the problem of the first man. So he arrives at the idea that he needs to generate a way — which is more semantic, yes? — but generates a universal way of instantiating the property right, and universal in the sense that you no longer have two objects. You no longer — you have a single subject and a single object, namely he says: between the owner and the property there's an objective link that can be perceived and communicated intersubjectively — and here he closes. And the instantiations of first use and direct control, respectively, are only instantiations of this objective link.

[1:13:32] — So we'd have three criteria, no? — What? — Three — we'd have three — — no, just one: the objective link — — not the other two. First user. Yes, all of them — three competitors, let's say. What would the third be? — Well, this one: objective link, direct control and first [use]. — Well no, direct control has to come alongside. So direct control plus first use together create a system. They can't exist separately. Because direct control you can't have over — you don't have direct control over — — resources external to you. You have indirect control through the body — — over politicians. You have direct control. — Yes, especially over politicians. — There you have no control. — Good. And I was saying it also solves the problem of the first man, because the first man at some point had an objective link that he could communicate

[1:14:38] intersubjectively to his fellows when needed. Yes. — Regarding the relation between himself and his body. — Another argument for owning yourself is a Hoppean argument, namely: when someone contradicts you and says, "No, you don't own yourself. I, or the state, or a group of other people has a property right over your own body," he does this through direct control and through the use of his own body, and therefore he no longer has the right — through estoppel procedures he no longer has the right to contradict you; that is, he contradicts himself by using in his argument — — he uses what — yes, he avails himself of what he denies you

[1:15:43] — to make his argument. — Yes. — And well, here Costel will say: "Well, but it doesn't have to be universalist." — That's right. But — — we've said that for the condition — I said it earlier — for it to be just — — for it to be a just principle of granting property, it must be universalizable. Well, to summarize Kinsella's position, he says: why is direct control relevant — why is that objective link relevant for determining ownership over human bodies? And he says: "First of all, it's evident, even intuitive, and the answer would be: who if not me?" And

[1:16:46] he sends us to Hoppe's discussion in *A Theory of Socialism and Capitalism* — a discussion we also had when we did the book. You'll find on the channel the playlist "A Theory of Socialism and Capitalism." I think it's the discussion we had in the very first episode about it. Even Locke writes that every man has property in his own person, and nobody has rights over it but himself. That came from Locke. The second point would be the arguments made by Rothbard and Hoppe — and we addressed them too, with Rothbard, when we did *For a New Liberty*. I think we even have a short clip on the channel called "How You Own Yourself" or something like that, extracted from that episode, about

[1:17:50] the impossibility of the two possible alternatives to self-ownership, namely the communist alternative or the alternative through intermediaries, which are unsustainable. Here I'd come back: the communist one is unsustainable and the other one is non-universalizable. [Third,] the distinction between prior and later: it's hard to deny that a person has control over his own — has justified control over his own body. Because, as Gabi said earlier, anyone who wants to

[1:18:54] make use of that body must control it indirectly, and therefore comes later. He comes after that person was already there. — The state comes later. — Well yes. — Good. Then the problem that if the slaver — this is what we'd gotten to discussing in the previous episode with universalizability. If the slaver, the slaveholder, claims control over the slave's body, he must have a certain reason for it. Yes. — A reason that would have to be at least accepted jointly in a community of acceptance by both slave and slaveholder. — Depends on the number — — even that can be

[1:19:59] — right. And the fifth point of the summary is that if control over the body — if ownership of bodies were assigned to an indirect controller, conflict would become inevitable, because he couldn't exercise direct control over that body as long as the person who owns — well, who in this case controls the body directly; we can't say he owns it, yes? — controls the body directly — is alive. I mean, you can control the body only in the case Costel described, if it's an object, and for it to be an object the only option available today is for it to be a corpse.

[1:21:01] — Or not? — What? Yes. Or you take it there. Yes. Good. Those would be the five points Kinsella summarizes in favor of establishing direct control as that objective link between owner-person and property-body. And that being said, we try to apply the principle to children. Well, good. The child — well, it's clear: the child controls the body directly; therefore he owns himself — and this seems to open wide again the problem we were left with from Rothbard, in which the child runs away from home,

[1:22:06] is five years old, and suddenly we have to pretend he can conclude contracts. Yes. And here Kinsella mentions a conclusion Hoppe reached in his 1989 treatise, where he says that the property right the child has presupposes that he has the right not to be aggressed against, but not that he suddenly has the right to give his consent, because Hoppe says that the part of giving consent

[1:23:11] appears only when the child himself, or the person himself, is a rational agent capable of communicating, discussing, arguing, and in particular capable of starting an argument, of entering into an argumentative discussion about normative problems. So I found this of Hoppe's very interesting, but on the other hand it seems to me it precludes from the capacity to give consent a large part of a dumbed-down population that can't tell the difference between normative and — — yes, that's more

generous. Maybe if he says "I don't want to," that's it — it means he argues. — What? No — — it shouldn't be you telling me what to do. Already argued.

[1:24:13] — I mean, does the child have to come with Martineau, or — — yes. — he says "I don't want to." — Well no — "you shouldn't tell me what to do." — It's not an argument. The discussion Hoppe proposes is argumentative. Yes — — because I have to — he argues like this. — Yes he does, because he says it's his body, you know? "Don't make me." — Well, already if we get to that chapter — yes, there you already have an argument: "It's my body, therefore I decide what to do with it." — If he raises his middle finger, it's already libertarianism. — Yes, but for now what you've done is an argumentative proclamation. The discussion follows when I ask you why the body is yours, or what makes the body yours, and you give me an answer, and to that — — coherent, because if it's not coherent it's no longer an argument — — you know, I mean that's why I find what Hoppe says here really cool: it indeed presupposes that capacity

[1:25:19] which we were trying to abstract — saying a person is capable of consent when he's capable of understanding his future actions. It seems much nicer in Hoppe. — Yes. — than starting with — — the nature — what? Go on and I'll come back. No. — Yes. — Kinsella makes the comparison with animals here, and animals have direct control over their own bodies. Yes, but they're property — let's say a puppy or — — or a cat, a hen, or a cat — — over — they're a person's property, but they're not rational agents. So the bar a child would have to clear when he runs away from home and no longer wants to stay under the parents' management is very low. I mean, I'd say it's enough to say — and implicitly the rest of the argument — "I don't want to anymore." — No, that's not quite it. An argumentative discussion isn't implicit. A puppy

[1:26:22] or a hen doesn't say, "I don't want to eat these kibbles anymore," or "I don't want to stay in the house, I want to stay in the kitchen." — Well yes, but a cat, for example, runs away too, or a dog can run away from home. There are countless dogs that ran away from home. You know, but it doesn't offer you an — — argument? — But this one doesn't offer you an argument either. If we say "I don't want to anymore," that's communicating a preference. It's not a — as Hoppe says, that's why — — conclusion without the premises, you know? — The standard. Yes. Exactly. — But why don't you want to anymore? — Exactly. — To construct a reasoning. And not just a reasoning — it has to be a reasoning in the category of a normal discussion about norms, not about preferences. I know that's what the gentleman here says, but — — how to put it — I don't think he has to — there are many people who don't know the whole argumentation where you have to set

[1:27:26] all sorts of premises — — it doesn't matter, if he does it — — but that's what I'm saying — — the man who eats understands all the [protein] and — and for me — for me too it's implicit things — — precisely, and for me it seems the limit, how to put it — the bar Hoppe sets is very high for a large part of the population. — Yes, — yes, but I don't think it requires elaborate things, saying some premises there, you know? — Yes. — "Why are you leaving?" "Because I don't feel like it anymore." There's a reasoning. Immediate inference, you know? — It isn't. I said you must at least have a justifying position for the lack of desire. He just communicated a preference as a premise for — — well — — lack of desire is an effect. It's the conclusion. — Well, and — — sorry, it's not the premise — leaving is the conclusion. — Yes, but the discussion has to move into normative territory. Yes. Why must it be so? Look, I wanted to say one more thing about

[1:28:31] first use. Kinsella says something like: a mere declaration isn't enough, because it doesn't exclude conflict — declarations like "this is Moldova's water," you know? No, it isn't. But I'm also thinking of a situation where the community accepts it, you know? Where you have no conflict — they accept the first declaration. What about that? — "This tree is mine," you know? Okay. Yes, yes, yes. —

So you don't have to do anything to it, you know? — Again, the discussion would be: okay, the community can accept it, but you want a norm that covers all cases. Yes — "can" doesn't mean the community must accept your declaration, and then you'd have to find a higher reason why the community must accept it. — Well yes, but the motivation would be this with labor. You did something more — raked a bit — than just saying it, you know? That's — — talk is cheap, you know? — The deed is — yes — — yes. But I'm thinking of these people

[1:29:33] who say: "No, brother, the word — in the beginning was the Word," you know? So — — the word [binds]. — Yes. And now he continues with the footnotes and appendices, Mr. Kinsella, and explains, for example, why he moved from first use to the objective link. [Prompted] by Rothbard, and what Rothbard said: the absurd cases in which other persons own your body simply lead to the extinction of humanity, because you'd have to get everyone's agreement before lifting a glass and drinking some Coke. Look, here it seems to me both Rothbard

[1:30:39] and Hoppe overbid a bit, and with this overbidding David Friedman catches them, so to speak. They say we can't generate a normative case, or a normative system, whose fulfillment would lead to the extinction — — of humanity. — Of humanity. — And we have the edge case. Yes. In which aliens make you steal or else humanity [is exterminated] — — and the libertarian answer is: you don't steal. — Yes. Yes. Good point. — That's why it sometimes seems overbid, you know? I mean, here it seems to me the argument is utilitarian — needs to be found. Yes, exactly. We'd need to find an ethical argument for why communism — why communist ownership of bodies can't work. And the ethical answer is exactly this: it can't work because the purpose

[1:31:47] of an ethics is to regulate action, whereas the only action that remains possible under communist ownership of the body is inaction. It contradicts itself — — well, inaction is an action, well — — it contradicts itself. It's not inaction because I — I can't — any — if you initiate an action, you must have the others' permission. It presupposes. To give permission presupposes initiating an action. Therefore the only thing that remains possible within communism is that nobody does anything. — Yes. Which leads to the extermination of the species. But that's not — the problem isn't there. The problem is that you create an ethical system in order to regulate actions. If the only thing that remains valid is the absence of any action, it means you've generated a contradiction. — No, their answer might be that we decide only on capital goods; bodies remain as we established, individual. — Yes. Only Rothbard here is talking about

[1:32:52] — yes, but you can say he overbids, plus they understood by ownership of the means of production non-human, non-human [ones]. — Yes. Okay. — Well, if you look at them historically, they're human too, very human. — Yes. — And very inhuman. As far as I'm concerned. — Likewise. And those who consider "what's this nonsense, first use makes you owner of a thing? You should wait for this land to come into your ownership — you should wait for all human generations to appear on earth and then — — and then use it." But you see — — yes. Because — — you, being, let's say, the first man on earth — — you can't — — well, but those won't appear. — You can't know what they have. — So there too the answer is exactly this: the only action that remains moral is the absence of any action.

[1:33:56] — Yes. — Because you can't obtain consent for any other action, and that generates a contradiction for you. — Implicitly. And imagine they wanted, you know? Why — because they didn't want to die; therefore now you rake there. With — — what fault is it of mine that I was born in the 20th century and all the land is already appropriated by others and I've been left out? They should have asked me too whether to give me a plot somewhere. — Go sue someone who's been dead for five centuries and let's see. I'm sure it'll be an unimaginable plea. Well, one thing Kinsella also mentions here

is that Cohen, a Marxist philosopher, more or less accepts the libertarian position, saying that people can't do anything without

[1:34:59] using parts of the external world, and if they need the community's permission to use them, then they themselves don't own their own persons. He says "do not own themselves." I don't know to what extent to translate that — — because they can't do anything without the community's authorization. Somehow that would be the strength of the libertarian position on property over bodies. Well, I said I'm a bit skeptical — I think we could have an equally strong theory without focusing on this theory. — Perfect. — Yes. On this dualism. Likewise John Locke gives the same argument — as they say, this reasoning wasn't

[1:36:05] born two weeks ago. He says that if you want to make necessary the consent of every — every commoner — so with him it was about appropriating some part of what's in nature, yes? And if you want to make necessary every man's consent for any kind of appropriation, then children or servants couldn't even cut the meat their father or master gives them without first assigning each piece. So if the master gives you a bone of meat, yes, and it's for the whole family, Locke says you couldn't

[1:37:10] portion it without assigning it first. — Hm. To each of — — mess — — yes, there are many footnotes, including on this: by contract you can only transfer titles of ownership over alienable goods. You can't generate positive rights or passive — sorry — obligations through them. You can't put the will in there. All sorts of cases like this. Yes. And Kinsella also says in one of the footnotes — which I'd say are relatively important — that he uses the same term that has taken root in libertarianism, self-ownership, but by self-ownership he means ownership of a person by — the reverse — ownership

[1:38:18] of the body by a person, where the person — or actor or agent, he says, are also accepted terms — is conceptually distinct from the body, from his own body. Just as a man's mind is conceptually distinct from his own brain, even if, he says, it's not possible for the mind to exist without the brain or the person without the body — and that the term "ownership of one's own body" would be too complicated to use, which is why he sticks with the more established term, self-ownership. — Look, on the problem of appropriation — does it seem to you the state always relies on appropriation? — It seems to me the state always stays

[1:39:22] too close to — — the throat — — appropriation — — of people. But well, what can you do? People want to be slaves; they don't recognize their masters as masters. That's it. — For Berceanu, Costel Stăvărache — I've been Gabi Munteanu, and we await you next time for a new episode of În Dodii.

Video 4 (#309): The Theory of Punishment and Rights (Chapter 5)

Original title: *#309 | Bazele legale ale unei societati libere - S. Kinsella - Teoria pedepselor și a drepturilor*

Length: 2:30:12

Link: https://www.youtube.com/watch?v=Q_PqJDzf3pM

[0:00:00] It won't come out legal. I like estoppel, because I stop you — you want to have a contradiction and I stop you. Wait, man. — Well, it's not a prohibition; it sounds legal like that. — Well, I'm starting the show now, you know? Good day, now on a new episode of În Dodii. — Good day, and good to find you, my dears. — Someone thought we'd run out of ideas. Mental tune. Viet Cong mental, if you didn't like it. — Oh my God. How? French. — Mental — — of Viet Cong. Really cool tune. — Has Viet Cong potential. — Has potential — — of Viet Cong. — Yes. — Viet mental. — Aha. Another Viet mental. — Let me give you a hard one: if you have that group of fighting Ukrainians who say "we'll fight; the rest, including Zelensky, including the population, said, man, we won't fight." And they fought anyway. The Russians, while attacking this Ukrainian group, hit civilians. Who's to blame? — Oh boy! Well now they've clearly hit, no? But let's say it was only some of them — you know? It wasn't the whole army, not the whole statism; it was a quasi-communitarian thing. — Ah, they defended themselves as volunteers. — Yes. So it was some — "only we will fight." Yet because of them they affected others. — It's the Russians' fault anyway. No, no — it became — — why? Through taxation or as collateral victims? — Well, taxation is also a collateral victim. It became a different kind of war, in the sense that — and the Americans when they were in Iraq, for example, some patriot came along in Iraq and said, "I don't want an American foot in this country."

[0:02:10] — No, the Americans caught him — they went to his home or — — they'd sniff through some hole and say "idiots" — — including [unclear] said this. — Right. And — — if they hit that guy specifically, it's a targeted killing. But I was thinking about all these collaterals. — Well, but there were no collaterals. That's precisely why, when you're at war — this kind of guerrilla war — it's no longer full-contact war. — Depends. — No, guerrillas can also have — hide among — — liberals have this sympathy. — Have you heard, theoretically, of the Rape of Belgium? — What? No. — What? — I don't know it. First World War. The Belgians waged a guerrilla war, and the Germans considered that the population helped them and started executing civilians — — at random. — You can do that, but I don't know — recently I saw that — — including, as they say, you don't even need guerrilla war. You want to decapitate some people from an enemy country surgically? Yes. Just an apartment — the guerrilla's position. You have surgical now —

[0:03:13] — it can also be — why shouldn't it be guerrilla anymore? — What? — Why shouldn't it be guerrilla anymore? Because the guerrilla — — well, because the strong ones go in and hit the guerrilla — — they hit without it spreading. Guerrilla war is waged by those who aren't strong. — It was surgical, like [unclear]. What was it called? Yes. — Good. — And everyone looks there while we talk about this. — Hello. I'd like to present three books that have appeared in the Romanian fiction landscape about the free market, capitalism, liberty and anarcho-capitalism. They come from a new publisher opened by Mr. Liviu, who approached us in the Telegram group.

[0:04:17] That's where you'll find us. He found us there, and from him we have these books. They're three books by Doug Casey and John Hunt, from a larger series of six books. The first three were translated by Mr. Victor Ionescu, and we start with the book *Speculator*. Then comes *Drug Lord* and *Assassin*. I think we'll do these at some point and comment on them more extensively. But until then I want to say a few

words about them. They're fiction books, unlike the books we usually discuss on În Dodii. They're not science fiction like Robert Heinlein. They're books like — if you know Schulman's book *Alongside Night* — yes, he's also a reviewer of these books.

[0:05:24] It's about a main character who goes through several contexts, let's say, and develops libertarian ideas: the entrepreneur, the speculator, the problem with medicines — "drugs" is a translation from English "drugs," but I think it's better that Mr. Victor Ionescu, the translator, kept the word "droguri" rather than "medicamente" — and the problems with the assassination of a person. We have reviews of these books from Ron Paul, from Walter Block, and for *Drug Lord* we even have a review by Ross Ulbricht, who wrote words of praise about these books

[0:06:27] — and Lew R[ockwell] — — yes, and Lew Rockwell too. Yes, yes, yes. It's not about this state capitalism or corporatism. It's about real capitalism, the free market, where the private-property order is truly respected. I don't want — yes, I don't want to give any spoilers about exactly what happens in these books, but in the description you'll find a link to senseofselfpublishing.ro, to this publisher, where you'll find and can buy the books, and we recommend them with the greatest pleasure. If you remember, around episode 200, "Flowers, Girls, Films and Other Nonsense," Doug Casey was mentioned as an author. Now we have him in Romanian too. If theory seems too

[0:07:31] difficult and so on — here, we can try fiction too. — Yes. And for those who have difficulty imagining what such a universe would look like — here you go. [intro jingle] Hello!

[0:08:46] Welcome to a new episode of În Dodii. Today we continue Kinsella's book, *Legal Foundations of a Free Society*, with Chapter 5, on punishment and rights. But before this chapter, Mr. Vali Berceanu will say a word: like. — That was the word. Gabi didn't let me say more. — Press the like button so the video goes into YouTube's algorithm, and share if you want someone else to find out what we do here. Subscribe if you want to hear more from us. If you want to talk in real time, you'll find a Telegram link in the description, a group where we hang out too. If you want to read other libertarian stuff — but before that, I got ahead of myself —

[0:09:50] if you want to find the book, you'll find it at the link in the description, about Kinsella. If you want to find other libertarian things to read, we now have a run of episodes in which we'll post a link to Sense of Self Publishing. It's a new publisher in Romania that puts out fiction with a libertarian orientation, and we'll talk soon about some of them. And also, if you want to support the efforts we make here, please turn to the Patreon or crypto link and do what needs doing. We thank those who already have. Mr. Kinsella's Chapter 5 begins with a —

[0:10:53] — it's about punishment. — Yes. With a nice saying: civilized people have a certain reluctance, when they try to punish someone, to use physical force, violence against someone, and they need a justification. Yes? We need a theory: are we doing right when we punish that person? And he says — — "let me give you a theory." Yes. So Mr. Kinsella gives a theory. Yes. Yes. So they need an explanation of why — — and a theory of consequences: if we impose this punishment on aggressors, will things be better or worse in the future? Yes. And he mentions here that civilized people think about consequences, but I say consequences shouldn't

[0:11:56] be the main reason we punish an aggressor; rather we must make the victim whole, or bring him back to the pre-aggression state, as far as — — well, here I'll push back a bit. — So he says that in conventional theories of punishment — okay, no problem if that's what he means — he says: the concepts of restitution, deterrence, retribution and rehabilitation are used as justifications. It seems to me the concept of restitution isn't a concept that exists out of the need to justify punishment; rather,

punishment is something that was grafted on top of the concept — grafted to encompass the concept of restitution. I mean if

[0:13:00] you start from the view — and here maybe it's related to the fact that Kinsella in this chapter starts from the view "let's look at punishment as the starting point," as it were, of the whole theory — whereas in all theories of justice, not of punishment, in all moral theories and so on, punishment is something consec— not consecutive — what's the word — that follows — — corollaries. — It's not something — — a consequence. — Yes. Right. It's a consequence, a result; it's not a starting point. It sits in the second part, not in the hypotheses. — But he makes the confusion, it seems to me, because he says:

[0:14:04] — but he's not [unclear], wait and see. He says: "A thief says he doesn't think it's fair to return a hen he stole, and it seems like a punishment to him." Even restitution seems a punishment to him, and he objects. — Well yes, okay. That's why I'm saying — — and that's why — — the concept itself came to encompass restitution, but restitution as such is something else. It derives from something else. — Exactly. You say: "first we make restitution, the stolen hen, and then punishment begins." It's something additional. In the theory we hold at this table — or at least some of us at this table — no, — the concept of punishment doesn't even exist. It's only about resolving the problem of the restitutive rights that were created — — an imbalance

[0:15:06] — the moment the aggression happened. That's all. — Yes. Plus this thing with restitution — it seems to me it doesn't even exist in current state law. — Yes, well, that's even more — — how doesn't it exist? Don't you pay — — damages? Yes. — Well, you pay damages. Yes. But at most you pay damages — — in civil cases. Correct. Exactly what Alexandru said. In criminal law the question of compensation doesn't arise. — Well, because that's against the state anyway. It concerns the state. Yes. Deterrence? No, because ultimately there are three big theories: deterrence, rehabilitation and restitution, no? — Yes. — That's it. — Yes. — Fine. And there's also — ah yes, well. Restitution and retribution here are split in two — — no, retribution is — [and] restitution. Right. — What's vendetta called? — Yes. — It's — — 2x. — Never mind 2x. But what's it called in Romanian when — revenge. Revenge, revenge

[0:16:10] — yes. But it's still a kind of — — no. — Ah, you say it's motivation. — Yes, motivation. You simply want — nothing is restored to you, you just want to retribute. Restitution would apply only to objects — to the actual objects that were part of the theft or of — you know, I can't — for example, he gives the example a bit further on; we'll come back to it. But he gives a harsher example: you can't have restitution for a rape. — Yes you can. — No, you can't have restitution for a rape, because you can't give it back. You can only have retribution. — The woman rapes the rapist. Correct. — Even if the woman rapes the rapist, it's still retribution; restitution means making things as they were before — — and you don't change — — ah, that would be the difference. — Say in Latin now something "broken." You can give — you create an equilibrium in revenge. But well — — you deepen the imbalance.

[0:17:13] Yes. — Or [unclear]. — Yes. — Good. Yes. And he says here: civil people say we must have a theory of punishment to preserve our image as civilized people and to be legitimate when we punish someone — so that it seems legitimate to us. For example — and this is another thing I'd say: when you talk about punishment, the concept of punishing — I don't know, at least for me — has an inherent implication of the human psychological side. I mean punishment is a subjective act — — compared with a theory of justice that prescribes restitution — that prescribes only restitution, yes, based on restitutive rights

[0:18:17] that are created the moment the aggression occurs. I'm saying this is something you can describe devoid of any — and in fact I think this is what attracts me to it — devoid of any subjective human impact. — There's no such thing as non-subjective evaluation. Even if two apples are given back,

the evaluation that we must give two apples is still subjective. — Everything's subjective. — It sounds more objective to you: "he broke my table, he gave me back a table," you know? But whoever wrote the community's constitution, that judge, evaluated subjectively, you know? "For one table, two — for such-and-such." — Well, but I — I'm talking about the fact that the two comes directly from the way we construct the creation of restitutive rights. — And that's subjective too, as Friedman says: why two and not nine? You know — — well, there is an answer why two and not nine. Even that answer is still subjective — — and your evaluation of — so you can say it seems logical,

[0:19:23] — but even we aren't perfectly happy with why it's 2x, why not 1x, why not 9x. — What Bash— says makes sense — perfectly happy with why it's 2x. — Yes, but you see, you're happy. I mean I'll take Costel's side here. It seems to me — — and wait a bit, let me take it [step by step] — the reason I'm happy is that in my subjective evaluation — — the normative principle makes sense, it's universalizable and objective. — Well — — and that's why I'm happy with it, because I prefer a principle that's universalizable, normative, objective. — Yes. — You say universalizable. — Yes. Because it — it can be universalized if people — if people say — ah yes, but for people to say "ah yes," they say "ah yes" subjectively, and everyone would agree. — You're happy with it, with 2x, let's say. — Well, I'm happy; others will say "I want 9x."

[0:20:25] — I'm happy with 2x because 2x follows from certain objective elements of the theory, not from something else. Yes, but think — you can make 9x universalizable, and that's exactly the problem. — No, it seems to me there's no universalizable X. So you can't say "this much is correct." — Not just normatively, Vali — when you write those norms normatively, you say they must be universal. — People can — in short — — what Alexandru says is that in reality they're not universal. Someone can say, "No, I only want to give — " — that's it. People might prefer oddities, and you — as the judge we're playing at — you'd tell him, "I don't accept that, it's not right." You can — — that's [not] the judge's business. No, excuse me, but it's not the judge's business. So people can prefer — from this point of view, people can prefer oddities, yes? — The norm is 2x. Yes, — but how does the norm arise? — Well, how? Well, I've explained that to you too. But logically: the first X is that

[0:21:29] it's about the object itself that was stolen, and the second X is a restitutive right constructed toward the whole community, because he broke the law — the contract of non-aggression. It wasn't only with you; it was with everyone. Yes. The moment he — okay — the moment he breaks the non-aggression contract with you, he has broken it toward everyone and has created a second right of restitution toward everyone. That one is appropriated by the victim through a complaint, and it's also the only way — because here Kinsella gets lost in the detail and misses this. He doesn't — so it's the only reason — — sorry, it's the only justification by which you can punish a murder, because the victim of the murder is the dead man. The dead man doesn't complain, — and can't — — can't complain in a civil case. And

[0:22:32] because we live in a society in which people aren't property, the dead man's family can't complain either that their property disappeared or was aggressed in any way. Because all rights are property rights — if we're to be 100% libertarian, yes? — Therefore I didn't violate any property right of yours when I killed your brother? — Yes. — Because you didn't own your brother. So you have nothing to complain about. The only way you can complain about the murder I committed on your brother, if we want to remain — — consistent, — is if some property right was violated. Yes. And the way you do this is because when I killed your brother I violated his property right, but that died with him, and I generated a second restitutive right toward everyone, which you appropriate. — Mm — — okay, I understand the position. I'll think

[0:23:36] about it more. — Yes, but Vali, I don't know what you think it solves. It doesn't sound very libertarian, this — — that it's toward everyone. — You're indebted to the victim? Not to — — well, you're indebted to the victim. That's the 1x. — And that's exactly what I'm saying: I'm not indebted to his heirs. Yes. Anyone can appropriate that right and complain on its basis and, theoretically, kill me. So where — — and that's a discussion, you know, if the victim says nobody should avenge — — the victim doesn't exist at that moment — — the victim is still libertarianism — — say he says beforehand: no ex— — if he says "don't avenge me, and if someone kills me I won't complain," it's irrelevant — — how irrelevant — it's irrelevant, no — — then it's no longer — — so you have the will, you have the will of the owner. — So the right to life is inalienable. Let's take it another way. If I say I won't complain if

[0:24:40] someone kills me — yes — Fi[ul] doesn't agree with me — — you have to be able to transfer it. — I can't impose on him — — what? Not to complain. — Yes. — Well yes, but on what basis does he complain? That man was not property. — Who? — The man. The man. Well, the man wasn't property. But if you don't accept my version — that the man wasn't property — then it's very simple. Nobody complains, regardless of whether he said "don't avenge me" or not. Yes. If we don't accept this second right of restitution created toward everyone. Yes. It's not irrelevant. — I'll think more, but it sounds very un-libertarian to me. Yes, it's new. — Well yes, but the victim doesn't exist. — No, but victim we don't have — the victim — no, I mean the victim no longer exists. So in cases where we have a victim and the victim complains, everything is very simple. In the case of murder the victim

[0:25:44] doesn't exist. And the way most libertarians have tried to solve this problem was: the family complains, acquaintances complain that I did him harm. Yes, but all rights are property rights. You didn't have property in that man. — But that's not the basis. — Yes it is. If we're to remain consistent that all rights are property rights. How do you need that? Wait, I swear — — to defend someone from a thief, I don't have to admit I'm the owner of — — but I can defend someone from a thief — — anytime. Yes, but on what basis — — what do you mean on what basis? On the basis of his consent that he wants to be defended from a thief. I can't defend him from a thief if he tells me "don't defend me." — Well, same with murder. — Why don't you use the same thing with murder? — Because it's not about defense here. It's about a complaint post hoc. Defense is something that — wait, wait — — it's something — if there's a guy with a pistol who says he'll shoot this one, and I come and get ready to whack him

[0:26:49] on the head, and he tells me, "No, don't interfere, leave him" — I'm not allowed to interfere — — with the mechanism — — but after he's shot him I'm allowed to — — let's not get attached to things — — let's say that contract with all the others in the community — — right — — that the aggressor, the murderer, violates — — right — — okay, on the basis of that contract and its violation, he's punished for murder, because you see, the moment you start — the moment you start introducing the word "punishment," you need a theory of punishment. — That's what you were saying just now, no? That we must make a restitution because the one who — — I was saying that the moment he violates — the moment he aggresses — — yes — — he creates a restitutive right directly toward the person aggressed, and a second restitutive right toward everyone.

[0:27:50] — Everyone. Good, that — — this second restitutive right is appropriated by the first person because, being toward everyone, it's as if it were in the state of nature. — It's very close to — — to criminal law. There's a contract, as it were. There's a contract — yes — of the community. — No, there's no contract. Natural rights suffice. You know? — Yes, natural rights suffice. You don't need a contract. — Well yes, but you have individuals. — Okay. — It's a kind of — it's a kind of customary obligation, no? Or this thing. — No, it's the nature of man. It's existent. It's derived from the fact that we have rights — — that I have — that I have — — yes, but the problem is in this community; plus they're stronger than contracts, I have the impression. — I was thinking that — — if it were — — yes, that's why you have

rights that are inalienable — — and that victim withdraws, since the guy is alive, from that contract. — How is it something other than a person? I mean,

[0:28:55] yes, you — I thought it could be something more — — let's think some more; maybe we'll come back to — I think not. — Think about this objection too, because it sounds very — — so a point of libertarianism was that there's no criminal law — all law is civil. Whatever you say, you somehow create an obligation toward society. There's no obligation, only toward the victim. It exists. — Another thing: you have a problem with the fact that he died. Okay. So what if he died? He has — — the will — — the right. You can apply punishment in his name. You know — — as an inheritance. — What? — As an inheritance. — Well no, you can't inherit property rights. — And that's — — that's a discussion in itself. Who can bring [the claim]? You know who can bring it? Wait, no — so we said the person and his body are one entity. We don't have property over the body. — Still, — legally speaking, you have to approach it as a

[0:29:58] property, the physical part, or isn't it? We agreed it's the same thing. We agreed that when you sleep, where is the person? Yes. Why? It's body. — It's body. So the body is the person. It can't still be — if he wants to produce capital goods, I don't know, sells his hair — — right — — you have to be able to approach them as property too — strictly, coldly, legally, civilly. — Yes. — Good. And if you have an individual who says the right — so you can let it be property so that you don't make two things, physical properties and person — — and put it under properties too — — to treat it that way — — which can be distinct from me. — Well yes, everything can be. That's it. No, no, no — it can't be, because for example — or at least at present,

[0:31:02] — for example at present the heart can't be distinct from me unless it's where it should be. I no longer exist. — Pumps. Okay. But no, no, no. — And certainly what can't be distinct from me is the brain. Regardless of — regardless of technology, I'd say the brain will never be able to be distinct from the man. The rest, let's say that — — mind — — no — you won't discover there are persons without brains. No, a bit of [unclear] — — except figuratively, but we're talking now in — — direct, proper terms. — Yes, — well, the idea from everything we've discussed so far, it seems to me — — there are some complications. Well, look, Vali was right. My instinct is no, but let's flow. Come on, let's get back to Kinsella; we'll meet Kinsella again anyway, he being one of those authors who goes

[0:32:06] into the big — — big themes, the big questions. — Good, so his starting point — that's where we stopped — is punishment. — Yes. — And people's need to justify punishments done to other people. Okay, it's one option. Let's see where we go. — Yes. He says he goes with Rothbard's version, the *lex talionis*, in developing this theory of punishment, and says: we must justify the punishment of aggressors who don't consent to the punishment. Yes, because if they consented we'd have nothing to do — — it's not even called punishment then. He even goes into an explanation. Yes — — yes, yes. Explanation. But presup— but before that — — see, punishment, sorry, presupposes — God, punishment — that we get into it like him — punishment presupposes imposing on someone certain physical actions [against his will] — — doing, if he consents, no

[0:33:08] — agree. Think of it like a match you lose: you agree with the rules, you know? Even if you lost the match, you know? If you agree — if you agree, he won't object to the punishment, and the justification of the punishment isn't needed — it's born from his very agreement. — He doesn't like it. He still doesn't like it, you know? — Well no, regardless of whether he likes it, from the moment he agrees, you know, that's it. — Well, does he agree or not? — He agrees. — He doesn't like it [but] agrees. — These are two different things here, you know? You can [unclear] — — just as you said yourself, you can agree that we make a bet — yes — and we toss a coin: if it lands heads you get 50 lei,

if tails I get 100 lei. Yes? And it lands tails. Of course you don't — — you agree with the rule; it's not even a matter of agreement — you don't like it. It's another feeling, another

[0:34:11] relation to it. — Yes. — Good. And the presupposition, coming back to what Gabi said — that we set out to punish, to justify punishment only to those who don't agree with it. The presupposition underneath. So Gabi said: "We set out to justify punishment on those aggressors who don't agree with the punishment." That means — — with the actions — — all actions — this has an assumption underneath it: — first, that all actions are either aggressive or non-aggressive, and those who commit aggressive actions are called aggressors. — Yes. — Good. And the second assumption is that before the need to punish someone arises, there must have been — because punishments will only apply to aggressors — there must have

[0:35:15] occurred, at a moment in time preceding the punishment, an aggression. Those are the assumptions in that little sentence. The basic principle he applies here in developing the theory is this estoppel, or preventing the aggressor from — — from contradicting himself. — From contradicting himself. Yes. — Yes. It's not — it's not in Latin. In principle "estoppel" is in — it's English. — It's English. — In Latin it was something — I'm looking it up now. Something like "not to go against yourself" or something like that. — The expression — — "don't grumble against your own principle," or — — yes. *Venire contra factum proprium.*

[0:36:16] — Yes. — So don't speak against what you've done. I mean don't — — don't go against your own deeds, don't — — don't maintain something that contradicts your own actions. Yes. — Yes. The deeds being adherence to a principle, in fact. — And so the moment you — — in fact not adherence to a principle — what you come with — the deeds are the contradiction of the principle. If you aggressed, — you come and say — — aggression is un— isn't justifiable. "This aggression against me is unjustified." And the answer is: well, you aggressed against someone else too. I think Costel wanted to say through deeds — — and the declaration is a deed too, you know? Speech [act], you know — — I understood you to say the deeds demonstrate a principle equal to what you claim declaratively. But anyway, it's the same thing. — Yes. — So when you steal a hen from me, you can no longer maintain that no one may

[0:37:20] steal back from me the hen I stole, or another hen I [unclear]. Well, I don't know if this is the moment, but for me it's spit it — get rid of it. It seems to me a crucial point here in the discussion, because Kinsella says why we discuss all these justifications against contradictions, estoppel and so on: because we want to have a dialogue, discourse, discussion. Why? To pursue the truth. And I, in Costel's good tradition, said: "So let's find the truth." — I know, and I was tempted to say that too, but I'll tell you, you didn't understand what Kinsella said. — Okay. — He said that in — but let's move on now. But it's not a problem; we'll come back — that you seek justice, not truth. — He says that in what follows

[0:38:25] — so the first time he introduces this he says "in what follows, dialogue, discourse or argument — terms that are used interchangeably herein." So he'll use dialogue, discussion and argument as interchangeable from here on. An argument, by definition — — because it's a logical thing — — yes, premise, then conclusion, can only pursue truth — — by its very definition. — A sophism is a reasoning, but — — but it's not an argument. — Sometimes that's its intention, you know — — a sophism is a reasoning, but it's not an argument. Where I was going: — so an argument is a sequence of facts that carries the truth value of the hypothesis onto the conclusion. — Well yes, but look if you look at

[0:39:29] the definition — well, we're getting into things. — The textbook definition of sophism — intention; that's how you do it. The logical form can be valid, you know? It can have a valid reasoning. You understand? Technically. His intention may be — you understand? — Give me an example, because I don't understand — — any one. Give me an example — let people be — — well, it doesn't matter. Anything incorrect in this world. All men are mortal. Socrates — — I'm different from you. So — — and

his intention being to — — well, I don't know. Give me a sophism argument. — His intention is to fool you. He doesn't believe all men are mortal. He believes there are men who aren't mortal. His intention is — we're talking about intention, not the logical form, which is valid, you know? I'll give you an example of a sophism that settles nothing. — Right. — Thomas — — on all the TV stations, yes, in all the Romanian media, yes, they say: "If you're like you lot from [here], against taxation, then you're against education."

[0:40:32] — Well yes, man, that's not an argument; it's a non sequitur. It's not a valid argument. One can say so. So this — — it's a reasoning. — Well yes, but that's what I'm trying to say. It's not a valid argument. A valid argument — an argument moves the truth value of the premise to the conclusion. It preserves truth. — "You're not a patriot." — Pardon? — "You don't care about the Romanian people." That's it. Ah, if I'm Gabi — Gabi, don't take inferences — or anyway, if you give examples like that, give them so they seem — — seem — — valid, like I said with "all men" — that one's clearly valid, you know? You don't even have to — — yes. — No, but it's a classic example of — — we agree — I'd have found a politician, but now — — no, but it's simple. We agree that we're different. Yes. We agree that I'm a man. Yes. Then you're not a man. A sophism of — — well yes. Well, I was saying a sophism isn't about — a sophism isn't a

[0:41:34] paralogism. That distinction is made. A paralogism violates principles. — It's invalid, you know? If you lay out its logical form, you see there's a logical error there. You know, yours — I don't know, I'd have to do it this way — sounds like a logical error, you know? — Well yes. It's — — you can also do it: "All men are mortal. Vali's — this is a cat. Foster is mortal, therefore he's a man," you know? — Ah, yes, exactly. — So that's invalid, you know? — Well yes, but that one too has a logical error in that it presupposes that — — the differentiation between us is exactly in the category — — the error is that it's incomplete. Yes — — in the category that unites us. I mean you can have valid reasonings with false premises, you know? You understand? And that's true. — But let's get out of — let's — — see an example here with which Mr. Kinsella delights us. — So first, point A: legal estoppel is wrong. Let's talk

[0:42:38] about it, say why it's wrong, and then move on to the correct one. We have an example here that Kinsella mentions, namely a father tells his daughter: "My girl, go to college; I'll pay." — "Go to this specific college." He specifies the college too. "I'll pay all the related fees and all the expenses related to your studies." — It's a — — tuition fees. — It's a promissory estoppel, which exists in their Anglo-Saxon [law]. — Right, and listen, the daughter goes — — goes — — a year, two — — well, doesn't matter, three — — well, maybe four, what system is it, Bologna or whatever — — whatever. The point is that in the last year the father — — doesn't give her the money — — tells her, "I don't have the money now to give you — — but I'll give it to you sometime; I'll pay when I have it" — — "sometime" means never — forget it.

[0:43:42] It's not ambiguous. So we're not discussing what he says, what he promises. The point is he doesn't pay her tuition, and the educational institution assigns the young lady a debt to pay of — — X. Not even — — X dollars. The point is the girl now has to pay this money. The father still doesn't give it, and she sues him. You'd — — yes. The father — and the daughter sues the father. — To be more realistic. — Yes, the girl isn't sweet anymore. She's a bad girl now. And the question arises: "Didn't I conclude a valid contract with my daughter? I just promised her, like that — — I said it, like a father would — — why — — if I've now had problems?" — What does the example want to show? The point. — The idea is — and now the judge comes and says: "No, father, you

[0:44:45] were wrong, because your promise had as a consequence a contractual obligation for your daughter — — like a normal verbal contract. — And she now has to pay." No, no, that's not it. That's not what he says. The judge says it as follows: as a result of the promise made, your daughter placed herself

in a position that created significant disadvantages for her, based strictly on your promise. Therefore you're responsible — and that's why I'm saying it's wrong — therefore you're responsible for covering her debt, the disadvantage, to reimburse her for this disadvantage. That's why I'm saying that with us, in libertarianism, such a thing is — — yes. It sounds more leftist, you know — — so, but this is the principle — so the reason he tries — no, I don't even know if Kinsella supports it, because as they say — — what example —

[0:45:47] — this is it — — I mean, he has to give her money or — — yes, he has to give her money. That's the principle of what legal estoppel means — — because she committed, she gave something. Look, we were thinking about the activation of obligations. — And there's also the fact — I think it counted that he did pay the first year — — yes — — of college. — He pays it. Yes. I mean he also acts on it. Yes, I think that counts for the estoppel part. — So the estoppel part here is: you can't say — — ah, that he acknowledges — demonstrates by deeds. Yes, exactly. And you can't say "you didn't make a commitment" — — I didn't — you made this commitment, but you can't say it's not a contract because you — — it's against his own deeds — — and that's why — that's why he classifies it as estoppel: the judge said, "Well, you demonstrated it by deeds; now you contradict yourself, saying it's not a contract. Well, I see you did it." — No, but not necessarily. So my opinion is that — — what's okay with us in libertarianism — — is to change your mind — to change your mind, because you can always leave a

[0:46:50] contract under the terms of its exit clauses, and an implicit contract has no exit clause, so [it's open]. — Yes, poor libertarian kids, imagine: "Dad, it says here that if I bring you good grades you'll buy me such-and-such." — Yes, yes, yes, yes. — "Look, in the contract." Go on, Gabi. Sorry. And kids should be used to these rules. They should — — we should get used to gentleman's agreements, but anyway. — Go on — — yes — — this thing Vali said here, that he put her in a disadvantaged position. — Hm. — We must mention that this disadvantaged position is a very monetary contractual obligation. — Hm. Yes, — because, for example, if we'd had a situation in which there was a boyfriend, a boy with the girl, and he says, "I'll love you, I'll take you to the mountains, I'll take you to the seaside,"

[0:47:55] — and he takes her to the mountains but then doesn't take her to the seaside — — estoppel has been created. — Yes, estoppel was created. — That's not — that's no longer a disadvantaged position. So the girl can't say, "You put me in a disadvantaged position; you didn't take me to the seaside." — She's frustrated by — it's not a position — — only if — only if, let's say, she had booked a hotel at the seaside — — and they asked her for the money — — and they asked her for the money. — If she had booked the hotel. Yes. If she had booked the hotel. — Yes. But if she hadn't taken any action that is — — exactly — — monetary, what disadvantage? The sentimental disadvantaged situation doesn't count — — exactly. The building blocks here are that the girl took out a loan to pay for college based on the fact that her father paid for the first year of college and promised to pay all the years. — Yes, — so that's the disadvantaged position she got into. Still, in libertarianism there's no such thing, but

[0:49:00] legal estoppel in current American law works that way. — Good. — And if you want to know, by the way, the sum we're discussing in this legal estoppel: $6,700. — Well yes, that was — — that was a lot of money. — Yes, then yes. So what would the lesson be — that you don't have to give once, or you have to give once? No — — under legal estoppel you have to give. — So under legal estoppel you have to give money. — You mustn't give — you mustn't give even the first money and you're set. You can promise, but if you don't do anything. — By the way, Alex, you know, you have the sense it was a lot of money, but do you know when this "lot of money" was? — It wasn't that much even then. It was in 1982 — in the '80s. — Yes, only college was still cheap at the time. Yes, — those [bureaucrats] hadn't gotten fat yet. Yes, — yes.

[0:50:01] — Or maybe it was something else in the evening. — It wasn't a community college, but it doesn't matter. Even in the '90s, when I looked at how much it cost to go to a community college in the United States, it was something like $15,000 a year. You know, for Romania it was an extravagant sum, but in the United States it wasn't yet something incredible. Yes. — Go on — — well, and what's libertarian about that estoppel? — Well, there's nothing in it. Legal estoppel has nothing libertarian in it. We've settled that. The second is dialogical estoppel. — Right. Go on. — These words hurt us. No, — I tended to think — so on the one where it's activated by transfer — if she went to school — — she deserves the money. — Well yes, but you're still left with the idea that he can change his mind. — That's a discussion, you know? I — I don't agree with that. Otherwise no contract exists anymore, you know? I mean, I accept

[0:51:05] changing your mind only if that is also stipulated. — Hm. — Only if; otherwise not. — Well, okay. But it's a difference of position that presupposes — okay — the question — the question is which is stronger. Yes, — the whole idea of contract theory rests on enforceability. Yes, it rests on enforceability. So the whole theory of contracts revolves around the moment you need them — when someone changes his mind. Yes. — Mm. Yes. Yes. — Yes. And I don't know — I'm trying to take the idea to the end. I'm trying to figure out which default position is stronger: the one in which I may change my mind at any time, or the one in which I may not change my mind unless I've written the conditions for changing my mind into the contract. I'd go with the second. Otherwise

[0:52:07] contracts no longer exist. — Well, I'd say contracts do exist. — What? How do they exist if I can leave at any time? Nothing binds there. You know? — Well no. That's exactly it: if you make a contract that you formalize — — and it has no exit conditions, that, I'd say, is a contract in the sense you mean. Whereas in an implicit contract I'd say you always have the exit position if it wasn't stipulated. Yes, — because that's the implicit contract. You understand? I can enter the bakery, yes? And leave — — you know, no? Without buying anything. — Ah, okay. Yes, well, you went in, you have to buy now. — No, no, you're not obliged. — Yes, exactly. No, no, but you're right — it seems to me you're right. If it's not — if it looks like a contract but isn't written, then it must also have an exit condition — — well, no, we concede this; well, this implicit thing remains to be seen, and what we put

[0:53:11] in it, you know? — But look, I believe in man's right to liberty. You know, if you and I don't want exit clauses, that's how it stays. That's our will. It has to be stipulated, — you understand? Not that we only put in what we exchange and what we obligate ourselves to. I don't put in the contract that I don't obligate myself to a television that has nothing to do with it. But that's exactly it: the moment we — — the moment we — but no, but it doesn't matter. The moment we formalize the contract and don't put exit clauses because we don't want to put exit clauses at the time we formalize the contract, I totally agree with you. — Mm — — that's a contract you can't back out of. — Okay. Okay. Well that's it. What I don't agree with is an implicit contract. Do you accept that? — I don't agree that in an implicit contract in which you put nothing, the fact that the exit clause is missing binds you in perpetuity — that I don't agree with. I'd say that in the implicit contract, in which you actually put nothing, you've put this exit clause too. — When I change my mind, the boy's gone — — because — yes, yes.

[0:54:18] Because otherwise you can run into one of these psychopaths: you say to him once, "Wow, thanks, what good work we do together," and then he comes and moves into your house — — "so we can do good work together." Because you said, "well, we do good work together." You didn't say we do good work together. "It's an implicit contract to always work together, to stand shoulder to shoulder." "Fine — we no longer do good work together, go home." "Well no, you said we made an implicit contract; you can't get out of it anymore." Exactly. Yes. No, that's the logic of the situation, you know? What did they change here? — Yes, well, that. — Good. — Fine: dialogical estoppel is the one in which, in the previous case, the father simply didn't aggress against the daughter, and so he can defend

himself. — It has nothing to do with the daughter. You see? Dialogical estoppel. Move it, please, out of that case. Leave that case. I left it.

[0:55:20] Let's take another case, where someone throws a punch at someone else. — Well, wait, don't they overlap? — No, [they don't] — — well, they should overlap if it's — — you can reconstruct it. But you're building on the same — — well, I think that's what Gabi was trying. Try if you can. — Now — — mm — — when someone actually uses aggression against another and the judge proves — well, the victim's lawyer proves you aggressed — — hm. You can no longer defend yourself saying "it doesn't apply to me" or various other — — because it's immoral; you can't object to — — yes, because this principle of dialogical estoppel says you can't maintain something your previous actions implied — — demonstrated — — demonstrated to the contrary. — Yes. I mean like the politicians here

[0:56:23] in our country. They do one thing and then say another, and people let them, and they shouldn't let them. — But usually our politicians have one more cycle. They first say one thing, do another, then say a third thing, and the idiots keep voting. — Yes. — So they have two steps of estoppel, actually — — it doesn't matter that they're justified by democracy, you know? Organs constituted through elections. — Organs. — The organ, well, sorry. Cheers. — Yes. — Good. And here comes the idea that this whole thing subscribes to what he uses. So, in fact, how — how Kinsella builds the whole sandwich is that at the base, the bottom bread is Hoppe's theory of argumentation ethics. Yes.

[0:57:25] Which, if we remember from the first episodes, Hoppe says: people can do 500,000 actions of every kind. But if they talk to each other about how things should be, it means the purpose of that discussion is to avoid physical conflict. — Mm — — so as long as you talk about — as long as you carry on a normative discussion, your purpose is to avoid physical conflict. Further, if you're involved in a normative discussion, it means you're seeking an ethics. And further, the next slice of the sandwich comes from Kant, I think, who says that any kind of ethics that can be considered justified must be universalizable. Yes. Those are the slices. On top of this now comes the aggressor who says, "Don't

[0:58:30] shoot me, Mr. C." And C says: "Well, come on, you didn't hold back from shooting." That is, he can't say "you mustn't shoot me even though I shot others," because any normative argument he tries to insert here is unjustified. Therefore the opposite position is justified — namely, punishment in this case is justified. A, and so on. — But his words contradict his deeds, not that he — Yes, yes. — His words contradict his deeds. So the performative contradiction is somehow prior. — Actually with Hoppe too, the words contradicted the deeds. When you argued with the slave you were validating him as a free man, and you contradicted yourself. — Yes. And here he starts giving examples of the ways in which aggressors try to get around, let's say, this principle,

[0:59:34] to say "yes, but in my case it doesn't apply," or "aggression is indeed — " — Relative. — " — wrong, but only from today on; before today aggression was fine." So all sorts of types. Or he doesn't necessarily have to become inconsistent in his argument in front of the judge and say, "Sir, murder is good sometimes, when it's raining outside," or something. He becomes inconsistent because his deeds during the aggression and his words during the trial are contradictory. So there's an explicit contradiction

[1:00:39] and an implicit contradiction. — What action had he done? Why? What was it, a chicken? — He slapped someone. He used force against someone else. He initiated force against someone else. — No, but how was he acknowledging the principle? Had he complained about others, or what? — He complains when you want to punish him; he objects when you punish him. — So in practice he complains about the punishers. — Well, and how do you know that he believes it, in principle? — It's irrelevant whether he believes it. He says it. He has to use it as a justification. — You know, look, if we

go further, he says: the most severe instance of aggression is this. A kills B. Yes. — Yes. — And C convicts him and puts A in prison. Yes. For A to object to the punishment, A has to say that C shouldn't

[1:01:45] treat him this way because he has a right not to be punished, or at least that the way C punishes him, using force, is wrong. Yes. So the use of force is wrong, and so C shouldn't punish him this way. And the answer is: okay. But the other position A held through his actions was that he killed B. Killed him how? By force. And so the estoppel comes in, in that A cannot say that aggression is wrong, that the use of force is not right. — Logical. Yes, that's the estoppel. So A has to find another justification. — No, that's relativism. That — Well, luckily Kinsella deals with relativism a bit further on in this chapter. — I skipped ahead to

[1:02:47] — Yes, I saw you skipped ahead. Yes. — I think people even invented relativism because they wanted to criminalize some things and not others, you know? — Well — yes. Right. Good. And what else does he say — a subset? I see you're going a bit further. A subset of this is that, all the more, what follows from the fact that A cannot object by saying the use of force is wrong is that he can't object even if C tries to kill him. He can't, because he killed. Yes, we said the initial case is C putting him in prison by force. Yes. Because he loses the argument "aggression is wrong; this shouldn't

[1:03:53] happen" — because he no longer has that argument, he can't use it even if C wants to kill him. So, clearly, imprisonment for a murder is justified, if it goes so far as to justify even the death penalty. And what else does he say — — That guy can't comment on anything anymore. — Yes. And the conclusion he draws from this is that self-defense is justified too. Because if you initiated force against someone, all you do by turning punishment into self-defense is bring the moment of punishment into the present. So he can't say to him, "Wait a moment, you have no right to defend yourself against me." So you can't object to someone defending themselves by using force against you, for the same reasons. Well, you can't say

[1:04:58] — because it makes sense. — "You're not allowed to defend yourself against me, because I'm not defending myself against you either." — "You're not allowed to use force against me" — you know — because he's using force against [him]. — Well, yes. Yes. — Yes. — Well, yes. You use force by defending yourself. I know. Whoops! The cat was around. — Yes, the cat was there. Anyway. I've said this in a simplified form that satisfies me: the way you behave dictates the relationship between us. — Good. — It's a kind of "what you show me — " — And now we move on. — "Those are the rights you respect for yourself." — That's from Matei Citre. — We move on to potential defenses against estoppel on the aggressor's part. — Yes. — And here Gabi started. — Yes. — We have the concept of aggression itself. "Sir, I didn't aggress against him when I punched him twice. I didn't aggress against him. What

[1:06:01] do you have with this classification of my deed as aggression?" — And then the judge says: "Ah, well, then I'm not aggressing against you either when I put you in jail, for example." — "Ah, well no, wait a moment, because — " — "Yes, man — " — "that IS aggression," you know? — So the idea is that if he says it isn't aggression, that the concept by which we'd divide up this action doesn't classify it as aggression, therefore you mustn't punish me — he still has no choice, and the judge says: "Well, but it's not a punishment." Then, when he objects to this punishment, which suddenly isn't a punishment anymore, he's still forced to accept and say that certain actions involve the use of force — — involve the initiation of force. And the moment he has fallen back on the argument that certain actions involve the initiation of force, already

[1:07:05] we're no longer talking about a duck, but about something that looks like a duck, sounds like a duck and tastes like a duck. That is, okay, you no longer use the concept of aggression, but you use its description, definition by definition, and you've fallen into the same argument. — So can the judge — — So the judge can still punish him, even though the judge isn't contradicting himself. — Well, the judge

isn't contradicting himself because — — Well, the day before he gave a ruling. — Well, but what ruling? It's the aggressor who contradicts himself. When you say "clearly a home invasion — but string him up anyway" — here he's not contradicting himself. — Here he sort of contradicts himself. Yes. — Yes. — Good. — Universality. — Univers — yes — universalizability. — Universal. — Universalizable. — When — yes. The aggressor can particularize the aggression: "Sir, on Wednesdays, yes, one may hit

[1:08:08] another person," or "I may hit other people but others aren't allowed to aggress against me." Any other condition like that — "I'm a redhead, I may aggress against blondes," or all sorts of things like that — then he can no longer justify the argument he presents before the judge by applying some norms, that is, by applying an argumentative discourse. Yes. Because it is not universalizable. — That's the relativism argument Costel mentioned earlier. — Yes. — Yes. — And the judge can either go along with his principle, with the aggressor's approach, and say "judges are allowed to aggress against anyone, any time" — — Ah, interesting. You have to call me. — Yes. And he puts him in jail or

[1:09:11] applies [punishment]. — If you're a relativist, I'm a relativist too. That's the "clearly a home invasion" one. Yes. — Actually, not that he doesn't recognize the home invasion — he recognizes it. Or he can say: "Sir, you're not arguing logically and according to discursive norms generally accepted in libertarian ethics, and so you have no defense, you haven't said anything, so you're not defending yourself at all, and so I'm putting you in jail because that's what I think." — No, the idea is the following. He tries to say here that argumentation, when used — Hoppe says that it implies a proposition — argumentation implies a proposition, a proposal that has universal acceptability. Hm. — So, to bring it into the postmodernist world too,

[1:10:16] if there are so-called normative arguments among postmodernists, they're at least based on complete acceptability within the community of acceptance. Yes? So you won't complain, you won't say something like, "Well, but between us we don't do that, you know?" That's not universalizable. It's not universal, clearly, you know? But it still presupposes that within the community of acceptance it's completely accepted. That's your argument. That's what it presupposes. — It may be. — No, that's what it presupposes. Otherwise you don't say "between us we don't do that." — It seems to me our discussions are about what's completely consistent, logical, so that you can uphold it at any level of society — between two people, among several, tra-la-la. — That would be universal. That consistency doesn't — — That would presuppose universalizability. — But I mean, it seems to me that's the whole thing, because it keeps coming up

[1:11:18] — you can scale it up as much as you like, because it remains universal. — The problem with "you want it," you know, — is that you might end up the victim yourself. That's the point. You know? — And that's the problem with relativism: that guy can apply the arguments to you. — Yes. Whereas with the universal it wouldn't let you off. Well, there could be a scenario, you know? "You can't do this because you've admitted that people have a right to differences." — How does the relativist apply it? That's the question. How could the relativist get out of it by saying "you mustn't do this to me because — " — " — you're white." — Yes. Yes. — Because, I mean, what is it based on? Either it has to be based on a common community of acceptance, and then it becomes an ethical argument again, even if a localized one — — Yes. And then he has to be consistent within that locality. Or

[1:12:22] "you mustn't do this to me because" — and the source of truth is somewhere inside himself. That's refuted by what Gabi said further on: "yes, but judges have the right to do anything to anyone." — I'm a worker. I'm a worker. For example, you as a judge are a bourgeois. I'm a worker. You're not allowed to do this. Yes. — Well, yes, but that still presupposes, how shall I put it, a community. So it's not a normative discussion. So the appeal to "I'm a worker" — yes — presupposes that on the other side of the discussion too, if you like, the appeal itself presupposes that the status of worker gets you off,

whereas even within their own system of thought, the bourgeois are not part of the same community of acceptance. Therefore, the fact that you're a worker doesn't oblige the bourgeois

[1:13:25] not to do this. — No, then it gets you off. — Yes, I have to find something else, something the other guy accepts too, you know? — Exactly. — But this really happens, you know? — Moving on to — — "Look, I stole this mobile phone, the iPhone 2029, because I didn't have money to pay for it." — When it comes out, everyone will have one. — Or "I'm black and I've been oppressed since my great-grandmother's time. I'm allowed to take a piece of chewing gum." — Yes, again, that presupposes that the status of — — That can be accepted, and it has been accepted. — That status grants you permission within that community. Yes. — The judge accepts it too: "Yes, sir." — Yes. They've suffered. "I'm the state and I'm allowed to take 70%." — No, that would be a valid argument. — Yes. No — — if it's accepted. I mean, it's not contradicted — it's not by estoppel, it's a right that pre-exists.

[1:14:27] — Yes. — I liked the one about time. — Hm. — "Sir, that's right. I was bad, but now I've changed. When I hit him I didn't think it was aggression, but now I've changed my mind — I've read Kinsella. Yes, it is aggression." — And you repent. — "I'm sorry, Your Honor. I've come to my senses, but the aggression remains unjustified. So please don't punish me, because — " — " — because we all agree that aggression is not justified." — A confessed fault is wholly forgiven. — "I mean, I've changed my position in the meantime." — Yes. — Okay. Yes. When does that ever work, though? — Yes. And the judge says: "Fine, I'll put you in jail; I don't consider it aggression, and after you get out I'll say 'yes, I'm sorry, but I locked you up — it is indeed aggression.' I'll reconsider too; I'll change my opinion after you get out of jail." — Fine, there are two — fine, I like something else, because that would be a somewhat crude way of solving

[1:15:31] the problem — — and that if you want to play with time differences, I'll say I'm slapping you now and we'll talk afterwards about whether I'm sorry or not, you know? Whether it was justified or not. But what Kinsella ultimately says is something else: that if you really consider aggression unjustified, then the follow-up, what follows from it, is that you want criminals not to go unpunished. — Hm. — Therefore, even if you've changed your opinion about aggression in the meantime, you're still a criminal, because the crime took place. So you want all criminals to be punished. Therefore, you too. — Well, not the one from the past — not the present you. — Exactly. — Well, luckily, the past you and the present you are the same person. — You just have different opinions. — It's not the same person. — Oh yes, the personal ID number hasn't changed. — They talked. I — — Well, then your fingernails grew, you know? You don't

[1:16:35] have all your properties in common, you know? Doesn't matter — the ID number and the DNA haven't changed. There you go. So I wouldn't realize I'd brought up the ID number. Okay, the DNA. — My mind changed, which is more important than DNA. — Well, it's more important, but that doesn't — — Now I don't believe in punishments anymore — — You don't — well, I'd raise the bid and say that you didn't believe in punishments directed at yourself before either, so nothing has changed. Off to the cell. Good. And now we move on to the punishment of non-aggressive offenses, yes, victimless ones. — Non-aggressive behavior. If you use the word "offense" (infracțiune), already — — something else is understood. You're poisoning the well. — And here Kinsella says: when, in a statist courtroom of our day,

[1:17:39] a victim — let's say someone was caught smoking in a bar where smoking isn't allowed, a public bar — defends himself: "Sir, you have no right to lay hands on me and direct my body toward prison X — " — " — or to take from my property Y lei?" — Hm. — "Because I haven't used such aggression against anyone." — Hm. — Yes. And the judge says, "Oh but it is aggression, what you did" — and of all things he picked smoking, he picked the very example that even today is considered — the discussion around

smoking is considered aggression, because secondhand smoke is considered aggression, and further, even in libertarianism,

[1:18:42] yes, if I blow smoke in your face, that's aggression, in a context where we're not in a bar where we specifically say this is allowed. — Not that it's allowed — that people smoke there. — Plus the problem is that you're blowing, not that you're blowing tobacco, you know? If you blew non-tobacco, it would still be — — Yes. Yes. So the aggression would be as follows. A bar owner refuses to put up this sign and says: "In my bar, people smoke." — Hm. — That's the one who gets sued. The state sues him because the state considers his bar a public place. He considers that it isn't. — Yes. Hm. — And the fact that they take from him by force the right to decide what norms of behavior are acceptable on his property is aggression on the part of the state. So he can say: "Don't send me

[1:19:44] to prison, because on my property I haven't aggressed against anyone." — Yes. So he can use this argument, and estoppel actually works against — — It should work against the state. Yes. — Yes. Here, because he didn't initiate aggression, he didn't aggress against anyone; rather, the state aggresses after the fact. — Well, the state seems coherent, doesn't it? Since it aggresses against you left and right. Yes. — I mean, it respects — — and the answer isn't that it isn't — — the answer isn't that it's coherent. The answer is that it's constant. Constant in wrongdoing. Well, but it's not coherent, because the state says: "By not doing this, you aggressed. So we have to punish you. We

[1:20:49] punish you only because you aggressed against others," you know? But we say: "Well, wait a moment, because aggression — " — that's actually the argument. The state shouldn't come with the concept of punishment, because the state has already shown it has no problem with aggression. Even if they consider that by not putting up the sign he aggressed against everyone. — Mm. — Yes, they aggressed in the first place, because laws are in fact aggression; they are imposed by force. Yes. So that would be it: the state should be estopped from the trial itself, from the attempt to punish him. — And Kinsella gives another example here and says: if Alex and I agree that I can slap him twice, and he consents — he says, "Yes, sir, go ahead. I want to see if my cheeks turn red" — this act does not constitute aggression, even though it involves the use of

[1:21:54] — even of — yes. — Yes. If there's consent, it can be universalized. It's not aggression when the person receiving the slaps consents in advance to receiving them. — Yes. And so Alex cannot afterwards turn around and sue me and have me punished — — or slap you back. Not even — — Two pairs of slaps. How much is that? Two slaps or four slaps? — Four. — Perfect. — Four. You need at least two to make a pair. — Well, and if you use the same hand? — What? If you use the same hand — — it's still two slaps. You go front and back. A pair. — Oh, it is a pair. Front and back. — So what was the contradiction with the state? Why was it contradicting itself when it committed that aggression? Because it had said before that it's good, or — — No, it contradicted itself when it said that the guy had committed aggression and that this is to be condemned, because it had already

[1:22:57] — the state had already committed aggression when it passed the law. You see? So the state as aggressor cannot punish other aggressors on the grounds that aggression is bad. It can punish them for other reasons — "you don't have the right ID number," or it has a problem with you — but not on the grounds that the state, the biggest aggressor, sets itself up as the protector of others against aggression because aggression is bad. — So if you've done wrong, you're no longer allowed to do good, starting from now? — Oh, you're allowed, but you can't claim that it balances out. — Allowed — exactly. No, you can't claim universalizability. Universaliz— — — -ability of the concept. — Legibility. — Yes, of course you're allowed to do — — Anyway, it doesn't even stick to the correct [definition] of aggression. So you can't even have a discussion with it. Yes,

[1:24:00] — because for it, aggressing means — — anything. Not even — — not the initiation of force. It doesn't realize it's something else. — So look, for example, let's take an example like this: punishments for theft. — Mm. — Yes. What's the complete complaint? Libertarian. That they don't take into account the victim's needs. — Hm. — When the state punishes the guy for theft and puts him in prison, it actually makes the victim pay more. — Hm. — Well, I have the impression the law now has two components. For example, that's why you hear about politicians — wait, it has two components, a criminal component and a civil component. And that's why you hear, for example, about politicians that the criminal part has lapsed under the statute of limitations, but they can still be pursued to get the money back. And here, too — — in a simple theft like this.

[1:25:04] — Coming back to Kinsella, he says from this: we've shown that punishment is justified when applied to aggressors. It's not justified when applied to those who don't aggress. Therefore he draws from this, he extracts from this, that you can extrapolate that the negative rights libertarians assume — that is, the non-aggression principle — are valid. Yes. Property rights. If so far we've talked about physical aggression against another person's body, Kinsella now deals with thieves who steal — — a soul. — A thing — — which the other victims own. Yes. A thing external to the body.

[1:26:08] And an aggressor might say, "I left Alex alone; I didn't hit him, I didn't aggress against him, — but I took the shirt off his back, and his car." — Well, the shirt off his back — it's hard to suppose he took it without hitting him — — but the car, the car he can take without hitting him. No — — me too. Yes. Aggression against another person. I agree. It needn't be like that. But — — but do goods belong to everyone? — But goods aren't other persons. — Goods belong to everyone — exactly what the socialists think. — Uh, and — — Kinsella deals here with the fact that man is, as Casey says, a material being, yes, with a body, and cannot live without — yes — without owning external things in order to breathe, drink, eat, clothe himself,

[1:27:13] and so on. Yes, you can't plan. You might survive, but you can't have a plan. But anyway, that's one more thing. Go on, go on. — And then the judge also has the option of applying to him the aggressor's own strange principle and saying: "OK, if you don't believe in property rights over external things, then when you want to eat, I'll take the sandwich out of your hand." See here? So here it seems to me Kinsella stretches it too far, and maybe it's — — one of the problems that arise from trying to justify punishment and trying to justify it only through this dialogical estoppel. Because, as I said at the beginning — Yes. — Hm. Gabi has to steal something from Alex without aggressing against him in order to stay

[1:28:20] inside this. Whereas if I take the food out of that guy's hand, it's pretty hard to do — — Mm. — — without laying a hand on him. — Let's say you trick him. — That's sort of okay. I trick him once, twice, 500 times, because he wants to take it to infinity. — Ah. — Yes. No, the idea is that anyway, first of all, that sandwich isn't in his hand. It's somewhere — — you don't give it to him — — and you put it somewhere he can't get it, let's say. — Well, if you put it somewhere he can't get it, you have to put it there by force again. You've aggressed against him. — It's hard. No, no, I'm not saying it's impossible, but it's — — very hard. He contorts himself quite a lot to stay within the same two rules. Hey, you know, there was — — I mean, if he's managed to get his hand on — you know, by mistake, you never know — he's managed to get his hand on a glass of water, at that moment, if you want to take the glass of

[1:29:23] water, you have to stop him, you have to lay a hand on him, you have to aggress against him, and you go beyond what would have been estopped by his actions. — Yes. Uh, but do you remember, there was once an NGO that opposed installing video cameras everywhere, you know? And some members of parliament who had initiated that law — I don't know which country — were followed by members of this NGO, you know? And they were filmed like that. So they simply weren't aggressing

against them, but they kept their cameras on them when they went for bread, to the bar, wherever, you know? And they were annoyed by this, and [the NGO] said, "Sir, I'm annoyed too. Look at all these cameras you've put on all these poles around here" — I think in London; I think it was Britain. So I think he imagines something like this too: you simply hang around him so that

[1:30:26] — as you see, you can knock a cup or some water out of his hand without aggressing against him, as a reminder. — Yes. Okay. — You hang around him and harass him to such an extent that he'll feel aggressed against in a way, you know — — Well, in the end it's clear he'll be left with an empty apartment, because unless he stays in bed all day, the moment he gets out of bed you've taken the bed. — Yes. — And afterwards he has to sleep on the floor. Yes. Okay, you can take him to — — You take the front door. If he has to keep his hand on the door so you don't take the door. — A bed of rice. — Yes. — Okay. If you really set about it — — The problem that follows from this is that you can't stop him from stealing other people's stuff. — Yes, — that's it. Afterwards he can go and steal some more sleeping bags, for

[1:31:30] example. You know, when he wants to go to sleep he runs over to Decathlon, goes in, grabs a sleeping bag, bam — if you lay a hand on him you're not allowed; it's aggression, you know? In order to stay inside — — to close the door. — That's the problem: here you get the feeling he's stretched this too far. Whereas on the other side, where it follows that objects become — he goes further from here and says that I can aggress against you too, until I show you that even aggression against external property translates into aggression against your body, against that person. It translates; it has effects on that person. I'd say it's rather far-fetched, but well, anyway, so — — because Kinsella's argument is that it means punishments for property theft are just as

[1:32:35] justified, because there too an aggression took place. But for an aggression to have taken place there, he pulls the blanket even harder. He says that for an aggression to take place there, there must be a method by which things become people's property. That method, the only one we can rely on, is the mixing of labor with — because it takes into account that if you only say — — you'll have conflicts. — You'll have conflicts. Well, when the thief also mixes his labor — not with — with the assets. — You know, you could end up saying that too. Only the difference between those assets and — — that they aren't natural — — is that they're not in the state of nature. Yes, — cultural. — Yes, but he makes an entrepreneurial bet. Maybe nobody complains. — Yes, well, they're natural in that they can be part of the periodic table, you know? No — — "in the state of nature" isn't the same

[1:33:39] as things that are natural. — It's an abstract concept — — or his movements may be natural. — Yes. — Yes. The principle of proportionality. — This is where some at this table part ways completely with Kinsella, because he takes the word proportionality and ends up perverting it into its absolute opposite sense. So the principle of proportionality he starts from is: how much can you punish an aggressor? — An aggressor — — for a slap you can — you can execute him. Yes. Take his life — — without number — — and Rothbard. And here he takes him into account. He takes Rothbard. For example, he says Rothbard prefers something like the law of retaliation (lex talionis), just one-to-one. Well, Rothbard gets to two-to-one at some

[1:34:44] point. — Strictly speaking, it's not the lex talionis, but inspired by it. — Yes. Exactly. — Whereas Kinsella says: "Sir, there are many, many aggressions that are hard to quantify, yes?" Such as, let's say, a rape, or "he stole my — " — all kinds of perceptions of — — Yes. "He stole the glasses I got from my great-great-grandfather," things like that. And then he says, "Yes, we must have proportionality; it should vary within certain limits. Yes." — We don't execute someone for stealing some glasses. But we must leave the victim the freedom to go up to the upper limit of that range, because — — Hm. — — the aggressor is the one who created this problem of our finding ourselves

[1:35:48] in an ambiguity, of not knowing how much to — — Hm. — — restore. — The Greerian. — No, the victim is the one who — — the nature of reality. Not the aggressor. — What? — The nature of reality. — No, the aggressor is the initiator. So, okay, the nature of reality tells us that we don't know in general, but in the particular case determined by a specific aggression, it's true, the aggressor set it off; he's the triggering factor. He has put us — — in the actual, real situation of not knowing how much to give him. — If you like, the punishment can be kept by the aggressor. — What else does he say? And here Kinsella — well, Kinsella resolves this problem and says that if you want to give him the punishment, it even constitutes an additional aggression against the victim. That asking the question whether you want to give the punishment constitutes additional aggression against the victim. Man, and to increase the punishment and — — if he asks, if he objects — — somehow it's somehow collinear with

[1:36:57] — with what's it called — with today's legal procedure in which if you plead guilty you can get a punishment — that is, there's a good chance you get a lower sentence than if you plead not guilty and are then found guilty. — But that wouldn't be just. No, no, it wouldn't be just. No, but these are legal sensibilities that Kinsella also has, it seems. — What I found interesting here was that — — in line with the victim, who must be allowed to choose what — what rebalancing satisfies her, precisely so as not to give the aggressor the freedom to sue later and say the punishment was disproportionate. That's a point Kinsella makes at some stage, and he says: "You can't let the aggressor sue for disproportionality, because

[1:38:00] then you risk all victims under-punishing," and — — Yes, but on this point — the problem is solved from the start in the other system I proposed, because the maximum limit is set by the deed itself. — Yes, yes. The evaluation of the deed is subjective. So you do a deed — you do a deed that sometimes may not be physical. — No, the evaluation isn't subjective, because again in the system I proposed — — the price is a price — — in the system I proposed. — Yes. Deeds are always objective. — Well, deeds are objective, but their price — — but their price is relevant. — Oh but — well, we're talking about how much to — — Well, it's however much you agree on. You come to an agreement with the victim, if you like. So if the victim — — Well, and is the victim allowed to ask for more than 2x?

[1:39:02] — Well, no. That's why the maximum is 2x. — Well, who says it's the maximum? No judges — libertarian judges — the system — sorry, I said something stupid, in the sense that it follows from the system. — Sorry, I said something stupid. You're saying the evaluation of the deeds is fixed. — No, I didn't say the evaluation of the deeds is fixed. I said the deeds are objective. — Okay. Excuse me. — The aggression — I know when — so I know how many punches I threw. Yes. — Yes. That. — Good. But then — — judging them comes after — — after that. You say you're not allowed to ask for more than 2x. Okay, but how much is 1x then? Because I received — I received two blows. I received two blows. For me, one blow costs 1 million. — You'll say no, no, well, you come to an agreement. Yes, you come to an agreement with the guy. It's irrelevant. — That's exactly the mistake. That's exactly what I'm saying is Kinsella's mistake. How can you impose? We're imposing — here we're talking about imposition. Are we still libertarians if we're talking about imposing

[1:40:05] some arbitration standards? — The discussion is about punishments. If we're talking — — Well, precisely, I'm not having a discussion about punishments. In the system I described, there are restitutive rights that are created at the moment the aggression took place. — If he had too much, what do you say? — Me, as much as possible? Yes. How much — if restitutive rights — let's take examples — solve two — — and give the things here, sir. Someone came at me; I caught him; he cut off my hand. — I go to him and demand that two hands be cut off. — Yes, — but if I demand more — — and no restitution at all has been made to me. — I can give him two hands now. — So not in this case, because he didn't restore me at all. I should demand — sir, I'm a painter. I should get 7 million from that guy. I don't want

2,000. — The fact that you're a painter is irrelevant from this point of view. I'm sorry. I can understand the sensibility, but if the character of the victim — let me put it this way — if the character of the victim

[1:41:09] can change the nature of the aggression, yes, from — — from a split to death — if the character of the victim can change this, then even words can be aggression, because the character of the victim can transform them into aggression. — Yes, but now I can't support myself anymore. I want you to be fair, you know. — Well, it's not — okay. So words are aggression, and how do we prove them? When he doesn't say "I'll kill you" — — Sorry, Gabi. When someone says "I'll kill you" and he's a criminal, that's something different from a quiet person saying "I'll kill you" in the context of a poetry festival. — Well, again, — the good part, the good part with Rothbard, yes, is that he tells us: imminence. For a threat to exist, the aggression must be imminent. Yes. — Imminence means that between moment T1, when the so-called threat occurred,

[1:42:15] and moment T2, when the aggression happens, there is only a duration — we've had this discussion before — a subjectively perceptible duration of time, but small enough that no one can intervene. — Imminence and eminence. No — — Yes, but — — with another moment in between. No, let me say. So I'm a painter, and this guy cuts off my right hand, which I paint with. — Yes. — And I'll starve to death in three weeks because I can no longer — So — — it's your fault too here that you didn't — you're not, for example — good. And on another point, you lose — shouldn't he — so that — no, I don't want you to give me two hands, I want you to give me 7 million dollars — — or to put him in the kitchen of — — Yes, for that guy, if for that guy two hands means — so the idea is the following. You can only go up to two hands. Yes. Now you can negotiate with the criminal, — and the criminal may be so attached to his hands

[1:43:17] — that he offers you 7 million dollars, including through that idea that he sells himself into slavery to give you — so that you get a different product — those are proposals, and indeed that might go through too, you know — — you see, like the fine for a slap — — no, because that no longer has — because that no longer has a limit — — well no, it does have a limit, it's 7,000 — — it doesn't have a limit — it has a limit — that's exactly what he says, right up to the end: let's say there are these gray zones. Okay, you have a normative system in which you come up with gray zones. Thank you. Goodbye. — Can I march a column of a million Chinese through those gray zones? — They're not gray. They're not gray. He's wrong, you know? Because the rules are clear. The proposals are subjective. How much is a slap worth? Do you know what fine we get for a slap? — Well, okay. So what is it? Well, again we come back to — why do we separate this from the economic problem? What's the correct price of a slap, Costel? Some problem.

[1:44:19] — The market has to solve it. — Well, the market — — Yes, it could be something like that. Although, well, I wouldn't with that either — — and if the market solves it, let's get to the thing where these at 100 — — if the market solves it, then we come to the other side and say: why can't the market decide that I can eat children? — Because the rules too — yes. — Well, fine, but both are subjective in the end. I know — — both the NAP is subjective and the punishment is subjective. Then that means we're wasting our time here. — Well no, you're not wasting your time. When you, as a judge, apply the NAP, you proceed objectively. We've had this discussion. The NAP is subjective. But by applying it in that context and being unbiased, being impartial, you are objective. That's what objectivity means. You put even your son in the slammer, you know, if he's broken the rules. Subjective would be when you save — you know, anyway. — Well yes, but if the NAP is subjective, then what are

[1:45:22] — any value judgment is subjective; the NAP — — then what are the limits of subjectivity? Because even when you assess it objectively, yes, you also have to make an evaluation: here the NAP happened or it didn't, a violation of the NAP did or didn't, and even if — — you can be factually wrong,

you can be wrong, you know? You can, but that's how it is. Well, it no longer has to do with libertarians. You know — — and then isn't it simpler to have someone who decides those laws? — Well, you don't give it to one of those whose guilt you haven't proven; you don't give it. — Tell me then, with your approach, — in a rape, how do you make reparation? — Restitution? — Rape him back. — Rape him back. Haven't you seen *Pulp Fiction*, when he says "medieval"? — I wash — — he'll say. Well, here comrade Kinsella deals with the fact that they separate — — he deals with the fact that the woman who is raped perceives the rape as

[1:46:29] different. Okay. Because — but that's a problem of perception. Yes, in the end what actually happens, yes, is the violation of bodily integrity in a certain way. Yes. — Yes. Okay. Lo and behold, the man who violates bodily integrity in a certain way doesn't have — if you really want to take it to the limit, you can rape him even if he doesn't have [the anatomy] — — He doesn't have where. — Except that it causes irreparable damage. No, not where the book says. The other part. The idea is: leave the technicalities aside. — Well yes, that's what I'm saying. Something is produced that isn't proportional. — How? So the woman, the victim, comes and rapes the — — Well, through that irreparable damage you've — you said it a moment ago — that's the argument for which, instead of looking at

[1:47:35] — the place itself, yes, you say okay, what's the total action, what was violated — — Yes. And the idea is that, — excuse me, you put it somewhere else, where it's possible, where it doesn't cause the same kind of irreparable damage it would cause if you stabbed him in — — Mr. Director. — Organ. — Mr. Comrade. — Comrade. — The comrade. And so you have the woman rape the aggressor, or how — — does he pay? If she wants this, it's her business — — you can do it that way — — if — but she can, she can — — you don't know what the aggressor wants. Maybe, again. — So — — I don't think she'll find ways to — — So she — I'm fairly sure she can transfer these rights. — I know, but if not — — and if nobody wants to. — Sorry? But she can do the following. She can easily say: "My white brother, you who are a good blood brother, I give you these rights,

[1:48:40] you solve the problem," and she's satisfied. — So you'll find some psychopaths in libertarian society. — So some — so what happens? Restitutive rights were created at the moment this rape took place. Yes. She has these restitutive rights. Yes. Those — — because she complains. Yes. And she can say — — and she has evidence too. — And she has evidence too, and she can say — — the following: the restitutive rights amount to this much. — They're from this guy. I can't, because I'm, as Kinsella says here, a woman and rather faint-hearted, and I don't want to go to town on this motherfucker, let's say. Yes, because it reminds me of something. Yes, I have a brother, a father, a son, a good friend — — who'd be interested in — — doing this. — Well, you can say there aren't any of those either. Okay, they're all that sensitive. — There aren't any of those either, so she gives it

[1:49:44] to the baker. — He gives — he gives her a free loaf of bread. — That one's the most dangerous. Ah — — he gives her a free loaf and goes and finishes off the rapist. — You know what it seems to me Kinsella doesn't discuss, and you'd very much have expected it? — Not here. — No, I'll keep it short. I'm not digressing. Short. Keep it short — he said that one of the functions of imposing force, and of the justifications, one was — what was it called — deterrence. — Yes. — And — — discouragement, thanks; prevention. — Prevention. — And the idea is that after that it isn't discussed at all in this chapter. And it seems to me that everyone's intuitive perception is that a punishment should maybe be more than 2x, but not to the point of beating

[1:50:47] — so that others won't do it anymore. And then the discussion is exactly like the NAP. "Sir, do we normatively adopt the NAP, or do we not adopt the NAP and bash each other's heads in like idiots?" We adopt — does punishment deliver deterrence, including 2x? Let's say that all you did — pay attention. So let's say that all you did, all you did, was this. — [Flick.] — That was all you did. Yes. — As

punishment. — As punishment. Yes. Okay. Imagine you go around with the fact that someone, anyone, any time, has the right to do this to you twice. — Yes, maybe you're a surgeon. — Okay, I understand. — Maybe you're a billiards player, maybe you're a painter and you're just finishing your masterpiece. Yes. And someone does

[1:51:52] this to you and jogs you and you make a mistake. Yes. So from a piece of crap like this — of which you'd say, "man, who's that going to deter, doing this?" — that can happen, it can make you lose 500,000 times more. I said I'd keep it short, but — — yes, — but I made a note — — go on — — so I could look. — Uh, Kinsella says here, and I think he's right — — Mm. — — that the type of punishment can be converted into various forms by the victim, and it's just that it be so. — Hm. So not only the quantity, sir — how many slaps, how many x's, — how many x's, whatever. — Yes, the type of punishment can be converted by the victim, and — — all punishments are the death penalty. That's the — — that's actually what he says. And, uh,

[1:52:59] — because the aggressor can't complain, because in the initial term he said that the aggressor is the one who caused the problem. — He can't complain that he was over-punished. — Never. Oh no, by the way, he can — but the fact that, sir, you quantified two of these at 5,000 lei or at 5 million lei — — he can give it. Look it up. — Well, what's there to look up? Man, you said this five minutes ago. I'll look for it. Go on. I mean, it bothered me and — — you can — I can start from here, from the type of punishment, again. — So a victim can choose the type of punishment — — Mm. — — and can quantify, according to his own mind, roughly how much — "sir, he pushed me twice; — I want him to give me 5,000 lei and I won't push him back." Only — or if he doesn't have the money, the protection agency should come

[1:54:03] and take him and put him to work until he's paid me all the money. Yes. — Good. That seems to me something the victim has the right to do, because the aggressor shouldn't expect — "Sir, I'm fine. I like getting punched, let's say," or "I'm a masochist. — I like suffering. I throw two punches; I don't care. — I get four. — I get four; that's fine." Likewise, someone with money says: "Sir, if all punishments are quantified in money — — experience shows a slap costs 1 million lei. Fine." He goes around slapping as much as he likes. Yes. — So what's the problem? — The problem is that you don't know what type of punishment the victim will hand you.

[1:55:08] — He does it at signing. I tell him, look, a slap. Do you want 1 million — — What signing? — What signing? No. — With the agency, when he signs — — no. The idea is that you'd have a kind of price like this, — informal, — accepted among agencies, whatever. — Well, and how much — you know, and it suits him to — — Well no, let's say it suits a rich man for all punishments to be in money; does it suit a poor man too — — or a poor man too. The problem is that, yes, the victim comes and says he wants — — "I don't want money anymore; I want to slap him" — — well, exactly — — or "I want to — " — libertarians say it fits those preferences better, you know that — — there can be other punishments. That's what I'm saying. You know, the moment the aggressor knows what type of punishment — because right now, say, it's prison. Well, there are many who, when the cold comes: "I'll go steal something and they'll lock me up for two years; I'll sit there quietly, warm, fed." — Yes. Firewood problem solved. Yes, — yes, exactly. So not only does Kinsella have the right — that's what I wanted to say — [the victim] has the right to choose the type of punishment, and it is

[1:56:11] justified even at the foundations. — Yes, but you wouldn't agree that the guy can [demand] anything. — Not only — not only that guy, but well, how are we going to say it's proportional? That's it. What do you still rely on? In what do you evaluate — — the guy will give, then he'll go to appeal, some — — and in the end you get somewhere. — "Yes, sir, you don't have to give him" — say, you can't ask a poor man for a million; ask him for 500,000 and that's it. — Well, wait, but you said at the beginning that

a slap is so much. — Yes, exactly. We have to measure them somehow. Even if in — — So those in Ireland, those in Ireland before — — had prices. Yes, — they had prices. A woman, a child, seven sheep, five cows, something. They had a price. Mm. — I still stick to the idea that that behavior was a kind of wisdom, so as not to escalate, — but anyway, — not again putting a price — — what Kinsella says is this: — "In short, any rights or combinations

[1:57:16] of rights that the aggressor has or claims to have may be disregarded by the victim in the punishment process" — implying that the aggressor does not actually have these rights — "as long as the general bounds of proportionality are considered." — Yes. Well, that's the discussion — — and that's exactly the discussion: the way he considers the general bounds of proportionality — — yes — takes into account the victim's feelings, and it takes into account the aggressor's feelings too. So it's not enough for you that you enter a swamp of subjectivity that you can't settle normatively, so as to be left with a proposal for an objective norm, but on top of that you take into account the aggressor's feelings too. Tell me — — and then the aggressor could say that — so the idea is — — he's also said many times that a threat is something that put her in a state of fear and anxiety, and

[1:58:19] that's it, those short-circuits. — Yes. Which is super — is super bullshit. — It's super bullshit. Yes. And what I'm saying is the following. What we like — or let's put it differently — what I like to say at this table very often: you can't know what's in a person's soul. — Who is? Nobody. — When you say no, that guy likes being beaten, it's okay — and he's had a personality change and now he no longer likes being beaten. Right. What do we do for him? A touch like this is as much as a rape, because he had a personality change and can no longer stand being touched, you see? He became agoraphobic overnight; he can no longer be in public. — Right. Okay. And how do you prove it? — I have to get a certificate. You prove it. You give it in the light of the information in

[1:59:20] — the light — if you haven't proven that he's agoraphobic — 1 million dollars for a touch on the tram — — right, so you're a — short — — short, by two — — must be 2 lei, 1 million — — because, fine, what price does it have? So — — and that principle of Lord Acton — we shared it, and that one about — what did he say — — Socrates, the most — anyway — — I don't know. We had it quoted. Yes. — We heard this song from — — from that guy — — just as the victim can ask for a small [amount], and how would you have — let's say I have a guitar, I played some ballad on it, and I want to sell it for 1 million dollars, and nobody gives 1 million dollars. Right. And for my restitutive right to it I demand 1 million dollars — can I demand that? Nothing — — you can demand — that's exactly what I'm saying — you can demand it for your restitutive right, for your restitutive right,

[2:00:23] which is your property, you can demand it. But we're not in — here we're not discussing restitutive rights. From this point of view they don't exist. In Kinsella's view there are only aggressions and punishments. — In Kinsella's view. — Yes. And when you discuss only aggressions and punishments and the restitutive right doesn't exist, you have nothing objective left to hold on to there. — That's the conventional Rothbardian answer. That's what you are. And this proportionality isn't something tied to — — Well, more avarice in the discussion. By the way, did you give it? — Yes. — So Kinsella himself said that — — no, because the principle of proportionality applies even to self-defense. — So Kinsella has an attitude — — and Rothbard applies it to self-defense. — He always has a lawyerly attitude. So he defends positions, because Kinsella said how you can become an owner: appropriation, transfer, or res— — uh, rectification, whatever.

[2:01:27] — There he knew; here he forgot. — No, because it's the nature of the problem, you know? Not that he wouldn't have told us — if he knows, it's normal that he knows. It's — — the solution is the one that leads Rothbard to this, which involves continuum problems, you know? — Mm. — It's conventional. It's conventional. — Conventional, but let it be consistent. — I propose consistent. Our pain is that we

want things to be objective. Well, that's the idea: continuum problems — if there are aggressions to be measured in continuum problems, it's only the one that — so the only thing that can be continuous is the character of the aggression over time. From this point of view, if you continue to look at aggressions as violations of property rights and you look only at actions, the only continuum problem that exists is over time. — No, the problem is that you don't know; you've nothing to — — and the luck with time is that it can be multiplied by two.

[2:02:30] — I say you solve the problem of consistency. The problem is: consistency with what? You know, the problem of the starting point. Okay, if we've admitted that a slap is 100 euros, two slaps — multiply by two. — But why is it [100 for] one slap? — Well, that's what I'm saying, that it doesn't exist — that you can't generate the correct price at the normative level. I can say only this: that the punishment for a slap is two slaps, — and then, if the victim absolutely wants to sell these two slaps as a restitutive right, he can sell them to anyone for any amount. There's no correct price. You see? If I received a slap from Donald Trump, — well no, no — — can you imagine how much money I could make selling the right to slap Donald Trump twice? It's not — — the market is huge. — No, wait, and I won't come, I'll come — — what — — I won't come — — at least one of them. — Wait — to someone, and that person can then — — the buyer of the right. You're saying he can

[2:03:33] direct it toward the aggressor. — Well yes, I have this right over him. I bought this right over him. — Look, here's one thing: even the aggressor can buy from the victim the right to slap himself twice, so to speak. — Yes. Yes. — So it's a market in which you can convert. — Well yes, but I don't deny that. All I deny is — — What I deny is that — — the maximum and the concept of proportionality can be established through the market. — That's what I maintain too. Why not? — It can't, or it can? — Well, how? That's what you were maintaining too. I say proportionality is limited, it's at 2x, and the reasons it's at 2x — with this, Kinsella. What Kinsella says is that proportionality can be demonstrated, can be determined through the market. — And when you start being concessive with someone — well, I maintain the same thing. Rest assured, they're different things,

[2:04:37] you know, that I maintain. — Yes, that's true. That's true. But no — look what seems to remain, or anyway, the dilemma was that if you say 2x, that's something between us here, yes? 2x — if I want to say, he can object. Wait a moment. — So you have two slaps, 2x. — The aggressor offers a price and it's accepted by the victim. — Yes. The price, let's say, is higher than it has been so far — conventionally, or than seems to me, to you, — acceptable, so to speak. — Right. — And what does that have to do with it? — The idea is that this 2x becomes superfluous. It's — — It's not at all — it's not at all irrelevant. — It's irrelevant because someone else afterwards can't demand the price that was the last one. — Well, but of course he can't demand the price, because value — value no longer has a unit. It no longer has a unit.

[2:05:40] — How can it not have a unit? It's automatically — it's automatically determined by the aggression. They can agree on anything else, but it's still a restitutive right that I sell like a pair of slippers. It's irrelevant how much I give you these slippers for — maybe they're important to you — and how much I can give them to Gabi for. You — — you're saying the 2x of Vali's theory is only abstractly normative. Yes, 2x must — — as long as this 2x — — can be converted into any sum of money or into any number of liters of milk. For me it's no longer 2x. — As long as there exists — as long as there exists — — the free market in this right of 2x. — It remains 2x. Yes, no — — 2x, man. Fine. 2x. Two slaps, two punches, two, whatever you like. — We have the classic example of the stolen bicycle, paid for at 6x the bicycle's value — market value assessed today, whatever.

[2:06:41] — Yes, the price fluctuates. The idea is that if the parties have agreed, you can't object — you can't come along as a third party and say, "well, wait, that's six times." — Well yes. No, I have no

problem with that. Even — but. So even that guy can — but only that it's not, you know, when you discuss the same thing. — Yes. If I, for example, owe Costel 6 lei — — and I give him 10 — — and say "keep it, for the trouble." Yes. — Okay. So what did I actually do? I extinguished the restitutive right Costel had to 6 lei, — and I donated 4 lei on top, because I'm a nice guy. — Yes. So that idea has to be separated a bit, just as a formality: I give you six bicycles although I owe you two. Yes. I give you six because I feel I have to do penance before heaven and give you four more bicycles. If you're that sort, you might not even accept them.

[2:07:44] — I'll have to attack it differently. — It's a donation. It's no longer — — Well, that's a donation. What's over is a donation. Yes. — So you're saying, sir, for two slaps — — strictly legally you can receive — — four — — four, anyway — for one, two; for two slaps you can receive four. Yes. — Good. And now you say this is just abstract, because I can hire — or it's my business — that champion slapper. — Exactly. — And that guy gives you four slaps. You might not come out of it well, — and someone will say, "well, wait, man, that's not proportional. He caused irreparable damage." — That's what I'm saying too: it's not proportional. — And it's tricky, because you sold it. It's four slaps. It sounds like sophistry, you know? It's only four slaps. But you killed him. — Well yes, but if that guy gave him four slaps that caused — — Well, how do you measure? — Can I finish? You — you said how you measure. You said how you measure. He caused irreparable damage. If that guy gave four slaps and caused

[2:08:47] irreparable damage, — yes? So only physic— — the wrong — the wrong is on the part of the one who gave the four slaps. Yes. Because you don't contract that guy to give four slaps. You can only sell the right to four slaps — — Yes. — — yes, to someone else. — Right. — Yes. So when that guy whacked him four times he had the right to give four slaps, but if he broke him completely — — that's his overstepping of proportionality. — That wasn't Alexandru's scenario. — Well no, but wait a moment. I receive two — the initial aggression, two slaps. I — — receive two slaps. — How do we evaluate my damage? It's just — it's just trespass, and more, he gave me a bruise. That's what I mean, that you have some pieces there. — Yes, those are proposals. — The weapons won't be legal — — the four. — Well, they're not that gray.

[2:09:49] — You don't have a technical definition; they're not that — besides, yes, if they're conventional, but they're not that gray. Yes, it's about the physical consequences it generated. Yes, — they are, though. I mean, they're not equal. They're certainly not equal. — And — — yes, either you give under-slaps or over-slaps. — This again can happen, in the sense that they're not fixed. — Okay. There are two — there are two points of distinction here. Yes. And I said that the first thing, for evaluating an action — — Yes. — and the normative consequences of an action — — Mm. — — yes, that's debatable. So in the sense of how much damage four slaps normally do? Yes. They're like this. If that person gives four slaps to any 1,000 people — — Hm. — — yes, hypothetically. Yes. We do a thought experiment. If he gives those four slaps to any 1,000 people, — — Yes.

[2:10:50] — and you have a result that emerges from that. Yes. Four slaps of a certain strength that he applies — pressure, whatever. — Newton-meters. — Exactly. Newton-meters. Yes. You get — so you realize that now we're discussing a normative problem and the way it's applied in practice, which has gone beyond the normative discussion. But let's finish it, because your argument seemed to be about impracticability, and I say this: four slaps do damage of this kind. If Alexandru, from these four slaps, suffered greater damage, the problem might lie with Alexandru. The problem might lie with Alexandru. If I give four slaps — — to a child, — — to a child — — no, no. If I give four to a child, then that population of 1,000 is a child, not an average. — They're children. A thousand children.

[2:11:52] — They're 1,000 children from which I extract it. I mean, I'm trying to say that if you suffer from a condition — your bones are like this — and you didn't warn me beforehand — — wait, don't hit the

surgery. — Exactly. Something like that. But — — well, and if he did warn him, it's not your fault. If you warned them, I think you can start to talk about a compounding factor. Glad you heard that — — Look, if you want to approach something with proportionality, you'd say: if a big guy slaps a small guy, then you have to find a proportionally big guy to give this one the same — to do the same damage. Proportionally the same damage. That's it. But I wouldn't even go there, because if he's really tough — yes. If the one who gives you four slaps is the slapping champion, you know? — And he gave them to you easily; he didn't give them at 20%, just enough to look like a normal man. — Yes, — you know? He gave them to you like that, and when he takes four slaps back from a normal man,

[2:12:57] he, being toughened, will feel them at 5%. You know? — He'll take another drag on his cigarette. — I can't find solutions for that. — No, but you can find solutions for that, because the slapping champion might have a rival who can't wait to give him four slaps. Plus, plus, some private agencies might appear with slapping machines — — and that — — what will it look like? Like a horizontal catapult. — Horizontal — — and which you can program. You know how many kilonewtons the initial slap was? Click, click, click. You load it at D. — How do you want 2x? How do you want 2x? Four, or in kilonewtons? It seems — — funny. — No, but see, we've had discussions like this before. So it seems — "come on, sir, have you gone mad? We're discussing philosophy." Man, the devil is in the details. This kind of detail can throw you, and someone will say: "See, it can't be done; it needs something simple." Okay.

[2:14:00] Simple, but let it not dodge. Let it not dodge. — Simple, but not unjust. Yes, because the simple solution isn't always the simplest. — Yes, bravo. Exactly. — Regarding this subchapter about increasing the punishment when — okay. — Hm. — — we judge by aggression. — Hm. — Kinsella gives an example here with the wild West. — Mhm. — When you steal a horse — — which the man depended on, — — which that man depended on. It was in the desert, — — in Nevada or wherever — — you got — — you got capital punishment, unlike in the eastern United States or in Great Britain, where stealing a horse wasn't quite so serious. — So a lot depends, including on — — context. — Look, in Romania too, in Romania too — you know when Priștanda says — — "I hounded him like a horse thief," you know? You see? So this was that part. Yes, yes, yes.

[2:15:02] You were saying, sir: — "I slapped this guy, but I didn't know he had some surgery here." — Hm. — Or here on his back. — Sensitivities, that thing. Yes. — "And I killed him with a slap." — Right. — The idea is that you should be careful. — So that's the risk you take on when you slap someone. — Well yes. From this point of view, the moment — well, this — how shall I put it — — it seems to me it contradicts a bit what I said: if the problem was — — that guy's extra damages, indeed they shouldn't be included. But what I'm saying is this: if the action you take has the effect of putting that person in

[2:16:10] a position from which death results for him without anyone else interacting any further — so as a direct result of the action you do to him, death results for him. — Yes. It's a direct consequence. It's a direct consequence of your action, and I can come in from the other side and say: the extra damages from the slap aren't relevant, but the moment I put that guy in a situation where his life is threatened, it's my positive duty to get him out of there, and if I didn't get him out, I caused his death. So I'm guilty twice. I'm guilty of slapping him. Yes. I'm guilty of causing his death. — I like it. I like it, because many people mix these up, and this division seems very healthy to me, sir. I might not even have touched him, and yet because of me — — because I passed by him too fast — — and something happened and he fell in the water — — and the wind threw him into the water. Yes.

[2:17:14] — Or I even pushed him. I don't know, but they're two different things. Yes. Yes, it's nice. — So, so, I could throw him in the water — because I passed by him too fast and the wind went "poof" and — — the wind threw him in, right? — And threw him in. Not that the wind — I caused it, because I'm still

the only actor who passed by there. — Yes. Let's say he passed by with something big. — Yes. And it goes "poof." Doesn't matter. Something — let's move on. — Likewise, there's the cost of the judge, of the one who brings evidence in — — Those are separate again. You can bring them — — also the aggressor, once it's proven that he is the guilty one, must bear them. — Yes. Yes. Those don't go into — — No problem. — Good. Already mentioned. So he must — — No problem. Those don't go into the two. — Here he wanted to make sure it's paid there. Those there. Yes, clearly. For those, what Kinsella says applies: the reason he pays them is that he caused — — Yes, the whole situation. — Yes. — Good.

[2:18:16] — Yes. — Right. Anyway. And here, for example, the victim's lawyer comes and says: "Sir, 7 million is my fee, to take from the same guy, sir." Wait, let's see. So there's a market here too, yes, which must free itself. The aggressor can't say, "Sir, for 2 lei I was supposed to give him what I say," — — the aggressor. — No, but there are some rates that are clear market rates. I mean, in the end the victim assumes — he assumes, when he goes to the 7-million guy, the 7-million lawyer, — he assumes that he may lose. You know, he might pay the 7 million himself. I mean, but if he doesn't lose and he wins, no — — the aggressor has to pay 7 million. — Yes. — Good. — Yes. So here's a trick, a loophole by which you can — — multiply the damage. Man, I'll think about it some more, but that's the impression, that's the answer for now.

[2:19:19] — Hm. Right. But I'll think about it some more. — You multiply the other one. — Good. Why are threats, attempted aggression and assault aggression? Yes. That thing with imminence, sir. I do this. Yes. And I say, okay, restitutively that guy has to do this to me twice, and that's it. We're square. The idea is that — — what created the same sensation of — yes. — Again, the moment we go by sensations — — he has to do it on a dark road at night — sensations; he goes by sensations. — I say this: the moment we go by sensations, we head toward perdition. — That's it. And Kinsella says: "Sir, no, because in this post-trial context in which the judge has given a punishment and you as victim have to make an imminent attempt on the physical integrity of

[2:20:22] the aggressor — — twice, as Vali says." So I don't know; it seems to me — — the aggressor simply knows you'll stop, and so he expects — — Yes, but it seems to me that from this point of view we don't — we don't understand each other, because I stopped him from — — No, no, it seems to me we don't understand what imminence means. — Yes, imminence only makes sense in the case where you're defending yourself right there on the spot. Yes, — because imminence presupposes that if you intercepted the threat before the aggression occurred — sorry, the aggression did occur. The aggression occurred, because an imminent threat is an aggression. But if you intercepted the situation before force was actually used — — Yes. — — exercised, yes? — No, — you stopped the situation there. No. — I'll give another example. I'm holding a pistol to your temple — — Right — — and I tell you: — "Write here a thousand times on the sheet, 'I'm an idiot.'"

[2:21:27] — Right. — You write — — right. — Yes. — And you get to about 9 [hundred] and say, "I can't write anymore." — I feel that if I do, this guy will shoot me. — Right. — The fact that I sat for two hours with that pistol at my temple — — right — — constitutes, sir — okay, he didn't shoot me, indeed. So I'm not allowed to sue him, or what? — Well, it wasn't. — I didn't — he stopped; the aggressor stopped; he didn't shoot me. But the fact that I sat for two hours — — under threat. — Four hours, two pistols, 2,000 times. — As long as it wasn't committed? As long as it wasn't — — I didn't intervene, I didn't defend myself, I didn't deflect anything. — Look, that's a very good example. — Go on. — It's aggression. — Let me think. It's aggression, without a doubt. That's the discussion — — the use of property. Well, the use of the body — — it's the use of the body. Yes. It's touching — — oh, it's the use of the body without consent. It's through indirect means of threat. What I get back is that I too will use your

[2:22:30] body for four hours without your consent. — Come on. — Yes, but it has to be proportional. Proportional. — Yes, proportional. You can't leave him bruises. — Yes, but you know, look — you know why it's hard to put into practice? — Because he knows it won't — — What? That he won't die. That he won't die. — Well yes. Well yes. Amen. Did you think — — Well yes, but — — so you have to do it artistically, you know? — Not threatened. No, but it has nothing to do with it — that's what I'm trying to say. You did — he threatened you that indeed you'd die. Yes. But he didn't kill you. — Yes. — It doesn't matter. It's not proportional, you say — — What happened in the act itself is that he used your body without consent for however many hours, with however much effort. What you get back is exactly that: to use his body without consent for that long. — Yes. It doesn't seem the right solution. — It doesn't seem right. — I don't think — it's as if you'd slept and put a gun to the head of someone sleeping, you know? — Well, by no means. That's exactly what I'm saying: that

[2:23:34] it has nothing to do with the pistol. — You have to recreate hell for him. Yes. Vali would say no, that it's subjective and that — — Yes. — Whereas our moral intuition is that you mustn't recreate hell for him. Because you can't. That's what I'm saying. — Your moral intuition. I'd say that before — — if you like, let's put it like this: your moral intuition ought to tell you that you're not God, omniscient, able to recreate the hell in one person's head inside another person's head. — Correct. No. You hear how? — Yes, you know enough. They — — and then, applying the principle of proportionality, — yes? Better less than punishing an innocent man. — Let's — let's see if I think you'd rather have to be [Satan], because I'm saying you know more about hell, you know? But you can reconstruct, you know? Make him do something, let's say — — so it's not theater, you know? — Make him play Russian roulette for real, you know? Even if you know it won't go off. — Yes, only in films for real. Wait a moment. Let's see if I can solve it. — In a game of libertarian

[2:24:38] football, — if you're fouled in the penalty box, would there still be a penalty? — Well, if the rules of the game are the same. Yes. — Well, I said it's libertarian football, anyway. Okay. The rules are the same. Good. — Those matches always end in a draw. — Now, if someone threatens me — exactly. If someone threatens me and I shoot him — — Yes. That's right — — if he threatened you with a gun, or if he threatened you — if he threatened you and put your life in danger. — So it doesn't matter whether it's credible or not, but he put your life in danger; yes, you can — so he's driving his car toward you, and you tell him to stop, and he keeps coming, then you shoot him, including within his range of action. Okay. Okay. — Okay. And then at the moment after, when that action — but that's also the difference I was talking about: what you did is enter the branch of self-defense; you intercepted the action before it materialized. If you don't write and that guy

[2:25:42] shoots you — penalty. — If you don't write and he shoots you, it's murder. — Listen, Vali, what if he gives you some poison and you know there's poison in it? Can you shoot, since it's not imminent? It depends — — he just gives you some poison. You know it's poison, and you shoot at it, let's say. — Well, and he forces you — no, because it's not imminent. No, because it's not imminent. — It's not imminent, because he's not forcing you. — No, he's not imposing it on you by force. Whatever. Anyway, the idea in my head was that the moment you demanded 2x restitution, it would be like a penalty kick. You could score. You could shoot him — — to make it credible and recreate — I'll bring — what — — So restitution for a threat in which he didn't shoot you and you didn't intercept him. — If the action didn't take place, the restitutive right wasn't created. — Well yes, but then I'm not allowed to shoot him in defense. — Oh yes, you're allowed to shoot him in defense against imminence. You're allowed — — against imminence. Precisely, you're allowed — imminence is almost simultaneous.

[2:26:43] — Well, why didn't I have enough patience? Because maybe he wouldn't have shot me. — Well, it's not quite almost simultaneous. You know — — that's the bet. So if this is — this is the bet, you see? — The aggressor's bet, — not — actually your bet is that he had bullets in the barrel. — No, this one had

no bullets. Let's say he had no bullets. — Bad luck, you lost. — Who lost? So — — you, who shot him. — Oh yes. — Well, why should I have to stand there checking all the aggressor's nonsense? — You don't have to stand there checking all the aggressor's nonsense, but that's the problem. That's the limitation of the situation. You weren't in a — so, once again, imminence means that at a moment of time T1 there's a threat, yes, which is separable only by a — — by a subjective tick from moment T2, at which the aggression took place, at which the use of force took place. Yes, that's what imminent means: that there isn't

[2:27:48] a moment of time between them in which something else could happen. — Yes. Therefore, if I have a pistol pointed at you — — and you — — shoot, yes, we can be — we're in the case of imminence — — only if the conditions necessary for moment T2 to happen also exist. If my pistol was empty, or a toy, — and you misidentified it, even if I threatened you, I said, "I'll shoot you, I'll ruin you, I'll whatever" — even in those conditions, — — I'm the aggressor. — You're the aggressor. Look, Rothbard has this in — — Rothbard has it in *The Ethics of Liberty*, and look, I sympathize with Vali's view here, but Rothbard says no — in *The Ethics of Liberty* or wherever. — Actually in *For a New Liberty* he says — — yes, there was a protest, whatever. The policeman fires like this, and — — So he says: if it was credible. Whereas I'd say that if you're going to apply

[2:28:51] the principle of imminence consistently — — this is how learned judges [rule] on it. If someone comes into your house at night — — aggravating — — aggravating circumstances — — and with a toy pistol — — and you shoot. He must — — You can't — I say he has to give him. It wasn't aggression that killed him. — Ah, — — oh, it was aggression, because he killed him. It was trespassing. He couldn't kill you. We'll put — — a bit of a time-out. I have to look at — I say let's put — — with these words we'll stop here, because this chapter is very big and we'll — — We'll ask you to — I don't know if — well, what's left for us to look at? There wasn't — but we haven't finished the discussion — — Burden of Proof. That's left, isn't it? — Yes, Burden of Proof and the conclusion. Conclusion. Yes. Okay. Good, we'll start with those next time. — Perfect. Thank you on behalf of Costel Tăvărache, Vali Berceanu, Alex Chiriac; I was Gabi Munteanu, and we wish you as much liberty as possible in this country that is trying very hard to oppress us. Until next time. What a discussion, lads.

Video 5 (#310): Dialogical Arguments for Rights (end of Chapter 5; Chapter 6)

Original title: *#310 | Bazele legale ale unei societati libere - S. Kinsella - Argumente dialogice pentru drepturi*

Length: 2:11:44

Link: https://www.youtube.com/watch?v=MIwD41tBGrE

[0:00:02] That one — — exactly, that's why the lead singer of Iris suffered too. — Wait, he hasn't died yet. — He hasn't died yet. Yes, he suffered. — Ah, he hasn't died. — No, no, no. Cristi Minculescu. — No. Why? — Well, because I haven't seen him around. — Oh, they've been singing just now. They had a concert at the Hard Rock about two months ago — — and did you go? — No. — Good evening. Friend. — Well, that's how it's sung, Dudi: "And when we are no longer here, you'll remember — " — " — that there once was a Ludi." — Aha. — Come on, man, a sponsor, for real. — That's it. — Ah, how nice of you too. — Ah, what did you put there for me? — That's it. Others stretch it out more. Yes, — yes. Let's do this. Wait. Pull that one a bit closer to you.

[0:01:06] — Yes. — More, more, more — more in front of you, where you want to speak. — Like that. Gabi, you pull yours closer to you too. Like that. And let's see. — But make sure you're comfortable, so you don't have to — — what comes out this week. Yes. Right. Two seconds while I start the timer too. This one's on because it's blue, and the videos are — — all running. — God help us. Wait a moment, don't believe what I tell you there. How many would I say that authority? Hello! Welcome to a new

[0:02:38] episode of În Doi (Between Two). Today we continue Kinsella's book, *Legal Foundations of a Free Society* — the last part of Chapter 5, and Chapter 6. Today we'll try to get to the end and discuss these texts a bit. But before we continue, Mr. Berceanu will tell us a few words. — Give us a like, we ask you from the heart, so the video goes into YouTube's algorithm. Share it if you think someone stands to gain from what we do here, or might gain, or just if you want to annoy them — that works too, and we're grateful. We take the shares for any kind of reason. No, we're not interested in the subjective part behind the shares. — Exactly. Also, if you want to get notifications when we post a video — especially since now, for reasons not

[0:03:42] necessarily within our control, we're no longer so regular as to post an episode every Monday — please subscribe, click the bell, and select that you want to receive all notifications from this channel. There won't be many. And please, if you want to get the book, you'll find it in the description, at Kinsella's link. The man doesn't believe in intellectual property, so it's freely available on his site. Also on the site you'll find a link to the publisher, Papinian Publishing, where you can get some books — fiction, novels — by Duck Casey and — — John Hunt. — John Hunt. We recommend you visit that link too, and if you want to chat with us online, on Telegram, you'll find the link to the Telegram group in the description as well,

[0:04:45] and a bit further down in the description, if you haven't tired of reading everything we put there, you'll find a crypto link and a Patreon link if you want to support the efforts we make here, and we take this opportunity to thank those who have already done so. — Last time we didn't finish Chapter 5. We stopped at section G, on the burden of proof in a legal case — the burden of proving you're in the right. And it's not about the burden of proving your innocence; it's about the aggressor, that is, the one accused in a case, having to prove that the punishment the judge applies is not the appropriate one. Yes, that it's too harsh — — well, the one the victim applies.

[0:05:52] The victim requests it — actually doesn't apply it, I'll say — — "Your Honor, look, I'm asking for seven years, or seven sheep, or 7,000 lei," and the judge — and then they impose it on — — on the aggressor. Well, we always talk about these things, and I always think it matters even in the absence of a judge. So these things judged — — after the fact. Let's say the victim somehow applies the punishment: it shouldn't be considered illegal that he applied exactly that — — that you shouldn't necessarily need the power of a third party. That's exactly what I wanted to say just now: the way Kinsella formulates it here, punishment can only happen within a legal system. Again, that legal side of him comes

[0:06:55] through. "Sir, we must have courts, we must prove it, it must be so," and not — — whereas in the Rothbardian idea, if you took a goat from me, for example, I come to you, I take my goat back, plus I take one more of yours because it's 2x, yes, and when you come back to take your goat that I took, I punch you in the face because you're not allowed to come onto my property — and only then can you start complaining to a judge: "Sir, he took my goat and it's not fair." And then I'll say, "Yes, yes, you know, he took my goat first." And there's the situation. I mean, the idea was that in the Rothbardian system you don't necessarily need this intermediary, as long as, for example, you too can say "yes, brother, you know?" I mean, maybe that punch could wake you up to reality and make you realize: "ah, wait, I'm in libertarianism; I was wrong here."

[0:07:59] — Yes. What I wanted to say was that it's not a condition that violates coherence and the rules if you go and do justice yourself — rightful justice — you the victim directly against the aggressor. — Yes. Plus, as we've discussed, the judge accepted by both parties could be anyone, as in *The Moon Is a Harsh Mistress*, by — who, Heinlein. — Yes. — Whereas the discussion, exactly as you said here with Kinsella, arises: "sir, we must have a system" — and the idea I want to emphasize is that it's not much to go through the system. — Yes. And not only that — there's a huge hole every time in this system he puts forward. So he says here that theories of punishment are designed — they have to do only with

[0:09:02] the justification of punishment; that is, to give decent, normal people, who wouldn't normally act immorally, the opportunity, the justification, to apply punishments to those who aggress against them. It's somehow — and a theory of punishment also has the aim of guiding these people toward what punishments should be given. I mean, we take it to the customer, if you like, on this side. And he says that this proportionality he speaks of — but which he long ago abandons in the proper sense of the word — — uh, he says we've already established that you have a right to punish the aggressor proportionally in response to acts of aggression, and once it's shown that the aggression

[0:10:07] took place — — it falls to — so it falls to the injured party, so to speak, it falls to the plaintiff to prove that the aggression happened. Hm. Presumption of innocence. — After which it falls to — — the aggressor, — — the one punished, — — the one punished, to prove that the punishment is disproportionate, that it violates the principle of proportionality, or that it's unjustified for some other reason. And the trouble that immediately arises is how you measure proportionality, — leaving aside that you have a problem, yes, since we're in a normative system and you have a problem establishing these limits — but we talked about that a lot last episode — — but leaving that aside, — I'd say that a system like this, yes, which can only be transacted through the courts, yes,

[0:11:13] will always give rise to a challenge from — so, besides the fact that, let's say, procedurally it will always give rise to a challenge, because you'd have to be stupid not to try to challenge it. — Yes. Not to mention, in fact — — well, he might bear costs if he loses, and he may not like it, because it's not the world of — there are costs, and those costs would be unjustified; I mean the costs — what I'm trying to say is that they should be pushed back onto the victim — — if you win, — — if the punishment is unjustified, if you win. Yes, that's true. Yes. Yes. — And when you take justice into your own hands, there are costs too. — Yes. Yes. Yes, but when you take justice into your own hands, it's an

entrepreneurial bet. And lo and behold, in a well-delimited system like this, yes, in which 2 is 2, x is x, and everyone knows what was stolen, you can take justice into your own hands without too much trouble. But, for

[0:12:20] example, what you can't do to take justice into your own hands, I'd say, is — but anyway, it's irrelevant. Sorry, I was getting ready to go off on a tangent. But coming back to Kinsella's system, you certainly can't take justice into your own hands, because you have to discover this — and let's take that case where we have a rape, yes? We have a rape and we're in court, and the raped person says: "Sir, I can't feel safe as long as this man walks the streets." Yes, very well. And it's proposed: well, we incarcerate him. — It doesn't say that. I don't think it says that. It says: "Sir, I was aggressed against in the property of my own body." Right. — I want — — to find — — retribution. Right. — So the fact that I don't feel safe

[0:13:24] on the street is your feeling. P— — But if you go further, one of the limits he goes to with proportionality, one of the limits Kinsella invokes further on to stretch this proportionality as far as he wants — so — — the victim. The victim. Yes. To cut off this guy's hand and leg, or more — — is because, sir, she perceived the aggression; she's a law-abiding person, and there's the terror that she's no longer — — the terror. Yes, — — that she's no longer — it's for the terror. And she says: "Sir, for my terror, to make my terror go away: a bullet in the head." — Mhm. — Yes. — And it's disproportionate. And — — and with Kinsella I don't know if it would necessarily be disproportionate, but certainly, certainly, the moment the sentence "bullet in the head" is pronounced, that guy has every interest in the world to say, "No, no, wait a moment, we need to discuss; it's a disproportionate punishment" — and then you'll

[0:14:27] discover that a large part of the cases that come before the court — even if, even if there are costs, the cost — any cost is smaller than the bullet in the head. — Therefore absolutely all, absolutely all trials ending in a death sentence will go into a suspension of the sentence until the appeal is judged, and — — after that. So first you have to appeal: "Sir, I consider that he's innocent." So in libertarianism two judges must give the same decision. What do you do if one of them gives it the other way? You have to go to a third judge and decide among three judges whether there was a rape or not. Yes. And now on the sentence — — We litigate the proportionality, then appeal, then further appeal, then

[0:15:33] and that's how we'll sit, and meanwhile — we'll sit because we're used to it going slowly, going with difficulty — but as was seen the other day, when they want to, a ruling can be given the same day. But in a freer world you could have a market for justice in which, as in any market, out of fast, good and cheap you can choose two. — Yes, but Kinsella's argument is that the victim is entitled to demand more than, let's say — — Yes. — another opinion, especially the aggressor's — — Hm — — which seems to him proportionate. — Hm. Because, because we find ourselves in this process, in this state of ambiguity, unable to decide what the proportional punishment is, because of the aggressor, and because of this — — but again — — the victim can demand more. — We don't

[0:16:37] find ourselves in this situation of ambiguity — the chosen system throws you into this situation of ambiguity because you choose to take into account the victim's feelings too. I mean, you choose, when you build your system, to take them into account, instead of sticking to a strictly objective system, which — lo and behold — also answers this intuition, "sir, it should be more." It answers this intuition that it's more. It's twice as much. Yes. — Good. We have several examples that could destroy this — — this 2x proportionality, — namely, when you have a stolen sheep and the aggressor has no sheep, and you have to take two sheep from him; and wait a moment, you have a — — you have a Van Gogh painting — — and — — it's priceless, — — well, it's unique and so on. And the idea is that you can't take two Van Gogh paintings from the aggressor. Yes, the guy,

[0:17:40] let's say, set fire to it because he wanted to warm himself that night. — Good, what do you do? — Well, in the first case, yes, in the first case, with the two sheep — — please — yes. — The answer is as simple as can be. I have to take back two sheep from you. You've created a debt to me. Yes. In the amount of two sheep. — Right. — Yes. I don't care that you don't have sheep. You have to get on with it and buy some. You can buy two sheep on the market and give them to me. You can buy them. You can convert any other asset of yours — you convert any other asset of yours so as to give me two sheep. You can. Yes. Let's say I can't come to an agreement with you. Yes. Let's say I can't. But you're already — — you're already — so let's say I can't come to an agreement with you — — amicably. Let's go to a court. The court will give the sentence. The sentence is then enforceable. With that enforceable sentence I can go

[0:18:44] anywhere, and someone, for a modest sum, enforces it against you. They take a piece of property from you — they take a piece of property from you, convert it into two sheep and give them to me. Problem over. — Good. Let's say you don't want to go to court with me. Let's go through all of them. You don't want to go to court with me over those two sheep, because you know you have them, you know you stole the sheep, and it'll go against you. We've solved that one too, — — because you simply hand them over. — We've solved that one too, in the sense that I go to someone else, to one of your business partners whom you need. Yes. I go to your milkman and say: "Look, you know that guy owes me two sheep. I can't manage to reach agreement with him to get to a trial. I'll sell you the right to these two sheep for so much money, and you can use it as a discount against him, and if he contests your discount, you'll have to go to court over my sheep and solve the problem." Yes, we've talked about this. Good. And now with

[0:19:47] the Van Gogh. Yes, — the Van Gogh is a more niche situation, let's say, which might not satisfy very many people. In the end, the value of a Van Gogh is subjective. — It is, — therefore we can't know it. All we can know is that that painting is a piece of canvas painted in oil. Yes. Which burns very well. The debt you've incurred to me for this painting is two paintings, two pieces of canvas. — Right. — No, two — no. Van Gogh is subjective. He says it's subjective — — two paintings or — — or — — or, if I really value this Van Gogh, I insure it, and the moment I insure the Van Gogh I transfer whatever rights of restitution I have to

[0:20:51] the insurance company, and the insurance company tells me it buys these restitution rights from me, in the event they arise, for the amount I insured it for. Yes. So I pay money there every month to insure the Van Gogh. — Yes. And in case someone steals it from me and can't restore it in full — yes, lo and behold, you who stole the Van Gogh, thinking you'd burn it and be clever, since you'd only have to give back two pieces of canvas painted in oil, find out that in fact you haven't caused me emotional damage and a violation of — and material — — but have caused the insurance company such damage, which this time has a value attached, and since it's a Van Gogh, we can assume the value is quite large.

[0:21:54] Yes, let's say 5 million euros. That fire costs you 5 million euros. "Well, you can't sell them, man." You have to find a way until you've made good this loss. Next time don't steal Van Goghs. — Good. And then I have a ring from my grandmother — — Mm. — — same thing. Yes, it's not a Van Gogh. — Well, let's say it was mass-produced, but it no longer exists now. It's no longer made. — And likewise I want to insure it for 5 million, like the Van Gogh. — You might not manage. — I might not manage, but I might manage thanks to paying a very high premium. — Exactly. Yes. Yes. And so I insured it for 5 million. — The thief comes, steals the ring — — and pawned it — — and wakes up in debt for at least 5 million, if not 10. I mean, assuming — what I'm saying is

[0:22:57] that assuming, toward the first 5 million, he can give you the ring back. — Yes. — It's — — let's say — — toward the first 5 million he could give you back the ring, since he didn't melt it down, didn't

sell it on. — The point is that he has to give 2x. — Well, that's what the other 5 million are for. — Well, we set the limit of 2x, which would be — — the right one for the victim to demand, because as we've said, the victim can always say, "No, sir, I forgive him," and then zero, and — — Yes. No. So the 2x — the 2x is the maximum. Yes, yes, yes, yes. — Did you explain it, Vali, last time? — Yes, yes, yes. — Okay. And so that can be — and I'm satisfied with this explanation, sir: if in the end we convert everything to a price determined by the free market before the damage occurred, yes, you don't wake up afterwards with "ah, well, wait, grandma's ring is worth 1 billion," you know? No, no, no, no,

[0:24:01] no, no. Well, fine. And there'll be a few carping libertarians who'll say: "Well, but what's this? It's a positive obligation to — " Yes, — no — — if you want to look at it that way, it's a positive obligation to demonstrate, through a transaction, the subjective value you have in your head, but you meet this positive obligation whenever you trade anything on the free market. — You see? So it's not a positive obligation in the sense libertarians run from. No, my brother, if you want to demonstrate it. So the only way we can know the value of a thing at a given moment, the objective value of a thing at a given moment, is in a transaction — when that thing is caught up in a transaction — the monetary value, or — — or not necessarily, because it can also be barter, but anyway — — yes, it's written down somewhere — — well. Because otherwise you can have a pencil and it's the most fabulous pencil in

[0:25:05] this world. But, well, someone will say you could call in an appraiser. — Yes, but the appraiser replaces your subjective evaluation with his subjective evaluation. It's not the same thing. — Let's say he makes it more objective. Still, at that moment — — He can't make it objective. — No, no, no, no. More objective considerations. He compares, whatever, however he does it. — So, A, pay attention. And yes, if I have two identical pencils — — Yes. And they don't have the same price, — — and I sell you one for so much, it doesn't mean the other is worth that much money. — Yes, that's why I always oppose appraisals. Just as a parenthesis about our times. So, all kinds of situations where you have to appraise. One of the most annoying is that the state forces you to appraise things so that they know how to tax you, which is nonsense. Because, well, appraisers look at transactions that have

[0:26:09] been made. Well, and if none were made, you can't appraise, and second, if they were made, you just showed with two pencils that they don't have the same value. So it's completely deranged. The only thing where you could come to a private agreement with someone is a bank saying: "Look, I'll let you pledge the pencils as collateral, but I can't tell how much they're worth, and we don't want to make it subjective." — No, but if you — yes, yes. Well yes, but ultimately, ultimately, even if the bank outsources the appraisal — — the bank only outsources its part of the appraisal. The moment you pledged the pencils, the sum the bank gives you for the pledged pencils represents the transaction. — Yes. Yes. Yes. Yes, I wanted to make the distinction between appraisal and — — look, one example Kinsella gives is a painter. Yes. — Someone comes and cuts off his hand, — and he says: "Sir, he destroyed my life; I can no longer paint; that's the meaning

[0:27:13] of my life. I might as well take my own life from now on. So it's as if he'd killed me." — Besides the fact that, let's say, — he claims it's — — "the paintings I produced with that hand also provided me, let's say, a monetary income." And Kinsella maintains that this is right — — and if he considers that for a painter, your cutting off his hand — he can demand even your death. — One solution is what Vali said: insure your hand. — That's exactly what I wanted to say. And — — in situations like this where — — you have non-fungible things, you can't — — Yes. And at present there are athletes who insure their legs, their hands, — and all sorts of parts, their hair, — so that you can turn this thing into something you can then — — appraise. Plus, plus, there's one more thing: by insuring it, there's this transaction that sticks a price on

[0:28:18] the object itself, and we're no longer discussing a subjective evaluation. It's an intrasubjective evaluation that's then quantifiable in money, and money can be multiplied as much as you like. — Look, a nice example we discussed before the show, of a woman who says her virginity is not — — yes — — and insures her virginity. Then she comes: "Sir, Bill Gates would have married me, so give me half of Bill Gates's money, because I no longer — " Yes. — " — have that possibility." — You can indeed quantify anything. The problem is that nobody can — you start quantifying anything. That's it. You know, if the market gives it to you. Yes. Yes. But if the free market really offers you, as we said in the case of grandma's ring, yes, — for your virginity, let's say, 2 billion dollars, and sets you a premium of 5 million a month — — No, 1 million was in *Indecent Proposal*.

[0:29:20] It was 1 million. — Okay. — Well, because there's been a lot of inflation since then. Look, from 1 million Gabi got to 2 billion. So you realize what kind of inflation there's been. — I was thinking of Bill Gates's beer at that hour. Poor guy, how he'd be impoverished. And then, yes, if you can pay for such an insurance, the fault lies with the one who raped you and ruined your virginity. Yes. — Yes. And some nitpickers will say: "Well, they'll make all sorts of arrangements between people and insurance companies." Well, then don't steal anymore, don't aggress anymore. Easy. — Well yes, — no one can demand anything from you if you don't do it. — Well, how — wait, how will they do it? Wait, what arrangements can you make with insurance companies? — To over— — — to make a contract afterwards or something? — No. Ah, never mind. Thanks. I hadn't thought of it. Yes. No, but — — well yes, but what interest would they have? What interest would those people have? I mean, you know, what would they gain from poor people who stole only a loaf of bread and then

[0:30:24] are asked for two? — Exactly. I mean, look, bravo. So a market system like this, with this 2x limit — which, okay, can be attacked, but with difficulty — gives you a much better solution for the needy people the socialists always invoke. Because now it's "oh, why are you putting him in prison, he only stole a loaf of bread for his little children." Well, that's fine. We don't put him in prison; he should give two loaves, or whatever. We have jobs too. — Pay attention, if you like. Yes, yes. — Unlike the [current] system of — — punishment — — at present you get put in prison for a loaf of bread. — Yes. — Indeed, in some states, below a certain amount, you're not punished at all for stealing, but — — they put you on a list. But the current system is very arbitrary in

[0:31:29] punishing offenders. — Hm. — Can you tell me on — — Hm. — — on what basis they set all those prison terms for theft, theft at night, theft of whatever — — with breaking and entering. — Right. Then even for murder. Yes. At night, because — — why 25 years — and pay attention, even states, even the judicial systems of a multitude of states have various punishments for murder. Yes. Some are 25 years, some are 80 years, some are a thousand-odd years — — for the same level of seriousness. — For the same level of seriousness. So it's very arbitrary, and — hey, I've sat and seen somewhere in the world of ideas a principle like this that determines a certain number of years in prison for a murder — somehow all the judges from all [countries] haven't read it, but they haven't seen the same principle, so they've set these different figures.

[0:32:31] — You could say that at the global level it's a free market, and people — I mean, it's a free market, anyway, it's a — — it's arbitrary — — an environment in which they experiment. See, Lord, it explores the options — but as long as they have the power to impose, they practically don't explore anything, because — — I'm almost sure they do. They have some, how shall I put it, some arguments for which they set them, you know? But these arguments are so — yes. But think how an argument in Romania generates 25 years in prison for a murder — — Hm. — — and in the United States it generates something else. Or — — 40, — — Yes. Or in France, or in Algeria, — — something entirely different. I mean, you don't have — — Good. Yes. So I want to highlight that just as there exist, let's say, several approaches in libertarianism to

[0:33:35] quantifying retribution and determining the proportionality of an aggression, in the current system there's a much greater variety of these, let's say, attempts to theorize and quantify the punishment of offenders. Okay. Conclusions. In Chapter 5 it was about how decent people need to justify the way they punish aggressors, yes. — They feel — they feel the need to — — they feel the need, yes, to have a justification. "Sir, I'm not becoming an aggressor too. I want to be a person who respects the non-aggression principle,

[0:34:41] and I have this inner need to find a justification for what I inflict on my aggressor." — Yes. — And Kinsella in this Chapter 5 offers such a theory. — Yes. Intuitively. — Yes, intuitively you feel like saying you should do the same thing to an aggressor. Still, people want to do more as punishment — so not just a rebalancing — because of this moral inclination people have of sometimes spending more money than the loss — — to take revenge, to punish someone in a way that, people hope, is good practice, so that he

[0:35:45] won't do it again. It's a kind of — or simply he feels that something has been reached — — No, my opinion is that this — — Yes, yes, I know, but this — the victim's search: "Sir, I'd like to make the aggressor stop doing it," or "do only good from now on," or other things like that, "never steal again in his life." — Yes, completely. It's a wrong impulse, sir. You should be concerned only with restitution and retribution for the damage the aggressor caused you. You don't start now to make this guy behave from now on, to educate him yourself — — Aha. — — to behave well from now on. Yes. Not to violate the non-aggression principle again. — Rehabilitation, you mean? — Yes, yes, yes, — yes. That's his problem. You don't have to bear the costs of his rehabilitation. Yes. Through education, through punishment or through other things. I wanted to show that

[0:36:52] people, willy-nilly — you said it's wrong, but people, willy-nilly, have a view of life, of society, of how things should go, and so maybe, from the course of events, things seem natural to them, they follow, — — it seems to them that — and you, well, rightly say it isn't rational. We've talked before about this concept of package-deal philosophy. — Yes. Yes. Yes. Many of you have taken it as a package. — Social engineers today seem to me to have this inclination: "Sir, how do we make it good for everyone," and they throw in some crazy stuff — — which are their ideas. — "Yes, sir, people should wear masks on the street." Yes, — — yes, exactly. — "It seems to me that's best." — Good. Kinsella goes on to sort of complete his idea with extracts from other philosophers

[0:37:58] who hold that punishments are justified in this way. We'll review a few, and I'll stop at something I liked very much from Locke. But for example, the first is a law professor, Lawrence Crocker, who says: if A and B end up on an island and have a gun, if A forces B at gunpoint to build him a shelter, then if B gets hold of the gun, we can't object to B also using the gun, threatening A, forcing him at least to build him a shelter. John Hospers says that aggressors, when they launch an aggression, are in fact saying they prefer to live in a society in which force is the arbiter, and so that rule should be applied to

[0:39:03] them too, and they should be treated strictly with force. Good. Herbert Morris explains how consent can permit violence, and the problem is only force exercised without consent. If I give Alex a watch and say, "Look, here, keep this watch," I can't afterwards complain that he stole my watch. But if afterwards Alex — and it also doesn't mean Alex can take my phone, for example. These are common-sense things, but well, it's good to formalize them in this sense. Hegel, for example, says that the criminal's action — we can say that punishment is actually something the criminal creates through his actions, almost like

[0:40:09] a restitutive right. We could overbid. Hegel says that the act of punishing the criminal is in fact the manifestation of the criminal's will, because he created it, because it's rational, actions are universal, and so on. Anyway, I'll skip this one with Charles King, if you don't want — it says basically the same

thing: he broke the reciprocity of not violating each other's rights, and so you can violate as many of his rights as you like. But what I like about Locke is that he has a way of putting it — he says, well, Locke is at the level of natural law, and he says that if a man violates the laws of nature, he thereby declares through his activity that he lives by rules other than those

[0:41:15] of reason and reciprocity. Therefore he becomes dangerous to the human species as a whole. The man doesn't mince words — — and no. So what seems super to me is what he says now: "By the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a lion or a tiger, one of those wild savage beasts with whom men can have no society nor security." — So it's — — it's harsh — — it's superb. So that somehow touched my heart. I mean, it should be repeated in general that people cannot have

[0:42:19] a society permeated by a feeling of security — when savage beasts — the word "beast" is his — are left to roam free among us. So if he breaks a law of nature, you have to put him outside nature. So that he's no longer part of nature. — No — so that he's no longer part of society. Yes, well, the law. He said that human society too is governed by the same natural laws. Yes. — Yes. I mean, that the laws governing human society are natural. Other such quotes in support of Kinsella you can find on Kinsella's site — which you'll also find in the description — under the section "Quotes on the Logic of Liberty." — Chapter 6. Yes. Dialogical arguments —

[0:43:26] I don't know how else to — — It's okay, it's correct. — "Dialogical Arguments for Libertarian Rights." Sir, on what grounds do we maintain that man has rights? Yes, he's not a libertarian. Maybe man has no rights at all. I mean, if you punch someone, — what right of his have you violated? Well, he wants to say — he wants to show that rights exist as a concept. — Yes. Yes. Man has rights, and so must — — and the moment he demonstrates them, he shows you which they are. The term "dialogical" will be caught up in a — so in 2019 Kinsella published "Dialogical Arguments for Libertarian Rights" in a publication called *The Dialectics of Liberty*, and there he explains as

[0:44:30] follows: the term "dialogical" in the title refers to discourse or dialogue, in the way it is used in many of the theories covered in this chapter, including Hoppe's discourse ethics, the so-called argumentation ethics, and many others mentioned in Chapter 6. Yes. He starts from Nozick. He — — Hm — — uh, Nozick's phrase: "Individuals have rights, and there are things no person or group may do to them (without violating their rights)." And Mr. Nozick says no — — that's an intuitive position, let's say, which libertarians and classical liberals — — and I'd say even communists — but they don't think; communists aren't concerned with consistency.

[0:45:33] Yes. Come on, all the bleeding-heart socialists, you hear "human rights, human rights" in their mouths. So everyone has the concept that people have rights. — They have a consistency, but they start from other — — I think communists think more in terms of classes. The working class has rights. You know, you might be right, but with today's socialists — — they keep going on about — — they keep going on about human rights, but it can't be. — Okay. — Well, look, for example, Dominic Fritz. Yes. Where does he go to complain? To the European Court of Human Rights. — Okay. — Yes. — And — — a private court he wouldn't go to. — Kinsella says that over time libertarians have developed several theories to support this, to prove that man has rights: through natural law; through utilitarianism — "sir, it's good for people to have rights because that way the economy prospers and we all have a more abundant life," things like that;

[0:46:37] or, as in the case of Kinsella and Hoppe and others, as we'll see in this chapter, through the use of pure reason, so to speak. Yes, just through an ethics of action, or of argumentation, or of the estoppel principle from the legal system. Hm. Good. And the first argument Kinsella mentions here is Hoppe's:

argumentation ethics, by which it is proven that man has rights by the fact that he is a man, by the fact that he argues — — instead of — — instead of —

[0:47:38] — well, here I'd say, he talks about Hoppe's theory — — he calls it path-breaking, in the sense that it creates — it sets off on an entirely different branch. — If everyone was or has been concerned in this theory of human rights with demonstrating where they come from and why man has rights, yes, Hoppe isn't even concerned with that. He shows that people themselves behave in a way that implicitly recognizes that they have rights. So mine is a totally different argument: it's the way people behave today when they argue. The act of arguing itself represents an implicit recognition of the fact that people have rights. — Even when you maintain that people don't have rights, — — in fact you maintain that you contradict yourself. In fact you contradict yourself. — Yes. By the fact that you maintain it. — Yes.

[0:48:42] — By the fact that you argue that you — yes. Exactly. That you maintain. Maintaining represents an argument. The argument implicitly recognizes the existence of rights. — Well, it seems to me that — — and we're about to debate, to evaluate, how Hoppe does this. — Just a small observation on what you said: you say people have rights, and it seems to me that until they interact — we know this story, yes? — this bit, until he interacts with others, the question of this abstract concept of a right doesn't even arise; and then, the moment you behave like this — this is what I think estoppel refers to as well, how you behave, and then you have to be consistent, which here, anyway, is a law of logic — by the way you behave, you produce the foundations of the contract with the others, with the other person. — Okay. Here — — I mean, there's no such thing fallen from somewhere or sprung from somewhere. Sing—

[0:49:45] —problem. Sorry. I have just one problem with what you said, — namely that at some point you slipped a "must" in there. — You slipped in a "you must be consistent." — You don't have to be consistent. — Well, I said on the basis that logic obliges you. I said logic must — logic. — Exactly, exactly, that's the idea Hoppe states. — And somehow this is also something Kinsella will later invoke as a gap in an argument we'll see toward the end of the chapter: the fact that you treat actions as if actions ought to obey logic. Whereas Kinsella's and Hoppe's argument — yes, yes, yes, yes, yes, yes — [treats] actions as if they had to obey logic. Whereas the whole argument of Kinsella and Hoppe is that actions don't, but discourse, dialogue, argumentation —

[0:50:50] those must obey logic. Those do, because the rules of logic are implied in any kind of argumentation. Argumentation must obey logic, but people's actions don't. You — that's what you told me: actions must — people must behave consistently. — I'm sorry if it came across that way. I was saying you must have consistency after the action, — — after the argumentation. — Either the action is the argumentation, or the action is an action. He says it further down there. It's a subclass of action. — Yes, — it's more — — how shall I put it, more particular, so to speak, you know? Actions are much more general. — Yes. Yes. — Good. — Yes, but argumentation is the subset that must obey the rules of logic. — Yes. — Otherwise it's no longer argumentation. This is one reason why

[0:51:58] the support based on the ideas of Hoppe and Kinsella is superior, let's say, to the — — natural — — to using natural law to support human rights, — — because he mentions the problem here too — — because it rests on logic, not on — — the natural laws discovered of human nature. — The premises are very shaky, yes? Anyone can find flaws in them, or doesn't start from the same premises. Yes. — Simple natural ones that you — — "sir, it's man's nature to — " — " — pay taxes," or — — Yes, yes, yes, yes. — You know, the nature of the state — "it's in man's nature to form a state," — things like that. — Yes. And put yourself — — if you're well-off, he must give — — "an employee of ANAF — it's normal, it's

natural," things like that. — Funny. — "It's normal for the state to help" — whom? How would it help? Well, it can only take from you. — Fine, if we haven't completely perverted the word "natural,"

[0:53:01] — but we can accept — we've had this discussion in another show — that human nature is rather — — hard to pin down, to — — fence in — — yes, to fence in. Right, — — well, we can accept this without getting to ANAF and other things. — Yes. We'll come back to the subject a bit further down in the description. So — — let's talk — — Good. And Hoppe says this: "Sir, the moment you start arguing that you're right, or that you have certain rights — including, how shall I put it, like the socialists: 'sir, we had to tax the others, the rich' — at that moment you are using a scarce resource, namely your own body. And applying the principle of universalizability, the others must also own

[0:54:05] their own bodies. If in your mistaken argument you've used your own body freely, without restriction, then other people too have the same rights." — Yes. — So you've contra[dicted yourself] — and at that moment, since they have the same right, you don't have the right, by what you maintain, that we must take something from them. That would mean they're no longer free and no longer own their own bodies. The idea — the idea — — you've contradicted yourself. — The idea behind it is this: an argument, — in general, an argument has the following structure: premises, arguments, conclusions. Yes, except that an argument has something more the moment you apply it in real life. I mean, okay, when it's on paper, that's it. But the moment you apply it in real life, the fact that you're trying to reach an understanding with the other person through words, using arguments,

[0:55:10] also has some implicit premises, which Hoppe looks at only insofar as they help him explain that you prefer to use argument so as not to use force. Yes, that would be the implicit premise, and then anyone who tries to justify his actions — even if the actions were actions of force — that would be an incoherent argument, because by arguing you implicitly say you prefer not to use force. — Yes. — Hm. — And you want to argue for using force. That's an argument in which the conclusion negates the principle, negates the premise; it's an invalid argument. What I'd add is that Hoppe, unfortunately,

[0:56:14] has an error in the way he puts things, and namely his error also comes from the model we were discussing in past weeks, when we met two episodes ago — that model of separation between person and body. Yes, because he says that argumentation proves that — one of the premises of using argumentation in real life is that you assume you have the right to use your body, to use your body exclusively to get those words out of your mouth, and that your listener has the right to use his body exclusively to hear those words with his ears. That's Hoppe's conclusion. Yes, but Hoppe's conclusion has an introduction, an unnecessary premise, namely this separation between person and body. And because he introduces this separation,

[0:57:20] which is unnecessary, unfortunately the rest of his conclusions — — which derive from the fact that he thereby demonstrates self-ownership — are vitiated, if I say I don't need self-ownership. Because you say: okay, I have self-ownership, therefore I need the concept of property. Yes, but the concept of property comes with all the rest after it, including what Rothbard says at some point, that it's alienable. Well, the body isn't alienable except in pieces. At a certain point it can't be alienated entirely from the person. So is it still property or not? Because exactly what you derive your concept of property from doesn't — — meet one of the rules — — and he goes further and extends it. And you could say that the second argument is not that we need property, the concept of property, in order to be able to live — — because if we don't live — — we die, and there's no one left to raise

[0:58:24] the problem of argumentation. — Yes. And that's — we could say that's a stronger argument, I'd say, for — — playing Costel's role a bit: well yes, but some may want to die. Maybe there too. — The exit — the exit from history is that way. Please, don't let us keep you. Yes. And the idea is that the problem is that if you come back to the fact that you need something that sustains human life, or

sustains the continuity of the species, so that this argumentative problem can exist, — I fear you actually fall back — — into the realm of natural law. — Hm. Because natural law says that any animal on

[0:59:31] this earth, including man, acts as natural law allows it, so as to — — survival, perpetuation — — Exactly — so as to fulfil the two natural imperatives, survival and perpetuation. And man, in order to survive — and here's where, if you look at natural law, okay: what is the wolf's nature? To hunt. What is the snake's nature? To hunt. What is the gazelle's nature? To eat grass, — — to breathe, to drink water. — What is man's nature? — Yes. Okay. Those apply to all — I don't know, except anaerobic organisms that don't breathe. Yes, but the idea is that it performs certain activities that are in its nature in order to persist and perpetuate itself. Yes. And then you come back to man, and you run into the problem again. Okay, what's in man's nature for him to persist and to

[1:00:35] — to reproduce? And here I'd say the best argument I've heard on this side of natural rights comes from Rand: — Mm — — man's nature is to produce what he needs to survive. — Hm. — And in order to produce you need property. Yes. And when I say "produce," it's because man can eat — what's it called — in the herbivore style, and he can eat in the hunter's style too. Yes, he can be both hunter and gatherer, which none of the other species is. I don't know whether there aren't some monkeys that, if they don't find [food], become cannibals. — Something like that. But otherwise, those that hunt, hunt, and those that gather, gather. Except some animals of the bear type,

[1:01:40] — which both hunt and gather. But that's about it. The bear is the only one — — in this category. The rest no. The rest don't kill. The rest either eat carrion or hunt. — Yes. — Good. So — — wrapping up this whole argument, if I were to hold Hoppe to — — to tug at his sleeve, — I'd say that the only thing implied by what he says — that man prefers to discuss rather than to [use] force — — Hm — — if I don't set about separating, I'd say I discover in man a quality similar to something I'd call free will. — It's a trait, it's a property — — of man. Yes. — Okay. — It's human nature, — — I could say — I'd overbid and say yes, that free will is in

[1:02:44] human nature. — Okay. To me it's something that's learned, but let's move on. So you're saying — — hey — — why do people — why do, let's say, the proponents of the current state in all its forms try to justify it, instead of saying "sir, if — — you don't listen to me, I'll give you two smacks on the back of the head," and — — right — — and yet they try to argue. Yes. Today's intellectual priests put out books to justify things — — so — — they've seen, so to speak, "sir, we should recognize libertarianism in order to justify the state." — Actually, — — no. They want — they've recognized, I'd say, free will, and they want to undermine man's free will so as to

[1:03:48] use it against him, against his interests in the — — which presupposes that he'd be free and would want to live in a world without aggression. — I mean, the intellectuals, after they saw Hoppe's argumentation ethics, said — — no, they intuited it. So you realize that, how shall I put it, there were arguments — — even before Hoppe formalized his argumentation ethics in 1980-something — — a leg of it. Yes. — Therefore the intuition of these — after — it didn't even concern them. "Who's this eccentric German who sits — " — " — over there?" — Well, it didn't even concern them. So Hoppe — if you remember, including when we discussed it — simply, there are intellectuals who — — Hoppe is ignored from this point of view by the intellectuals on the other side. — In any case, in the end they're people too. — I mean, those who write books about statism, what do they do? Do they debate the subject with Hoppe?

[1:04:54] No — they treat him as if he doesn't exist. — Ah, okay. — Precisely because they couldn't explain him; they couldn't keep their crooked line of argument. — Yes. — So you can say the same thing — — about all the journalists of today. — You'd say those are, let's say, intellectuals of a lower — — Well, that's why we — that's why we didn't put them in the category. But I mean something else: you

have some logical implications in today's society that none of these people really touch — why so-and-so — I don't even want to go into details. There are subjects that investigative and analytical journalists and whatnot don't touch. And why don't they touch them? Because they behave — as I've said about socialists — they start from a foundation, and the journalists and all kinds of media here, even the influencers who are in opposition, still don't touch certain subjects, the way

[1:05:58] we do — it's because they start from some foundations, and for them one of the foundations, which is completely arbitrary, is democracy — and democracy means many things to many people. For some it means you can attack power, I don't know how, but procedurally — let's not exaggerate; for some it means the majority decides, blah blah. And the idea is that you have a mass of discussions in the public space that are about how to keep the shack standing — for them the discourse is: is it democratic to vote on one day or another? Is it democratic to cancel the elections or not? Things like that. — Is it democratic to make TikTok clips or not? I mean, the discussion is here, it's not — — but whether democracy is good, or whether we must have a kratos, a centralized power in a certain way —

[1:07:01] even if it's the demos — I don't know, it doesn't enter the public display. It's one of the assumptions — — Exactly — — in the word "democracy." Well yes, well yes, it's an implicit assumption. When you say we must have democracy, you also say we must have a demos and a kratos. No, I can't escape that. — What I wanted was to answer your "why do some intellectuals do this": because they choose — it doesn't matter how they choose — those intellectuals you've refuted start from certain foundations, and to keep their coherence they go elsewhere. — Yes, nice. Kinsella says here: opponents of liberty undermine their own position — — the moment they start to — — maintain — — that liberty isn't good. — Yes. — The state, let's say — — to maintain the argument that liberty isn't good. — Yes. — And in fact precisely that — — how? Because they're free to do it.

[1:08:06] — Yes. And why Kinsella says this is that absolutely any argument — so if we go with Hoppe's version, from which we can determine — yes, I'd say we can go further, even with Hoppe's version, and say: if man has free will, then from this — implied in free will is man's liberty, because man cannot be — if he isn't free, he doesn't have free will. Somehow we can go in that direction and come back to Hoppe's argument, and then, when they say — when they use — when they want to use man's free will to deny him liberty, it's a contradiction in terms. But the human mind is built in such a way that it can hold quite a few contradictions without exploding — — and how, compartments? — No, I don't know if I'd say compartments.

[1:09:08] — No, no. Yes, I don't know whether to say it's unfortunate or — — Well, considering we've got this far, some would say it's fortunate. — Good, — — you have the power to forget. — Yes. Good. And then, yes, to come back to Hoppe's theory from there, he says: okay, once we manage to establish — let's suppose we manage to establish from free will the necessity of the existence of — how shall I put it — the necessity of the existence of property, yes? Whether from free will it follows that man is free, and for man to be free he must be free to produce — we throw in a bit of Rand there — to produce the means necessary for survival, and in order to produce, property over external, alienable and scarce resources is needed, because otherwise he can't produce anything. Therefore

[1:10:13] property rights exist over external and scarce resources, and the question arises: what's the best method? Coming back — now we re-enter Hoppe's argument — what's the best method of establishing property over these scarce resources? Yes. And he approaches this along Locke's line: "Sir, if you've mixed — " — He says there are two options. In the end he selects Locke's, but he says there are two options. The first, which isn't correct, would be declarative. — People say, "Sir, it's mine." "No, it's mine." Okay, — — conflict. — Conflict; therefore this violates one of the premises for which

argumentation exists, namely not having conflict. Then the other option is — — when you mix your labor, an activity, with an external resource — — or you do something that changes the nature

[1:11:19] of that resource. Yes, — it bothers me a bit, because it seems to me that around here in the chapter the problem is framed as a sort of consequence: we aim for such-and-such, so the most logical thing is to invent this right. Whereas to me it seems the property right happens. It happens by using — don't we have that classic example of a stick? It's a stick. Well, with that — — and then you don't do anything with that stick, but you want to have it — — and that, it seems to me, shows you that the object, that scarce resource, becomes an extension of you. To me it's not a condition for producing — okay, that too, but before that, for me it seems it's

[1:12:21] — Yes — — that you produce or acquire, anyway, extensions. To me it seems all properties are like that, extensions of you. You become a person more — — I think we're drifting away — — full of resources, but anyway, that's for me to — — into the details of Locke's theory. That would be, so to speak, a version in which you look from the other side of the distinction between — I mean, somehow to play property without dissociating the person from the body. — Hm. — Or, if you like, you can keep dissociating them, but you somehow incorporate into the body all the separable things. Anyway, we'll think about that at some point. — Anyway, in a way this explains why all central impositions annoy me, because it seems to me that — — Yes. — — they aggress. — Then the [question] Kinsella poses is: "Sir, but why do we value

[1:13:25] the non-conflictual state? Sir, let there be conflicts. What? That's human nature." So — — some people — — Yes. And he says here: "Sir, these norms are valuable," and he says everyone agrees with this, because all those who are alive and participate in this activity of discourse, of argumentation, — implicitly want — I mean, want — show — — show that there's value in using their own body, which is a scarce resource, — — as they wish. Yes. — Hm. So you can't not value this state of non-conflict. It would mean you'd appreciate saying you like conflict only when

[1:14:29] someone comes and puts that pistol to your temple. Sir, — — it's okay. Yes. And you're just declaring your consent. — Yes. And you can't even. — Well, it's no longer conflict if you declare your consent. It's no longer conflict. — Well, that's what — that's how I understand what Gabi says. — You don't like conflict. So yes. "I don't want him to put that pistol to my temple." That guy puts the pistol to my temple. Aha. — "And I like it to be conflict, and to — " — Aha. — Well, why do you like it? — Well, why do you like it? — I don't think — I don't think you can get it out more convincingly, from the other side, from what you were just saying — — it's: how do you know people want what they want? And the answer is simple: demonstrated preference. Well, that's it — how do I know I want cola? Well, I drank cola. — The proposition is: but would I drink cola if I didn't want to drink cola? Let's — let's try to rationalize it from the other side. You'll see it won't work. It's

[1:15:33] — it's not something like this: "I'm prime minister. Yes. And I want to ban cola while I drink cola," you know? Yes. That's a contradiction, because this principle of forbidding cola to other people is implicitly contradictory and can't — because it can't be universalized. Yes. So it's okay for me to drink cola; for the rest of the world it's not okay — — well, "do what the priest says." — Yes, again — — "I like it, I like it. I want the world to be in conflict. Yes." On the — — No, not me. Look how faith — or anyway, traditional habits — teach you — — go on — — to carry the dissonances: "do what the priest says [not what he does]." So it even tells you what to do. Separate them. — Yes. Yes. Well, if you want to justify this

[1:16:39] thing, it's that the priest, when he speaks, speaks the word of God, but he himself is a fallen man. You mustn't take him as an idol; that is, you must follow the word that comes from another source, not the behavior that's directly passed through the priest's free will. — I think this went on for a

long time because people didn't know how to read, — and now people read and say, "never mind, I'll read the word myself." — Yes. — Well — — go on, Gabi. — Yes. Then we move on to this difference we've explained between natural law, or human nature, and — — and what Hoppe did here. — And what Hoppe did here, and why the demonstration of private property rights is superior — — right — — in Hoppe's version compared with the version — the idea we have to keep in

[1:17:43] mind is that it's not a demonstration — it doesn't make a demonstration of private rights, but only says that people behave as if they implicitly exist. — Okay? So Hoppe's demonstration isn't a demonstration of the existence of private rights, but a demonstration of the fact that people behave as if these rights implicitly exist. — These rights. — And that's exactly — that's exactly why it's, as Kinsella said at the beginning, path-breaking. That's exactly why Rothbard, when he praises — — Hoppe, says it's something really powerful, that — — it's like with Peterson. "Sir, faith is an ethereal thing that doesn't exist — or, because people believe and behave [accordingly], lo and behold, it actually exists." It's not as if — it's that kind of — — Yes, yes, yes. — So that would be — — So rights "as if" they exist, because people behave as if they exist. That would be the counterargument —

[1:18:46] that would be the best counterargument to this position: — yes — okay, if people behave as if property rights exist, that doesn't mean they exist, because people behave as if many things exist that we know can't possibly exist. — Yes. Okay. Anyway. I'm referring here, for example, to Loch Ness — not to the monster of Loch Ness, which, as they say, we know there's nothing there. — Did you go and see? — No, others went. — Others went and searched everywhere. — Damn it, it's a single lake. You realize they've looked at it for who knows how long. — Okay. Good. And here he mentions Mr. — — But sorry, sorry to interrupt you again — just one thing I'd say: since I've given the

[1:19:50] counterargument to Hoppe, I can also give a counterargument to this counterargument, namely: — even if it doesn't mean these exist, we're having a discussion about normative principles. And normative principles themselves don't exist physically, but they exist in a system that can be held in people's minds and, of course, in people's behavior. Therefore it's irrelevant whether these exist or not in physical reality, so you can lay your hands on them, as long as within the normative discussion we behave as if they exist. So they're a premise included in the normative system we're trying to unravel. — The socialists [do] the same. — Just as you can say, for example, that the word "house" exists — — by the fact that we all uphold it in — — as a concept, you mean, or what? — The concept, or the word? — Well, just as the right of private property exists and you say it doesn't exist —

[1:20:55] you haven't proven it — so the word "house": how can you say it exists or doesn't exist? — Well, you just used the word. Yes. Ex— — So then is that a demonstration, or do we behave as with property rights? — No, well, not — the word "house" — — Yes. — — you just used it. Therefore it exists. I think Gabi is asking what more do you need to — maybe you want to ask me — — uh, if people disappear. It depends — — how — — as long as there exists an entity capable of decoding what remained written — — in this universe, as long as there exists — then it might still — so as long as the writing exists — — Yes. And there exists an entity capable of decoding it, then the word still exists. The word "house" — the concept, not necessarily. — It might be like a heap of other concepts from ancient Egypt, for example, which haven't come down to us today, let's say. I don't know; I suppose they exist in the sense that there are words from ancient languages whose meaning

[1:22:00] we don't know. So there may also be concepts that we no longer have. Yes. — Okay. It's very interesting because it shows you there's a mass of things that we say are, that exist, that you can possibly sell — like the discussion about selling your labor, right? Which Kinsella says is only an action, and practically it's a condition for doing the action, for transferring — — Yes. Why was I saying the argument is about the existence of natural rights? Because in the theory of natural human rights, they

exist physically. They're — you walk around with them; they come out of your head every time — you walk around with all your rights trailing after you. That's why I was saying there's this difference. Yes, yes, yes. — I wanted — I wanted to say a moment ago that there are many things that are only between people; they're things named

[1:23:06] between people, for people, so that they can interact, cooperate and whatnot, know, say "stop," "go," "no," "yes," "up," "down." — Yes. You have — it's an abstract domain in which there are things fashioned like this — they're emergent phenomena, like language, and rights could be the same. — Yes, but you can also make the following argument: — it's in man's nature for these things to exist in the social organization among people, just as it's in the wolf's nature for certain hierarchical behaviors to exist, yes, in their social organization. So you can pull it back to — you can pull it back to nature. — Yes. Okay. — I mean, that's the argument Locke was making there: the way people create human society comes from natural laws. — Yes. Yes. It's debatable how many are automatic and how many are learned.

[1:24:09] — Uh — but even learning is part of human nature. — Mm. Yes. Yes, — — you said that last time too. I didn't get to interrupt you. Go on. — Yes. — Mr. Hoppe is sympathetic to Mr. Veatch — Henry Veatch — who criticizes ethics based on duty or on pleasure. Mr. Veatch is a defender of virtue ethics. So, unlike the hedonists, the ethics of pleasure says: "Sir, all is well when we get 7,000 bowls of soup and a TV and Netflix and whatever we want, and that's good — " — " — and each whatever he wants." Yes,

[1:25:12] — yes, yes, yes. Or duty: "Sir, one has a duty not to lie" — truth is the highest good, and so you have a duty not to lie, even if that means saying to the face of the Securitate, "yes, I was — " — " — with him, with him and with him at meeting X on such-and-such night." Mr. Veatch says: "Sir, no — sometimes you have to lie, sometimes you have to tell the truth." — Excuse me, forgive me, but — telling the truth means not lying, but it doesn't say you must — — tell when someone asks you. Anyway, I was passing by. — Yes. And Mr. Veatch maintains: "Sir, you should only practice the virtues that fulfil you yourself, and sometimes you can lie, sometimes you can't lie" — it's not the same as the other two categories of ethics. And yet he considers all these approaches as

[1:26:17] ethics that don't rise to the level of his ethics — you know, argumentative. And even Rothbard praises Hoppe, saying it's a very powerful argument for property rights. — Kinsella's estoppel. Now, this is based more on the legal case, when conflict arises. So if Hoppe takes it from earlier, where conflict over a scarce, conflictable resource hasn't even arisen, Kinsella says: "Conflict has arisen. You took Vali's pen, and the judge says, 'give back two pens,' and you start maintaining: 'Sir, no! I have the right to steal from Vali. You don't

[1:27:22] have the right to take two pens from me.'" And at that moment you've contradicted yourself. That's the trial. That's this principle of estoppel, and so — — you contradict yourself, and you can't defend yourself by invoking what you did to the victim. — Yes, I don't know if I remember the wording correctly, but the idea of estoppel was that you can't deny — — something you've — — an action done by you. You can't oppose it. — You can't maintain — — Yes. Yes. — your entitlement, based on an action that is the premise of what's happening to you now. — Yes. So, good, and so he bases himself on this — — which we've already explained. — Yes, yes, yes. — And he takes up again the example with the father who told — — he takes it up again. Yes.

[1:28:27] — his daughter that he'd pay off her debt — and if Mr. Vali would like to enlighten us as to how this isn't a good example of estoppel — last time I think he maintained that it isn't. — Well, no, I said it's an example of legal, legalistic estoppel, but what happens there isn't libertarian. — Well, — — yes, that's it. — I understand. — Yes, — — but here I think he maintains that it's estoppel for the libertarian

case, — — not for the case — — No, no, no, no. He says — he first gives it as an example for the legal case and then moves on to the dialogical estoppel he mentioned there. So he says yes, legally, that's how we have to do it. We don't agree. It doesn't seem to me that it's implied by libertarianism. — Maybe he had this case in his — — Well, it was a case; it really existed. — Ah, okay. Okay. They inevitably learn, study —

[1:29:33] — yes, — — other cases, because they need them in the Anglo-Saxon system. — But — yes, yes. — Anyway, in the end — — I was looking at what Veatch actually said, because I skipped a moment for the book. So this thing of Hoppe's, the quote with Veatch, is simply from a — — a series of several quotes from *A Theory of Socialism and Capitalism*, the book you'll find in our playlist — we've already done it there. Hoppe was simply mentioning that he agrees with the premise put forward by Veatch that any kind of ethics based on a telos, a concept toward which it's directed, — cannot be regarded as universal. That was his idea — or that it can't be

[1:30:36] regarded as derived strictly from human rights, but there must also be something else that puts that goal on top. — And Hoppe says: "Yes, I agree with this premise, but the idea is that I didn't say that. I came to the table from somewhere else and sat down." Well, including — "sir, it's good to have private rights because, look, it has generated the prosperity of mankind at the level of — " — " — sir, but that's also a goal; I don't agree with — I don't want us to prosper; I want — " The goal, exactly — the goal embedded in this is that we want the prosperity of mankind, and — — not all people want — — Yes. — — or not in this direction — "that's not prosperity for me." Exactly. So you can always attack it. Yes. — Well, anyway, in the end — — you can attack its universalizable quality, because if you don't agree with the goal, you're no longer

[1:31:41] part of it, and it's no longer universal, no longer universalizable. So people have always sought, and they need, values like these that are somehow higher, whether imposed by the emperor of all the gods or by another authority they respect, however abstract. Uh, anyway. And the idea is that in the end you can't verify them, and if you can't verify them — what do I know — maybe they don't really exist in a physical existence. But all that matters is whether people get along. We've said this before. If they don't get along, you'll have conflicts. They might not get along over words, and the conflict might just be that they turn their backs — because that too is a form of discussion of the force type — but we avoid force, right? Instead of attacking each other.

[1:32:49] And practically it's the opposite of collaboration, and anyway, the idea is that — — what matters is that they get along. — You can have the opposite of collaboration if you have enough space to — — Yes, yes, yes, yes. Good. So I want to give here an example of the state's contradiction: when it takes a percentage of your income and you want to take it back, it wouldn't have the right to — — object. — Object. — Yes. Thus, any aggressor, because of the estoppel principle, cannot object to his punishment. He necessarily contradicts himself — — and flagrantly — and "fragrantly," — — sir.

[1:33:55] What about the rights skeptics? There are also people who say, "Sir, there are no rights. Leave me alone with rights. There's no right at all." Yes. — What you said earlier, as long as it's — — the third type of argument about these rights says not that some exist and others exist — none exists. Yes. And then if I put you in prison because you stole a pen from me, or I take two pens from you because you stole one pen from me, what do you invoke — why am I taking two pens from you? Yes. — Momentary preference — — here. — So you don't have any right. So you don't have any right either. — And we've ended the discussion — — here. It seems to me the discussion doesn't end as quickly as Kinsella would like. It seems to me that's exactly the problem: what he says — if he plays with A and B, if A takes — so the idea is somehow twofold: he attempts

[1:35:04] two attacks on the position of the rights skeptics, and somehow he doesn't manage to close — in my opinion he doesn't manage to close off the position, because — so he says: first, if A takes a good from B, yes, B has the right to punish A, and the skeptic comes and says: "Sir, there are no rights; leave me alone; what's this 'you have the right to'?" Okay, fine. After which it's said: but let's shift, because I'm less interested in what B says — — what matters more is what B does, you know? And then — and Kinsella says — if the skeptic objects to B retaking his good by force, or executing a punishment on A by force, — he can only say that this force is not legitimate. — So the basis of a right. But from this side he says that then

[1:36:08] it means that — so he can say this force isn't legitimate, so he presupposes the existence of a legitimacy for the use of force. So it means there are some rights, even if he doesn't call them rights. — Hm. — Yes, because what a right actually is, is a problem of legitimacy. Good. — Enforceability. — Yes. Uh, good. And but then he can say: "No, wait, I won't say A has the right to do this, but I'll say B is entitled — it's legitimate for B to defend himself." B has the right to defend himself. And then he says there is nonetheless a — and here is where it seems to me Kinsella loses: "Sir, if I'm against A, I must necessarily be pro-B, and vice versa; if I'm pro-B, I must necessarily be against A." Whereas I could say that this person can be neither pro-A nor pro-B, but pro-truth. "Sir, I'm

[1:37:14] not interested. You can beat each other blind." — Yes. All I'm trying to say is that it's not a question of legitimacy. I mean, you can do what you like — hit him, break his — right. So it's not as if I'm saying "well, and that guy is allowed to defend himself." Well yes, he's allowed to defend himself; he can defend himself; he can do whatever he wants. — I mean, it's not a question of legitimacy, and just as you can say amoral, anaerobic, amorphous — it's a-legitimate. That's the skeptic's correct position. All human activities are neither legitimate nor illegitimate; they're a-legitimate. Yes. — Yes. And that's a position Kinsella doesn't cover here. No. — Well, but he then talks about nihilists, pacifists, in some — — with his discourse about rights skeptics. We can only tell him: if he wants to come on with us for an interview,

[1:38:17] we'll challenge him to defend this position too. Yes. I'd be very curious — I too tried to think how I could fit it into this, but I didn't find the solution. — You know the dilemma with these debates in which someone defends a position? That you're not actually paying attention to the arguments, but to making sure he doesn't run away from the definitions, doesn't use certain things. — The only — the only way I could defend this a-legitimate thing is that you're in the process of argumentation — — and if you're in the process of argumentation, you can presuppose what? That people have the capacity to extract the truth from a situation or not, and you have a preference — not a right, a preference — you, as a rights skeptic, have a preference for correctness. — Hm. And then you're still within argumentation; it's correct for you to

[1:39:20] maintain there what you maintain. I mean, the only defense I'd have said Kinsella has is: "sir, argumentation presupposes rights" — but that's Hoppe's version, not his. — Hm. — You know? He uses estoppel, and so it doesn't seem to me — — Yes. Plus it seems to me they're different planes. One is ethics and one is legal — — and to say that argumentation presupposes rights — the only right it presupposes is that man has free will. Not that — I mean — — and that's why it might mean — not property rights, you know? He — the one who maintains, sir, that there's no right — why does he even get involved, if in — — his preference for correctness. He sees you two talking and bashing each other's heads in on the basis of rights, and tells you: you know, maybe it's better to look at the problem pragmatically, because by fighting

[1:40:25] each other in virtue of your rights you're only doing yourselves more harm. — David Friedman's Schelling points. Yes, — — you're only doing yourselves more harm, and it would be better to make

peace, because anyway — — the concepts on the basis of which you're punching each other in the head aren't justified, aren't true. — At that, both: "shut up, man," and carry on. — That's — — the most — because, as Kinsella says, a rights skeptic should shut up and not — — leave us alone. — Leave us alone. Well, but he still — I say that the fact that it's not his only position as a rights skeptic — but he can have a preference for truth. He can have feelings of brotherhood toward the whole human species, in which he makes the mistake of including you two as well, you know? I mean, and for this to move him to action doesn't mean he has to keep quiet. I mean, if the problem of dialogue is establishing the truth

[1:41:28] through argumentation — — Yes. — Yes. If you two are fighting over what right each of you has, and the theory the skeptic believes in is that rights don't exist, — yes? He may — he may not have the right to speak. Oh yes, he can enter the discussion with you by virtue of the preference for truth. Because you — — when you discuss which is your right and which is his right, if you discuss that, you still manifest a preference for truth — — yes, — — which you have in common with the rights skeptic. — Okay? — So on the basis of that preference you have in common, he can enter the discussion. — Oh my God! — What I'm trying to say is that he can't come in to justify "you don't have the right to do this" or "you don't have the right to do that." That would clearly be estoppel. Yes, but for him to say, "hey, rights don't exist, calm down" — — that he has every right in the world to say.

[1:42:30] — Okay. — And somehow you realize that if he has only the right to keep quiet, Kinsella closes up a bit — because he can say he's skeptical about that right to keep quiet too, and so he'll violate it. — It seems to me that — yes, no, it seems to me these guys wanted to wrap it up here like that, you know? "Ah, shut up." — Yes. Good. Other argumentative ethics. — Do the one you liked. — The — — Pilon's. It's the last one. Yes, — — it's the last one. Let's go through this one of Madison's. No, leave it — do Pilon. — Pilon's case. The principle of generic consistency — — that's Pilon. — Okay. He named it that. — Yes. It's Roger Pilon, who developed a libertarian version

[1:43:41] of a theory proposed by his professor, Alan Gewirth, in the works "Ordering Rights Consistently: Or What We Do and Do Not Have Rights To," which appeared in 1979, or "A Theory of Rights: Toward Limited Government," also from 1979, being his doctoral dissertation at the University of Chicago, also in 1979. So when man acts — '79, yes — — man, when he acts, acts voluntarily, with a purpose. Yes, yes. — And some, universalizing, must accept this on the part of the one he acts upon too. Yes. And that person too should be free, voluntary, with no

[1:44:45] coercion on him, and he too should have a purpose. Yes. — Yes. That's the key: voluntary, purpose. — And then, yes. And then the non-aggression principle follows, so to speak, from this principle of reciprocity of human actions. I act voluntarily; I want the other to act voluntarily too, not to be subjected to coercion, to act in a — — Yes. Voluntary in the sense of without constraint. Exactly. — Hm. Yes. — Not voluntary versus involuntary. — Yes. — Yes. Good. But he says that these things become implicit in every action we take. I mean, he asks what are the necessary things implicit in any action. And

[1:45:52] we could say — somehow we could say that yes, it's two things. One, man is a rational creature. Therefore any action of his has a purpose, because man is a rational creature; and any action of his, to be his, must be voluntary, that is, must represent a movement of the will, — of his will. Yes. A choice. Somehow we come back to human nature too. — Wait, what I find very interesting here is that when you say voluntary, uncoerced and with a purpose — I find this quite funny — it doesn't presuppose awareness at all. It seems someone did something at random, but that random thing, even if we don't understand it and maybe even he says afterwards, "I don't know why I did it" — still, at that moment, even if he wasn't aware of it, he wanted to — I don't

[1:46:56] know — feel the wind in his hair, whatever. Yes, I find it very funny that the question of consciousness doesn't arise in this description, and not how it will be — — I wouldn't say that a possible

action — you say — you say it's not an action; it's not an involuntary action. If I, for example, [move] my hand from here to here — — or sneeze — — and maybe I had no other purpose than to, I don't know, relax this muscle, you know? — And relaxing this muscle isn't necessarily a conscious purpose. It may be an unconscious purpose — so it hurt, I reacted. Yes, — — I said. — Yes, but it's not involuntary like a reflex — you know, when you have a reflex, you jerk, and that really is involuntary. It's as if two people were in a hermetically sealed room and you take the other's air — two people in there — and so you killed the other.

[1:47:59] — Yes. And he — — What do you mean by that afterwards? No. — Excuse me, do you like girls? I like giving, and he — — people shut in a hermetically sealed box. — Right. Right. — I breathe, the other guy breathes, involuntarily. That's human nature, so to speak. — Right. — And let's say that — — I hold out longer at that oxygen concentration. He dies before me, and with — — saved — — five seconds before I die too, — — someone opens it and that's it, I'm saved. — Hm. — Did I kill the other guy? — No, nature, but — — I took his air, I took his oxygen, I caused it. — It's — — man, no, it's not you who caused it. No, — — if you bring in this business with consciousness and involuntary acts. — Yes, wait, no, it's a good one. It really is a very good explanation. — Anyway — — anyway, the problem as an idea is very good. — Problem — — uh, let's note it down for — — for another time. I have to — I have to

[1:49:01] think about it; it's so — — nuanced that I can't give you a — — So you did a natural thing; you didn't commit aggression. — Okay. Mm. — There's a difference — a lifeboat situation. It's a lifeboat situation, but I'd incline to say that the responsibility isn't entirely yours, — — yes, — — but lies in very large part with the person who caused you to be shut in there. — Exactly. It's like the trolley problem. Who put the — says it's this? Because he put both of you in the same situation. On the other hand, on the other hand, it challenges fairly well the theory according to which the last cause is that actor. But you weren't — — nobody has to prove — — I'm not telling you — no, no, it's not you. Because in that situation the question is put like this:

[1:50:05] someone made air into a limited resource, and that wasn't you. — And you appropriated more. — Pay attention. This was supposedly the best sci-fi story ever. Look — — uh, I'll extend it — — to this case. In the sci-fi story there was a girl who gets onto a rocket — — stows away — — yes, a stowaway. — A stowaway, right — — and causes some physically impossible things, so that everyone dies of that weight before they reach their destination. But in this case the two aren't shut in a box by someone; they both get on a rocket. — Voluntarily — — and with a purpose. — Voluntarily, with a purpose. Right. Yes. — Yes. — And, well, let's say there passes — — a year — — a ray — — from some supernova — — and it detaches the oxygen tank from the rocket, so that they no longer have

[1:51:07] — enough air, you know? Mm — — until they get close to the destination, or help comes, because they phone: "hey, come, we've got no more — " — right — — and yes, likewise, five seconds before the second one dies. The first one dies; the second, with five seconds to spare, is saved. Mhm. — The answer is still that you ended up in a natural situation in which a good that is normally unlimited became limited, — — and as long as — — here it's an accident — as long as — and no — but there's one more thing that's important. As long as I didn't prevent you from breathing — — Yes. Exactly. — by an aggressive — — physical — — aggressive action. No, no, no, no, I didn't cause your death. Simply, oxygen is in the state of nature. I was the last to appropriate it. That's the situation. Yes. — Yes. I mean, if we had two bubbles and I took from your bubble — yes. No, but as we laughed a bit before the show about "you pushed him off the bridge and he

[1:52:12] fell into the water, and I immediately caught the little bird in flight." Well yes, but who built the bridge — and here likewise: who built that rocket so badly? No, no, — — no, here it doesn't matter. So it's actually an accident in the end. Well, — — unforeseen. — The difference between Pilon's theory and

Hoppe's is that you have to perform an action, whereas Hoppe limits himself to argument, so before action. — And he says Kinsella's position would be stronger. He says Hoppe's position is stronger because — — it comes before any action. — It's that plural thing. Yes. And he puts argumentation as a subclass of human actions. Yes, well, so this is a deduction prior to anything — Hoppe's position is theoretical — whereas here this approach of Pilon's is more pragmatic, because

[1:53:17] — plus — — because, look, you've shown when — — we talked about this before or during the show, that — — with — yes, during the show, with "must": you said actions don't have to, you know? Whereas argumentation must obey logic. — Yes, but look, what I'm saying here is that he says: because an agent, for any — good, so he says okay, this means that all people who act we'll call, from this point of view, agents. Yes. Uh, we could overbid and call them moral agents, but let's stay within his framework. Well, that's why it seems to me that this version proposed by Roger Pilon is very similar to the solution we arrive at in the end. He says that because people, when they act, implicitly have a rational process behind it — so there's a purpose — and implicitly they're voluntary, so that

[1:54:23] you can say they act, that the action is theirs. — Right. That makes people agents. But "agent" means he can't refrain, if he has a purpose. That purpose — because he chose to act in favor of that purpose — means he has also produced in his head a process of valuation, because all purposes are — in fact you have a multitude of purposes, and they're all ranked, and — — you can only do — let's say, if you're a man, three things at once. Yes, I'm joking, obviously. Yes. The idea is only one, yes, theoretically, and the moment you choose to perform that action, that's the purpose you're serving. Therefore you've valued it more, at least at that moment, than all the other purposes you have. So therefore he says the agent, in acting, also implies a process of valuation, and then,

[1:55:28] if he has a process of valuation in the voluntary part of the action, it follows that he also values the absence of a state that would cause him harm or coercion, — — Mm — — because otherwise the action would no longer be voluntary. So the agent, implicitly, when he acts, values the purpose and also values liberty. The liberty — freedom from aggression, let's say — — freedom from aggression. Yes. Thank you. Not to be aggressed against. Yes. And it would be inconsistent, he says further, to maintain that these are rights if he doesn't also grant them to others; it would be inconsistent to maintain that these

[1:56:32] are rights if he doesn't also grant them to others. Then these rights claims are universalizable. — Hm. Because here too I'd say Kinsella doesn't realize that exactly this little bit, the "claim," brings the discourse into play. Kinsella goes on to say that Pilon develops from this a principle of generic consistency. Well yes, but he says the prerequisite is that he cannot maintain, propose — that's an act of argumentation. — Hm. — It's an argumentative proposition. — Hm. The fact that he says he cannot — ah — — maintain — yes. To maintain this position is argumentative. So — — yes, that's very nice. Although if you say no, in fact you say there exists the saying of yes or no. So he says that the voluntariness —

[1:57:39] this Gewirth, Pilon's professor, says that the voluntariness and the goal, the purpose, which every agent necessarily has in every action, and which he will claim as rights for himself — on the basis of the fact that he's an agent who wants to achieve his purposes — then, on pain of self-contradiction, he must admit the same rights for the recipient as well. And he says the recipient is the one who receives the action, who receives the effects of the action, or who feels the effects of the agent's action.

[1:58:41] — Yes. He says recipients are those who stand on the other side of the agent's actions, or who are affected by the actions of agents. — I keep thinking, when you say "rights," you run into the generic term "rights," which can be obligations and rights. No — through contracts you have rights and obligations, but together they're a form of right, and then you could, instead of — exactly what you said

a moment ago — you have the liberty to act, or the latitude to act, which you respect in others too, so as not to call it a right. Well, and — — but as an idea — — precisely, and Pilon moves a bit further and says, to defend himself against this, that this principle of generic consistency actually doesn't demand an action from anyone. You can remain perfectly

[1:59:45] consistent — you can sleep with the system if you do nothing. But as we say here, you can sleep and you're okay, you're within the limits — — well, — — not in aggression, because in the end that's the target. Let me come back to Madison — — and anyway, so he says that Hoppe contradicts him precisely in this: that he moves consistency into the system of actions, — without Hoppe catching the fact that the way he moves it is on the basis of the discourse of those agents, that is, maintaining. So he — — Pilon says that the agent cannot maintain — — They're all actions. — Something else. I know they're all actions, but what I'm trying to say is that in fact Pilon is consistent with Hoppe's idea,

[2:00:49] that it's in the domain of argumentation. Therefore — — the necessity of consistency applies. I mean, what he says here, the general principle of consistency, is somehow the extraction, through the dialogical — I won't say it, let's use words we only just learned today. Yes. Through the dialogical, it represents the extraction, onto actions, of the implications of discourse. — Mill maintains that liberal values are implicit in discourse, and then in the rational discourse — — of civilized people, — — violence is the interruption of discourse. Discourse is the interruption of violence. — Hm. — And just as Jefferson said in America's founding document, "we hold these truths to be self-evident." Yes.

[2:01:51] — Yes. — They're implicitly evident. Man is free and pursues happiness. So he passes lightly over this and leans heavily on "sir, intuitively." So the one who discusses and wants to advocate violence, by the very way he discusses, by the fact that he discusses, is actually against violence. Good. Right. And we still have — yes. He mentions here Shearmur, Jeremy Shearmur, who turns an argument of Habermas's — — Hm — — against social democracy, so to speak. So Habermas says: "Sir, we arrive at a welfare-state type of society

[2:02:53] — and a participatory one, in which as many as possible participate — when we all sit at a table, yes — there are many people, millions of people if possible — and we're free to discuss. We have — no, the others are free to listen. So they're not prevented from listening to and reasoning about what we say." Wait a moment, I noted it down here. Right. "And they're equal. All participants have the right to introduce topics of discussion." Yes. — And Habermas said that if we have all these, we have social democracy. And Shearmur says: no, because we can't all have the capacity to introduce topics of

[2:03:59] discussion. For example, you can't introduce a discussion about property rights, yes? Only those who have resources in the real world have access to this discussion too, let's say, in a society — the one that counts in terms of the organization of society. And he says only the right of private property ensures, let's say, the possibility and the absence of coercion — the possibility of having a more or less equal discourse in society — and you can arrive at a freer and more prosperous society, and so on. Speaking of social democracy, I was looking at what's happening these days with all

[2:05:04] these court intrigues in which some want to do something and then they're attacked on three sides. "This one got such-and-such, that one got something else." They hold it over them, show them the cat, stick the awl in their ribs. And people watch these things, and many journalists comment — that's what they live on. On the one hand you have many people who get involved; on the other you have people who say, "Ah, I don't do politics," whatever. And what I want to emphasize here is that all of them — all these court games are played with people's lives. Why do people support these things? Well, the story of social democracy. "We must have democracy, otherwise it's chaos, and democracy is very good because blah blah blah" — stories, everyone has his story — and so people let them have powers,

at least abstract powers, if not all the taxed money, and the future as well, since they've taken loans, and inflation — let's not forget

[2:06:09] all the nonsense. And people sit and watch them: "Look, man, what these guys are doing." And instead of saying, "Hey, this is nonsense — what are you doing?" — so why can they do all these things, all these mechanisms — such-and-such Commission, the High Court, the tricks — all these tricks are, see, Lord, "we control ourselves, we attack each other," whatever. I mean, where do they get all these powers to keep files, then pull them out, to jab, to counter each other, to drag it out, to ruin Ciucu's reputation, blah blah. When people should say, "Hey, buddies — " — no, because the current system is just the game of a minority of society. The great part of society doesn't contribute to the discourse, — — to decision-making and so on. — Well yes, that's why I said you don't have the resources. No, but I wanted to say one more thing: these things are based

[2:07:13] on us, the people in the population, who practically didn't make them. We only gave them the fertile ground for this emergent phenomenon of court games. No. And in the old days there were court intrigues — that's why I call them that. Why? Because people accepted this: "Sir, this is the voivode, and, well, he's the master of the lands." — Why? Because we don't know better. That's it. The hypocrisy is that those who play these political games and dictate the course of society base themselves on theories, as with Habermas, that involve the participation of the whole of society. Yes, it's hypocrisy on their part. — "But, sir, every citizen has a voice." — Well, I participate — but every four years, nothing. It's true, every citizen has a voice. Yes, but

[2:08:19] his voice isn't heard. I mean, if five — it's exactly that principle of democracy, yes, in which five — — wolves vote to eat a sheep. — Exactly. And we also have Crocker's theory of moral estoppel, — which is the same as Kinsella's theory of estoppel, except that it's contextualized within positivist law. Yes. — Current [law]. — Hm. — So it doesn't matter whether the law is just, whether the state has said that — — they've — — taxation is okay. Ah, it's just coherence with the rules. — Yes, coherence with the current rules, you know? — Okay. Good. — Yes, exactly. I mean, it's based — he says he has no right to complain if he breaks the law against — so it's somehow on the side of theft. It's almost — Crocker's is almost more consistent

[2:09:24] than the positivism — than, what did you call it, Kinsella's legal estoppel. — Yes, Crocker's is more consistent. If you stole something, you can't complain when someone steals from you too. — Listen. — Yes. Conclusions, so as not to — — conclusions, fast-forward. Critics of libertarianism must — — shut up. — Yes. Either shut up or become libertarians, for a — — or admit that they must be, in order to maintain something. — Aha. — You must have private ownership of your own body in order to deny libertarianism. So you must be free to deny it — — or, taking it the longer way round: in order to be able to enter a discussion about what's done and what's not done, you presuppose that the person you're discussing with is a moral agent,

[2:10:31] endowed with free will, and that already presupposes, somewhere further down, the existence of private property rights. One way or another we get to them. They're — they're already — I'd say, I could put it like this: in one of these fuzzy-logic systems, the fact that there are so many paths, starting from discourse — — Hm — — to get down to property rights further below — — it's almost — — that the condition is fulfilled. Well, but well, some people still prefer to justify why their masters have rights over them. For Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu, and we say goodbye until next time. Ciao. Ah.

Video 6 (#311): In Defense of Argumentation Ethics (Chapter 7)

Original title: *#311 | Bazele legale ale unei societati libere - S. Kinsella - În apărarea eticii argumentative*

Length: 1:57:46

Link: https://www.youtube.com/watch?v=Zo0rGQ4DE8E

[0:00:00] I didn't like that UFC thing — you know those guys from Dagestan, Khabib and whatnot. — He beat him on the ground, in close, you know — — well, that — — there's nothing spectacular. So this guy beat McGregor because those are just, you know — — for them. I know, for them, because those are the rules of the game. It's a very — — But you know how he gets in, because when he jumps on you, you could — high risk. — It is high risk, isn't it? But for them, for them it's like when you're very good at music and you hear something extraordinary, some aria or some really weird jazz, and you say, "wow." It happened to me. There were some musicians and they said, "Look what this guy did!" And I, you realize, didn't catch it, and these guys likewise say, "wow, what skill, how he positioned himself to the millimeter." — He immobilizes you. It's actually jiu-jitsu. What do they do? It's freestyle wrestling and jiu-jitsu. — Yes, yes. Brazilian jiu-jitsu. — No. Look, I was thinking, when he jumps on you, you could knee him in the mouth, you know? So — — Of course you can, but he dodges. That's it. — But you don't really get to — yes,

[0:01:02] — you find yourself immobilized, you know? [laughter] — So it's a way to lose, you know? — I don't know. — Hello, — — moto. — Good afternoon. Are you calling about the ad? — [clears throat] — Right, are you ready? — I'm not ready, but that's how it is. — Come on, — — if you don't argue, I won't contradict you. — What? Yes. [laughter] [music] — If I told you that authority — [music]

[0:02:28] [music] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*: Chapter 7, "In Defense of Hoppe's Argumentation Ethics." But first, Mr. Vrân Herceanu — I mean Vrânceanu — will tell us his nice words. — Same idea, wrong area. Hello. Give the video a like so it goes into YouTube's algorithm, because it seems that since we stopped posting every month, YouTube doesn't even show us to people anymore. So you have to tell it you like it. Also, if you know someone who watches us and you want to make sure they keep watching, share this video. You'll find the button below. Also, if you want to find out when

[0:03:32] we put a video online, subscribe, click the bell and click "all" to get all notifications, because otherwise YouTube again thinks you haven't expressed enough interest — preference. In the description you'll find a link to a place where you can buy the book. Also, if you saw the trailer before the premiere, you'll likewise find in the description a link to Sense of Self Publishing, a publisher that has brought out the first three of the books by Duck Casey and John Hunt — fiction with libertarian themes, which we recommend you read too. Also in the description you'll find a link to an episode of Bob Murphy's podcast that we'll talk about today. Somehow this chapter

[0:04:37] is written partly on the basis of what was discussed in that podcast. Also in the description — because, as they say, where else would we put them — you'll find a link to a Telegram group if you want to chat with us in real time, and also in the description, if you feel the need to support our efforts, — you'll find a crypto link and a Patreon link, and we take this opportunity to thank those who already do so. — That description is longer than Cantemir's *Descriptio Moldaviae*. You know? — It's not that long. But before discussing the criticisms brought against Hoppe's argumentation ethics, we'll recap a bit what this argumentation ethics is about. We talked about it in earlier chapters of the book. Uh —

[0:05:39] — and when we did Hoppe, I think — — what? — — and when we did Hoppe. On the theory — — let's do more Hoppe. So this ethics is a justification of libertarian rights that doesn't start from natural rights, from human nature, from pursuing a consequence — "sir, why it's good this way" — — but is about an ethics and the presuppositions that an argumentation ethics implies. So if you want to avoid conflicts over a scarce resource and you try to argue, everything you do will implicitly uphold the non-aggression principle and the right of private property. That's about it. — I mean — — conflict isn't necessarily needed. So the point is that

[0:06:45] if you've talked about two of these ways of grounding natural rights — of libertarian ethics — natural rights and consequences, those are two forms of validation. One, we look at consequences: we take socialism, we take libertarianism, we see what the consequences are, and — — we choose one of them. The other is natural rights, where they're somehow postulated axiomatically — you know, as Jefferson says, "we hold these truths to be self-evident." And Hoppe comes with something new, inspired — I think Mises had an argument like this: human action. Whoever contradicts it commits a performative contradiction, and the one who says there's no action is in fact acting at that moment. A performative contradiction is between a statement and an action, you know? He says there's no action, but in fact he's acting. Hoppe's argument comes along the same lines. The idea would be: we have libertarian theory. When someone wants to criticize it in an argument, in a conversation, he contradicts himself; he commits a performative contradiction. Where's that

[0:07:47] performative contradiction? In the fact that he respects his interlocutor. For example, he wants to say that self-ownership isn't valid, but by talking with the other person he validates him, recognizes him; therefore he contradicts himself. So when he theorizes something aggressive — whatever form the aggression takes, private aggression, socialism, institutionalized aggression — he contradicts himself. So you can't criticize it. — Yes. Yes. — That's the grounding. Any attempt to criticize, to bring down libertarianism, is contradictory. — So you know what it seems to me people who want to live with the contradiction do? They think there are various moments — we say a thing must always be absolutely the same in order to be universalizable, so that you can uphold it. That's what we say. We've already entered into — — That's one of the criticisms that's made — — if you accept universality, the criticism is correct. You know, if you don't accept it,

[0:08:50] — Exactly, accept it. Well, I'm saying — — and one of the criticisms is that — well yes, but now the question is how valid this is. Because he can say: indeed, this person isn't aggressive when he argues, somewhat a priori, by the definition of argumentation, you know? Either you argue or you hit him on the head, you know? So if you don't hit him on the head and you argue, — you contradict yourself by arguing for aggressive things. You know, you criticize — you know what I mean? Well, you recognize him? — Yes, — — but only then. — Only during — I think Murphy says this. It's a criticism. Well. Known. — Okay. — You recognize him then, but not five minutes later, you know? And — — we say — and we [laughter] say, well, that's — anyway, at least a double standard; it's nonsense. It's — — Well, it is, look at this. — I wouldn't say — but on the one hand — — on the assumption of universalism, yes, it's a contradiction — — not only on the assumption of universalism. That's what I'm saying, because when we — so one of the things embedded in an argument is the power of generalization. Yes. You want to find a norm, not just for five minutes from now;

[0:09:57] you want to find — so at least in time you establish a norm for all time. From today forward, at least — let's say that until we sat down to discuss, we hadn't raised the question. Yes, but the problem we're trying to settle is from today on; we're trying to generalize, to find an argument or a justification that's as general as possible. Yes. — And if you say — and this is what I'm trying to say — if what we're trying to extract from argumentation is a principle as general as possible, — no, no. If you say "wait, I recognized you only for the duration of the argument," you're already violating it. I mean, why don't you

recognize him more generally? — He'll say: because now I'm formulating the theory, you know? I'm doing it for the future. — Well, — — you see? You start theorizing communism, — "I respect you, whatever, because we're arguing; I'm not hitting you." It's general, you see? But it isn't — at the moment it's

[0:11:02] — like, it's going to be implemented. You know — — It's — but why would it be — then comes the second argument: you're trying to convince me? You're trying to justify it, and then the answer would be: why isn't that method of behavior justified now too, and we use it retroactively? If I establish it for the future, very well, but if we accept it for the future, it has implications at least for the present moment too, and that's where the contradiction appears — — for us — — yes, that would be — — for us — — no, no, no, because in argumentation what's caught up is not universalization. No, I won't go that far. — Not universalization — generality. Generalization, — — yes, — — is caught up. You're right, and I agree with you. My idea — and not only mine — was that many people don't function by

[0:12:07] these rules. — You have to contradict, at the moment they don't care and they live like that. You — — say "I'm doing it for the future." You say "I'm doing it for the future. You know, now we argue, whatever, we debate, but for the future I want this: that I'm allowed to rob you; you're not allowed to — " — Yes. The question isn't — not that you're allowed; that you're justified in robbing me — — Mm — — and [clears throat] that it's not justified for me to rob you. What generalizes is: it's justified for you to be able to use even force against me in order to rob me. Fine, theoretically that becomes robbery, but you're justified. If I use force against you to prevent that theft, the argument is: I'm not justified and you are justified. Yes? So somehow what you're justifying is that you're allowed to use force against me in the future, and then — again, retroactively — why wouldn't you be just as justified now, and you

[0:13:15] behave as if we must reach agreement? — But you wouldn't say it's general — you'd say it's not. It must be in the present too, not just in the future, because it could even be universal, not just general — — you know how? "In the future I'm allowed to do such-and-such," you know? — And that's how it is. I dodge the performative contradiction. — "I'm allowed to hit you in the future. Now — " — That's how it is. You're allowed to [laughter] hit me in the future, but we'll live in a continuous present. So it's okay. It's nice. — I mean, if you want to distinguish between present and future in this way, then I can take it and use it against you too. — To say the future will never come. Every time you want to give me one, I'll ask you: well, are we in the future or in the present? Well, no, now we're in the present. Well, well no, well that's — — now we're in — — Well no, I don't understand. — Well, how can you not understand? Well, the same thing — if the present becomes the future, or vice versa, if the future becomes the present, the argument I'm making is that in a present — — Yes. Yes. It's like — it's like that one with — — No, not in a future. — Well, then you're no longer arguing with —

[0:14:17] — Well, I know that — — the contradiction appears strictly at the moment of argumentation. — Yes, but as long as we explain — — the argument is over. [laughter] Well, well — — so I don't argue in the future anymore. That's how I've escaped the contradiction, — — yes? No, that's how — — I'm trying to understand Hoppe's answer, because he says: "It doesn't matter that you've — even if it's in the future, you've grounded it now." You know? — That's exactly — that's exactly what I told you. — I say I'm answering him. — No, that's exactly what I told you: your argument is that — — you're justified in doing this in the future. — Hm. — Yes. And then what you have to create is a justification — — also for why you're justified then and not now. — No. — Well, and you invent — it's irrelevant, because we discuss the theory; it must be part of the theory. — I didn't know the theory, [clears throat] I didn't know what I'm putting together now. — Now I'm hatching it, you know? — Well, exactly, you know it now. Yes. And if your argument is that it's valid in that future, which will be present, to behave this way, why isn't it valid in

[0:15:19] the present too? — Why isn't it valid in the present too? — Because that's what the contradiction consists in. You've talked so far — — performative. — It concedes to you that about argumentation, that we must argue. Well, okay. So — well, and then, and then you contradict. Oh yes, because then you contradict exactly that. You contradict; you say that at certain moments in time it's good to treat each other without violence and to try to resolve conflicts peacefully — and here too I have a problem with Kinsella, that he uses "conflict" super — — super loosely. Yes. — to resolve conflicts peacefully, whereas in the future, yes, some conflicts we must resolve in a — in fact, what you're trying to do is this: justify some actions. And to justify those actions, for the argument to hold, to justify those actions, — you have to make an argument, yes, a case in the present about conditions.

[0:16:24] Well yes. — Which argument? An argument means premise — — No, Vali, for something more to exist — — argumentation, conclusion. Yes, so far you've told me a conclusion. That's not an argument: — that later you're allowed to aggress. No, no, no, no, no. To make an argument you have to tell me why later you're allowed to do this. — No, — — oh yes. Oh yes, for it to be justified, because otherwise we're no longer in an argument, — Vali — for it to be ironic, true, and to keep upholding the contradictory way of posing the problem — that in the future you're allowed — well, you can't — it's not a must here to — — I'll give you the conditions, that's all. — So I'm allowed in the future because — I don't know, I don't know communist theory. I'm hatching it now. You see? You're a bourgeois. Pay attention. You're a bourgeois. I didn't know what a bourgeois was, you know? But I start thinking. There are bourgeois, there are workers. — Exactly. Good. And you try — you try to build a

[0:17:28] theory that justifies your future actions, and the justification of future actions, yes, is a restitutive one. Yes, you who are — — we're talking about communist theory, yes? You try to make it restitutive. You who are today a communist — sorry — who are today a worker, yes, find that I, a bourgeois, a capitalist boss, whatever the hell I am — yes — steal from your labor. Leg— — Good. The moment you say I'm stealing from your labor, — — right, — — that presupposes — — Yes. That has some embedded assumptions, yes? Hm. — You have to check that these embedded assumptions don't contradict your theory in essence, yes? Because if a theory contradicts itself, it's invalid. Yes. And two, that they don't contradict the assumptions we have that ground argumentation. — Yes. And that contradiction between what

[0:18:34] — the contradiction in communism is always, always between — yes, between this: that if I recognize you — — it's still alternating — — well, that's what I'm saying, that the theory of communism itself contains a contradiction. Yes. Because if I steal something from you, yes, I steal value. — Wouldn't it be that what you steal is actually the part of the profit that should be yours? — Yes, but I'm not robbing you in the conversation. That's how I avoid the performative contradiction. — Well, it doesn't matter, because what did I say? Oh yes, the performative contradiction is that I say this is an argument when in fact the theory contains contradictions. A theory that contains contradictions isn't an argument. A theory that contains contradictions isn't an argument. — You haven't made an argument. — Well yes, but he doesn't know that. Pay attention — our problem isn't the contradictions in [clears throat] communism. Our problem is the performative contradiction, you know, between

[0:19:37] what I say and what I do, you know? — Well, and you propose a theory. — I have no contradiction. — Actually yes, you have a contradiction, because you're proposing. So we — in an argument it's presupposed at least that there's a truth that can be discovered. The truth. Oh yes, — — that's what you presuppose. — No, no, that's what you presuppose. — The idea was that you're talking with someone who doesn't respect the same rules. — Well, if you, Alex — if you're talking with someone who doesn't respect those rules, you're not in an argument. We're yelling at each other like madmen. No problem with that, but it's not an argument. That's what argumentation looks like. — That's [laughter] the core of the discussion here, it seems to me. So — — no, because the purpose for

which we seem to be talking with each other — yes. Or at least, if we sit at the table and say, okay, why are the two of us sitting at the table? Well, I want to convince him that I'm right. You want to convince me that you're right. Yes. That's why we sit at the table. Okay. This presupposes that there are some standards

[0:20:40] of discussion, of argumentation, to which we both subscribe. At least it presupposes that there's a truth that can be made known interpersonally and that will force both of us to agree. — Yes, that's beyond dispute. — Pay attention. A criticism can be by argumentation; it can be done alone. I don't understand. — A conversation doesn't coincide with argumentation. — A conversation doesn't coincide with argumentation, but as long as — — you can argue at home — and that's another way of loving that rarely happens in reality. — Yes. — What? Let's not talk. — Yes, it's like with the coffees — — you've heard the objection — — in solitude, you know? Something like this is raised — although not strictly in solitude — I don't know if someone says it, that thing with us Greeks: — "we don't argue with the victim," you know? — That's how you avoid the performative contradiction. — It's a method, yes, by which Aristotle, they say, avoided the performative contradiction,

[0:21:45] because he was — no, no, "we don't argue with barbarians," — yes, we don't argue with them, and therefore never — — But back to communism — you say there's a contradiction in communism. — That's the problem. So I'd say, besides the fact that — yes, I say that he — that you theorize — and — — that the theory itself isn't consistent. — The theory of communism itself isn't consistent. It presupposes. — No, but that's not the objection. I told you. The problem isn't that it has that contradiction; the contradiction has to be between the respect toward the person in the conversation and what you state — and that I could concede to you, you know? Communist theory. — No, I'm saying that's it. Pay attention. I agree with you, that's Hoppe's argument. Well, that's what we're talking about — we're not talking about contradictions in theories in general, you know? We're talking about a performative contradiction between — no. And — — what I'm trying to say is that Hoppe missed something stronger than that. — Well yes, but that's not his point, you know? That communism has contradictions. His point is that this [libertarianism] is unassailable, you know? Anyone who tries to contradict it in a conversation — that's the argument, you know? — commits a performative contradiction. Therefore

[0:22:49] libertarianism is valid, you know? It's unassailable. — Good. Let it not be attacked. — Not that there are contradictions around there. Let there be, man. — Well, but yes, but the fact [laughter] that there are contradictions there — that's what I'm trying to say. No. Well, that's exactly the question. Argumentation presupposes — argumentation can work as long as it presupposes we're looking for a truth that will convince both of us, and truth itself cannot contain contradictions, by definition. — Hm. — Yes. — Yes. — If you — — uphold a theory that has contradictions within it, that's not a valid argument. Therefore you're not participating in argumentation. By bringing this argument and introducing it into argumentation — this isn't Hoppe's argument, it's mine — by introducing [clears throat] this argument into argumentation, you commit a performative contradiction, because you've put yourself

[0:23:52] outside the boundaries of argumentation, which presuppose that you must come with a theory that has no contradictions — — in order to find the truth — — in order to be able to find a truth that convinces the other person too. — Well, and what would the communist contradiction be? To me it seems the contradiction could be that you respect him and that you theorize not respecting [him]. — We can. That's what I'm saying. Let's take communism. What's the contradiction in communism? — Well, give me a good example that he says isn't a performative contradiction. — "All people should own shares in all the means of production." — That one might not be communist. It's not a good example. You know? — It's not communism. — It could be anarcho-capitalism. Collectivist. Yes, it's not a good example. The one with "you hit and don't hit me," or "anyone can hit anyone" — those start to be. — So

— — aggression has to appear for it to be socialist. — Good, let's take it this way. The theory — — itself is this: you're a worker, I'm a bourgeois. So the theory of communism is that there are classes of people. Yes. The theory of communism is that depending on belonging to the classes,

[0:24:58] the classes themselves hold rights and responsibilities. So — — right. — Good. And then the argument — the first contradiction would be this: that an argument, yes, isn't made from class to class; it's made from individual to individual. Classes don't argue among themselves. Individuals argue about rights. Yes. Therefore rights are individual; they're not at the level of class. — Right. And — — that would be it, no? That would be the first — — That's how you contradict communism. I'm talking about internal cracks, you know? It would be — — a performative contradiction, sorry. It would also be this: you know, communism must be generated by the worker, and Marx isn't a worker — a performative contradiction. No, — — it was roughly like that — — that. That's where I'd have got to as well at some point if I'd gone further: that Marx himself was never

[0:26:01] a worker, — and so he can't represent the working class, just as he himself says that only a worker can represent the working class. But anyway — — well, it's performative because he speaks in the workers' name about what they should — how they should justify themselves. But anyway, let's leave that aside. Let's talk about communism. Yes. Communism itself is this: there are classes. Yes. The working class and the bourgeois class. Yes. Or the working class and the capitalist class. Yes. Or the exploiters, to make it even — — even clearer. Yes. Good. What does communism propose as a norm? It proposes taking the property of the exploiters and redistributing it to the workers. I don't know whether — I don't know whether the exploiters also get to be workers at the end or not. — Yes, they have to go through self-criticism. Yes, anyway, [laughter]

[0:27:02] — anyway, — — there might need to be a theory of punishment. Okay. — Good. What does this mean? What have we presupposed? We presuppose that property exists. — I don't know. It exists. — Oh yes, because if I want to redistribute, — — Yes. All — — we say. — If I want to — no, no, if I want to redistribute, — I believe in property; I believe that at present the justified property is the workers' — — and the exploiters stole — — from the workers. — Yes. So I believe property exists. — Yes. After which I go on to say that property in the means of production can only be common. — Hm. — Hm. — Yes, — — that, even before the diagnosis, because otherwise there wouldn't be that injustice of the bourgeois. You know? — It's common from the start, you know? He stole something from you. Yes, yes, yes, yes. Well, don't you see that here, here's the question, because

[0:28:08] — already here the first chicken-or-egg problem appears: that he stole from the workers who work for him — — Yes — — the property in the means of production. Yes. — On the other hand, — — he's the one who bought the means of production. — Thank you. Exactly. The exploiter — the workers didn't buy it. Yes. The factory itself — the exploiter, in order to be an exploiter, opened a factory and hired some workers. Only at the moment the workers work in the factory, in communist theory, do they say it should become — so communist theory has, as one of its problems, the origin of property: how property is established. — Capital, look — we're talking Austrian — also comes from the worker, also — put it on them. — From elsewhere, on others, on other workers from elsewhere. So the exploiter bought machines made by another

[0:29:12] exploiter. Exploitation made the cement mixer. — All exploitations. — Very well. Very well. No problem. We take this, yes? And we go back in time. — I like exploitation best. — Until there's no more industry. Yes. So we go back in time until there's no more industry. There's no more industry. There are no more workers. — Perfect communism. — Does communism still exist? — Yes. — Even without those. Yes. Well, there'll always be capital goods. Let's take even the scenario in which there are none — — In the scenario in which there are none, in the scenario in which — — these animals and these trees are

ours, everyone's. — Yes. Labor, nature. — They remain a resource to be socialized. — Good. So, so the first thing is that there are no longer means of production that must be owned by everyone. Yes. In order to have communism. So practically, if I've constituted a means

[0:30:14] of production, I worked on it. Yes. So I'm in the regime — we're still at — we're still at the tribes. Yes. Communism hasn't yet appeared. Industry hasn't yet appeared; workers haven't appeared. Yes, but I make — — five baskets. Yes, I make five baskets. These baskets, man, I made them. I worked, my hand, my labor. Yes. — From everyone's nature. — Here comes the question. — Well, that's what I was saying. — Here, here comes the question. Because if I made these five baskets from things I took from trees, from whatever, yes? So indeed I've appropriated some resources. — Set aside the word "appropriated." For now: I took, I laid hands on some resources, I put together five baskets, yes, and I sold them. — You actually stole. — Yes, — — stole what was everyone's. — No, but Vali says the theory doesn't exist yet. How — — well, the theory exists? The chicken has always existed, you know? So you, even when you make

[0:31:17] the diagnosis of an arrangement — — Agreed. Agreed. Agreed. So that's what I'm trying to say. So at that moment, yes, what I did is that I stole from everyone's property — for communism to remain valid. Because somehow communist theory, if it refers only to workers and the means of production, as long as there are no workers and no industry, should exit the stage. Yes, but in order to continue the theory of the oppression of one class by another, yes, I exploited the others, because I stole without their permission, and then you reach the conclusion that everyone owns everything. — Yes. — No. — And where's the contradiction? — Wait a bit. — Well, look, look, now the contra— appears. Wait, go on, Gabi. — The communists had a different view of the world: that communism doesn't exist at just any time. — Aha. — Communism — they had a positivist view of history. Yes. We have

[0:32:22] feudalism, we have capitalism, and then comes communism, and after that the era of prosperity. So communism must — — come after capitalism. — So you can't say communism can appear before. They had a certain view of the course of history. — Okay. Maybe with conditions — that means — — with conditions; it's not universal. So what you're saying — — means that work— that it means — it's on the version — so what you're saying, I totally agree with you, what you're saying means that communism itself can't appear before the means of production appear. — Yes, yes, — — yes, — — yes. So, therefore, only when the means of production appeared does the exploitation of workers begin. — Yes. — Yes. But on the other hand, the means of production, as we said, are bought, are constituted before the workers appear. — Yes. — First I have to have five looms — — in order to hire five workers to work at those looms.

[0:33:26] — Mm — — correct. But a wooden hoe — — But so, therefore, those looms can't be the workers' property, because they precede the workers. — No, man, look, if — — if you look at Rothbard, there's labor and nature. That's where the origin lies, you know? Well, if we're discussing capital, you say after, when communism comes. I'm talking — I'm talking — so what Gabi said, yes, with the positivist view of history in communism, that it must come in that form — communism contradicts itself, because it presupposes that once we have workers we must have — — exploitation in those old feudal stages, and exploitation, and when communism comes — if you believe communism is exploitation, you have exploitation, but there are no workers. — No, Vali, you didn't understand. You can have — you can have exploitation in feudalism, but there's no worker. — Understood. You understood, but you're pretending not to. If you believe communism contradicts itself, you're bourgeois. — Yes, there's that objection too.

[0:34:30] — Well, [clears throat] you could also have a more — — Well yes, but that, how shall I put it, you're already not even — you're no longer in an — — in an argument. Well, that's a performative

argument. That's a performative contradiction. You're no longer in argumentation, you know? That's not an argument. You're referring to a contradiction between — material, you know, Hegelian — and that's indeed how history evolves, you know? [laughter] So through contradictions of this Hegelian type, you know, at the level of facts. Come on, I know what Hegel said, but — — let's take it and — — That thing with thesis, antithesis, synthesis, you know, — — in the text — — uh, the contradiction of a social democrat. Namely: "Sir, we can't be part of a discourse or an argument, you and I, because my — my stomach is — empty and yours is full. Yes. Until the state gives me education and provides a decent basic income,

[0:35:35] — right, — — so that I can be on the same — " — he's right here, on the belly — — right, — "so I can discuss and we can find out the truth, because I can't find out the truth even — " — " — on an empty belly." Right, — "especially since you too, Hoppean, maintain that discourse only works in a body. I mean, you have to have a mouth, you have to own yourself" — I have a problem with that here, but anyway, we'll talk. — Say what problem you have? — Well, why are we arguing if I've conceded to you? Ah, fine. You can say there's — — the possibility that he gives up, you know, the socialist. So he's on a full belly. He thinks some more, and yes, he's more convinced by — — something like that. — Here you can go, let's say, with the performative contradiction. — Yes. I think — — with the social democrats. — Well, why are they fed up? Actually — — the social democrats are full — — because they promote poverty. — We're fed up with them, but anyway. Well,

[0:36:38] the moment he — the moment he maintains that the state must educate me — — it means it must oblige Vali, who's the discussion partner, to no longer be free to be — — Well, but that's not a contradiction. — Why would it be a contradiction? You know where the contradiction could be? That they — — they're not totalitarians; they concede you a degree of — no, no, no, no, no. It's a contradiction because, exactly as you say, I need these things in order to be free, — — but it has to [come] from the other person. — But do you pay, and him too? Well, the contradiction is — the contradiction is that you — not that I need to be free. — We're on an equal footing in this argument. But for me to be truly free, you must no longer be free. — Well yes, but liberty — — that's — that's the consequence of the proposed argument. — Social democrat. — "The state must take from you to give to me — " — liberty. It's not — — " — so that we're all free." — It's not the libertarian sense. A full belly means liberty — the socialist sense. You're still free, because you were

[0:37:43] rich, and he becomes free too. [laughter] So the moment I don't — — the state stands over you and shoots you if you don't pay 90% of your income to provide universal education — at that moment you're no longer free. — You use coercion. That's the idea. Well, but that's not the socialist definition, you know? That's not the socialist definition. It seems to me the socialist is consistent. He says something and does that. No, — — no — — you know why you don't do that? Because money isn't taken during the conversation. — So pay attention. There are two types of socialists. There's the socialist of the type: — "I don't need any justification for what I do. I take where I can and give — so I don't have to justify myself." The moment they try to justify — these current ones, with these priest-type intellectuals — — right, and say "we put out propaganda literature to justify what's happening now" — at that moment they're in the contradiction.

[0:38:46] — Yes, that's the problem. But why? Why? Because he promotes something aggressive but respects you — — during the argument. Argumentation is a peaceful thing. Here I see — where do you see the contradiction, where do you put your finger on it? You know where I put it? This is where I put my finger on it: he theorizes aggressive things and respects you. You know, he converses, he doesn't hit you on the head. No — — he doesn't hit me on the head. Yes. He takes 70% of my income. — Well no, but he argues that he should hit you on the head. — Well yes. And I said it's a contradiction. — That's the contradiction. Yes, that's the contradiction. — Yes. He doesn't consider me a free agent in the

discourse. In ar— — Oh no, he does consider you. That's the contradiction. Ah, okay. — If he hits you on the head directly, then he no longer commits it, but that's no longer argumentation, you know? — Or, well, it's no longer conversation. Because I said you can do it in solitude. — So he considers me — — Hm — — verbally. — Hm. But — — but not in actions. — Not in action too, which is why it's a performative contradiction, you know? He talks with you. If he simply takes your money, we no

[0:39:50] longer have any contradiction. — Yes. Yes. The contradiction is that first he talks — the contradiction is when he theorizes aggressive things but respects you, you know, as a person. — Ah, okay. That's Hoppe's argument. — That's it. Yes, — — that's Hoppe's argument. — When we converse, we respect each other, you know? I don't treat you as an object but as a subject, you know? — Okay. — He says: "Well, if you're an animal, if you're a socialist, why don't you take the money? Why are you keeping me talking?" You know? Yes, we waste time and — — Yes, — — and I think — yes. The one with the future, you say, doesn't work. Not that you can't go further. Even if you place the aggression in the future, — — you're always in the present. — No, no, no. I'm saying you can't go further because you commit it — — you commit it. It doesn't matter what's in the future. You know, I was thinking, well, wait, he's found "I will do it. I'm going to do it." So no — but I think Hoppe doesn't formulate it that well either. He says no, the foundations are in the present, you know? It's not very — — Well, and that might be the answer, you know, similar to what I'm saying, because it seems to me — — the present is continuous, you know? But you have to

[0:40:53] look at it the other way round, actually — — no? But my argument is that you can't go further, you know? Not that it's the present, or whatever — you simply can't go further, — — because that's how you'd avoid it: "I'm not contradicting myself now." — Yes. — "And in the future I'm consistent. I said I'd be bad, and I really will be bad." — You can also add here, sir, that there's also an ordering of things on the time line. I mean, I own myself because I was first in my body; or I own these glasses because I used them first. Likewise, when you argue something, what do you argue for? So you can't argue once the conflict has already appeared. As Murphy says here, with the case where you catch a thief who stole something from your house,

[0:41:57] you tie him up and then try to discuss with him until the police come. And the thief says: "I can't discuss with you, because I'm not free and you're applying force to me. You have to free me, and then we'll discuss on an equal footing." — And he says no, because you, thief, already generated the conflict. Ah, you enter again — — then we're talking here about a discourse, about an argument that happens before conflict appears, for example. — Well, a priori, by definition, an argument has nothing to do with fists and feet, you know? So it's not argumentation. — Okay. Okay. So not — we're now in a big conflict. We're the victims' case. — The socialists have aggressively caught you, and we want to argue libertarian theory. Yes. Rights, private property.

[0:42:58] — No, you argue beforehand, you know? — I don't understand. What — — And even if you argued afterwards, I don't see — you wouldn't commit a contradiction. — A socialist comes to me — Bolojan comes. Right. — And I explain to him the theory of libertarian property rights — center-right. — And he says — — I mean, still a socialist, sort of. — Yes. And he says no, and I say: "Sir, I can't talk with you freely at present, because you take 70% of my income every month. Leave the money alone." — Right. So, Bolojan — not that you're free. — "Sir, first stop all the state's current aggression against me — " — " — and then we'll talk." — So it's the same as in the case Bob Murphy put here. — I don't understand. — Yes, he's not robbing you. He robbed you before the conversations, you know? — Yes. And before and during and after. I mean — — I say you can have a conversation. No — it seems to me the argument rests on the a priori, and those two exclude each other. Either you're aggressive or you're not, you know? Either

[0:44:03] you converse. — You see? The conflict took place. Bolojan robbed you, and afterwards you can discuss, since you haven't come out of the robbery, you know? — No. — If you were discussing when the gendarmes came, you know? — I don't agree. [laughter] — Think that — — once you've — — "Lay hands on him for me," you know? — You're robbed. — No. — The act of theft was done, but you're continually in the loss. It's not as if it's passed — "get over it." I always have the loss. — So — — no, wait a moment. Two — — but it has nothing — nothing to do with it. It seems to me you two are looking at things too strictly here. — Uh, you can have — you can — yes, yes. You can — so what we're talking about — for the case to be similar to what we're saying — would be: you take — you catch Bolojan, you tie him up. — Yes. And Bolojan complains that he can't discuss with you because he's not free. — Yes. And I have — — But — well, well no, because if you turn it around you're no longer in the same situation Murphy describes there. But you — it's

[0:45:05] clear you're not free, but at least at the moment you meet Bolojan and you have a discussion — — Yes. — at that moment Bolojan isn't taking your money. No, it's not happening. And you can have a discussion in which Bolojan will have a performative contradiction when he tries to justify future thefts — — because he respects you — or even past ones, you know? Or even past ones. Yes. — Yes. — And then he'll be the one making a contradiction, but the discussion is possible. It is, yes, it is, it is. He's putting some things — — where it's not possible, indeed, it's no longer an argument. It's as Costel said: if you're in a discussion with Bolojan and right then the gendarmes come down on you to arrest you. Yes. Then that can no longer be a discussion. — Okay, so this is what you mean by "the future doesn't work." That's what I tried to formulate the first time. Not that you stop at the present. You can't

[0:46:09] go further. You really can't. No. — What's the difference between present and future? When the discussion ends? — In my opinion. In the present, — — my opinion. No. Why is there this distinction between present and future? — So after you've finished the discussion and reached the conclusion, — — not like that — — the future begins, — — no? — Which you've — — Well, when we're at that moment, yes, will you be referring to the fact that you're then in the future, or still in the present? It depends — the idea is that you can't go further. That's the problem, you know? — You can't go further. I don't know. — You've committed the contradiction. No — think of it as a theory that has a contradiction. You know, predicate logic tells us you can deduce anything from it, you know? — And it's presumed you can't go further. Well yes, but I want to ground aggressions in the future. Well, you can't, because you got stuck here — — in free argument, in which I recognize — you, when you say you can deduce anything — — Yes. Further on. You can't select one of those "anythings" and say this one's true, only this one, and the others

[0:47:13] not — — you'd like to do that. — They're all true at the same time. — Leave argumentation, and — — Yes. You're somewhere else. Exactly. — If you want to be consistent, you know? — I was also thinking about the solitude thing — whether it can be criticized. Whether it can — the solitude, or that the victims don't participate — you know, recognizing them. You know — — you can say, when you write with your pen whatever aggressive things you theorize, that — — Well, as long as — as long as you recognize them then, even if you're not next to them. You know, it's not an argument. As long as you're not — — Well, I'm not arguing. — Well, to whom? To whom? — Well, I don't know. It's written somewhere. That's — — Well, to whom? That's it. At whom? No. To whom? To whom, to whom? To whom? Who? — To the citizens of a — who is — who is — who is the target — — the public? The public, humanity, you know? — Well, if it's humanity, that means it includes those victims, — — and that means you're in an argument with them, even if they're not present. — Well, that's what I was trying to show, that they — — so that's what I'm saying. If you say these

[0:48:16] words refer only — are only for Maria and Ion, whom I will never aggress against — — it's coherent. Yes. — — the others to death — — Yes, it's coherent. Yes, there you're — — you're coherent

within the fact that at least, at least you don't — — contradict yourself. — Yes, but he says it's not an argument. — So don't talk with the victims. — Yes. So it's possible. That means — well, well, the problem appears the moment you produce a justification, because that's the whole idea. That's the difference between what the postmodernists say, what some say, what others say. Yes — do you remember, about two or three shows ago, we had that discussion in which you — communist, you — worker, me — bourgeois, proposed as an argument that we had to — we had to believe in the same theory. Yes. The argument was that in the end we had to believe in the same theory: "worker" had to mean

[0:49:19] the same thing for me and for you; "bourgeois" had to mean the same thing for me and for you. And the implications — for me to agree to reform myself and become a good communist and give up my status as bourgeois — were that you appeal to something we must hold in common. That's the essence of argumentation. We appeal to a truth we hold in common. Let's say this truth can be weaker than a universal truth, yes, to stay in the postmodernist zone. But still, the essence of argumentation is that we must have something in common. Whereas if we don't have values — rights as values, a theory of rights that we hold in common — there can be no argumentation. That's the inherent contradiction in communism, one of them: that the classes don't have, don't hold the same — you — the bourgeois must be eliminated. If you argue with

[0:50:21] the bourgeois, you've contradicted yourself. — Ah, that would be the contra— you don't have to argue, because you've nothing to — — they must be shot. Yes. No, there's no — it's the same thing. If a Nazi — because it's just as bad — if a Nazi argued with a Jew the argument that "those are a pure race, those aren't," — — that truth is relative. That's the idea. It makes no sense, you know? — And you contradict yourself, because you'd presuppose that the conversation makes sense, you see? You have an action that contradicts what the theory says. You know — — Exactly. So the solution says it's a waste of time, you know? — So the solution is — — the solution is violence, aggression, you know? You never sit down for discussions again. — You discuss with your own. — Well yes. And that's it. That's what he says. That's [laughter] it. That's actually it. What Hoppe says is that we observe that there's a preference, yes, for the peaceful resolution of conflicts through argumentation, for establishing norms, because it's observed that we don't hit each other on the head —

[0:51:25] including the communists, including — — the socialists — they don't hit each other on the head by default, — — no? Or Marx, writing — he doesn't hit you on the head; he theorizes. Because otherwise, if it were coercion, shutting down communist publishers would be legitimate, since it would be a form of aggression, you know? But we consider that they're not aggressive when they write, when they argue, whatever, you know? It's not like someone coming with an axe, you know? And — — yes, — — it's not a threat. — And well, you can say okay, maybe — and you can say okay, maybe Marx's position wasn't argumentative, only descriptive. Yes, but the Fabians certainly have an argumentative position. They try to convince the bourgeois to give up voluntarily. — Hm. — There you're certainly in performative contradiction. And I don't know whether Marx himself advocated — was strictly only the advocate of revolution. I mean,

[0:52:28] he speaks violently. He talks with them. — I mean, you can say, yes, the Fabians certainly talk with the bourgeois. — So there's a contradiction. — But Marx — the question is whether Marx speaks only to workers and not to others too. I'd say no. He clearly speaks to intellectuals as well. — That can be a performative contradiction — — and that, that represents the performative contradiction, with — — yes — — those people's servants. You know — — you'd have had to go with the workers strictly. Whereas he hung out a lot with the others. [laughter] — Well, he thought it through, since that's where the money came from, you know? — Yes. — Why would it be more serious — that you talk with your own, you know, this clan thing: — you talk only with your own, and with time your own, and those — I

mean, you no longer commit the performative contradiction, because you don't recognize them as people. You know, you commit it — — you still talk with people. — Yes. Only this existence of clans is clearly contradicted by modern society. People are no longer in clans where this system could apply,

[0:53:34] of all bashing each other on the head purely on a family basis. You know? We do it outside only with — where? Only with the evangelicals and with fundamentalist Muslims do you still find this idea of the clan. You'd say it's still addressed to everyone — leftism and whatever you take, it's addressed — — Yes, yes, yes, yes. — With those you can indeed say they no longer address — no, they don't address — — they don't address. Uh, man, here it cuts both ways, because the Nazis, yes, on the one hand the internal theory is "we're the pure race and we have the right to whatever," but they had alliances. — Yes, but that violates — we're not talking — talking about the pure theory; you know, so they can make — — in practice some compromises, and — — and Marx likewise took money from the bourgeois. Right. Theoretically, the moment those racial laws came out that calculated racial purity according to such-and-such, already there we have a

[0:54:39] contradiction of the Nazis, because they address others than the pure race. You see? They try to regulate it — and practically I'd take one more thing back to before the diagnosis. Is that what you mean? I don't know about the Jew, but one and two: another contradiction of the Nazis was that they didn't presuppose — they presupposed the extermination of the Jews, but, how shall I put it, extermination of the Jews wasn't part of the theory. The part of Nazi theory was that the pure race is the strongest, needs Lebensraum, and the other populations must be moved further away, further into the steppe, to hell and gone, so they too can mature — because the source of Aryanism actually came from the steppes too. That — — and you say it's a contradiction, because it still recognizes something, right? — And it's a contradiction that they don't kill them. — That they don't kill them. It recognizes them very —

[0:55:42] — including — I mean, it gives them the right to some land somewhere. Only we must have the best land, and they must go through the same tribulations, which could theoretically get them out of — but that already presupposes evolution, presupposes a common foundation. — Mm. So somehow indirectly they recognize them, right? Yes, indirectly, indirectly it recognizes them, because — not because — because their goal isn't the elimination of all the others; they converse with them; they don't commit it along that conversational line, but well, they don't go all the way. Okay. What else could there be? So I've tried one — — we've had two objections so far. One, it seems, isn't one. Come on — — how do we get from argumentation to ownership of one's own body? In fact, in argumentation you only need a mouth, lungs and a brain, let's say, which are connected with — — you don't need legs.

[0:56:44] — They're connected with — they're connected. You need — — legs. — Why? — Well, you have to sit at the table. — You can open him up and cut them off and see that you can talk without legs too — — But see what comes out of his mouth. — See what would come out of his mouth. [laughter] — Yes, I can't tell how serious this objection is. So these guys raise it. I'll go — — the big guys. It seems to me — it seems to me it's serious, because — — the problem is the following. Hoppe's argument goes like this. He says: argumentation has the following implications. It implies that people value a non-violent resolution of conflicts. That's the first point. Yes. After which he drops it — he says, so people value a non-violent resolution of conflicts. For us to have a non-violent resolution of

[0:57:48] conflicts, let's look at what's a source of potential conflict in this world, namely conflict over scarce resources. — Scarce. — Yes. So if people value a non-violent resolution of conflicts, they should value a non-violent resolution of conflicts over scarce resources too. Therefore, what would a potential resolution be, and the answer, in absolutely all systems, is the assignment of property rights. — Yes. — Yes. Property rights are assigned over scarce resources. And now the question comes: is there a theory

that assigns property rights over scarce resources in a way that doesn't presuppose violence? That would be the next question

[0:58:50] Hoppe should ask himself — — Well, he did ask it — — he did ask it, and his answer is that all the others, except the libertarian model as received from Rothbard — — no, he doesn't even say he demonstrates it. That's the whole idea. His theory — what he says is not that argumentation ethics demonstrates libertarian rights, but that libertarian rights are the only ones that don't contradict argumentation ethics. — Because I saw a — — You think so? Come on, say — — no. That's the final argument. — Go on. — What would Hoppe's clean final argument be? He says — it seems to me that at some point he overstretches. — "We no longer have the is–ought problem here; it's ought to a bigger ought — " — in argumentation ethics. And I say: sir, you start from self-ownership, from the fact that you have an

[0:59:57] objective link between you and your body. And you say: if I raise my hand — I think "I'll raise my hand" and I say, "look, I'll raise my hand." I raised my hand, so I've demonstrated this direct link, and so I own myself. That's an "is," and from here — — no. So yes, yes, that's right. You're right. But that's not what he says when he says "from an ought to a bigger ought." He says the ought is: people value — we see them valuing — and that would actually be an "is"; it's an is, but — — one in which rights appear — — but it's an "is" that presupposes an "ought": that people behave as if — — it makes sense to them. So the moment you value the peaceful resolution of conflicts, you're at the level of "is." So pay attention — say —

[1:00:59] — "thou shalt not kill" means a right. That's a normative proposition. It's an ought, you see? — And a discourse about a right that's an "is" is when you say: "Look, these people respect 'thou shalt not kill.'" You know? And that's of the descriptive type. You see that a norm operates there. Hoppe's argument is that by discussing with you, I recognize you. — You see? I recognize a right of yours. It's still at the level of "is," — — you see? Even if there appear — — No, [laughter] the argument — Hoppe's argument is — sorry, you're right. I set off in the wrong direction. No, no, no. Ought from ought. No. What I wanted to say is that it goes from ought to ought, from "should" to a bigger "should." To remain within the way we resolve non-conflictually — sorry — the way we resolve conflicts peacefully is by arguing about them. Argumentation — an argument has some presuppositions, some embedded oughts, yes? Some embedded "shoulds." One, the others must, peacefully,

[1:02:04] — some arguments must be presented; an appeal must be made to a higher truth that peacefully, without force, convinces of the proposed norm. Yes. Or another — where it seems to me he goes further — there must be rights. The moment we talk about — the moment we have an argument, yes, we say there must be some rights, or there should be some rights. It's presupposed. Through argumentation we're searching for these rights. So we already presuppose that there must exist — — these rights. — Pay attention. The argument is more about why libertarianism can't be refuted. You know? Libertarianism can't be refuted. Why? Because you contradict yourself — you don't even

[1:03:09] need to go into it. Do you understand what you're saying? You can formulate with "must" the things about argumentation — must, whatever. And then we look at argumentation. Check, check. — And the idea is that at this moment, this "these rights must exist" — in order to formulate an ethical system about how they must be, yes, we rely on the first ones, because what we derive here from these rights must not contradict the premises of argumentation, which must be peaceful, must appeal to — right. So it must be peaceful. Basically, that's it: the rights we try to say are how human behavior should be. Yes. It can't violate the premise of argumentation that an argument must be peaceful. And that's the "must" that indicates the other "must." — Yes, — — that's from one "must" to another "must." — I was

wondering whether you can find the circularity objection, you know? That you start from peacefulness and end up at peacefulness, you know? So that there isn't a circular argument here, because a

[1:04:12] conversation presumes libertarianism. Whatever you demonstrate is libertarianism. — It doesn't presume it. No. — Well, that's exactly why I'm saying he doesn't go that far. — No. The question is whether it's circular. — Uh, well, that's exactly why I'm saying he doesn't go so far as to say argumentation ethics demonstrates libertarianism; rather, if he's a good boy, he says only that libertarianism is the only system that doesn't contradict argumentation ethics. — Hm. — To which you can say: "Well, but aren't you actually in a circularity?" And the answer would be: it's possible it's in a circularity, but a circularity of the kind — — you can be in a circularity of the kind where you say water is wet, or that a liquid is wet. The liquid —

[1:05:16] a liquid represents a state of molecular aggregation in which there are certain forces, certain densities. — Yes. But contact with any kind of liquid — yes, assuming it's not sulfuric acid that primarily causes pain — contact with any liquid is, in the first instance, the sensation of wet. And you could say that water — no, sorry — that any liquid is wet is actually a circularity. — But you — but you're only demonstrating; you're only — "wet" is the perception of an objectively existing state in nature, perfectly determined — — by some forces. — Yes, but the circularity appears when from "wet" you demonstrate that it's water, you know? — But you can do — but it implies water. — But you can do that, right? Not water. But that's exactly what I'm saying. Well — — that's what I was wondering, whether with Hoppe you have something like this. So you have libertarianism, conversation, libertarianism.

[1:06:20] — Well, that's exactly what I'm trying to say: that "wet" is a perception. Wet — the idea of being wet in Romanian, yes — is a perception. Yes. If you feel — if you feel that something is wet, — you can induce that it's a liquid. You can't deduce that it's a liquid, by logic as strict as can be, in which perception can't give you truths — — in which perception alone can't give you universal truths. — Yes, I think — — you see? So the universal truth is that liquid exists. — Contact with liquid gave us, empirically, the concept of "wet." Yes. After which, from "wet" you can induce that it's a liquid; you can deduce from liquid that it's wet; and from wet you can induce that it's liquid — but it's not a pure equivalence, because it passes through the subjectivism

[1:07:24] of human perception. — Yes, — — yes. And that's why I'd say it's the same thing. So you have the form of debate, you have the form of argumentation, which presupposes non— so somehow non-conflict, the state of non— the absence, the absence, the absence of war, the absence — what's it called — the presence — — of pacifism — — given that "argument" also means quarrel, I think, no? — In English. — Yes. Well, that — — so the discussion is conflictual by its nature, isn't it — — well, because here, you know, when we get into a conflict of ideas, — when we get into semantic particulars, the devil himself won't get out of it. Uh, what I was trying to say — to come back to the "wet" thing — is that the objective state, the objective state, is

[1:08:29] the absence of violence, which allows you, in a — so a human interaction that has no violence and that also has the characteristic that ideas are exchanged — it objectively induces — no, it doesn't induce — it deduces for you argumentation; yes, argumentation can only induce libertarianism for you, libertarian rights, not deduce them, you see? To keep the same structure as with liquid and wet. Wait, I was thinking. Okay. — Yes, it's — I don't know, I haven't seen this objection. I thought of it myself, but I have to formulate it, whether it's — — formulate it more clearly. You understand what I mean, that it may presuppose. — Yes, yes, yes, yes. But — but I'd — — I'd prepare this answer from — so, to escape circularity, that's how I'd formulate it.

[1:09:31] — He can say there's no circularity, as with human action — the concept, and I see libertarianism really is in conversations. So — — it's there; I work with the client's material. — Uh, so

how does he do it? We've talked, or not talked, about this. How does he make this link, sir? Okay. Arguing in a discourse is a practical, physical action. You need a body to do it. — He says the body is a resource too. That's it. — Yes, yes, yes, yes. But why? Then Bob Murphy says: "Okay, but you don't need only a body; you also need education, you also need — " — those things. So — — why does he stop only at the body? You know? — Because he discusses only control over resources. — Hm. Well, those are — — and implicitly in argumentation you only have — — No, but pay attention, because he then also ties it to the fact that I should be — so whatever I [sigh] argue

[1:10:37] must then ensure my survival. So I can't argue that all people should die and then there's no more conflict. — That's the moment where he overstretches. Here it seems to me he overstretches, because, as I've said on another occasion, libertarianism — if I treat it consistently in that edge case where someone comes and tells you you must steal, otherwise the human species is wiped out — no longer supports survival. So I can construct a case in which libertarianism, applied consistently, no longer supports the survival of the human species, and then it's itself self-defeating. That's the nature of the argument. But he says he must give up that idea. Strictly what was the argument? Say it again — — So I can't — yes. I can't maintain in my argument, — for socialism or any other theory, something that would lead to the death of all people,

[1:11:42] — to the extinction of the species. — To the extinction of the species, it must — — And who says that? — Hoppe. — Ah, Hoppe. — Hoppe says that. And that's why Murphy goes on to say your body isn't enough to survive. — I know him only from what Kinsella said here. I don't know if Kinsella — Hoppe makes this argument. — The argument of Rob[bard] that we die with that ownership, those holdings. Hm. — Yes, yes, yes. — We die. Yes. — So, uh — — So if — — and I'd — — Why do we die? Say it again. — For example, if we say, "sir, we should all be owners of all bodies" — — ah — — "I'm not universal." It's not — this isn't tied strictly to argumentation ethics; it's tied to — — You have to survive — — holdings in general, — — no? [clears throat] Hoppe — Hoppe says you have to survive in order to be able to argue, and that's how he throws in the garbage the other theories that presuppose — including on Rothbard's system — that

[1:12:46] they make survival impossible. That's how he throws in the garbage other theories of acquiring property: that if property were held in common by everyone, nobody could act. Therefore everyone dies. And because everyone dies — — that's validation by consequences, like the one before; look, I wanted to intervene — — like conflict, like conflict, let's say, right? Uh, maybe most people want no conflict. Well, but maybe — — well, when the answer — — maybe for Putin conflict is more desirable, you know? He gains more from conflict, you know? So people don't want conflict; [some] gain more from conflict. — Yes, but that's not universalizable. This thing — — it's generalizable, since history — — justify — it's not justifiable. — Two neighbors fight. We're not discussing strictly — when he says a premise, you know, of the argument is that people don't want conflict, you know? And I'll say: oh yes they do, look, they want conflict.

[1:13:50] You see? — No. A premise is that people who argue — — that people who argue don't want conflict — — don't want conflict. — Yes. — And again, conflict — we're talking about the violent resolution of conflicts. — Oh yes, oh yes. No. People who argue don't want the violent resolution of conflicts, because you don't need argumentation. You go straight to violence if you want to resolve it. — Yes. For your own people you start building arguments. Not — why isn't it an argument? Again, it's not an argument for your own people. That's not an argument. It's a popularizing move. It's — — an argument means reasoning with some premises and a conclusion, you know? — Well yes, [clears throat] but it's not for the victims. That's what I'm saying. If you — — it doesn't matter. — Well — — it doesn't matter. It's an argument. That's Hoppe's problem: he conflates argumentation with discussion. You

know? There are arguments that, or a discussion only among our own people, you know? Earlier I said the same thing about the Nazis. I said the same thing about the Nazis and the communists.

[1:14:52] — Well, it's argumentation when he theorizes: "man, why do we have to kill these people? There's a superior race, by axiom." There exists — no. That's an argument. — As long as you talk — as long as you talk only with your own. — Yes, but it's not — — it's both an argument and a conversation. Not only — — as long as you talk only with your own, it means you're not trying to justify your actions before the victims. — Well, there's no need, but it's a justification for your own. It's an argument. It has premises and a conclusion. — No, it's not a justification only for your own. — But it's not generalizable, and here it isn't — so it's not the truth. So — — it's an argument. That's what an argument means. You know — — if it's limited like that. Yes. So if you have your own and the others. Yes. Okay. For your own, among your own — your own among your own is something entirely different. Yes. How we behave toward the others is only with death. Yes. Okay. Good. Uh, if you want to convince your own

[1:16:01] that it's justified to behave only with death toward the others, — mm, — — I'd say those aren't your own. — What not? — Those whom you have to convince that they must kill the others. — Oh yes, you have to inform them, you have to convince them, you know? — Well, yes, but — — they don't know what Nazism is. I'm elaborating it for the first time then, you know — — right. — Well, and I give some arguments, man. "Why must we — look, because of this, this and this." You know, — the argument of Nazism was that we belong together — that it's based on something objective. Together we're part of the supreme race. Why are we together part of the supreme race? Because my mother, your mother, my father, your father, who did an objective thing that produced us, were part of the supreme race. Why? Because — I see — it's an objective thing. I don't have to convince you that we're

[1:17:03] part of the supreme race. — How not? Maybe I don't know where I belong. Yes, but it's a thing — — and I have the traits, and maybe someone knows better. — It's — again — an objective, verifiable thing. I don't have to convince you. — No, brother, it can also be false, you see? It can also be invalid. The idea is that those people argue, you know? Racism may be false, you know? It's false that races exist, whatever. — What do they argue — — something. — Yes, there are some — that's an argument, you know, a reasoning, some premises and a conclusion. It doesn't necessarily have to be valid. Or they argue — those people don't simply go to war, you know? Some learned men don't come and say "this is what we're doing," you know? "Why are we doing this? Because of this and for this." You know? — In the sense — — it's — — it's an argument, you know? — It's some stuff. — It's not an argument. In what sense? — I don't think — I think something's escaping me. Well, it's not the definition of an argument. I think

[1:18:05] you're thinking too much about conversations and the relationship with the victims. — No, that's exactly how the objection comes, you know? Look at Digi and Antena 3. You see that — — arguments are more varied in this world. — And there are arguments there too, you know? — They don't say — — they're invalid, but they're arguments; I mean, they have an argumentative structure. — And they speak for their audience. They don't try to convince each other. — Look, they don't even [laughter] commit a performative contradiction. I don't think Digi — they're only small — they think of everyone. [laughter] — No, no — — [Iohannis-] supporters — — all have an "ought" too: "we must have a government." — Yes, yes. — So in the minimal sense — no more, because it's blocked, it's — — Well, so that it's good, because that's how it must be — — any action preceded by thinking about why we're doing it, you know? And you argue there: "look, because of this and this," you know? — In this minimal sense — — some, but anyway, — — not all — we all do this. Why? Why do I go home? I have to eat, to — — The argument isn't why we do this, but why we must do this. — Why must it be so?

[1:19:07] — Okay. Why must we do this? — Passion. Because the supreme race is in danger. If more — — Yes. The superior races must beat the inferior ones. It must be — whatever — by sea and — — and them — — them too. Yes. — Moving on. Gabi, you were saying. Yes, while Vali thinks — — I wanted to come back. Go on, say it. — No, no, no. You say it, you say it. — Well, the thing with the legs. Do you have anything more to say? Because — — on the legs thing — — do you own only your head, or your legs too? [laughter] Where's the head? — Yes, [clears throat] where? — That's what he was raising. That's — — I had mixed feelings about that, you know? First that it's serious, then that it's nonsense, you know? No, no. — Uh, no, because, look, so Kinsella — when Murphy brought him this objection: "where did you get the conclusion that in order to argue I have to — " — " — own my whole body?" Yes. Because think: he doesn't say, "sir,

[1:20:11] you have to have legs." We can say okay, you must not — not own your legs, and if someone owns them — — and ties them up — — ties them — — Mm — — uh, and has that right. That's what owning means — — not necessarily being in possession. — Hm. — Uh, it's okay. Then Kinsella says: "No, I must — in order to be free to argue my position further — " — or to reach a truth — — " — I must have the right over my whole body, — because in fact that's the object of the discussion," so to speak. And — — what's the demonstration? — Hm — — what's the demonstration? If you said, "well, maybe I want to put my legs — or take my legs to the back," it would make more sense. What's the argument? — Uh —

[1:21:14] — maybe you don't need legs. — No. To own yourself, to own the whole body. — And so you must — — That — why must I own it? — Yes. I mean, what does he say? Why must you own everything, everything, everything — otherwise what? You can no longer uphold the argument; you're not free to uphold the argument, or — — uh — — yes, it's violated — — the defining — not the defining — property right over the body being the object — — Mm — — of the discussion. — Hm. I must be the owner of my own body — I don't understand the stakes of this objection. You know what it wants? It's not enough that he doesn't hit you? You know? — The stakes are that — — you've grounded libertarianism: the fact that he discusses and doesn't do anything to you. — Yes. And then why bother your head with — I understand that. — To demonstrate that — — Yes. — — he'll commit it. So is the tongue enough, or doesn't it matter? The important thing is that he doesn't hit you, you know?

[1:22:17] — Yes. Anyway, Bob Murphy. He raised this. So he raised it, and Kinsella considered he had to answer this criticism. — Well, and what's Kinsella's answer? — That he needs all of it. It's reform— — We don't understand why he needs all of it in order to justify. Because that's the object of his discussion: the property right over one's own body. It seems to me that it's [libertarian]ism, not only the glands of whatever, you know? No, if he respects you — if he cuts your legs off, it's — — or ties them, intervenes. — If he cuts your legs off, he no longer commits [the contradiction]. — Anyway, so it seems to me a complication was made — personally, something hurts me. — Then think — — note that there are many things involved, and — — no, but I mean something else: then there's also the thing with God owning you. — Hm. Mm. And then also the case of slaves. — We've bumped into that somewhat. We've touched on it.

[1:23:20] — Yes. It seems to me that if Kinsella had stopped at estoppel he'd have been fine — and here, here it's not — — here it's not about — yes. — So — — Yes. That's his defense of argumentation ethics. But for me it seems that if he'd stopped at estoppel, which was "do unto others as you'd have them do unto you" — sorry, "don't do to others what you don't like" — it would have been quiet, and you wouldn't even have got into — but where does property begin, at the hairs? Then — because I use some things; they're extensions of the person. So or maybe — — so see that [clears throat] — see that estoppel isn't that. — Okay. — Estoppel — Kinsella's argument is that an aggressor can't argue against

his punishment, and from there he says "therefore libertarian rights." — Ah, I extrapolated. Okay. — Yes. — So it's not the same — not at all the same

[1:24:23] thing. — Yes. Dialogical estoppel prevents arguing against punishments. — Punishments. Yes, yes, yes. — Okay, then we have to find — we'll leave it like that. The saying, "what you don't like — " and that's — — " — don't do to another." Yes. That's the basis of libertarianism, and goodbye — — and of Christianity. You know what I think the problem is? That the business with the tongue doesn't follow. It doesn't follow. If he does nothing to you, it follows that he respects your whole body, you know? No. Where did you get the conclusion that he respects only the first? — Well — — when he does nothing to you, not to the legs, not to the hands, not to the — — Did someone say that — — no, I was trying to check that argument. — Well, in this case — he gives the example here — a thief comes to you. Yes. — He's killed your children. — You've caught him. — He's not just a thief. — Takes more [laughter] — yes. — He's not just — — He took a soul. — He's a murderer. Right. You catch him, you tie his legs,

[1:25:26] and then you start: "Hey, but why did you do it? What?" — You start discussing with him. [laughter] — To argue? Yes. — It's not very realistic. — And he says: "Sir, I'd argue, but you've tied me up." — Mm — — he has a point. — You're right. I'll explain. "Well, [laughter] your boy was going to be the Antichrist," or something, I don't know. — Yes, — — he's Hitler 2.0. — Yes. So — and he killed my children or something. — So no. And in these cases the whole body needs to be free? — Well, it's not. That's exactly the idea: it's not. — But my question is whether that's an argument or not. It's an argument. It could be, in the sense that when I say "that one was going to be the Antichrist," I'm trying to convince you of the necessity that he had to be killed. Yes. And you can say that the appeal — the truth I have to make, to which I appeal — is of the

[1:26:30] conditional type: if he's the Antichrist, he had to be killed. The argument itself, though, would be me trying to convince you why he was the Antichrist, which could still happen even if he's tied up. Think of it in a courtroom. — Well, no, wait, we're not in a courtroom. I mean, I'm trying to say — I'm only trying to say that if I've tied him up — — Yes — — and I'm waiting for the sheriff, as it says, this doesn't preclude — — an argument. Exactly. An argument on his part. — He says: "Sir, there was a conflict before, and because of that, yes, you've spoiled — the aggressor — you've spoiled, let's say, the possibility of a free argument." What you've given — and so

[1:27:34] you can no longer — well yes, but that already presupposes — how shall I put it? It presupposes that I want to punish you, for example. Yes, but he can still say, exactly as you said, "man, I killed him because he was the Antichrist," you know? And you — and that's an argument, for example: the Antichrist must not live. — Yes. It's an argument. You're a Christian; you believe the Antichrist must not live — or I don't know, no idea what the — — what the law is around there. Yes. You, let's say you're in a category that believes, for example — I don't know, you knew each other, well — — you knew each other before, and he knows you adhere to this normative truth that the Antichrist must be killed. Yes. — After which the argument goes on to the idea of why his child was the Antichrist. Yes. If — yes, what I'm trying to say is that the fact that he's tied up

[1:28:40] there doesn't preclude his launching into this argument. — In fact you respect him; you tie him up only so he doesn't hit you, but you respect him? No, [laughter] — — respectively, — — but you don't give him autonomy; you don't recognize self-ownership. — Well, I'd say that when you listen to him — — you recognize him. You recognize self-ownership. — Yes, but self-ownership — only here — here is actually the essence where it seems to me Hoppe throws himself too far. Argumentation only presupposes recognition of the status of actor, of moral actor. That's all. And even Kinsella, in Bob Murphy's podcast, which you'll find linked below — at some point he says exactly this; he too extracts exactly this from it: that argumentation, participation in argumentation,

[1:29:44] implies recognizing the discussion partner as a moral actor. — Yes, but I also recognize his physical integrity. That's it. — No, not necessarily. — Well, why not? Well, even with the guy whose legs you tie, you still recognize his physical integrity, since you're not breaking his legs. — Oh, you can break his legs too. You could, if need be — you know, not tie his leg — — not tie him and beat him with a club, like, and you can — be careful what you say, careful what you say, and with us maybe — — crap, like that you're already no longer — you just threaten him. — No, I can say that, for example, to prevent him running away, I broke his legs. I didn't have — I didn't have paper. Sorry. I didn't have rope to — aggressive. — You recognize him as a person, you know. You're not aggressive. Okay. — No, but let's say — — even if you tie him, you don't violate — he killed the wife, and the wife had killed seven children in a neighborhood. This guy comes and kills her. Let's say — — uh, I catch him, I tie his legs, — — and he starts explaining to me, you know? "Man, look, like this, like this, like this, like this,

[1:30:47] like this." — And you — — uh, stand there with a club, you know? He freezes, because maybe I'll give him another one, and so he can no longer argue. So he should have, let's say, at least some — — possibility of being free to argue his position. — I say it is, because you're only defensive. He's the aggressor, let's say. — Well, he's not an aggressor — how, he didn't kill those people. Ah — — he's an imminent threat to you. No. — Well, how — — he only killed — the murderer comes who killed seven children elsewhere. — He only did it. — That's a matter of estimation. Yes. A serial killer comes now and sits down. It's a threat. — It's not an imminent threat. — Who knows. [laughter] We'll find out quickly. — It depends, it depends on his modus operandi. If [laughter] — if his modus operandi is to spray you with sleeping gas and then slice you up, then it's an imminent threat. If his modus

[1:31:51] operandi is to dominate you by physical force, the four of us might be able to control him, so it's not an imminent threat. — Maybe he only comes to argue, you know? Maybe he only comes to argue, yes, who knows. So what was the objection with this — — with the conflict and whatnot? — That in order to participate in a correct argument you must have the right to your cellphone and to have the whole — — body, to feel free. — That was the idea. No, I'd say — I'd frame it within the stories. I'd say the following — well, stories, I'll explain in a moment what — if we have a discussion, yes, and this discussion is argumentative, yes, that presupposes we're in the story in which we're having an argumentative discussion, and you and I recognize

[1:32:55] each other as discussion partners. Yes, for an argument to exist at all. Take this example where I broke the guy's legs. Yes. And he tries to convince me why the child was the Antichrist. Yes. If I enter into discussion with him and reply why it wasn't the Antichrist, yes, I'm in argumentation with him. If instead, when he opens his mouth, I whack him over the head with a club, I'm not in argumentation with him. So an argument must always have two partners. Yes. Or an argu— an argumentation, an argument — when you write it, for example, to address that case too, that you can write something — when you write it, you presuppose — you address whoever reads you. Whoever reads you is in argumentation with you; at least he listens to you. Yes. No, — — but your intention matters too, you know.

[1:33:59] — He doesn't have time. He doesn't — — that a Jew reads it. — He doesn't have time. — It wasn't your intention. — Yes. No, it wasn't your intention. Yes, yes, yes. Well no, that one — it's not addressed to him. It's not addressed to him. — Yes. He has to be — — part of your target audience. Yes. — Yes. If this Gabi — defensive there with the legs guy — it's — — again argumentation, no? Because he's defensive after all. He breaks his legs defensively. — Well no, so no — [laughter] he wasn't defensive. — So he won't run away — only what happens after matters. Not what happens before. — And it's argumentation. — So if he starts telling me, "Man, I killed him because he was the Antichrist," and my next action is to break his leg, we're not yet in an argument. No — the idea is that the conversation shouldn't overlap with coercion. Let's take it that way — — Yes, that's not coercion, man,

because you can be defensive, you know? You can be defensive. — Well, I'd say I'm not defensive if I break his leg. — Defensive — well, if he's a madman, you know?

[1:35:01] — Well, and if he's a madman, the madman has the right not to have his legs broken. — Oh no, we can — libertarianly speaking, if we want to come back to the word libertarian — if he killed the child, I can blow his brains out right there. Yes. — Yes. — No, it's not about defensive or non-defensive. — The idea is that you're not arguing. No — — I'm speaking the language you want. — I'm speaking the language — — of defensive violence. No, — — yes, yes, yes, yes, yes. But it's not defensive violence; it's restitutive. Yes, there, when he killed the child, he created some restitution rights. By virtue of the restitution rights, I can kill him — I killed him. Goodbye. — Yes. — No, we still have an objection. I've shortened it — I skipped the trip to the court, I made restitution, I whatever. If I break his legs, I'd say that there I'm the aggressor against him. — Well, if it's bigger than —

[1:36:07] — Wait, I have an objection too. — Yes. — Let me make it. — I mean, I can catch him, I can stop him from running away so as to take him to court, for example. That I can do. — Yes. — Yes. I can even kill him if he wants to run. — Yes, because I can say that when he tried — not "if he wants to run"; if he wants to run and I kill him on account of the child, I've killed him. If I kill him so that he doesn't run, — — that's a problem. I mean, a thief — a thief who's running away, you don't blow his brains out. A thief running away, you don't blow his brains out. A murderer running away, you can blow his brains out, because his right to life is already gone. — Yes, but for a thief running away, it's the basic proportionality principle. — I'd like to give two more examples in which the threat isn't so imminent, but still, I'd say, this freedom to argue is impaired: namely, the case of a slave who wants to talk with his master, yes,

[1:37:14] somewhere in Louisiana in 1830, — uh, and he wants, let's say, to ask him — but he knows the context he's in. Yes. — Hm. — He wants to ask for, let's say, Sunday off, or I don't know what. — He's not even thinking of liberty; I mean, he can't even think — — of being free. But he wants things like that — not two [cough] meals, three meals and Sunday off. Is this considered an argument — is he engaged in a correct argument or not? — When the slave talks with him, or what? — The slave with the master. Yes. — On the slave's side there's no contradiction. On the master's side, yes. — Okay. — And the reason I say on the master's side yes is that we don't have these kinds of discussions with the other property we own. — Okay. So you say it's committed — — by the master. — The master. Yes. — The master. — The master. Yes. And there was also the case mentioned here in which we don't own ourselves; rather, God owns us because he created us.

[1:38:18] And Kinsella says: "Sir, in this case we'll eliminate divinity from the discussion when we talk about legal matters, because here we're talking about people and among people — relations between people," and here, net. — But listen, if he argues for slavery beforehand and without the slave present, isn't that okay? He argues something like "I'll give you, I won't give you" — fine — — to whom? — To the slave. — He argues with the slave — no, not with the slave. Either in solitude or with other slave owners. — Who? Who's the target? Who's the target of his argument? — Other owners on the — — other owners, no. The victims are the slaves, and he'd say, "look, this would be — " — who's the target of his argument, if he wants to convince the slave to behave according to the argument — that is, to — — he gives some permissions. — Well, that's people outside the United States of America — — but he doesn't establish them through conversation with the slave, so that you could accuse him of a performative contradiction [laughter] — he establishes them beforehand. That's

[1:39:23] the code. Possibly he doesn't talk with anyone, you know? He builds an argument. — Right, — — that argument says that indeed I give him those certain permissions, whatever — no, no — — on the basis of — — It doesn't matter. It doesn't matter. — Oh, this matters very much. Oh, this matters very much as justification. Oh yes. So first you have two — — "Because that's what I want, because I want it."

— You have two, so he works better. — Okay. But "because that's what I want, because I want it" — that's not an argument. — "So he works better." He talks to himself. He talks. Well, and "because I want it" can be an argument: I want to satisfy some preferences, and if he's free he takes from me — — it's not an argument. Again, I'm trying to explain to you — — "I must take the people from the Balkan Peninsula and civilize them by bringing them here, to raise them, to give them education, to give them food there. They have nothing to eat." — Take it — Alexandra is more efficient. — Very well. You've stated a conclusion. What's the argument? Why? Why must [clears throat] you do this? "Because there they get drunk and live in poverty. Here they have it better." — So why must you do this?

[1:40:26] "Because those people [have it] better — " — because those people are people, and the human condition presupposes that they should be better off, right? Well, okay. So you contradict yourself. — No, man. — Oh yes, you contradict yourself, because you say — because you say: I'm capable of owning myself and deciding what's best for people. They aren't capable, but they're people too. — I think Vali wants to say this: the moment you want to — — uh [snore] — — No, man, you see him like a horse; there's no number. You see him as a horse — a horse with Sundays free. — On Sunday it's more efficient. It's — — and then your argument won't be for horses; it'll be for the other owners, and you no longer contradict yourself. That's why I was asking you: to whom are you directing the argument? When I gave you the answer — — you talk with the others, or you can talk with nobody. — The argument is for someone who would question your chain of thoughts. — Yes.

[1:41:28] — Yes. And the justifications are to tick something off. — Yes. Because if — if you try to convince the slave, you're in performative contradiction. — If you try to convince other owners, you're not in performative contradiction. — Yes, that's clear. Because — — But there has to be an argument there. — Okay. Let me say that thing too. — Yes. Go on, go on, go on. — I'm thinking about something like — what does Hoppe say? Libertarianism is unassailable. Yes. — Through conversation. Through conversation it's unassailable, you know? Wanting to theorize aggressive things, you either respect the other in the conversation — and so you commit a performative contradiction. — Now what I'm saying: is this performative contradiction enough to invalidate the theory? — That libertarianism is unassailable? Yes. — Not any theory — an aggressive theory. Does the fact that I violate libertarian principles invalidate libertarianism? The fact that

[1:42:32] I, I don't know, steal, kill, you know — — by the simple fact, but — — no, no, but it makes your argument invalid. — Well, it says nothing about the theory. It doesn't say. Well yes, it discredits me as a person. — Yes. Yes. It doesn't violate your — — It says nothing about the theory, whether it's valid — nothing about the theory — but tells you that you're in contradiction. Or rather it says that I contradict myself, that I don't respect things, you know? I theorized libertarianism and worked for the state and, you see, introduced taxes. That says nothing about libertarianism. — Is it coherent or not? Is a person in line with that coherence or not? — So the answer to Hoppe should be: the theory goes on, the aggressive theory. You know — — "that's your contradiction; good for you." — Observation — today only some observations. — So libertarianism — yes. What Hoppe says is that libertarianism is unassailable through argumentation. Yes. — Libertarianism presupposes — here you also have to introduce

[1:43:35] the "and" and the "non." Yes. Libertarianism presupposes the peaceful resolution — normatively, the norming of the peaceful resolution of conflicts on the basis of assigning property rights by the method of appropriation or contractual transfer. — Hm. — That's what libertarianism presupposes. — Let me come back to the objection, Vali. Does the fact that he commits a performative contradiction invalidate the theory? That's my objection. I say it says nothing about the validity of the theory that he contradicts himself, I told you. It's like a libertarian who steals. It says nothing about libertarianism. It says nothing. The criticism of that aggressive theory I make differently: it violates the

NAP, it violates whatever. Not that someone contradicts himself because he respects his conversation partners — because that's his argument, Hoppe's. — It says nothing about that. It's my problem, not the theory's. — So he says that libertarianism — — is unassailable. If you want to take what libertarianism implies — if you want to take what

[1:44:38] libertarianism implies, yes? — and throw it out the window, — it means you're no longer within the framework of the discussion set by Hoppe. — Yes. Yes. — Bad objection. — Well no. So, uh, I say leave it for next time, so that it's clear what — go on, go on, go further, go further. — Try [laughter] to understand the objection. So the behavior, that person's actions, say nothing — the fact that someone contradicts himself isn't — the fact that someone contradicts himself isn't what Hoppe said. — Hoppe doesn't object to the fact that some people contradict themselves. Hoppe says that those who contradict themselves when they talk about libertarianism — — Yes. No — — invalidate the theories they propose. — Yes. — And I say that doesn't happen, you know? It's not enough. — Well, you — you've — you've excluded me from the discussion when I talk about libertarianism, because I agree with what you say. The fact

[1:45:40] that someone contradicts himself means nothing in general except that he contradicted himself. Yes, but now, the fact that he contradicts himself while proposing a universal theory says something about that theory. — No, I say it says nothing. It says absolutely nothing. That's the objection, and I haven't seen it formulated anywhere. — Wait, so if — — it says nothing, — — so distinct— — — that someone contradicts himself — the distinction. Distinct— I think I've understood now. You, Vali, say: the critic's proposal is invalidated because he contradicts himself. Yes. Yes. — Okay. And Costel says that as a person he can contradict himself because he's stupid. [laughter] — So — well yes. So pay attention, pay attention, pay attention, pay attention, pay attention, pay attention, pay attention. I didn't tell him. You got it, no. You got it right away. The problem is his problem, not the theory's. The theory goes on. — Pay attention: the guy who says that football — — the football theory that the best way to score a goal is with your hand.

[1:46:45] — [laughter] — But okay. — Yes, that's his theory. "Sir, I say the best way to score a goal in football is with your hand. You know why? You control it better. Oh, you can put it wherever you want." Yes. Can I say from this whether he knows something about football or not, or can I only say he contradicted himself? — If you violate libertarian theory — I repeat, this is how you'll understand the argument best — if you violate libertarian theory, you commit a performative contradiction; you act in a way that violates some norms. Does it tell us anything about libertarianism, about the validity of libertarianism, that you violate — — the libertarian principle? The answer is no — — no. But he proposes an action. — The answer is that it tells us nothing. The theory is — no, it's not about libertarianism, it's about scoring goals with your hand. Does it tell you something about Messi and Ronaldo still playing? That's what it tells you about. What that guy proposes when he contradicts himself matters too. What Hoppe says is that that guy's proposal is invalid. Someone commits a handball. — Someone commits a handball. What does that say about

[1:47:48] the validity of the rules of football? — Nothing. That's what I wanted to say, you know? — No, because [laughter] — no, because his argument — again, I repeat — the argument isn't that someone committed a handball; the argument — no, that's not Hoppe's argument. The argument is: we're having a discussion about how best to score goals in the game of football, and someone comes, sits down at the table and says: "Guys, I'll tell you, give it to me with the hand, because that way we control the ball best." And everyone looks at him and says: "Fine, out you go, thank you. Understood." — But does that say something about the theory he proposed, or nothing? Because Hoppe's argument is that people who contradict libertarianism propose alternative theories, — and if those alternative theories

presuppose aggression, they've contradicted themselves. You can make a matrix in which the proposed theory is good, but while

[1:48:52] he says it, you see that already the proposed theory is bad. — That's it. That's Hoppe's argument. — I don't think I understand Hoppe's argument correctly, and I told you it's not enough that someone deviates from some norms, you know? — So that's the essence of my criticism. The fact that someone deviates from some norms says nothing about those norms, whatever those norms look like; you can put any rule there, you know? — Yes. The deviation is personal — — it's his problem. You know, he deviates from — — You can — you can say normatively that we must — we must violate all norms. — Do you think that says something about this norm? It does, but that's another discussion? — Well, it's not another discussion, because I contradict myself. — It's one of the contradictions I make in an argument: "we must violate all norms." — Well, there you had a logical contradiction. I told you, the relevant contradiction from the Hoppean point of view is between an action and a statement. You know, you theorize aggressive things and you respect the other person. That's the contradiction, you know?

[1:49:55] — Yes. — You see? And what I'm saying is that that performative contradiction, when you act in a way that contradicts a theory, tells us nothing about the theory, you know? — It says that you've contradicted a theory. Vali — just the fact that he's wrong — wait — just the fact that he's wrong doesn't tell you anything about the theory — — and that he disagrees with the theory. I'm not even saying — — But then you come along, and you're right when you say: well, it matters how he's wrong. Yes. And that's something else relevant. Relevant to the validity of the theory. No. So if — so if you have a theory — let me put it differently. So you have a clean, coherent theory. I've given examples — I've given libertarianism, you know? A clean theory, and someone steals. Has he invalidated it? — No. Well, the fact that he steals — — isn't a contradiction that occurred within argumentation, because that's what Hoppe is talking about. The contradiction occurs [laughter] in argumentation. — It's a performative contradiction. — In argumentation. That's the same error Murphy makes at one point: he doesn't understand the difference between

[1:50:58] contradicting yourself within argumentation — — and contradicting yourself much later. — We're talking about performative contradiction in general. A performative contradiction means an action opposed to a norm in general. It's one — — that you uphold. — Wait, wait, wait. — It's an action opposed to a norm you uphold. What it says is that you don't uphold this norm — — if you contradict yourself performatively. As easy as a rooster's brain. To hell with it, you know? So it says nothing about the theory. You know, the fact that he deviates from the thing, you know? — Well, that's what I said too: it says nothing about the theory. — Well, if you've accepted that, the discussion's over, and Hoppe's position with it, you know? — No, Hoppe's position isn't over — — Oh yes, because Hoppe's position is exactly that: that you can't go further, you know? And I say it has no relevance for the validity of the theory. So you're talking — you'd agree with each other if you saw that they're two separate things. — Well, I see that they're two separate things, but Costel has the feeling it's the same thing. — Two separate things can be, because no — — So Vali said — Vali said — so you

[1:52:01] said he contradicts — if he steals, he contradicts the theory. No, Vali says: "Well yes, but while he's arguing — " — that was an example to clarify — I want to show the distinction, I want to show — — the relevant distinction. That's Hoppe's argument: that you can't argue for any system other than libertarianism. That's Hoppe's argument. You can't argue for another system, because you — without contra— you already contradict yourself during the discussion. — Cont— and my answer is: so what? So what if you contradict yourself? That says nothing about the other system, about its validity. — It does. Yes, that's what you're saying too. Well, that it doesn't — — Well yes, but Hoppe's position is that it rejects the other one. — Well, what he says is that another system — — if you can't — if you can't argue for another system without contradicting yourself, — — it says that any system other than

libertarianism can't be adopted through argumentation, — — but only through contradiction. — So what? But

[1:53:04] — which is a very strong argument. Yes. — On Digi24 arguments are made for socialism. Does that say anything about libertarianism? Does it invalidate libertarianism? — No — — does it at least invalidate — — No. [laughter] Wait. So — — I understand — I don't understand what that has to do with it. That's someone who upholds — — a contradiction. Leave argumentation aside. Argumentation is a case of conflict between a norm and a fact. You see? It's one such case, and we've discussed it a lot, but a performative contradiction is also a deviation from a norm. You know, you commit one of these performative ones, you know? — It's really not tied strictly to argumentation. [clears throat] Argumentation is an action. — It's not a performative contradiction unless I uphold the norm at the same time. — Well yes. Well yes. Yes. Yes. — That's what I'm saying. Yes. Well, nobody said — but the argument — so Hoppe's argument, to come back, because it seems to me it's a bit — you've pulled it in another direction, one he doesn't state. Hoppe's argument doesn't say — he didn't think of this objection.

[1:54:05] — No, his argument — no, because he doesn't take the argument that far. Hoppe's argument is the following: you can't argue for a system of rights other than the libertarian one — without committing a performative contradiction. Which means that any system other than the libertarian one cannot be imposed through argumentation, cannot be justified through argumentation, because argumentation itself — — and if argumentation is the only way we have to justify things, — — then any system of rights other than the libertarian one means it cannot be justified. — It can be done, by mistake and whatever, but no — but the justification isn't coherent. Yes. Yes. Yes. That's okay. What did you say? — That's Hoppe's argument? — No, no, no. And how did we avoid this? We said you argue in solitude,

[1:55:09] you argue with your own. We tried various forms, you know? — But I told you, try to understand my objection too. The fact that he does or doesn't contradict himself says nothing about the theory. You know? Maybe the theory appears on the sand; simply nobody argues. Libertarianism appears in Constanța — the wind simply makes it. You know? — But it's not about — but here it's not about libertarianism, but about all the others opposed to libertarianism. — Hm. — Take an opposing theory. — It's true that Hoppe says nothing about libertarianism, but about all the others he says they're unjustified, they can't be justified. — They can't be — yes, yes, yes. About libertarianism he says it's the only one we have that has remained — — well, now, I don't want to make light of it, but in reality — it's a nice theory, what we talk about, but in reality people always live with this contradiction — we've cleared that up. I mean, you say it can't be justified — — very many people will say "so what?" — — oh yes, if you go into some weeds, you — — somehow, somehow I could say, I could

[1:56:12] say that this is actually the problem of many libertarians, who I think expect from Hoppe a positive justification of libertarianism, when he doesn't give that through his argumentation ethics; rather, he eliminates from the set of justifiable systems — he only eliminates all the other systems — — and libertarianism remains — — and libertarianism remains. — Well, isn't that the same thing? — It's not the same thing. — Oh yes — on this optimistic [note]. — It's not the same thing. And let me explain why it's not the same thing. Because theoretically, theoretically, we might find written on the sand somewhere a better system, a system that doesn't contradict argumentation ethics and is better than this one. We don't have it yet. Without doubt we don't have it — without — no. Without doubt we don't have it today. Possibly we don't have it yet. That doesn't mean the one that's left is automatically the best,

[1:57:13] universalizable, and set down in the future. — We'll stop here. For Alex Chiriac, Costel Stăvărache, Vali Berceanu — I've been Gabi Munteanu, and we say goodbye. Until next time. — Stay free, my friends. Contradiction.

Video 7 (#312): Causality and Aggression, Part 1 (Chapter 8)

Original title: *#312 | The Legal Foundations of a Free Society - S. Kinsella - Causality and Aggression*

Length: 1:25:17

Link: https://www.youtube.com/watch?v=pjXhnKgDi_Q

[0:00:04] What? — What's the chapter called? Because I don't know what to call it. — "Causation and Aggression." — Look, an hour and 25 minutes. — Come on, — — hello. Vali isn't here, but that's not why we're not starting. That's not why we're not starting. — We're starting, we're starting, because — — man, I'm not sleeping again. You do the same over there. — It's okay. — That's your business. If I told you that authority — Hello! Welcome to a new

[0:01:29] episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*: Chapter 8, "Causation and Aggression." But before we get into this chapter, Mr. Berceanu will say a few words. — A few words. Like, share, subscribe; you'll find in the description, if you want to chat with us; you'll find Kinsella's book in the description; and you'll find in the description a crypto link and a Patreon link if you want to support our effort, and we thank those who have already done so. — At the start of this chapter, Kinsella connects with praxeology and how legal science can draw some lessons from praxeology, that is, the science of human action, and he wants first of all to distinguish between human action

[0:02:34] and, let's say, behavior. — Yes. No — "comportament" or "behavior" — — involuntary movements. — Yes, yes. — So it's one thing to grab Alex Chiriac by the hair intentionally, and another to blink involuntarily, or to fall asleep and fall on him. — Well, I'd say that from Kinsella's point of view, if he were to be consistent, — — it's still action. — The action of grabbing Alex by the hair — — yes, — — can be voluntary or involuntary. — If he said something, if he swore, — — depending on what purposes you have — — for example, if you're a sleepwalker and grabbed him by the hair, it's involuntary. — No, — — well, that's an exception that confirms the rule. The idea is understood. — What I'm trying to say is that there are two types of actions. Yes. Some that

[0:03:38] are voluntary, which are chosen by rational man as an end — sorry, as a means — to achieve one end or another; and other actions that are involuntary, because he doesn't choose them; they happen without his choosing them. Yes. Actions are — — activities, let's call them. — Yes. Yes. Gestures, reflexes. When the doctor taps your knee with the hammer and you go — — click. — And as we'll see further on in various constructions of Kinsella's throughout this chapter, a human action is defined as that action of man in which he consciously chooses certain means from nature, from the environment — means that can be human or non-human, objects or other beings, instruments — in order to attain certain objectives, certain ends. — Yes.

[0:04:42] So we've cleared that up. Now, likewise, to prepare the ground, he says that this theory of causation in determining whether an action is aggression or not is found both in the current, contemporary, positivist legal system of the state and in the libertarian legal system he proposes. Let me see what else I've noted here before we get into — — How did you put it? — What? — How did you put it? What did you just say? — I said that this causation — — causation is a neutral science, let's say, used both by the current legal system and by the libertarian legal system — — that Kinsella proposes. Stop.

[0:05:45] You talk quietly over there. — Yes. — Good. Yes. One more aspect we must mention is — — Yes. It's okay. It's okay. — The fact that we have physical laws that don't depend on time. Yes, they're the

same regardless of — — space-time. — Ah, — — yes, of this space-time continuum we're in. I mean, we can't say that if I take a pistol and pull the trigger in Alex's direction, today Alex dies and tomorrow his nose grows bigger, or whatever. — I mean, there are laws we can rely on, and we can explain and reason about human actions regardless of when they happened. — The conclusion's a bit strong for how little he puts into the premise, but okay. — Well, the idea —

[0:06:47] — it helps him — — it helps him — — and he didn't insist much on this. He just wants to mention it so as to — — that laws, right? Okay. He wants — well, afterwards, when he talks about the courier who delivers a letter exclusively — — right, but I can't say "sir, I intended" — he says it's an essence of the action, but without using the word "essence." Actually, that's where we want to get to. If the essence of the courier's action is to carry a package from one place to another, that's the essence of the action. He won't be responsible for something that happens because of what was put in the package. — Yes, — — for example. — Exactly. — So we can reason afterwards in the courtroom: "sir, the courier had no way of sniffing out that there was an explosive in there," or of not throwing that letter away, or doing something else with it, for something else to happen.

[0:07:49] It's an aspect of nature, so to speak. — Good. After that we have the definition, yes, with man's involuntary activity: heartbeats, falling asleep or blinking. — Yes. Good. Then Vali with sleepwalking — that supposedly it's not action, because you don't choose. Your ego chooses to — — it's not action. Yes, he didn't hold his hand. Yes, yes, yes, yes, — — yes. I'd take it further. For example, if you know you're a sleepwalker — let's say, assuming you're a sleepwalker — and you go to sleep at someone's house, yes. And he has all sorts of valuable collections around the house. — Yes. And you walk during the night and

[0:08:52] smash them. — That's premeditated. You control your sleepwalking. — Well, I don't necessarily control my sleepwalking, but — — I think it's as if you should control it. — You know that you'll — you know you'll get drunk, — — you know you're a sleepwalker. — Right. — If you don't know and nobody knows, okay, that's it. Marginal, marginal, marginal. Right. — But if you know, and you tell the guy, "man, I might walk around at night" — at least you tell him that — let's say you're not clever enough to realize the consequences, tricks. No, I say you act beforehand — you know, when someone hypnotizes you, likewise — — you know that if he hypnotizes you you'll commit a serial murder. And you should do something beforehand, right? — It's a choice, you know? Whereas if he hypnotizes you and you do it, it's not a choice. — Yes, well. So it seems to me man's responsibility is great — — it's when he chooses there. He doesn't choose. Either he chooses or he doesn't choose. — It seems to me that where he wants to go with all these technicalities is that there are things that just happen. You

[0:09:58] can't pin them on someone. That's about it. It's very okay. Still, it seems to me that man's responsibility is great — how great — for certain foreseeable things. Yes. Rationally, it seems to me he should somehow not live fearfully — "oh dear, let me not make some mistake" — but nor pretend he doesn't know. — So I'd say we solved this problem long ago, regarding involuntary things — — and man's obligation. When we explained that case where you're standing next to someone on the edge of a bridge and a truck passes by both of you at very high speed, and the air the truck moves, yes, or whatever happens there, makes you lose your balance, and you end up pushing the other guy over the railing so he falls

[0:11:02] into the water. — Yes. — And we solved it by saying it's your responsibility to go in after him, even if the movement was clearly accidental. — What do you mean, go in after him? — Go in after him, save him. You threw him into the water. No, — — well, you threw him. Technically the action — so to speak, the action of the truck, which caused him — — I'm not saying he didn't act — something came along and it's as if someone pushed you, and "I didn't act" — — "I didn't act, therefore I'm not responsible," you know — — if you know yourself — — it's human to do it — — yes, no — if you have an

intention, you know, of your condition, that, sir, you get startled like that — — you stand next to him — here we have all the mistakes in the world in this discussion. — Yes, — — if you know yourself, — — yes, you explain to me — it's the thing

[0:12:07] I'll uphold on this show, I think, until I die. — Yes. — If I, or the show — whichever happens first — — you can't know what's in people's souls. You can't know intentions — that's what annoys me in this chapter, Kinsella. Right. — You can't know a person's intention. — The only thing that — so the communists, if we go by intentions, the communists are the best people on earth. They want us all to be equal, all to live in a utopian state in which everyone has everything. — Not quite. — That's their intention. — Not quite. — Oh yes. That's their intention. That's enough, I think — — communism. Yes. — Socialization is aggressive. It's not. — Well yes, but socialization is aggressive as a response to what they — to what they perceive as a violation of morality. — So — — for them socialization is partly restitutive, not aggressive. Yes. — Like a c— — I've got a bit of a — — well, every five minutes I can't help it and I go like this.

[0:13:10] — That's exactly what I'm saying: that anyone is intentional. — Yes. Wait, let's open the tic-tac — — a tic. Right. — Do you know this about yourself, this tic? — And others know too, man, but this is a complication. — And you go next to someone, — — on the bridge. — Yes. — You know you do this. — Yes. — It's irrelevant that you know, that's what I'm trying to say. If as a result of your actions that person flew over the bridge and ended up in a situation where his life is in danger, yes, — — his life is in danger [because] of your actions — — and when I say action, I can say it's irrelevant, and maybe I'm using the word "action" wrongly from this point of view. — From the book's point of view. Okay. — Yes. From the book's point of view. But — — you know why it's important, Vali? If you're the physical cause — — Mm — — for which that person ends up in a situation — and here I say physical cause and not moral cause, and I'll explain a bit later — — if you're the physical cause — for which he ends up in a situation

[0:14:13] in which his life is threatened, then I think it's up to you to try to get him out of there. — Yes. — Okay. Let's say you don't manage, or you don't jump in. You'll be held liable. You've committed an aggression. — Well, that's my discussion. — Well, I know — that's exactly why I'd say you did it partially. It's clear that — what's it called — the truck moved you involuntarily. Yes, that's clear. That it moved you — because if the truck had passed more slowly, maybe there wouldn't have been enough displacement to move you. — Okay. So you consider it an aggression both in the case where you intentionally put yourself there and in the case where you unintentionally put yourself there. — You're both causes. Yes. What does that say? — I'm saying you're not the cause in — — Because the reason I say you're both causes is that theoretically I can't

[0:15:19] — you can't, first of all, you can't determine intention — — Yes, — — if he tells you, from his head. — If I tell you, my purpose in life is that you should never know what my intentions are. — No, I admit it. Sometimes, if we can't document it, yes, we don't give any — you know, you don't know; but if you can. It's possible, I'd say. — That's what I'm trying to say: how can you — — he tells you — — you talk about intentions — — and I say the same: my purpose is that you never know my intentions. What do we do? — No. The problem with intention is that you can't believe the guy. You need some more — — intense evidence. Alexandru, you're going to Lidl. I'd like a kilo of oranges too. What do you go by? You know I can't tell whether that's your preference. — Well, it's irrelevant, because — let me say why it's irrelevant: you ask for a kilo of oranges. I give you a kilo of oranges. After which, if you — I've created an obligation for you, by giving you that kilo of oranges, to pay some money, — — Yes — — and your intention is irrelevant.

[0:16:21] — Oh no, — — no, because I don't know whether he wants oranges. He's not here. Here the joke — the joke is whether in essence you can go with the oranges so you won't be dissatisfied. You should have taken lemons; then you don't eat them. So it's very complicated. Thanks. — Vali, you don't know what's in a person's soul. — You agree. You don't know what — — So we have two — my position: if he said he wants oranges, it means he wants oranges. — Right — — he'd have asked for something else. Right — — it's possible I'm wrong, but I go probabilistically. Probably he wants oranges. And your position: I know what's in his mind. — Don't you know what Vali's position usually is? That I know better than he does. — No, Vali wants to say: even if you have absolutely clear evidence, by current standards, about intention — about intention, that he wanted to do good, he wanted to do bad, whatever he wanted — Vali says, "I'm not interested." And I tend to agree with him.

[0:17:28] — So the fact that he wanted good, wanted bad, has some declarations — — the idea is that we're not in the same place, you see? Uh, I performed the action of getting the words out of my mouth: "I want some oranges." Oranges means, in this interpersonal [sphere], those things the seller is also thinking of. He puts them in my basket, and if he gives them to me and I say, "What are these? I want oranges." — In essence, oranges. — "I want — no, I want oranges," in the sense that I'm thinking — I say "orange apples" for oranges, for example; I've concatenated. You can have a situation like this in which the transaction doesn't go through, but concede to me too that sometimes the guy really [wants] oranges. — Well no, but we can come to an understanding. That's what I'm trying to say — that there are other actions too. After that I don't have to know the person's intention, you see? I don't necessarily have to know — — that he wants oranges. He can say he wants oranges. I know what

[0:18:31] oranges are. I gave him the oranges. Now he has to make the next move in the game: give me the money, or say something else. If he says something else, it's clear we don't understand each other on the meaning of a word. — He can take them in — if he pays, it means he's satisfied and can go on. But it still proves to you that he wanted them. — With gifts. Intention matters. — No, intention makes no sense. I'm talking about the fact that intention matters only when — so we're talking exclusively about the legal process, about justice. — Exclusively here I'm talking about the fact — why doesn't it matter? Because all — because all actions — that are done can be proven objectively. They're done in an objective reality. Intention exists only in a subjective reality, and subjective reality can't be proven. — Stephan Kinsella contradicts you with the following example. Allow me to remind you. — We have a case here in which someone tells

[0:19:36] Vali: "Vali, please go into the forest, next to the tree — " — That's the biggest stupidity he gives. Go on, give the whole example. Yes, yes. All the way — — "and I hope you die," but I don't say it out loud, — — but I don't tell you that. Yes. And at the trial it's discov— the lightning strikes exactly at the tree, bam, and Vali dies. And at the trial it's discovered — these great hotshot detectives come — it's discovered at my house that I made some calculations that at such-and-such a date and hour the lightning strikes, and they saw the calculations, and then Kinsella says: "We've discovered Gabi's intention to kill Vali. Gabi is guilty. He aggressed against Vali." — First and foremost, where do — where do the problems appear in these things? — Even if you know it will strike — supposing, absurdly, though it's impossible, that you know, that you predict by a mathematical model where

[0:20:39] the lightning strikes. — Yes. — Well, this one's too big. — Need to interrupt — — right. Now it goes to eight. — It was unintentional. — So, I suppose that — — you really have — so, supposing we find a mathematical model — — in which it says the lightning strikes at this spot. — Yes. And it really happens that the lightning strikes at that spot. Yes, — — that's what Kinsella says. — Okay. Besides the fact that it's impossible to — — Yes. He took an example. — Besides the fact — besides the fact that it's impossible, the only way you remain guilty, — — yes, — — is if you interfered with the clouds, with bombs, with silver [iodide], with crap like that — — if you interfered with the clouds so as to create the

conditions for the lightning to appear in that spot. Otherwise, if it's from the good Lord — excuse me, please — an act of God. — For Vali it's enough

[0:21:43] that she told you, "go into the woods." — Well, that's what I'm saying — that it's a stupidity, causally. — But who came up with the rake example? — Me. — Well, tell that one too, what situation. — Well no, here it's simpler with the rake, because the rake you can place by hand, whereas lightning you can't place by hand. — Yes, but again, if you didn't place the rake — if you're not the one who put the rake there, and I just tell you, "go over there," and you walk like this, not looking at the ground. Bam! You stepped on a rake. You got a rake handle in the teeth. You got the rake? Yes. — Yes. Who's the cause? You're the cause. You put your foot on the rake. — Yes. He's not accepted that, because — — oh no, if you didn't have the intention. — So — — look, see, there are several situations like this here. — The idea with the rake, and the difference between a rake and, let's say, an anti-personnel mine. It's the same devil. — No, it's not the same devil. — It's an anti-personnel rake. — No, it's not the same devil. And let me tell you why it's not the same devil. Because on a rake

[0:22:47] you can step in approximately an infinity of ways, — and only a subset of those ways will cause the rake to come up and hit you in the face. Only a subset of ways, a relatively limited subset, relative to the infinity of ways in which you could step — whereas on an anti-personnel mine, it doesn't matter how you step on it. It'll explode. — If it's defective, it doesn't explode. — Well, then your rake was defective too. — Well, my rake wasn't defective. — It was, well, it was non-criminal. — And likewise the rake, if it's defective, to turn it back: if the rake is so rotten that even if you step in the way where the handle comes at your head, instead of the handle coming at your head, the rake breaks in two and stays there. Same shit. You know, the fact that you step on a mine that doesn't explode because it's defective, — — but it was — — doesn't invalidate the fact that when it's active, however you step on it, it — — It's like with men. It's like with men, and

[0:23:50] women. It was in its nature to explode. Only it had some defect. But with me, if I send you into that forest that's full of mines, you know — — right, — — I know that — — "pick some blackberries from — " — Only if — the point, the point stands. Only if you put the mines there. — Only if you put the mines there. Because I can go through the forest without stepping on a mine. But in the end you sent me through the forest — you didn't order me. I voluntarily agreed to go through the forest without asking — but why? What's the situation? And what would the punishment be? Is it just fraud, or is it murder? — It's not even fraud. — Oh no, it can be fraud — for fraud you have to have stolen something from me through fraud. — No, because you assured — well yes, maybe it was your forest, or maybe it was — — for fraud I have to have stolen something from you, implicitly. Fraud represents an implicit — — theft. It's someone else's forest, because otherwise it's clear you put them, you put them

[0:24:53] there yourself, if — — lying is still legal in libertarianism. — Only if — only if on the basis of the lies — — I robbed you, in the sense that I convinced you to give me some money because I misrepresented the benefits you'd receive after handing over that money. Only that is fraud. — Wait. — Ah, and it may not explode, and not — — look, I keep jumping. Go on, — — but when you lie in the courtroom and someone is imprisoned because you lied, or is made to pay 7 million dollars in restitution — — because you lied. — Right. Right. — Uh, are you guilty? — Well, it's fraud. — Should — no, because — because you — oh yes, oh yes. Well, oh yes. You stole these from him. — You stole that money from him, or you created the conditions for that money to be stolen. — You don't say that you — pardon — the judge isn't to blame. I think the judge was defrauded. That's right. — I think in a free world you wouldn't have testimony like that. — In a libertarian world like this you wouldn't have testimony anymore: "I saw him. You

[0:25:55] should know, tra-la-la." So these are — — it would only be documentation, that. Well yes, that's exactly what I'm saying — it's super ir— — that. You know what it goes with? We were talking a while ago about private roads, about the police — I don't remember how — and you said, "well, and how would the police stop you anymore?" And I said: "Well, then let the police not stop you anymore. If they have evidence, they have evidence; if not, not. Let them leave me alone. Let them not stop you." — And it's pretty much the same here. You know? Don't ask anymore, sir, what he said, what he did. You must have stronger evidence. — Yes. — Or, well, if three people testify — it's like with journalists. On my road, I have the police check IDs every five minutes. — You're allowed, as long as those are the conditions for using the road. Nobody will — ah, those are your conditions. There's no question of anyone being on it. — Nobody will be there. Yes. — Ah yes. Well, that was — — well, and in the car case you say that's the cause. If I put a bomb in your car, I've killed you. — If I put a bomb in your car,

[0:26:58] — no — — I've killed you. Yes. And you turned the key, and you're the one who has — — Look, he's not so convinced. But this — — well, it's not like that. — Meh. — Well, wait — — man, — — let me go get the iPad, because I started in a hurry and didn't bring it with me. I need it to read those things. I need — — as theory, Mr. Kinsella also deals with the fact that we take it, in the case of a murder for example, we go backwards like this, and he says: "sir, the bullet killed the — " — Yes, yes, yes, yes. — " — man." — And he says from the point of view of the one doing the autopsy, yes, the bullet — he's not interested further. — Yes, — — from the legal point of view it goes further. But who sent the bullet into the victim's head? Well, the pistol. Whose was the pistol? Who pressed the pistol's [trigger], — and so on. Until you get — until you get to a subject who has — uh, free will,

[0:28:04] — yes, — — and who can act, who chose — — that's the whole discussion, how far — — and after, and after that you go even further back. But this one carried out the order to shoot under coercion. There was another man behind him, and you go further — — and some libertarians stop at the first — — subject with free will. — Others, however, go further. — I, for example — I sort of offer — that one — look, including this one with the bomb. — Yes. — Look, Kinsella mocks it: "Well, what, did he commit suicide?" It wasn't an accident. He didn't commit suicide. — Well no, it wasn't an accident. — It was an accident. You know, or it wasn't an accident? — But he didn't commit suicide. He was mocking. — Ah, well, he committed suicide. — Obviously he didn't commit suicide. But if he — if this scenario was set up, — but if he was the cause — the definition of suicide is doing an action that causes death. If he's the last cause, then it's equivalent to suicide. What are you saying? — No, I say that in suicide you have the desire for suicide.

[0:29:09] — That guy doesn't, when he starts the car. — Again, again, it's about intention. — Well yes, but that matters too. You know that's how we distinguish between reflex acts — — between — yes, between reflex acts and actions, you know? — Okay. I'd say there are two things — or go on, go on, we're at that one, and I'll say more later. — Well, we have a few cases. We have to — — That's what I wanted — exactly what Costel just said, I wanted to emphasize: that intention is a defining feature of human action. I mean, you set an end in your mind and you act. — Yes, I'm not saying this thing doesn't exist. Again, don't understand me as maintaining that it doesn't exist. I maintain that in terms of justice, — — yes, — — it's irrelevant. — In terms of justice we — — judge human actions, — — and if intention is an indispensable feature of human action, we take it into account.

[0:30:11] — It's relevant because there are no punishments for reflex acts. That's why it's relevant. Pay attention. We're driving. Yes, I run someone over with the car. I don't intend to kill him, but I do intend to drive, to go, you know? It's an action. You see? Because otherwise it would be a reflex and I'd have no sanction. You know? — I think what Vali wants to say, and says well, — — is that punishment shouldn't distinguish between intention and non-intention. You know, if I run someone over, it doesn't matter whether I did it intentionally because I was a serial killer, or whether I just hit him. The punishment

should be the same. I don't know, 20 years or whatever punishment you are. — Pay attention. The definition itself is of a reflex act. It's the one with the little hammer. Yes. — Yes. And if I hit you with the little hammer, — — the leg goes — — and the leg goes like this. Yes, — — but that's one case. That's one case. When I push you, that's not a reflex; it's a non-action. You know — — when I push you, likewise I choose; likewise you don't choose.

[0:31:13] — It's the reflex act, but it's not a reflex, because I pushed you, you know? Yes, yes, yes. That's the reverse. Yes, — — they're forms of non-action, so to speak. — Right. — You didn't choose that one either, which is why we don't give [punishment]. — Pay attention. I say that when you tap the knee with the little hammer, that's the definition of the reflex act — well, the visual definition of the reflex act. Yes. — Good. — And you're the doctor and you examine me at my home. Yes. And before I get onto the little stool on which you'll examine me, yes — — Yes. Okay. — — I put, here next to the stool, the set of — — the Ming vase. — — my mother-in-law's vase set. I put them here like this, that's it. I've put them — — there. That resembles sleepwalking. Yes, yes, yes, yes, yes. That's a choice. I put them there. Yes,

[0:32:15] — it's a choice. — You look, you evaluate the fact that the reflex act will hit them — — hit them — — and you say, "don't you want to move these from here?" And I say, "no, I don't want to move them from here." You tell me, "they'll break." I say, "and if they break, I'm not breaking them, so I won't be guilty." — Yes. — And then, and then what do you do? You keep tapping, and you're guilty because you broke the mother-in-law's set, or I'm guilty because I broke the mother-in-law's set? You filmed that you — — Well no, because I broke it with another reflex. — Yes, but it was the mother-in-law's. So you — — well, so and — — no need to go further, to Ţuca. That's a sophisticated case. Kinsella didn't think of it. We've thought of it now: one in which you combine things of action, of choice, with things of

[0:33:16] — Another — another sophisticated case, regarding the intention of Fried Fish. Yes. — It's that I'm a wife with a rich husband. Yes. And I encourage my husband to do all sorts of risky activities. I encourage him. I say: "Wow, how cool! Oh my, what I'll do to you afterwards, because you're cool — " — " — so it's cool to — it's cool to jump, to go bungee jumping." It's cool to — you know, and the law of large numbers is that when you take risks very many times, at some point you get hit. — Something happens. — Her intention — we could say we can determine it. We can't determine it. — The man was happy; he felt alive. — Oh, we can't determine — — that, the fact that she gets rid of him. I mean, they're — I no longer have the accumulation of — — But — but in none of the cases can you say she knew for certain that this man would die doing that

[0:34:21] activity, because again we're talking only about risky activities; we're not talking about things with — — certainties. — Exactly. We're not talking about changing the — what's it called — brake fluids. Yes. Draining the brake fluid from the car. — Another problem for Kinsella, or for those who extend causation more; for the restrictive ones it wasn't a problem, — — because she encouraged him, and it doesn't matter; for Kinsella it might be a problem if she had bad intentions and whatnot. — Listen, I wanted to say a moment ago — it seemed to me I felt a disturbance in — so you were talking about intention, intention, and it seems to me there are two things, and I don't know whether it's correct to name — so in order to — in order to want to do something. It seemed to me you said well: if you want to do something, of course you first have to have thoughts about that thing, and so intention, whatever; and then you have what you in fact wanted to happen, and, see, Lord, let's call that — I don't know — the intentionality of the action; call it somehow differently. It doesn't seem to me —

[0:35:25] it seems to me they're two different things. Because what you think doesn't come out — the result of the action — — the result — say the result — I want — — the end and the result, you know — — so the distinction would be — I think it's in my head — so you're inclined to call intention both the fact that you have to want to do something in order to get to doing something, and then it depends, and

there'd be another thing: what you expect to happen. The intention to fall, I don't know — — No, no, no, no, no. Not the time. From Kinsella's point of view they really aren't. — Because he presupposes — yes, he presupposes: "sir, I have to prove he had the intention, because otherwise it isn't" — that's how he thinks. — Yes, but for something similar. — Look, for example, one of the situations — — to which this wouldn't fit is that case with the gun discharged by Alec Baldwin at — — at his colleague, or those people on set. Yes, who were they? Yes. Clearly his intention wasn't to kill them. He was doing

[0:36:29] something stupid. He didn't know the gun was loaded. He had no trigger discipline, he had nothing. Yes, but the intention wasn't to kill that person, and yet he killed him. — Kinsella wouldn't — oh yes, but how would it be covered? It would be covered, as I was saying, by the intention to use the gun. — Well, I think Kinsella would use this legal concept that I totally dislike, namely premeditated murder, — — and he'd say that there it wasn't premeditated murder. — When was it — — Alec Baldwin — — killed by accident. Not premeditated. — He said the crime is — has — didn't say — — But did he punish him? No, — — no. Well, I understand he'd punish him, but probably not with the death penalty — although, no — if he were consistent, he wouldn't punish. No, well, he doesn't discuss this case. Not — — He doesn't discuss this case, but he wouldn't — accidents through negligence. Yes, he doesn't discuss them. And here a — — So we have the reflex ones, these negligent ones and the intentional ones, and you do what you plan,

[0:37:33] — these middle ones he doesn't discuss, you know? He doesn't — — No, because, you know, you also have that distinction where you premeditate but it doesn't work out. It works out or it doesn't. And you see — yes, it's only an aggravating circumstance, because — — that he discusses when someone threatens you. When someone threatens you, — — I don't know if he discusses it — aggression even if it doesn't get to — — the threat thing is again something that doesn't seem to me — I mean, it seems to me — — well, for example, you want to shoot at someone to kill him, and in fact you wound him and he gets out — — right — — of hospital in two weeks. Right. — Are you judged by the intention, that you wanted to kill him, or are you judged by what you — — No, you're not judged by the intention; [you're judged by the fact] that you wounded him. You're judged by what happened, by the fact that you wounded him. — By the result, not by the intention. — Pay attention, what I'd — — how cheekily I escape all these things. So I wouldn't judge him by intention, nor by the fact that he only wounded him. I'd judge him by the fact that he fired without the consent

[0:38:36] of the victim, well. — Well, well, and — — wait, and — — that other perspective does this, why — — that, to me, seems most serious, more than whether he only wounded me or I killed him or whatever. Those are degrees, you know? Oh, how much compensation do we demand. I'd first demand — — I'm Alexandru. I was thinking you wanted to make a joke, why didn't he hit him, or — — not above. I mean, Kinsella admits that aggression means violating consent. — Yes, yes, yes, yes. Here, here at least we all agree — — that aggression presupposes violating consent. — Okay. I'd like to introduce something here that I posted on the group a while ago, but we didn't get around to going into it. — And it starts from the premise that, one, you can't know what's in a person's soul. Yes. And then we can define the following things as follows. Yes: physical cause — is the physical action that repeatably and verifiably produces the totality of the differences in reality between moment T1, which immediately precedes

[0:39:38] the action, and moment T2, which immediately follows the action, and which differences are not attributable to the entropy between the separate moments of time T1 and T2. So it's a physical cause when you do something that changes the reality around you, and the totality of the immediate changes are the physical cause. — Pay attention: if he stole money from the safe, is it between T1 and T2 or not, or — — yes. Before, the safe was full of money, and after it was — — the way Vali did it. — So now, for the moment, I'm talking about the physical cause. — Well, does Vali solve it, if T1 — you know what our

discussion is? Where are they? Where is it? — Well, we'll get there, we'll get there. That's what I'm saying, but the physical cause, for example — — imagine you have — what's it called? — a boulder on top of a hill. — Yes, — — if you pushed it, at the moment it set in motion, that's T2. The physical cause between T1 and T2 is that you

[0:40:43] set it in motion, you pushed it; after which, while it rolls down the hill, yes, at each moment T2 that can be separated in time, yes, the physical cause is no longer you. It's the fact that gravity takes the boulder and pulls it down. — Nature, — — nature. And that's why we introduce the moral cause, which is a physical action performed by a moral agent, which represents a physical cause or is situated at the beginning of a chain of physical causes uninterrupted by another action performed by a moral agent. Yes. The moral agent being man, or an entity endowed with the power to produce actions and with discernment, such that it's capable of understanding that an action can constitute a physical cause. At present we're talking only about man. — It's the last. No — the last. — No, it's not the last, because, look, we'll talk about exactly this now. Verifiable — because I said: the physical action that repeatably and

[0:41:48] verifiably produces the totality of differences. Yes. Verifiable means the existence of an exhaustive set of identifiers, descriptors from reality, that can be compared with objective standards; and repeatable means a correlation between the action and the appearance of the same exhaustively verified difference, strong enough to establish an inductive relationship. What's an inductive relationship? If I turn on the tap, I expect water to flow. — Yes. Depends which city you're in. Exactly. — Anyway, I said I expect water to flow. — The state of physical action — since we talked about a physical action — is the state of motion, — delimited in time, of matter, not attributable to the entropy associated with the moment in time in which the action occurs. — Mhm. — So on În Doi Libertarians, what will you find? You'll find it there. — No, I didn't post it on — it was just between us. — You'll find them

[0:42:51] there. — Ah, okay. — The idea now is this. If we think of the case where someone put a bomb in the car — and you start the car — the moral action you perform, you who are about to start the car: starting the car doesn't verifiably and repeatably produce an explosion, except in the case where someone put a bomb there. Yes. — So the moral cause of the explosion is the one who put the bomb and wired it — it's not enough to place the bomb — and wired it so that it's triggered by the ignition circuit. — The immoral cause. I have an enormous — yes, it's immoral behavior. The idea — we understood — I think I understood what you said. I think we have to find another

[0:43:55] word, because everyone will jump up: "No, sir, 'moral' means something else. Why does he use that?" — Oh no, in the sense of subject, that a subject intervenes. — Yes. Okay. But it's moral because it's an action performed by a moral agent. That's what I named it after. And — — the last action. It's not the guy with the key. — Well yes, but the guy with the key — the guy with the key performs a physical action. For it to be a moral action, turning the key would have to repeatably and verifiably produce all the consequences, including the explosion. — Yes, yes, yes. I'm thinking. — Well, okay, I'm not right. Because — — because you can have situations in which it doesn't — — doesn't explode. — Doesn't explode. In a — — again you're referring to the fact that we have a defective or incorrectly wired bomb, — — but its nature was to make some probabilities like that — maybe it doesn't take, maybe whatever. No, he sees that he turned it and it took, and that's the crime. If the bomb — let's take it another way. If the bomb doesn't explode because it's incorrectly

[0:44:59] wired, — — well, whom do we sue? — The problem disappears. — Oh no, we have an aggression, because he put it in his car. Well, we have an aggression committed by whom? Toward what? — A moral agent — — the one who used it. So it's still the same man who would have caused the

explosion. — Well, he didn't cause this explosion. — Oh yes, he caused — who in my theory caused the explosion. — Who did you say didn't take? — He catalyzed it. It was facilitated by something else. No, no. So Costel, Costel, Costel, Costel — in the case where the bomb explodes, — — Yes — — the moral author of the explosion is the one who put the bomb there and wired it, because he is responsible for the totality of the differences that exist. He caused it, you see? So the man who turns the key — if the car doesn't have a bomb, all he causes — — verifiably like that is starting the car. In case the car runs, repeatably. — There's a chance the car starts.

[0:46:01] — Well, but that's not all he causes. That's the discussion, you know? — Oh yes. — Those with "he causes," — — he causes only the starting of the car. The explosion is caused by — — The explosion is caused by the fact that the bomb was put there and wired to the ignition circuit. — It's exactly the same thing I told you. If someone puts anti-personnel mines on the ground, to be consistent you have to say it's the one who stepped on them. He's the idiot. — Well, that's actually what I'm saying. That's actually what I'm saying. — Okay, then I fear you won't get very far. — That's actually what I'm saying. No, the discussion is where the truth lies, you know? Not that — — Well, intuitively speaking, I think the truth is that the fault lies with the one who placed anti-personnel mines. — Look, that's what I was talking about while you were away. Again, our intuitions are colored both ideologically and culturally. You know? So your intuition may also come from state education. — Look, he could speak, you know? — Yes, but I'd say the two aren't comparable. — Well no, that's exactly what libertarianism does. You know? I came to wake the lions, you know? I want to

[0:47:03] see how it is, how it is. — Well, look how — I told you. — How can it be a cause when you've — — Because if I step on ground that has no mine, I don't explode. If I step on ground that has a mine, I explode. The difference is the mine. Who put the mine there? The one who put it. — The difference is the stepping. — No, no, no. Because that's all I've said. If I step on ground that has a mine, what I execute repeatably and verifiably is that I don't explode — in a world like this in which he isn't responsible for — — so he says, "come onto my land." — Mine — — "and onto mine — come onto my land." Mines. Bravo. — A bit. — Well, I did tell him. Yes, understood. I told him there are mines, you know? So it really was suicide, you know? It's — — a happy coincidence. — Then yes, and damn the mine. Anyway, and then you have

[0:48:10] it ends up like that joke: "You want to steal my horse? Good day, neighbor! Come in." No — because you want me to step on [the mines] at your place. I mean that if you can't — — Yes. — For him to be responsible for something — it's like with bread. Yes. You give 5 lei, the price of a loaf, and you expect to receive [it]. So implicit contracts like that. "Come in here." You don't have to ask about all the problems that might exist in the world: "isn't there by any chance a mine, isn't there by any chance a rake?" Ha ha ha. — No, but you can presume. You know — — wouldn't we say that one of the things that goes further is that the default position must be — hello, Ștefan — operationalizable. Yes, the default position must be able to function without people asking themselves questions like this. You, for example,

[0:49:13] when you go home you press the elevator button to get to your floor. — You don't ask yourself whether someone put a mine there, so maybe you'd take the stairs so as not to commit suicide. But there might be some mines on the stairs too, — — some sticks, some of those wires, like in the films with — — it's the same example. If I punch Alex, it's clear I aggressed against Alex. — Maybe I deserved it — violated his property, his body. — Yes. — A scarce resource. — Scarce. Exactly. This act, this action, can be likened — this case can be made similar to stepping on a mine, in the following way, only that things are much faster and more — how shall I put it — — catastrophic, — — no? Close together in time. He stood with his face

[0:50:15] — too close. — Exactly where I wanted to punch. — Yes. — Yes. So it's like you stepping on the mine. — My mistake for not keeping my distance. — Yes. — Why are you getting so close to me? — Well, and here again there could be a discussion: if you, for example, were doing some exercises there, you know? And Alex comes up behind you and you catch him one. — Ah, like kids getting hit in the movies? — Kids. Yes, it's clear it's his problem, because you were doing another action there in your space. He invaded your space — — and it was an accident. — He came face-first toward — — He came face-first toward — yes. I — — because I could. But if, for example, you're simply standing next to each other — — and you give him a punch? — Same. — No, it's not the same. So it's the same as the reasoning in which you say: "sir, the one who places the mine is the one who throws the punch like this, — — and then someone comes and steps [on it], because he thinks it's normal to walk on

[0:51:20] that land." Right, and he with his face — — right — — stands there. He won't move — — only if — no, he doesn't have to move. Well no. So you, Vali — this one, Vali, for disposition, and mine. Not that — — the idea is that if you — if you — yes, but no — but you didn't explain it correctly — — because, because there isn't — there can't be a duty to move. — Oh yes. Don't you see what a face he has? — I — I'm the one who performs an action and steps on the mine. — That's the difference. Yes. That's why I say that, for example, if you were swinging your arms like this because you were doing exercises, and you were doing this and Alex walks past you and you smacked him one, — — I release — no — — it's his problem. It's not a problem. — I release one of those gases that kills you. — Why do you go and breathe? I release one of those gases that he breathes, which kills — a chemical gas. Well, again, if you have a gas, — — that situation, if he comes to you, — — so it's a — — physical cause that repeatably and verifiably produces the totality

[0:52:22] of differences between the moments. Can you spray the gas? — Well, then it means you're responsible. You can't say, "who made you breathe?" — You can spray gas — it's pollution. — But so you can't say afterwards that Alex — "well, why did Alex stand there in the gas? You know, he should have run quickly. He didn't run 7,000 km. He stayed," let's say — — or he breathed. He should have not breathed. But — — listen, Vali, — — why does this "totality of differences" thing seem ambiguous to me? Likewise, because the totality of differences can happen, right? In both cases — — no. Precisely, Vali wants — Vali wants to restrict it very much. He says "totality," but that means they're — so you have a — what's it called? — a discrete set. — Yes. So imagine, imagine this: 1,000 people who are non-descript — 1,000 general people perform this action. Yes. There are some results

[0:53:26] of this action. Yes. Enough that we can induce — — what the result of that action is, in vitro. — Ah, you're saying we don't have — — Yes, so there are no more unclear things. That's what I was saying. So there are no more — "well, he was somehow." — Yes, but I told you the problem — — you see? And the action of turning the key — coming back to your problem — the action of turning the key, in the case where the car is in good condition, will have the result of the car starting, not of an explosion. Yes, — — that's the totality of the differences produced by the action of turning the key — — and the action of breathing in a cinema — you say, "sir, that's how I live." And if someone releases gas — Saric, or what's it called — — Yes. Sarin. — Sarin. Mat— like that. — Yes. Uh, I expect to live. I don't expect to die because I breathe. — Yes. So I turned the key, so

[0:54:32] to speak. So — — and — so I'm guilty that I died. — Or the one who released the gas. — You know what happens with this kind of approach? Technically it can be taken as viable, but the moment something like this happens to you — I have a heap of other examples we've done, and we said: "sir, but after it happens to you once, five times, something nasty like this, in contracts you won't find that anymore, because people will be careful," or I don't know what other examples we had, and here, if Gabi gives me one, it happens once. Yes. So, two, the discussion isn't — I've given you even the option, even the principle by which to solve them, you know? — I mean, even when it happens the first time —

— I've given you the principle by which to solve them. — Get on with it — — you, being a judge, get on with it and do the experiment. Look, we don't know what the totality of differences is from this

[0:55:35] action that we want to judge. We don't know. — Get on with it, do the experiment, make your induction. Yes. — And then we know. — Yes, yes, yes, yes. Yes. — Yes. There's one more thing here that Kinsella finds very beautiful, with intention. Okay, let's say we catch someone who planted a bomb or shot someone — — and we want to — — Well, but it doesn't solve it. You say I repeat. — Yes. And we want to punish him. — Yes. — Punishing is an act with intention. Yes. — Yes. — And so there's a beautiful symmetry, Kinsella says, in libertarianism — — elegant. He said: just as the aggressor had the intention of doing harm to someone, so we too, with intention, will punish him. How nicely we solve the problem. — I think Kinsella sometimes is — has a temper, and I think he wants to justify giving some people a few pairs of

[0:56:37] slaps. I'm joking. The question is whether he's right, you know? The question is how far he's right, the discussion about causation. How far — — so as long as between the aggressor and the victim there are only some natural mechanisms, let's say, subject to the laws of physics, you go back until you get to the subject, the moral agent, as he says. — Yes. So you can't do otherwise. — Fine, let's move on to those parts where you don't solve everything. Well yes, and I say the moral agent is the one who turned the key, and Vali says it isn't — — and I say you're wrong. Yes. — Okay. Why not those who made the car? Why not those who — whatever — you know, who produce the totality? Well, they produce the totality too. — Well no, that's exactly what I said: it's the totality of differences attributable to that action. — No, the idea is that you no longer do anything — — verifiable and repeatable. — So leave the bomb. Let's say the car has a defect that, over time, and is separated a lot in time, but it has a

[0:57:41] defect that's attributable and also happens to others, possibly — it has a defect and — — right — — it aggresses against the owner somehow. — Look, there was that Ford Pinto. Yes. Don't collide, don't get hit from behind, because it goes "poof." — Yes, well. Something something. Exactly. And, well, is the man to blame — let's say you turn the key and it still explodes, but without a bomb; it's some defect from the factory. — Yes. — No. And whose fault is it? Mine, because I turned the key? Fault. Yes. Cause, fault. — It depends. — Yes, exactly. — It depends. If — if you changed the oil — exactly — if you followed all the service procedures, — — let's say those. Yes. Yes. — No, I mean, I — — So you — you have to be clean, clean toward them; I mean, to have followed all the service procedures. The service people didn't make a mistake. They did — regarding criminal negligence, yes? If the service guy only looked and

[0:58:43] just ticked the box and didn't check, he's to blame. — Yes, yes, yes, yes, yes, yes, yes. No, but I mean you can have things — — if, for example, the factory itself said "send these cars back because [they blow up] in the air," and you didn't do it. — But is that guy really guilty of murder, or just of defrauding a contract? — Who? — The one from the factory who didn't check whatever. — Well, he's not guilty of murder, but he's responsible for your death. So still — — well, well, is it murder or not? — Well, Kinsella would say yes. No — murder, here in this discussion, it seems to me would be that intentionality where you really want to kill him; whereas you don't want to kill him, but you're responsible. — Ah, wait, he doesn't discuss this murder. But anyway, along this line of extension — — you'd have to agree it's murder, you know? — Uh — — because he didn't — because he made this mistake, you know? Whereas she says no — so in my restrictivist position I said it's not murder. Just as

[0:59:47] I say it's not murder when it's clearly murder, if you like, in the popular sense. You know — — that he put the bomb there, and I say it's not murder. — Yes. And what is it? That guy has no blame — — only that he used his car. — Yes, it's very counterintuitive. — I tend to — I tend not to be from there. — I mean, I mean it's like Vali's boulder. You push it. You push and it goes rumble, and all the

consequences. And look, a little, less. — Pay attention, pay attention, pay attention. A very cool thing. A very cool thing. Let's — I really don't know the solution to this one, but I'd like us to think about it together — — and we're waiting in the comments. — Pay attention. It's that boulder on top of the hill. Yes. — Yes. The boulder — if I push, if I push the boulder — — and it comes downhill and destroys a car — — Yes. — Yes. It's clearly the moral cause. I'm — I set the boulder in motion. Yes. — Yes. — Now comes the question. — If someone

[1:00:49] — puts a ramp at the bottom of the hill — — and instead of destroying the first car it hits, it jumps and destroys the second one. — Trolley problem. Well, we know the solution. Yes, it really is a form of the trolley problem. — Who's — who's responsible? — The second one. — Both. — Trolley problem. I — — I'd say both. That's the discussion between us, if you like — between Kinsella and the restrictive libertarians. I'd say both, and I'll say why I'd say both: because the ramp doesn't cause the totality of differences. So if I put a ramp there, — — if I put a ramp there, — — the second car won't be destroyed — — unless someone releases the boulder. — Yes, — — yes. Uh, see that it moves. — Well, that's it. Yes, — — yes. Whereas if I — if I release the boulder, I expect — it's clear that a car in its path will be destroyed. So that's clear. So I must remain responsible for the destruction of one

[1:01:52] car. But the ramp guy changed the boulder's direction, so he's responsible too. — But if, like that example with — wait, I'm sitting too close to you. If, if — like that example with the lightning — if I calculate — that the boulder should go onto the ramp, the ramp guy is no longer to blame, because I used — — that's — that's that I have no way of knowing — — that one of Kinsella's, you know — — exactly. I have — I have — I have no way of — you see, you find that guy's calculations with the boulder, the forces, whatever — I don't know, I'm joking — anyway, it's funny. — Vali, when he's caught, always introduces an uncertainty like that: how do I know what's in a person's soul, how do I know that it really falls downhill, and — well, precisely, we introduce — it seems to me — it seems to me I behave — it seems to me I behave coherently, because — — the principle I respect — — in the end is: better that 1,000 guilty men go free than that we convict one

[1:02:58] innocent. — And better — — well, rather, my position is that you extend causation very much. You know, you keep finding guilty parties. — Oh yes. — No, — — no, — — oh yes. — No, that's why — that's why — that's why I say that sometimes you think you've — that you've understood each other and that you have different positions. Often you have the same position, only it's — — as you said, better that one go free — — Better that 1,000 guilty go free than that we convict one innocent. My position. God help us. Well, that's my Kinsella-type position, which you're not on either. — And then if we — if we convict on the basis of things that aren't verifiable, isn't it more likely that we convict innocents than the reverse? — I have to reflect on that too, because this verifiability isn't clear to me. I don't — I know he did something and something happened — — Well yes. That would be an action strictly in the objective realm of physics. It doesn't presuppose intention. — Hm.

[1:04:00] — Yes. — No, no, we don't do. — Well, that's what I'm saying. If I start taking intentions into account when I convict, I think we'll certainly end up on the other side, at a handful of innocents. Besides, we know this is a feature of the current system, which takes intentions into account. — Even Rothbard oscillated. He oscillated between the restrictivist position, when he said it doesn't matter what the inciter does — people have — determinism isn't valid; people choose, make choices, you know — — and he went toward the last subject; on the other hand, he too admits complicity, you know? Complicity, so that — — Let's talk about this case so we don't leave this — but I'm not listening to myself. And we've done this example before, jokingly, which would prove Costel and Rothbard right: so you can have an inciter who's at a podium and says, "go and do some nasty things," and the crowd does nothing. They say, "leave us alone with this nonsense." — Is he still to blame for anything? — For Kinsella, you know, yes, because

[1:05:04] he threatens. — Man, not to mention that threats aren't punishable. — Or wouldn't he agree? No, no, I don't know whether not. To me it seems he wouldn't. — Only in the case where those people really [go and] — — act. Yes. And if he doesn't use anything, he wouldn't be? No. — Yes. — He wouldn't be, because he doesn't initiate; he only talks. Okay. — Plus, it seems the restrictivists make this mistake with "sir, there's 100% responsibility for an aggression, which we divide among X, Y and Z." Whereas Kinsella says no — 100% each — — Well, that's because he doesn't understand the principle of proportionality. He showed us that at — it seemed to me he says 100% both for one and for the other. — Well yes, I understood the same, but in the end he goes the other way. No — because if two steal and one has money and one doesn't, I'll take it all back from the one who has money. — Yes, but the one I take from must

[1:06:07] pursue the other one for half. He says — — he doesn't say that — I don't think he says that, and I don't think he'd have a legal basis for doing it. But in the case where — but in the case where two hens are stolen, and one has three and one has five, one is taken from one and one from the other. — Yes. — So it's split in half. — Two. Two, so that it comes from each — — so that it comes to 2x — one, necessarily. — Anyway it's 50%. — But why? Why did you put a clause like that? You can take — you take your hens, you know? — Because, look, here too it seems to me we have the following problem. Pay attention, because actually this one's good too. Let's discuss the case Kinsella proposes, with the bank robbery and complicity. Yes. — Yes, because there again it seems to me he misses it. Let's discuss this one a bit too, because the "both" thing isn't clear to me either. This one, or let's do the bank and come back to

[1:07:10] — the hens. — This one with the hens. Well, it's the same discussion. — It'll be the same discussion in the end. Oh yes, pay attention. It's — — the division is nicer here. — Uh, Kinsella says — and we've had this discussion before — "sir, if you have a gang of people who rob the bank, yes, they conspired together to work, to do it; they carry out the aggression together. Yes. Therefore they must be punished together." Kinsella's answer — and here it seems to me you lose sight of exactly the problem — he says: "Not only the one who stole the money from the safe must be punished, — — but all of them." — And here I say: it seems to me you've lost sight of an essential problem, namely a sum of money was stolen that is the bank's property. — Yes. If they then divide the money among themselves, that's irrelevant, because the money itself has no property right over them. — I'm guilty. Yes.

[1:08:14] — Therefore restitution is for 2x, extracted from these people, to reach the bank. Yes, they collaborated on that theft. Yes. We have — we have an amount of money that must be extracted from them. Yes. — From my point of view, — — let them collaborate to give it back. — Exactly. Let them collaborate to give it back. — Well, what does "collaborate" mean? — Their business. — Their business. — Their business. — I mean, they can agree: "man, you give it, and I'll give you more — " — I mean, they're exactly — that's what I'm saying. They jointly, in common, hold this obligation. — Yes, but in the current system it's not like that. — The one who kept lookout has, say, 10% of the guilt. And — — Kinsella — what do you say? What does Kinsella say, what's the solution? — Kinsella seems to be on the same solution. Only Kinsella actually forgets that the problem is

[1:09:19] the problem is a double one. Kinsella wants to punish them for the threat too. Kinsella wants to punish the one who stayed outside because the one inside threatened the people in the bank with a pistol. Yes. — Yes. Which, again from the libertarian point of view, what happened there is not that a threat happened. The action that happened was deprivation of liberty. Deprivation of liberty can be — — distributed toward all of those, from all, from all the victims. Yes. One-to-one. And it isn't — it isn't necessary that it be in common. So I — — acting, you see? I, acting together with Gabi, deprived you of liberty; I shut you in the cellar for an hour. — Yes. — Ah, and when you're out of the cellar — — better

than a punch in the face. — When you get out of the cellar, you have a restitutive right to shut me in the cellar for two hours and Gabi for two hours.

[1:10:23] He doesn't discuss — ah, that no — — he doesn't discuss proportionality, or — — he doesn't discuss proportionality. — He only — only discusses that it shouldn't be divided — — Yes — — the quantity of — — guilt — — guilt — — or, well, of — — not of guilt, but that the whole of it be attributed to all who participate in the wrong— — We complicate it even further. Sorry. Go on. — Speaking of libertarian intuitions: so do you think the one who's the mastermind is guilty? No. — Yes. No. — Kinsella says he is — — Yes, I know. And I'm on Kinsella's side. — I'm not — — you're on that side? — Yes. — The mastermind is guilty only if he forced the others. — I say not even then; exactly, that they aggressed against those people. But not that — — that means Hitler isn't guilty. — Well yes. — Well, oh yes. Hitler is guilty if he forced the others to do what he did. On the contrary, I'd say Kinsella might save Hitler, depending on whether we take intentions into account. You know? — It doesn't save — the restrictivist position

[1:11:25] saves Hitler. — No. — Kinsella would put him in — — Well no. If Kinsella were to be correct, Hitler could say, in Kinsella's terms, that his intention was to save the human race from perdition. — Yes, he didn't say that. — Sorry? Oh, oh, he could give it. He didn't say it because he committed suicide and didn't get to Nuremberg, but maybe he'd have been — — Nobody interviewed him in Argentina. — Exactly. — No. Yes, valid. So you don't end up in situations like that, you know, with — I mean a radical skeptic, you know: you're in court, and "but how do we know the world isn't just a — " let's say some brains in a — — Well yes, but for example, even if — and even if we're some brains in a — — I mean, that guy really hit the victim and wanted to hit him, you know? — That we're brains in a vat — all we know is that we are. But if — but if he hit him, it's irrelevant whether he wanted to hit him, because we can prove whether he hit him or not. Coming back to this problem, I'd like to complicate the robbery

[1:12:28] a bit more: let's say one of the people who are coordinating, who are doing the robbery together, shoots the guard. Because the bank guard does something, whatever, and this guy shoots him. Yes. — Who's responsible for the murder? — Only the one who shot him. — That's what I say too. — Well, why don't you have that causation? — Because he says, about the riot: the one who incites the riot is guilty only of inciting the riot. But if those people, besides smashing shops, also kill two or three from the street — they saw them as too rich or too white — those people are individually guilty. Who — — So if he hadn't brought him by Uber, how would he have committed the crime? I'd — I'd say that implicitly in a — I'd say that implicitly in a riot some heads get broken, and if this one is guilty of the riot — which I consider he isn't — but if he is

[1:13:32] guilty of the riot, a consistent position on the riot is that he's also guilty of the deaths of those who died. Here it would be very hard to prove — or maybe it wouldn't be hard to — well, we don't know in the future, practically, whether he'd say "go riot" — the mastermind says "go riot, but don't kill anyone." And then it's clear those people acted on their own. — I make a distinction between mastermind and inciter. The inciter — — fine. That one from the bank who told them not to shoot the — — category X of people, because of this and this and this. The mastermind says: "Take X Street, — — Yes — — because I know they always come that way. — Yes, yes, yes, yes, yes. — Take some bats from behind there." — So if those people carry out the plan the mastermind made, — — the mastermind is guilty. Those, without — wait, wait, wait, wait, wait, let me demonstrate. How much, how much does it differ? I'm the one

[1:14:36] who concedes nothing. I mean, only the one who pulled [the trigger] is. — Yes. — The closest appears to be Vali, who also goes a bit further. Gabi, I see he goes further. I — I'm willing to — — He went after me. — I, I, I have — I'm — — not to say he went off the road, but I'm already on the

mountaintop with the boulders. — Alexandru, you're comme-ci comme-ça. I mean, comme-ci comme-ça. Wait a moment, see how I defend my position — — and I said it before and I don't know how to say it. — You say it. — There was this thing they didn't go through. — What's it called — "but for," in English. "But for." Yes — "without which not." — Without which not. — Without which not. So without the mastermind's advice — — those people wouldn't have managed to kill however many. — Yes, that's what I'm saying. — So that's why I say it is — — that. Is that what you mean? — Yes. — Yes. — So it seems to me — exactly. It seems to me. — Man, but I ask, why don't you stretch it further? Because

[1:15:38] you yourself were bringing counterexamples: without the mastermind's teachers, whatever. Without — — Well no, because it has a connection. — The mastermind's parents wouldn't have emigrated to America. — It has a connection now. Well — — and what did he say? "But for" and proximity. — Well yes, but — — so the way of judging — wait, the moral agent goes — the way of judging seems okay to me, but the conclusions — fine, but I don't remember exactly. Pay attention. Let's — let's — — intention, intention is the solution. — If the mastermind — pay attention, if master— intention — — the mother's intention, she took — — intention is what undoes Kinsella. I don't know whether the mother's intention was this, — — for him to make a — — You know, look, look, speaking of — speaking of this, — — if the mastermind uses — because there was that special case, yes, — — if the mastermind uses some writings — mm — — for example, the mastermind tells them: "Go, take those bats, lie in wait for them, like this, surround them, take them whatever." Hm, — — but for the actual fighting part, he

[1:16:42] takes inspiration from Napoleon's tactics, let's say. — Yes. — Is Napoleon guilty? — Yes. — No — — eh, why not? — Because he didn't intend it. — Because Napoleon didn't collaborate with these people. I think he didn't do anything. He's dead, you know? He's — — well, I don't know. For me the pain is very clear, you know? So — — for me it's very clear. So if you have some wrongdoers who don't know which way to go, and someone tells them: "Man, take the bats from around the corner." — Right. — Well, those people — let me ask you — are they wrongdoers or not wrongdoers? You have some wrongdoers who don't know which way to go. Now what — is it man's fallen nature, or why are they wrongdoers? — You've caught me. You're right. They're not wrongdoers, because they haven't done anything yet. — Well, so, so you have some people who haven't yet done — — anything. Let's say they do something. Let's say, I don't know, they break some windows. — Again, it's the same thing. There come — — some people come who want to lynch the black man. Yes. — And they don't know how to lynch — — and they come, and they come to you and ask: "Did you see

[1:17:44] him? Did he pass by here?" — Ah, — — right. And you know he passed by here. Yes. — And here you have to do like Steinhardt, or whoever — — Yes. And the question is — — what does he say? — The question is: are you — "let me embrace the Holy Lie" — and say no. Ah, the holy — — are you libertarian — how would it be if he tells them? — Well, libertarianly, if he tells them that he passed by here, likewise, it's not his fault. You're not responsible. So I'm — — because you've created that verifiable — — Sorry? — Have you created the verifiable causation? — No, you haven't created the verifiable causation. Those people chose to go in one direction. They're the ones who go in a direction. They have to catch him, they have to lynch him, they have to — you didn't cause the totality, you didn't cause the totality of differences. You only answered a question: did that guy pass by here? Yes or no? It's the most absurd thing to say that because you said "yes, he passed by here," you're guilty of that man's death. So a passer-by is like the guy from Bolt

[1:18:49] and whatnot. It seems to me that if you have someone who — or someone who doesn't take the risk of a business — — wait a moment. He doesn't take the risk of a business and says, "look, there's this thing to buy," and he gets something too, a percentage, a finder's fee. Yes, but he doesn't take on the risk of the enterprise; and here you have a man who was on the street — says, doesn't say — anyway,

that's a moral thing, the holy lie. But if — but if those people — if they're together, if this guy on the street is together with those people, that changes the scenario — — I don't know what "together" means. You know how — — together means: we want — we've agreed and we have evidence, whatever. We agreed to pursue him — agreed. We signed a contract. That would be the only evidence that exists that we agreed to pursue this guy. Let's say you have a recording in which we say, "we will all act to do X." — Have we agreed? — It's words. — It's words. And then — wait, wait, wait. It's words. Then — — he says, "you go, stand in the street and keep lookout,"

[1:19:52] — right. — And if you see that guy — yes, he's no longer a passer-by in the street; he's in the enterprise with these people. It's the case where he acts in coordination — — he produces, he produces the difference. He's part of the moral cause. — He strikes if he doesn't strike. — Well, it's not — — we've done this pain before: what if he's told to keep lookout, he sees him, those guys ask, and he says, "I didn't see him." Can they pursue him for fraud, you know? — Exactly. Maybe yes, maybe — if they concluded — one was — if they concluded a contract with him. Yes, they could, — — no? But you know, the assassin — you give him the money and he doesn't carry out the assassination. What do you do? Do you pursue him? — The answer is yes. Voltair— libertarian, yes. — No. The answer is that a contract whose object violates — produces aggressions against third persons — cannot be enforceable. — Yes, that would be about it. — I say the aggression isn't imminent, yes.

[1:20:57] It's irrelevant whether it's imminent or not. That's why — that's what he says — that's why Block too gets tangled up and loses, because he wants to defend — — Well no, he — no, he wants to defend hitman contracts. He wants to say the contract is valid. — No, no, no. That's exactly — — no. Block wants to eliminate them on that idea you mention, that it's aggression, by defending — — Kinsella's criticism is: why aren't you consistent? — Why aren't you consistent? No — you have to defend those too, or not defend these either — — Block. Block says responsibility can be transferred in the case of a payment. Yes, that's what Block says. Therefore you deduce from this that he upholds the contract — it's valid — — and the assassin isn't guilty of that man's death. The assassin is a tool. The one who concluded the contract is guilty. For the one who concluded the contract to be guilty, the contract must be valid. That means not — his position — well, in other writings, his position is that the hitman contract isn't valid. I

[1:22:01] had that in mind. — I think we have to think about it some more. — Plus, a hitman — pay attention — can have, yes, could also include a non-aggressive hitman, let's say, you know: the hitman pursues a serial killer, you know? So he wouldn't be an aggressor, you know? — Well, that's not a hitman. — That's not a hitman. He's a vigilante. He has every right to — — Yes. In the definition of a hitman, he'd commit an aggression; whereas if he pursues someone, he'd be an agent. — I mean, if you have a serial killer — — that's not a hitman, because that one, for — — If you have a serial killer, he's already killed. Yes, at least two people, or from however many counts as a series. From three, from four, I don't know exactly. — That means that — — I think there's an answer to that too. Probably the FBI will certainly help us. — It'll certainly help us on this topic, but that means that man has already created a restitutive right against his life five times over, you know? So anyone could appropriate and use

[1:23:05] that right. You don't even need to pay him. If you want to pay someone, for example, you can. You know? — Listen, what if you could somehow show that some technical-medical procedures produce a sensation that those who experience it equate with death, but the person doesn't die? It would be — it would be something, to put an aggressor through several sensations like that. It's an interesting thing, but I'd prefer, rather than that — — I'd prefer you kill him, bring him back to life, kill him, bring him back to life, kill him, bring him back to life. That's about it, for real. For real. As for me, I'd be more categorical. I'd say: for real. I think that's what hell looks like. — And of course the idea would be that

prevention is better than everything, so things don't get to such nonsense. — Yes, — — yes, but anyway, — — for more aspects of this,

[1:24:08] — not that we'll — yes, we'll come back to it in the next episode too. Not even those guys have resolved the discussion. I think we'll resolve it ourselves, though. — Let's bring in Iliescu too, to talk some more, and — — there are more. Write to us in the comments of this episode what position you hold — what is the theory of justice for each of you? — Yes. Visit the Telegram group to see the post in question, from which most of the discussions will start. For Alex Chiriac, Gabi Munteanu, Costel Stăvărache — I've been Valentin Berceanu. We've been În Dodii. Right and justice — or is that a political slogan? Liberty sounds good. Sounds good. Libertad, avanza.

Video 8 (#313): Causality and Hitler's Guilt, Causation Part 2 (Chapter 8)

Original title: *#313 | Legal Foundations of a Free Society - S. Kinsella - Causality and Hitler's Guilt*

Length: 1:37:50

Link: https://www.youtube.com/watch?v=HH6duvMFyNU

[0:00:00] There he says you have to take intention into account. — Yes, — — because we take it this way, because intention is part of action, you know? — Well yes. Okay. But intention — intention means the end you want to — — That's the most dubious part of — — that you want to attain with your action. — Okay. And then why do we stop at the first end? Because usually every end is a means to a higher end. — Why do we stop at the first one? — Because maybe my intention — yes — was to save mankind, to come back to — okay. Yes, yes, yes. — To the classic example, you know? I mean, why — and if my intention — — Well, it wouldn't incriminate you, you know, if you want to save mankind. That's the problem. — See, that's what Hitler wanted to do too. So —

[0:01:03] — well no, if you want to kill that person, if you have that end, you know — — what? — If you want to kill that person, that's all. — Well, I — well, that's my question. Why do you stop at the first end? — Because every end, every end is a means to a higher end. And when you put food in your mouth, yes, your end is not to be hungry, but the higher end is not to die. — Well, and why do you have to be there? — Well, that's what I'm saying. — But where do we start? Where do we pick up — — this chapter? — From the beginning. — Yes. — Go on. — [reading a news item:] "Our only potential competitive advantage" — the workforce, these — — no? — "When an official comes up with some license, commission, agency, regulation, notarization requirement, the first question: does it simplify things or complicate them for our entrepreneurs? Only if things here are

[0:02:08] much simpler than in other countries in the region. Singapore, Ireland, Estonia are examples to guide us." Yes, that's it. That's right. Yes, so what does he have to do if he wants to relaunch? But you know, he chose a very bad moment. — Yes. Pay attention. Supposedly in Romania, where Bolojan sounds the alarm, 16% of all employees are in the state sector. In Moldova, 30% of all employees are in the state sector. Wait — — Wow, what's going on there, man. — And I don't even think it's correct, 30%. Just as I don't think this 16% is correct. — Yes, — — I think there are more public employees. Because they are — and the pension thing is much worse for them than for us. — Well, right — — because there are few of them, you know? And pro—

[0:03:10] — pensioners aren't counted among public employees, — — actually. Well, he could — if he had cojones, but I don't suspect he has — he could do the first thing: privatizing education. Land, buildings privatized as quickly as possible. "Listing at least 21% of state companies on the stock exchange." — What's the point of that? — "Listing 25% of state companies on the stock exchange." What's the point? I don't know, I mean — — probably — — because for those who — — you want to attract extra money, money from the private sector, into some — — losing things. Anyway —

[0:04:15] — "we're all suffocating entrepreneurs who lose too much time answering letters, reports, maintaining registers. A moratorium on inspections is needed, at least until we start — " — " — the engine of the economy" — at 6 in the morning, on routine fiscal matters. — Anyway. Anyway. Yes, that's true. — If he wants to give unpaid leave to ANAF, to the Moldovan ANAF, — — yes, — — I totally agree. — To the Moldovan ANAF, to the competition people, the Competition Council, to those who are actually — we could do this too. It could be a way to get the country out of recession: — let people

make whatever contracts they want and stop screwing them around. "El criminal que vive de una fuente coactiva de ingresos llamada impuestos." — You know? Not quite — Milei said it; he was in

[0:05:21] opposition, I think. I know. — Come on, let's get ready. Done. — Mm, I think you could move a tiny bit more like this, though. Now, now you seem too far to the left. I'm sitting there. Come on, — — come on, come on, let's go and finish in two hours. We'll finish. No, — — look, we can't hand it to ChatGPT. If I told you that authority — Hello! Welcome to a new

[0:06:39] episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*, still with Chapter 8, because we didn't finish it last time, on causation and aggression. But before getting into examples and other aspects of this issue, Mr. Berceanu, you have the floor. — Give a like so the views go up. Share it so the views go up. Subscribe so you get a notification — actually, you have to click the bell too. The subscribe alone isn't enough if you want to get a notification when we put another episode on YouTube. In the description you'll find a link to a Telegram group if you want to chat in real time. Also in the description you'll find a link to some fiction books by Duck Casey and John Hunt, published by

[0:07:42] Sense of Self Publishing, and we recommend you get them because they're very cool. The first three are out, right? — Yes. Right. Also in the description, if you look well, because we've hidden them, you'll find a crypto link and a Patreon link if you want to support the efforts we make here, and we take this opportunity to thank those who have already done so. — Last time we ended the discussion by mentioning two examples in which causation is very hard — for some, hard — to establish: who is guilty of an aggression? And we mentioned the case of Trump with January 6 and Iliescu with the Mineriads. Let me quickly review

[0:08:49] what happened then. Iliescu said — he urged the miners to come and restore order in Bucharest. He didn't say to kill. He didn't have any, how shall I put it, any kind of military hierarchy from him down to — — Well, you could ask what a communist means by "order," you know? Anyway, yes, we're talking, we're discussing, but that's what it's about, and some crimes happened then during the Mineriads. Who's guilty? Romanian justice went after — well, part of the press actually [says] that Romanian justice hasn't finished studying the case and hasn't given a decision. I think so far it's gone after Iliescu and other political officials, but those miners weren't taken into account — Mr. X, Y, Z, who beat the students in that period. Likewise Trump.

[0:09:55] He called them to a walk around the Capitol, and again it ended with victims and material damage. Who was responsible for that aggression? American justice went after — went after — and after — American justice proceeded correctly. It went after those people in the square, but also after Trump. Is Trump guilty of January 6 or not? We'll talk about that now at the beginning of the discussion, and then we'll expand to theorize exactly how we can determine the guilty parties in a case of aggression. — The guilty without guilt. — Guilt without guilt. Yes, — — yes. Mr. C, let us demand that light be shed. Mr. Berceanu, tell us here — — who doesn't want to — — Good. Do you agree with Ion Iliescu? Is he

[0:10:58] guilty or not guilty? — So that I try to get us arguing again. — So we have two theories. One, limited responsibility; one, extended. The extended one, well, tends to extend responsibility. Even with the extended one, here, with Iliescu, I can find him not guilty, you know? Because he didn't — he didn't communicate, he didn't have the intention that there should be crimes, you know? — Yes. — The wording was ambiguous enough — "order." Maybe he meant they should gather the — or — — Exactly. With Trump likewise, I can also say you don't have enough elements — he didn't say "get them." Come on. — So how could we establish causation even beyond the intermediary actor, let's say, of an action? Only when we have a contract in which the intermediary actor is paid, or in the case where we have coercion — if a

[0:12:02] colonel tells a soldier to shoot someone — or in what cases do you think — — that's Kinsella's criticism of Block, isn't it? The two cases. Threat and payment. — Payment in cash. — If it's in kind, Block says no. — What? Whether it's cash, or what? — Only cash — yes. It has to be paid. — And Kinsella says: "Sir, why must it necessarily be cash? It could be paid in kind too," — — but Block limits himself only to — I think, I'd think the criticism is correct — — right — — Kinsella's, you know? I mean, Block's position isn't coherent. — Yes. Yes. — Block's position would have been: no, those people have discernment. They choose. Oh yes, they choose. They choose. They're subjects even in these conditions, even if — look, the Pitești phenomenon: if the torturer threatened me and I tortured someone, am I still guilty? You know, I think the correct answer is that I'm

[0:13:08] guilty. — Legally speaking. Yes, you speak. — Yes, I'm guilty, because I shouldn't have done it. — I'm not guilty except when, well, the torturer moves my hand onto that person's head, or — — so you'd say I'm not acting. Well, then a soldier, for example, on the battlefield, when he receives the order to attack such-and-such redoubt or citadel — — is — yes, he's guilty. — He's guilty that he kills soldiers. — Even if he's threatened. — A discussion with these tyrants was also whether they threatened personally or others threatened. Look, Hitler didn't threaten you directly, but you knew that if you ignored an order — they didn't threaten you; others would take your head. Yes, yes, yes. Look, in the Soviet [army], if you somehow turned back — yes — — they shot you. — So it was present — — the direct threat was present. — But the discussion — so the discussion isn't even libertarian. It's a discussion about causation. Where are the

[0:14:11] responsibilities? — Yes. — What's libertarian, so to speak? Libertarians' insistence on responsibility, on individual responsibility. Whereas here Kinsella, being a libertarian, insists on this thing that sounds strange at some point: that it's enough to have an end. So if you write on a blog, "miners, kill the students," you're responsible; you come under complicity even if you didn't do anything, you just have this intention. — Yes, yes, yes, yes, yes. He says, look, according to the praxeological means–end analysis, those people were — it doesn't matter that they're human subjects — means. One answer of Rothbard's would be: no, how can it not matter, since another cause begins there? It's not like I hit with a club and blame the club. It's a human agent who acted. He has discernment. A strict determinism like that doesn't work. "Someone said it on a blog, and that caused —"

[0:15:16] — And Hannah Arendt blamed a particular mechanic in the German railways, or a station clerk. Hm. — If it hadn't been for these simple people who slept soundly while taking the Jews — I mean, facilitating — — the Jews' route toward [the camps], Hitler couldn't have done anything. — And yet they were subjects; so they had a conscience, let's say, they had free will. They could say: "Sir, I won't let the train go on from my station, because I consider what's happening here a crime." — And if most of them had done that — — Yes, but see, now the question is — let's take it — and maybe I'll come up with the controversial position, but that's how it is. I like to apply the same principles everywhere. — Say it. — What was happening in that train was transport, at most in unsanitary

[0:16:19] conditions. Yes, — — we know from our own dealings with the Holocaust, yes, on Romanian territory — yes — that when, what's it called, when the trains loaded with Jews in Romania, yes, were shunted back and forth between stations, because in fact the people who had taken on the launching of the pogrom weren't the same people coordinating the transport — yes — the Jews ended up dying in those trains instead of reaching their destination. So the idea is that even if the clerk didn't send them on — so didn't let them go beyond that station — normally he had two outcomes. Yes. One,

[0:17:27] the train would stay there longer, and the Jews, instead of reaching where they were supposed to go, would die at his station. And two — and this relates to the trolley problem, you know? — and two, he'd most likely be put on the train himself alongside them, and the train would go on. Because, as

they say, it was wartime; that train could — it was a military objective, since it was guarded by soldiers. You'd be straight into sabotage. Now what I'd say is that the mechanic certainly could resist, but he's not a party to the crime. — Even if that person dies in the train, or — — when they — when they don't die in the train, it's clear, you know? Even when that person dies in the train, he's not a party to the crime, because he didn't put them in the train. — He's not a cause. He's not a cause. — Yes. And all he can do is decide whether the train moves or not.

[0:18:33] He decides only about the train. When those people die in the train, he has no impact on them. — Well, the idea is — what? The idea was that he — see, he brings them, sends them to the camps, to the concentration camps, and from there they get to the gas chambers. — Yes, okay, you can say that, but again, he's not the one who's answerable for the fact that they're put in the gas chambers. — But a soldier who guards them — — A soldier who isn't — a soldier who guards them along the way. No. A soldier who guards them there. Yes. — Where? There. — There, in the camp. Camp. Well, and on the way, why? — Because on the way they're not in the camp; they're on the way. — And they don't die on the way. — And there's no gas. Those who die on the way — yes, sure. — So he can be — — he can be, yes. A soldier who guards them, who guards them. So — so no, pay attention.

[0:19:38] A soldier who guards them deprives them of liberty. Yes. That's clear; that's 100%. Okay, he's not 100% responsible, because he's in a command structure and threatened that if he doesn't carry out his tasks he too will be shot, by court-martial. It's — — for the limited [view], that doesn't matter. — Well, it's not me — I've told you, I like — I like to lay out the story to the end, but — — a soldier who prevents them from escaping, and they die there because of the conditions, yes, becomes responsible for their death too. Otherwise it's only deprivation of liberty. It's the same thing we were talking about last episode, where I do something to you, and accidentally, because of what I did, you fall into some water from which — or into a well from which you can no longer — from which you can no longer get out. Yes, I've killed you in the end. I mean, I put you in a situation with no way out. Yes. — But here we have two causes: those who

[0:20:42] put them in the train, and those who keep them there. Maintainers. Maintainers. — Same, same, same, same responsibility. They're still property. — Doesn't it resemble the knife one? You know, again, he delivers the last blow. And it would be only the last ones. — No, — — no, — — no. — So from the point — — they weren't dying, though. You know, when he puts them in the train, let's say he dies in 10 hours, — — yes? Yes — who ties them up, or whatever. No, — — but I've put you in a situation, yes, from which you have no escape. As if — think — I didn't put you on a train; I threw you into the water. Yes. We're on a ship. We're on a ship and I threw you into the water, and whatever you do you can't get out of there. Yes. You didn't die when you fell into the water, but you'll die 10 hours later. I'm your cause. — Yes. Let's not — I tended for it to be always only the last ones, you know? — Well, I know, but they're not

[0:21:44] — I mean, the ship begins from then, you know? — I know, but I don't agree with this approach, because it seems to me — — it violates very many — so I could say two things. So I can understand the idea that you can build a stable system in which you can always determine who the last causer is and restrict responsibility to him. But it doesn't seem to me — it seems to me that at least intuitively — and here I know your objection, that theoretically you're not interested — but practically I could say the purpose of this system we want to unravel here is to unravel a just system — — in the end. No, because it's the common-sense thing. Common sense has its part of — — for this. Common sense hits in both paradigms, you know? For example, common sense, in the bomb case, says it's against me, so to speak. In the website case it's for me, let's say, because

[0:22:48] if I wrote on a site "may they die," I didn't do anything to them after all — but for Kinsella I am [guilty]. — Well, okay, here's Kinsella's problem too. I'd say that in the website case you're not to blame at all. Good. You were talking about Iliescu, and I hadn't got around to answering. So, from what I understand, — — yes, — — Iliescu's communiqué, — — right, — — is the one that — — was read on television; it wasn't given in vivo. — Yes. And which says: "We call on all conscious and responsible forces to gather around the government building and the television building in order to put an end to the attempts at force by these extremist groups, in order to defend the democracy so hard-won." — Hm. — Is that what called the miners to Bucharest? Well, I knew he called them to University Square. — He had no business in the Square

[0:23:50] — University Square. There they went and beat people all day, on the day after. — Yes, but you can't infer his preference from "thank you," and — — not post factum. — And say, "look, he agreed. So he had the preference, he had the intention." Post factum you can't infer his preference from "thank you." Just as you can't infer the preference of German women raped by Russians who had the children because they didn't have abortions. You can't infer a preference for sex with the Russian from something that happens post factum. — Well no, here students had died and whatnot, and he said "thank you." Wasn't that how it was, or — — Oh yes, that's how it was. — Well, I can't even say "well, look, it was — " — No, that's exactly what I'm saying. You can't say — you can't infer preference from something, first of all — — ah, you say it's — — from something he says post factum. Yes. — I mean — — the thanks were only for order, not for the crime. So — — the thanks, yes, could be addressed to anything.

[0:24:55] — It doesn't mean it excuses all behaviors, you know? So let's take it with ends. So this was an end. Actually, order around the institutions was an — even if, let's say, something nasty was happening there with victims, the final end was defending democracy. Yes. "We save the country from — " — he declared — if you trust his declarations. Yes. — Yes. Yes. And look here, I saw at — — It can't be, it can't be. It's okay, it's okay, it's okay. So Iliescu not guilty. — Yes, — — we can continue. — Not guilty all the time. — We can continue. Mr. Reisman says: a result is achieved with the help of certain means.

[0:25:59] Right, and he says this result, right? The result itself can also be a means to another result, to another end. — Right. — The death of a man may be viewed as [a means] to obtain the things he leaves behind, which the killer would stand to obtain. So it wouldn't be okay if we stopped only at one end in this chain of ends a person has and said: if this end was achieved through an aggression, we can legally punish you. — Yes, I think that's Kinsella's position too, isn't it? Or Rothbard's.

[0:27:03] Look, you can't bring Kinsella the objection, "ah, well then Adam and Eve are guilty." No, because Adam and Eve didn't want those people to die, you know? Only the author of the pogrom wanted those people to die. — Yes, but I know Vali's position is: "sir, we shouldn't take into account the intention, the end of a person when he acts." But we have to take it into account. — Yes. Well, he's pretty much right, but intention is important only for seeing whether it's an action, you know, whether it's an action or not. But otherwise it doesn't matter whether that person hit with the car intentionally or — — I mean, I make the distinction of who — — and why is it important, why does Vali say this? Because he's opposed to this criminal-law thing, you know? Crimes against society, you know? You see? It's clear, with this distinction between with intent and without, and something like that. — Yes. — "We defend society. When you act with intent you're damned, you know? You want to harm us" — libertarians don't even care what he did. Not that it was like that: "he runs me over with the car, but he does it out of love." Well — — I say this: so, I say, Vali runs away from

[0:28:09] involving this intention in judging a case because it's very vague. Yes. You can interpret it one way and the other. Yes. Not the one who writes — — here I'd be more — I mean, it seems to me we

know more. It's not quite like that. It's not, damn it, quite so — — and yes. And I say: sir, indeed, for example, the Iliescu case, or someone who writes a banal text on Facebook, yes, in Great Britain, and is put in prison on the basis of that post, on account of that posting — it's clear that goes beyond this case of, let's say, the libertarian interpretation of the causation of an aggression; but from there to, let's say, a mafia boss who sends a letter bomb to a person by courier

[0:29:17] is a long way. I mean, that one should be put in — — Well, he does put him in. Why doesn't he put both of them in? Kinsella. — Kinsella. Kinsella puts them in. Vali doesn't. — Well, well, exactly. So I'd say — — this holding with the hierarchical structure would have an effect. — So I'd say: "Okay, come on, we're mixing things up a bit, and it would be good to — " — they're different — to treat them — to treat them differently. Yes. One of the answers regarding intention goes like this: let's say there exists — and I don't know whether it doesn't actually exist in the real world — a drug that zombifies you, makes you suggestible to do anything, and also raises your levels of aggression and everything. Okay. When you're under the influence of this drug, — — Yes.

[0:30:21] — Yes. You don't reason. — Politically — — you don't reason in any way. Yes. So all actions are — — it suppresses your — exactly — it suppresses your cortex. — The action from the cortex. Yes. Okay. You take this drug knowingly. Yes. After which you end up killing someone. — It wasn't an action with intention; it was a vegetative action. — It wasn't an action. — It wasn't an action. — So you shouldn't be guilty — — according to Kinsella's plea. Yes. According to what I said, you're a moral cause for yourself when you took the drug. — Yes. — Yes. After which all your actions become physical causes

[0:31:25] that come from that moral cause — that you chose to suppress your consciousness. — Does "physical cause" for you mean legal cause? — No. Physical cause means what I said last time. It means there's a repeatable and verifiable relationship between an action performed by a subject and the totality of changes produced between moment T1 and the immediately following moment T2. — And here this guy with the drug is guilty. — So this one — — it doesn't matter what intention he had. — It doesn't matter what intention he had. He put himself — he triggered a situation in which he suspended his judgment. He consciously suspended his judgment. It's the same thing: "Sir, I was a good boy; I don't know what happened there." You see? You suspended your judgment. Therefore all your actions that follow — well, all your following activities, yes, even if they're no longer actions, because you've suspended your

[0:32:30] judgment, you can no longer pursue ends — yes, even if they're no longer actions, they're physical causes that flow from the moral cause standing at the beginning of the chain of causation. Therefore, if you killed someone while in this state of bliss, in my theory, — — yes, it's — — you're guilty. — You're guilty. — In Kinsella's theory you're — no problem. — Oh no, man. — No harm, no — — He doesn't — pay attention, he doesn't think. The case is hard, indeed, but he doesn't think of — — Well, you don't have action. You have — for which he thinks of this combination of action and non-action. To say: you consciously want to commit that murder, you know, — — and you do it via drugging yourself, and whatnot. — You don't have action in — even if — so you consciously — so you can — what I described — you can kill a man you don't even know. He'd say that

[0:33:32] — well no, one thing is we don't know — he doesn't discuss the case. — So — — we can speculate what it would be. — I tend to say — — so let's not talk at retirement [about] intention. Let's leave — let's leave the drug aside, since the drug, let's say, is a thing. — Pay attention, if it can document that you have this intention. — Dude, with drunkenness — with drunkenness, if you're so drunk you've lost your mind, yes, and you smash a bottle over the head of someone you don't even know. She demonstrates her intention — that you were plastered when you first saw him. — At the beginning he says only actions, and here in parentheses he says: the choice of means and the end and the intention.

So it's not necessarily generative of legal effects. — That's not necessarily Kinsella's, you know? Mises too would agree with this: that if it's not action, no. — Well yes, but

[0:34:33] — there's no guilt, you know? — Yes. — Again, it doesn't stand — it doesn't pass the common-sense test. — He'd say that if you really intend — if you have the intention — that would be if you have the intention to get drunk so you don't get caught clean, to kill that guy. — Well, again he says it's action and that you're responsible. — Again, besides the fact that — — But pay attention: if you don't have this intention, the action is just to drink. — Yes. And afterwards you make a scene in — he should say no, that you're not. — Well, that's what I'm saying too. — He should say that you're not. — Well, that's what I'm saying too. To be — — when you're evil, when you want to — — To be consistent. That's what I'm saying too. Kinsella has to find that guy not guilty. — Yes, he doesn't have to find him not guilty. — And he's not not guilty, because the second thing is drink and drive. Yes. Further, the next law: — you get behind the wheel drunk. — Yes. Well, you're already drunk. You no longer have — no, you're no longer acting with intention — no, I don't mean that. I've had a glass. My capacity to reason isn't yet

[0:35:36] impaired — not yet impaired. No, no, no. You're wasted. — Yes, you're wasted and you get behind the wheel. No, no, there's no intention to discern from there. — Yes, — — he must still be acquitted. Yes, the idea is that not — — I mean, what I want to say is that not even the law against drunk driving applies, because he didn't violate it with intention. He was wrecked at the time — at the time he got behind the wheel. — Yes, but the current law operates with the fact that you were [drinking] beforehand, you know? — Well, — — you were [drinking] beforehand, and it would be, for that, through recklessness, you know? It would — — no. What I'm trying to say is that the way Kinsella thought it through — the way he tries to anchor everything on the basis of intention — isn't thought through properly to the end. — Pay attention: even if you concede

[0:36:40] intention, that guy is still incriminable, you know? Because he acts before getting into the car, you know? Even if he has no thought of killing anyone. — Ah yes, fine, he acts, but — — he acts. It's from fault — from another fault, you know? — But it's not, no, it's not. Well, it's not another fault, because he just went to have a drink at the bar. That's still legal, — — at least in countries other than Great Britain. — No, the idea is that he doesn't — yes, he's not even right. Uh — but the idea is that he acts — he doesn't have that in view. You know, you act even if you're not aiming at a crime or whatever. That guy acts when he goes to the bar; he acts. — Yes, when he goes to the bar he acts. Intention — well, you know, you can say he intends to drive back home and drove — the action, in the end, that it's not — — what — — and drove — an action. What do you say it is? — Well, that's what I'm saying: he's too smashed to still have — he's too incapacitated, — — no? But you can be sober, I mean be awake,

[0:37:43] — and still, by mistake, kill someone with the car. — The weather conditions are such. Right. Well yes, but there it'll — there it's — you wanted to kill him — you didn't have the intention. They're — I know you didn't want to kill him, but there are several things that caused you to violate it through negligence. So if the weather conditions are such that you can no longer drive safely, the regulations say you must pull over and as— — Yes. So at least you still violated something with intention. I mean, there I can concede that intention applies, you know? Whether — or that you're not paying attention; it's not anything, there's no unfavorable condition, but you're not paying attention. I don't know, you have a lapse of — — Well, you should — yes, if you see you're not paying attention, you should pull over. — No, but now there's a question about the drugs too. Do you still act? No — do you really not act at all? — When you take the drug, when you take the drug you act, but afterwards — — well no. Come on, and afterwards, afterwards, are you empty, aren't you empty?

[0:38:48] — It's complete. — It's a combination of anesthetic drugs that give — — that give you exactly this, so that you — — empty you out. Ah, I mean, yes, you had in mind a really hard [drug] that — —

Yes. Not marijuana, or something where you act? You know, even if you're more — — Yes, yes, — — you're lobotomized, you know? Hm. Yes, that would be a problem for Kinsella, because we'd concede that you act before getting into the car, before drinking, you know? — Yes. You're a moral cause of — and then all the others, when you — — supposedly you no longer act with intention. Yes. You remain a physical cause triggered by the moral agent who thought of it. — He didn't think of — he doesn't discuss this, you know? Manslaughter through recklessness, when you run

[0:39:50] someone over without intention. You know, for him he'd have to say there was no intention, he didn't have an end and allocate some means. — Yes. — The problem is that that's still not a reflex thing. They're actions, they're choices, and either a man, if he acts, is responsible — yes, it would be something to see how he answers this situation. — Good, but let's take this part, since it came up somewhere in the discussion, that at some point he argues with Block and with Rothbard, yes, about extended responsibility — because somehow I don't know whether we've cleared it up with Iliescu and Trump and the others. — Block and Rothbard. Block first, and it seems to me Rothbard — — I think Rothbard first, like that, — — no? Kinsella mentions Block first. — Block tried to defend, let's say, that responsibility

[0:40:53] is individual; it doesn't stop at the last executor, except in cases where we have — — payment, cash, contract, coercion. — I don't think coercion. Does he say coercion? He says "orders him," but I don't know whether he says — but what coercion, if you're threatened. Okay. — You're in a structure in which — — orders aren't discussed. — I don't think — I think that's something we said. — Yes. — He says only "order," "orders him." — Fine, but you have coercion. I know. Only Kinsella is spiteful and doesn't — he refuses Block the appeal to coercion here. — Oh, I think he does. Oh, I think he does. Coercion — when someone threatens to do you harm. And here he's right against Block, that you're a cause, you know? Even if you do things — Block follows Rothbard.

[0:42:01] So Rothbard is against [punishing] incitement. Rothbard has a problem with incitement and says the inciter's responsibility ends when the others start to act. — Fine, for what you understand: if you convince him, you don't have to threaten him, and you're guilty. — Walter Block says: "Yes, you're right." If he has — so responsibility can be extended if someone threatens or coerces the one who committed the crime: if B has a contract and pays him to commit the aggression; C orders him to commit the aggression; — and D is in a conspiracy — is together in a criminal conspiracy with the one who — — Yes. — — built the aggression. Okay. Good. "Together in a criminal conspiracy" — here things sort of

[0:43:05] break, things sort of break down. I mean — and why? Because here too what I can say is that Block, unfortunately, wasn't disciplined enough in his thinking, because first he wants to defend — he wants to defend the hitman contract. Point C: if he pays him through a contract. Okay, we've solved this problem. No contract is enforceable if it presupposes an aggression against a third person. So you can't make a contract — you can't make a contract with me in which I punch Gabi. Yes? I mean, that contract isn't valid, isn't enforceable. Even if you gave me the money, I can only give it back to you, because I can't execute the contract. — Pro— it was that it's not yet an imminent threat. You know, if you've made a contract it's not yet — — Yes, I know, but — — that's how I'd have bid, but well, it's — — the question arises: okay, good, and we get to the moment of dispute, because in fact

[0:44:08] we have contracts for the moment of contractual dispute. Yes. — Well no, the idea is it's free speech until it gets close, you know, to threatening initially. — Well no, it's not free speech, it's a contract. You gave me money. We signed a contract and you gave me money. That's — that's the situation Block describes. — The contract says: by Monday Gabi is to receive a punch. — Not later than Tuesday. I'm to punch him, punch, punch. — Yes, you're to give a punch. That, I'd say — — and time

passes, and then you haven't punched for me, and the other asks for his money back, and you say "I won't give it to you." — Well no, I have — I have exactly no reason not to give it to him, because — — to give it to him, because you are — — because, because the money is — see, that's — that's the contract, that. Well, but it's not a contract. That's the idea. It's not a contract; you're not obliged to give the money back. — It's not a contract. There are two positions. One is that it's not a contract, if it contains aggression — — "I give you money to rob a bank and you give me so much" — it's not valid, you know, from the point of view of. And my position, to extend human liberty even more, was to say: oh no, brother, this one's valid too.

[0:45:11] — It's not yet an imminent threat, you know? The hitman isn't at the door, you know? — Yes, but it's functional. It's the same thing, because you transfer some money, yes? And you create for me the obligation to punch Gabi. Yes. Functionally speaking, the moment you transfer me the money, you've created the obligation for me to punch Gabi. Yes. Now, for this to be an enforceable contract, the execution must be able to be enforceable. I mean, practically, the only way this contract — my position is that a transfer is enough. It's enough — you don't need several transfers; that's another discussion. Look, we'll discuss it in the chapter. — Well no, that's exactly what I'm saying. A transfer is enough to oblige me. A transfer is enough to oblige me. I'm on your theory. Yes. You sent me the money. — Yes. And I theoretically should give you what I contracted. Yes. I can't give you what I contracted because it presupposes an aggression. — Yes. Therefore, if the contract gets to a dispute — — you have to give me money.

[0:46:12] — I only — I only have to give you the money back. That's the only thing I can do. — Yes, but that doesn't invalidate the contract, you know? It doesn't invalidate it. Well, let's — let's go — you're — we have to go. — Let's — let's go to the other side. Yes. So, alone — — if the contract isn't valid at all. — Yes. — You don't have to give me anything. — How not? — Well — — if the contract isn't valid. Yes, the contract is invalid and you gave me the money on the basis of the contract — that means you didn't transfer me the title of ownership over it. I still have to give it back to you. — It's not a donation, because you still give it to me so that I punch Gabi, and the purpose with which you give it to me is as payment for punching Gabi. Yes, I mean it has — — so whichever way it is — that's what I was trying to say — functionally, whether you accept that it's a contract that can only be enforced by giving the money back, or whether you accept that it's an invalid contract, I still have to give the money back. I mean, the result is

[0:47:14] identical. — No, wait, let's think of it differently. If it's not valid, I can't even give you the money, you know? — Well, — — I can't even give you the money. We can't do it, and that way the problem of the transfer disappears, you know, and of — — triggering other obligations. No — if it's not valid, we don't do anything. So I don't give you the money, the obligation isn't activated; whereas if it's valid — and I say it's valid. — Oh yes, the obligation exists; you have to give me the money, you know? Even if you can't — — Okay, good. — But well, it's a discussion; we have to find some deeper reasons why it's valid or invalid, I don't know, or not. So my argument, by which I extend liberty very much, you know — as with Covid and other things — is that it's not an imminent threat, you know? I haven't entered. The hitman isn't at the door yet. You know? — Yes. Well, I'd say that — — only when he approaches — I'd say that a contract — — a thousand little tools. I'd say the enforceability part of a contract is presupposed — but maybe, well, that's my presupposition. Any contract

[0:48:18] can be resolved by producing the desired effects. I mean, if for example — so this is one of the presuppositions: that the contract we conclude must be possible to carry out. — Yes, yes. That's a dispute: for me a transfer is enough, you know? For you both must be possible. A square sky — I have to be able to give it to you, otherwise. — This one, I think, even Block wouldn't agree with. I agree with the square sky, you know? Let it go in. I think even he wouldn't — — Good. So unfortunately, that's what I'm

saying: Block isn't [consistent], because he gives four examples. Three of them are in fact a contortion of the existence of a structure of force that constrains the victim. Yes. And the fourth is the contract. — But look, think about orders. Which of the first two does an order go to? Because an order can be either a contract, or still coercion. — Well, that's what I'm saying, that's what I'm saying. The order is either — yes — either in the sense of an order from Temu, yes, or in the sense of an order

[0:49:24] with a structure of force behind it. So — — But otherwise it's not an order, you know? — Well, I'm also thinking about how contractual the mafia is, you know? After all, it might be more contractual — more contractual than the army, you know, or? — Yes. — Yes. Good. And this "in a criminal conspiracy" is the same thing. I'd say that to be in a criminal conspiracy, he must be actively involved. Not be the kind of — how do they say — "sir, you go and crack the safe, you take that street, you go that way" — as I said, he draws you the plan, you know? And he says, "do all these things. Goodbye." I'd say that if he — to get off completely, from my point of view, to get off completely he'd have had to receive money beforehand; and if he receives the money beforehand, it means they're consulting and planning services. No, he's not

[0:50:29] part of the conspiracy. If he receives the money afterwards, here it's harder to separate. I could say yes, he conspired, he worked together with them to receive part of the stolen money, you know? Because anyway, if he receives some of the stolen money, it's not his, because they can't pay him with stolen money. You know? — Regarding the ambiguity of intention: if a bank-robbery expert gives some people some plans and says, "well no, I gave them so that — " — " — they'd look at the lettering," or whatever, you know, or — — no? But no — I didn't give it — I gave them, because it doesn't matter why I gave them. No — for Kinsella it matters, because he wouldn't be incriminable if — — if he gave them, I don't know, for the paper, because — — Yes, yes, yes, yes. Like these films, bank-heist films. Yes. You watch about seven films and then you become an expert in cracking banks. You go and crack a bank. — If you have the director's intention — — ah, to the — yes.

[0:51:33] Damn this intention. Accep— — if his intention is entertainment, it's not. So this is actually the problem we have with the way Kinsella slipped it in here: he says, "he slipped intention in so you'd hang yourself, but actually, pay attention, intention gets you off — it can't be." And the answer is always there: when you set about introducing intention into the legal field, you'll always have disputes over intention, and you'll almost 100% have to prove it. Yes. So Kinsella's answer is: but why only these — but why only these four? And it's valid, because if Block threw the contract in the garbage, he'd remain on this common-sense version in which coercion is extended. Coercion extends responsibility. — Yes. — Well, he latches on especially to the fact that

[0:52:39] these — Walter Block and Rothbard — stick to this cash thing. I don't know why, if it was transferred — transformed into money, it's okay; if it was transformed in kind, it's not a — — or meal tickets, how is it. — Yes. — Why do Rothbard and Block limit themselves only to cash payment in order to extend the responsibility for an aggression? That I didn't understand. I didn't even see it properly. — Probably again it's something — it's something — no, I think it's something tied to a discussion that's incomplete and is tied to a cont— He replies: "sir, you must — just as we talked with Costel a moment ago — yes, sir, the contract is activated only if you pay him," you know? Yes, payment can be in a bank, it can also be a cow, you know? But it can be extracted from — for example, when Costel said "you pay," someone might interpret: you have to give him money, otherwise the contract isn't activated.

[0:53:43] I mean, that's what I'm saying: it may be a source of cherry-picked quotes, a straw man, to use a milder term. — Can incitement be proven when you say, "sir, all those who saw the bank-robbery films went and acted and robbed a bank"? Or if only two or three who watched those films [did], and the rest of the world, the majority, just enjoyed the films — and then the director gets off. Likewise if someone

writes on Facebook, "sir, how good it would be if such-and-such many politicians died," and only a few act on the same — uh, there are two things here. The first of them is this:

[0:54:47] the short answer — since you began with "can incitement be proven" — it doesn't matter what follows. The answer is no. But incitement itself — theoretically we don't need to ask whether it would be proven or not, because it's not a crime from the libertarian point of view. You're free to run your mouth as long as the waves you emit don't violate another's property. — Yes, that's the libertarian answer, and it has nothing to do in any way with what you say. Now, is it legitimate, for example, to be asked not to emit certain sounds on someone's property when you're on someone's property? Absolutely. Yes. Does that represent a violation of property? Absolutely. Yes. You're not allowed to — yesterday in church, for example. Yes. — No. You're not allowed to threaten. And you're not allowed to threaten. — Yes. You're not allowed to threaten. It violates property — it violates the bodily property — — of the one threatened. — I'm referring to the fact

[0:55:52] that you're in a building, in a private house, in a room owned by someone, and in this room, for example, people speak in whispers — like a library, for example. You're not allowed to emit above a certain number of decibels. Yes, but incite— but all these things I'm saying, from the libertarian point of view, have no connection with the content of the ideas you express in speech. Yes. Incitement itself — to define it, it must have a connection with the content of the ideas you express in speech. — Yes. Therefore incitement cannot be a crime, because we don't define violation of property that way. Actually, these people, for example, on — — and if the next place libertarians take refuge is, "well yes, but he told that guy 'I'll kill you'" — the way we in libertarianism

[0:56:56] define a threat is the imminence of aggression, not words. — Yes, yes. — Well, "I'll kill you." Yes, "I'll kill you." It may be, it may not be. Well, it has to count. "I'll kill you" is just as irrelevant as — so it's — no, sorry. It's just as relevant, as a threat, as someone who does — if in the next second he comes to punch you, it's a threat. If not, not. The content of the words is irrelevant. — What happens after is relevant. — Alone, he alone. Or what's simultaneous — that he raises an axe. — Exactly. Exactly. That's exactly what I'm saying. — Hm. Anyway, you also do discourse analysis in connection with property, you know? That's an aggression because it threatens private property. — Yes. Good. And Kinsella

[0:58:00] tries to use the straw man he makes of Block to let Hitler off. No, — — because "Hitler did not literally personally threaten any of his generals or subordinates himself." No, because the threat didn't come from Hitler. — Yes, that's it. It didn't come — — Hitler said, "I want you to annex Czechoslovakia," but he didn't say "[kill] people for the annexation." Well yes, because that was done peacefully. — Well, Poland then. "I want you to annex Poland." Yes. "I didn't say to kill people. I didn't order you to kill people" — because he ordered — actually, Hitler's official version was that the Poles attacked some German population in that area, and [the army was] to go in and

[0:59:06] defend them. The Polish army attacked the German population, and the army — it was self-defense in — — defensive. — Yes. — Yes. Well, look what Mr. Kinsella says here. He says: "Sir, if a blind poet dictates a poem to his girlfriend to write on paper, and you read the poem — whom should you credit? The poet, or the girl who wrote it?" — The example didn't seem so inspired to me, because those things materialize somehow when you speak, you know? Bearing — — it passes from one form into another, you know — — bearing in mind that Kinsella is against intellectual property, I'd actually turn the question back on him. He says: "Well, really? Whom do you credit?" — Me neither — there's no property in intel— — I mean, there I don't know, this — — there I don't know what to answer, you know? If we're to trust intellectual

[1:00:09] property, then certainly you have to give the poet — you have to give him credit. — Go on. — No, a bottle. — There's a bottle over — there's one over there. — Here? This — — yes. So how do we

find Hitler guilty in the end? He was in a hierarchy. He wasn't in a hierarchy; he was at the top of a hierarchy. — He was at the top of a hierarchy, yes. A coercive one, top-down. — So this whole thing — so the head of a mafia organization, the head of a state, — — the head — — two, two seconds, let me interrupt you. On that system where you stop at the first one, did you let Hitler off? — Yes. Well,

[1:01:11] — right. So I said the head of a mafia, the head of a state, the general of an army. Usually, if you're in a hierarchical organization like this, and the hierarchical chain is coercive, whatever someone small somewhere does, yes, at the orders of someone bigger, the legal effect, yes, the responsibility goes up the hierarchical chain — — it goes up too — — and up, if — and up. — And then why at Nuremberg were only those at the top tried, and those [below] weren't — it went only to those at the top — the little soldiers — — who shot French and English, because

[1:02:14] first of all they didn't try them for shooting the French and Poles; rather they shot them for — — they tried them — crimes — they hanged them, actually, if they didn't shoot them — they tried them for war crimes and crimes against humanity. They shot — they tried them for the extermination of civilians, — — not for — — I understand. And — — not for acts of war, because within war it's presupposed that you shoot the ones in uniform. — Okay. Which isn't okay from the libertarian point of view, but well, — — but it's not the ones who — I can give you another reason — — that some extended and didn't, didn't kill only those in uniform; they did other things too — — Well, that's what — that's what they tried them for. Yes, I could say that I don't think they — — I don't think they took the soldiers

[1:03:18] — because there'd be no one left to keep order. And I don't mean only from the German army now; I mean from all the armies, because pretty much all of them committed — — disasters at the time. — I know, but that's as if — let's leave it — — I mean, to be very clearly understood: the Russians weren't at Monte Cassino. The Russians were in Berlin, but at Monte Cassino there were no Russians. — That's like "sir, we let this airport make noise, even though we installed it after other people had built residences in that area, because progress — we want progress — " — Yes. A utilitarian argument, as Vali was saying; well, he gives you an explanation of what he thinks those people had in mind, and probably, or

[1:04:23] "we do nuclear experiments around here because we want to make a — " — these pardoned — forgiven, so to speak. — Forgiveness actually was for good. — Yes. — Good. — Justice. Justice wasn't done after the wars. — Justice generally isn't done after wars. Yes. Not much in peacetime either, actually. — Yes. Ah, we also have this case in which the general gives an order: "Man, kill the two Poles up on that pole," and you go and kill those two, and then you see seven more Poles and three Russian women and shoot them too. Then for those extra murders you're guilty, because he told you "man, only your — " — or he's not guilty — the general isn't guilty — he's guilty only for those two.

[1:05:28] — I suppose — supposing that this is the case — — Yes — supposing this were an example from reality. In reality, though, orders are somewhat more general and presuppose the extirpation of any resistance or the removal of any threat. — Okay? — It's — and then you're not — you're not told by first and last name whom you have to kill, but "everything that moves," you know. Yes. When you secure an objective, I suppose the definition is to eliminate, to eliminate any kind of threat. — But I don't know whether that's the term — isn't it the "pacification" of a region, or — — that already — that already has a lot to do with civilians. Securing an objective is more of a military thing. — Yes, man, I'm thinking of the abuses in any war, you know? There are abuses like this that soldiers, you know,

[1:06:30] — yes. — Uh, I don't know — in the old days too they'd say, "man, I won't hold the soldiers back after the battle ends and we conquer Jerusalem; boys, loot, wreck everything that moves." — No, but they let them because they have — exactly what Vali said — they need them. You don't have — you know what they did isn't good, you know? But what can you do? — Look, now these Americans

supposedly have — what can they do — and they say, "sir, we only — " — it's 1% — — Yes. And they still do all sorts of nonsense over there. — Occasionally, sir, cases of these abuses get judged, you know? So leaving aside — — and that too is part of a utilitarian calculation, when it's too big. — Yes, but I'd say that until the war with Ukra— until the Russia–Ukraine war, from the end of the Second World War onward, given the number of wars in which it's been involved, I think most crimes against civilian populations were committed by American soldiers, not by other nations, you know? Until — until the war with — until the war began

[1:07:34] between Russia and Ukraine. Yes, certainly. Now I don't know if you know — well, unfortunately nobody kept statistics. — Good. Uh, with the manipulator. Let's see your case with the manipulator here. The manipulator is something which, how shall I put it, from my point of view is solved very easily along Rothbardian lines. Well, you have free will. Yes, goodbye. There's no manipulation. It exists only in that case where you no longer have discern— — you have free will. — Yes. — You have — you have free will. Then — — then you're a moral actor. You're the moral cause of your actions — — and a subject.

[1:08:37] — Well, that means — — and the manipulator was also guilty in this, for Kinsella — — Kinsella. Yes. — Kinsella says yes. How not? — Most guilty, because he manipulated you. He made a fool of you. — Without — it's that "but for" thing, you know? Without the existence of the manipulator, you wouldn't have done that thing. — And he gives the example especially of the lover who wants to get rid of the husband — the wife — and has her lover kill him. — So Iago should have been executed. — Clearly. Yes. — Yes. To take as well known a case as possible. So the answer is no. No. Libertarianly speaking, no. — Good. Let's do the witness. — But it's interesting. I'd say it's interesting. I thought this sympathy for manipulation you saw only among conservatives. I didn't expect to find it in Kinsella too — — who's one of the least

[1:09:43] conservative libertarians there are. — Antipathy. No, — — it's not sympathy for — it's sympathy for the manipulated one, wanting to hold someone else responsible — — and someone else responsible. — Conspiracism. Look, for example, you have a witness in a murder case like this, let's say. — Yes. — And he manipulates in such a way — — We solved it last time. You've breached a contractual obligation to tell the truth and nothing but the truth. If you did that, you're responsible toward the judge, not toward the crime itself. You breached your contract there. — Yes, but you can — if you don't have a contract, not even that. No. — What? — I bring you to court. You haven't signed with a protection agency. — Right. — Well, you're not obliged to tell the truth. — Well, don't they ask you beforehand: "Will you tell the truth?" You say yes. Well, but are you

[1:10:46] obliged — — you make a contract. Oh no, — — no. Let's say you don't have one. You don't have a contract. — Well, you make a contract. That's what I'm try— even today. Even today — — even today. "I'm a serial killer. I don't want to do it." — Then you don't make it. — You don't make it. "I'm no longer obliged." — Well yes. Then you're no longer a witness. — Then you're no longer a witness. Yes. — Ah, as for the witness. — A witness. — And as a witness. Let's say, to close — — Well, a witness, even today, Costel — a witness even today signs a contract. When he's in the courtroom, he swears on the Bible to tell the truth and nothing but the truth. Ah, — — so that was the idea. Ah, and if not, they don't take — or what — — and a contract like that will certainly exist, because otherwise what's the point? — Well no, but if I say I don't want to, no. — Well, if you don't want to, you won't testify. Goodbye. — We try to obtain evidence another way. You say maybe I too want to testify to defend someone, or — — Well yes, that's it, and you manipulate. So he's a manipulator too. So you want to get that guy, horse in horse. Yes. In the horse if I lie — — to kill him. Yes. Let's say it's Putin in — no, let's take

[1:11:49] — But not if I lie — because I can say by mistake that it rained, and I didn't know. — So you can bind yourself, you can bind yourself by contract to tell the truth. Yes. The correct answer, if it's

something you don't know, is "I don't know." — I didn't lie. No. Even if I said I was sure it rained and it didn't rain, I didn't lie. — If you were sure it rained and it didn't rain, you didn't lie. You didn't — — lie. So I respected it now. Yes, only we're talking about other things here. Yes. — Yes. — No, I want to connect this case of the witness — because he too [discusses it] here in context — with that of the manipulator. If I still — — So it's not, it's not the same thing. It's a fraud. You breached a contract, with the witness. It's not — you have a contract that you breach — — and when you manipulate. — I don't have an implicit contract with you to tell the truth. — Okay. Okay, understood. We really don't have such a thing — — and it's not appropriate to — I don't even think it's appropriate for us to demand it.

[1:12:52] — Good. Yes, yes, yes. And after, let's say, I lied, I manipulated — let's say I didn't lie, but I put in some rather ambiguous things, but I created a kind of sentiment so these people kill the defendant. The execution takes place, and then after five years the judge finds new evidence that in fact he was innocent. — Right. — Who will be held responsible for that murder? — Depends on the contractor, or — — depends on the contract. — Kinsella — and the witness. — Depends on the contract. Well, you manipulated — — if, if, when you breach the contract — — the penalties — the penalties for breaching the contract are that you're saddled with any kind of consequence resulting from a wrong sentence. — Yes.

[1:13:57] — Look how they've been transferred to you. Normally we'd be at the judge, yes? But the judge can get rid of them through this contract, which — — Yes. "I sign, sir, I also make mistakes. I can't give you two — in 1% of cases I'm wrong, and don't kill me for — " Yes. — And he says, "okay, sign," and the institution's off the hook. I mean, private irremovability, if you like, contractual. — Otherwise nobody would become a judge anymore, you realize. You gave a sentence. — Yes. — Well, it cuts both ways. I think judges should be liable for the wrong sentences they give. But — but — but only when it's their fault. Yes. I mean, there are all kinds of cases they may be able to protect themselves from. For example, this one with witnesses who mislead. And I'd say we'd find others too if we sat and thought a bit.

[1:15:03] — Ah, the thing with "but for" and proximity. We discussed this last time too. A murderer's mother, sir — without her the murderer wouldn't have existed. But well, you can't say she's a cause of a murder committed by the murderer because, when she gave birth to him — — yes, — — it's not a direct cause, so to speak. The murderer did other things too besides — — the murderer isn't determined; he has free will; he's a moral agent. You can — — there you can tie up — you can stop all sorts of discussions, and the determinists will come and say: "No, because we're all determined; free will doesn't exist," and then Hoppe comes and throws the performative contradiction into their arms, and off for a beer afterwards. — Yes. And proximate cause. I was thinking of pollution too; likewise it's

[1:16:07] something more — if I breathe now, I create an atmosphere fuller of carbon dioxide for a Japanese person. Good. And we have Reisman, who says the same thing, but in other words, Kinsella says here. Good. So we have, in conclusion: the causation of an aggression ends at the first moral actor, and — — in the absence of a coercive action on that actor — — by another actor.

[1:17:09] — Yes. And also, except in the case where an aggression is co-committed. Yes. — Coordinated. And one more thing to keep in mind here: all are 100% guilty of that aggression. Yes. — No, the one keeping lookout is 10%. — Look here — yes. In principle they are, you know — along that line where the aggression is co-committed, 100% agreed. It's held in co-ownership by everyone; even the restitutive obligation is held in co-ownership by everyone. You don't care how much is from whom. The problem appears — and it really is a problem — the problem appears where actions — where the aggression is committed and

[1:18:16] responsibility is divided because there was an aggression — there was a constraint, an aggression on top of him. So look, an — — example — — an example. Okay. Someone kidnaps your

child. — Yes. — Yes. They kidnap your child and tell you: "You go and steal a briefcase from somewhere, and you have to take the briefcase from there and carry it to the other side. Yes. If you don't do this, we'll kill him — " — Yes. — " — the child." You do what you have to, they release the child, it's over. Right. Are you 100% responsible for the theft? You, respectively, even though you were aggressed against — the answer is

[1:19:24] — the answer would be, along that version in which you hold co-ownership with the one who threatened your son: right, I don't care; I saw you steal the briefcase; I pursue you as if it were 100%, and I don't look at the other one anymore. The other one is clearly guilty of deprivation of liberty toward your son. That's it. That's one of the things. But he's responsible for this theft too, you see? If I don't pursue him for anything from this theft, we have a problem. — And you say it's divided how — — that's on the restrictive extreme. No, it has no problem. — I'd say the restitutive right, the restitutive right of 2x, — is formed against you, both of you. Yes. At the

[1:20:29] initial level. Yes, but the victim is the one who decides how to assign it, when you have cases of coercion. — Hm. — It's the only method I can think of that could work reasonably okay. Non-arbitrary, or — — 60–40, 60–40 — — the victim decides. Shouldn't it simply — — If, for example, you go and divide it into equal parts, that's not right either, because it's clear Gabi was moved to this only because of the situation of coercion he was in. You know, on the other hand, here it's only a theft. You know — — does motivation matter? What he did matters. Gabi gives 2x, and then Gabi takes 4x from

[1:21:33] — from — — from the one who took the child, over the briefcases, over the briefcase effort, because then he also accuses him of kidnapping. — Okay. And that would be — that would be an option, indeed, but it seems to me that would transfer all the responsibility upward. And it's not quite like that. You bear part of the responsibility too. — And that's why I'd say, grounded — so the victim has 2x, and it's grounded for the victim to decide how to divide it. Not the judge, not some arbitrary standard, because you can say, "okay, divide it by however many there are," but again that's not right, you know? And the problem really appears when we discuss death — — there. Yes, there I'd tend to say that

[1:22:46] if the con— yes, yes — the child's — the child's life was in danger. My first answer would have been that if the constraint on you wasn't of the "they'll kill him" kind, then you owe the first death, after which the next death we discuss with the one who coerced you too. But I tend to believe that nothing other than a death threat could make someone — — commit, commit a crime that ends in someone's death, and then we have the problem that there's no longer a victim, and we have to answer it somehow. It's possible the discussion is very loaded, very sensitive, you know? But the simple [answer] would be: "Sir, you don't kill, even

[1:23:51] if someone dear to you is about to die." Yes, legally — because morally you tend: "Yes, sir, I'll do anything just to save him." The second part: if, for example, "man, I'll steal your TV if you don't go and steal such-and-such briefcase" — it's simple there. You don't go. But once you load the case with someone's life, people already see things differently, but in fact they're the same thing. I mean, you'd tend to punish the first one too without — yes. — In communism there were also cases of this type, you know? And they played with these situations: "Sir, if you don't inform on some people who conspired against the beloved leader,

[1:24:55] your family will suffer," and they had to do it. And many chose — — Yes, but here it's not the same thing. You know, it's a — okay, you can say, well yes, but it's a denunciation, a false denunciation of — but the sin [would be] if it had been true. — The sin is still on those who apply, who apply the sanctions. — You do — yes. You don't execute; you don't commit an aggression yourself, so to speak. Look, let's go back to that case with the courier who delivers the bomb. Yes. — Yes. — If that courier is

persuaded to deliver the bomb because they're holding his family hostage. — Yes. — Okay. Those people have already made a bomb. It's clear they're getting ready to blow people up.

[1:25:59] — Yes. So it's clear they have no qualms about killing someone, and then he collaborates with them, coer— — being constrained — — not even coercion, because he's not threatened — — he's threatened — — his family is threatened, but he's not threatened — — well yes — — coercion, if you like, on the family — — yes, it's — — correct — — Well no, we don't have coercion; we don't have to do with coercion. — Oh yes, we do. — No, no. — Oh yes, we do. If there are children in — we do. If the children are at — — they're the children, but not on him, on him. — Oh yes. Well, it's on him too, because he — — the children are his. — No, no, no — the children are his. He's — he's a responsible one. He has an obligation toward those children to bring them somewhere — if he put them in — but the children are in a situation — — if they're in a situation in which they're in danger of death, he has breached his responsibility. Coercion is as if it were on him.

[1:27:03] — No. — But if it's the wife, you're right. If it's only the wife, you're right. It's not necessarily coercion on him. — No. Take the chil— wait, even if they took those children, why should it be his fault? Because — — well — — if some people kill a child, you're to blame. — He was in your care. — He was in your care. — They break into my house. — He was in your care. — He was in your care. — It's not, well. — No. When I'm the cause, then no. So if I walk with a child on [the street] and someone runs him over, am I to blame? Yes. — So he was in your care. — You're not the only one to blame. — Yes. Yes, but he was — but you're part of the blame. Well, — — if we take that case, it's as if who — — Let's take it another way. Pay attention. Think: if you let — yes, yes, yes, yes. It was your responsibility to protect the house better. If you let, for example, you let go of

[1:28:08] — moral blame. — You walk, you walk with the child, you walk with the child by the hand. Yes. You let go and the child goes into the middle of the street and a car makes mincemeat of him. Is it your fault? — Someone shoots into the house from a distance, you know, a hitman. He shoots and kills the child. Is it my fault? — It's always — the fault is — — It's always your fault. The child is your responsibility. You see? If something happens to him, it's your fault. Until he's emancipated, it's your fault. — Yes. Did you see? — When — — you go too far toward — — Yes, yes, yes — when — — a positive obligation — — you throw someone. — I have — I'm only interested in not killing him, you know? — Well yes. Let's take the case of how it goes. — So because of you someone falls into the water, can't swim, and you put him in a situation — yes. No, no. Let's do: you cause a car accident. You hit someone. You. That person is dazed. He gets out of the car. — Yes. And he wanders around the intersection, and you take hold of him and take

[1:29:13] care of him so nothing happens to him until — — you hit him; you're the cause — — but it's a negative obligation; you don't have to include — — Do you think Kinsella still — Kinsella makes the mistake: "sir, you have to jump in after him because you —" No — you jump after — you're not allowed to kill him. There's no need to introduce the discussion about positive obligations. You know? You mustn't violate the negative obligation not to kill. You know? — Let's say it happened. — I mean, he still looks — strictly at the linguistic shell. "You have to help him." I don't have positive obligations. It's not about the positive obligation. — If you bring that person into a dazed state — — Yes, but not — not all of them are needed. Entities shouldn't be multiplied without necessity, you know? The initial negative obligation — that you're not allowed to kill him — was enough. — Well yes, but it's the same thing — — you see? No, it's not the same thing, because he introduces and says, "ah, look, there are positive obligations too." I didn't say there are positive obligations. It's the same thing: you mustn't kill him. It's exactly this decision, because you

[1:30:17] had an accident, you hit him. Yes. You're the moral cause. — Yes. — After which that person, being dazed, is only a physical cause. — That's why I said I concede. Only he says it wrongly. — And if he dies, it's your fault. — No, no. But he has it as a revelation: "oh dear, wait, we have a few obligations too." No, you don't have — you never had it. So no — — that's how it is with the child too. So, like that dazed victim, until he reaches the age of emancipation, you have to take care that he's — — Yes, but you're not the cause. You didn't kill him. I told you, someone shoots through the window. You know? Are you the cause of death? Because it's still the discussion about causation. I thought you're the cause of death if you actually kill him. No, — — when you built castles to protect him, because you caused — you didn't — you end up not causing — — and it's different from the fact that you let go of him — when I said you let go and he wanders into the middle of the street. Then you're a cause.

[1:31:19] — Yes, yes, yes, yes. Okay. Good. — Perfect. So look, we've found the distinction, the point of distinction — — and there we have a discussion, you know? Likewise, a car hits — you're a cause. — You're a cause because you put him — you let him walk on the road. I'd say, I repeat, it's repeatable and verifiable. — It's verifiable that he — — Yes. — Yes. It's dangerous. Well, it matters, it matters very much — the kind of road matters very much. You know, if you're in a residential area, — — for example, there you can let him walk alone, because the expectation on the part of cars is that there are children on the road in a residential area. There are other speed limits, there are other things. But if you let him walk on the highway, — — well, intention doesn't matter. Well, it's not — well, but I'm not talking about intention. Now I've only changed the nature

[1:32:22] of the road — — Yes — — yes, that he's on. I mean, again, repeatable and verifiable. You know, on the highway it's mincemeat every time — — and yet he killed him. You know? We've arrived at the same discussion, you know? — Man, yes, but you're a cause. — It's simply a cause. — You have free will. Goodbye. Yes. Good. Somehow that would also be — — You know what it seems to me, Vali? That the spirit, if you like, of libertarianism is rather to err on the restrictive side than on the extended side, you see? — Say it again. — So we have two paradigms. One more extended, which finds more responsible parties, and one restrictive, which looks at the last, let's say, the last cause. Better to err in the second than in the first. No, — — I don't know. Here — — well, you can say it's better never to err. Here he says — here he says an analysis should be made, or a

[1:33:27] simulation, or an effort of thought, to see in which of them you're more prone to err. You know, if in one of them you err more than in the second, — — in the first it seems to me, you know — — to me it seems that in the second you err more than in the first. — What? The one with the last. The one with the last. Yes, it seems to me you err more there, and, the world being socialist — what am I basing this on? — the tendency is to go toward responsibility as collective as possible, you know? As collective as possible. — Well, — — "society spoiled him," whatever. — That's the problem. — Nowhere in the version I propose is there collective responsibility. I minimize the collective; I — I'm talking between the two options, not between — — collective, minimal-zonal — — what could still fry the brain of a good communist — Reisman said. Okay — I somehow skipped the 100% one

[1:34:32] — that's all — — and that's about it. Yes, Costel, do you want to talk about anything else in particular? — I don't know. — Anyway, it seems to me that next time we'll move on to — — to contracts. So we can argue even more. — How did he put it, with weight, with where to err more? Actually, the greatest responsibility will always be placed by libertarians on the last moral actor. — Yes, — — that's what I say too: on the last individual. Yes. He's free and he's responsible for his own actions. And the further you move away and say you want to blame someone behind who manipulated him, or someone who incited him, or his mother, or society, the more, naturally, you can err. And so actually you go back and say: "Man, boy, who put you up to it? The stupidity in your own head put you up to

[1:35:35] stealing," let's say; then that one's the guilty one. — Yes, you have to — so on the last moral actor I completely agree, that here we've — — I mean the one closest to the cause — — No, no, no, not the closest — the moral cause. — But the intuition, you know, which, if you like, is common, is that that guy did the thing, you know? Since we like common sense, — — it's not — it's not a common intuition. — It seems to me [right] for people to be responsible for what they did, not for what they didn't do. If he gives you — it's not common. — Yes, — — think about the Gentiles — it tends to become the norm, you know? — Look, uh — think — so, while we're talking about Christians and placing the blame on Judas, you know: until toward the end of the Middle Ages, everyone cursed Judas. "Man, damned wretch." Then, when people started finding loopholes in the Gospels, you know: "man, but wait, without Judas actually [we wouldn't]

[1:36:37] — saved us. But wait and see, Steinhardt has something too, you know, from those prayers. Hey, did you sell him or didn't you? What did you give the money for? Man, — — exactly that, he says — — you keep going round in circles — — That's what I'm saying too, you know? — Wait, I did think about it, though — cosmic causes, man, give me a break? You took the money. — Exactly. Vali is in the position — — Yes. — Yes. Well, it doesn't stretch that far. It's very close to the last defender, let's say, you know? — Yes. — Good. For Vali Berceanu, Costel Stăvărache — I've been Gabi Munteanu. We await you next time for a new episode on Stephan Kinsella, on the theory of contracts. It'll be — it'll be with more smoke than it was now. Goodbye.

Video 9 (#314): Contract Theory: Slavery? (Chapter 9)

Original title: *#314 | Bazele legale ale unei societati libere - S. Kinsella - Teoria contractelor (sclavie?)*

Length: 1:36:59

Link: https://www.youtube.com/watch?v=v2DC67RbuZw

[0:00:00] I'll say that, uh — — which spoils — — a trust. A trust in one's own detector. Pour me a bit of cola too, please. — And you have to — — the one with sugar — — and practically it has to switch it on. This machine switches on the current. This machine doesn't. — This one [clears throat] just says where the water is sprayed. — Where it — yes, — — it has a battery; it's not mains. A battery. It's not GSM; it doesn't have that. [snore] You go there manually [cough] and [clears throat] program it with the little buttons. What time it should open. — You do it continuously. What did you say — — and me? So yes, and so it's programmed daily. Between 2:00 and 3:00 in the morning, one opens. — Aha. — Because I have four zones. — Aha. — Three. Three zones, actually. I have three zones. One closes, one opens. One closes, one opens, and [snore] — — But the pump — who starts the pump?

[0:01:01] — I start the pump, because I have a smart plug — — Wi-Fi. — Bravo. — And it — — has it ever happened that the power or Wi-Fi was off and you couldn't start it? — Uh — — only once. It's okay if the water doesn't start; the problem isn't the water not starting — it's if those are closed. That's the bad thing. — The pump starting and pushing into this while these are closed. Correct. But actually, couldn't you add an extra at some point in the future, a little gadget, a kind of [clears throat] blow-off valve, where up to a certain pressure it's okay, and it's adjustable, probably with a screw, and whatever's over that it spits out? — So if the pressure is above a certain amount — — it spits it out — — it opens. No — I don't know if it can — there are some that open completely when they reach temperature, click, and open

[0:02:06] completely, or everything over that escapes somewhere — — or everything over — yes, that would be something. I don't know if such a thing exists. Surely it ex— — It exists — — anything. It exists. — Come on — — [a joke]. — Yes, but not with that one. — Ah, not with that one, sorry. There, I've poured yours. Come on. — It's not that bad, you know? Yes, yes. It puts in too much text, too many additions. — Yes, yes, yes, yes. — It's too — — It doesn't need to be — [laughter] it needs to be the image and then bang. It can even be without text, if you manage to — — It's already started. [music] — If I told you that authority — [music]

[0:03:32] [music] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, and we continue the chapter "A Libertarian Theory of Contract": how we transfer title to a scarce resource from me to you. But first, Mr. Vali Berceanu will tell us a few words. — A few words. Like, share, subscribe, if you want all of us to be well. In the description you'll find a link to a Telegram group where we can all discuss this and that in real time. Also in the description you'll find a — what? — Nothing. — You've — — I wanted it not to be in the microphone — — stuck with that. [laughter] Also in the description you'll find a link to some books published by Sense of Self Publishing, books of libertarian

[0:04:39] fiction. And in addition, in the description you'll find something we're talking about today. Theoretically you should have the image on screen. It's called HydraFest, the Event of Maximum Liberty, and to be able to read it I need my glasses. [laughter] Because I'll read it. — So we have this: — "The Extraordinary Commission for Complete Liberty invites you to the special organizational edition number 0. Accommodation will be in Șinca Nouă, at a guesthouse reserved for the event." Well, well. Details — who's doing this? What? — The price — tell me the price — — you'll find it on screen. Yes, — — it's cheap, it's nice, because we have August 21 to August 24, 2026.

[0:05:44] It's an event modeled on the PorcFest event in America. Who knows? — Well, this event — because it's event zero — is actually more of a networking event, aimed at gathering potential organizers for a PorcFest-type event — — OK. — — next year. — Yes. If you scan the QR code on screen, you'll be able to access a PDF with more details. Likewise, you'll find a link to this PDF in the description of our video. Spoiler: we won't be at this one, but you'll find Horea Cristian there, one of the guests on the În Doi show — episode 94, I think, if I'm not mistaken. If you don't — look around

[0:06:48] there until you find a Horea, 94, 95 — — somewhere around there. — Yes. Also, look in the description for a crypto link and a Patreon link if you want to help us with what we do here, and we take this opportunity to thank those who already do so. [bell] — No, this is good, because besides Breb a few things have appeared this year, you know. We have HydraFest too, we have the books too, the three books from Sense of Self Publishing. So I see things are moving, and I'm glad of that. — I feel that things, maybe year by year, will — — The movement is taking root. — The movement [laughter] is taking root. Yes. And let's not give away who still watches here — a movement shouldn't take root; it should gain speed.

[0:07:52] — Gain speed. — That's how it catches on. Look. [laughter] — Yes. But anyway, — — let them have initiatives and start various actions, activities in this domain of liberty. Good, — — contract, — — Kinsella. Yes, first of all Kinsella begins this chapter by recalling — uh, not recalling — what property means, and how, in this chapter, we transfer property. Yes? Not only how we acquire it, but how we manage to move it from me to you, so to speak. Through a theory of contract. Yes. The system based on private property, besides showing us how we become owners of our own

[0:08:54] body and of external scarce resources through original appropriation, must also tell us how we cede or lose this right to own certain resources. We'll see that over external scarce resources we can, but over our own body we can't. Because at some point it seems to me he says that actually you can — but wait and see — — let's — let's get to the end of the book, to the end of the chapter, and discuss, — — yes, because maybe it won't get to — — this topic. Yes. Okay. What I can say again is that once again we bump into this thing with the body owned as property, including from the first — from the first pages, which — — complicates more than it [helps], but

[0:09:58] — it seems to me that at some point he objects, he says, in a way like us: "sir, man is — the individual is the body; you don't have the man [separately]." No. — Yes. — Abstract. — Ownership of a scarce resource you can lose simply by abandonment. So you're no longer interested. You picked up a stone from the ground; you became its owner. Afterwards, when you throw it away and are no longer interested and abandon it, it returns to the state of nature, and someone else can appropriate it again. Or when you aggress against someone, and following an agreement, or in the case of a judgment, you have to restore a certain sum or a certain property. Again, that's a way in which you lose this right over that scarce resource.

[0:11:00] But in this chapter we'll deal with the way in which we lose the property right over a resource through [snore] voluntary exchange, through peaceful methods. How would — — well, you keep saying "lose," but — — he doesn't — he doesn't lose — losing — — yes, it — — to transfer — transfer. — We transfer it. Yes, exactly. — Transfer of property title. — Exactly. Good. Let's move on to the classic version. Yes. One, property exists. Yes, property can be assigned — I mean, that's the basis of the system we're talking about. Obviously, if property doesn't exist, contract doesn't exist; we can't bother our heads about them. Yes. Good. Contract theories specify the way in which — and in the end he says the following: property rights aren't only acquired through appropriation, as I said, but we observe that they're also transferred.

[0:12:06] And there are also these punitive rights that Gabi talked about a bit earlier. Therefore [clears throat], he says, there are several theories: the theory of property, which is concerned not only with the way we appropriate, the way we obtain property, but also with the way we lose these property rights and transfer them; the theory of tort and punishment, which is a subset of property theory and is concerned with, describes, the way in which acts of aggression or negligence end up producing a change in property rights over scarce resources; and the theory of contract, which specifies the way in which they'll be transferred as the result of a voluntary agreement between the owner and a third party, another person, or, well, another entity capable of owning

[0:13:11] property. And this theory of contracts actually helps us — tells us which of these agreements can be, how shall I put it, enforceable — can be — — we have to invent a word, because we don't really have something, and like with metal — — defended, let's say, defended or put into practice — — reinforced — — it's Mises — put into practice even after a disagreement arises between the two parties. Yes. Executed — I think here "executed" would be implementation, — — but for "enforce" we also have the sense of pursuing the thing. So it's not only completion, execution, but also pursuit,

[0:14:16] which maybe doesn't happen. Ah — "you're trying to enforce" — anyway. And then — — well, execution — it's still — by execution you understand that too, you know? — Okay. Yes. — Monitoring the rule. Monitoring the rule. — Yes. Okay. Yes. Good enough. — Okay. Good. And the question we libertarians should ask ourselves is: under what conditions are some contracts enforceable or not? The contract itself presupposes an agreement between two or more parties to give something that is owned, or can be owned, from one party to the other, and in exchange for things promised by

[0:15:23] the other party — that is, in exchange for a transfer in the opposite direction. — These agreements or promises can be oriented to the future, or they can be conditional — they can be based on certain conditions; they can be simple, complex; the exchange can take place at the same time or at different moments in time. They can also be unilateral — that is, there may be no actual exchange, but just "here, I give it to you, take it." And to do — no longer to give — the contract can be an agreement to do something. Yes. "I'll perform a song at your wedding." — That can be a main part or one of the conditions. But it's a service and/or a good. Yes. Uh, yes, under today's legal system, contractual obligations can be classified as follows: to do, not to do, or to give.

[0:16:28] Those are about the options. Obligation. — And what we understand from the rest of the chapter is that he maintains you should only bother yourself with what you can transfer, what you can give. Yes. In current legal systems, given that, well, when one of the parties refuses to perform the action it obligated itself to — either to do or to give — then the other can sue him, and there can arise — right? He calls them "remedies" here — yes, there's a term in Romanian, legal. I don't know — — when you give — — I mean the judge, compensation — — that works. — I think legal compensation might arise for the other party because the action that was contracted didn't

[0:17:34] happen. And Kinsella remarks — regarding what Alexandru said at the end — he remarks that even in today's legal systems, which tend — unlike libertarianism, where this kind of action would be just an action in which you obligate yourself to do something, so to speak, it would only be a thing — — that works the obligation. — No, no, no — not even in libertarianism can the contract be executed by forcing the person to perform that action. We observe that even in today's legal systems, which boast that they implement more strongly and so on, in cases where an action that should be performed isn't performed, the sentence isn't

[0:18:39] to oblige the person to do the thing, but is usually a financial penalty. — Yes. And he explains this too: that there would be costs too high, and you'd never attain a fair reward, because if the guy didn't sing and you make him sing, he'll sing badly, and so it's better for it to be a thing — — or to paint,

or an electoral promise is just a promise. An electoral promise is — — it's not — it's more than — — It's so far from a contract you can't even imagine. No, but it's a promise, — — it's more of a lie. [laughter] It's not direct. But it doesn't need to have sanctions, you know? — Well yes, of course not. — Yes, he said so. — So this guy can promise. No. — Ah, yes. It's stupid. — That's what surprises me, as a parenthesis: people often say, "we put these guys in to do things, and they said they'd do them, and they didn't." Well,

[0:19:42] wouldn't it be better to have a contract — and there's where it starts to give him a headache; he stops, because if you think you have a contract, it would be clear you should hire a manager. Actually, you wouldn't then elect through democracy, by majority of those present, someone who only promised and — — they — they see themselves as managers too. — Yes, of course. [laughter] I mean [snore], we're all owners, and they execute — — Yes, yes, yes. — — the common good. Well, but what's the difference between an agreement between two parties in which I promise, let's say, to do an action — — Mm — — and a contract? What's the difference between a promise and a contract? And what's the difference — sir, why must — the contract is enforceable, legal, whereas a promise isn't? — Hm. And Kinsella says here: there must be something that's transferred between the

[0:20:45] two parties beforehand. Yes, but until a token or something is transferred — a sum of money, let's say — — they're promises. — They're simply promises, even if it was written on paper. — Yes. Well, if nobody gave anything. That's the theory. I said I'd give you an apple; you, that you'd give me an orange; life goes on. It's not — sanctions don't arise, or — — and if we write it, but you still haven't given me the apple, and we write that our hands don't hurt. Yes, — — likewise I could [laughter] write — I mean, only you write. [laughter] Yes. The idea — — the way in which — — look, that's a difference from contemporary law — — the way in which Kinsella says which ones are enforceable. Yes. It's that enforceability arises when — what does execution of the contract, or pursuit of the contract — with the terms we chose here — — binding, binding —

[0:21:47] — actually mean? It means that force is used, because it's clear the guy no longer agrees, and so something must be extracted by force from that person, either for compensation or to execute that contract; and libertarians say we use force only when it's restitutive — or, extended, with Kinsella, retributive, depending. — And to get into this situation — so the idea is that we don't use force first. That's the idea. Yes. And then that means force must have been initiated; an aggression must have taken place through the breach of that contract. An aggression must have taken place. Somehow Rothbard maintains this too, which we'll get to further on. An example in which an

[0:22:50] aggression takes place, for example, is if I pay you in advance to sing at a wedding. Yes. — If I pay you in advance to sing and you don't sing — — in the old days, so they'd sing at — — it means that money no longer is. Doesn't it mean you stole my money? I mean, the conditional transfer of the money isn't realized. It's the same thing. I can't say. It's the same thing as if I pay you to make me a chair, for example, or I pay you to give me, I don't know, some car parts — it doesn't matter. It doesn't have to be something you actually make yourself, you know? Well, I gave you the money — — and you say: "Yes, thanks, we're closed. Come tomorrow. Come tomorrow at such-and-such time, because we have the parts — we have to order them — but tomorrow at such-and-such time we'll have them." Fine, and I come tomorrow and you — you're in the Caribbean. Okay. An aggression has taken place.

[0:23:58] — Yes. And then we're allowed to pursue you [sigh] and recover the money by force. 2x, I'd say, but anyway, we're not concerned with those things. — And if the contract says 7x in case you don't — — again, in a contract you can write absolutely anything, as long as these are the exit terms from the contract; I mean, you can bind yourself to more. I said this 2x is the default for where there isn't one. Where there isn't one? — And — but that's what I mean: and if 7x was really signed by both parties in

case I don't sing at the wedding, — — right? If it was signed, it's exact: you've created an obligation to be punished with 7x in case you don't — — I mean, you create a conditional transfer, yes, of services from you to me. Yes, in the case where I paid you the money initially, yes? 1x. Yes. But you also signed that you bind yourself,

[0:25:03] in case you don't pay, to transfer 7x back. But you don't take 7x; you take 2 × 7x. — No, — — no, — — no. 7x — — don't [laughter] overcomplicate. — No, but — — it depends what the contract says. [laughter] — When we don't write anything and we promise each other these things, we apply this. We promised, we talked — so we didn't make any transfer — so we apply Berceanu['s 2x]. — If no transfer was made, no obligation was created. — Yes, it's not — whereas here, if you signed 7x, this 7x has priority over — — this 7x exists only if I made you the initial transfer. — Yes, yes, you made me the initial transfer — — because you — so the idea is I've created for you an obligation to sing. — Yes. And 7x is only when you haven't respected your obligation to sing. Yes. But for that obligation to exist, I must

[0:26:05] have made you the initial transfer. — Yes. — And why doesn't — I mean, why doesn't this default of libertarian theory, 2x, have priority — — right — — over the mention of 7x in the contract? — Well, exactly — the answer is exactly what you said: because that's the default. The default exists when you don't specify the specific. — It has priority. It has priority because we respect the individuals if they wrote seven. Yes. — And here — — that's it, there's nothing we can — — And here a small thing. We talked with Kinsella, since he had this observation that in court even today — and he thinks intuitively — that in the libertarian one you couldn't put, well, let's call them abusive clauses, in which practically the judge would say: "Man, where did this discrepancy come from, compared with the rest of

[0:27:08] contracts?" And I wanted to say a moment ago that 7x maybe isn't rational, maybe isn't justifiable in relation to the others at the same time. Instead of always bringing in a third party — the judge and the customs of that area — better to let there be some abusive ones and let people learn to be personally responsible. — No, but they aren't. So to me they don't seem abusive. I mean, I think with humor — — no, no, I was only thinking if they were. I don't know which one he said — something he said, including in the interview with us, when we asked him about something that seemed a bit abusive — he said that — — the judge can annul the contract if he finds that the parties — one of the parties — didn't have consent. I mean, it's not — it's not — it's not something that's strictly — it's not something that's strictly

[0:28:13] abusive. — It's — yes. He didn't have the capacity to give consent. — The abuse wasn't tied to abusive clauses. — Yes. Exactly. I mean, it wasn't strictly that you give him a piece of gum and he gives you his mother, you know? It was: if he signed something like that, let's see if he's right in the head. — You know? First of all. — And if he's not right in the head — — it's annulled. You can do it beforehand, you know, if the exchange seems to you — I don't know — you give an olive for, I don't know, an apartment on Unirii, you know? You can ask yourself, you know? — Yes. Kinsella also mentions here that in this whole theory the difference between a promise and a contract is circular. So if the custom in society is that if I've promised something, it's like a contract — — it's like a contract. — Hm. — And there are witnesses who were [there]: "sir, he said yes." So there's something that can stand up in court in case you end up

[0:29:17] there. — Or there exists, sir — here in our little Romania, these things [are] on words, and the other one, to whom something is promised, expects — he only spoke, didn't sign, didn't write; only when it's written, so to speak, is there a basis for the one to whom something is promised to expect that it will indeed be fulfilled — — you know? — So — — I don't know how libertarianism would be here. I mean, I think it would be much more generous, so to speak — [clears throat] generous, no? — Right, — — in the sense that you have these implicit ones, you know? Even if it wasn't explicit, the obligation was

activated if you made the transfer, you know? — Yes. — You don't say, "look, I'm giving you some money, give me a shawarma." You just saw the shawarma and gave the money, and the obligation was activated — I didn't sign a contract

[0:30:19] — and took it. — We didn't even talk, you know? We didn't even — or well — — we talked, in that the price was there. We communicated something. — I asked, and it followed anyway, you know? Usually. — Yes, because that's the custom here. But think that there's still a — there are zones, even in Romania, where things are much more ambiguous, namely: — Mm — — "I love you. Next week we'll become husband and wife." — I don't know if it would be so — — that's not a contract, — — you say. But elsewhere it's as if it were. — Well no, but the idea is nothing changed hands. You know? — Yes. I know it doesn't, but the fact that — — I mean, in s— — even in the classic one, yes, a ring or something is given, you know? I mean — — and here — — Kinsella kept saying, and we haven't said yet, one form by which a promise became a kind of contract was that a token was given — — in the law — in current law. This consideration, which

[0:31:21] — knows how to assimilate them to a contract. — [clears throat] — What, the promise that we'll marry? — Yes, think that the other one goes and invites however many guests. Yes. — Goes and rents a hall. Okay. — And you say, "I've changed my mind; I promised you, now I don't know; it seemed so to me then; I was — " For it to be a contract there was the sun. No, — — no, no, no, something has to be transferred, you know? Exactly. For it to be a contract there has to be a transfer. C— — not that I had an illusion like that and went to buy. And the rest of the stories — and if he gave her a ring, what? — And the rest of the stories about what he set about doing and not doing — — resemble very much promissory estoppel from civil law in the United States. — Yes. Which says that for a promise to constitute a contract there must arise

[0:32:25] detrimental reliance: it must be the case that someone relied on this contract and exposed himself. That's what you're talking about. He relied and — — relied on statements. — Relied on statements as if it were a contract, and exposed his position, in the sense that he incurred some expenses and took on some obligations, things like that. Yes, without these things being constituted, the basis on which that contract could be enforced isn't constituted. But anyway, again, this is the first chapter in which it seems to me Kinsella doesn't agree with promissory estoppel. So far he seemed to agree very much, and this is the only chapter in which he says this practice is one of today's legal system, — — but not necessarily

[0:33:29] — libertarian too. — It's not necessarily libertarian. Yes, yes, yes. Because — because the libertarian premise is that you rely on what others say at your own risk, and he doesn't fully agree with that, because it gives a bad and incorrect reputation, he says, to libertarian ideas, which, understood this way, would make a jungle, chaos: "Ah, you trusted — big mistake." — No, it seems to me that the moment — — it's about what others say — — that, if they only talk — — well, something formal, something that exists in a formalized framework, is no longer just speech. — Ah, okay. Okay. — Well, wait a moment. What's his difference? I mean, what do you want now? Well, Alex says that if we present libertarianism in the sense that you manage, you rely on what others say at your own risk, and you see

[0:34:35] what comes of it, it's a kind of no man's land. "Well, but then nobody trusts anybody anymore. We won't be able to rely on [each other] to build, to do, to fix, because no — " — you no longer have implicit contracts at the bakery. — Yes. Everything becomes a society without ties, because a society is usually made out of some trusts — — not explicitly — it's just that we don't sign, "you know, shawarma, look, I bind myself to give you this money," and he signs — we don't formulate the preference explicitly, but there's still communication there, because otherwise we don't understand what we want from each

other — — yes, well yes, well yes — — it seems to me that this is what Kinsella is trying to place: contract and this kind of understanding, which goes beyond mere free speech, words, and to put it on much healthier foundations, and one of them is: things must be communicated, not just presumed, because

[0:35:41] look, this way you come to have trust, which eliminates "we wanted what we wanted from each other," you know, what we wanted from each other — that's one — — and two, he says the basis of a contract's functioning would be that you transfer, you transfer property rights over some money, for example, conditional on someone's action — "cut my grass for me." — Look, this seems very persuasive, this thing with the transfer, you know? It seems to make sense, you know? Yes, I'm obliged to give you that orange only if you've given me the apple, isn't that so? — But we can think that, well, these are proposals in libertarian communities. Look, whether you can have this, where even without a transfer they'd be valid. — Yes. Well, with — — I mean the promise being an obligation, so to speak, you know — — so that [clears throat] — so that I give you — — if you signed that, it should stand — — to give you — to support your point. You always have — he says here — you have contracts

[0:36:47] in which part of the actions in the contract comes later. Why do we make contracts? Because we're people; we understand abstract things and time, and so we stagger certain things in time, and you have a transfer now, and the later transfer is conditioned. Well no, that seems natural. That's in Kinsella too — it makes sense for it to be — wait, I was getting there, to give you — to come to your defense — — I mean, well, to support [you]: you could have both — an agreement now, contemporaneous, as he says, and then the transfers at the same time, later, or separately a bit later. — Well no, the obligation becomes independent of the transfer. So you have to give him the apple even if he didn't give you oranges. — Yes, — — you see? He can sue you, so to speak. — So your intuition is: "sir, we agreed; nothing has been transferred yet. Neither has he given me, nor have I given him, but we agreed, and I must do and he must do." No, no — you

[0:37:49] say [we should avoid] that situation where we pretend it rained, and — — no. I'm asking whether it can be an obligation, just without a transfer, because that's it. That's the point. Well, it comes out — man, yes. — So you didn't give me the apple, but I can sue you because you didn't give me oranges, even if I didn't give you [anything], you see? No transfer took place. — Well, and what's the intuition? Why would that be right? — I don't know. I'm thinking. — I don't know the word. Yes. Well, I'm thinking — — because — — because they're legal proposals; they're not fixed. Like the 2x, you know? That's what Rothbard said — it seems very convincing: "sir, I give only because he gave me." Yes, but pay attention, because you have the approach — wait a moment — this approach, it seems to me, shifts — — the burden onto the individual's responsibility. Then practically you could have contracts only on actions, with no transfer of any kind. Whereas Kinsella, it seems to me, wants to root his libertarian vision in property rights and transfers of property rights.

[0:38:52] — No — it seems more natural to me this way, more intuitive, you know? I give you that only if you've given me too, because that's how we agreed. — But I told you, yes, if there were — I don't know — you find some [cases] where the obligations are active, but through mere — — "you said you'd give me an apple; you have to give it to me, you know? It doesn't matter that I didn't give you the orange." It seems a bit bullying — a bit terrorist bullying [laughter] like that. You know why it's not enforceable? Because you'll be the aggressor if you punish the other for not giving it to you, even if you didn't give him [anything] — — you'll initiate the aggression. — Well, why? Because no. — Because until now it was all words. "We wrote it like that; we — " — Aha. — We had fun. — Well yes, with an obligation. — There was no aggression up to then. And you start with the aggression, sir. Okay. No, no apple means nothing. — Well no, there is an obligation. The problem — no. The problem would be [laughter] the following,

Costel: why start with one or the other? That's it. That's it. Who moves first? — That's it. You're in a dilemma. The reason it's not enforceable, yes, is that enforcing

[0:39:58] means you extract by force the property or the object that must be exchanged from — always from the other one. The other one, who didn't give. But if both of them are ones who didn't give — — well, and the other can do it. — Well, if both are ones who didn't give. Yes. The one you start with — for the one you start with, you commit an aggression. — Well, why do you commit an aggression? — Because — — Because he didn't give. — It's — — because the two of them are in a relation of equality. Neither gave. Yes. They're in a relation of equality. If you start with the first — — to make the second one whole — yes, it's an aggression, because the second didn't give to the first either. — As a judge, as a judge you can solve this one, in which practically you don't start with one of them. — He has to give me the apple — — on what basis?

[0:41:00] — On the basis of the promise. — Well, and you have to give him the pear on the basis of the promise. [laughter] That's what I'm trying to say. You're both in — you're both in the same error toward each other. — Yes, Vali. And the judge says, "Come and both do this thing at the same time in front of me," and you actually end up at T0. — Well, that, [laughter] you know how? That's not — that's what I'm trying to say: that the system you propose is either equivalent or unenforceable. — No. Yes. Why isn't the obligation legitimate? You know why it isn't legitimate? Well, why isn't it — why would it be legitimate? — What does it mean for it to be legitimate? — Why legit— why would it be legitimate? — Well, he said he'd give me, and he should give me [laughter] — — under the conditions in which — wait, he said he'd give you, and he should give you, under the conditions in which — because you can't cut it in half — — because that suits you — — under the conditions in which you give him too. — So it would be two of these gifts. — Come on, gifts are even less enforceable.

[0:42:04] Gifts, in the sense that he — — and anyway you have to beware of gifts. — Ah, you say it's another contract — it's not "I give you conditionally"; we don't have an exchange, a contract; we have two — — gifts, let's say — — he bound himself, but then you could take it, you know? Uh, again, why would you start — why would you start with one and not the other? Plus, gifts in libertarian theory aren't enforceable. — They're not — — they're not enforceable precisely — precisely because — precisely for that reason gifts aren't enforceable: if I've — well, well — — Well, if I've given, of course I don't take it back. What I mean when I say they're [not] enforceable is forcing the giving, not the taking back. But you — — the giving isn't enforceable. If I say, "I'll give you 50 euros," and you say "what for?", I say "just because I want to give you 50 euros,"

[0:43:08] and three days later: "man, you said you'd give me 50 euros." Yes, but I'll give them — I haven't changed my mind. But this thing isn't enforceable, because I haven't created — — a transfer; I haven't created an obligation just by saying it. — It seems to you that throughout this chapter Kinsella explains [clears throat] how — — how a communication should look in order for an exchange of ideas between two people to qualify as a contract versus just words. I mean, what should you, in your example with the 50 euros, do additionally for it to rise to the level of a contract? So — — I'd — yes. Okay. We don't know — — what about that one. You can't do anything. For me to give them to you — — only at the moment I've given them to you. It's passed to the level of — — Well, and on what basis can he keep them? — What do you mean? — No, no, no. Wait, wait, wait, wait. To compare it to the wedding and whatnot. So you have situations like that in which today, if someone relied on what you said — took a loan, I don't know, asked on credit,

[0:44:12] "never mind, I'll give 50 euros," something. — Right. But that's not in libertarianism. — Not in libertarianism. Right. — You can think of this too, in which you can take — you know, to go — no, it's not a more consistent one in which you can take back. — Well, it's not — nothing binds you. Nothing binds

you. — To take them back? — Yes. Yes. — 50 — — what? Rothbard's position in *The Ethics of Liberty*, or where is it from, that you're the only one giving. Well, the only — well, the only reason — — the only reason I'd take them back — — would be if these 50 euros created an obligation that wasn't fulfilled. That's the only reason I could take them. — No, we don't have that. That's just a donation, because that one would be an exchange. — Well, then, if it's a donation, I've transferred the property. They're no longer mine; I have no reason to take them back. [clears throat] — Vali, but what if — let me be brief. If, if I say — — the transfer, when it's made, the property is also transferred, if it isn't conditioned on something else. Wait — if I say, recorded and quoted, "in three days

[0:45:18] these 50 euros — " — right — — " — are yours," — — right — — "without any condition." — Right. — After three days pass, — — right, — — are these, in my possession, — — yes — — yours? — No. — Why? — Because no obligation was created to transfer them. — Well, if I said — it seems it's only — it seems it's only a moral thing — — because no — it doesn't seem to me it's only a moral thing. No obligation was created to transfer them. — I created — I created the obligation for myself. — That's right. Implicitly. I'm asking whether it's done. — No — and let me explain why a property transfer is needed for obligations to be activated. Because any other standard — — then imposes on you, on words, — — a much higher standard than we'd have, which would make certain types of communication impossible. — You'd have to be careful what — — I could no longer joke,

[0:46:21] for example. I could no longer lie. Ah, everyone would — I could no longer — because words create obligations. — Oh yes, Costel, because you can only do it through words. — Your defense would be that if words are so important, — — then only through words could you make threats. — Well, exactly. — And then it's tricky — — not to mention that I say, "I'll kill you — in three days." — "In three days I'll kill you." — Or "I'll give you 50 euros." Is it imminent or not imminent? — So when you spoke, you didn't transfer them, right? — There's no obligation, but when you gave them — — when I gave them, the obligation was activated — the property right, if it's a unilateral thing — or the obligation of return was activated. — That's exactly the idea. — No — when you gave them, they became his property. — Yes, yes, yes, yes. — You forbade yourself from taking them anymore. — Well yes. — No. — Ah, — — if it's a unilateral thing. — He's the owner. [clears throat] You're obliged not to take, so to speak. You can't [laughter] take

[0:47:22] — with — wait, his. — Balanced, well said. Yes, — — but with such a promise you didn't give him anything. Only — — you promised. — Exactly. Anyway, it seems to me Kinsella rightly wants to clarify these things — between free speech, mere words, and just a promise. And he wants to show exactly that it's important for it to be clear — which is why I talked about communication — for it to be clear whether property titles are transferred; and I liked that he didn't always seek to bring in — because it would have been an easy solution to bring in a third party to initial whatever. — Look at this one, with the expectation, the promise being enforceable because I'd built up expectations that you'd give me that money. Well yes, but we — we say exactly — we say exactly that it's not valid from the libertarian point of view. Good. Let's talk about the theory of Rothbard and Williamson Evers. — We've talked about —

[0:48:25] — the title-transfer theory. We talked about it when we discussed, now, when — — *For a New Liberty*, and here we've referred to it too. — And what did Rothbard say, and what does Kinsella want to nuance for me? Well, Rothbard — — the second one is harder. — The second, yes, is somewhat harder. Rothbard says that a contract is one or more transfers of property title — property being alienable, and usually we're talking about property titles exchanged one for the other. A contract shouldn't have anything to do with promises. Promises at most could be used as evidence — — yes, — — of these title exchanges. — Okay. So Rothbard's position, then, is: if I give you 100 and you, conditionally,

[0:49:32] say that after a certain time — exactly one year, whatever — you'll give me back 110. And Rothbard's position was, if I understood correctly: the moment you don't give it to him, you're a thief. — If he gave you [the money]. — You have to give the money back, and because you don't give it back, see, Lord, you're a thief. Because the title to that money is yours. — No, Rothbard's position is a bit — a bit different. So the idea is this. When you say, for example — let's take this classic case Kinsella gives here. I give you 10 dollars. Yes. — Hm. — And if my horse that I bet on wins, or if Steaua beats some team from Estonia or whoever, — — right, you give me back 100 dollars.

[0:50:35] — Okay. — Yes. Okay. I transferred to you, and we agreed that these are — these are the terms. Yes. — Good. I transferred to you [10] dollars. Steaua beats them. Yes. And [laughter] the conditions I generated in the contract have arisen for you to give me the 100 dollars. Now if you — — I sense that here would be the key. If you don't give them to me — so the idea is this. When I transferred to you the first title, yes, I transferred to you ownership of the 10 dollars. Here Kinsella has an argument a bit different from Rothbard's. Yes, he says the following: — that you bound yourself to transfer to me, in the future, the property right over 100 dollars of yours if Steaua beats them. — Hm. — The moment Steaua beat them — — Hm.

[0:51:38] — Yes — the conditions arose and you transferred to me the property title. Now these 100 dollars — — are mine. Yes. Hm. — These 100 dollars are mine, — — but you're holding them. Yes, — — yes. Yes. — And you have to — and you have to give them to me. — You have to stop holding them. — And you have to give them to me because they're mine. Does — does the condition of trespass appear? — Yes. — Yes. — Good. So that would be one option. Theft. Implicit theft. Hm. — Because they were transferred. You created the conditions at the moment they were determined — — or were transferred. Yes. — Good. One of the places where Rothbard, though, says no and tries to solve it differently is — what do we do? And here Kinsella, still — it wasn't clear to me throughout the presentation of title transfers — it wasn't clear to me where Kinsella wants to go with the fact that for a conditional transfer in

[0:52:43] the future, that property must also exist, so that — — and it's his creativity, but — — you realize how it sounds. It sounds like incitement, you know? It's — — just as disappointing as — — ex— and it wasn't clear to me where he wanted to go with it. — Plus nobody would sign a contract like that: "I'll give you if I have it," you know? — And only at the end did I get to the place where — because actually it seems Rothbard says the same thing — — and he says that if you don't have 100 dollars — — in your name, yes — — yes, because you don't have them. You're — — okay — — poor. I gave you those 10 dollars before Steaua played. You bought a shawarma; the money ran out. — You didn't play it. Yes. Mistake. — No, you didn't have it beforehand. And you took on, yes, "I'll give you 100 dollars," knowing you don't have them. And Rothbard says: "You can't — " he says: "We can't put you in debtors' prison, because that would represent slavery." — Therefore — — he says it's disproportionate. Therefore, yes, he too — or he actually says it's

[0:53:47] disproportionate to your theft. But more than that, he has a problem, because you can't transfer to me the property right over property you don't have. Yes. So I — so as I said, I said those 100 dollars of yours are mine. Yes, but if you don't have 100 dollars — — What are we talking about? — Exactly — [laughter] what are we talking about? And here a problem appears, and Rothbard solves it as follows. He says: if you don't have those 100 dollars at that moment, it means the 10 dollars you took from me you took by fraud. Okay. But we're not really — — because they don't exist. Oh yes. And then the theft Rothbard tries to punish isn't 100 dollars, — — it's 10 dollars — — the money I gave you, [obtained] by fraud.

[0:54:50] — It seems like a lawyerly loophole. No, no, no, no — [laughter] it doesn't seem so to me. It's a very correct discussion about the way — if you want to remain, how shall I put it, remain — — consistent. Yes. Thank you, Costel. If you want to remain consistent, you have to concern yourself with what happens to those property rights. — Yes. And what actually is fraud? Fraud is implicit theft. — And why is it implicit theft? Because the terms on which the exchange was made don't exist. — So that's what Rothbard says — — and you agree with him. — Yes. — Roughly. And then what does Kinsella say? Kinsella says — Kinsella says another thing I'd agree with — — with that one too — — because — and I'd agree because I'd [laughter] — and the reason I'd agree — — is that I exclude from this point of view, from contract theory, the fact that money is fungible. That's the thing. The fact that money — the fact that money is fungible, it seems to me,

[0:55:56] — cuts away this demand that you have that actual money, because you certainly have other goods that can be converted into money. — Yes. Certainly — well, usually — — no. But it resembles that discussion with x and 2x and 7x. You know how much that guy damaged me? How much does he have to give me — those 10 he took from me by fraud, or those 100 promised? — Those 20, or those 100. Yes, — — you understand what — — twice, or 10. Yes. — Yes. And I'd tend to say it's clear, for example, that if the contract is made for a specific, non-fungible object, — — yes, — — then it's a matter of fraud and Rothbard's solution applies. If the contract is made for an object that's fungible — for example, 1 kg of oranges. — Okay,

[0:56:57] — for example, a kilo of oranges — I don't care that you don't own 1 kg of oranges. Your business is to give me 1 kg of oranges. I mean, I'd say you can obtain this kilo of oranges at any time, and your business is to obtain it. — And what happens with Kinsella? He's a skilled man. And practically we ask simple questions, and he answers us in the book: "It depends. Well, you'll see. It depends where we start from, depends what customs we're in, depends what the parties' preferences are," and so on. — And in a way he's actually right, that you can't — we, we'd like it to be a clear thing, man, that's it. But always, I'd say, fundamentally, what matters are the basic agreements between people — sir, whose things are, how we allocate them — because otherwise you have conflict, and goodbye. The understanding: make him give me 100. The understanding matters.

[0:58:04] — Yes. And I'd say the answer is yes, because that hundred is fungible — — and so he has to give you 100. And I'd say that you, when you can — you can commit yourself — — at a later moment in time — it has something to do with — okay, uh, if it's — let's think, maybe I'm wrong. — Let's think a bit. [sigh] — You commit that at a future moment in time you'll give me a kilo of oranges. Yes. You've never owned 1 kg of oranges in your life. You have no interest in going to buy them. You have money, but you don't have the kilo of oranges. — And you don't care that you don't have the kilo of oranges. — Yes. And I gave you [something] because — I don't know, I had — what's it called in Romanian, in sailors — scurvy. — Right. — Right. I had scurvy. I needed those oranges. I gave you — what — a ring, yes, let's say. Okay. And you said: "Yes, when we arrive I'll give you the kilo of

[0:59:10] — when we arrive I'll give you the kilo of oranges, so you can solve your problems." Yes, — — by the time we arrive you've died. — Okay. You didn't have — I know [laughter] — — let's leave it, yes? You never had the intention of acquiring a kilo of oranges. Yes. Therefore, on Rothbard's theory, you'd say you only have to give me back the ring, and possibly twice — — one more time the value. — One more time the value, yes, which — — is subjective, blah blah. Well, let's say he values it somehow. You — you — and here he says — — here he says Rothbard contradicts himself a bit. And let me say why. — Because theoretically the punishment for fraud, for this fraud we're talking about, is to give me two rings — mine and an identical one — back — — and that's impossible. — It doesn't matter, identical. No, — — maybe the second ring isn't [identical] either. — No, no, [laughter] it doesn't have to have the same history, you know? But exactly: how can you be required to give me that

[1:00:14] second ring if you never had it, — — you know? And here this — — you'd more likely find the oranges, you know? — That, it seems to me — that, it seems to me, is the place where, if we want to catch Rothbard, we can catch him — — because overall he again becomes inconsistent. If you can't transfer a property right in the future conditioned on — given that you never had oranges, — — yes, how can you transfer, conditioned on breaching the contract, a second ring that you never had, you know? And then I'd say the way we complete this is that you can transfer property rights over things that are fungible, even if you've never owned them, — — because you're transferring a right that you have to acquire. We have nowhere to — — And what if that person wants only oranges?

[1:01:18] — What — — the injured party? Well, that's what I'm saying: the injured party has the right to a kilo of oranges — respectively two — from the moment he didn't — he has to put on — — he didn't transact it, and naturally there are no more oranges, or how — — if there are no more oranges, that's another — that's another discussion. — Well, and who's to blame then? The agency, since it isn't — — nature, that the oranges disappeared. Force of nature. Force majeure. — If there are no more oranges, for example — — nature, — — if there are no more oranges, then he has to give back two rings. — Well yes, but he doesn't want that. — Who? — The one who gave the ring — — the injured party. Reality also squeezes you. Not oranges. Well, the injured party — as long as you've said there are no more oranges in this world — has no choice. — Yes. So he doesn't want, doesn't want. — They existed and they disappeared. Well, let's complicate it. — Well yes, regardless of whether they existed — the problem is whether there are still oranges in the world

[1:02:22] at the moment he's supposed to receive them. — No — — if there aren't any more, there aren't any more. Plus [laughter] — go on, go on. — We go back, and he also says: in the case where that person was supposed to do something — let's say sing. — Mhm. You can't oblige him. — You can't oblige him, because he'll sing — — badly — — terribly. — Yes, — — better a sum of money — — yes, — — as compensation. — And if he doesn't accept — — and you buy yourself a good singer, or — — if the victim doesn't accept, that's it. If he doesn't accept — the first times it'll happen — the first times it'll happen that he doesn't accept. There'll be a — we keep the scenario. "I don't accept." Not that we convince him. No, no, no convincing. The next contracts made between others, or the same people — it doesn't matter — will have a clause that solves this. Well, don't agencies avoid [cases] for 12 years? "Man, I can't defend you. I can't give." — No, but the answer is this. If the victim doesn't accept being given a sum of money in

[1:03:26] place of the oranges, — — for example, that's his problem. In the end, I can go and make use, for example, of a debt-settlement company. Yes, it can come to this guy, on the basis of the protection agreement, take anything from his house and sell it for [the price of] a kilo of oranges — — for the money with which it then buys the oranges to extinguish the debt. — There weren't any more. That was the problem. — Well, if there weren't any more, we're talking about rings. If there weren't any more. — Man, he doesn't want rings either. He doesn't want anything. — It's irrelevant whether he wants rings or not. Oranges — he has no way of receiving them. But he wants them. What do we do? We [laughter] have nothing to do. — Well no, because he [wants] that. — The solution is that there's nothing to be done. — Again, as long as the contract — see, you can get — I mean, if you get very heated and say "no, I want oranges, I'm not interested in

[1:04:30] anything else," — — the judge, the judge can undo your contract and give you back the ring, and goodbye. And give you one, not two, because he annuls the contract, because it can't be executed. Plus, if you get angry your blood pressure might go up. — So it's like that one with the square circle. — I mean, the one with the square circle, yes? — Which is something Rothbard, in the title-transfer theory, says: that these things not only have to — — not only must they exist as property, — — yes, but they must also be possible, and also be alienable. — Hm. A good point. So you don't give them, you don't give

anymore — — I don't leave anymore. [laughter] What else? But that's what I'd say is something to learn from both of them. Kinsella says that with fungibles — he's talking about money — but I'd say you can extend it to

[1:05:35] any fungibles. Kinsella says that with fungibles the contract itself — the default scheme part — — would be that I transfer to you, at moment X, 100 dollars — — or, if I don't transfer to you at moment X 100 dollars because I don't own 100 dollars, I transfer to you at moment X + 1, whenever in the future, a sum equal to 100 dollars plus the interest between those moments. — Well, and what if I'll never have them? — And if you'll never have them, Kinsella says: bad luck. But — — but the idea is that if you [laughter] — if you'll never have them, well, from the start — — you'll starve to death. Better tell him from the start. If — — you tell him, "you give me 100 and I'll call you." — Well yes, but the contract sounds — look, that's what irritates you, you know? With Kinsella: "I'll give you if I have it," you know? — [laughter] — for you to put in a contract, you know: "You give me the house and I'll give you the money for it from

[1:06:38] there." — Yes, — — yes, [laughter] but — but that's — — and he'll say, "go with Kinsella." [laughter] — But this seems not to be Kinsella's invention. It seems only that Kinsella is someone who put the emphasis on it, because implicitly in Rothbard — — Hm — — inspired by this with impossible objects, because here too we had impossible objects, didn't we? I mean, it wasn't — ah, he didn't have the money. The money thing doesn't sound like that to me, anyway — — anyway, it's not just impossible — I mean, it's not impossible, it's just unreal. [laughter] — Wait a moment. I think — — it can be impossible — — a defense in a case, — — well, it's not as impossible as the classic impossibilities. You know? Yes, — — the defense for Kinsella would be — again, maybe I understood wrongly — that he said you can oblige the object to be given when it's unique, non-fungible, whatever, and that's why — and I think for those he said

[1:07:41] it must exist in order to be able to — no — Rothbard says it in general, for anything — Rothbard in general — but it seemed to me that the object — if you say "I'll make a chair," and then the chair — you gave me the money on whatever conditions — then the chair is yours. If I've made it, you can tell him, "well, give him the chair." If he hasn't made it, you can only ask him for the equivalent money for it. — But Vali, fungibility doesn't help me if the guy doesn't have — okay, it helps you a bit, but if the guy never has money either — — you have to be careful. Well, but if the guy [laughter] — if the guy — well, that's what I'm trying to say, Costel: if the guy never has money either, it'll be a very short pursuit, because in 40 days he'll starve to death, or however long he needs. — When he comes, you take it from his card — — the card — is it libertarian, or do you put him in prison, and well, he has food, and you take that food from his tray. — From in front [laughter] of him. Yes. That seemed to me a little trick here.

[1:08:44] So he didn't say you take him and put him to work; rather it seemed like a loophole of a ruse — "never mind, I'll give you more." You leave him — you leave him at the subsistence limit. Ah, well, this [laughter] — — yes, but for — — communist Romania — — for a bet he'll live at the subsistence limit his whole life. You know? I don't know if it's a tradeoff that — — depends how you define subsistence. If it's a Scandinavian prison, — — well, I didn't say subsistence in these terms, where I take anything from you. Not the argument — you know, that you can't take everything because you'd kill him, you know? And you react disproportionately. — Yes. So now they have — I don't take anything from him; I just don't give him — — and I don't let him take when actually he has debts, but I don't take from him. — Oh, they — because he can still receive from others. — No — the contract executes itself. It's an abstract thing. I don't take from him — — it executes itself. Yes, — — well, that's a verbal loophole.

[1:09:47] Yes, sorry. Fine. What else? What else? — He also mentions the body thing, without going into it much and without stating his position, for example, you know? He doesn't declare it. Oh, he does say it at the end, but to me it seems to me, look — — the transfer of property titles over homesteaded resources. So to me it seems this is painful here — — the abandonment thing — whereas with Rothbard it's painful in the way he gets to justify it. I mean, it seems to me okay: we have a way of taking into ownership resources that are in the state of nature. — Yes. — And from there all property rights apply to us. Property rights presuppose exclusive use, and you don't have to go to him. He says he makes the transfer — — he makes the property transfer. He says

[1:10:50] this: that you have the right to abandon your property. — Why do you have the right to abandon? Because it's the opposite activity to appropriation, — — and if you have the right to appropriate, then you also have the right to abandon. Okay, let's say. And then abandonment — abandonment is actually the cutting of the right. If property is the right to exclusive use, which translates equivalently into the right to block everyone from using your property, abandonment means you renounce the right to block everyone — effectively everyone — from using your property, which is no longer your property. And then, if this is permitted to you, a subset of this action is also permitted to you, in which you block everyone except Alexandru — — and that would be equivalent to transferring the property from me to Alexandru. I'd say it's not —

[1:11:54] how shall I put it — I'd say it's a rather far-fetched explanation. — To take his side: you think technically that in law these logical clicks matter a lot, you know? You have to do the succession first and then the partition. You can't do them at the same time, as an example — — right. — And, and here too. Practically, if you want to split the match into three parts: when I transfer a resource to you, practically, what's in the mechanism of the transfer? No — let's say something like a kind of covering, of some kind, I don't know, an energy bubble over a resource; and so that you can put your energy shield over the resource, I have to switch mine off for a fraction of a second.

[1:12:59] That would be the abandonment, as I understood it from Kinsella: "Sir, in order to transfer something to you, practically I, for zero time, technically abandon it, and then you take it. Only I controlled the direction of the future appropriation." But indeed it's a bit far-[laughter]fetched. — Yes, I don't know. I mean, I'd say a much simpler and more normal answer is that the property right is the right of exclusive use, and exclusive use has no limit on it. Yes, I can use it to wash my head with it, even if it's coal; to shove it up my backside, even if it's coal. I can do whatever I want with that coal I've appropriated, including setting fire to it to warm myself. Yes. And after I've set fire to it, it no longer exists. The coal, my coal, which was mine. Yes. Likewise I can throw it out into the world and

[1:14:05] say I've abandoned it, and say I'm not interested. You know? And here it's interesting that if I've abandoned it and it ends up on someone else's property, I'll discover I haven't abandoned it yet. Because to abandon it you have to leave it in the state of nature somewhere. But — — yes, — — but given this plenitude of rights in which I can do what I want with my coal, I can also say: it's yours. — Hm. — It's over. We don't need to go through abandonment, through all sorts of things. I mean, it follows directly from property rights. — For example, he gave an example in which someone transferred a good directly to another — I don't remember what it was, a slice of something — and threw it directly to him. Instead of throwing it on the ground for anyone, he threw it directly to someone, and he said: "While that thing flies, it's abandoned, but because it lands precisely with someone, that person appropriates it." And this oddity bothered me a bit: well, and if I catch it in mid-flight, then do

[1:15:09] I have it? He's not right. He's not right. No — it's still his, even when it flies it's still his. I mean, I mean practically this transfer should be made through a form of contract between those parties, who bind themselves that the action happen in a certain way. — No — I think it's his until it reaches the

other, you know? It's his while it floats through the air; it's still his. Yes, that's what he says. Yes, exactly that's what he says, and — — that's what you were thinking, in a state of trance, you don't know. — Yes, yes, — — yes. So here it simply seemed to me he threw himself too far, in order to — — Something that happens, to justify — — which also happens in current justice. For example, you can't simply receive a donation. You have to accept the donation too. — Because in libertarianism too — — and yes, that's exactly what I wanted to say: you can't say "I transfer these to you"; the other side has to accept them too. Even — well, all of them have to be with consent and with discernment. — Well yes, because otherwise it happens — — here I'm — because I'll give you two

[1:16:13] — I'll give you two gifts: a bullet between the eyes — — or you throw your garbage into someone's yard, you know? — Yes. Look, look, I'm donating you my garbage. Yes, — — it's transferred. — Yes, one man's garbage is another man's gold. Only that guy didn't believe [laughter] that — — he didn't find the gold, right? — Yes. So this part is unproblematic, that it must exist then. — Mog tried. It was — it was tried. — Fine, you say you abandoned it. [laughter] Good. But actually what he's trying to say with abandonment itself is because he wants to — so why does he try to tie abandonment to transfer? Because he gets to the problem of the body, which again is viewed as property, and somehow he says that maybe this is the most — look how many discussions — speaking of what we've talked about in past episodes — look how many discussions we have to have

[1:17:17] because the body is in — — would be — — because the body would be property. Yes. And Rothbard said that the body, for example, is inalienable. Therefore you can't transfer it. Here somehow — — here somehow Kinsella, in the prelude about the body as property, says the body was never — no, the body was never appropriated. Therefore you can't abandon it. — I mean, in order to — and because you can't abandon it, — — you can't transfer it either. If we take the steps that — — it's already yours from — — which he — — you are [it]. — Yes. Well, what I liked — yes, that's exactly what I liked too — that if you could abandon it, practically

[1:18:19] it would no longer function. — Here's a criticism that — — and it's no longer of use to anyone. — A criticism he makes of Rothbard is okay. What was Rothbard's [argument]? That it's not physically possible. It's not physically possible. You'd have to — the will — the will — — for me to control — — Mhm — — Vali's action as if I were him. It's — his will not being alienable, he can't transfer to me the property right over the body; and Kinsella's criticism would be: okay, but you can control his actions, though indirectly — and with a cat you can't — — Yes, all — — you act with its will, but that doesn't mean it — — To me Rothbard seems to set too strong a condition for this. So for us to have — well, that would eliminate all employment contracts, for example. It's clear I don't act with my will directly on the worker's action; I act indirectly, through his will. I tell him, "make a screw." It passes through his mind, and the employment contract isn't — — Yes, but here, first of all, the employment contract doesn't claim to be slavery, and second,

[1:19:23] the employment contract — the way even Kinsella says in this chapter that it works — is that the worker first generates the action that generates the obligation to be paid. To me it seems that — — within the employment contract — I mean, it's a title transfer in the sense that you ask for a service, for something to happen, some action — I don't know, sitting at that desk, talking to the public, whatever — — and after you've done these things, you've generated the obligation to be paid. — Not before. — Yes, yes, yes. Correct, sorry. — Well no, the inalienability argument: even there the will isn't physically alienable in the worker, but you have to tell him it's not valid because it's not physically possible to act directly on him. — That's what I said. — How does he answer this objection? It seems to me Kinsella answers it. He says you don't need direct control; indirect is enough. The fact that the other aligns his action to my will is enough. — It seems to me his solution — no,

[1:20:27] — wait two, two seconds, because it's not the same thing we're talking about here. It's not the same thing. One is a — — to me too it seems it's not the same thing. I raised objections to physical inclusiveness and said it's not needed — — and that Rothbard overdoes it. Hm. — Okay. How does he answer this objection? It seems to me Kinsella solves — — so I don't need a boss to directly control his actions. — It seems to me Kinsella solves it — he has to directly control the acti— — by way of consequence. By way of consequence. You know? — I don't understand what "by way of consequence" means. I applied that in the case — so the impossibility in — — voluntary slavery — I apply it to that contract too. — Well, but it's not impossible. That's exactly what I'm trying to say: the way the contract happens is that if he doesn't do it, you don't pay him — — or, well, — — those are the terms of that contract; the terms aren't that you can beat him until he does it. That's why I say it's completely different from the slavery contract, including in

[1:21:29] the understanding that Block goes on to preach. But I didn't understand anything. — Yes, it doesn't matter. Leave it for next time. — We're not leaving it for next time. — So this one tells you some very strong clauses. You know — — who? — Rothbard. — What are the clauses? — That the will isn't alienable. And I say you don't need such a thing for exchanges, you know? So if you took his clause seriously, it would block any type of labor exchange. — No, [laughter] — — oh yes, oh yes. He says you can't, because you don't directly control his will — well — — the will is inalienable. You know — — in what case? Against the slavery contract. — So I say it differently, — — which doesn't presuppose a specific action within the contract. You see? So you can say — if you want to make the following contract, for example, which says: "I bind myself — in order to become a slave to Costel, I

[1:22:32] bind myself to Costel from today until the end of my life. — Yes? And if I don't do this, may God strike me, or Costel, whichever happens to be around." Yes? Okay. This, this contract — — isn't enforceable — — because you don't transfer anything to me to make it enforceable, and I don't transfer anything to you to create any obligation, because you have no obligation. — I transfer the money — — for this thing. What — what money? What money? Buys. — We talked about money. — How? You didn't talk about money; but implicitly, in the discussion — in the discussion of a slavery contract, you commit yourself — wait, wait, wait, wait. You commit to doing what Costel says, and in part of the contract it wasn't said — that they're not pleasant — that we specify them, — — you see? Not that that one makes screws and that one does anything. That was the difference. In libertarianism, — — the way an employment contract

[1:23:35] works is that I create for you, through behavior, the obligation to transfer money to me. You don't transfer the money to me beforehand. — Oh yes. — Why? Why? — Ah — no, he didn't say. That's the way Kinsella explains it here. Well, somehow that's also the objec— — and the reason I don't transfer the money beforehand is what we've discussed the whole chapter: that I can't create an obligation of performance. — Okay, you do it the other way round. — He transfers the money, and — — Well, and if I do it the other way round, then we're not in — your position is — oh no, you're in disagreement, because I'd agree with the contract; you wouldn't — how are you not in disagreement? Plus I'd also disagree when you give discrete things, when the exchange begins on the slave's side, let's say. You see? You've created obligations as transfers are made. "I've dug your vineyard" — — "you'll give me however much you had." So for everything you were going to give me 1 billion. Okay. "I dug your vineyard today; you have to give me." — Well, from this point, such a contract — — wouldn't be a slavery contract on the one hand, but an employment contract.

[1:24:40] We're serious people. Voluntary slavery isn't about slavery. We know that. We don't need to keep specifying it all the time, you know? It's called voluntary slavery only because that's what the discussion has been called in the literature since Rousseau. You know it's not actually slavery. Well, and then — — I can't sell myself — that has no — — and then what actually is a — — you give me 1 million

dollars at the start, I give it to my son so he can study. — Yes. — And I sell myself into slavery. So he's already given me the money. — Right. — Voluntary slavery exists. — It's not as if it is. So regardless of what I say I'm going to do, — — we use other terms: selling the mind, selling the body, selling — — That's what I'm trying to say. It's regardless — — No, but even Rothbard — so the great Rothbard, the great genius — "wait, it's not slavery." Okay, we knew that. And that's not the discussion, you know? — Yes, but maybe for — — if we're talking about the quarrel — because that's what people called it, you know? Okay, we won't use "voluntary slavery" anymore, you know? I call it that so that it's recognized — — so say people who know about

[1:25:42] this subject. Look, we talk about the quarrel over universals, you know? And you'd say, "well, wait a moment, it wasn't about the universe." Okay, that's what the quarrel was called, you know? Likewise here, the voluntary slavery argument. — Well, if you want a solution. It seems to me that any contract like this, however harsh the clauses, is like singing at the wedding. Why? Because the individual — since that's what we work with, that's what we discuss in libertarianism, sir: the individual must decide, and since the individual is the body, that would be the inalienability — practically, whether or not it's written in the contract, he can change his mind and owe compensation. So you gave me 1 million, I write that forever you can do what you want with my body, and then I, because I'm an

[1:26:48] individual acting in this game, this set of rules we start from, can change my mind. Why? Because it's in the premises of the game. I can always change my mind, and I'm responsible for the consequences of changing my mind. — No, I accept this changing your mind, but you write it into the contract, you know? Not that I can change my mind — this. If this is a thing of f— it needs a contracting, you know? Otherwise there's no contract anymore. — I think I've said this before. I think each time — yes, but I think this is just what I think. It doesn't mean it's so, or that I'm right, but it seems to me that if you have defective contracts, which seem to lack something — and why do they lack it? Because conflicts arise. It seems to me you'll have few contracts of this type, and then people will get to what you say, Costel — to the ethical discussion. The ethical discussion isn't — because look, when we discuss the problem of voluntary slavery — well, of the transfer — — of the body and mind to someone else, the question also arises: "sir, what's a contract?" — Well, that's it — it's not about transferring the body and mind to something else; rather,

[1:27:51] you always transfer some rights — — to persons, and I [know] it's about a transfer of rights. Probably I knew that too, you know? No — if Vali — Vali wants to make the distinction between transferring certain rights openly versus abstract obligations. You see? So the fact that you're allowed — that I let you, give you permission to — I mean, I'd say the only contract we can't make is the one in which I let you kill me, for that reason that you — — change your mind up to the last second — — that I'm allowed to change my mind up to the last second. Yes, but the fact that I give you the right to beat me all day long — — Yes. That's a contract that's valid, isn't it? Exactly. It can be made between a sadist and a masochist. Yes, — — without any problem. — Maybe he kills me, man. No. — Yes, but likewise — but even this contract, if you, for example,

[1:28:56] pay for this right in perpetuity — — what's the argument that it's vague? — Sorry? — That they're general terms, that you don't specify. — So you brought two arguments: one, that it's vague, and the other — wait, there's more — you make the one that he didn't — and it resembles Kinsella, that he didn't get to transfer. I told you, and then it's valid — well, what does valid mean then? Let's take it — — a valid contract — — yes — — well, here — — obligations plus transfer, promises plus transfer, and what does it mean further — what's the next point — what do we do with it? — We have a valid contract with obligations created. — You gave me 1 billion dollars; I do whatever you say. — Mediator. — Look, if you want to — — What are you mediating? — Between you two, and between the positions

in the chapter. Exactly. It seems to me these are: from here, either something was really transferred, or some abstract rights are created, obligations. Yes. And you say obligations should be made.

[1:29:58] — Well no, but that's — I make obligations. I make obligations. What — to hell with it, you know? We make, to infinity: I do this, I do that, I do that. But anyway it's understood. Don't tell me a man doesn't understand this — the man in the street. "Sir, I'll do whatever you want." If you like, also put the thing "within the limits of physical possibility," you know? Let's eliminate that too. — Perfect. Right. Good. And the problem — the problem arises, yes, the moment I change my mind, yes, and say "I won't do what you want anymore." And here the clauses in the contract that justify the exit come in. — And again we come back to the same thing. — Let me oppose what you're saying. — Every person is unique. So you're non-fungible. — You don't know which — a way of attack. One way of attack was this too, sir. — Fine, I won't say anymore that it was this too. Man, maybe that guy isn't healthy, and I think he's on — — the one with discernment. — But another way of attack is this: "well no, wait, it's not a contract, because it doesn't have exit clauses." Why? If he wants, what does it matter — human liberty? No. If

[1:31:01] he wants it without exit clauses, without changing his mind, without anything — well, and he changes his mind, — — you see? Well, it doesn't matter. The idea is that they bound themselves to — — Well — — those — but the money — the transfer was made by which he's obliged to perform. You know — — what are we talking about? — You say he's obliged — — and I told you it's valid. — We're talking exactly about the fact that you can't be obliged to perform. When this conflict appears — so you have a contract without an exit clause; that person changes his mind. What happens next? Let's say you get [laughter] to a judge. The details don't even matter — that you pursued him, that you brought him back, that slavery — doesn't matter. Let's say you get to a judge, and the idea — and the whole discussion here is — and it seems hard to me, it seems hard to settle. Exactly. What will the judge say? He'll say — — you have to pay compensation, or you're obliged to do it. — Yes. No, well, to me either of them is — — and the idea is: if the obligation is valid — because that's the discussion, you know? — it no longer matters what punishments he gives. — Well yes. And the whole, whole discussion in the contract — in the chapter, sorry — is that

[1:32:06] — it seems to me the chapter maintains that if no — — he doesn't say — — rights were transferred — it seems to me — it seems to me that he says that if no rights were transferred, then we can't talk about such obligations. It seems it's like a promise. — How are they not transferred? How are rights not transferred? Well, see, Lord, it wouldn't exist as a legitimate thing. — What wouldn't exist — what isn't — what isn't legitimate? What isn't legitimate? The transfer was made; therefore the obligation was activated. You know — — if the transfer was made? Yes — — well no, Vali, and in conditions of transfer he says he changed his mind, and changing his mind is enough. And I say: it's not at all enough. The obligation is still valid. You know how — — Is that the discussion? You know — — I told you, you have to have ticked all these boxes of the contract when the obligation is valid. I mean, the transfer was made. The transfer was made. Yes. That person gave 1 billion for the other to do anything — therefore that person has to do anything. What are we talking about? You know, and one way of attack — because indeed it can be this: I reject as invalid contracts without exit clauses — and I say: "No, this violates

[1:33:10] libertarianism, you know? In libertarianism we can contract whatever we want." — Well, unfortunately, then you end up at the judge again, and the judge gives something you don't agree with — one of the options. You say he's obliged to something, and the judge gives you something nasty. And the idea is that you end up in that situation where, if there's no agreement among several parties — well, either physically, or openly, or not openly — you'll have conflict at least between you and the judge, and you'll say, "man, this guy's an idiot." — The way we've — — and — but that's not the

discussion. The only discussion is whether the obligation is valid. — the way we've solved this before was as follows: — that these rights you're talking about aren't actually [alienable]; rather, as I said a long time ago, a theory: the right not to be killed springs from you constantly. I

[1:34:14] can't take it and say, "I've put a cork in it here. Take it — it's yours." — Yes, but that can be attacked, Vali. What does it mean? — Well yes, it's implicit in the quality of being human. It's implicit in the quality of being human. Then afterwards you make rights for anime. — But what's the — — if it's only this? — What's the application in our case? I precisely want to respect human rights, so to speak. — Well, therefore the contract by which I transfer these rights to you isn't valid, because those rights aren't transferable. That's it. That's the argument Rothbard arrives at. That's the argument he arrives at — up to him — he doesn't arrive at it. He starts from it. He postulates it. He doesn't arrive at it; he postulates it, inconsistently with the whole philosophy behind it. — On this optimistic note. Yes. — No. — Come on, we'll come back. We'll come back to it. — We'll — we'll certainly come back to this point which

[1:35:16] — So I don't think we'll go over it again except — to me the positions are clear. It doesn't seem to me we're doing anything but iterating. It seems to me Vali's position really is wrong, you know? Or Rothbard's. I mean, physical impossibilities have no relevance. I said it can also be applied to an employment contract. I can say, "well, wait, I don't control him. Action is an inalienable possibility. Therefore out with the contract." Yes. Okay. — Those are about the ways, but impossibility — what does a contract mean? — Those are about the ways, and I say no. No. And even Rothbard says, if I can't sell mine — you know — — next? — I can't sell mine. — Well yes. Yes. That's it. The way I said I've solved this is: we nicely take the premise that the body is yours and drop this duality, and then we have only peace and — — friendship. — Love in the universe. — And friendship is a form of love. [laughter] — Yes. The body isn't yours. Therefore you are it. You can't sell it.

[1:36:23] on this optimistic note — — for Costel Stăvărache, Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu, and we'll say goodbye until next time, and we invite you to continue the discussion in the comments if you feel like pulling to one side or the other. — Take one of the positions and argue forever. [laughter] — No — as Rothbard said, people specialize — his ... is under your foot. People specialize in the worst. So this guy specialized in this business of selling the body — I'm talking about Rothbard, you know?

Video 10 (#315): George Smith and Randy Barnett: Inalienability and Punishment (Chapter 10)

Original title: *#315 | The Legal Foundations of a Free Society - S. Kinsella - G. Smith & R. Barnett - Inalienable*

Length: 1:36:32

Link: https://www.youtube.com/watch?v=ABoT6EjSfZE

[0:00:00] Did you see? Yes, I tested them. They're all those. — The scandal with the health-care strike. Did you — — Is it a scandal, or is it simply just a strike? — Well, because of the strike there was a scandal. [laughter] — I mean, or — I mean, who's the guilty one? Who could be to blame? — You know who could be to blame? Those who created the public health-care system [laughter] to begin with. — Exactly. Very good. It works. Or is it straight? — Anyway, doesn't matter. A sc— — What can I help you with? — Look, — — I'll ask you to stand up so I can give you a glass — — like actually, actually Facebook — a glass? — You have tax. — Well, let's start that page so we can drop some elements from time to time. — The film's been selected. Let's — — maybe we raise it again to — — Facebook, uh, or whoever tells you this account was made with here and — — Facebook — — YouTube no —

[0:01:02] — and so YouTube — the competition between content made by people and content made by AI is fair competition, so to speak, you know — — well, it's good to know, if you listen to flamenco and whatnot. Wow, these really are the Gipsy Kings. — Yes. [laughter] And it seems to me — — or I don't see the differences, do I? — These Google people figure out people's preference. "Sir, there really are many people who prefer AI-made content." — Yes. Yes. — Compared to human. — I listened to music — — and flamenco got promoted. I listened and I liked how it sounded, you know? — Made — — a style of music he likes. — There are loads of things — — made. It seemed very funny. I said, "Ah, how cool!" And I listened. I listened. Man, and — — who are these guys? And when did you — — No, suddenly you heard — that's what happened to me. — You could hear that a human, at certain moments, would have done some spikes, some flourishes, something. It's a —

[0:02:04] — Yes, yes, yes. — It's something infant[ile]. — That's what the AI says too. So the AI — if you ask ChatGPT, it says the human one is superior, because it has things like that, you know? Man, it's subjectively superior for us. — It's reached ChatGPT's level. Now it's your turn to evolve further. — Yes. No, move a bit more that way. — Their father. — I asked it today something completely human like this, about a mirror to put on the table, whatever. — Mm — — and because it's read a billion articles. — That's the thing. Yes, — — exactly. But it said some of those things there, yes: "Tell me if you want such-and-such, so you don't sit hunched at — " And I wondered where this one comes from, with — — obviously from articles — — someone said, or in comments someone said it's not good because — — it's a question, you know —

[0:03:06] — you had the impression [clears throat] it's simply stupid — how could I do and — — also a fan in the room — you tell it what the room is like, whatever — — and then it says, "but look, first open that door; don't keep that door closed anymore," you know — — [laughter] — — because it heard from the microphone [laughter] how things are. Yes. — Look, I've added to my list: Portuguese trap, German trap, French trap. — So it sounds — sounds good — — in a big way, let's say. It sounds in a big way. — Where was it from — — Mexican? The trapper. — Ven Van Mendes. [clears throat] — What do I say? Do I say Chapter 10, or do I say "the end — we continue Chapter 9 and maybe move on to 10"? — I don't know. — Well, what — we have nothing left to do in 9. It's — — at 9:00. — At — — at ni— — at 9:00. Yes, we

have nothing left — let's do 10 from the start, since it continues with inalienability anyway, because I didn't — — Inalienability.

[0:04:11] — Come on. — [music] — If I told you that authority — [music] — Hello! Welcome to a new episode of În Doi. Today we continue Stephan Kinsella's book, *Legal Foundations

[0:05:14] of a Free Society*: Chapter 10, "Inalienability and Punishment: A Reply to George Smith." But before continuing, Mr. Vali Berceanu will tell us something. — Please share if you like what we talk about here and you want to annoy someone else. Give a like so the video gets a boost, because now it's also fighting AI-generated content in YouTube's algorithm. Subscribe if you want to get notifications when we put something else up here; click the notifications button too and select all of them. You can look in the description for various things we promote, namely the books from Sense — libertarian fiction books published by Sense of Self Publishing; the HydraFest event, which will be at

[0:06:17] the end of August; and our Telegram group, which we could promote too, where — where you can meet us and chat in real time. Also in the description you'll find a place where you can get Kinsella's book, which we've been discussing so far, and you'll find a crypto link and a Patreon link if you'd like to support our effort in some way other than with a like, and we thank those who have already done so. — [bell] — The problem of the inalienability of rights — — George Smith applies it to the case of the death penalty, saying we might kill an innocent in the case where he's not the one who committed a crime, let's say — — no — there are two — there are two things mixed up.

[0:07:22] It's not that — no, no, I mean, that's not why he objects. Smith asks a very cheeky but interesting question. — Vali's right too. Yes. He says — so the problem that through the death penalty you can kill an innocent — that's a problem inherent in the death penalty. It has nothing to do with rights — — and in any punishment. — Yes, — — but George's problem isn't stated like that. He says: "Sir, if you keep going on about rights being inalienable — some rights being inalienable — then if you can't sell them because they're inalienable, you shouldn't be able to lose them either." And then aren't we overbidding with the death penalty, if we see rights as inalienable? That's actually George Smith's argument — — and Mr. Kinsella says the question isn't posed like that, because he applies the same

[0:08:28] estoppel principle that Kinsella applies — DS — in libertarianism, and says: sir, if an aggressor took someone's life, then he can no longer defend himself by saying "you can't kill me, because I have the right to life, and I have this inalienable right," and [Kinsella] says: "Sir, you've lost this right, because when you killed him you didn't — you didn't invoke this characteristic of the right to life. Yes," — — yes, fair. You didn't respect it for that guy, so then — — then yes. [laughter] — And how could this one answer? Well, well, George, — — I haven't lost it either [laughter] — — Smith tries to answer. He says that he did at some point — he says the situation itself isn't studied enough. He tried to do a

[0:09:31] brainstorming with Randy Barnett, and they tried to use Locke's idea, which says that once you've killed, you put yourself outside society, and you can kill him because you can kill him in self-defense, since he endangers your life; and you can kill him because he's put himself outside society, and the murderer represents a threat to the others. — Well, but now he — — Yes, but he doesn't agree with this either in the end. [snore] — No, with Locke I was thinking: if you put him outside, he doesn't — does the right go with him, or — — Well no, because theoretically [laughter] he's no longer a human. I mean, Locke throws him outside — not outside society, he throws him outside the human species. He says it puts him at the same level as tigers, lions and bears. — You animal, you,

[0:10:36] — so it's like Kinsella: you lose through — you didn't alienate it. — Not in my alienation. — You've — he alienated it. — He sort of alienated himself. [laughter] Himself. Well no, he started it. Whom did he start? Eh, he shouldn't have reacted; he should have [died quietly]. [laughter] Good. —

Smith says: "Sir, — okay, I concede in the end, sir: I gave you a punch, you give me a punch, or things like that, because afterwards you still have access to an appeal, to a later trial — " — whereas life — — whereas with life. Yes. And [snore] then he says: let's think more about this aspect, because it might — — uh, yes, let's think more [laughter] [clears throat] — in a way it's good, sir: we question any proposition that appears in this sphere of libertarianism. Let's rethink it, let's tinker with it. Maybe, maybe we're not

[0:11:38] right. — To give the punishment without that alienation, I don't know. — Yes. And [laughter] he says — he doesn't think otherwise. — Let's think — maybe restitution. — Okay, you remain inalienable, but punished — string him up, you know? — Yes. [laughter] — And he says, for [clears throat] nasty deeds, yes, — instead of giving the death penalty, let's think only in restitutive terms. — Mhm. — Yes. Maybe we solve the problem that way and get rid of this problem, which might generate various — let's say — theoretical doubts, but also practical ones. Well, as was said earlier: condemning an innocent man to death. And Kinsella again doesn't agree, on the side of "sir, the victim — you don't impose on the victim restitutive, retributive, wait, let's think," or whatever. The victim didn't have anything to — let's say

[0:12:46] didn't get to ask the aggressor, "sir, let's see how we do it: you commit the aggression and then you pay him." Mm — — you put [him] in this state of victim. "Now I have the right to take anything from you," you know? Almost — — Gabi, he took the meaning of the term "inalienable" seriously. If it really is inalienable, yes, he's right, you know? — Hm. — Because it's not alienable — there's nothing you can do to it. — And what is this inalienable right? So the whole thing with the will. Unfortunately, — — I knew only this right, to sell yourself. I mean the right to — — Well yes, but you transfer your right over your body. Yes. When you — you say — — the right to life isn't ir— — if I want to kill myself, his position — — again. If you want to kill yourself, you'll discover you haven't transferred it to someone else. — Okay. But I've — — returned it to nature, or how? — No, but you haven't transferred it to someone else? Because the problem is you kill yourself. No, — — but you're not allowed to kill yourself either, since it's inalienable. — Well, if it's inalienable,

[0:13:49] — what does inalienable mean? That it stays with you. If you've disappeared, it's disappeared too — including all property rights disappear the moment you die. No — that you're not allowed to kill yourself. — It doesn't mean that too. — No, it doesn't mean that too. Where would it mean that from? — I don't know how these murders happen. If the right to life is inalienable, how can the murderer take it? — Well, he can't — — well, — — they — — he takes his life; he doesn't take his right. — So we have to recognize — well no, because here Costel asked the question correctly. He didn't say you can't kill yourself; he said you're not allowed to kill yourself. — I wanted to be — — Yes. Uh, so the problem remains in the normative domain, but inalienable means only [clears throat] that you can't produce a separation between it and you. Yes. You can't — even if you put it over there, it's still yours. You can't — that's inalienable. That's what it means: you can't transfer it. You can't change its master. — You can abandon it. Yes. — Yes. — Well yes. I say this would hit suicide. It wouldn't hit suicide. — No, it doesn't hit suicide, because you

[0:14:53] are still the master of your right to life, and you kill yourself. It's in — what's it called — in your prerogatives as owner over this right. Although the position I'll fall back on at the end is that there's no property here. Yes. — Alien— "alien" was foreign. You can't make foreign. — Yes. You say that if you kill yourself you're not alienating. — You're not alienating it. No, no — don't let yourselves be influenced by the nonsense Kinsella says at the end, in which he confuses alienability with destruction. — Yes, — — because — so that's what I'm saying. In this chapter Kinsella has, how shall I put it — he circles around the correct solution with an approach which only increases the frustration, and at some point he mixes up

[0:15:57] exactly what he accuses Smith of doing — he ends up doing it too, and woe is me. Yes, the idea is — look, one of the places where Kinsella does the same thing he does, including in the debate with Murphy. Yes. And it seems to me it's worse when it's in writing than when it's in the debate with Murphy — we talked about it a few episodes back. It's that he demonstrates, plain as day, that he didn't grasp Smith's objection — he didn't grasp Smith's objection — because at some point he says — uh, where on earth is it? Yes — he says another problem with what Smith says, that rights are inalienable, is that he merely postulates it. — Well, that's what he can — — without demonstrating it. — You could say Kinsella postulates that it's partially — — Well, exactly — — what's the demonstration? I mean, it's not a —

[0:17:00] — and he too — — inconsistency. The inconsistency could have been the thing with the small ones, whatever. But come on, let's get past this, because no — — and he, after saying that Smith only postulates — when actually he doesn't understand that Smith doesn't postulate, but starts from Rothbard's postulate and implies from there that if inalienable rights exist — and with Smith there's a big "if" before it — if inalienable rights exist, then this too — then how do we deal with punishment? Why can we punish? Yes. There's a big "if" in front, and he says, "well — yes — Smith doesn't demonstrate that rights are inalienable, so as to be able to make the claim he makes." — The client's material. It seemed to him an — — inconsistency of libertarians. [clears throat] What was the inconsistency? — It seemed so to Smith. Yes, well, I know that — — the inconsistency was that they were inalienable. And why does he lose the right? If not — — Exactly, exactly. But Kinsella, to show that Smith's argument is wrong, goes and says the man didn't demonstrate that the rights are inalienable. You know? The conclusion Kinsella reaches —

[0:18:05] he reaches the correct conclusion, and Smith too reaches that conclusion: that if rights were really inalienable in this sense, and the whole story were tied only to the — only from the point of view of the inalienability of rights — well, I do that too, like that — then the conclusion is that force actually becomes something impermissible, right? And he falls into pacifism. Even Smith says, when this is explained to him: "Yes, that's right. Maybe we should think a bit more about the way we theorize, because if rights are inalienable, then we can't punish with anything. Not just — neither for theft, nor for — " — Yes. Or it has to be seen what it means. Look, if you take Jefferson, what was the meaning there? For me the meaning was that they can't be taken from you, you know?

[0:19:07] That was the meaning. — But they can be alienated. — No, he didn't even raise the question — — if they can't be — if they can't be — — he didn't even raise the question of selling the body, so to speak. — For him, the English [sense], like that, and — — if — yes, but if Jefferson says these rights can't be taken from you, it's again relevant to the problem of punishment, because with punishment they're sort of taken from you. — Yes, yes, yes, yes. It's consistent with — it isn't — — But I think that was the meaning. I mean, he wasn't thinking about voluntary abandonment or not. — These are problems from the [clears throat] '70s onward, 2000s. Kinsella says: "Sir, given Smith's doubt, libertarians must adopt one of the following two positions: either we all have inalienable rights, in which case we can't — a murderer can't be executed; or certain

[0:20:11] offenses can be punished by death, in which case the theory of the inalienability of rights must be abandoned." In Smith's opinion, the second position would be catastrophic, because we can't build a libertarian theory of justice [snore] except on a foundation of inalienable rights. — What do you mean, we can't build a libertarian theory except on inalienable rights? — Because we can — — I say it can also be done on alienable rights. You precisely specify the conditions. Exactly what Kinsella does. Look, those are lost, those aren't lost. [laughter] — That much was possible. Who? I'd say this: who knows what the context was in which — — he was referring to a theory of justice? No — I think it was the family [cough]

with these. [clears throat] But it seemed to him this is the basis for this libertarianism of inalienable rights, so to speak. If those go,

[0:21:14] — you're building on sand. — Well, yes, it [laughter] seems to me that actually the right of private property — it seems — which is — — alienable. That would be the basis. I think he's defending — the right that you can't sell yourself into slavery is a very marginal thing, you know? Of the theory — it's not something you rely on to build liberty — — now, now. But maybe he wants exactly to defend against this situation where you have — — people who have the right to take your rights. — Look, I'd give exactly that. That's what I'd say too: I'd give Smith more credit and say it's very possible he was referring to the sense of "inalienable" that Costel commented on a bit earlier. Yes, the Jeffersonian sense of rights: that if rights aren't inalienable in Jefferson's sense, anyone can come and take them from you. If anyone can come and take them from you, you certainly can't

[0:22:17] build a theory of justice — — natural law, you know? Of natural law. That way you fall into all sorts of — — conventionalisms; that was the problem, you know? — Yes. — The foundation disappeared. — I mean, if we were to give him credit — and I said maybe the context can put this proposition into something that still makes sense, you know? — But well, it would be Kinsella's duty to give the whole context. On the other hand, Kinsella showed a bit earlier that he didn't understand Smith's argument. So it's possible he also misses the context — — But why do you say he doesn't understand it? — — which may be essential to the conclusion? Because Kinsella says Smith didn't demonstrate that rights are inalienable, and that's the big hole in his argument. No — — I say he understood the argument. What? What didn't he understand? — He says he didn't — he says he didn't demonstrate. — "Another problem with [clears throat] Smith's assertion that rights are inalienable is exactly that: it's only an assertion." Well, that's what Vali said too. "Simply

[0:23:20] saying" — here I'm quoting Kinsella — "simply saying that rights are inalienable — " — " — doesn't make them — " — " — doesn't make them inalienable." — No. — "Libertarians don't see rights as inalienable in Smith's sense." He's already left the paradigm of the argument Smith makes. — No, but what he does — and what Kinsella does too — that's something similar too. "That's alienable, that's not," and that was said. I know. Well, that's exactly what I'm saying: he didn't understand Smith's argument, and instead he said, "look, here's my argument." — Man, but between us here, what do you say? — Well, how are they alienable? They're not — which — — Well, we'll get there too. — We'll get there too. — Well, it's — but what's the argument in the end? — Because the argument — Smith's argument is clear. If it's inalienable, you can't do anything to it. You can't take the right to life. That's the argument. Applied to a particular case, a meaning — — ex— inalienability, foreign — — a meaning that seems to him — it's [clears throat]

[0:24:23] — And what do you say — that Smith would have wanted you to drive him out of society, or something — — what — — not restitution — — actually, look, I'm looking here — actually Barnett — — has this theory with restitution only — — Barnett — well, Barnett: restitution as much as we say, or as much as the victim says — — Gabi, with restitution — even if it's a piece of chewing gum, you're alienating a right, — — you see? That guy has a piece of gum, and I take that right. — Yes, yes, yes. — So nothing works, no punishment. That's the answer. Total physical [force]. You don't have to — so Smith, Smith [laughter] — — Smith initially poses the problem regarding rights of life and death, after which he extends it to the application of physical punishments, after which he extends it to imprisonment. And the place Smith arrives at is that for thefts you can't return, you can't put that person in prison.

[0:25:26] So that's the extent to which Smith — — initially made the argument. Then, when it was pointed out to him that in fact, to extract anything from the [aggressor], you have to use force, he started to realize that no — that no kind of restitution would be possible anymore if it isn't voluntary. So somehow

that was the counterargument which, when it was brought to Smith, made him understand that maybe his claim was too strong. — No, it wasn't quite — — Yes, — — although that too can be a solution: to say yes, okay, I still believe in inalienability — it's not compatible with — with pacifism. Yes, he said that's what follows from — — from his position. Good. And Kinsella

[0:26:35] talks more here about punishments, which it seems to me don't — how shall I put it — don't — — answer. No, he doesn't answer. Yes, he doesn't answer the argument, or at least I didn't see it. It seemed to me this about punishments is simply him reiterating — proportionality — — he reiterates his own theory about punishments. Yes. — And why it's better — why you get [there]: if you can allow any kind of punishment, negotiation can begin — "sir, I'll give you this much so you don't punish me." Yes. And it becomes a more objective punishment, closer to, let's say, what — — the victims — — the parties want. But that's strictly a utilitarian thing, which, I don't know, I didn't really understand why

[0:27:39] it has its place here. Maybe because Smith's argument and Barnett's argument, if you take them to the end — no, how shall I put it — Smith says any kind of restitution is impossible, whereas Barnett, it seems to me, focuses only on eye-for-an-eye, tooth-for-a-tooth restitution, right? — Yes. But — — right, okay, let's say you use aggression in justice. Wrong — force in justice. — Force. Yes. — To, let's say, create a balance: "sir, if he punched me, I want to give him two as well." — Mhm. — Let's say, and it goes to court. But force can be used even as — not necessarily in court, as punishment afterwards, after an offense, — — but force can be used in your defense. P— — when you get punched, yes, you can use force to hit back too.

[0:28:44] And then what would Mr. Smith say? "Sir, no," — — no. — Or if someone comes at me with a machine gun, yes, and wants to kill me imminently. — Mm. "Am I not to have the right to — I have the principle of the inalienability of another's life, and so — " — it seems to me this is in the series of things I misunderstand. — No, I understand. He's the one at the end, still small — or was it LeFevre? LeFevre. — Ah — — because that's not — wasn't that observation: you defend yourself, but you don't give him two more, you know? So — — yes. Okay. — That's an interesting thing. I was actually thinking about it: after you've repelled him, and then you go and beat him up. Is it aggression, or? — Yes, it's aggression. [laughter] — Well yes, but theoretically you're entitled to two more punches, you know? The law of retaliation, you know? Right. — Only — yes — only if you received the punch. — Yes. — Look, not to — — only if you received the punch. You know, if you defend yourself because — so if you shoot him, but he didn't shoot you,

[0:29:49] — you've already gone overboard; I mean, you've already defended yourself. You know — — threat — a threat. How many units of aggression do you do? — Those are conventions — — 46. — Exactly. No, 42. — Okay. 42, because, briefly — so he made as if to give me three blows. — No, — — I dodged. So either — so he didn't make as if to give you — he tried to hit you three — however you want to put it — wrong in the description. So he threw three blows toward me, but anyway, I dodged — — right. — What restitution am I entitled to? Yes, exactly like that. — What restitution am I entitled to ask — — retribution — — and the conflict stops on the spot, and then you go to court — — and what do you ask him for? Nothing. — Nothing. Nothing. — What? So if it had been a hulk like me and you'd taken all three? — He'd have had six [due]. [laughter] — If, if he got up again — — if he got up again. Well. — Okay.

[0:30:51] — No, it doesn't seem right to me. Look, the thing. — I mean, [laughter] I said it as a joke, but it seems to me threats are very important too. — Well, again, a threat — libertarianly — — a threat, taxation — — a threat allows you to intervene at that moment. If the threat is imminent. Yes. Practically, the threat being imminent, you can be the one who hits first, in the sense that you make contact. Why? Because we consider that it's already been initiated. So Alexandru, what you wanted —

to hit him because he threatened you. — Alexandru says the guy swung at him but didn't hit him because [he's] Doroftei. Yes. — Yes. And then he — — Well, Doroftei didn't hit me. — How much does he owe him? — Yes. And to me it seems, man — — that's a threat, that imminent one. It was — it's an aggression. It is — — Okay, can I ask for restitution for aggression? — You can, you can. — No. — Eh, argue — you can. — No, because — no, because, again, the threat — — was imminent. — But you avoided —

[0:31:54] — you avoided the aggression because you dodged. — Big mistake. You should have waited for me to touch you a bit. Are you entitled? — What do I say? That you're entitled. Well, you're entitled. What? If it didn't happen, you know? It's the same thing. — I threaten you. Yes. You threaten with the pistol and — — you can hit him later on. That's it. But it seemed stupid to me, but it seems it's the correct position, you know? [clears throat] You can hit him later. Don't you know? — No. [laughter] So I'll say it once more, yes? Someone pulls a pistol on you. You pull a pistol on him and say: "Look, I shoot faster than you, and look, I shoot where it hurts most." Yes, — — "so you see what you — " — and "or, look, I'm also wearing a bulletproof vest." — Then the response has been consumed, you know? — Well yes, — — that was it. But if you didn't do anything — you just give a [nod], and the guy leaves, [clears throat] goes on his way — — how is it with a claim, you know? — With a claim for what? For aggression. He tried to aggress against you. — Aggression. — Ah, in — well, look, even you say it: he tried — he tried to aggress against you. It's

[0:32:59] — a threat of initiating violence. A sanctionable thing. He initiated. He initiated. So he didn't say — I'll say it once more. So I've said it once more, and try to understand the limits. I said: a threat, — — Yes. — when it's imminent, becomes an aggression. All it gives you the right to do at that moment is hit first, to stop the violation of your property. — You know how — you know how you did it to Costel a moment ago? Exactly. You said it is an aggression. — Yes. Well yes, but it doesn't necessarily refute something. — Yes. I haven't — — if it's an aggression, you're entitled to retaliate, [clears throat] but not later to ask for damages. That — — Well yes, because damages didn't occur. — But I say that if it's an aggression — pay attention — — go on — — there are two options, you know? Either you respond — — with violence, or you sue him later. — And the judge awards nothing. — You can — you can't do both. So if you've repelled him, you don't sue later. — You absolutely can. Absolutely. About three or four episodes ago, like that,

[0:34:06] — you told me, "sir, the moment someone threatens me with a toy pistol and I don't realize, and you shoot him — " — yes, you've killed him — — and that's devoted — — because the threat wasn't imminent, because it doesn't — because it's irrelevant what you perceived; what's relevant is whether the conditions exist — — objective — — objective [conditions] for the threat to — he can't — I can't threaten you — I can't kill you with a toy pistol — — because no — that it was okay, he knows, no — — I know, but here it seems to me Rothbard favors too much — — the policeman: if he shot that guy, it's okay because — — too much the policeman, or too much the defender — the defender — — and, regarding proportionality, a year or two ago, a guy in Texas. — How old we are. — Yes, a year or two ago. A guy in Texas — — when we had a show. — Yes, exactly. Already — — in a

[0:35:09] — in a canteen, in a small — — in a diner. — Ah, in a diner, yes. — Whatever. — He demanded money from various people, whatever, and was about to withdraw. Yes. And someone stood up — — and someone stood up and [laughter] shot him. — Yes, yes, yes, yes, — — yes. The first — at the first shot the guy fell down; he no longer represented any threat, but he hadn't died. — Oh dear! — Right. — And then the guy was down, and then he fired two more. — Bang, bang. — Right. In Texas this was considered — — Well, that's what we're discussing — — directly. Yes. Directly proportionality. So — — I say that even the first — and with the first, nothing happened to him. The one who fired — — twice — — Aha. I haven't been to Texas again. — Pay attention. I say [laughter] that even the first — — and if

you shoot someone who's in your apartment at night with a knife, they'll question you. But wait, let's see actually — like YouTube — — in Romania. In Romania yes; in libertarianism no,

[0:36:13] — because the knife is enough to say your life is in danger, bearing in mind that the invasion of property has already taken place. — Yes. I mean, it's night, you're in your pajamas — in [libertari]anism, on the problem of proportionality — plastic — — in that Texas case. Right — coming back to that Texas case, because I know we discussed it then too — — and I was of the same opinion then too, that — — he shouldn't have — — the only way the other two shots could have been justified is if that guy still had access to the weapon. Well, he did — — if the guy on the floor still had access to the weapon. If he'd been disarmed, — — yes, — — he wasn't disarmed. — Then the other two shots were proportional up to — and now the question is: okay, but was the guy trying to run away? And here I said: it's irrelevant that he was trying to run away, because he had just threatened everyone with the weapon, and you have no way of knowing

[0:37:18] — that he won't turn around at the end and fire two more bullets to keep those people busy. — I mean, as long as that guy had the weapon — had the weapon in his hand and hadn't left the room, it's legitimate to shoot at him. — Yes. The first, then the first — then the second, the third — depends only on whether he still has the weapon — — and is still capable of firing. — Yes, now not. — I mean, if the first — if the first bullet went through his head and he's clearly unconscious, he no longer presented a threat even if he had the weapon in his hand, to — — and the next two aren't — aren't justified — — and not that he could, but I'm saying the weapon flew in — — Yes. Again the same thing. If, when he fell, he lost the weapon from his hand because he fell, again shots two and three aren't justified — — after the first, or — — wasn't it? No, — — no, no, — — no. — But I, even with the first, and — yes, but I don't remember all these articulations anymore. — I, even with the first, would have hesitated, and

[0:38:23] if he'd left — — and if he'd started to go out. — It wasn't an imminent threat. No — I'd say if he'd managed to go out, because — — if behind the door — well yes, and behind the door maybe he'd turn back. — If he turned back he'd initiate another threat — — and so, if his weapon was a toy — — uh — — that's a discussion. — If it's a toy weapon, it's clearly murder. — That's a discussion. Yes. So, so, so — and what would be an objective mechanism by which to realize — to expect people to realize that the weapon is harmless? Because there can be other toy things too, and we generalize to weapons. — It doesn't kill you. It's a water pistol, or — — Well no, no. He has a weapon — — the toy is made in such a way as to resemble the real one, so that — — So — — he gets the money — his intention. — Well yes. And how do I know? "Ah, what are you doing, man, with that toy one?" I don't know. Rothbard's position is that it's okay to kill him, you know? — This.

[0:39:24] — So — so see how here the man is put in the impossibility of defending himself. If this is a toy — — He's not put in the impossibility of defending himself. He precisely has the right to defend himself. But it's an entrepreneurial bet. — In the end, make the entrepreneurial bet with my life. — Yes. You do that all the time when you eat sarmale. [laughter] — And when you eat, and when you drink that 1-leu beer from the supermarket after this thing. I mean, something like that — — how inadmissible. — Inadmissible. — The truth is it's better — so isn't it so? It's worse to have the right to shoot a man, but be sure that man was threatening you, than to sit today waiting for the police so you can be sure you're dead. No, to me it seems inadmissible — — to eat sarmale from just anywhere. [laughter] — No, the argument for this could be: yes, I perceived him as [a threat]. I think Block too has this position. — Yes, but — — perceptions matter. — That's the argument. I'd say: why do perceptions matter? — Well, it's a threat, because something — — think: you look at me nastily, you put

[0:40:27] your hand here like this. Yes. And you pull out your wallet, — — and I think, "man, he was pulling a pistol," and [laughter] — Vali too is getting it, in the sense — — it was an assault wallet.

[laughter] — It's not a threat. You know, the problem that you perceived it as a threat is your problem. — Wait a moment. You know those memes with fierce men running in fear from mom with the slipper? That's an assault slipper, I think. — [laughter] — You know what the problem is? That if you have too much subjectivism you can see — — well, exactly — — threats in anything, you know — that guy may be at the end of the earth and you see a threat. I don't know, maybe he's doing voodoo, maybe — — like what's happening now with various states that go to the end of the earth to defend the homeland. — Preemptive strike. — He gives Adin a preemptive strike. — Well yes. Yes. Look, for example, and he took — — and the neighbor next door took — yes. We're in the same building, and the neighbor next door took a rifle. Yes, maybe I feel threatened.

[0:41:31] — Vali, worse if he takes a drill. — Ah, there certainly — — there he's certainly aggressing against you. — That, yes — there it's a certainty. Something strange stood out to me here, namely — — "Am I allowed to cut off his power?" [laughter] — It's battery-powered now. — Yes, correct. Mr. Barnett says here that restitution is superior — — to punishment. — It is — — to punishment — — corporal, sorry. Uh — he doesn't say — punishing the offender, the aggressor, doesn't restore your previous rights. Yes, — — but Kinsella says it's not the restitution that — — exactly — — where, if for example you were aggressed against with a drill,

[0:42:37] the fact that the guy pays you, let's say, 5,000 lei, hasn't restored, let's say, the peace of the day when he — — Yes, but here — here Kinsella goes — here Kinsella goes too far with restitution. The purpose of restitution is to make — well, the first sense of restitution is to restore the prior situation, where possible. I stole 5 lei from you; I gave you 5 lei back. You didn't have — you were 5 lei short. Now you're no longer 5 lei short. Yes. Likewise, I stole a glass of water from you, and all these things that can be restored in full — — as part of the process. Yes. There — and precisely, precisely that. Yes, yes, but you know how? The fact that in many cases it's not possible, yes, doesn't mean — because from Kinsella's point of view, yes,

[0:43:40] the punishment can be anything. — Yes, — — you see? I stole 5 lei from you; you want to blow my brains out — — and now I have to pay you 700,000 euros so you don't do it, you know? A good price. [laughter] — I mean, it matters, and — — What did you say? Say it, I wasn't paying attention. Yes, [laughter] — — never mind, you'll see when it appears on the show. [laughter] — No, seriously, about — please. — And Kinsella: if you punish and don't restore — — punishments. But what's the difference between punishment and not giving goods, or — — I stole this glass from you. Then I punish you with an order of glasses, or — — slaps, — — slaps, kicks in the backside. — Well, that would be the difference: restitution starts from the object of the crime itself, the stolen object, and from there it starts to build

[0:44:46] restitution. — And punishment is more — — punishment is abstract. It's as Kinsella said: why should I put victims — why should I limit the victim's possibility to punish? — Well yes, but also — — let him give, and you complain if he gave you too much — it has to be proportional. You can't give him — — Well, and the way Kinsella ensures this is: let the victim give — want to give as much as she wants — and you complain that she gave you too much, and you go to the judge, and the judge will say, "Oh, too much — " — " — he'll give you half." — Yes. — Yes. — "Don't you want to agree otherwise? No? Then I'll make you agree." — Yes. — Ah, it's too victim-centered, and the victim can rave and ask for 1 million euros. But not only — one is restitution, the other is retribution. I see them as punishments: "sir, physically — " — "I suffered a lot because I was very thirsty and he stole my glass of water. Besides the glass of water he gives me back, I'd also like five lashes, so he suffers a bit too, because I too suffered

[0:45:50] in — " — I was thinking retribution is a kind of revenge. It's tied more to intention, you know? Because punishment can [clears throat] be that, you know? But you're avenged in retribution. Yes, yes, yes, yes, yes. — Take — take — it's intention, a matter of intention. — Yes. — Good. And we come back

to the discussion of inalienability, which Kinsella too says has been "marred" — correctly used in Romanian? — Well, there is — — by confusion — — where too — yes. No, there isn't. No, "marred" doesn't exist. What's the word in Romanian? — Well, say it. — "Encumbered." — Encumbered, well. — Encumbered. Another: "touched." Yes — impeded from functioning by confusion, because from the beginning it had too much confusion, too many vague things and too much inconsistency. — What's the term in English?

[0:46:53] — "Plagued" — no, in English it's "plagued," but it wasn't plague-stricken, well — — I could say "undermined." Undermined is the correct word in Romanian. — Yes, yes, yes, yes. — That's it. Yes. — Okay. And he says that the concept of the inalienability of rights itself is usually applied to the question of whether a non-aggressor, a normal person, can alienate — read: transfer — his rights through an act of contract or promise. And we're back to square one. — And [laughter] we've returned to the previous episode. — Yes. — From here on. — And Kinsella says that libertarians —

[0:47:55] the majority — that libertarians are on both sides. They say that either — — they're not so sure; they have a tendency, and they don't really discuss the problem — only the very advanced ones like us, you know? — Well yes. My impression is that you don't — — Yes, but even if they didn't think about it — I think if it really were a normal distribution — I mean, if you don't think about this, when it hits you for the first time and you haven't thought about it, it's effectively like a coin: you'd have fifty-fifty. — An expectation of half and half. Yes, — — that means he's not right then. Well no, he said most are on the "you can't" side. — Ah, — — it could be an argument from authority. Ah, Rothbard said so. — Yes, also — — yes. — We know someone else too. — So my perception — — which he took from the prophet, Citire. Yes, yes. — Who — — doesn't matter — — right — — who, anyway. Yes,

[0:48:55] — yes, exactly. I don't know. Say, say what you think, or say what — — Well, and he says that — and he tries to justify why this state of sitting on two chairs, yes? — that rights are inalienable in the sense that you can't sell yourself into slavery, but that punishments are justifiable in the sense that — — they're not blocked by the inalienability of rights. Why isn't this an inconsistency? And he crochets, tries to crochet an answer that also preserves ownership of the body. — To me it's weaker than Rothbard's, so to speak. So his position is that this type of contract is a promise. That's his criticism. That if I told you — — that I'd do whatever you want and so on — well, but the contract doesn't

[0:49:58] look like that. — Oh yes — no — his position has to do with consent, and it seems to me that from this point of view it starts very well. The fundamental problem underneath this problem is actually whether you're allowed to change your mind or not. — But that's not his specific argument. That's the argument, if you like, of Rothbard. The will is — no, that's the argument. — His argument is that it's not a contract because it's a promise. That's the typical Kinsella argument. If you want to ask those [clears throat] what Kinsella's argument is: that it's not — that it's a promise. — Yes, but also what he raises — he's more wrong — — no, because he has a rich website and — — reads — — what he concedes in Rothbard's argument. It's something else: that yes, you can change your mind — that the later one is more [muddled] than — — So in this chapter he reframes. That's exactly why it seems to me he also makes a mistake:

[0:51:01] at the end he reframes the problem around the question: "Is it possible to grant irrevocable consent?" That's exactly what he says here: "Is it possible to irrevocably grant consent?" Yes. And the proponents of inalienable rights say it's not possible. Those rare libertarians, Kinsella continues, like Walter Block, — — say yes, it's possible; and then he continues and says: "Let's see what the three methods of giving consent are, in the end — " — of losing rights — — No, no. What are the three methods of giving this irrevocable consent? And he says: [clears throat] by physical means, by aggression, or by voluntary agreement. It's clear that at present we're talking,

[0:52:06] for contracts, about voluntary agreement. Yes. And with voluntary agreement he gets to the following point. Look, he says everything depends on the answer to the following question: can someone give irrevocable consent through voluntary agreement? And Barnett answers that there's a crucial problem here: whether Anna — yes — who has some current consensual choices, yes, — — can revoke her right, can revoke her consent in the future, if she let the boulder touch her. Yes.

[0:53:13] And he says: either by entering a boxing ring with him — — yes, does she have to stay there and take a beating, or, if she changed her mind, is she allowed to leave? Yes, because essentially that's what Kinsella too says — let's come back to Kinsella now. He says: "This is a difficult and complicated question, because some say a contract is a contract and can be enforced. This view is based on the theory that a person is a self-owner and has the right to control all aspects of his property, including his body." Yes. Block's position. And he says: "Most libertarians, however, seem to — " ah, look, you're right — his opinion is that most seem to say no, and to say that you have the right — that it's impossible to transfer consent in perpetuity through an act of will, and that implicitly you have the right to change your mind.

[0:54:17] Yes, that's the argument, and he says, "my view," to put it like that, is that you don't need to put — — you don't need to put — that the way this was justified — that it's impossible to transfer the will long-term — is wrong, and that the simple answer is: "the key is to focus" — the key here is to focus on force and consent. Because to hold someone as a slave, it's not necessary that the will be physically alienated; rather, the slave's continuing consent is necessary. — He says this con— — Yes. Hm. And the impossibility of — because all that matters — it's irrelevant whether that person gave his will or not. All that matters

[0:55:23] is, for the use of force, that the force be legitimate. Consent is needed, and he says that from here the problem turns into whether consent can be given in perpetuity — irrevocably granted, yes — through an argument or a promise. — So he wouldn't hold — but with the will, he wouldn't hold so much to that impossibility as — — Yes. I'd say — — I think it appears later, and well — — I think the most recent consent is the one that counts. — Wait, what would be the difference from the others? Because — — well, that's it: there's no difference; it's just a reformulation, because it's practically the same thing, only — — only it uses other words. Yes. — Rothbard doesn't put it in — or if you like, the impossibility was that the will is always with you. That was it: that you haven't detached the head.

[0:56:26] Well yes, but the reason you can't change your mind — — But he wasn't thinking of a square circle or a thing — — No, he wasn't thinking of a square circle. Someone — someone put together — they put together the two problems, when they have — — nothing to do with each other. — Well, to me it seems that still the fundamental position is that it's a promise, and that seems wrong to me. I mean, it's easy to refute when we're talking about this type of contract. It's not that we give each other promises; there's even a transfer taking place, so that certain obligations are activated. So no. Yes, even if — but the idea is, even if the argument — — even if there is — even if there is a transfer — I mean, even if you gave me 500,000 euros and I sold myself into slavery — yes, the answer is that what I actually did is I promised you — sorry, but I can't use the word differently — I promised you that I'll give you consent to everything you want to do to me for the period I'm in slavery.

[0:57:29] Let's say the period is indefinite. So until I die. Okay. Yes, but at some point I say: "Fuck it, I've had enough. You no longer have my consent to do and undo things to me." What that means at that moment is that I have to give you part of the money back. — Yes, — — that's all. — Yes, but — — not that you have the right to keep doing and undoing. You know — — Vali, that's not the same as saying the contract isn't valid from the start, you know? You see? That's a problem of those in the anti-in[alienability] camp, so that — well no, because it depends very much on what a contract means —

what slavery means in their understanding. Because if their understanding of slavery is that I can't change my mind, that's not a valid contract. I can always change my mind. — But if you change your mind, it's no longer called "of slavery." Look, would you agree — — It's like slavery, but it's not slavery. — Pay attention: if I sell you a house — — another word — — I sell you a house — both happen, right? Well, the moment both transfers have taken place, it's consummated. Because it's consummated.

[0:58:32] — Why? To read from you: the basis of a contract is the will. Well, the will changed. No, no, no — — no — — I knew you'd get to the apartment — — and not me. I say — well, I said I'm trying to explain to you. — Look, pay attention. — You have two, two categories of goods. You have the point of view in which the body is a good of which I'm the owner somehow. I don't know — who knows who "I" am, the owner. This abstract legal "I." — Yes. And then Costel is right: the apartment is sold, an object is sold, an animal. Then you have the others, who say: "No, no, no, I am I, and I'm not a good; I'm me." — Hm. And then you have this impossibility of — well, logical, and secondarily legal. — You can't alienate it — you can do — sorry — you can make any kind of contract

[0:59:34] that would resemble slavery, only you have to say what the services are, what the restitution is, what the clause is, what whatever. You can at least concede. Let's go back to *For a New Liberty* — the libertarian manifesto. In the libertarian manifesto Rothbard discusses the one with the engineer working in Saudi Arabia who changes his mind. — He says what non-enforceability means: that a contract isn't enforceable. Why? Because people can change their minds. You know — — how does Rothbard analyze it? He says that obligation isn't enforceable. It's not right to force him to keep working if he no longer wants to. But that's why he changed his mind. — Yes. — He has to give the money back, you know? He has to tr— — Yes, but Rothbard doesn't say this type of contract isn't valid. — Well no, because it's for services; it's not for selling oneself. — Yes. — Yes. It's a distinct mechanism — the performance is the same. The object isn't the same. — Well —

[1:00:38] — goods and services both were fine. That's not the problem. The problem is that if he were consistent he'd have to apply the same logic, you know? To say that one isn't valid either, or both are valid, you know? — I say — I say — — non-executed. Pay attention: so two obligations are generated for you. We're at the one with the Arab — sorry, I think I understand what you're saying. So you're saying it's not an abstract impossibility like a square circle; it's possible, only some wrongly pretend it's impossible because they have this view of man as something special in action. So we're no longer discussing the impossibility part. The actions can be done. You know that aggressive slavery existed historically; we're talking about things — — I told you, if you like, put "physically possible things" in the contract too, you know? Yes. — So it's not that. Anything's been eliminated. — Yes, — — but that's the problem. Why doesn't Rothbard apply it? Why doesn't he say about slavery too: okay, it's valid, — — but not enforceable after a change of mind? Because that's what it means to apply that order: he changed his mind. He changed his mind on the third day, let's say. Okay, because — go on, Gabi,

[1:01:43] sorry. — To clarify the definition of this notion of selling yourself into slavery voluntarily — — and to — hard times are coming, and these things will matter. [laughter] — Yes. And let's — — okay, — — take the case of the one who goes to the Arab, and for three months — — good, the Arabs have experience with slavery. Right, — — I think that's why [clears throat] and — — after I've signed the contract, does that mean I'm the property of the one who bought me — — or am I not yet — the contract with the engineer wasn't one of property, whereas in this discussion — because if I have a — — sheep in my yard, and that sheep raids the neighbor's wheat, — — I'm responsible. — Hm. — If my slave whom I have on the plantation

[1:02:45] raids the neighbor's cellar and drinks all his liquor, — — is he responsible? — Is he responsible, or am I responsible? — I say he — he's responsible. So pay attention. He ceded some rights, but he

didn't sell you things he doesn't have — I mean, the rights of others. If he kills someone in the street, he's bound by natural rights, — — you see? Okay, so he hasn't sold himself entirely. — He can own a house while he's a slave, you know? Okay, — — I understand. So we've clarified. It's a — — I don't know. Then it's a bit — how shall I put it? It's a bit — — Yes. This one of ne— — The idea is you have to build the most — what does charitable mean? — the case most favorable to the others, if Kinsella says this is a promise, — — no? Because I'd — I'd say that — — it's not the case — the most favorable reconstruction. So, Costel, I can build the case most charitable to the others, but as I build the case most charitable to the others, the word "slavery" loses its meanings. Because, for example — because, for example, if we use something else the problem

[1:03:50] disappears. Because, because, for example, slavery presupposed that the slave is the property of the master. Yes. And if the slave can still own a house, I've never heard of property that owns other property. Only people can own property. So right away, if the slave can still own a house, yes, it can't be slavery in the sense in which — — he's property. — It's a contract like — we're not talking about slavery. So you, it seems to me, latch on to certain things: "wait, it's a contradiction. Well, how is it? Because if it's — " — for Vali it's a contradiction. — Drop the term slavery. You know? We drop it. We drop it. — There's no contradiction. Fine, let's drop the term slavery — — and he gave his body, and that's it. Let's drop the term slavery. I think Vali says: if this — either the man who sells himself in this contract like

[1:04:54] slavery is or becomes — [laughter] — cheekily, I said: he can't be both property and — — and a legal individual at the same time; either he's property or he's an individual of — — why not — why not — how do they branch — how can these go together — — if I gave you this glass, it doesn't mean I gave you this too, you know? That's the solution to the paradox. — Well, well, he becomes a slave like that, sir, — — he did it. — "You tell me to do something, I do something." — Yes, yes. It's like slavery, but it's not slavery. — And — but then it says — — "in case I take to drink." — Yes. [laughter] — "Such-and-such, and if I kill someone, such-and-such." Yes. "If I commit aggression." — Wait. Then — then all things have been resolved. For me. All things have been resolved. That's no longer a slavery contract. That man is a subject of law; he's an individual who can change his mind. — Yes. — Well, and that's the whole discussion. He can

[1:05:57] change his mind. — Well, well, that — well, that's the whole discussion. That's exactly what we're saying too. So pay attention. We get — come on, I'll say something you haven't thought of. We get to a point where the question of enforceability arises, you know? Mm — — do you compel him further after he's changed his mind — — or [take] money? — To me it seems you have nothing in libertarianism by which to choose between these. — Oh yes. Pay attention. — Look, look at the following. Look at the following — — some conventional proposals. Some agencies will say, "we go on"; others — look — — Okay. Look at the following counterexample. Yes. — You meet a girl, yes? And the girl tells you: "Man, you know, I sleep with guys on the first date. So you'd better bring a condom with you, because at the end we'll go back to my place and it'll happen." Good. And you feed her, you go to a film, you give her flowers, chocolates, whatever. — You take a taxi to her place, you take her upstairs, you start making out. Yes. And now comes the question. Does she

[1:07:02] have the right at that moment to say no — to say, "you know what? I've changed my mind; go home"? — I say that if she'd sold her body, she isn't allowed. I mean, it's not legitimate. — Well, I've described to you everything that happened. Yes, — — because they're different contracts. They're different contracts. As if you'd say, "I buy some apples at the market — can the guy kill me?" Answer: no, he can't kill you. In other types of contract he can kill you. Likewise with this: they had, let's say, an implicit exchange, and yes, if she says no, it's no. The solution is to — — Well, why? Because this implicit contract has no exit clauses — because at some point you were saying any contract should have an exit clause. — This implicit contract wasn't that he's allowed to rip her open, you know? In that — — But I

didn't say he's allowed to rip her open. My question is only regarding what she promised as an implicit contract. She created the obligations. Yes. He paid — he fed her. Yes. He gave her food, he gave her drink. Now he wants to — now he wants to have sex with her. Yes. And she says no — and the contract was even written, let's say —

[1:08:07] — what's implicit, from our point of view, has the same force. — Valid is valid. Answer — — like the bread one — you don't write a contract for bread — and that yes, he's allowed — — he has to give you bread — — the answer is yes. It's a legitimate obligation. So if she said, "yes, I'll sleep with you if you give me so much," yes. The answer is that the contract is valid. — Okay. We — I'll fall on the other side and say that's rape. — But if — — Well, why rape? — But if he takes out a — — Why is it rape? Why is it rape? You answer [by denying] some obligations only because they're toxic, you know? Because they look toxic, you know? Yes. People enter into — — It's rape — it's a problem of consent. That's why it's rape. — Well, okay. "The employee is exploited at work." — Yes. Sorry? — So if I work for you for 30 days and at the end you don't give me what you promised, what was written in the contract, the sum of 7,000 lei a month — — right, you can sue me and take 14,000 from me. — Well, that's the discussion, Vali. Here, because you — because you've created — yes, [laughter]

[1:09:10] but you know — — you've created the obligation. Yes. Likewise she. She can — likewise this guy can sue her. All I said is that he can't have sex with her — — Okay. — — that night. Pay attention, Vali. — That. — Regarding changing one's mind. Regarding changing one's mind. I concede it, but in what sense? — You can annul — you can annul the other's obligation, but you can't annul your own obligation. You see? — If you sold yourself to me into slavery, so to speak, I can annul that. Why? Because I'm — — So — let me — you can't annul that. Yes. You can't an— because it's regardless. If you're in the position where a woman says no and you say she must be had — — if one of these says no, why do you punish him? — What do you mean? Because — — a — I don't know — a thief says no. — Pay attention, because she — — because the position of the thief changed. We haven't got there yet. Yes, the position of the thief — something else happens. Something else, and Kinsella treats it the same way; he says that with thieves it's actually a different

[1:10:14] situation. We're now discussing the legitimacy of granting irrevocable consent through voluntary contract. — Vali, the following difference — it's very different from your situation, from what Costel says, because she didn't sell her will. — But the slave doesn't sell his will either. — Oh yes, he sells his will — this — — that's what this is about: he no longer has a will. The will no longer has a will. Then I don't know how he wakes up in the morning and gets dressed if he no longer has a will. Because on Kinsella's distinction — — you're confusing the factual and the legal. You know? A kilo of will, please. [laughter] — Yes, if it can be sold. I'd like some units too. — It's not one. And if you sell it to me, have you sold it? — Look, he has the right. — Will is like virginity. [laughter] You give it all and you don't get it back. The fact that he can destroy your will, you know? That isn't intelligible, isn't real, isn't — he can destroy the will, you know? No, no — and Kinsella too, that it's possible through [snore] zombification, through technological things, that they can. — No, no, no, we're not talking about problems — we're not talking about sci-fi.

[1:11:17] — It exists, it's possible. — Well, that's what I said, reality. — That's what I said too. Only I'd say that contract is still invalid, because it presupposes the same thing: that the person put himself in a position where he can no longer change his mind. So I told you, there are two things that don't — that don't fit. — Why did you see that — — say, say — inconsistent? Why doesn't he use the same judgment? Why doesn't Rothbard say the one with the Arab engineer isn't valid because he changes his mind? [clears throat] — You see? — Because it's not the same thing. Because — — it's not at all the same thing. How is it the same thing? — Well, he changed his mind; that's why the contract fell. — Okay. Good. What contract are we talking about? What contract? The Arab engineer sold himself into

slavery? No — — it's the object of the contract that differs. — No — the fundamental argument, that the will is inalienable. That's the fundamental argument. The will — and changing one's mind, you know? That's the argument. — Yes. The will being inalienable, he's allowed to change his mind. Yes. — So if he used the same argument

[1:12:19] he'd have to say: "No, this type of contract is illegitimate because people can change their minds," you know? So — — or likewise, if the last will counts, why not revoke a unilateral one? So the transfer was completed — you know, why not? — Because you have absolutely no argument: if the will is sovereign, you take his house back. — Because, as you said too, — — the obligation was created on one side and wasn't extinguished on the other side. — Obligation doesn't beat will. You see? In my position, obligation beat will. The initial obligation. You know? In your position the will is sovereign. You could, even after 10 years, say: "Give it back to me, because I don't feel like it anymore." Consent is fundamental for you. For me, I say the obligation was activated. What can I concede to you? What I can concede to you is to say: look, we have two obligations — I compel that guy further, or he pays compensation. And my position was — I'm trying to find something. The solution is conventional, you know? To say: "Look, our agency doesn't compel that guy — I don't know, it seems inhuman to it. It asks for compensation," you know? — Vali says, I think,

[1:13:23] — but his obligation is active; it doesn't matter that he's had second thoughts. — I think Vali says it's as if you had an antecedent, because it's a thing that doesn't move. So if money and the right over the apartment move, they've moved. It's obvious. Whereas here, if money moves and services must be performed, — — yes, — — those services haven't been performed, — — and for them to be performed, the continuing consent of the performer is needed. — The services are, in this case, well — — well yes, but that still comes down to — you define a service; I have to have it every second. Why? Why does it all somehow come along the line of impossibility? You know — or there's still the saying, "wait, a service isn't visible," and what do we change? [clears throat] — So — — you've been given the money; you have to perform — an active obligation. That's my position. You know? All you can do — all the others can concede is to say: okay, we have

[1:14:25] to choose between two obligations. We can't give both, you know? We go on, or we give compensation, you know? Okay, we decide conventionally. You know? It seems more humane, this one — not necessarily more humane either, for that guy to give the money back, you know? How does he give the money back? Well, I don't know. Someone gave him 1 billion euros. — You know how he gives it back, if need be? He sells himself into slavery, [laughter] — — if he doesn't have it anymore. — But you say it's lighter because he isn't allowed to kill him, you know? It's lighter. But [clears throat] that seems to me the problem too: that Rothbard doesn't discuss it similarly. You know, if you apply the same logic of changing one's mind — I told you, you concede this too, that you can change your mind, you know? I can annul your obligations. Why? Because I'm the owner. Well — — on the things — — that's evident, that — — we can annul our obligations — — but I can't annul my own obligation, you know? I can annul the other's. — So the moment — — that's how I see changing one's mind; otherwise we no longer have contracts. We no longer have — — Yes. The way I see it goes like this: if I'm the owner of my body, therefore of my mind, therefore

[1:15:28] of my will, — — yes, — — and I want to sell it for some other benefit — — for money. — For money. — Right. So I've sold my will. — That's a devilish contract. — Yes. But the will being mine, let's say I have the right to sell it. The thing is that seven days later I ask to change my mind, — — because that's how my brain works. — I'd say that — — Wait a moment, nicely. Exactly. So afterwards I can only argue with my self from seven days ago who signed, because the will is no longer with me; I'm no longer its owner. — It's the owner's, — — it's someone else's. — It's not the right over it. It's physically [his]. I'd

say — well, that's what I'm saying: okay, you sell, but you haven't transferred it. So it stays with you, and you continue to use it. Oh yes, because in the end one of the

[1:16:31] rights of property — yes, we talked about them at some point in the course — which is exclusive use. — Yes. — Yes. If I give you the property right over Gabi's will — yes — or conversely, Gabi gives you the property right over his will, it means you have the right to use it exclusively. Well, does it seem to you he has exclusive use if you forbid this type of contract? To me it doesn't seem so. To me it seems that in my scenario he has exclusive use. — To me it seems he doesn't have use — no. To me it seems he has exclusive use because I don't forbid this right of contract, and it's a contract that can't be physically consummated. — Okay, look, we come back to the problem of impossibility. — Well, and that's another problem. I've already brought you this counterexample. You said — so one of your arguments was that he deviates from the contract, and I said: "man, and a worker is a minute late. What do you do? Do you validate [invalidate] the contract — " — " — from the outset?" — No — maybe there are clauses — maybe there are penalty clauses. No, it's not the same thing. Vali says that

[1:17:39] — So, for Gabi to change his mind — — for him to change his mind seven days later means he's still using his will. — Yes. It means it's not mine if I can't — — It means I don't — it means he didn't transfer it to you. — So fraud — — and now I'd go one step further and say: is there a situation in which you can — given you've entered, you're the owner of Gabi's will — can you use it exclusively? — No — — you can. With certain limitations the owner recognizes. You can, but you have to be able to complete — — You can, but that means it's not property — that means it's not full property. — It's as if — — It's like controlling the cat. It's not yours, because certainly it has something in its guts that you don't control. You're not the owner. — I don't control myself. [laughter] Leave it. — No, but you don't need such a thing, you know? You don't need to have — — as long as I tell him — Costel, he

[1:18:41] tells me, — — "move over," and I move over. It's not enough. Even if he breathes, it's not true. — No, it's not enough, because that's exactly the idea. I control this cat in the sense of — — It's an aggression. So if he can't deviate from that, it's an aggression. — Who? Gabi. — Yes. Now he aggresses her. — Okay. So, so we have a contract from which an aggression implicitly results. You signed a contract. Any — — contract has this risk. — You — — any contract has this risk. — Risk is one thing; I said "implicitly results." That's something entirely different. Risk represents a probability. "Implicitly results" is 100%. You signed a contract. — So I'm surprised you allow employment contracts. You know why? Because there's an implicit risk that the guy will be late — employment contracts — I shouldn't even specify — to contract you — — because it's impossible to become the owner of what you took on. Gabi defrauded you in the terms of the contract you signed from the

[1:19:44] start. — Trickster — — we specify this type of contract. I'm satisfied if, when I tell him to go fetch water, he goes. You know — — so what type of control do you want? To control his mind directly, whatever? — Well no, but you — earlier we were talking about transferring the will. — So you agree that transferring the will isn't possible? — Yes. — It's not physically possible. You take the property right. — Okay. It's not physically possible. If it's not physically possible, it's the same as with the apartment. — Repeat. — Yes, it's the same. He — when I tell him something, he does something, you know? — Well yes, but it isn't done physically. It's as if I sell you the apartment but keep living in it. — Repeat. I repeat. The right — — It's okay. I'm okay with that. I'm okay with that. — The property right presupposes that you have the right to exclude everyone, yes, from using the object transferred to you as property — — and Vali says it's natural, this, inherent. You can't change it. Sorry. — No, — — you say legally, that automatically it's a weaker property. — He finds you a loophole by which I can't control that guy, and I told you,

[1:20:47] we can specify that. All the impossible actions Vali thinks of, I don't demand from the start. — "I want to have the right to kill you, to have the right to whatever, whatever, whatever." — Which in libertarian discussions in the future will be called "the Vali clause." — Good. "I want to have the right to kill you, to have the right to do whatever to you," and so on. These in themselves — leaving aside the right to kill you — these in themselves can be transmitted today, including through contracts. The problem you have — — and why we come back to the will — is that this kind of contract is subject to the same rules as the engineer in Saudi Arabia, namely: at some point he can withdraw his consent from you — — with the due consequences. — With the due consequences. He has to give you the money back. He has to breach the contract with you. But it's on the basis of what Kinsella says here about consent. — Yes, but you concede — how shall I put it? And I reproached Rothbard for this too, in

[1:21:50] that article on Mises. So if you go with this — that it resembles the one with the Arab engineer with the Arabs — you'd have to say: okay, we let the contract go when he changes his mind; he gives back. You know — but the substantive position isn't that. The position is that this type of contract must be forbidden. — You didn't say you forbid it. — Oh yes. — I said that any contract that presupposes — — perpetuity makes no sense. It's — — I mean, he isn't allowed to sell his mind there. — And Costel's right — I'm wrong. — And Costel's right from this point of view — I'm wrong. — What? About what? — We can conclude contracts in perpetuity as long as those contracts don't presume, as an execution clause of the contract, the disappearance of the person who concluded the contract. I mean, I can't give you the right to kill me, but otherwise everything — all the rest — contracts with a perpetuity clause, no problem at all. We change our minds at the moment we

[1:22:53] change our minds; a reversal is made. — The consequences, at — — That's right. Even the marriage contract is one in perpetuity. — The question remains: if that guy wants this, you know — — what? — If that guy wants this — isn't he the owner of his body — — he can't give it. [sigh] We remain at the problem, you know, between what you want and what you can. Unfortunately there's a difference. To me it seems you don't recognize the principle fundamentally. — Well, that's exactly — that's exactly — here I can say that over the course of the discussion about this book I've come to the conclusion that self-ownership itself — namely splitting the person into person and body — is the thing that has caused the most inconsistencies and incoherences in damned libertarianism. — Then what is he the owner of? And what is he? Since — I don't know — is he still allowed to go to school, or how? — I'd say you're the owner of all the rights, of all the things that are alienable. Yes. And over your person you have at least the same rights you have

[1:23:57] from property, but I'd say rather that over your person the rule of consent applies. — Vali, — — so you're not allowed. If that guy isn't allowed, what's left to talk about? He doesn't have — there's no self[-ownership]. Wait, let me recap what you're saying. So you're saying you can — you can make the contract — uh, what — without — — the right of death over the person. — Pretty much, pretty much. It's good he concedes at least. [laughter] — Yes. Still it's more — — because the basis of the judgment too is that — — you can change — — is that you change your mind, — — that you can withdraw consent. — You can change your mind. Wait — you can change your mind. Can you change your mind only about death — — or about the others too — — about all — — uh, with the consequences. — Yes. — Yes. — The problem is that with death, at the moment the contract is executed, you can no longer change your mind. — You no longer get to change your mind. Yes, but — — oh yes, I want here, like with Costel when —

[1:24:59] — and worse, and worse about that — changed his mind too late. — If you change your mind while you're signing — — and the signature isn't finished, the change of mind is valid. Not with the apartment. — Pay attention. If it's not finished — let me say no, Alexandru, I've said this before too — within [it] the change of mind is valid. Only you can't annul your own obligation. — You can annul the

other's. Change of mind — yes. See, here's the distinction. So between, between the will — which is this ineffable thing, which anyway at night snores; it's useless however much will you have — — you have to be stingy. You're nev— — uh — — between the ineffable thing and the reality on the ground. Good — to come back also to the problem of why one can't be done and the other can, and the way Kinsella solves this — the way Kinsella solves it, he says: "Sir, you can't grant this irrevocable consent through contract or voluntary statement."

[1:26:05] Yes, of course the cat is a cat. What will it do with them? Yes. It changed its mind. [laughter] — Right. No — so you can't grant rights like this, irrevocable, irrevocable consent, through contract. But lo and behold, where it comes to aggression, it isn't actually a problem of consent. That's what Kinsella says, and I'd say he could have gone even further, but he didn't. He could have gone further, because when we punish people in general, we don't ask for the victim's consent. — Well, he has — — I mean, it's clear punishment is based on force, not on consent, you know? — Actually with him, not quite, because he has that estoppel which generates an agreement. Pay attention, and here you could raise this objection: "Well, and that guy changes his mind." Okay, he gave you his agreement. — Not to mention that that agreement too is deduced in an abracadabra way: the fact that he uses

[1:27:07] violence doesn't mean he agrees that it be used against him. But let's concede argumentation ethics, you know? Arguments of this type, you know? — Yes. — Uh, he changed his mind. What do you do to him? — Well, about changing one's mind, we discussed in the chapter where we spelled out the theory of punishments: okay, I'll change my mind afterwards too. I'll smack you one now and change my mind afterwards. No, no, no, it's not — — at the second one. — At [laughter] the second one. — Yes. — And the idea is that, to be consistent, he'd have to say it's a problem — that the guy no longer gives us his agreement to the rule. You know — — well, if he were in my position — that it doesn't matter what that guy thinks, you see? In another context — — you don't know what his problem is — that he wants to have that guy's consensus, not to override him. You know my position: I don't have a problem with that. The obligations are valid; they're not natural. No, no, it doesn't presuppose having it. Yes, you're right that he too — in the end, the way he formulates his answer is that the guy can no longer

[1:28:10] withdraw his consent, because it can be given irrevocably through actions, and the action he performed — through that he gave irrevocable consent to the punishment. — Which consent counts? What did he just tell us? The last one. No, — — well, the last one. The serial killer says: "I don't give it anymore; I don't believe in such a thing anymore." — Then of course you have to leave him alone. [laughter] — And that's exactly why I say — — Kinsella's argument is wrong. From this point of view it's not a problem of consent. From this point of view, it's the fact that he, through the action he performed, automatically generated — just as in the Rothbardian view — restitutive rights directly through the action. Yes. And those, the property right over them has already been transferred to the victim — — and he no longer has — the question of consent no longer arises. — The will beats obligations. That's how I understood from the argument —

[1:29:13] — the contract of slavery. The will beats the obligation. — Because if it were the other way round, we wouldn't be having this discussion. It's not that the will — it's not that the will beats the obligations. It's that here there aren't — how shall I put it — — life beats the movie. — So he did a first [thing]. Yes. Certain things were activated against him — — and he changed his will. — The will beats obligations, you know? — No. — Uh, so — — no [laughter] — it's not will over him. — That's why — — pay attention. — It's will over — — I stole. Let's take it from simple to complicated. I stole a glass from Gabi. Yes. That means that at the moment I stole the glass, I created for Gabi two restitutive rights on my part, for one glass each. Yes, Gabi has these rights; I've already transferred them to him. You see? — I mean, in the abstract they're transferred, like —

[1:30:14] — the contract was consummated, with the apartment, or — — with the apartment it's no longer about will, about changing one's mind. The contract was consummated at the moment I created it. — These contracts, I see, end according to the client, you know? Sometimes they end, sometimes they don't end; they get interrupted. You know — — you say that the right of sale, like in slavery — that's been transferred already too. — Well, that's how it seems to me. No, — — with Vali it's selective. Sometimes it ends, sometimes the will beats the obligations. So with — where the transfer is realized. I said the following: if — — there's no difference; the difference is only that I say it's voluntary there and aggression here. No, no, no, — — no, because with the house one too [laughter] they're volunt— he's perfectly — — He tells you it's over. Well, why is it over? — Costel is perfectly right on this point. Costel is perfectly right from this point of view — — what I'm trying to say is that this method based on consent — thank you, Alexandru. Leave him, leave him, leave him, leave him, leave him — I'll do a little something and it'll pass.

[1:31:16] — Come on, come on, down, down, down, down. — Anyway, — — right, — — right. You're saying. — Good. The right — so this model which is based on consent is that services are actions which I bind myself to, which I commit to — right — — which are based on my continuing consent. Yes, any action I bind myself to do in the future, including singing at the wedding, is based on my continuing consent. If you made me a transfer before activating this obligation of mine, then at the moment I withdraw consent I'm obliged to return to you probably double — depending on the clauses in the contract — probably double what you paid me. — Yes.

[1:32:19] No — in this model neither self-ownership nor selling the body is necessary. In this model we have only external alienable properties, which are transferred in a contract like the apartment contract. I gave you the money; you became the owner of the apartment; the property rights were transferred. At that moment the contract has ended; you can change your mind till kingdom come, because it's not about — because it's an action that took place, was consummated. It's not about something to which I have to give you continuing consent. You see? It doesn't happen in the future. It happened now. You gave me the money; I gave you the apartment. Until you gave me the money, I didn't give you the apartment. — Whose are those continuing actions? They're mine. Can I sell them? — No. — Why can't I sell them? Why can I sell programming services and not sell services of — — which — the difference is only quantitative, that there are more; you can sell them in the same way you sell

[1:33:21] programming services. That's what I'm saying too. — Wedding singing — — or wedding-singing services. At the same time. — That's not right. That's not right. That's not your position. Your position is that it's not valid from the outset. So if this were your position, you'd say yes, the slavery contract is valid; the guy changed his mind. — But this — but this is what I said earlier too: that you can sell them even in perpetuity. The only one you can't sell is the one where I give you the right to kill me. That's what I conceded a bit earlier — that you were right about this part — — and the contracts terminate, with the dispute over the obligations created by the initial payment, upon withdrawal of consent. — That's what I said before. — "You don't want to sing at the wedding anymore? Give money." — You don't sing, but you give the money back, or more money back. — "You no longer want to respect the continuing form of possession over your will? The money." — Can't we turn this into code through some services that do those? — I don't understand. — Oh, it's — it's very similar, only that guy can't — that guy can't knock you off. — Oh yes [laughter] yes. Same thing. You can

[1:34:25] transfer. So I can let you — I can sell myself as a punching bag too, because that's what I like. Okay. And then what's the difference then? The minimal difference is exactly what I said at the beginning. — It starts — — whether you execute the initial obligation further, or whether — — the answer is no. — Yes. I mean, in the example — — I mean, you've actually conceded that you can do it — you can do it; only it's which we choose between those two, which — — The answer is that you don't

execute the obligation without question. The answer is that you no longer execute the initial obligation by overriding the consent of — — Yes, you've already conceded a lot on the part — — I'm not interested in what I've conceded and what not; I'm interested in getting to a consistent and correct position — — and to me it seems — I told you that you can't discern between those two; what you apply is purely conventional — — thought — we'll think about what it could be — you have nothing to — — I don't know, because I [go] slower, but — — because both are legitimate, both giving the debt and — — no, I was thinking like this when, when you had that discussion — but maybe it's been cleared up, it's clearer, and I didn't catch it — when you said — when it was about that lady

[1:35:29] who that evening had to take — — no, and she takes it — — still, in my position, no, she takes it — — she changes her mind, like with singing at the wedding — — it has to give consistency, valid, you can not — — but I told you, I wouldn't necessarily insist on — what didn't seem OK to me is that these obligations shouldn't count. How can they not count — — we ask ourselves how can they not — — that's a good question — — [sigh] — And yes, she doesn't have to come, man — — I'll put it like this, that we have to say goodbye to the recipients. — Let's close — — for Costel Stăvărache, Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu. — This was În Dodii — — and we say goodbye. Until next time.

Video 11 (#316): Property and Sales Errors: Selling Does Not Imply Ownership (Chapter 11)

Original title: *#316 | The Legal Foundations of a Free Society - S. Kinsella - Property and Sales Errors*

Length: 1:18:46

Link: https://www.youtube.com/watch?v=lJ7CP6CK0OM

[0:00:03] — comes home, waters the plants and leaves again. Waters the flowers and leaves again afterwards. — So the Moldovan Milei made these increases. — Good, — — man. But he also has those, I think, these — — You don't know how, Costel — — ah, the taxation of labor, the reduction of labor — — Costel, Costel, it doesn't matter anymore. But — — if he gave these. It doesn't matter anymore. But tell me — — you sense him, what are you following? What are you actually following? After what you follow, so you realize. — Mistakes. — Mistakes. — More. — It's super. — Good. Come on — — let him tap on the table. [clears throat] — We tap. Yes, — — the earth. — Be quiet a moment. Come on, it's okay. I don't know if that one hears — that one doesn't. The one at your place hears the most. — Put it on — — No, but this — — Put it on — wait a bit. I'll tap it once

[0:01:06] more. — Now it hears the former one too. — Yes, I know. Tap it once more, please. — It's the second-to-last. This — — it shouldn't be the second-to-last. It should be the second. Wait a bit. Wait, wait. Costel, you tap yours too? And which the hell is the first? Well, something's wrong. Say something. Gabi. — Good afternoon. Good afternoon. How are you? — You don't need to talk into it. You talk normally. Normally with Costel. — Costel, how are you, Costel? Still looking for — — it has to be something philosophical. Pay attention. Fine, — — go on. Say something. G— — Good afternoon. Good afternoon. How are you? — You don't need to talk [into it]. Talk normally with Costel. — Costel, how are you, Costel? Still looking to be — — I think it's okay. — Fine, — — if there's a bit of sound I'm not

[0:02:09] bothered. It's okay. To my deaf ear it came out [fine]. — Plus, if it's — if it's constant — — Yes. — — you can tell it, "remove this constant thing for me." Don't bang your head. That's it, we've started. — That's it. — Well, that's it, that's it. But how do I go on the show like a tractor driver? — That's life. — Do you want me to give you a — — Well, I'll do it the same way. — It's not visible, man. Is it visible, or don't you feel [comfortable]? — If it's black it won't be visible. — Do you feel comfortable? — Comfortable. [laughter] — Are you in your element? Yes. — I'll give you a T-shirt. — Don't. Come on, you — — we have to see how it looks — — halfway through the shows. It looks good. It looks good. — At the break. The T-shirt gets changed. [music] — If I told you

[0:03:12] that authority — [music] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, a very nice book, *Legal Foundations of a Free Society*, with the same problem seen from another angle, about voluntary slavery — namely whether selling implies ownership, or vice versa. And he goes into a dissection here, in this 11th chapter

[0:04:18] of this book, and talks more in depth, deeper, about this problem. But before this problem — uh, which he delivers at — — It's actually a reply to Walter Block. — Yes, it's a — it's a speech he delivered at the Property and Freedom Society Annual Meeting in Bodrum, Turkey, in 2022. — But [it's] a reply to another Block. Exactly. Before that, though, please click like, share, subscribe. Look in the description for a Telegram group where we can chat. Look in the description for details about HydraFest. Look in the description for details about the libertarian fiction books from Sense of Self Publishing. And also look in the description for a link to the Mises Institute's autumn school at Breb, an event held every

[0:05:22] year. It's already reached its fifth year. It's two days with conferences — well, with courses, let's call them, as if they were courses on economic topics given by all sorts of professors. Our Costel will give a talk too, and we'll be there. You'll find more details in the description. Good — coming back, also in the description you'll find a crypto link and a Patreon link, where, if you want to support the effort we make here in some way other than with a like — and we take this opportunity to thank those who already do so. — [bell] — Kinsella begins with two errors he identifies, — — two

[0:06:23] — in approaching this problem of voluntary slavery, namely: to be an owner means to have permission to sell, or the capacity to sell. — Yes. It's somehow — — the right? No, the right, the right — — "to own it is to sell it." — Yes. — And on this — — means — — what does this error mean? Yes. How does he develop this problem? He says: "Sir, if I receive 100 dollars in exchange for the promise to dig a hectare of farmland, am I selling my labor, or am I actually acting?" So I'm performing an action, a specific — it's not quite a specific performance, but I'm doing a

[0:07:29] performance, how — — pretty specific. Take it and dig — — specific. That means it couldn't be replaced by someone else, you know? — No, it depends on the digger. — Yes. Right. And the second was that if I have the right to sell, then that means what I sold is my property. — If I sold it, it means I was the owner, you know? — Yes, yes, yes, yes. And here he identifies, sir, in connection with voluntary slavery — yes — that when you sell your body, you're actually selling all the activities the body undertakes. That's what owning a human body means. No, — — no. The uses, the totality of uses. Whatever — — exactly. — Okay. — No, — — I'm not saying not. Oh yes, oh yes. And including — — those activities haven't been done. You

[0:08:33] can't — that's the subject. You can even sell, let's say, your kidneys; you can sell the use of the human body in the use of a — — But there a service is a good, isn't it? Services are only actions. Yes, yes, yes, yes. — For example, if you let yourself be killed, what is it? — It's not — — is it a service or a good? — Yes. And Kinsella [laughter] — — depends what you asked for. It's not a contractual object. Kinsella distinguishes between selling something in the economic sense and selling as a transfer of property title, which — — then he says, sir, it's a legal thing. Yes, — — but that means you're talking about the second dogma, not the second error. — Because we talked about the first one — — and [snore] because of this differentiation he tells them: "Sir, you can never sell yourself." Yes, because you can't transfer the property title over yourself.

[0:09:37] You only sell — you can only sell, in the economic sense, labor. — I wonder why he preferred — when we catch him for an interview, in Bodrum somewhere, let's ask him why he preferred to say it's not possible rather than say that man is the body and the body is the man. Reform. Man, I think the answer is that it's too big a reform. I mean, you have to rethink the whole structure of libertarian rights. We'll get into this maybe another time. — So property rights are clear. You don't make a separate category. — No, but you have the other one — the other libertarian saying: "All rights are property rights. All human rights are property rights." Well, and if I'm not allowed to touch your property — — therefore I've succeeded. If I'm not allowed to touch your property without

[0:10:41] your consent, and the body is your property, I've managed to derive that I'm not allowed to hit you, to touch you, to rape you, to pull your hair, and all the rest. Yes? So the moment you say the body is no longer property, you have to give up "all rights" too — "all human rights are property rights" — and you have to see how you determine aggression against the person. But — — this seems like just an approach — to be illegitimate. It seems like just a legal, mechanistic, technical approach, in which you say the body is — — exactly like property. — No, it's a premise — — so that the same principle works. — It's a premise on which too much of libertarian theory has been built — — and it wasn't — — it's like a

country's system of laws. We can't knock them all down because they're intertwined, unfortunately. Unfortunately here — yes. That's how it is.

[0:11:43] — Okay. — No, I think it's also his fear of the soul, because the soul already goes toward zones like that, toward ideas, you know? Could we have property over thoughts? I mean, ah, well no, because you're — — I think it's this phobia too. I think he also avoids this metaphysical polemic. It doesn't matter anymore what you are — dualists, monists — man owns himself. What does "self" mean? I don't know. The body, for this thing. Well, — — the problem is you sort of have to go into it, you know? You see? The will — what does it belong to? The body or the mind? You know the whole discussion with slavery is about the will. What happens to the will? That's the key element. "I don't have the will." — If the will isn't part of the body, we discuss like this. No — — listen, the will is — so in a mass of situations we chase away discussions about intention. You say it doesn't matter, deeds matter, you hit him, whatever. Intention doesn't matter. And [laughter] here I feel like chasing away the will too. But we're not discussing the will. The will is such a thing — only he can know what he thinks. Maybe he seems to have will — isn't it

[0:12:48] that ever-present philosophical dilemma where someone behaves like a human, but maybe he's actually a zombie? — Well, intention is — look, in this slavery contract too, intention communicates some preferences. "What do you want?" "Well, I want that guy's property rights." "What do you want?" "I want that guy's money," you know? That's my end. That guy's money, you know? — You see? Intention equals end equals will equals — — Ah. If you put equals, equals, equals. Yes. — Is it right to say intention doesn't matter? I don't know. I made a donation. Why did I make it? the libertarian shouts. What matters is that I made a donation. It doesn't matter anymore. Or why do I make an exchange? Look, when we discuss this with impossible objects, we don't ask ourselves, "man, but why did this guy exchange? Doesn't he have it in his head that he knows there are no square circles? Why does he like exchanges? He wants that 2 plus 1, the compensation. What does it do? He likes to have impossible obligations," you know? So maybe he doesn't even — because he knows he doesn't. Man,

[0:13:52] — maybe — — you'd better have done nothing. [laughter] — Yes, — — yes, — — yes. And look, he says this, sir: — yes, yes. "To be an owner means — to sell means to have the capacity to sell." — And he says: "Sir, no. To be an owner means to have the power, to have the right to exclude others from using that thing." — Yes. — But — — okay. I mean, — — but selling too is an attribute of the right of being an owner. Well, exclusive use — you know how — the right to exclude others leaves you with exclusive use. Exclusive use presupposes — — Yes — several things. — He — that's what he says, sir — — including selling. — Still, he makes that parenthesis that you have the right — — to exclude, but you can't use it any way you like. And he has the example with the gun: you have the gun, but you can't do whatever you want with it just because you're the owner. Anyway,

[0:14:54] excuse me, just to say it. — But why does he use this thing — the right to prevent others from using your scarce resource — with, sir, the right of being an owner doesn't reduce only to selling, or — — no, it shouldn't mean only that. Yes, nobody says only that, but it's an article. — But it's that too. Yes. Which? — I mean — — not in a way — why is — — his is that not — — because that's the counterexample, isn't it? With voluntary slavery. These aren't equal — the right to sell and property — because, look, in the case — — of this contract, we invalidate it, you know? So if the equation held, you'd have to have the right to sell yourself, for the contract to be valid. He says it's not valid. — Look, therefore they're not synonyms, they're not equivalent, you know? — So somehow — — property and selling, you know: look, you're an owner and you don't sell. — So somehow Kinsella's theory

[0:15:58] is that there's property — — that you can sell — — and property that you can't sell. You can't — — that you can't sell. So I think it's not that — it's not that you don't have the right. The impossibility is a

physical one. — Physical, logical, no? No — which brings in the legal one — — given, flowing from the nature of property. Actually, because that's going to — that's Kinsella's whole argument, which he takes up again in this chapter. It's the argument from the other chapter. — Hm. There's property you can sell, because selling, he says, is like abandonment; and property you've appropriated from nature, or obtained through agreements of will, you can alienate likewise through agreements of will; whereas property over the body you obtained involuntarily; it's based on the fact that you're the direct controller and that there's no better controller, and you can't transfer this right of

[0:17:02] control. That's his argument. Yes. And therefore, if you can't transfer this type of control, and you didn't obtain the property in a voluntary way, through an act of will, you can't alienate it through an act of will either. That's — — the idea. So we have two types of property. In short, — — resembles — it resembles very much the way you formulated things too. You said: "Sir, this is a thing that — " — " — that springs from you." Yes, I said that at some point, but anyway. Uh, yes. The idea, the idea is — well yes, because we work with the same things in the end. Uh — the idea is that he also wants to say, within this chapter, he has two, two things he wants to clarify — the use of certain terms — and to me it seems okay to clarify things like this. One of the terms he wants to clarify right at the start is the term "property." He says: "Sir, property isn't an object in itself. It's not this glass, for example; the glass isn't

[0:18:08] property. Property is the relationship I have with the glass, which tells you I have the right to use it exclusively." Yes, that's property. Property, within the way Kinsella thinks and speaks, is the relationship between man and object. — Not even that, Vali — rather the relationship with other people regarding the object. Some prohibitions, to be Kinsellian. Correct, correct. To the end. Yes, correct. That's how it would be. Yes, — — well. Uh — — yes. It's very interesting because you say: but what is a right? The relationship I have with others. — Yes. — So in this way — — Yes. That's how I understand it best: permissions and prohibitions, for — he says the right itself is the collection of benefits I have in relation to others. It's also responsibilities. — No — the right is only the collection of benefits. Obligations are the collection of

[0:19:11] responsibilities. Obligations are rights. To see [laughter] how people make — — the rights of others. — how people make definitions in their heads. So if you say "I have rights," afterwards you have to call them positive, negative, and in my head I've come to call them liberties and obligations — or, well, someone would say powers and obligations — and those are a right. — Well no, pay attention. Rig— — afterwards, the more it leans to one side, it becomes positive, negative. But this is what happens in my head; it doesn't mean it's correct. — Oh yes, it's correct. But only this: that your rights are the other's obligations. If you have the right to life, they don't have the right to kill you. You know? That's it. — Ah, okay. Yes, — — he forbade them, you know? So — — Yes. — Even more, the obligation not to kill you. — It's the same thing. It turns a prohibition into a — — formula. Yes. He also mentions here an aspect related to intellectual property, and he says: — "Selling implies ownership of what you sell." — Let's — — because then he latches on to an example with professors who sell their

[0:20:15] ideas and transfer knowledge to others. That means they were owners of those ideas, and so it implies intellectual property. Yes, the truth is every math teacher in the world owns the Pythagorean theorem. — It was given to them when they got the diploma — — a good example, because professors don't really have ideas. [laughter] — And so he says: "Sir, no — what the professor sold is an action he undertook. He didn't sell the ideas." Yes. He ran his mouth, produced some sounds, — — transmitted [snore] waves, symbols, information, anyway, — — right — — they were absorbed or not, anyway, which [clears throat] — you sell something and you don't have ownership of it — that's the idea. — Yes. Yes. So — — it's — — selling — selling doesn't mean, doesn't imply being an owner. — Being an owner. — I'd say, on the contrary — — here it's about what you sell — I mean, he didn't sell an idea.

[0:21:18] — Yes, yes. The professor didn't sell. The professor sold an hour of tutoring, sold some counseling, sold — sold a service; he didn't sell ideas. The place where you can think of selling ideas — — Kinsella says he sold ideas. — The place where you think you can actually sell ideas — yes, — — yes, exactly. But the place where you can say ideas are actually sold is in that other industry affected by IP. Yes. — Content — — content. — Yes. Patents for inventions. — Ah, besides. Yes, — — yes. — I can say the professor too bought the course from someone whose course it was — — physically, — — no? First time the format and whatnot and — — anyway, we've said this before, and it seems to me this is the moment for a short repeat: Kinsella wants, I see, to make this distinction — that in a contract you can have the transfer of a property title over some money with a condition, and the condition is that someone

[0:22:22] perform such-and-such action; and economically you can call it that actions are sold. But in fact, given his insistence on this precision in which you can have only property transfers, in a contract you have a single transfer of property rights with conditions — one or more, doesn't matter. In this case, that action X be done. — I'd say the most — — it seems to me it's funny. It's interesting. The clearest argument against intellectual property rights — — Hm. — — is exactly the way they've evolved today in the software industry — including gaming, but not only; including operating systems, database systems and usage — the way it's evolved in the software industry from, let's say, 20 years ago until today. Yes, they've evolved from "I sold you a license," you know, with my program — I gave you the program

[0:23:27] and sold you a license, and you weren't allowed to sell it to someone else. Yes. And of course that created piracy — "piracy" in quotation marks — without any problem, because I did nothing but copy it and give it to you, pass it on. P— and exactly, it wasn't actually piracy, because I didn't — [the candle] flame — I couldn't, I couldn't stop you — — from copying something that was your property, duplicating it, making it several times over. — I mean, I'm not taking something from you. It's still with you — — it's not like a car. If it's a car and I take it from you, it's with me and no longer with you; when I take an idea from you, it's still with you. Kinsella uses here in the chapter — introduces — the term "rival goods," in the sense — well, actually it would be rival uses, not rival goods. Yes, if I use the car during that time, Costel can't use it. Yes, but goods we can use, that we can multiply and use in a non-

[0:24:31] rival way — — have no reason to come under that theory. Okay. And the way, I was saying, the market in the software field has evolved is that it has evolved in the direction of services. Yes. Already the good is no longer — the good is no longer with you. — Yes. It's no longer — it's no longer actually transferred to you as property; you only rent the right to use it. — Yes, this happens with Adobe too — I mean as a license. It happens with Adobe Photoshop, it happens with Windows, it happens with — I don't know if with Windows — I'm not 100% sure it happens with Windows, but with Office it certainly happens. — So renting, not ownership — — Exactly. It is, and in this way you use a good that remains the property of the one who made it. I mean, somehow it seems interesting to me that — and fine, people are extremely annoyed and so on — but it's a reality that brings [things] into accord with the theory of property. It brings

[0:25:38] the market — reality — into accord with the theory of property. I mean, they evolved naturally in this direction, you know? Mhm, mhm. — But look, with actions you can have [it]. Well, how do you sell them if you don't have the owner's right? — With what? — Why doesn't he pay me? Why doesn't he give me the money when you give a lesson? He doesn't give me the money. — Well, why would he give it to you? [laughter] — I don't know. — You have an idea. — Then — then he doesn't know either. And why should he give it to me — because I gave the lesson? — That's how it was done. Well yes, but you don't have property; you have, I don't know, possession, or [laughter] over the contract. — Well, he's not — he gives me money so that I perform a specific action, a service. By performing this service — — Well, and do you have property? Do you have property over those actions? — Money for actions, yes.

But — — I don't think Kinsella [clears throat] admits — — Well no, you don't have property over — you don't have — — actions are scarce. Actions — that's what I'm saying.

[0:26:43] They're not very scarce. — Well, and if they're scarce, that doesn't mean there's conflict; it doesn't mean we must introduce the property right for logic. No, there's no conflict. Because the reason there's no conflict is that my actions can be performed only by me. Your actions can be performed only by you. There's no way we can have conflict between them. They're very scarce because they exist only if — because man is unique. They exist only if that particular person performs them. But on the other hand they're — — Look, in the case of slavery there is — it shows there is conflict, you know? Well, — — your labor is mine. Actually. — The case of slavery is what we've kept invalidating around here. — No, but the counterexample is that you have conflict, — — you see? We're not talking now about conflict when it doesn't exist, when we agree, you know? Whatever it is, when we agree there's no conflict. — So you're talking about the fact that — — But they're subject to it. There is a conflict, you know? The slave's actions are mine, you know?

[0:27:45] Yes, but — — the slave thinks they're his, you know? — Yes, but we're still in the paradigm in which slavery is impossible. I mean no — I don't know. You started from whether I own my actions, and you went three steps further, but it doesn't seem to me we've agreed on this — that I don't own my actions; rather, I do them, I perform them. — Are there conflicts over objects, for example? There are. We can't — — over objects. Yes. Well — — well, why does this exist — — Because their use [laughter] — because their use is done in a rivalrous way. — Look, the socialists think it's — the good is his. You think it's yours? — Better we don't do them anymore. Wait — you socialists, go ahead. — Anyway, [clears throat] you've understood my reading, and actions are subject to the same pattern — — which would have led him to recognize — — socialistically. Your example was, Costel: you had an idea, for example, — — you wrote a poem

[0:28:50] — and Vali recites it — — and you said, "sir, whoever pays Vali should pay you," right? Because you're the owner of the poem, over — — and shouldn't [pay] Vali, since he — any licking, any action — digs with the hoe, you know? So no, — — but my point is that there is conflict over actions, you know? I think that when Vali digs with the hoe, that action is mine, you know? The right belongs to me, you know? Leave aside that physically it's yours, you know? — Because with the slave too the action is physically his, you know? But the right — yes, yes, yes, yes, yes — — the owner's, you know? And this would have obliged Kinsella to say: "We have scarcity; we must prevent conflict." How do we prevent conflict? Therefore we allocate property — therefore the whole second part falls. — No, Kinsella says — Kinsella says you can't own me. So the part where you think you own my actions is just your error. — And if he has no reason to — well, I put — well, I put — well, with objects they're objects. — No, I can say it's just your error,

[0:29:54] and there's no conflict. Normally there shouldn't be conflict. It exists because you, artificially and socialistically, think it's yours, but normally it shouldn't exist. You see? I applied the same thing. — Conflicts exist in socialism too. It has nothing to do with my artificially thinking it's mine. It's about conflicts that arise in use. Yes. We can't use — objects themselves are used, as Kinsella too said here, with rivalry. Yes. We can't use the same object for different purposes at the same time, regardless of whether it's our common property or not. If it's our common property, it's even more interesting, because theoretically we could only use it if we agree. — Hm. I told you the conflict arises — it can be conceded. You know it's your action, that it's the good, that the good has exclusive uses, you know? If you eat an orange, I

[0:30:56] can't eat it too, you know, you see? I can concede you the physical discourse, let's say — — right, — — but the conflict arises at the level of rights. You know — — that orange — you say yes, I think

it's mine. — Well yes, but rights arise because of physical excludability. I mean, the reason — the theory, — — the theory of Hoppe too, to which Kinsella subscribes, is that rights arise — the concept of interhuman rights — we're not talking about natural law here, yes? — conventional rights arise because of this attribute of rivalry in consumption of objects. If there are things that have no rivalry in consumption, then it makes no sense for the right to arise for them. You can extend it conventionally, but it's still one — it's not — it's without substance. — Yes.

[0:32:03] — So you'll put a link to the podcast with — — Yes, we'll put — we'll put in the description, which keeps growing, a link to a discussion Kinsella had with Walter Block about eight years ago on the topic of selling oneself into slavery. It's a fairly short discussion, 40-something minutes. — So let's mention: we're talking here about a voluntary slavery that hasn't existed so far; we're not talking about the slavery of history, which was involuntary. — Non-voluntary, yes, non-voluntary. And I mean our quarrel here is about [clears throat] the case in which, in voluntary slavery, at some point the slave changes his mind. Yes, that — — that's the problem, because Walter Block says here — why does Walter Block support voluntary [slavery]? It's when you have a child who needs an operation that will save his life. — Vali, this is what Gabi will [say]. These are nonsense,

[0:33:07] really, you know — emotional — that the guy has an emergency and — — Yes. — — he wants to blow it at the slot machines. — So let's go touch them, you know? — He didn't want to sell this because he wants to blow it at the slots. Does it have any relevance, you know? It's a purely emotional thing. To convince your listener that, look, it makes sense — — slavery. — Well — — no, Block's argument is this. — No, this part with the child. You can formulate the argument by putting in that he wants to blow it at the slots, you know? Or spend it on drink, you know? — Well yes. Yes. Yes. An emotional argument. [laughter] — Exactly. Exactly. Exactly. Block helps more. — Block adds the child there to sensitize you a bit more. But the basic argument is this: there are two people who want to enter into an agreement — thank you — an agreement with which they both agree and which both, according to demonstrated preference, perceive as beneficial. Yes? Mutually beneficial — an arrangement that helps both of them — and who are you, as a third person, to come and say it's not

[0:34:13] possible? — Exactly that — — and that's Block's argument. Look, and you can object to this, the third person. No — the third person can intervene if he aggresses, you know. By the way, with this — it's not good for a third party to come and — oh yes, a third party can intervene if [someone's] raped — intervene. — He can intervene. — Yes, but now — — the problem is of right: does he have the right to intervene or not? — Exactly. Exactly. Now, his argument resembles a bit what you said a while ago: that if you don't let him sell himself, with the right over his body — no, he's not free. — You violate the right of [property], which means the exclusive right, whatever. Exactly so. Somehow this argument is along those lines: you come and meddle in what two people want who've agreed to do — — and the answer — — But maybe — Vali — maybe nobody ever meddles, and the exchange is unjust — or just. The answer would be this: as long as there's no

[0:35:17] dispute between these two people, we have no problem, and nobody needs to meddle with them. Uh, but the problem arises when these two people want to introduce a third into their arrangement, either because a dispute arises, or because they want to record — — Hm. — — this thing as a contract. And this not being a contract, a third person can't stamp it and say, "yes, it's a contract." That's number one; and when a dispute arises, a judge will come and say: "Well, what did you agree on?" "Well, look, we talked about such-and-such." "What were the terms?" "These and these." Let's suppose nobody lies. Yes? — And the judge will say: "Well, but this isn't a contract. Give him the money back. He changed his mind. Goodbye." — Look, I thought this week that the problem isn't so much selling your body versus selling an

[0:36:23] orange. That's not so much the discussion; the discussion is with a termination clause or without a termination clause. — And an exchange of oranges you can make without termination clauses, you know? Prostitution services without termination clauses. What does that mean? That you have to, even if you no longer want to — you have to apply the obligation. That seems to me the discussion, you know? Indeed, this selling of the body is without termination clauses. If you have termination clauses, it means you don't sell entirely. You cede him the right to change your mind; you leave him a golden parachute, you know, so the contract falls through, you know? So it can only — because I kept thinking, man, but can't you make it too with termination clauses — have a principle like "a valid obligation only as long as I agree with it," you know, in perpetuity — let's say this would be libertarian — on the other hand, this exchange can't be like that, you know. So without a termination clause you can have small exchanges too, yes — with the hoe, you know, or day labor, you know? I mean, you apply the obligation to him even if he no longer wants to, around 12, I don't know, the sun beats down and —

[0:37:24] — well, that's exactly it. And — — do I apply it or not? That's the discussion. You know? — No. — Vali's position is that no — — because he changed his mind and — — actually there are two. — No, here you can't — there are two big arguments, you know? Let's say one of Vali's, one of Rothbard's. Rothbard — — if the victim changed his mind — the victim is the seller, you see? He becomes a slave; if he changed his mind — — my position and Block's is that he doesn't, because his will — he no longer has the right, you know? So it has no effect on the contract. You can easily apply the obligation to him. Another argument is this one with fraud, you know? Being — exist — I don't know how — — Vali formulates it: there's no 100% probability that not — so, and therefore it's fraud; it's like with a square circle — that's the situation, you know? And here the victim is actually the buyer — that would be the difference — the buyer, because the other

[0:38:26] doesn't deliver to him; he said he'd give him something, and look, actually he doesn't really give it to him, you know? — What can you say about — this one of Rothbard's, with changing one's mind, seems weaker to me, because the guy can't — it's useless for him to change his mind, since he has no right over his will, you know? I mean, this fraud one seems wrong to me. What could you say? We didn't have — look, Vali says probably it's 100%, it's like the square circle. One problem is also that we haven't had such a history, you know? To say, "look, we can estimate that in 92–99% of cases it was breached; therefore it makes sense." But you can't even experiment with that something, since it's still invalid. So you can't experiment and say, "let's see, we don't know how it'll be." Another thing: let's say we know the probability is high, you know? Is it okay to say "well, it's unenforceable and it's invalid"? It has 99%, let's say, out of 100 contracts. — 99%, I'd say you have to allow it. So my argument is based on the fact that it's 100% that not — here it seems to me is the part —

[0:39:32] — the weakest part, because if the libertarian principle is "better that a guilty man go free than that you punish an innocent" — I've given you exactly this — this obligation is enforceable; it's not impossible — — that's exactly what I'd say too: that if you didn't have a probability of 100%, precisely because of this I'd say it's better that a guilty man go free than that you execute an innocent. Allow the contract, and we'll see when he changes his mind. But the problem here is that it's 100%. It's not — — Well, look, I've given you counterexamples. One counterexample was that the guy kills the other after 3 seconds and the other agrees. There's no change of mind. Do you accept that such a thing is possible? — It lasts a week, he gives him five tasks, the other does them, and after a week he cancels the contract. Such a thing is plausible. So it's not like with the square circle, where there you have not a single situation in which the guy brings you a square circle, you know? — So a single one here. Yes, you can have it, you know? You can have it. I've told you. And if you have 99%, that means that — — it's an exchange about which you say, "no, this isn't valid — you've concluded whatever."

[0:40:37] — How do you know not? Even if we still have agreement, the problem is that he can't transfer to you — — control over — so it depends now what you want — it depends what contract you want to stipulate, because there's a possibility that he can't transfer it to you, right? And I'm wrong in saying there's a possibility depending on how you write that contract. Yes. You can fall into a wording in which the seller can't — you've put in the contract something the seller can't transfer. Transferring the property right means you have the right to control it exclusively — he doesn't. And if he still controls it, you don't control it exclusively.

[0:41:40] — Vali — — it's like with an employment contract. Vali, so if you think of an employment contract, some who work for someone — in the podcast Walter Block specifies, and Stephan Kinsella agrees: "Sir, even when you take, let's say, a work animal, — — you don't control its will; you control the body." That's what I'm saying — you have to be very — — You control its will too. Pay attention: in an employment contract you control that person's will, you know? I know. He acts and wants in accordance with — — But it wants to — so with — you have an animal. Yes. — So you steer it to walk straight like this, and maybe you see it heading toward the corn or toward something else, you know? So you don't control all its will. Yes, you'll try to control it, but the will remains the animal's. You see? Likewise with a person: you don't buy the will. — No, but it matters — and Vali's right too — the physical part matters too. If that isn't possible, you see? So if it's impossible for me to have an employment contract with you —

[0:42:44] I have to do something and I can't do that something — yes, it's invalid. — Yes, yes, yes, yes, yes. — I wouldn't forbid it even then, you know; I'd give compensation. — Fraud. [laughter] It's fraud. Yes. — Answer the following question, Vali. We make an employment contract — — right — — for 70 years. — Okay. — Uh — — rather long, but let's see. — Right. — 49 if it's with the state — go on. — Clause: if I change my mind within two weeks. — Right. — Clause. Yes. I take a billion dollars from you. — Well, okay. That's not an employment contract. That's not an employment contract. Kinsella too, at some point here, explains to you the terms on which an employment contract is made. In an employment contract — including in — — including in this country. — Yes. — Yes. Yes, — — not to mention America, but including in this country, — — in an employment contract I create

[0:43:47] the obligation to be paid by first performing the services. — Okay. — The transfer is made from the one who — this is an employment contract — from the one who performs the labor; that's the first, which creates the obligation to receive his salary. The salary itself is received for the month worked, not for the month in advance. There is an employment contract — — There's also the concept of an advance. — Yes, there's also the concept of an advance, but even with the concept of an advance, it doesn't oblige me to — I can resign. — Yes. — Yes. — Effective the next day. — Yes. — And all I have to do is give the money back. — Okay. Yes — an employment contract won't force me to go to work because you gave me the advance with termination clauses, — — you know? — One without — you can't do this — — of termination. Yes. One, we don't have to limit ourselves to current employment contracts. So

[0:44:51] we can invent several kinds of — we have to be — you have two patterns. That's a problem with both Kinsella and Vali: they think from the side of the one who gives labor, and whatnot, and these seem not to end; but if you think from the other side, of the one who gave the money, it's clear the transfer was made, the obligation was activated, and — — Yes. — — the discussion's over. — The money afterwards. — Yes. The money, he said — — why? Why? I mean, there's nothing in contract theory that says the transfer must come from — I'm still used to it. But think of those who can pay beforehand. Yes. — Who sing — yes, they have an advance of — — fine. Vali's argument, that it's the practice — — to hell with practice, you know? It doesn't matter. I'm covered on contract theory. That one paid; that one has to deliver, you know? — Yes, yes, but on contract theory that one paid, and that

one doesn't want to deliver, so. But wait a moment, that's what I said too. Wait and see. — And I have a clause. Right — I have a clause there, and I say: if by any chance I don't work the 70 years I've — — committed to work for you, — — money,

[0:45:53] — I have to give you five times the sum you gave me. — Yes. — Perfect. And hooray, and off to the station. This is a valid contract. Enforceable. [snore] — Enforceable. Good. And then — and I connect with what Kinsella said in the podcast: there's that "prison." Yes. Debtors' — — debtors' — or there comes a — if it's also specified, "sir, I must commit to work for you — so for this money, still for you" — — it's written there in the clause; so it's no longer voluntary slavery, but slavery of a retributive type, yes, because you have to — — involuntary — — involuntary, because, well, you've already lost, because the voluntary thing you were going to do you didn't do. — Wait, sorry, I don't understand this. I know. It's an exit clause in which I have to do — and I said I don't do it in the contract — but more. [laughter] — Yes, but it's a loophole. It's just a loophole. — What? — It's not possible. It is possible. — No, I'd say this is an invalid contract. — So let it be — — because if I can't execute

[0:46:55] the first, I can't execute the second either. — How does it — how does it seem to you? So if — how shall I put it — if I — it's as if you said I put in an exit clause that if I can't give you a square circle, I'll give you two. It's like — it's like what Costel said. It's as if you didn't put in the clause. You don't need a clause. So we have libertarianism, which is the rule of 2 + 1. You don't need to put it, because it's possible you put in five and the judge gives 12. You know? Natural law beats contracts, you know? — Okay. — Twice, then. Natural [law] beats contracts — — and you have nowhere to give the money from, and then you go in. — But Costel, if natural law beats contracts, then pretty much any kind of — — anything goes — — pretty much any kind of clause becomes irrelevant unless we agree. I mean, I can't — no — if I go and stipulate that I have to give you five times more, and natural law beats it. — You say even a convention with two, we leave

[0:47:57] five. — No, but if natural law beats it, then I can dispute even the exit clause, since I exit on a more favorable option. — Yes. I mean, I'll only have exit clauses if — if we start from the premise that natural law beats the exit clause — — Yes, "natural law" wasn't well put, because it doesn't say this is natural. — I mean, I'd say — I'd say that only in cases where — — in the case where you don't have a clause, the judge comes and undoes it at 2x. — Okay. — You know? — Yes. He has. — So do you agree with debtors' prison or not? No. — Well, and how do you get — how do you get 2x, [clears throat] whatever? How do you get it back? — Well, I've — so first, let's — let's — let's talk about this too, because with Kinsella it's a bit of a mush, and I'll come back to debtors' prison in a moment. — The power's going out. — Kinsella says you can't

[0:49:01] transfer a property — including in — he tries, including in this podcast with Block, but his idea doesn't gain traction there. He says you can't transfer the property right — the property title — over a property title you don't have. The example given, including two chapters — two chapters back, is this: I give Alex 100 dollars, and Alex commits to give me 110 dollars back in a year. Yes. And Kinsella says that absolutely all transfers taking place in the future are uncertain, and that the property transfer wasn't made at the present moment; and if in the future we get there and Alex doesn't have — never had — 110 dollars in his name, because the 100 I gave him and he — — gambled them and lost them. — Yes. He can't transfer back to me

[0:50:05] 110 — he can't transfer to me something he never had, namely 110 dollars. — He learned it from the code, from the law. — The Roman code sounds good. — From the point — from the point — from the Rothbardian point of view it makes sense. Yes. You can say: how can you transfer a property title over a property you never had? And here I'd come and introduce the quality of fungibility too. There are contracts that can be resolved only through a specific object. For example, let's say I want to

sell this cat. Yes. — It's unique. — It's unique. It's only this cat. Yes. And then the contract can only be resolved by transferring the property title over this cat — or this specific microphone, with the specific

[0:51:09] serial number in the contract, so that it's not fungible. Yes? And then clearly, if I never had ownership of this microphone with this serial number, — — yes, — — I can't transfer the property title over it either. Now, it depends how you pose the problem. We're going to extend it soon. But if the object of property is fungible — for example, a glass, a microphone, a phone, an iPhone, I don't know which, 17 — what number have they got to today? Yes, — — a phone — even if I didn't have — never had the property title over it, as long as I've — — as long as I've entered into a contract that created for me the obligation to transfer this good,

[0:52:15] — yes, it's my business how I manage to transfer this good. With money it's even simpler. It's my business how I manage to transfer this good. For example, a recovery company — there could be, in a case like this between me and Alex, — — yes, Gabi could have a recovery company, a debt collectors' firm. Yes. And I say: "Man, this guy was supposed to give me 110 dollars; he's not giving them. He says he doesn't have the money." I go to Gabi and say: "Gabi, look, I'm owed 110. I have a right to 110 dollars against Alex." Yes. And Gabi says: "Yes, I know Alex. He's a pushover, so I'll buy it from you for 105. I'll have some expenses recovering from him, but I'll give you 105 dollars cash now." For example — maybe it could

[0:53:17] also be a weaker offer. Maybe you come out — you could come out with nothing. Maybe he says, "I can only give you 90 dollars." Yes, — — that's a lot. Those don't — — it's still a lot. Yes. Then — then if — if all the collectors on the market tell me 90 dollars, then my goal will be to raise it, and I'll go with Alex's contract to a judge and say: "Your Honor, Alex defrauded me; he took 100 dollars from me, promising to give me 110. It's fraud. Therefore I want 200 dollars from Alex." And the judge will say: "Mr. Alexandru, did you ever have the 110 dollars to send him, to give back? Won't you give them back today, so we execute the contract and close the discussion?" He says: "I've got nothing to give from, boss." "Okay, very well. Then here you go: you have the right — you were defrauded — you have the right to 200 dollars from Alex." Now with 200 dollars I go back to Gabi and say: "Dear Gabi, I have a

[0:54:23] right to 200 dollars against Alex." And Gabi will say: "Yes, I'll buy it from you for 170." Hooray! Off to the station! — Okay. And what? Good, [laughter] good, good. And what does he do? — And Gabi buys it for that. And now he has a right to 200 dollars against Alex. Yes. And Gabi goes into Alex's house like this. — Yes. — He takes any object he lays his hands on, sells it, takes his 200 dollars, gives the rest of the money to Alex, and leaves. — But if he doesn't have [anything], — — what? — If he has only the bicycle's oxen [nothing], — — if he has nothing but bicycle oxen, then most likely Gabi will offer me a lower price, — — because he'll have higher recovery costs. Yes. — Okay. Okay. And what are the costs? What does he do? — After which he'll sit — he'll have a man who keeps an eye on Alex, and as Alex lays his hand on a crust of bread because he has to eat it, he'll break it in two, put half aside, — — until enough money accumulates to cover it; as long as it doesn't kill you,

[0:55:28] the problem's solved. [sigh] [hiccup] — I'll give you another example — — and it's very possible that under this pressure, yes, Alex, if he's not stubborn — yes — which presupposes a lot, but given the moment in which I brought him in with this example, — — but being in this situation of constant hounding, Alex might go to Gabi and say: "Listen, don't you want me to do some job for you so we extinguish the debt?" — Good. And this — — and Alex will work in kind, voluntarily, — — without being paid. What? — That's not voluntary slavery? — It's not voluntary slavery. — It's not, it's not, no. Listen, when you say — it's a fixed-term employment contract. — Let me give you an example. How could I, in your universe — let's say everyone accepts this libertarian theory of yours? Yes. And says:

[0:56:32] "Sir, so as not to quarrel with the authorities — " — which authorities, which — — with the court system, with the recovery firms, and so [laughter] on, with the insurance firms. — We do it like this. I want to get to you, to work for you like this — — for 1 million dollars — — give 1 million dollars; we write a contract. I commit — this guy gives me 1 million dollars, so that tomorrow I give him 2 million. And I say I'll gamble it at the — and I'll surely win. — Bravo! — I lost it. I gambled it. I lost. I've nowhere to give you 2 million from. But the contract clause says this: so that we don't get to — — the insurance firms, the judge — — "I commit to work in your yard or do whatever you want — " — Many years — — "until I recover your 2 million dollars." — "Many years may he live." Yes. Right. — Yes, it's a — — Right — — it is. Okay. — Well, the question arises again. It's the same discussion. As long as you agree — — Yes. — — it's not slavery. — It's not slavery. We have no problem. The moment you no longer agree,

[0:57:37] the moment you no longer agree and have a dispute, — — yes, you go to a judge, and the judge will say: "Okay, what's the clause here?" This guy was to do something. Yes — he no longer wants to do it. Okay, we reactivate the initial debt — — or multiples. — Yes, that's the discussion which in the end will still come to — — Actually, unilateral termination. Termination, [clears throat] — — but it's not — it's not — it's not a unilateral termination. It's a breach of contract, which is punished like any other breach of contract. — Okay. Which in the end still came to me — — I mean, until — you don't escape the obligations you have — no, sorry, you don't escape — you'd escape by taking from the other what he paid and walking off scot-free. You have to give it back plus damages, plus fraud, plus everything, as in any other breach of contract. — Well, that's the discussion: if he prefers the execution of the obligation — "sir, I don't want him to give me the money; I want him to stay — " — further on.

[0:58:40] — Well, that's not an option. — Why — that's exactly what isn't an option. — Well, why do you say that? Because I don't want it. — Because he no longer performs those actions. — Well yes, but the victim decides the punishment, or has a point, you see? Is the obligation still valid? Yes, how could it not be? — No. — Pay attention, Vali. It all comes down to: we have two solutions to a future fraud. One is to invalidate the contract from the start because it's an implicit theft, you see? The other is to respect their rights to liberty — they exchange what they want there — and when that guy deviates, he gets the punishment, the "two" then. You know? — So this has nothing to do with what we're talking about. So I said — — does it seem to you it has nothing to do with what we're talking about? I say — — Well, we were talking about an employment contract; we weren't talking about a slavery contract. We were talking earlier about an employment contract. Yes, Gabi said — — if it has no termination clauses, orange versus apple is in the same situation as the slavery contract. Does he apply that obligation, since I don't have termination ones, or doesn't he apply it? That's the whole

[0:59:43] discussion. — Where we're talking about objects. Yes. — Orange versus apple. — You go for day labor. You go for day labor for a single day. Does he apply the obligation to you or not — whether it's about the obligation — the position with the termination clause in which you don't apply it, — — you see? And you have my position — — a position in which I apply it. — Termination clauses are implicit. If you say, "I want to do it without termination clauses," you're free to do it without termination clauses. The moment you get to a dispute and go to a judge, the judge will say: "What are the termination clauses?" "We didn't make them because we didn't want to." "Well, then I'll make them for you now: 2x. Goodbye." That's the principle. Otherwise there's no way out of here. — The principle of man's right to liberty. If they don't want termination clauses, they don't — — Oh, they do want them, because we're in disagreement. The moment we get before the judge, we're in disagreement. Yes. It no longer matters that we agreed

[1:00:48] 100,000 years ago on some clauses; now we're in disagreement, and the judge just says what applies. In this case — — you're actually having a — well — normative discussion. We just reformulate

the initial positions. You know, my position is that that guy's will doesn't matter. You know, if he took it on; and your position is: oh yes, it matters. You know? — Listen, technically you — why do I think I'm right? Because it respects the right to liberty. Your position doesn't respect the right to liberty. — My position, which takes into account the consent of the parties — — the consent of both parties, you say, doesn't respect — the most recently granted consent, you say, doesn't respect the right to liberty. — Well, but you don't — — it seems to me — pay attention — invalidating a contract sounds such an innocent and harmless and technocratic thing. Not invalidation — or, how shall I put it, yes — not validating a contract, not allowing it from the outset, you know — is actually a violation of the right to liberty, you know? That guy isn't allowed — doesn't have the right to use his property to make the contract.

[1:01:50] — So it's not true. [laughter] From this point of view, as long as you agree and walk hand in hand, yes, you don't even need a contract. Yes. I'll say it once more: the purpose of the contract is to ground the obligations — — the obligations you have toward each other, in case one of you disputes these obligations. — Yes. — That's the purpose of the contract. — You say — man, let's go back to the contract, let's see what you say about the contract — — yes — that one of mine, with 2 million and I go to work for you if I don't pay. — I say we're talking about that contract in which I said I'd give back 2 million the next day, and if not, the termination clause is that I become your slave. — Yes, you can — you can — you can make — you can make this contract. — The paradigm we're in is the following: you've committed to doing

[1:02:56] certain actions. — Yes. Yes. Yes. Those actions are still something you do. — Yes. If you decide you no longer do them, yes, we have a breach of the contractual terms, and we have to go to a judge. And I've said this before. The paradigm I agree with too, which Kinsella mumbles around here, is that the last consent counts. The last expressed consent is the one that counts. Therefore I can't force you to do something you don't want to do. I couldn't even physically. If you don't want to, I couldn't even physically. I can beat you until — — It's physically possible too. You had thousands of years of slavery in which they carried out impossible things. You know — — no? If they don't want to do it — if the slave doesn't want to do it, he prefers to die. They beat him until he dies — — those were 0%, you know? Well yes, but it was the norm. But it's

[1:03:59] irrelevant, because the norm must also apply to edge cases. If we describe a normative situation, it must cover all cases. — Vali, your position has always been like an impossibility, like the square circle. — No. My position has always been that the slave is the one who performs the action, and if the slave doesn't want to perform [clears throat] the action, the action isn't performed. That's been my position forever, and I can't force him to perform the action if he doesn't want to perform it. I can even kill him trying to force him. If he doesn't want to — we hook him up to the electricity until we convince him. Yes. We pull out his nails, we break his fingers. Yes. We cut off his little toe, we tear out the hair from his head, his beard and his ears. If he doesn't want to do that thing, it won't be done. — No. The discussion is about right: whether I'm allowed to kill him or not, you know. — Well no, it's not a discussion about right, because in the contract — no, because in the contract it's about doing an action.

[1:05:02] — The contract says to perform an action. I said from the start that a contract in which he tells you you're allowed to kill him — that one is invalid from the start. Letting yourself be killed, letting yourself be killed. More — — it's invalid from the start if he doesn't have ownership over it. You know? — It's invalid. — No. — If not, it's very valid. — No. I'm sorry. Here we don't agree. The idea is — — But did you understand the contrast I was making — that for you they're impossible, and I said: "Man, that means we had thousands of years of impossibility," you know? Because this position was that those obligations in voluntary exchange are like a square circle, you know? — They're like a square circle. That means those contracts — if that slavery had been covered by contracts — partially it was, since slaves

were bought and sold — that slavery, if it was covered by contracts, those contracts were invalid. I don't think that's an epochal discovery. — Once again, Vali. That's my position. My position is that you can't transfer the right of death over your own person through a contract.

[1:06:08] — Did you understand my point with the impossibility? What did I want to say? You talk about those obligations and their execution as if it were something impossible, you know, like a square circle. And what I wanted to convey is that they're not that impossible. You see? A square circle — yes, it's impossible. It'll never be — — which — which — — but "bring me a cup of water" isn't something impossible — — oh, it is impossible — — to execute without the slave's cooperation. — You can, through the use of force. — It's impossible to execute that action without the slave's cooperation. — That's what I said earlier. I kill him — agreed. — You don't get the cup. — Agreed. No. — Or if you get the cup of water, the slave cooperated. — Yes. Agreed. — Well, that's it. So you still need the slave to perform actions. A person performs actions if he gives consent to perform those actions. — Agreed. Only the will is choice in aggressive contexts. We've bumped into this topic before. You need his cooperation to whatever, but you do it through — if we're talking about historical slavery, through aggression; if we're talking about voluntary

[1:07:10] slavery, through the threat of using force. "I'll kick you if you don't bring a cup of water," and you'll see he'll go and get a cup of water. A contract of the kind in which you're allowed to cut off his leg is not a contract that normalizes an aggression. — Valid. — The other way round, sorry: it's not a valid contract, because it normalizes an aggression. Why an aggression? Because we presume he doesn't want you to cut off his leg, which is why you've come to need a contract. If he gives you in writing, "cut off my leg, man; give me 500 lei and cut off my leg — " — He gave you that. Precisely that he gave you that. That's the discussion, you know? He gave you that, but your argument and Kinsella's is wrong too: his will no longer matters. — Plus, think, Vali, — — he doesn't have a right over his will. If not, — — if he doesn't have a right over his will, the moment he uses it — and we come back to what I said earlier — if he doesn't have a right over his will, the moment he uses it without right, yes, he's stolen it from you; he's committed an aggression.

[1:08:12] — Yes. And what's the problem? The problem is that in the second second after you've signed the contract, he's stolen it and committed an aggression. — We have two scenarios. We have a future fraud, you know? — It's not in the future. — If before signing the contract — it's instantaneous, instantaneous with the signing of the contract. He gave him five tasks and he did them. Where's the instantaneous fraud? — He uses his will. He — he uses his will immediately after he's finished signing the contract. Yes. The moment he raised — pay attention, I finish the signature. Yes. Agreed with that. Does the master agree with that? It's okay. Does the master agree with — does the master agree [laughter] with that? — Until the master no longer agrees. — Pay attention. We have two scenarios. One in which the contract — — you have an obligation. You have a positive obligation to keep this contract alive. You have a positive obligation, as buyer, to agree with this. "Man, I'm that guy's owner," you know? You see? — Well, you don't live — because the moment that guy

[1:09:13] raises [his hand] like this, he's used his will — — and I have no problem with that. — I have no problem with that. — Take a break. — Well no — because you want to find a deviation in everything, so that you get this Minority Report-type argument in which a future fraud invalidates everything. More — — take a break. Take a little break, so I can take up again what Gabi asked. You don't have a contract; you have a debt. You have to get your debt back from the debtor. He says: "I'm not doing anything." — Yes. — What is it right to do to get your debt back? It's the same thing as what you're saying, — — no? And — or even like this — that slave says more — the slave, well, the debtor, says: "Better I become a slave to this guy than have the judge and the recovery firm come — " — " — and put me to work at some stone quarry somewhere." — Yes, but that too — only you move the problem

[1:10:17] sideways, in a way. — So you have a debtor, and he says: "I don't want to give you the million." The agency has to recover its money, blah blah, and it takes you and puts you in whatever stone quarry, and there the same problem happens. Who can compel him, and how much? — Yes. To hit the stone there. I don't — I don't compel you to hit the stone. Again, I'm in the position that I can't compel you to perform a specific action. — That — that's the default position we start from. Then in reality, in the future, after this first defective contract, money won't be lent anymore. — I've said it before, and I've said it once more: if — if you stop — you stop — — functioning in accordance with the will of Alex, yes, who lent you the money, and in the exit clause you said, "man, if I don't have it, I'll become your porter" — yes, even this, you know, in that contract it might be written very clearly what Alex has the right to do and what not. Yes. And even if you say, "man, you're allowed — look, I know

[1:11:23] I get drunk; you're allowed to give me some three, four, five slaps to wake me from my reverie." Yes. No, but think — — still, if you say, "thief, I no longer want these terms," — — yes, further on Alex no longer has the right to give you four, five slaps. — Yes. — And we come back: he has the right to take the contract to court. The judge will say: the exit — the behavior. "I can't force him." We come back to the principal then. — Yes. Yes. Which must be taken — the money must be taken back. Which, and how to take it? And how is the money taken back? I described it a bit earlier. — Say it briefly. — You're pursued by a recovery company, and it takes from you — either, or you die — — or you die. — Ah, you say you're pursued. Well yes, pursuit is very costly. — Or you die. In which case the debt will die with you. — Yes, — — that's it. I'm sorry, Alexandru — better judgment next time. — Problem. No, but it's better I eat half. Actually.

[1:12:25] — Or I die. Yes — or those goods will be recovered, yes, which are extracted from you by force; part of the debt will be recovered, and in reality loans won't be made anymore. — Exactly. — Yes. And even more than that, if we get — on the contrary, if we get into a — this is a — — into a society — — in which everyone has an insurance company — — and a lawyer whom he consults; regarding the company — the insurance company will tell him: "This contract has a very high risk. If you want me to have a reason to pursue him — " — " — to take half a slice of bread — " — " — I'll raise your premium for this thing." — Much, much worse. — Well, — — the maximum. — Crazy. — And conversely. There may be insurance companies that tell — or will tell Alex: "Man, I've made my estimate; it costs me so much; I can pursue this guy

[1:13:29] his whole life. I know for sure I won't get the 2 million back from him. I can give you 200,000," and then you've really made a — you've really made a very bad choice. Yes. — It happens; you get burned — — now, to some extent — — it depends how far we sell the thing with fungibility — — of money, — — not with fungibility. — Okay. Right. Uh, you might manage without a kidney, uh, for example. — Mhm. No. Well, but he doesn't agree. — Well — — he changes his mind — — and even if he doesn't [laughter] — — Well, you have to have — — At the last moment he says, "don't take it from me." — But look, Vali accepted this. I don't know. Look here. Here I'd think some more. I'm not 100% sure whether the fact that you — I mean the fact that you have hair, yes, which can

[1:14:34] be detached from you without endangering your life — — Yes, but only half. — No, no, no. Why half? All of it can be detached. — Well no, because you were saying earlier they take pieces of what you produce from you. "I take from you so that you don't die. I leave you enough so you don't die." You — — if you — if you might receive a whole cozonac, you see? And they leave you only one slice — — and leave you only enough that you don't die. — Good. But then the question becomes: how much is the libertarian daily basket? — It's bigger than — — Okay. Uh, you've accepted — you've accepted this type of contract in which you have — uh, it's clear it's not selling the body, but you cede him — you leave him the golden share: termination, changing one's mind. We accept this. So he sells everything except the right to change his mind, you know; this type of use over the will remains his. You know, this one you've

accepted? — Without any problem. That's any employment contract today. — That's it. [snore] And how shall I put it? I want you to answer me point by point: what's my

[1:15:37] — final objection, so to speak — that it violates the right to liberty. I want you to answer me on that. Whereas you don't answer me on that; you keep telling me: "In the future he changes his mind," and you don't answer this. You know, I want you to answer me something on this. — We'll think some more. [laughter] Uh, well, my answer is that you put, in fact, something that's going to be — you want me to validate for you — so as not to violate your right to liberty, you want me to validate a contract that can't be validated. Well, it's the same as that impossibility. The reason the contract can't be validated is that it's a breach of contract — that a breach of contract occurs from the second he finishes signing the contract — from that millisecond. — Well, legally, practically, it's struck by nullity — — after the transfer. Not after signing — after the transfer. — After the transfer. — Yes. Okay. Yes, because you have to give him the money

[1:16:39] beforehand. You're right. Yes, yes, from this point of view. I'm thinking — I'm also thinking about this: whether it makes sense to transfer without giving — for the title to suffice, you know? Whether that's something to explore too. — Who has to give first? — No, no, no. Whether the transfer of the title suffices, so to speak, even if you haven't given him the orange, you know? You've only given him the title. — Listen. — You've made the agreement of wills and signed something: "Look, man, I'll give you an orange." — We have to make ourselves a safe word, — — but you haven't actually given it to him. You know, for us the transfer is the epistemic proof of the transfer of rights, you know? You see? When you gave him oranges, you transferred the right to him. You know how I know he transferred the right? Well — oranges. That one you fool however you like. — Gabi, we have to — — The idea is, are we wrapping up or not? I think — well, [laughter] I think we're wrapping up. — It seems to me we didn't discuss much. — Well, it's good we've clarified our own things, but we didn't discuss the parts in Kinsella, especially the second part. The first part we discussed — — We went further than he did, you know? The second part. — Kinsella is somewhat on —

[1:17:44] well, this assumption that the obligation is valid only if the termination, you know? — And then, next time. — Good. Then let's get into — — I mean the thing with possession: man, why am I allowed to sell? — Gabi says — — possession is enough, or that thing with Bitcoin, you know? How? — I think so. — Yes, yes, yes, yes. Go on, Gabi. And we'll discuss this at the start of the next episode. If — — What about what? About Bitcoin, I'd say with three. Come on, I'll say what has to be — — just say [laughter] good — — For Gabi Munteanu, Alex Chiriac — I've been Valentin Berceanu, he's been Costel Stăvărache — we've been În Dodii. That was today's episode; we'll see you next time with the bit left of the chapter and with Chapter 12. — Goodbye. — Don't transfer what you have no right to. That — this principle is in the civil law now.

Video 12 (#317): On Bitcoin and Trademark (end of Chapter 11; Chapter 12)

Original title: *#317 | Bazele legale ale unei societati libere - S. Kinsella - Despre bitcoin și trademark*

Length: 2:09:17

Link: https://www.youtube.com/watch?v=k1S7bNbIPRw

[0:00:09] [Pre-show clip:] Radu Metescu. I was thinking of introducing myself: formally, a professor of economics; informally, a student of the Austrian School. Thank you. Gone. — The bear came. — It's the bear, and yes. I don't know — at the conference, [thanks] to Tudor and Clar for the invitation to be here; it honors me, and I'm glad I have — the chance, at least once a year, to meet people who are sincerely on the path of searching for the truth, so to speak. — Yes, yes. I mean, from the economic point of view I'm an Austrian. Yes, as they say. And here I start laughing whenever I think of it: I was a university assistant. At the university there were interviews for Erasmus, scholarships, and there had to be a committee for each area. The committee

[0:01:12] for French, the committee for what I'm saying. It's a danger alert. Attention! [bell] — I'm not running — some 11-year-old child got lost. — It'll go through all the phones. — I remember I was at the university. The vice-deans organized interviews with students to send them on Erasmus, and there was the Committee for English, the Committee for German and the Committee for French. And for German they had nobody. And the vice-dean, who was from a field other than economics, heard that some people were "Austrians" and called them onto the German-language committee. So none of them spoke it, but anyway, there was a German teacher there, you know? Uh, I'd say the Romanian school of economics, if I may put it that way, because in my perception it's the only coherent endeavor in Romania — — the Romanian school of Austrian economics.

[0:02:16] How was it with FC — Barcelona from Bucharest, or something? It's one of those football clubs that — — there's also Inter; there's also — — Inter Milan from Bucharest. Yes, — — yes. It's Lio Bucharest. — So we're Austrians from Romania, let's say in quotation marks. [music]

[0:03:30] [music] — If I told you that authority — [music]

[0:04:57] — But I still didn't understand — but anyway, we'll talk on the show. So why doesn't labor exist [as property]? — Because it's not [laughter] an object for him. Only scarce things. — This glass exists. — So you have property. — I brought this counterexample last time: labor is scarce too, you know? — But it's not rival, it's not rivalrous. — The whole discussion about slavery is conflictable. — What? — It's not conflictable. — Conflictable. Oh yes, oh yes. — Well, if you're on the show, can you do something else too? — Because you're doing labor now. — Two people can't quarrel over the same labor. — Oh yes. Slavery — what's it about? That one was the owner of the labor — — taxation of labor. What's it about now? I think libertarians think it belongs to us. — Taxation of labor — — the social democrats [think] that you're majoritarian. Excuse me, "taxation of labor" isn't about taxing labor proper, — — taxing income — — it's about taxing income from labor. It's about the money you obtain as

[0:06:03] a result of the services you've provided. — Okay. And — — and which the government doesn't let you keep in full. — The discussion about conflict, you know? Well, but the conflict is over money. Conflict, as Kinsella sees it, is over something that can't be used by two people at the same time. — Well, and labor can be used. — Labor can't be used by anyone, because it's not an object to be used. — It doesn't seem — look, I'll think about it. Maybe it has, but no, — — I mean, even the mainstream people admit that yes, we can distinguish between a service and a good, let's say. — Well yes. And

services — — or, — — but conc— — do you have property over — but you don't have property over them. Well, wait, if it has a — — Explain [laughter] to me how you have property over a service. — What? Explain to me how you have property

[0:07:06] through a service, — — because even now you're on a good. [laughter] — Fine, — — if I say that the good has an inherent quality which isn't inherent in a service, and because of that quality we must make property rights over goods, then when you answer me "it's just like a good," it means you haven't thought my argument through to the end. — Okay. How's that business with income? That guy wants [it] directly in labor. He thinks it's his labor. Real — — we solved the part with the one who wants it directly in labor last time, when I said that however it may be — black, white, hairy or thin — you can't oblige a person to perform a certain trait. I have to change my T-shirt because it stinks — you have no way of obliging a person to perform a certain action. — You do [laughter] have a way —

[0:08:08] — I think the language is wrong. Through coercion you can oblige someone to do something — — only if, in the last instance, he wants it. — Yes, yes, yes. That's the answer. I agree with that. He wants it. — Okay. Yes. — It's constrained will. It's not free will. Because if it's — — Well, it's not free will. And that's the idea: there's no normalizable constrained will. The constraint of this will can't be normalized in the libertarian system. — No. We were talking about a physical possibility, you know? We weren't talking about the justice of the act of constraint. — We agree it's not just to — — Well, we're talking about the justice of the act now, since we're still in a discussion about what we can ground the normative system on. — Only then, with cooperation, to make him do it. So you were pulling — it was another discussion. You were pulling. They're two different discussions, you know? One is whether you have conflict over action. The second was whether "bring me a cup of water" is the same as "bring me a square

[0:09:10] circle." What I was trying to show you is that they're not the same after all. — Why are we interested? Good. So the question of whether — — you said it's enough to raise a finger and I've committed — why — — Why [snore], if I raised my finger, have I committed — why? — Why? Because — — only if he says no, or if I leave two behind — you don't do anything without what I say. — Only then, if he — I don't know — sold his body, you know — so nothing happens. Nobody said anything. — So we [laughter] start. Good. Let's see. — Let's — — When, when do we enter [laughter] — you say, I start talking, and you tell me when we enter the sphere of the normative. Yes. We start from the fact that certain goods can't be used efficiently unless we assign property rights to them. — Right. — We haven't yet entered the normative part, in your opinion. How did you say — that certain goods are efficient if —

[0:10:13] — certain goods can't be used efficiently unless we assign property rights to them. — It's normative. — We're already in the normative. Yes, because you said — no, pay attention. — On that person's cooperation under unfavorable conditions, it wasn't a normative discussion; it was one of physical possibility, you know? Ontological. On excludability — that it exists at the level of action too. Yes, that was a — and pay attention, also the fact that he claims it's his labor. What you do is his labor. — Wherever there are property rights and wherever there's a discussion of property rights, it's normative. Okay. — It's normative. — Yes. So if one person's justification is considering that whatever was his, he considers this thing on the basis of some property rights. So the discussion is normative. It is, it is. Yes — — okay, so — — yes, I agree with that. No, I don't have a problem. — Good. And then the problem that — — Let's start. Come on, we'll discuss more. — Yes.

[0:11:27] Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*. We continue Chapter 11 from last time, and maybe we'll move on to the 12th too, because unfortunately he writes deeply and profoundly. — Yes. Fortunately for us there's a

like button, which we ask you to press, and a share button. If you want to spread goodwill to others, send them episodes of the În Doi podcast. Subscribe if you want YouTube to notify you when we post something. And also click the bell, because otherwise it's pointless — YouTube won't necessarily notify you when we put up a video. If you look through the description, you'll find all sorts of links. One is to a Telegram group where we can meet,

[0:12:32] discuss, chat as if one-on-one, if you're interested in such a thing. Also in the description you'll find a link to Kinsella's book. You'll find a link to other books from Sense of Self Publishing, works of fiction with libertarian inspiration. Also in the description you'll find a link to the HydraFest event, which takes place at the end of this month — hurry if you want to sign up. And also in the description you'll find a link to the Mises Institute's autumn school, which takes place at the beginning of September. Also in the description you'll find a crypto link and a Patreon link if you want to support the efforts we make here, and we take this opportunity to thank those who have already done so. — Last time we talked about

[0:13:38] Kinsella's theory of transferring goods in the future, and I came out with the idea that for fungible goods — those that aren't uniquely identifiable — the obligation of transfer is created; and I was thinking that I explained it somewhat wrongly in the end in the last episode, because it doesn't seem to rest on anything, and so I'd say this: a future transfer of a good that's fungible — for example, the case back then was between me and Alex; since we don't have Alex available, I'll use Costel. Yes: Costel gives me some money, namely 100 dollars, with the understanding that in the future I'll transfer him 110 dollars. Okay, suppose, absurdly, that I never had 110 dollars

[0:14:44] until the year is up, until the year is completed. I took his money, I ate it, I lost it — it doesn't matter what I did with it — but it's certain I never had 110 dollars. The solution to this kind of contract is the following: the property title to 110 dollars is transferred at the moment I have them during this year, with the title actually being transferred upon completion of the year. So it's grounded: I had 110 dollars at some point; it's my duty to transfer them to Costel, but the actual transfer takes place only at the end of the contractual year. If I never had these 110 dollars, at the close of the year a restitutive right of 110 dollars is created toward Costel. That's all. Costel has a

[0:15:48] restitutive right. If I don't have the money, I've transferred to him this restitutive right. — Only 110. — Of 110. — No more. — Well, it depends. If I come and say I have no intention of transferring that money to you, I can say I defrauded you, and then the judge can multiply 2x the initial sum of 100 dollars, and we get to 200. But I'd say that the initial part that goes — so either the contract is a fraud, yes, which is established by the judge. If I don't want to give you those 110 dollars, it means I committed a fraud, and then the obligation rises to 200. — And if you want to give them to him but don't have them? — Well, and [laughter] it's irrelevant whether I want to give them but don't have them — I've explained [laughter] — let's say you want to give them and you have them. — The respective right is 110; you give them to him, and that's all over — over. — So 110 is the sum at the moment

[0:16:51] of the contract's completion. — Exactly. — But you say you never had 110; but after Costel gave you 100, you had 100. — I had 100, but I didn't have 110. — Did you have 110? Yes. — Yes. And the same thing works for chairs, mirrors, umbrellas and other crazy things that might appear in a substitutable contract. If I never had, for example, a pink umbrella in my ownership, it's irrelevant. At the end of the contract I'm indebted to Costel; I've created for him a restitutive right to a pink umbrella. So either I had the property title and transferred the property title, or, on the basis of the contract taken bona fide, — — ah, on the basis of the contract, — — on the basis of the contract taken bona fide, I've created this restitutive right for him. If the contract proves not to have been bona fide and was a fraud, I

have to give him twice the sum received. — But shouldn't — no, it doesn't — — it doesn't matter that no. It no longer matters what's in

[0:17:55] your mind. No, of course. — Well yes, but — — your spiel matters, because — — this spiel is between — — because you can also have good intentions. — The spiel is between you and the judge, you know? If need be — I mean, you can — — No, I was thinking of what you said — that intention doesn't matter, you know? The car over you. — No, it doesn't matter. Well, that's exactly what I'm saying. Intention doesn't matter, but at first sight we judge the contract as if it were correct. Yes. And if I don't want to discharge his obligations, for example — I don't have them — I can't say I stole two pink umbrellas from you, you know? But my duty at the end is to go buy a pink umbrella at the market, or come before the judge and show that there are no more pink umbrellas in the world to buy. There are no more pink umbrellas, and then we fall into the other — — case, you know? But my obligation is to go to the market, buy a pink umbrella and give it to you. If I don't do that, it means I'm not discharging the contractual obligations. It means you can take the contract to a judge, and

[0:18:58] the judge can ask you: "My Costel, do you want a pink umbrella — — obtained for you by force — or do you want twice the money back?" And you decide, or he decides. It was fraud — doesn't matter. — Yes. And in the case of unique goods — — in the case of unique goods it's not possible. There, what Kinsella says really happens. If the good is lost, it would be very good to have a clause for the case where the good can't be transferred. So — — and if you don't have any clause, all you can hope is that the judge can decide it was a fraud, because otherwise, for contracts that can't be — that can't be executed, the answer is that you simply undo it. Well, so if —

[0:19:59] — with the square circle — I mean, we're in the square-circle case. — If you had to give back, let's say, 100 dollars as interest — and as interest you gave a Van Gogh painting you had at home. — What? As a clause — — as interest. The contract says. "I don't want 10 dollars," says Costel. "I don't want 10 dollars interest. I want this painting. Give it to me." — Right. — And you say yes. Okay. Right. — And something happens, I don't know — — daring isn't the same thing. Scratches, or — — right, — — so you can no longer give it back. Do you have to give, let's say, an appraisal and give that sum back, or — — no? No. If you can't give — again, if you can't give — on the contrary, if you can't give the physical object, the best thing you can do is have, as backup, a clause about what happens when you can't give the physical object. — Okay. Yes. — If there's no such clause, we're at the judge's discretion. If we're the judge, the judge can ask: how — what happened to that painting?

[0:21:03] And the man says: "Well, I set fire to it." "Ah, you set fire to it?" "Yes, I set fire to it." In this case it's fraud, because you had an action that prevented — you had an action that clearly — how shall I put it — clearly contains its consequences, you know? It's implicit. You've defrauded us. You've violated Costel's property, because the painting was already Costel's — — or was it with Costel? — Not even with that do we get out of it, because I can indeed put the property title — — as having been transferred to Costel; but that's exactly the problem: the property title, on the theory of contracts, is transferred only upon fulfillment of the condition, and the condition is for a year to pass. — I mean, the whole idea is whether the painting is destroyed before it becomes Costel's — — according to the transfer of things — from what transfer means. Transfer. It's not only that I give you — because you can give me the deed, you know, of ownership, but not give me

[0:22:06] the painting, you know? — Well yes, but afterwards — afterwards anything — afterwards anything I do with the painting is a violation of property; it's an aggression. — No, but he says that isn't a transfer. When they talk about transfer, indeed they have in mind a transfer of right, but the transfer of right is verified epistemically by the fact that he actually gives you — he says here that — — no, but this way you were giving me only the deed, you know? Okay. [laughter] — Well, I was giving you only the

deed, but the moment I prevented you from using the painting exclusively — because you're the rightful owner — now, the moment I prevented you, it was an aggression. — Yes. — Not just to verify — no, I mean, you know, it's not just epistemic verification. The moment I transferred the title to you, certain obligations exist. — Well, and then you'd be — pay attention, this has — well — when you think of voluntary slavery: transfer the deed. You don't need to do anything else at all. — We've talked about it, but — — you exchanged the deeds and all the execution was — but wait a moment, so I wait for that guy to transfer for 1,000 years. You know — — The reason that with [laughter] voluntary slavery we invalidated

[0:23:10] the transfer was this: that the transfer of will can't be made. Let's not repeat the discussion. Independently of that — you'd say, look, it works with oranges, you know? — Right — — it's enough. You'd say the transfer has been made if he gives you only the deed. — Yes. The deed is enough, even if he doesn't give you the apple. — Well — — well, and what if he never gives it to you? — Yes. [laughter] Well, if he's given you the deed and the apple exists, yes, you have the right to use that apple. The moment he prevents you from using that apple — — It's yours. Yes. — Yes. — Ah, so the title is enough. — Yes. Well, and it's the same thing — exactly, it's exactly the same argument as with the will. — Exactly. Because the moment he uses it, he prevents you from using it exclusively. He violates this exclusivity of yours. — No, no, I didn't tell you that. Only if he specified it. So you take this most — how shall I put it — perspective: that guy can't use his will except with

[0:24:15] my agreement. And I said there's no need for such a thing, you know? Here's an example. — You don't need such a thing. — If he gives you the general rule, indeed, it's what you say — aggression — but even so, it doesn't validate the contract for you. The painting that was the interest was at an exhibition. You transfer him the title to the painting and say the painting is at an exhibition in Paris. It lasts three months. — This happens quite often. Right. — Yes. And you can go and take it from there, because you're the owner; you have the deed. Or you can leave it there. So they can use the painting exclusively. They're in possession of it even if the property title is with Costel, — — but not exclusively. — Vali pulls toward himself so that it comes out impossible. That guy never does anything without him. I say it doesn't need to be so. The fact that the guy raises his finger — we only have this information. — Those people there don't use the painting exclusively. That's what I'm trying to say. An exclusive use. They have only a certain right: the right to keep it on that wall and show it to the world.

[0:25:22] — They don't have the right to burn it; they don't have the right to change its frame; they don't have the right to modify it. These are characteristics of exclusive use that they don't have. — That's what I'm trying to say. And to you, for example, he transfers all property rights except those that were ceded for that term to the library, with you receiving them only from then on. — Yes. Okay. — Because you can't go the next day and take it from there, because he can't cede you this right. You could — but maybe you pay some fees there, some — "sir, if you want to withdraw it — " — no. He can't cede you this right, because he doesn't have it. He gave the painting to the exhibition — — and said he won't take it back until the date of — — Ah. It's a rental — — therefore, yes. It's like a rental. He can't cede you the right to take it from there, because he doesn't have it before the date on which he has the right to take it back.

[0:26:25] — Those people are owners for that period; likewise the owner doesn't come over — — but only he doesn't have the right to take it back. — Okay. — Well, they have the property right. I can say it's unfortunate. I — — property right again. They don't have the right with rental either. I don't remember where I had this discussion very recently — either on — it might even have been on the Telegram group that we had this discussion about rental. The tenant isn't the owner; he doesn't have property rights; he has only the right of use. He has the right not to let, for example, just anyone into the house; he can

exclude others from using the property, but only because this right is ceded or delegated by the owner; but he can't exclude the owner too, for example — or, well, depending on how the contract is.

[0:27:28] — Ah, you don't call it — you don't call it a property right at all; a right of use. Of course it's not like that — he says property right, because in the property right there's also the fact that you can blow up the house — I suppose it's not — we're not in an apartment block, you know? — Okay. — Oh, that too if I give you consent, [laughter] well, let's not complicate. But do you understand — do you all understand why this is in my favor? Because we've always struggled with this: "wait, did that guy transfer? He still has a lot left to transfer," you know? Whereas if the transfer means only the deed, it's — — the transfer is finished — — because many people get lost, but I think even — wait, until that transfer isn't — — again, as long [laughter] as this transfer is something possible and something you don't violate. — I'd say it isn't. It depends how you stipulate the contract there — that you transfer what you transfer. — Let's see how it is with Bitcoin. It seems to

[0:28:30] me — I think Kinsella knows the exact mechanism of Bitcoin, but he links Bitcoin with other digital things, and because of that he considers you don't have property rights over a Bitcoin. So you have a JPEG. Yes. It's on your computer; you put it on the internet. You say you're the owner of that JPEG. — Right. — And then someone else comes and copies it. — Right. — And Kinsella says you're not the owner of that JPEG, because it's not conflictable. If there are two — so the part, let's call it, in favor — the part that's in Kinsella's favor, yes?

[0:29:32] — Right. — The JPEG is nothing other than a logical arrangement of zeros and ones, — — yes, — — contained on a physical medium — — which can be read — — and turned into an image by an interpreter of this logical arrangement. Perfect. Agreed. Okay. Good. This logical arrangement of 0s and 1s, stored physically somewhere — whether it's hardware, whether it's magnetic hard drives, whether it's electric solid-state drives, whether it's discs, magnetic tape, whether it's discs of ice, tape — yes, it can exist in all four of these forms. Non-conflictually. You can read and see the same image at the same time on four different devices, from four different places.

[0:30:34] — Yes. — Therefore it doesn't seem to be a — — conflictable — — this JPEG itself, a conflictable good. Of course the physical medium itself on which it's stored is a conflictable good. — Yes. Yes, but the image isn't — — a good. Now, regarding Bitcoin, the idea is that he doesn't go into much detail here, but having a Bitcoin — — Now the question is: what is a Bitcoin? — Yes, that's — — in relation to the JPEG. Bitcoin is on very many computers. So by definition, that arrangement of 0s and 1s — Bitcoin, the Bitcoin blockchain, being a database distributed across thousands of computers — is everywhere. What you have — so that we say you're the possessor of that, or you have the property right

[0:31:37] over that Bitcoin — is a private key that's only with you. So — — but the private key that's only with you, — — the private key, yes, isn't the Bitcoin. Yes, — — but the private key that's only with you — — if it were copied onto anything else — and if we applied the same thing and kept it on ice, solid-state drive, hard drive and magnetic tape, 7,000 hard disks. Simple — — you can copy it several times. Yes. — Yes. — Good. Go on. — That key — that private key, yes, gives you the physical possibility, yes, to move information around there, to alter it, to subtract or add from that — well, to subtract actually, because for adding someone else has to send, with another private key, to add some sums to your address. — Right. — So with that private key you can send some sums of Bitcoin from your address to another address. So you can

[0:32:43] modify the Bitcoin blockchain. Right. — Okay. So in Kinsella's conception, are you the owner of that private key, of that information? — No — — are you the owner, or are you in possession of the information distributed across thousands of computers that represents the sum in your address — that information there — — no? — Okay. If we recall Kinsella, he says that property — — is a relationship

between a person — — and a certain thing. — Yes. — Yes. From my point of view, the relationship — you said it several times — — yes, — — in the course of your story, and you said it under the following name: "your address," — — right,

[0:33:46] — "your" denotes a relationship of ownership over this address. Is the address itself, as information content, unique? No — I mean, it's on thousands of computers. — Ah, I understood that it's unique. Yes, — — from the physical point of view it's distributed. Yes. — From the logical point of view, though, it's — — it's — I mean, Van Gogh's painting. That arrangement of 1s and 0s doesn't exist anywhere else. — Good. What we have inside this thing is this. There's a contractual relationship between you and — I don't know what it's called — the organization of miners, or whatever these people who maintain the blockchain are called.

[0:34:49] — Yes, they're miners. But it's not an organization. They're very — they don't know each other. They don't know each other, but you practically — — they all respect a certain way of mining, a certain procedure, a certain algorithm. — Yes, but they — they practically certify to you that that address is yours. — Yes. — No. So actually what you have is a contractual right with each of the miners. — Yes — to identify you. — Yes. — With that address. — Yes. — Yes. And within their game with Bitcoin. — Yes. — Yes — to say that all the bitcoins generated by them that were transferred to that address are yours. — Yes. — That's a contractual relationship you have with the miners. — Yes. Okay. Further,

[0:35:55] this contractual relationship, how shall I put it, exists from this point of view for anyone who has an address certified by the miners. Correct. — Yes. — Correct. And the miners say, as part of the contractual relationship between you two, — — yes, — — that they treat that Bitcoin — — yes — — which you can cut, slice, raise like this — — and they treat that Bitcoin — — as if it were the property of that address, — — yes? — — which they identify with you. — Yes. Therefore, from the contract you have with the miners, — — yes, — — it follows that they recognize your property right over the Bitcoin, but it's a conventional right that they recognize, which exists only within the network —

[0:37:01] — Bitcoin [network]. — Bitcoin. — Yes. — Yes. The problem would appear — the problem would appear at the moment you want to exchange the Bitcoin for money. Yes, because theoretically — — because theoretically you have a right — you have a contractual right to this Bitcoin — — which is within the network. — Yes. — Yes. But money isn't within the network; it's outside. Money is actually property — well, clean money, like sound money, would actually be property, since now we're in — — Well, and don't you have rules for — — in a system like this. — Don't you have import rules in the network there — — of import — — of money. Yes. — No, it's not a closed environment. I mean, it has no connection with — — No, you sell. You practically sell, but theoretically we could say this: if you sell a Bitcoin to someone for money — — H—

[0:38:03] for actual money — — yes, — — that person has to be within the network to — right. So he considers Bitcoin property, and he's within — he buys from you, in fact, the transfer of a contractual right, which is recognized for both of you by the miners. — You have property over that contractual right. That's practically what you transfer to him — not the Bitcoin; you transfer to him [it], because the contractual right is recognized outside. Yes. And if someone wants to give you some money, for example — pay attention, look, here's an idea. If we play FIFA, — — yes, — — and I don't remember — they've put all sorts of microtransactions inside — it's the same thing. — Yes. You give me 500 lei so that I give you so many points inside the game, so you can customize your players and whatever else. That's a perfectly legal transaction. — Yes, — — likewise Bitcoin. — Yes,

[0:39:05] — but only within — but only within this. No — you don't need — you don't need to step out of here and say further that Bitcoin is property, or that you own Bitcoin. You own certain contractual rights that oblige the miners to recognize you and to behave as if that Bitcoin belongs to your address. — Well,

and why isn't it property? Well, Kinsella says only the universe we really live in has property — — because it's not rival. It's not rival. So like labor, it's not rival; his contractual right is what's rival, what can be subject to rival use. His contractual right is what can be subject to rival use. Bitcoin itself — if I take and copy the structure and impersonate Gabi, I've duplicated all of it. I can do what

[0:40:07] I want there. — You can — — But I don't have a contractual right with the miners. — Pay attention, Vali, — — you see? Yes, but no — — you can copy the entire Bitcoin blockchain, you know? And have all the bitcoins on your computer. — Right. — The idea is that only you recognize it: "Yes, sir, I have them all," but the rest of the world doesn't — the miners — and I say, I say: if I copy your address. — If you copy your address identically, if you clone it as if you clone your phone. — Yes. — Yes. — It's the same. So you can — everyone can clone all addresses. — Right. — It's useless — you have to clone the private key, which — — Well, you clone that too. That's what I'm saying. Clone — — if you clone everything, including the private key. You only need to clone the private key to have access to my address. — Very well. I clone your private key. You have the private key in your pocket. I also have your private key in my pocket. — Then yes. — Only then. — So we have a conflict. So it's a scarce resource. So it's property, right? Or what did you say? No — that's exactly the idea:

[0:41:11] that we don't have a conflict, because both I and Gabi can use his private key — — at different moments. — You have no problem with that, Gabi, that he can use it. — Well, [laughter] you realize I have a problem. — He may have a problem, but it's the same — from the point of view of libertarian theory, of property rights, indeed — — it can be used simultaneously — to put in two keys. — You can use it simultaneously. — The idea is — so it doesn't generate, let's say, a blocking or something. — The idea is that the miners will try — whoever gets there first and modifies and introduces — modifies — or not simultaneously. — Yes, — — it can be simultaneous — — in the same — — Yes, I hit enter and he hits enter likewise on his computer, and — — in the same second. What do I say? What — — now? It depends on me — from my computer, from his computer, it'll go into a queue. At some point one of them will be processed first, because it's impossible to process them at the same time.

[0:42:14] — Yes, — — but don't — don't assume it can be at the same time. That's it. — Well, that's a technical impossibility. — So if not, if — — to hit enter at the same time, — — you can hit enter at the same time, but that's not a problem. — Processing at the same time. The processing and publication of transactions on the blockchain takes place either for one, or it can take place for both if [snore] the sum leaving, both following his transaction and following mine, is less than the sum in — — Yes. I mean, if we don't empty the wallet — — if we don't empty the wallet — — and even if we empty it, as long as we don't go over the limit. — Yes. If there are 10 bitcoins in the address, and he sends one and I send two, in the next block of transactions both transactions will be included, and now that address will contain seven — — so he's left with seven. — Yes. — Only I — — if he sends 10 and I send 10, only one will go through. — But you don't have the right of exclusive control. That — — in theory that's how it is. No — actually the contract

[0:43:18] says the following. The contract of the miners who mine and validate transactions says: "It doesn't matter who has the property right over the key. If that key signs validly, according to algorithm X, Y, Z — look, here are all the steps, this code is respected — then that transaction is valid, and I validate the transaction and include it in the next block. So I'm not interested in the property right as we define it in the real world. For me, if you respect these steps of the transaction-validation algorithm, you're the owner of that block, and it moves." — It moves — you're not the owner. [clears throat] — So I don't even — I don't even commit fraud. It means — — according to the contract. — Because I was thinking — I was thinking I'd commit fraud — — only, let's say, in the real world. But in the world of Bitcoin you didn't commit any fraud. — Well, and which world is important? Well no, even in the real world I don't commit fraud. Because if in — — in the real world, according to state laws

[0:44:21] now — or aren't we talking libertarian, libertarian[ly]? If the contract between the miner and you is that it's your business that I don't clone your key — — Yes, that's right. Yes. — Someone else can take it from you. — I haven't committed fraud. — He doesn't commit an aggression. — He hasn't committed any aggression. Yes. — And what's aggression then in that world, in Bitcoin? — Well, there isn't really any. It doesn't exist. Oh no, there are aggressions — — without sorrow. — Aren't there multiple daily aggressions in the Bitcoin world, namely — — some try to modify a bit and get away scot-free — to modify that transaction a bit and get past the miners' validation. Yes. — And those people work there, thinking: "Man, is this transaction valid, isn't it valid? Ah, it's not valid. Man, this guy sent 11 bitcoins when there are 10 in the address. Drop. This guy sent the picture of Britney Spears — put it in — there are too many [clears throat] bits added to the transaction. Drop." All sorts of — just recently there was a civil war

[0:45:25] and they were trying to make a fork of Bitcoin, and I mean they said: "Sir, from now on let's keep Bitcoin transactions to a limit. Let not every piece of junk be transmitted here." — "Thou shalt have no other gods before me." — Yes. Something like that. And, well, this was rejected by the miners. Yes. So the miners are the ones who establish the way transactions take place. — And how do the miners establish it? By unanimity or by majority? — By, by — no, by hash power. So it can even be one miner, if he has more hash power than the other 99%. That's it. — What does hash power mean? — Computational power. — Ah, okay. So it's somehow a right of the strongest. — The contract says who — it's somehow a fiscalocratic vote. Uh — — it's a vote — — or hash-power-ocratic, in this case. — Hashocratic. Yes, yes, yes, yes, — — yes. So when in 2017 there was the fork between Bitcoin Cash and the normal Bitcoin

[0:46:30] there is now, Bitcoin won because they had more hash power than the others. That's all. And the rest — the other Bitcoin separated, went in another direction. — Hm. And so okay. Good. But if they want to come together — for example, as you said, one, let's say, has the most hash power — but if several want to come together, they have to vote on something together. — They don't have to vote in the sense of voting somewhere. They simply have to install, on their computer that validates transactions, a certain type of version of the Bitcoin software — — of the Bitcoin miner — — and it tells them: "Sir, I go with this version of Bitcoin. This is how the transaction must be validated," — — I mean with — okay, so the set of rules. The idea is that — — Yes. And the more miners install a certain version of software, yes, who together have more hash power, those win that way of mining.

[0:47:35] — The others then either have the choice to fork, or — — or drop, stop mining at all. — They lose. — Yes, yes, yes, — — yes. Okay. Yes. Pretty — sounds pretty fair. But to repeat — coming back now to the problem Kinsella has — you can understand why Kinsella says Bitcoin isn't property, as long as it's a series of ones and zeros distributed. You don't — — what you have is the contractual right of identification with that address — — which, it seems to me — I tried to understand from this paragraph with Bitcoin what he wants to — I think he knows about the private key and so on. He knows. You realize, — — but he wants — being a book or an essay that goes out to people who aren't familiar with Bitcoin, he doesn't — — doesn't say "sir, the private key" and so on. He says — — he says this was a speech at one of Hoppe's summits, in Bodrum. — Well yes, but people pretty much know — — he was speaking for those people, wasn't he? Yes, but

[0:48:38] those people pretty much know. — Well, so — — they're not that advanced, but — — but that's what I was thinking too, that they'd pretty much know. — Look, in 2022, so already — — it should be — I know — — relatively recent. Yes, well, that's what I'm saying. So I think it would be relatively recent. Maybe he didn't go into details either because — first option — he doesn't master these details, — — which I don't believe. [laughter] — First option, I said. Second option — the second option is that he actually wants to address a broader public, — — to use Bitcoin, over which in the end, according to his

theory of property, you still don't have property. — Yes. — Yes. Even if you go and sell it, you don't have property over that Bitcoin. — Yes. That's a point of the chapter: having the right to sell something doesn't mean you're the owner of something. — But fine, you could come here and give him the counterargument that what you sell

[0:49:42] is actually the contractual right to be recognized in proportion to how much Bitcoin you send. And indeed it's a closed universe, but think how many closed universes there are — where, for example, cigarettes in prison, or some gold in a certain online game. — Yes, but you understand that you don't — you don't own that gold in that MMORPG. Yes. It's not your property. You have — you have a right — you have a contractual right toward — — the game's publishers, or those who administer the game for you. That's what you own: this contractual right, that they respect the rules of the game. — Yes. If the game closes tomorrow, — — all that gold of yours is gone — that's it, it's no

[0:50:46] longer there. Likewise with Bitcoin. — Right. Likewise with Bitcoin. Yes, — — theoretically. Therefore, that's why Kinsella says it's not — it's not primary property that can be taken out of there and used interchangeably with any other property in this world. And if — — it's a property that exists only within that contract — — and if mankind discovers, let's say, another universe, — — right, — — you go there — you can't even go with your body, with anything from this world. You go only with consciousness, and you're transferred into another body on the other side. Right. — That means property rights take place, have — make sense only in this universe. — No. Seven. — Well, property rights. — Libertarianism is for extraterrestrials too. — Uh, I know — I know libertarianism is for extraterrestrials too, but those extraterrestrials are in this universe. Yes. I'm talking about another universe. — That other universe — we have to see whether the criteria of rivalry over goods are

[0:51:51] preserved in that universe too. — Matter, between the two universes. — No, well, but it doesn't matter. You don't have it anyway. So if there's no transfer of matter, it's irrelevant what property you have in this universe. Yes — I'm asking whether property rights exist in that universe to begin with. Yes, the conditions for the emergence of the property right must exist. — Right. And you'll have other things there. But these here you don't have anyway, because you can't transform them. — Well, what — if you don't have scarce objects, no more property? — That seems to — — That seems to be that — — I think they'll have surprises in Heaven, or — — in Heaven [laughter] — — No, they won't be scarce, and you'll see that — — Yes. They'll have the game of backgammon, or — like with Bitcoin. As I've said before, a game of backgammon represents something we enter into — it's more

[0:52:58] the contract makes it scarce. You see? Our game of backgammon. If our game of backgammon needs some boards in order to take place, yes, they're not my boards or yours, but the game itself, because it's between the two of us, is scarce. So I'd say the places where you think scarcity exists in Heaven exist, but they're of this kind. — Hm, hm. Okay, let's see — Saint Peter says they're yours. Let it — or they're [laughter] — if they're mine, for them to be mine they have to be scarce, or at least usable in a rival way. Scarce. Well yes, they're rival. — They're usable, by the nature of any — — No, well, you realize. "Take a backgammon board. Do you want a board too? Take 100 boards too." — No, but the idea is to play simultaneously, you know? Simultaneously to

[0:54:02] play with Vali and with you and with — — That I don't know if — — So simultaneously — we're not talking like a chess player who plays against 10, you know? — Okay. Okay. Okay. — What? With several worlds, right? Or — — Well — — I don't know how it'll be. I really don't know. — Yes, but the problem remains within the world, you know? Within — well, so how is Bitcoin? You can't own it, but it's receiving money, right? Or — — it's not [clears throat] property, but — — Bitcoin? [laughter] Bitcoin you can't own per se. But you can own something derived from Bitcoin so as to — — Yes. — — so as to express all the same characteristics you have with Bitcoin. — Let's see why you're not the owner of an

action. For example, singing at a wedding — you're not the owner of this thing, — — but still you can sell it. — We get into action. We do the part with action and — ah, okay. — I understood that much. So how does Kinsella approach this aspect of

[0:55:08] the way someone can transfer a property title to another? He says: "Sir, there are two kinds of language. There's economic language and legal language. In economic language, John can say: 'I sold a month of my labor to company X, and company X paid me 5,000 dollars.' In legal terms this contract sounds like this: company X commits to pay John 5,000 dollars after a month, on condition — and to transfer the property title over the 5,000 dollars to John — on condition that John perform actions X, Y, Z — " — " — stipulated in the contract."

[0:56:10] — Stipulated in the contract. Yes. He doesn't sell his labor. Yes. That's only a more simplistic economic language, so that, how shall I put it, it's easy for economists to communicate with each other. — But in legal terms, — — we never say — — Yes. In legal terms — why isn't it — — in legal terms? In order to be, how shall I put it, covered for the consequences of the things you say. Yes, an economist doesn't necessarily have to bear legal consequences when you talk like "I sell my labor." — A contract isn't an economic act. A contract is a legal act. — Yes. — That's the first thing in this construction of Kinsella's. A contract is a legal act. And you realize it's a legal act because lawyers have to advise you in order to sign it, and when the contract is

[0:57:15] contested, it's contested before a judge. — Yes. — Yes. — Yes. Yes. The economic presupposes. — It's also a — because it's also a transfer of property, a change — — because there's also a transfer of property there behind the contract, which seems to have economic implications — I agree with you. But on the other hand you can — — you can't talk about a transaction. You know, you can't talk. — Well, no. The idea is that economically, the free market — you've defined [clears throat] — it means that a market is free, you know? — And then you explain: "look, respecting contracts, look, such-and-such results," like that. — Yes, but economically, — — I mean, it seems to me the legal part comes first, doesn't it? — Yes. First. That's what he says, and I think that's what he'd say too — — But economists, when they start talking about implications — various implications of how much labor is sold, or various jobs and whatnot — they don't sit and talk in a legal spirit, in legal language, about these things, and they say: "so many jobs were created." "John sells his labor." "A

[0:58:22] carpenter sells his labor for 5,000 dollars on average in the state of Texas and for 7,000 in California." — Okay. And what's his argument that it's not — — "the cost of living is such-and-such." Yes, — — what's his argument that labor isn't — — that we've got used to saying we sell labor, but in fact — — that labor is a factor of production, just as capital is; that we're owners of this factor of production — — but these are — — absurdities [laughter] — — from the legal point of view. — Yes. Because a contract — because this is what he's trying to explain — an employment contract, from the economic point of view, you say: "I sold my labor to the corporation; the corporation gave me the money; everybody happy." From the legal point of view, you say: "The corporation commits to transfer my salary to me at the end of the month, conditional on my performing actions X, Y, Z during the month."

[0:59:25] — Yes. — Actions X, Y, Z being stipulated in the contract. — Well, it's the same devil. — Well, it's not at all the same devil, — — because you know his object — his aim here is to show you that selling doesn't mean, doesn't implicitly imply, that you're the owner. So selling your labor doesn't mean you're the owner of the labor. — Well, and whose are the actions? — Your body's. You're the owner of your body, and your body performs some actions. — Well, and by transitivity, whose does it go to? No, [laughter] — — no, — — no. Because you can't say — — well, and a murderer can't defend himself: "it wasn't my action." — Well, you can't [laughter] — — Your action is caught up in — — your action, and the idea. Your action [laughter] — — Your action isn't transmissible. — Only you do it. We discussed this

the previous times too. Your action can be performed only by you. And I know you'll say, "well, it's not scarce." Maybe it's scarce, but it's not rival.

[1:00:31] Only you can do it. I've done some silly things at work too. Maybe — Gabi can't do it — — with you, in your place. You see? Gabi can't perform the action of Costel singing, for obvious reasons. — Yes, because he has to — — I'd have to inhabit your body, to be there. — Yes, but look, coming back — okay, metaphysical discussion. That person can act — I can act in accordance with Gabi's will, you know? "Bring the cup" — I act. Again, the fact — — he threatens me, and he acts there with the fact that you — — has an exclusive right of control. I say yes. — No. — Exclusive right of control doesn't mean — pay attention, look, I was thinking of this example of control. That door is mine, you know? Let's carry it outside, you know? And you put your hands on it too, you help me, whatever. And Vali will say: "Well no, you didn't have an exclusive right of control, because

[1:01:34] we put our hands on it too. We used it simultaneously." Well, but that's not what the exclusive right of control is about. No, no, no, no, no. — It's about the fact that that action took place in accordance with my will. Not that the slave too put his finger on the will. You know? — That's right. That's right. But it's about an action. I don't — I'm not saying that. — That's how it seems to me. — No, what I'm saying is that the action done by a person belongs to him entirely and can't be disconnected from him. — Okay. — Okay. Yes, I agree with that. It's like with the cooperation — because if you'd checkmated me — although I conceded that yes, you need that person's cooperation, since you can't get into his guts to — — if [clears throat] a person's action can't be detached from him. Yes. — I mean, the Martian's answer is: so what? You know, [laughter] — — if a person's action can't be detached from him, it means that person remains sovereign over his actions.

[1:02:41] — It doesn't mean — — because the actions — — because his actions are means for achieving his ends. — No, that's the libertarian option among ideologies. You can have conflict — — No, that — that's the definition of action. — Let me believe — — and his end is to — — We're not talking about actions and property rights over action. You know, you say by default it's his. Some can say, "well no, I don't believe it's his." — No, I'm not saying it's his in the sense of property, Costel. No, not in the sense of property, like a property title. I'm saying it's his in the sense of an attribute. It's inseparably his. It's part of him. — That's how you began. But did you finish with something else? — So f— — whereas I say the conflict appears precisely at the level of rights. Okay. His physically — how not? Human will is inalienable. Agreed. — Where — where did I finish with something else? — Well, when you said — "only he" or something — you entered into a normative thing, you know? Into a normative extension. — Yes. Look how he put it. Only he uses

[1:03:45] the means of his body to achieve his end, but his end is to fulfill the owner's end. — Yes, but it remains his end; it's not — so from this point of view it remains his end, because you can't — it can't be otherwise. Agreed. — Good. And then, if it remains — that's his end, to execute. — And then, if it remains his end, it means the person himself must remain sovereign. If it remains his end, if the action is his, the end is his, it means he must remain sover[eign]. — We don't have a consensus on this, you know? There's conflict at the level — as with ideas, you know? There's a conflict; their nature doesn't matter, you know? — The slave owner thinks your labor is his. You know, how much — the right to your labor. It doesn't matter that — — Well, I just discovered — I just said. Let's — you postulated it; you haven't demonstrated it. Well no, but let's translate it into legal terms. You know you continue with this idea that your labor — in legal terms

[1:04:49] labor represents a sequence of actions over which you're sovereign whether you do them or not. Consent — here consent comes into the discussion — if you're sovereign. Yes. You can — I mean, you can, well, refuse in the last instance, you know? Yes. — Well, that's what the whole idea is about. It

doesn't tell us anything about right — that he put a slave to whatever, the hoe. It doesn't say that it's his. I mean, the discussion remains: is it really his? Is it the libertarian position? Yes, it's his. His labor — it's not right for him to be compelled. The non-libertarian position: no, that labor is the slave owner's. No. And look, we have a conflict, you know? — An invisible thing. — The position — the position is — see, you still talk about that labor. In the contract that labor doesn't exist. The contract exists only in this direction,

[1:05:57] in the way Kinsella explained it, from the legal point of view. Either you stay in this paradigm, or you're talking about something else. — To me it seems it makes no difference that he says "action" — and okay, I say "action" too — but it isn't. — Well, the difference is that action isn't transferable. That's a big difference, I'd say. — The will isn't [alienable]. That doesn't mean the property right isn't alienable. You know? It's the same discussion — that's how it is. I mean, I concede to you these physicalist things. That's how it is. The will — — Costel, Costel. If action isn't transferable, isn't rivalrous in use, as we talked about elsewhere, it means the conditions aren't met for property rights to emerge over it. The position is somehow — if you like, it's somehow Hoppe's on intellectual property rights, in the sense that these things can't be done by several

[1:07:01] people at once. Only I can do these things with my body. A physical problem — because the normative problem we're discussing: property rights make sense only because the goods we have are usable in a rival way. If this isn't usable in a rival way, I don't need property rights here. So the question of who owns them can't even be posed. You see? A wrong extension of the normative problem over a domain where it has no business. — And with an object you can say this thing too, — — no? That with an object, we can both put our hands on it, and you pull one way and I pull the other.

[1:08:02] — Well, and I can put my hand on your action. — You can't put your hand on my action. You can put your hand on me. You can't put your hand on my action — — if you do exactly what I say. I haven't put my hand on the action — — no, you haven't put your hand on my action. — How not? How not? — And then there's the discussion about this grounding, since, look, you too concede that on an island you could still talk about the property right even if there was never anyone there. — Well, why? Since there's never any conflict. Why still talk about property rights? Since that's why the property right was put: we have to resolve certain conflicts over certain resources. Besides the fact that this sounds very utilitarian, you know? — The reason — — the deontological position, so to speak, is how Nozick begins *Anarchy, State, and Utopia*: "Individuals have rights," you know? And nobody can do anything to them without taking these rights. — Yes. — Well, that's [laughter]

[1:09:04] agreed. The question remains at what level these rights stop and where these rights extend into property rights. Because, as I've said in the past too, one of the great directives of the libertarian system is that all human rights are property rights, and somehow under — I don't know exactly which came first, the egg or the chicken — but under the sway of this thing it was established that the body is property. Personally, I think it wasn't spelled out enough, and it represented a simplification that, look, leaves us with complications. — I think it's also a matter of translation, not — that "self-ownership," — — no, including self-ownership. Kinsella too speaks of self-ownership in the same — the same thing means also — — Yes. And owning the body doesn't mean something more — that you also own the mind, or — — no?

[1:10:07] — No. — Self-ownership: you own yourself. Well yes, but aren't you only the body? Well, that's exactly what he says — that's exactly why self-ownership in — — both with Hoppe and with Kinsella throughout this is your property right over your body. — You can't say it's neutral, you know? "Self" — you can say, regardless of dualism or monism, I own myself as I am — I don't know, in two, in one — I own myself. That's it. Well, that's [laughter] the distinction: at least in the way it came to be transferred

into the libertarian current, the question no longer even arises that you own yourself. The whole problem it comes down to is that you own your body. And why is it that you own your body? Because this way we can apply the same criteria of aggression that we apply to a glass that's your property. I'm not allowed to touch it, I'm not allowed to break it, I'm not allowed to hit it. Likewise with the body. If it's property, we've

[1:11:10] solved it. We've solved them all in one go, you see? But the problem is on the other side: the body isn't alienable. — But with an idea, isn't it somehow — so it's always non-scarce. It's — — We talk about ideas under intellectual property. — We'll talk about it in Chapter 13. — Well, and here it had a tangent. Let's say something about 12 too, since it's ending. — Good. Here I had only one intrigue. — Van Dun — actually two. I say there are two. There's also that thing with — — blackmail. — Blackmail, sir. Why are there also things that aren't aggression? I mean, Van Dun tells us this: there are things that don't represent an initiation of force and yet must be responded to with force. So — — well, it must be — Van Dun says they must be made illegal. You know, and Kinsella's argument against Van Dun is that he doesn't realize he misuses "illegal" and "non-aggressive."

[1:12:14] — Or not on the basis of what? On the basis of what? Or — I think he says something like this. In that theory afterwards — — that no — — that it can't [laughter] be only because — and libertarians have the intuition that blackmail is sometimes toxic, let's say, or ruins people; but we analyze strictly according to non-aggressive — — blackmail. But there's a simpler thing, like insult. Yes, — — yes, yes, yes. And that's it. Van Dun puts it with the same thing, namely: sir, we should respond with force — through the initiation of force — to insults. — Kinsella says such a thing shouldn't be done, because it isn't an aggression. So you initiate aggression if you respond with force to an insult — — or you broaden the definition of aggression. You know? Aggression is what violates also, I don't know, certain conservative norms, or whatever. — Yes. Okay. And on that one we have the trademark. — Well, I'd say that still, again, Kinsella isn't at the first —

[1:13:18] at the first — at the first moment when he sets about presenting someone's point — — of view without understanding it. On the other hand, this time it really seems that Van Dun has a few mistakes in the way he poses the problem. Because, for example, at one point he says — Kinsella quotes him — that non-aggression, even if it's important, is not — doesn't represent the foundation of libertarian jurisprudence, but is only an implication of the — an implication of the legal, libertarian juridical philosophy; but on the other hand he uses aggression the way the Rothbardians use it, as the initiation — the initiation of force against another's property or — — person — — and the problem he practically misses

[1:14:26] is to set out what the libertarian legal theory would be that he goes by, which would have allowed these things. Yes. — For example, he says that aggression is illegal — fine, he uses, how shall I put it, this idiocy Americans sometimes have of using different words that mean the same thing as if they were different. For example, between "unlawful" and "illegal" there's really no difference, you know? And the man says — and "but if he didn't make you define it for me" — and the man says: "such aggression is unlawful and should therefore be illegal in a libertarian legal order, because such an order is intended to be as true to the law as is humanly possible." Okay. And what's the problem? The — — means "without law." — It's everything. — So "without law," in colloquial language,

[1:15:30] — "sir, like that — " — still him — — "he stole her husband," you know? Or something like that. Ah, you think — — generally? You think that's what it means? — That's what I think. — It would be. Yes, an answer — — "unlawful" — — and "illegal" only what the state considers illegal. — Yes. I mean, and morality's out — — they have "unlawful." Yes. No, but from — — you could say this, but on the other hand — — "unlawful," including in English, is synonymous, including by the way it's built. Yes. With

"lawless," which is — — and in films, you've seen "outside the law" — that was the meaning, right? I mean, it doesn't — it doesn't seem to me there exists — or at least Van Dun — it doesn't seem to me Van Dun specifies that fantastic place in which lawless things can exist that aren't against the law, you know? I mean, the excluded third — and at least to me

[1:16:34] it seems that in libertarianism — this Rothbardian libertarianism — when we talk about law, yes, we define everything that's against the law, and everything that's not against the law is permitted, is legal. There's no neutral excluded third. — Yes. — I mean, somehow, to have an excluded third, you must also have positive laws. Otherwise not. Otherwise you can't — immoral things are permitted. That's it — — good, and he also says, by the way: "there may be unlawful acts that are not invasions of a person's physical domain, yet justify the defensive use of force to prevent or stop, or exact compensation for, such acts." So exactly this. It's as if Kinsella pulls him by the hand and says no — — So he too, Van Dun, at some point says that "the dichotomy of aggression and non-aggression coincides with the logical opposition between unlawful and lawful acts." Well yes, that's what we said too. It's a

[1:17:39] dichotomy; it doesn't have an excluded third. There isn't one. There's one more mention Kinsella makes here, and he says he too agrees with Van Dun that indeed the non-aggression principle isn't the axiom of the libertarian system, because it's based on property, and what does aggression mean — and then you build the NAP, if you don't define property — — man, you know I wouldn't be — I've heard this from Tomus too — I wouldn't be so sure. It seems to me it was from the beginning — it seems to me it's sort of implied. Because if you define — how do you define — — you can't define prop— define aggression. — The right of control, whatever, exclusive. Well, and what does that mean? And what — and what does that mean? — That others are forbidden from preventing you from whatever. So you've formulated, in the definition of property, the NAP. It appears. So they're correlative notions, as logicians say; they go together, not — — they're equivalent. I've said — I've said NAP, I've said everything about property rights. — Yes, you can. I'm saying you can call it an axiom

[1:18:43] — and vice versa. — I've said what property rights mean. I've formulated the NAP. — Good that I said it. — Fine, there's this criticism too: "Well, wait, communists too can have a NAP." No — if I specify private property, they can't have it; the NAP — aggression against collective property, but no [laughter] — — when I steal from the state, for example, it's "common property." — Yes. Good. And what Van Dun says is that aggression — physical aggression — is a type of unlawfulness, but it's not the only type of invasion of a — but he says it's not true that only physical aggression is the only type of thing that should be unlawful. And he says that because there are other unlawful things that should be made against the law, — — such as

[1:19:46] — lying, — — trademark infringement, libel, or blackmail. What do these mean? Libel is a legal term for lying — — for insult. For — no, for defamatory lying, for defamation. Libel means defamation. You can't defame someone unless you lie about him. If it's true that — what's his name — the one from the World Monetary, from the IMF, the former one — Dominique Strauss-Kahn — if you say Dominique Strauss-Kahn liked to [assault] Black chambermaids, it's a defamation, but it happens to be true. Therefore it's not actionable — it's not acted on, it's not actionable in court. Yes. Good. The others are blackmail and trademark infringement. Now, about blackmail we can take up Block's argument again.

[1:20:50] Yes, it's a freely consented agreement between two people. So there's nothing to discuss when I prefer to give 50 lei just so someone doesn't say in public that I'm a racist — doesn't tell the press — I agree. So it's a freely consented transaction between two adults, and so it should be permitted. The blackmailer shouldn't go to prison because of it. — If I claim to force Costel — for example, since he's handy, he's on my left — now, if I claim to force Costel into prison if he utters certain words, yes, the legal principle that should apply is: if he utters certain words. Not if he utters certain words that

[1:21:53] bother me, or that cause me anguish, or that give me a state of unhappiness. Yes. And then that means that if you're for criminalizing blackmail, you're for putting people in the slammer for uttering words. Vexler, for example: "Well yes, I'm for both." [laughter] — Okay. — He said something — — that's — that's the world you want to live in. I'd prefer you not live in that world. — So he'd be consistent. I don't think with Râ— [laughter]. Likewise — and Van Dun's thing with trademark is an interesting thing, namely Van Dun says it's not about a claim of the victim company, from which another company took its logo and name, but it's about a fraud in the contract between the firm that

[1:22:57] used another firm's slogan and logo and the consumer, because the consumer believed he was buying a burger, in that example, from the other firm, and was defrauded. — This is something that unfortunately very many libertarians fall for. I'm sorry to say it, but well, I too, for example — I don't know whether I was along the line of [intellectual] property rights or not. There are — it seems to me there are others too who oppose intellectual property rights, but "man, with trademark, no — it doesn't hold." It's like — — Well, look, Kinsella says here: Van Dun has stayed too long in the current legal system, which enforces trademarks, and that's why he thinks this way. So if tomorrow I open a little shop and write McDonald's on it and serve burgers — — you serve — leave the burgers. You can serve mici. [laughter] You serve mici with — — mici with French fries.

[1:23:59] — McDonald's French fries. You have French fries. Let me get French fries. — I write McDonald's and I write French fries. And someone comes and says: "Give me some French fries." I give them to him, I take 5 lei from him — — and he'll say: "Wow, how cheap these [laughter] Mac fries are. Normally they're 12 lei, or however damn much they are now." — Thanks, Bolojan! [laughter] No. And Van Dun says: "Sir, there was fraud, because that consumer was deceived regarding that product. He [wanted] French fries from McDonald's." Kinsella says this. Van Dun says there was fraud because the consumer came into your place thinking it's McDonald's, and you stole McDonald's consumer. That's Van Dun's argument. — That's not true. — Oh yes. That's Van Dun's argument. What you said is Rothbard's and Kinsella's argument. — What you just said is Rothbard's and Kinsella's argument. And Kinsella

[1:25:02] says you can make a fraud argument, but at most it's for the client. — The client is the victim, not McDonald's. And — — Van Dun says McDonald's is the victim. — Well, that's what he said too — — No, — — oh yes. — No, he didn't say that. — He didn't [laughter] say that. — That's how it seemed to me he said it. Oh yes, at the beginning he didn't say that. The fraud isn't toward the firm; it's toward the consumer. — Toward the consumer. But there are two — there are two frauds toward the consumer. — One is that you deceive the consumer into entering a McDonald's when in fact he enters my little shop. The consumer is free to enter anywhere. That's not where the deception of the consumer occurs. — If he only enters, nothing has happened. — I said that actually the deception is when the consumer asks for McDonald's French fries. You give him French fries from your little shop on which McDonald's is written. But they're not from McDonald's. Where did he think? — Yes, yes, yes, yes. But the victim is the consumer. But that's not Van Dun's position. Van Dun's position is that the victim

[1:26:05] is McDonald's. Because you opened a firm with the name McDonald's and took their trademark, and people come to you instead of going to McDonald's. — But listen, if the fries are also from McDonald's, it's not fraud. No, because the idea — the idea is from McDonald's. [laughter] It's not — yes — if you have a Glovo courier in the back who goes — — who goes and buys one of those from McDonald's and gives it to him, right? Exactly. [laughter] — Well. Yes, — — but if he wanted [to be] in a McDonald's restaurant, it's fraud, because it's not — — No. If he wanted [to be] in a McDonald's restaurant, it's not fraud, because he entered there. — Look, he says — — that you didn't give him — — Kinsella says, "sir — " — you can put — — you gave him only the good fries. But don't you know? — No, you can put — well, that's [laughter] what I'm trying to say. You can put — he entered that space. You can't now change the space according to each client's wish. You can say "this space is owned by Gabriel

Munteanu" or "by McDonald's." You know? You can put that thing somewhere. — And Kinsella says here: "Sir, there are several things that identify. You don't necessarily have to — " you know that

[1:27:09] the real McDonald's is at such-and-such address. You went, you checked. Everyone tells you on social media, all your friends when they invite you to McDonald's, — — you can check the property title — which firm owns this place, you know? — Exactly. That kind of thing. — Even at McDonald's it's put on — it's put on a wall there behind the tills, the one with the certificate, the tax ID — even there it's posted. — You can put it up too. — Well, you can put it up too, but it has to be yours. — You can't put up theirs. — If you put up [laughter] theirs, it's fraud. — It's fraud toward the client. It's fraud toward the client, because on that one it's written: "it is certified that this place is the property of Piscupescu." That's what's written on it. — Okay. And why would it be fraud toward the client? — Because it's not Piscupescu's property; it's Munteanu's property. — Well no, you give him the fries. So what if you put things up there? — Well, we come back [laughter] to what you were saying. He comes in and has to — he says that

[1:28:15] he wants to be in a McDonald's restaurant. — Well, and you say: this isn't McDonald's. — Ah, then yes. — If [laughter] it's not McDonald's, you've defrauded him. — What about that certificate? — Well, you've defrauded him if that certificate says you're in McDonald's. — Well no, because I told him by word of mouth. Speech beats script. If you told him, [laughter] that's the second part. He — he has to decide how he integrates contradictory information. Yes. — You can even not tell him; you can say, "see the certificate," you know? You can tell him, "see that certificate on the wall? Yes, see, it's a joke." — Hm. — And that's enough. — Kinsella — — Yes. And he gives two more examples here: "Sir, there are people who have the same name, and yet we can tell them apart." And one more thing — — or the same drink with different names, or — — it's not really —

[1:29:19] — what — — it's not really. It's better on [laughter] — they're different. I'm sorry to say it. They're different. — Van Dun's implicit assumption is that correct identification can't take place except — in the absence of trademark laws as they're currently implemented by the state. — You realize you have other elements. — Yes. And he brings this in: "Sir, when I give you 2 lei and I want a candy, I want it unexpired, I want it reasonably fresh, and [I want] a strawberry candy, and you give me a cherry one." — Then fraud takes place. — He's right. He's right. But now — — so it's the same with those French fries. — If you specify, there's no fraud. — Yes. And I'd put — I'd go further — there are also some things that are implicit. I mean, you don't give me a candy that's gone bad, kept around for five years. — And with the implicit. Well, and what if he wants it spoiled because he needs it for a confirmation? — Well, if he wants it spoiled, he asks specifically — — the implicit is already —

[1:30:21] — the implicit is that — — and if you took him spoiled ones from — — from — he wants to pre-defraud him. — Well, then [laughter] it's a fraud. — It's not. — Oh yes. — How? — Why would it be? So that guy wants spoiled ones. He wants to lie to him. He gives him spoiled ones — that's what he wanted, spoiled ones. You know? — Well, if he wanted — — does intention matter? He gave what he wanted. — No — if he wanted — well, well, see here — — so the intention — that guy to trick — — the [joker]. Let's take fraud itself again: for it to arise, there must be a complaint. — But if that guy wants spoiled ones, he got spoiled ones. No. — Well no. David said that the perfidious guy had a statist tendency. The idea is [laughter] that when you enter a place and see McDonald's up there, implicitly — or spoiled by mistake. He may not even have the intention. You know — — do you know what the McDonald's in Russia is called now? — Well, it doesn't exist. — Man, man, oh yes, all of them. No — it's not that it's theirs; when McDonald's withdrew from Russia, all — all the franchises remained; all the

[1:31:25] capital they left there. The franchises — — and — — Well, what is it? The name — is it not named? — Well no, they changed the name. That was all. They changed the name, but otherwise they

have the same burgers, the same menus, the same formulas, the same. Because the whole McDonald's chain, when it comes, builds a whole distribution chain, a supply chain, through the country, through everything. So McDonald's fries are Romanian potatoes. All these things exist, you know? And these people simply cleared off, and the Russians did nothing but take over the franchise as it is, and they had to rename it. But that was all. — Ah, in the world, regarding trade[mark]. — Yes, well, they had to rename it. Now, between us, they shouldn't even — — ah — — they shouldn't even have had to do that, since McDonald's is the one who withdrew. — You reminded me of Russia. Recently the European Union took the interest on Russia's frozen assets in European banks, from 2021 or 2022 onward — a billion and something — and gave it to Ukraine.

[1:32:32] Is it theft? Is it the Russians' property, or isn't it theft? — I don't understand how those frozen assets still produce interest if they're frozen. — It seems they did. — I mean, something happened there. Not — — are these people allowed to use them? — He doesn't have an exclusive right. He doesn't — — if he's not allowed to withdraw them, theoretically they shouldn't produce interest either, because they're frozen there indefinitely. — Probably that bank held them as a deposit and accumulated interest, you know? — I mean, some hanky-panky was done there. Yes, it's theft — the theft is from the freezing. But from — let alone — — Russia's assets are there. — What? Russia's assets are there. — The theft is from the freezing, as long as the interest — — as long as it was frozen. So, — — Gabi, — — I come and put a sum of money in the bank. — Yes. — Yes. Okay. I signed a contract with the bank that I have certain withdrawal terms. "Frozen" means they no longer

[1:33:36] respect my contractual terms. It's direct theft. — Okay. — That's the moment they froze it — the theft took place. What happened afterwards is even more — — related to the 10 dollars you have to give as interest. You know — — the theft is the bank's, not the — as long as the contract is unilaterally suspended, I no longer have a right to the interest that money generates; it generates it under the contractual terms. So theoretically the interest wasn't stolen. Okay. The money was stolen, and they'll have to give it back twice. How much interest has to accumulate until it comes to 2x — we're not talking about that anymore. Do you know why the interest wasn't stolen? If it was — — because — — stolen — — because I don't have the right to the interest. I have the right to interest only if the contract is respected. If the bank no longer respects the contract but freezes my asset. Yes. — I —

[1:34:39] — I don't have the right to that interest, because — — you feel you have a right to the interest too. Man, I was — when I read the news, you know, I was like, man, let me think this through, you know, in libertarian terms; but I have 2x — — now Vali reminded me. — These people stole the money, you see? So this — this would be my money. I'd say I have 50 lei; I give it to you. Yes — you're a bank. Okay. We have an agreement that I can take the money back from you with the respective interest. Yes. So for as long as the money stays with you, the money generates interest. Yes, those are the contractual terms, and I'm allowed to take the money from you after three months. Yes. Two months pass and you say: "You know that money? Forget about it. If you don't do whatever, whatever, I won't give it back to you anymore." — Then the agreement is no longer valid. — That's a breach of the contract. Therefore, the interest produced from that point I can no longer say is mine either, because the contract was breached. You've effectively stolen from me. You've effectively stolen that money from me, and you have to

[1:35:44] give it back to me twice. — Ah, I mean, with a thief you don't demand interest anymore. — No, — — although it would be cool, you know? To [laughter] — — the fact that I demand from him — the fact that I demand 2x from him — — is enough. — It's enough. I don't know. We can calculate in how long compounded interest gets to 2x. It's — — we're talking many years. — Not that many. — Oh, we're talking at least 10 years. Depends how high the interest is. — 10 years. Yes. Yes. Okay. — Look, I was wondering whether you accept this on the property right over proper names, let's say — maybe

someone [owns] the name Vali, to say: "Sir, from tomorrow don't use it anymore, because — " — no — — "because I trademarked it." — No. And the reason is that we can both say "Vali" at the same time. — Another who — — another reason. Do you want one more? — No, I was thinking of things like how do you demonstrate — you don't know the first owner anymore; the term "Vali" is in the state of nature,

[1:36:48] you know? Or how? — Well, but that's not the idea. The term "Vali" isn't in the state of nature. It was never in the state of nature. It was culture — — it was [laughter] always in someone's thoughts. If it was ever before it wasn't — it wasn't. Uh, but I wanted to say one more thing about this fraud thing with Van Dun, because there's something that somehow seems to contradict the principle of innocence, or the burden of proof. In the case of a fraud — I was saying this a bit earlier — fraud can't be prosecuted, or investigated, unless a complaint appears. If a complaint appears, you're obliged to prove — in my opinion. Now contradict me if I'm wrong. Yes, Gabi, and everything. — Yes. Go on. — If a fraud complaint appears, it falls to the one complaining to show how he was defrauded.

[1:37:52] — No, no, — — no. He says: "Sir, there was a fraud. I was defrauded, and the one who's guilty has to exculpate himself." I mean, there has to be a — — there has to be a — no, but — — somehow it's the burden of proof. — Yes, the accuser has to — — Yes, that's common sense, because — — Yes. Only we somehow say that the one defrauded is a victim, you know? And there occurs — there somehow occurs this opinion that — — no, no, no, no, no, no — — what — — that the victim ends up having to prove the guilt — no — — no, no, no, no, no — — in the courtroom the victim is always the accused — — uh, what, man — the accuser isn't — no, the victim is the accuser. In the courtroom the victim is the accuser. No, no, no, no, no.

[1:38:55] — Oh yes. — You too. — Wait. — [laughter] Look — — think again. No — the idea is that a little light bulb went on for me too somewhere. — The victim has to prove he's a victim. You know, otherwise what's the alternative? That you punish him while he's innocent, you know? — Exactly. That guy is innocent until — until — — So the moment the state accuses me of tax evasion, — — you have — we were talking about — — it has to — — Gabi, we were talking about libertarian principles here, not about the state. The moment you brought in the state — but no — — no, I know it is — — Well, even in the situation — okay, let's admit statism as correct — it's the same situation: the victim state has to prove [its claim]. — No, no. Precisely here it doesn't work. Here it's the other way round. You have to prove that you did everything [right]. It accuses you — — of tax evasion, and you have to come with supporting documents that you didn't commit any evasion. It shows how derailed it is, you know? Not only that it's a thief, and — — Well, that's what I was saying: there it's derailed,

[1:39:58] the thing, but let's say I kill Vali — — and — — [joke]. — Yes. And his brother comes, yes, Costel, and sues me. — Right. — I have to come and exculpate myself. — No, no, no, no, no. — So the victim — I mean Costel — has to gather evidence. — Yes. Yes. And in the logic — well, the state too should likewise look — — the agency Costel wants to pay to build the case against you. — That's what I was saying. So if I'm accused of having committed a murder, I don't have to gather evidence that in fact I didn't commit the murder. — Well, it would help — — if you [laughter] are — — I'm accused of having committed a murder. — Yes, yes. I consider myself the victim here — — and so I don't have to gather evidence that I didn't commit the murder; rather you, the victim — the one who died. Well —

[1:41:02] — yes, it has to. Yes — I say in court the victim is always accused. Let me say — — you end up the victim — no, those — okay, the accuser — that person's representatives, you know? — You end up a victim only in the case where it's decided that you killed that person and in fact you hadn't killed him. That's the moment you end up the victim. — Yes. — No, the victim has to prove, you know? So no. — So the accuser — — to scratch you. Okay. The victim's representatives, since the victim no longer exists. The accuser has to prove. — Yes. I'd say — look, for example, let's go back a bit to this one with the

fraud. — For example, I say I ate — or rather the other way round — with the old candy. — Yes. — Yes. I say this guy gave me an old candy, and man, if I ate it and can no longer prove it's fraud — because actually that was the point I wanted to get to — if I ate the candy and have no way left to prove it was old, you know, since the candy no longer exists

[1:42:05] — it's been transformed now — — into — — if you have nothing, it wasn't so old. I don't know. Yours might be old and not — — But — but the idea is that I can no longer prove this fraud — — right. Yes. — And then that guy has nothing to — can walk away scot-free if I can't prove the fraud. — Yes. — So, for example, the same thing. If I signed a contract — the eternal contract with snake oil. Yes. If I signed a contract in which he tells me that if you drink this you'll regain your potency, or whatever, in 30-something percent of cases — and with me nothing moves at all. Yes, he'll come and tell me — — you say it's fraud. No — I'd say it's not fraud, but so he has to promise me something that's 100% achievable, not promise me a chance. — Oh no, I say 30% is quantified. So

[1:43:09] if you don't see — — well no, it depends, because he can say afterwards: "that's what 30% is." — No — if he tells you "in 30% of cases," and oh dear, you weren't in — — You weren't in those. Well, yes, — — ah, that's something else. But if he says 30%, and in your case you can verify this empirically and say no — — ah, if he says 30% and in your case — yes, that's how it is. But if he says "in 30% of cases" — — and you're the one who interpreted that it'll give you 30% — [laughter] give you 30% of your potency back — that's a problem with you. It wasn't fraud. You didn't understand what was promised to you, you know? — And here you can invalidate the contract. Well, it means I didn't give my consent, you know? And it's theft. And it's theft. — No, it's not theft. At most you can invalidate the contract if you're — if you're — how shall I put it — if you're decent. — The fact that you don't understand — he has to give you money. — Oh yes, you didn't give your consent. That's what contracts are about. — You give your consent to certain things. If you didn't understand that thing — you don't understand, for example, what

[1:44:11] fractional reserve is — can you say the man gave his consent, you know? No. He gave it, and the contract is invalid. In the event of consent: I sell you whatever, a perpetual motion machine, and he doesn't know what such a thing means. — Wait, let's — wait, let me think a bit. — Move on, and I'm inclined — inclined to agree with you. — Let the mind think on its own and move on to [laughter] — — I don't think so. If he says, "look, this contract — read it, understand it, and come to me and sign before me that you've grasped what's written in it" — even if you've grasped it. No, — — I say he didn't give his consent. I say it's the duty — — if he didn't — if he didn't — didn't give — contracts are about this: he gave consent. The fact that — that's not enough. It must — I don't know, — — he must not be — must not be incapable. Don't you see — see that we're moving the problem — we're moving the problem again into a place where we can't go. Well, because don't forget the premise is that you can't find out what's in a person's

[1:45:14] soul. You can't know whether he understood. No, you — you can't know. If I ask you whether you like Pepsi and you say no, I think in your soul there's the absence of this preference. — That [laughter] is an assumption. But I might lie to you, because, for example, if I said I like Pepsi, maybe I'd have to give you 500 euros, and so I'll say no. Right. We have uncertainty. Well, — — well, that's what I'm saying: you can't know with certainty what's in a person's soul. What you can do is see whether that person is capable of giving his consent. — Yes, that's what I said we could determine in general: whether he's capable — whether he understands that his actions have consequences. Yes. And that also means he understands that if he signs like a fool without reading, he'll be responsible. — Does he understand, or does he understand the language? Someone makes a contract in Turkish and he doesn't know it. Turkish isn't — — the same thing. If he — if he understands that if he signs there are consequences, it's his responsibility to understand

[1:46:19] those same consequences. Oh yes, — — I say he didn't give it. — Oh yes. [laughter] — I've signed contracts. — To what did he give his consent? — What do you mean — to what's written in the contract? [laughter] — He doesn't know the language. He shouldn't have signed. — Maybe it was one of those for selling the body. [laughter] — If it was one of those — if it was one for selling the body, at least he got off, because it's not valid. [laughter] But if it was for selling a kidney — [clears throat] — Yes. — Okay. Where had we got to? — Well, we finished with the objections to trademark and to Van Dun. That sounds like Van Damme. It's written "Dun." Actually he's Dutch, I think. A jurist — — a friend in this area, Mises. He created that thing with the bell — — Frank, Frank Van Dun. — He created that — that puzzle; it's in the same family of objections — the bell you put over someone, and have I violated his right? Aggression,

[1:47:25] you know? — Hm. And the answer was roughly that it's false imprisonment, right? — Yes, it's false imprisonment of a person. — Well yes, but I didn't touch him. Why? — Well, you didn't [laughter] — you didn't touch him. But it depends now whether the bell you put is on your property. — Wait, how? — And on yours it's false imprisonment? No, because — — where was it? Where was it? — Let's see. Well, you can vary the scenarios, you know, take — but not even on your property can you hold me now. You know, so — — No — in the state of nature, that's the thing — in the state of nature. If you're walking around and you're in the state [of nature] there — that was the moment we were disputing. So if it's on someone's property, whoever he may be, the moment you entered the property you can assume you also have the right to leave the property, and then it's false imprisonment. But if you're walking through a forest or through a field that's in the state of nature, if I put the bell there, you're not on anyone's property to guarantee you that you're allowed to leave. — On my body, on my body.

[1:48:27] — Over your body you remain the owner. What I have to make sure of — that's why I say it's not false imprisonment — what I have to make sure of is that you don't die. That's all. Ah, why am I allowed to — — If he's walking through the state of nature? Why? Because when you put the bell — — you can say you appropriated, but you can't even say you appropriated, but you can say also — by the way, that guy, for example, can dig under the bell and get out. If it's in the state of nature, nobody stops him from digging under the bell and getting out. But if you go and sink the bell into the ground until he can't dig like that, the problem remains that he isn't allowed to aggress against your property unless your property threatens his life. So as long as you keep him alive, you're not threatening his life with property — — giving him some food in the bell. — Exactly. — But what would the aggression be? Ah, that you kill him, and otherwise there wouldn't be? No,

[1:49:30] — otherwise I fear not. Why wouldn't there be? — Because he doesn't have a right to walk — he doesn't have a right to walk on a property that's in the state of nature. I mean — no, the other way round, sorry — he doesn't have a right to leave. You see? The idea is: when I enter a property — let's say it's even your property — I enter the property; it's implicit that I can leave. Yes, but there it's your property that gives me this right, that regulates this right. When I'm in the state of nature, it's nobody's property. There I can appropriate at any time. — Well, and why would I leave? — Because I don't even have to appropriate. I just put the bell there. You see? I'm not talking about when he puts the bell on his own property. — Well, when he puts the bell on his property — this guy, when he entered his property, has the right to leave. — You say he breached the contract. From — — he breached the contract. Yes. He has the right to leave. — Ah, and out there they don't have any contract. — And out there there's no contractual relationship between them. — Yes, that's how I heard it too — that it's a form

[1:50:33] of — — walking around. Don't walk around in the state of nature [laughter], or the bell towers will catch you. — Yes. On the group, on Telegram, Loton was saying that supposedly you have to make yourself a state of nature on your property, or how he put it — I didn't understand exactly — — who — no, he wants to give you the right — — wants to give you the right of liberty. Are you talking about

someone else, or still about this discussion? — No, he's talking about another discussion. Go on, go on — — his was that, look, liberty beats property rights, because you must be free to leave, to move around. You know? It was still something like "they have low[er]," but still in this area, you know? — Okay. Well no, I'd say liberty doesn't beat property rights, because exactly — — Kinsella's premise is exactly the opposite: that property rights beat liberty. In Chapter 11, — — in Chapter 11 he says that your right — — to use exclusively, your liberty to use a weapon exclusively, is constrained by the property rights

[1:51:38] of others over the objects into which you could put bullets, you know? So from this point of view — — so if — but can't I say it's a threat with — — No, — — no — a threat with what? — For it to be a threat, it has to be imminent. Right. The second thing I wanted to specify, because I remembered — I discussed it in the meantime; I had a more recent discussion with Alex [cough] — regarding a few episodes ago, we'd done this with the threat, and I'd said that if I swing my fists like this around you and you're slick like Doroftei and I don't touch you, it's nothing. And I realized I was wrong there. It's — — because it is — by making these movements, which you had to dodge, I automatically invaded that personal space that's yours. — Well, you know objectively I didn't do

[1:52:42] anything to you. Objectively [laughter] I didn't do anything to you, but I invaded that personal space, and therefore I could give, as a sanction, that you too invade [my] personal space for a duration twice as long as the invasion took place. — Well no, because — — So someone comes to you — — problem, whether it's an invasion. If it isn't, it isn't. — Well no, ah [laughter] — yes, he has. He has to do it to the fool too. No, no — in terms of aggression and response to aggression. Not — you do two innocent things. — Someone comes — no, someone comes to you, for example, and argues. He argues with you, yes? And you square up to each other, yes? But you don't touch each other, you know? But you come at each other like — you know how those guys are at — I don't remember if in football — no, in baseball. How those guys argue face to face, like, nose to nose, but don't touch. They yell at each other but [cough] don't touch. — Pay attention. Did you bring this counterexample? This one fired perfectly, you know? Yes, — — firing past the ear, you know? And the discussion was whether the threat is objective or subjective. Look, a

[1:53:44] point of view of Block's was: no, it's subjective — it's enough. Even Rothbard's at some point: no, it's subjective; it's aggression, you know? — Mine — or yours — was that you have to have an objective element, you know? The fact that not — — exactly, exactly with that — exactly that's the argument Alex used to remind me of this: that at the end I came back to the point of view and said that it is after all an aggression, because I need you to be part of my exercise. So I somehow impose myself on you, namely on your personal space — so I shoot — the answer was: "I'm not shooting you, I'm shooting past you." But for the action to be what I described, I still need to shoot past you, because if you get up and leave, I can no longer do that action. Therefore I impose something on you. This something is a violation of your personal

[1:54:49] space, with objects flying past you. — You have no property over that space. All that could be aggression was if — — you can — you can presume, you can say from this point of view that personal space, I said, is — — or you say the threat itself is enough. — No, — — the very definition — a threat is enough. — No. We — we defined personal space somewhere at the intersection with the range of action. It's somehow the place where — — It's not a threat — that's the answer. — the place where any presence, any presence of another person, if it's non-consensual — so okay, let's put it this way: I can approach a person, yes, hug her, kiss her, as long as it's consensual — including this part of approaching and entering the personal space is with consent. Yes, if it's not with consent — I who enter your personal space — it's harder when

[1:55:52] both come toward each other, to decide who entered whom. The answer would be both, and they cancel out. But if it's one who comes and stands, stands, and comes over you — practically comes face to face with you, so you can know how — so you can know what he ate for lunch when he talks to you. Yes. — Okay. That, I'd say, represents an imminent threat. Yes. And even if it doesn't manifest itself, in the sense that he doesn't lay a hand on you in any way, yes, theoretically you could defend yourself; you could push him. If he comes toward you and you tell him, "keep your distance," and he keeps coming toward you, you can push him, because it's an imminent threat. He could lay a hand on you, you know? He can lay a hand on you. Therefore you defend yourself against this threat. It's imminent in all — in all its characteristics, objectively. — Pay attention, the problem is that it's objective. The one who comes toward you is objective. I mean, not — man,

[1:56:55] sir, it has to be objective. — He can walk more slowly too; he can come from behind — the one with the bullet, operating surgically, isn't objective, you know? Even if your perception may be of fear and so on. — Well no, because it still passes. The idea is that it still passes by you. I mean — — yes, but you don't touch her. — Yes, you don't touch. — Whereas this one who comes toward you, I say it's objective, you know? — I mean, he's about to — — No, but you could even shoot him, from this point of view. — Which? Whom? — Regarding imminence, in self-defense, because they've all been built. He can say, "Look, I'm not shooting at you." You can say, "I don't trust that. If you fire toward me once more, you should know I'll fire toward you." — Well, that's Rothbard's discussion — you know, whether it suffices? — Well, it suffices because it's imminent. He has the conditions to shoot you. He can say he won't shoot you, but you have no reason to believe him. — Well yes, — — because he has a weapon pointed at you. You're — — the scenario was that he will never fire. You know, that's why I said — — the scenario was that he'll never fire at you. — Yes. Well, he'll never fire. — Objectively we're talking, but he'll never

[1:57:58] fire. You kill an innocent man, you know? A non-aggressor. No. — Yes, but you can't know that. — Yes, we'll think some more. It's sophisticated — proof that the great ones didn't solve it either. — Well, to come back to what I was saying, the idea is that I'd give — even if — so you didn't defend yourself, for example, but there was this invasion of your personal space — you can come and complain to the judge, and he gives you the right to invade [his] personal space too. Supposing — let's suppose, let's concede it exists, yes? But if it exists, then the judge could concede you — give you the sentence that you're allowed to invade the other's personal space for 2x as long as the invasion of your space lasted. Use — not to invade, to — — use — yes — to use the personal space. — There's no restitution; it's not aggression. — Exactly. Exactly. Yes. Yes. Correct. To use it. And then the question arises — because the second point this question posed to me

[1:59:01] was the following: okay, now I have the right — let's say Costel was the one who swung his fists past me but didn't touch me. He calmed down and left. Now I have the right. I've won the right to come and stand like this next to Costel for five minutes. Yes. — On — and the question is [laughter] — no, it's not — and I ask — no, it's not, because I have this right. Yes, but I don't know how to move. [laughter] — Yes, but it doesn't matter, because I have — I have the right — — objectively. You'll hit her. — Right. — It's a necessary fraud. — You — and you can come and say the following: — "Well yes, but how will you collect this right if I, for example, no longer leave the house?" Somehow it's the same thing with that debtor who, let's say, wants to escape execution by saying, "I'll stay at my place, I'll only call Glovo; I'm not interested." — You sell his house with him in it. — And the answer, I'd say, is that you

[2:00:06] can't use property rights to [block] restitutive rights. You can't — the other way round — you can't use your property rights, for example, to block restitutive rights. Somehow — — I mean, if you have a psychopath who's holding someone, — — somehow — — can you break in on him — is that what you mean? — No — somehow, up to that case. That case, yes, clearly you can break in on him. But

I'm not talking about that. We're talking now about the case where he only stole. For example, he stole a TV. The TV is at his home. Ah, and you sit and watch — — and you sit and watch, and this guy doesn't take — if he doesn't take the TV out of the house, what do we do? How will we recover the TV? You know? And the answer is: you can't use your property rights to block restitutive rights. But what — — I mean, you can go in on this. — I mean, the answer is you can go in and take the TV. Likewise — and that's why this solution with personal space is very cool — likewise, I can come and stand next to you in your most intimate moments

[2:01:11] [laughter], and then you can realize the right fairly easily and quickly: "Give me 5,000 lei if you don't want me to come and stand and watch how you make love to your wife," for example. Or not to — not to get into the selfie at your daughter's wedding. Something like that. Okay. Good. And then — and if you can't block restitutive rights with your own property rights — I got the idea — but can't third parties block them? Because, for example, if I have a restitutive right against you to stand and invade — to stand in your personal space — and you go to a monastery and say: "Sir, I can't stand this madman anymore; I'm going to a monastery, I'll become a monk, so I won't hear him." Yes. And the abbot of the monastery says it's the monastery's property; I'm not allowed to enter it to recover my rights. Yes — he's allowed to do this. He says he is, because he doesn't

[2:02:14] have an obligation toward me. — Ah, I understand what you mean. And likewise another owner of the house can impose this on you. Where's the TV? If, if, yes, if it's another owner. — Ah, oh no, because he has an owner — I think he's a tenant, anyway. The control — — for example, you have a restitutive right. You can't take — — with — well, if he rents at the monastery — if he rents at the monastery, you can't there either. No. — What does he rent? — A room. — If he rents, he has the right of — he's a tenant, you know? You're on his property, so to speak. — No, no. The monastery itself can't. Theoretically, theoretically, if the rental contract was made after I won the right over him, he can't — he can't bar me from entering his cell. Only the monastery can stop me from entering the monastery, if the monastery wants that. — In the monastery and at his place. So what the hell is

[2:03:18] it — that the monastery — — because, because if the monastery let me — if the monastery let me enter the monastery's property, he can't, with his right of use, bar my restitutive right. — Well, through the window, like SWAT teams come. — Yes. [laughter] — You're allowed, no — — you're allowed. What I'd say, though, is that I think in the long run, if there are people who'd be willing in this way to grant asylum to the lawless — to come back to big words — I think in the long run it would be solved by the dispute-resolution and insurance organizations. I mean, if I see that, for example, I'm organized, but I can't take the right from you, because, Gabi, you've shut yourself in at Gabi's house. Yes. And then I go to a recovery agent. This recovery agent either is, or has, a contractual relationship with Gabi and will

[2:04:23] tell him: "Man, boy, if you keep doing things like this, see that I'll raise your insurance premium," and the situation is solved in practice. It would be solved. You know, somehow people may come and say, "No, look, oh my, justice isn't done anymore." In practice it would be solved, but the idea would be to establish correctly this hierarchy: that the restitutive right beats the property right as long as they're held by the same person. — Hm. — And that another person, with his property right, is sovereign, because he's not obligated in any way toward your restitutive right. — Yes, but look, it's not like that. Why — why would it be, since both are property rights, both the restitutive one and the — — But — — it would be interesting. Sorry, go on, Gabi. — Yes, I was saying: if — — I have an answer to that. Uh — you have a right to the price, and that guy actually has in his house an object that can be realized to extinguish the restitutive right.

[2:05:28] Why don't you have the right to go and simply take it by force? — Well, that's the question. Whether there's something in libertarianism that visibly belongs to one of the parties, to say: "yes, look, that's why he's right with the restitutive right," because what — you know — — and the answer would somehow be back to Kinsella. Ah, because all those, all sorts of — — that the right — that the restitutive right is stronger than the right — than the property right, because the restitutive right you create directly through actions, whereas the property right you create through appropriation — and appropriation or contract. — Appropriation or contract; but the idea is that initially anything is transferable through — well, not quite anything is transferable by contract, but I could say that the restitutive right too can be transferred by contract. That's why I stopped.

[2:06:30] — Prin[ce]. — But the idea is that the source of the initial right being transferred is either an appropriation — yes, an appropriation of resources. In case, for example, we're talking about a toothpaste, the original source of the rights that resulted in the creation of the toothbrush was some appropriations somewhere. Yes, although this one would be more — — and this one's stronger because it's not — because it's not about an appropriation; it's about an action, — — well. And appropriation is an action. Why would it be — wait, I don't know. I'll — — It results directly from an action. Exactly what he says in Chapter 10, when he makes the argument for why we can punish if rights are inalienable. — Hm. — He says the restitutive right results from certain actions and is on a different line from property rights, which result from

[2:07:35] — what does he call them — — from — — ah, what's the word — from appropriations. Yes. Property rights that result from appropriations. Kinsella's theory is that those are alienable in the correct sense of the word. Restitutive rights result from actions. Therefore you can only withhold consent to them, but you're stopped from withholding consent, on the estoppel theory. That's his version of justification. I'd say it's simply that they arise directly as an interhuman relationship, and there's nothing more you can do — or it's consummated. It's a transfer that's been consummated. — Yes, but this too — why was it an injustice? Not because he had the property right, and that one was more original and more — but well, it's a theme for reflection, you know? You have a conflict between — — Yes — what do we do?

[2:08:36] — We'll stop. — We'll stop. — We'll close. Yes, because we've — — for Costel Stăvărache — — because we've touched on — — Vali Berceanu, Gabi Munteanu. We say goodbye. Don't steal.

Video 13 (#318): Legislation or Law Discovery, Part 1 (Chapter 13)

Original title: *#318 | The Legal Foundations of a Free Society - S. Kinsella - Legislation or Law Discovery pt. 1*

Length: 1:39:22

Link: https://www.youtube.com/watch?v=K8jE1JDs9r4

[0:00:00] So you didn't want us to settle your business before the show. I'll ask you on the show what — — Well yes, — — exactly — — they weren't in Crimea anymore; they were a bit further north of Crimea. — Don't let me catch you spoiling my show rundown. — Yes, — — you have a rundown. — Ah, good that you — yes, it's okay. Leave it. — There, careful. There, now be careful what you say. — Anyway, anyway, this part changes the subject — — Anyway, this part that still doesn't have — what's it called — that still doesn't have its camera on — — has no way to get into the show. — Eh, you can make it black. — Ah, oh yes, I had a camera on. — Oops! I was saying, Costel — — what — — check whether it holds — — the resemblance. Wait, because I'm imminently threatened too. — Ah, [laughter] okay. [snore] — Man, this Fritz is doing well in the polls. I don't even

[0:01:01] — we'll vote for him. — I haven't heard him speak. You realize I'm not helping him. — But does he have a chance — — at what? — Well, to come into this — in trust. — No, but what — — president? — Come on, man. — Of the country. Damn it. No — after Iohannis, after Iohannis, I'm sorry, I won't feel like it. — No more — that's what I thought too. The quality — — German. It won't — [laughter] people won't want it. — Yes, but this one's more charismatic. I understand. More — — Have you heard him speak? — And is he charismatic, or — — isn't he? — No. [laughter] — Think charismatic. — I gather he's not charismatic. — Think: Băsescu was charismatic. — Well, I don't know. — Well yes, but along that line — — or for some, Orlando was charismatic. [laughter] — He has the profile of a classic USR-ist, one of those [clears throat] socialists, the clean-cut European type, with a soft voice — — and — — I don't know. Eh, move a tiny bit more like this. Like that. — Didn't you like Băsescu? [clears throat] — You put it. — I say he has a chance. I mean, I don't see Simion

[0:02:03] capable of keeping the percentages. He didn't keep them even then. — But I don't understand the thing with the massacre. I mean, can't you — — hit them back, finish them off. — No, because they don't listen to you. — Yes. No — — have you seen those journalists who are bullies, and — "But why not? Well, you haven't answered our question" — and they interrupt you, and you can't get [a word] in. — You can take it. So I saw two reactions — to a politician from Canada and to Elon Musk. He simply — still, they were aggressive types. — Well yes, yes, but those — — short things — it's Elon — — whereas this one isn't so strong. — Elon Musk — "aren't you promoting antisemitism?" — and he just looks — — "Twitter is full of antisemitism and racism and whatnot." "Give me an example." That's all he said. — Hm. — She couldn't find the poverty. — Yes, it fell [laughter] like that, you know, man, to him, you know? — "You said there are very many. Give one — give one." No — he broke that one at the knee, went like this. Bam. — Fine, and contextually, maybe it was one

[0:03:07] who says, "wait, I'll show you" [laughter], and you'd say let's take — come on, they had — no, that they're invented Nazism, you know? — Look, Murphy's Christian interpretation of the Odyssey. In audio — a podcast of his. — Man, are you crazy? — Yes. He, with one more. Yes. Take — — with that fat guy, Hamann. — Yes. And they say not all were mistaken; it's about Christianity there, both — anyway, it sounds. — I've heard many more. [laughter] Pay attention, pay attention. In — on the church — on the exterior painting in Târgu Jiu, in front of the town hall — — or the County Council, I don't remember —

— around there. — Uh, there are Plato and Socrates next to the saints. — Oh, Tidu — — you didn't know — — he said they're saints. [laughter] — And what are these doing here? They drink a glass of wine too and leave quickly. Maybe at the start, and he said what — city gave you from — — What a Phaedo? Come drink from the cups. I don't know. [clears throat] — Some cola came. Take some cola, like this.

[0:04:11] — What have you done, friend? — What's he licking? — I like that corner. Leave him, leave him, leave him, leave him, so — — Have you seen those films with cats pushing others off? That's why I allowed myself. Actually he wants to sit by the fan. That's it. — I don't think he wants to sit. He doesn't like the fan. — Sometimes I too get an itch if I do this. — Yes. — Right. And that corner is good [laughter] — — or on — or on the door frame. Depends how much itch. — He can scratch. It's not that thing when you go like this. It's — take, take, take, take. He has — — a job. He's sat down. Bravo! Wait a moment. — Wait, better do it like this. Come on, everyone — no, no, no, not everyone at the microphone. But be a little bit patient. I'll say it: 1, 2, 3, and when I say, you clap. Yes. 1, 2, 3, and [music]

[0:05:25] — If I told you that authority — [music] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*: Chapter 13, "Legislation and the Discovery of Law in a Free Society." You have the floor — but first I'll ask you to give the video a like so it goes into Google's algorithm. At least that's what we're told happens. A

[0:06:29] share if you want us to annoy someone else too; a subscribe if you want to hear more about us; and also, since you're pressing subscribe anyway, press that damned bell too and select to receive all notifications, because otherwise YouTube won't tell you when we put a video on the channel — and especially now, since the holiday season and the Mises autumn school are coming, we might skip a week, and then it would be good for you to know when, when, when we put up the next episode. If you want this, of course. In the description you'll find a Telegram group where we can chat. I'm pleased to see that lately the discussions there have livened up. You'll also find a link where you can get, or where you can read, Kinsella's book — I mean the one we're discussing here — online, in English, of course. Uh, also in the description you'll find a link to

[0:07:32] the Mises autumn school at Breb, where we'll be going this year too, if you want to meet us live. Don't come with pistols, please, and — — maybe they could give them to us as a gift. Also in the description you'll find a crypto link and a Patreon link if you want to support the efforts we make here, and we take this opportunity to thank those who have already used these links. — Look, I met someone at a café and he told me, "yes, I'm a subscriber to În Doi," — — right, — — "but I haven't watched in a long time." — "But who are you?" [laughter] — And he told me that thing you said about the bell, you know? Because of that. So he has 1,000-something subscriptions, and you realize it's a mess there. If you don't have the bell set so a notification comes to your phone or

[0:08:35] something, you don't notice. — Yes. And it has to be "all" too, because otherwise YouTube gets stingy too. If you have over 100 subscriptions, it doesn't send you — — notifications from all of them. Yes, you have to go to subscriptions. — On the other hand, if you pass by the subscriptions page from time to time, — — there you have a chance to see. But now we put up an episode once a — once a week; you have to know. — Yes. — Yes, but it's not as if the schedule is hard to remember. Yes: either we have a show on Monday at 8:00, or, in the extreme case, we don't. — Yes, it's [laughter] — they have. Yes. Good. We're talking about legislation and how law arises. — Legislation, yes, and how law arises. — The contrast — let's give the contrast between continental law and customary law. That's the thesis. Kinsella's position is that the

[0:09:41] customary one is more liberal — not only his, but others' too. I think Rothbard's too, and Bruno Leoni's, and Hayek's. And — — that's the discussion: that this one would be more liberal and that one

more — — the position — Kinsella's position is a bit more nuanced than that, in the sense that — at least that's how I understood it from his writings around the end of the chapter — he prefers even Roman law to customary law, at least as regards the way property rights are regulated; Roman law would also be a form of discovered law, by the way it was practiced, with praetors, with judges who had to — — So Roman law would be customary. — It's still customary. Yes. At first, — — Roman at first, until — until they began — — until the Senate's legislation began, — — otherwise it's not —

[0:10:44] he's talking about — — old law. About old law. — Ancient. — Good. And in the perspective opposite to these two forms of customary law is legislative law — legislated through, what's it called, emanating from the state — which unfortunately is — — the stage we've been in for far too long. Not to say something else. Yes, — — maybe that's enough. Yes, — — Hammurabi's was — — was okay. We don't know enough about it, but it's very possible that the way it was written was only a compilation of the customary law of the time. I mean, there are many things that seem to be

[0:11:48] included in it which seem to emanate from existing customs. — Fine. And customs too arose from certain intuitions. Because what comes to mind — what comes to my mind first about the Code of Hammurabi is the architect — well, the so-called architect — the architect is responsible for the good soundness of a house. There was this thing. And then — — and then you think: man, how did this thing arise? Mm — — from the intuition of people, which, well, was more natural, more — — who got fed up walking through a labyrinth, in a house built like a labyrinth or with only sharp angles. — They said, "man, you know what — " — and which didn't collapse, since that seemed to be — yes, well, it's a kind of steak. It seems natural to hold responsible also the others who participated in a

[0:12:54] thing. Still, in practice up to our days, because I think the complexity has become far too great along the production chain, you can no longer say — with cars, with all sorts of objects, you have a warranty, tra-la-la — but that too was hit by legislation. Yes. Which, well, we'll talk about — in practice maybe it helps, maybe it doesn't. — I don't know, a thing to — do you want to — — say — — to see the differences between those two — what's any difference, or — — between which — — maybe there's no difference at all between — — between those and — — customary law and — — the other one, which was — what to call it? Well, that's what — that's what Kinsella says here: that it's law. Yes, there are two ways — — of establishing law. — Let's say institutionally. — The first would be centralized — — institutionally,

[0:13:56] — yes? — which would be based on legislation; and the second would be decentralized, which would be based on the discovery of law by many judges in — — practice. In practice. Yes, exactly. And Kinsella's argument throughout this chapter is that only this decentralized system can be compatible with libertarian principles, because actually it would be a problem of methodology that violates libertarian principles. No — no, it's not so much a discussion about the content of the law as the methodology itself: if it's adopted, it violates libertarian principles from the start. — Whether you make laws, or what? — Yes, yes. He gets to this argument too, right at the end. Good. And we have two. Do you want to say something? Go on. — Yes. [clears throat]

[0:15:00] I didn't understand exactly this observation of Bruno Leoni's. It seemed paradoxical to him that [clears throat] economists who fought for a free market in the economy said: "Sir, it's okay if there's a legal system instituted by the state," and they saw no problem in this mixture of a free market and a centralized system of — — Well, it has — — producing law — — it has to do with the whole argument made by Leoni further on in the chapter, yes, which Kinsella sets out, which is based on the fact that in an activity of this kind — and somehow it's an argument we make too, fairly often, yes, — — "sir, you say the free market is the best — the best method by which you obtain what

[0:16:02] people want. Yes. After which you turn around and say, yes, but here it doesn't work." Yes, — — I mean, that's roughly his sense — when he was little this argument was put to him. "Well, and why not for the state too?" He thought about it, and at some point he said: "Oh yes, it works for [laughter] the state too." — Yes, see, that's a thing. That's what he thought, — — although I don't know if he thought very much, uh — — yes, but it's pressing. I mean — — with Leoni — well, and what's he afraid of? Leoni isn't an anarcho-capitalist; he's a classical liberal, you know? I mean, he doesn't want — — Wait, and Leoni said you need a framework, or that thing — he said — he didn't say how come these economists don't support [freedom] in the domain of legislation too, you know? Leoni didn't support abolishing the state, but he did support — well, privatization — not necessarily privatization so much as decentralization of the law-making process, to put it that way. I mean, a return to a

[0:17:05] system in which judges discover — — the law on the basis of cases. — Ah, so that would be one of the criteria, right? Once the judge makes the law — doesn't make it. The judge discovers the law. On the other side, the law is made by the legislator, and the judge only — — discovers it — the legislator — — puts it into practice — — the parliamentarian — — invents it — because, man, he creates it. — The problem, yes, is that the parliamentarian creates it. Yes. It has — — from the office. Yes — look, we can get into these discussions, but first let's talk — so what he says: a few historical characteristics of what a system of civil law, or of common law — law of the commons, or for the commons — actually means; because you know this too, and the origin of "common" and the origin of "common law" — — is somehow — — it's also and — — and in the common way, and of the people,

[0:18:09] the population. — Exactly. It can refer both — — although it's not folk, but — — no, but there was — even today there's the House of Lords and the House of Commons — — in Great Britain, I mean "commons" — — and then you say — — commoners — — are people who aren't nobles. — [snore] — Ah, it was law — this arrangement by classes. — Civil law, so to speak, when — — Well, the rabble's law — — civil, between — yes, the rabble's law. — Yes. The rabble's law, somehow, or the law of the commoners, [laughter] so to speak. Good. Uh, and he says that these are based — so common law is based on case law from Great Britain — from England, actually — which was instituted gradually over

[0:19:13] centuries of practice and which later spread to the English colonies. So at least one of the good things — that the British Empire spread across the globe — is why we have remnants of this, of this decentralized system present in areas such as America, Canada, Australia, New Zealand, partially India. And the modern civil-law system, Kinsella says, is based partly on Roman law, which likewise developed many of its legal principles based on decisions — on the accumulation of decisions from thousands of cases in the Roman Republic — and the law — examples of this type of law, of civil

[0:20:16] law, are in all of Europe and other jurisdictions such as Louisiana, Puerto Rico, Quebec, Scotland and Latin America. — I'm surprised Louisiana, which became an American state, kept [laughter] French things. Well yes, but think, it's somehow the Quebec of America. — Think that — — a kind of — — Not really, because Louisiana is cool and in Quebec they're all insufferable. I mean [laughter] — — and Jefferson used French things in the Declaration of Independence. The principle on which the United States united was — at least until this principle was violated by Abraham Lincoln — that states legislate as they wish and the federal government only manages the association of these states. — Yes, yes, yes. Only, so to speak,

[0:21:21] it arbitrates disputes between the states of the Union. — Okay. And then it wouldn't [clears throat] — — have been necessary to change. I was saying that there are differences between them, even if they evolved in the same way, because the common-law tradition refers more to — listen, with this decentralized one you can have contradictory solutions. — Yes. Yes. I mean, truth on one side of the Pyrenees, error on the other — not necessarily as geographic as you present it now, but — — by

regions, at least — the north of England to have been — but it's not excluded — — taxation was theft in the south, was — — Yes, but pay attention [laughter] — for example, here it isn't, because of the way the continental legislative system exists, it isn't

[0:22:24] geographic, but it's in time, this difference. Yes. For example, here in Romania they criminalized, for example — uh, taxation — not the application of the tax on part-time work, less than full time. — Hm. — At the minimum wage, so to speak. You know? — Hm. — This was introduced about five or six years ago, I think. Now, this year or last year, they said: "we were wrong." — "Indeed, it's not good to apply tax to work that's less than so much again. We have to go back to the proportional thing," you know? — Mm. — So you have this — how shall I put it — variations in time. Then it's good, now it's bad. In two years it may be good again, you know? So

[0:23:29] — you also have it at the same time. No, [laughter] — — I haven't come across that yet. I'll give you an example, you know? But do you remember — — if it's at the same time, you have different spaces — — or — ah yes, at the same time you have zones — you had — I don't know whether you still have free economic zones or whatever they were called. — Hm. Near the Danube you had a few; there were also some disadvantaged things around Petroșani. They had a taxation system different from the rest of the country. So there it's good not to have taxes and levies, but in the rest — it's not good in the rest of the territory because — — So our understanding is that you're looking for a mechanism; it has to be sound everywhere and over time. No — this one is flexible, statutory. [laughter] — Whereas the state, by not doing — the state has a different target from what we set ourselves; we come up with it because it's logical: "sir, we want it to be a coherent thing." And the state says: "No,

[0:24:32] no, no. My target is to keep people at a level, and if these are lower, I tickle them; if these are higher, we overtax them a bit more, and that's how we shepherd them." — Well, that's exactly it. It violates one of the principles of a just law, but anyway, we'll talk about that a bit further on. The idea, to finish [cough] with this common law, or the civil law based on the Roman system: it no longer exists anywhere in the world — — truly — — because everywhere — including where a sound body of, what's it called, a legislative body formed, like England's and even America's — it's infected by legislation, because at some point, over time, pretty much everywhere, how shall I put it, people fell prey

[0:25:40] to the temptation of the power to legislate, — — no? And — — and excuse me a bit — people to legislate institutionally; and he always stresses that a strong part of laws, an important part, interesting for people — because that's what I want to get to — is having certainties, and so predictability; and people were seduced by the idea that if you issue a thing that applies everywhere — you issue it from the top, equal — see, Lord — for everyone — it seemed there'd be predictability, and they said: "You make them — you make the laws from the institutions." — Yes. And here he — — afterwards he shows that — — and here he talks about these types of legislation — — not legislation that was grounded on rationalist

[0:26:45] principles; and for example he says the principles of the civil-law systems — Louisiana's civil law, or the French one — are, he says, drafted on the basis of the spirit of the French Enlightenment, of course, and rest on an ideological commitment to democracy, economic liberalism, private property, freedom of contract, individualism, natural law and justice. If you think there's anything in the French legislative system that still holds to these things — — declaratively, — — right. And obviously at the declarative level any libertarian would say: yes, all these are good things; these are virtues. Yes, individualism means that — but what actually are the

[0:27:51] concepts necessary to a libertarian law, Kinsella says? Well, we have individualism, yes — that rights belong to the individual and only individuals have these rights — and we can even say they're absolute and that they have a right to do anything, as long as this anything doesn't constitute aggression

against the rights of another individual. It's a somewhat different way of codifying the non-aggression principle. Besides, Rothbard too says at some point that to have a libertarian law you can start from common law, and to get to a libertarian law you only have to prune from it all the intrusions that would represent violations

[0:28:56] of the NAP. Because libertarian law is simple: all people are equal before the law; the only thing that's illegal is violations of the NAP. That's it — — yes, — — for those who like to start by reading Rothbard. Look, there you go. I liked that Kinsella made a small demonstration in one sentence, of the type of things we do too: you have this basis, which you just stated, and he said the rest follow logically, if you like — these other aggressions, theft, murder, etc. — Yes, I'd say, if we're to take it further, I'd say that in a — — libertarian society that accepts libertarian values, you don't need to codify the law, because that's it — everyone knows what it is, and judges hardly have anything left to

[0:29:59] discover about the law except how it applies in certain cases. Yes, small. — I mean, starting from the principle, they say: okay, it applies in this case like this, in that case like that, depending on what case is presented to them. — Yes, yes, that seems more scientific. For example, — — the experts, — — yes, when — — a theft takes place, you know? — Uh, you say the law should be: if you stole, you'll pay. — Yes. — Yes. Aha. Fine. More — first the law says theft is an aggression. — So it's written in the law — — if at night — if the theft takes place at night — — aggravating. — If you also had a pistol with you, if there were several of you — conspiracy to steal. — All sorts of grada[tions]. — So all sorts of things written there, until it's enough, you know? — And — — yes. — You want predictability? — [laughter] — Well, that's exactly the thing — you don't really have predictability. Good. And since

[0:31:04] we're talking about predictability, one of the main arguments of law itself is this: "sir, for a law to be good, besides being the same for everyone, it should also be predictable," in the sense that it should be more or less constant, so that we can make long-term plans that take into account the laws, the existence of those laws in the form they're in. And here maybe you want to tell that one about firms and legislation that should have remained stamped. I held back, but if there are many people who can identify this problem when they'd run a business the way they'd like, not the way things

[0:32:06] are now. Yes? How would you like to run a business properly, respecting others too? Well, if you're going to have legislation anyway, then the kind of taxation — let's say, to simplify — the kind of taxation I have when I enter the market — practically, why do I need an authorization from the state? It's a kind of contract between me and the state, supposedly the representative of society. Okay, what do we agree on here? What are the terms of the contract? "Well, we tax you x%." Okay. Then for how long — for how long don't you change these things on me? It may be a regulated activity — I mean, there can be regulations in your field of activity, you know? And these are in force at a certain moment — — and they should be, for the duration of at least a period of time like the one some envisage with reference to intellectual property, — — you know? I mean, let's make with the state — let's

[0:33:08] make a contract for how long? For 20 years, for 50 years: these are the rules that apply to this firm. — Yes. — Of course someone will say — someone, well, will hurry to say — someone will say: "Well, and how will you have a mass of firms with different rules?" If they've changed over time, for the existing one I don't change them, but you add a new one. Well, maybe it'll be harder to add a new one. Or if you add a new one — not only will the motivation to add a new one fall, since it'll only affect those who open firms from tomorrow — but the rest of it is like any contract. It's as Alexandru said: I made a contract with the government. You told me "these are the laws." On the basis of these laws I made the contract with you. We put them in the contract. We put them in; we annex a copy of everything — and that's how the Official Gazette gets sold, just for toilet paper. Yes. We annex to the founding act of the property

[0:34:15] — an extract from the Civil Code referring to the activities — the CAEN codes — that the firm carries out, and if it changes the CAEN code, we add other laws from the moment of the change. — You said by mistake "founding of the property," and where do we put the deed. But likewise, any property — practically it's my business, it's my affair — and then regulation over property too, if we're going to think about regulations as they are now — that too should likewise — — have the same. — The argument will be the one you stated: it's an argument that it would be too complicated. Yes, but contracts today are all unique. We don't have a standard contract for Romania. — It's no more complicated than — — any kind of adjudication of a contract. — Yes. — Well yes, but then the law is no longer general; it's — — Oh no, the law is general — — it's legislation. Legislation is still general.

[0:35:18] The legislature is free to do exactly as it has until today. Only that, for a firm founded, it freezes the legislation for a period of years — the legislation that applies to it. Yes, well. Good. Law, legislation and liberty. In the anarcho-capitalist case it's simple. We have no state, we have no lawgiver, we have no legislation. The only way a law can be established is by mutual agreement through systems of private courts; likewise, the enforcement that can be done is private. Everything is as decentralized as possible. So, from the perspective of decentralized law versus decentralized legislation, under anarcho-capitalism it's simple. It can only exist in one direction. But we're not all anarcho-capitalists, unfortunately. There are also those libertarians

[0:36:24] who, let's say, stopped at Mises, or read Rothbard a bit but didn't internalize him. Yes. So there are those libertarians who still see a role for the existence of the state. Yes. And then in a — because this too is a — what's it called — it's a meme on the internet — "in a libertarian state" [laughter], yes, how [clears throat] would the legislative process be solved? And Kinsella's answer is that — I mean, there the question is: okay, how will it be accomplished? Will it be accomplished by the lawgiver, as happens today in the great majority of states, or, to be compatible with libertarian principles, will it have to return to its origins — I mean not to hell and gone, but to

[0:37:29] return to the way of discovering law through decentralized private courts? And there the answer — well, we anticipated it a bit. We'd say it's very easy to say the state should be libertarian and the law should be libertarian, and then we said five minutes ago what should happen. Yes, Kinsella — but this we, we know because we read the chapter to the end. Kinsella, before arriving at that conclusion, goes through the following argument, namely that law must be — — predictable. — Predictable. Yes. So, here, sir, we can't have a government that has — that's — that has an arbitrary law, like: "sir, today like this, tomorrow like that; for some people it applies like this, for other people

[0:38:32] it applies otherwise." Uh, simply, that means it has bad tyranny, and the one who judges judges arbitrarily. No, — — this would be what in our language has taken root under the phrase "stat de drept." In English it would be "the rule of law." — Yes. Which presupposes that there's no arbitrary power on the part of the state to judge — not to punish its citizens or to confiscate their property arbitrarily — and that every person, regardless of status, genealogy, pedigree and office held, is an equal subject before this law. — Well, in libertarianism you can't confiscate it non-arbitrarily either, can you? — Yes.

[0:39:34] — The property — or what would "non-arbitrarily" mean? — Well, non-arbitrarily you can confiscate it as restitution. It's not arbitrary. — As aggression. — Well, as aggression — — you can't confiscate it either arbitrarily or — — oh, you can confiscate it non-arbitrarily too. You can say, for example, that redheads have a right to only 50% of their salary. And — — and that would be arbitrary. — It isn't. It's not arbitrary. It's 50. The part that's arbitrary is the 50%. Redheads is no longer arbitrary. — Eh, it's not — how can it not be — — it applies to all redheads. — Yes, but not to all people. — Well, not to all people. — That means it's arbitrary. — No, "arbitrary" in my head refers to how that decision was taken — arbitrary is in the application, not in the — he said it's in the application, not in the taking

of the decision. — Not in the taking of the decision. Okay. When you talk about what Hayek had in mind, when you talk about the bureaucrat's discretion,

[0:40:37] let's say it's arbitrary, you know? You see? Okay, let's say it's not arbitrary. First of all, it's not clear to me what non-arbitrary means, you know? Well, it's about actions. So if you look again at this definition, it says: — predictable and universalizable. — "The absence of arbitrary power on the part of the government to punish citizens or to commit acts against life or property." So it's about actions that take place arbitrarily, slash discretionarily. — Yes. I mean, at whim — that would be arbitrary: at the whim of the actor. — Okay. And if it's not arbitrary, — — it's under the sway. It's under the sway — — pay attention. If it's predictable — Rothbard's criticism — it's predictable, you know? "In 10 years — " — Yes. — " — I'll make you slaves." It's predictable, you know? The law isn't arbitrary, let's say, you know? It's still nasty. — Is it just, you know? No, it's not just; but the answer is that, all the others being equal, it's better to know than not

[0:41:40] to know. — Not to know. Okay. [laughter] — Correct. Not — — know — if he says it a few minutes ahead, then — — even a few minutes ahead it's better to know than to — — than to be animal[istically] — like an animal. Yes, yes. — But look, regarding generality, I'm thinking how correct Rothbard's criticism is: — that we can't all be slaves. Well, I was also thinking of the situation in which slavery is reciprocal, you know? — Yes. — Well, that's nonsense. You know, if we are, we free each other. — Exactly. [clears throat] — We cede — let's put a prohibition — if the law is, and afterwards you can no longer break the law, and everyone remains someone else's slave. — Ah, so crazy, — — no? Possibly you can put a prohibition: you're not allowed to annul them. — Well yes, yes, yes, yes. — I mean, I'm your slave, you're mine. You know? You know why I say this? So that the rule is general, you know? Because one criticism could be that it's not universalizable: only some are masters and some are slaves. You know? — It's not universalizable. And one answer could be this: no, we're all — you know, so —

[0:42:43] — you know what my dilemma always is [laughter] when we get to discussions like this? So you have situations of societies like the Borg in Star Trek, where there are some very strange rules, but they seem to work, and my dilemma is whether outside the film — yes — if you played out all the scenarios, whether it would really work — — I'll discover that many, many of the — — Did it work outside the film — — many of Star Trek's premises — — no, no, sorry, not outside the film — outside the script, so in other situations. — That's what I'm saying: I'll discover that many of Star Trek's premises aren't thought through to the end. — Well, that's it, and leave it — let's not pick on Star Trek, because it was cool when it was cool. — Man, if they were delegated, you know? But the question arises — we don't have that mammoth anymore. To whom do I delegate? Yes. — What? — To whom? — Well, to that center — it's as if you delegated to a shoemaker, you know? The queen in a hive takes care of — you know? Takes care of — — if they were voluntary, you know? We have, with this predictability, we have a law

[0:43:49] of taxation and levies, but we have several ANAFs in each county. It's not a centralized thing in Bucharest in — — Oh yes, oh yes — the county offices are a form — — a sign of centralization, not of decentralization. — If you have, from the name, you have — — The problem is they're not decentralized; as if the town halls had autonomy. The problem is that the same firm that had a seat there and a seat here had a different tax regime. In one place you could deduct like this. Yes. Otherwise — — depending on the ANAF inspector who audits. — Yes, yes, but that's arbitrary. That [laughter] — that's exactly a part that's arbitrary. — That law. The problem is how the inspector applies it. Yes. Well, exactly here we're talking about arbitrariness. — The saints eat you up. [laughter] — Our assumption when we analyze this is that the law is applied. You know? Not that — so to

[0:44:52] say, we were doing an analysis of the minimum wage, and look, in a village in Oltenia it isn't applied, therefore — well, wait a moment. We've assumed it's applied, you know? We analyze the effects, you know? — Yes. They're — yes, — — the little ones? Yes. No, but there's a little autonomy at the town halls, in which they can set some local taxes. Look, when the law says, — — yes, — — "take from this one as much as won't make him starve." That's the text of the law. — Right — — it's predictable. — It's not arbitr— it's not arbitrary, because — — it's predictable, because you can see whether he starves or doesn't starve. Plus this term too — what does "starve" mean: that he complained, or he actually died in fact? He was on the point of dying. Yes, [laughter] — — but I gave him some biscuits. — Yes. Okay. — "A decent living" is more subjective, isn't it? Than — — Yes. — "The shameless salary" and "a decent living." That's it. [laughter] — Say he got his claws into me. — Good,

[0:45:56] — bitter. And most of all with predictability — especially in Europe, I'd say this — "sir, against the enemies of the current power you can apply the law however you want." You bend it, you know? You give it a nuance and something. — Hm. — Actually, you should be more — — you have no chess. — Mhm. Fine. You know what Rothbard's criticism actually was? Come on — I give you a portrait of law: let laws be general and whatever, predictable, you know? Blind, look, it's predictable — but isn't the law bad? — It's bad. Even if it's predictable, you know? — Yes. — Well, you'd say: "Well [clears throat] yes, but it's better that I know." Eh, but it's not good, you know? — It's not good. [laughter] I don't know if anyone would have claimed — — generality isn't enough, you know? No, but it's — — predictability. — No — only the idea is that, look — — it's better with them, but it's not good. — Well, including

[0:46:59] Kinsella keeps saying the basic principles, yes, are respect for individual rights, for the non-aggression principle. Predictability is somehow a third space. Hayek, when he talked about predictability, talked from an economist's perspective. He said: to make your plan you have to reduce the amount of chaos. — But no — think about — — But what did I want to say? Come on, go on and say [clears throat] — — those who have accounts — well. Yes. Because they don't want — because the law says only wives, uh, or husbands have to publish their assets; but if you have a girlfriend, she isn't obliged to publish her assets when you hold a public office. — Yes. You see this thing; you arrange your life accordingly. But she can also leave with the money. — Exactly this. She can also leave with your money

[0:48:02] if you've put it in [laughter] her name. — Yes. The problem is that these people now want to reverse it. Take — — the AUR people, or — — uh, the PSD people. I understand. Confirmed. — Who? — Who? [laughter] — Yes. Who? Exactly. Eh, champions — — they saw that Nicușor Dan gets away with — — this thing, with this loophole with — — the concubine — or, how to put it, his girlfriend. — Yes. — And then they say: we have to modify the law because it wasn't fair until now, but from now on it'll be fair. — [sigh] [snore] — And here Mr. Leoni says: "Sir, people are not only prevented from deciding how they want their life, but they're prevented from foreseeing the legal effects of their behavior." — Take —

[0:49:05] — yes. And because of this — so this scientific legislation, in the spirit of the Enlightenment, created by old, clever and wise men in the Senate and the Chamber of Deputies — — they're no longer old, nor clever, nor wise. — Right — is so unpredictable; whereas on the other side, when you have a law that's made, or discovered, by judges, things are much more predictable, because, one, it applies only to the parties who asked for judgment in their case; and second, if you look at the case law, you see how far back, let's say, this rule has been applied, and whether it's good or wasn't good. Yes, — — look, I was thinking about this. If Rothbard could say: it doesn't matter; what matters is the level of aggression. You know, a thing can be predictable and be very

[0:50:07] aggressive — the extermination of an ethnic minority, let's say — and a thing can be arbitrary and not be so aggressive: someone asks for a bribe, you know? Or — — Hm. — Uh — — But look, let's think about this, sir. For years on end, girls married as their parents said, and judges, in the case where a girl was disobedient, sided with the parents. — Hm. — Did it happen that a judge at some point said, "man, no — " — I think — — or because someone came centrally somewhere and said: "Sir, from now on — " — both, I think, historically. — Historically, it was both? — One — that it was both, and I think it wasn't sudden. I mean, it's nice in films, when the film lasts an hour and a half. — The argument — the [clears throat] classic argument is that legislation gave women their rights, and somehow this is said here in the book too. But Kinsella goes further, making the argument that says there's no

[0:51:12] way to show that the law of the commons wouldn't have got there — — at some point — — if legislation hadn't intervened, organically — — and here comes the other argument of the pro-legislation people, who say — well yes — including many, many categories of people, including libertarians, including Objectivists, including this and that — the discussion was about property rights, not necessarily about women's rights — who say: "sir, common law moves too slowly, and so you have to come with legislation to graft onto it a bit, to straighten it where it's gone astray," and — — Yes. Right. And Kinsella's answer is this. First and foremost, you can't make — you can't construct any argument that says a system that evolves naturally wouldn't come to

[0:52:18] include rights for women too, and the appropriation of radio frequencies; and it's an argument about the market. — Do you want a tortoise's pace or full speed? Well, look, look, Costel, I can say it went full speed toward communism — "long live" — — and some 20 — some 20, 30 million people died. You can — — go toward the good things too, you know? At full speed? — Well, Kinsella's argument is exactly this: that if the instrument used is legislation, you won't go in the right direction. — Well, that's our discussion. — Well, yes, pay attention. Where did I read — I think in Hoppe, a few episodes back — — he said that socialists and libertarians in the 19th century were in the same — — fight against the conservatives — and in Rothbard. — And in Rothbard, right? And that's history. — And both wanted, sir, full speed

[0:53:22] ahead. — Hm. Hm. And probably in — — one single — one single mention: at that time they weren't libertarians; they were liberals. Yes. — Right. — Okay. — Right. And — — the [one underneath] doesn't get upset. — Yes, yes, yes, [clears throat] — — yes. But it seems to me that's why these people no longer want full speed ahead, you know? It seems to me they've assimilated the conservative argument that — — if I know Trump and Trump gives me some law, it's not a long-term victory, because the others will take it back. — That's how it seems to me? — Aha. Because it's not like the abolition of slavery. Okay, we abolish it for five minutes, and what the hell have we done? — Well, the essence here is to live better for five minutes. Yes. — So maybe I stretch it to 20 minutes. — Yes. [clears throat] The idea is that maybe there were some liberals, you know? Who really said: "Sir, you know, these liberals who are more socialist, who want more speed, — — more, — — maybe they're right," you know? I mean, this really went on in his soul,

[0:54:24] and he said, "we, story — " — "we eliminate taxation, brother, in five minutes. Why do we sit here hemming and hawing?" [laughter] — Clearly Rothbard wanted to create a system by which to set himself apart from the conservatives. An argument without which conservatism doesn't exist is this: gradual evolution, you know? Hm. — "Slavery didn't have to be abolished immediately"; "this and that didn't have to be immediate." Except for the '89 revolution, where there, it seems, he sympathizes with "immediately," you know — but the conservative position would have — "it shouldn't have been immediate," you know? — Yes, — — that's an inconsistency, you know? — Well, I'd say the word "conservative" is misused here, or at least perverted — — the word "conservative"? "Conservative" would effectively mean to preserve. If, if it's a conservative who concedes you — if it's a conservative

who concedes you the idea of gradual change, that's not a conservative; that's — that's a gradualist. No, — — no, no, no. I say that's conservatism. This

[0:55:27] — conservatives want change, but regardless of how they were in the century — pay attention, Vali. In the 19th century, you know, in Europe; in the 20th century they're classical liberals in America, you know? Regardless of that, the red thread is this, you know? — Yes. — They can't — they can't either keep [things] gradual. — They can't stay closed. — So we wouldn't — — and it's also sort of right, if we're to speak the straight truth. I'd defend Rothbard by saying you can't push the button immediately, because you don't actually accomplish the thing, you know? I mean, it doesn't hold; it doesn't last — — culturally, from the first. That would be the dissolution. Right. After you've done the cultural [work], yes, apply it from — — Well, that's the argument, — — but not when you haven't done the cultural, you know? — The observation — — the world isn't libertarian, and I — while you do it culturally, — — the others do it institutionally. — No. [laughter] Yes. Exactly. While you do it culturally, it actually also happens de facto, even if not de jure. That's Kinsella's argument at the end, at the end of the chapter, when he says that

[0:56:30] the role of libertarians shouldn't be to focus on legislation, but on education — the discussion of strategy — — because when you get to educate — well, to spread libertarian values — even the legislative process dissolves. — And what's the challenge? If you don't have libertarian majorities, let's say — and that one institutes — let's say we cheat a bit, I make friends with Trump — and if you had libertarian majorities, I'd say it's opposed to libertarianism to institute legislation by majority — — by force over the minority that doesn't want it. — Well, but it's not — not by force. By definition, it doesn't take aggression, you know? Well, the law — even if he doesn't want it — pay attention — even if he doesn't want the rule, it's not an aggression, — — you see? You use violence only defensively, you know? — Wait a moment, because this is a hard dilemma for me here. Pay attention. If we believe we're right and we put in a non-

[0:57:33] aggressive thing — we don't take — we conquer the world in order to leave them alone — but those people don't want to be left alone. We actually — — they too want to be left alone; others don't want to be left alone. Let's say, to play out my scenario, let's say those people don't want the rule — — Yes. Let's say those people don't want the rule, and you explain by heaven and earth: "Man, I'm doing you no harm. Look how good it is." And he has a fit, because he wants it more like before, more with — — It doesn't matter. What matters is that he's not right, you know? — Well, it matters that he's not right, but I, before the grand ethics, I — — I told you, it's as if you punished a serial killer. He'll never say mm — — Let him say no — — well yes, but that guy actually did something provable, whereas this is a matter of preference. So you have the minority, let's say. — Well, and you don't do anything to him. — Well, you don't do anything to him as long as he doesn't break the rule. — When he breaks [clears throat] the rule — when he breaks the NAP — you stop him. Well, no, you — — that's not an aggression, because he says: "Well, wait, I'm a Nazi and I have to

[0:58:36] [live] in a libertarian world." Okay, I understand. — I mean, they could practically say to the system: "I want to pay taxes to the state," and Alex comes and says: "From tomorrow I won't pay — that's the law. — I impose it on you." "Ah, well, I wanted to pay." "Well, go and give it to them." — Not even that — I wanted Alexandru to pay. I didn't want to myself. — Well yes. Ah, and then aggression is violated, and whatnot. — It's not even violated. If he says, "I wanted someone else to pay," — — well, fine, you can want; you're free to want, you know? But if you go to take the money by force from someone else, you're stealing, and we stop you there. We fight. — That's not important, because we've conceded — we've been too infected by this relativist discourse in which we concede: "Ah, well, wait, I'm imposing libertarianism, and — " — and so what if I impose it? Have I committed an aggression? That's the relevant question, and the answer is no. That's a play on words here. Excuse me. Because we

say "you impose it," but actually you leave him alone. I mean — — you don't impose on him that he has some obligations. So — — wait, wait, wait. The minority — you impose it. — He can't commit a murder, you know? — Yes, but no. Do you impose it? You see, when you impose it, it seems you put him to do something. Whereas

[0:59:41] if you impose it by telling him "leave me alone," — — I impose, I impose it. — Exactly. [laughter] I don't put it on him; I impose it. — I don't put him to do; I put him not to do. No, but to finish my scenario: practically those people who still want some state, and you come with a libertarian political majority and say, "we dissolve this nonsense" — well, you don't stop them from making — — their association; from making — making the same associations, if they're non-aggressive. — Well no, he said the state is aggressive by definition, you know? — Ah — — oh yes, I stop him. That's the answer. I stop him from making his state. Ah, I don't stop him from making a voluntary thing which they foolishly call a state. Okay, that's not a state, you know? Yes. That's said. — Yes. But regarding this thing of "sir, gradually or impose revolutionarily" — — something good. Uh — after the revolution, after the '90s, many communist states said: "In a week we privatize everything." They said —

[1:00:44] — Romania said no — gradually — — gradually — — "a little bit at a time, because you never know." — Yes, Iliescu was conservative in this sense, you know? — That's what I wanted — and was it better — Balcerowicz was a law, to privatize everything — or was it better to take it gradually, culturally, so people get used [snore] to — — history showed he was right — that Iliescu was, and Balcerowicz was. — Yes, that's what I wanted to say. — Where was Balcerowicz from? — Polish — — Ah yes. Poland. Yes. — Shock therapy. — Shock therapy. Yes. — Fine. That's logical too, and there have always been these discussions: how is it better to cut out the cancer. On the other hand, on the other hand, in Poland the fight against communism lasted some nine years. — You can say — I can say it wasn't so — what? After, or before — — ah, and I can say it wasn't so — yes, but Romanians too were anti- — let's say the first purely anti-communist thing, '85 in Brașov [actually 1987].

[1:01:48] — Well, now they're pro, but then it was [laughter] — — Yes. — The problem is that we come back to this thing with, sir, law discovered by judges and law legislated, enacted. — Hm. They didn't have law made by judges. It was likewise legislated law, the communists' too. So they didn't interrupt; they used the current instrument — — to cut: "sir, before, communism likewise appeared — " — by diktat. Bam. — Hm. — "By diktat we take it back and return to the situation before." Yes. Whereas indeed, if — let's say the communists hadn't come with a system that creates laws through Parliament, and they'd still relied on these decentralized judges — probably it would likewise have had to go

[1:02:50] through — — after the revolution. — There'd have been no communism anymore. — It would have been harder. I don't know how it could have been done with — but — — they could have tried. — They could have tried. Yes. Look, American Democrats tend to believe that law is created, and that's why you can do activism; you can modify the constitution. Conservatives believe it's discovered, you know? One objection can be: it doesn't even matter anymore how it is, you know? — What matters — — mm — — is the content. What do you say? Because that's how he comes: "Look, I've discovered it." And what did you discover? "Well, I don't know — these statisms." Well, leave me alone. [laughter] Clearly content matters, but — at least this is Kinsella's argument too — methodology matters too, because if you have instruments that legislate, they'll legislate. It's as if — okay. What, no aggression there? What's there? A tap — what does it do? It turns on the water. Well, okay, it'll

[1:03:53] turn on the water. If you have a tap that — — turns on laws, it'll turn on laws. — Yes. If we've already established that the law compatible with libertarianism is short enough that it doesn't take five minutes to tell all of it, it's clear that an institution whose purpose in life is nothing but to give laws will get bored after those five minutes and will give laws that by definition will no longer be libertarian. —

Yes, but you can also take it the other way round, you know? How? Well, close the tap. [laughter] The answer — yes. Kinsella's answer to this is — — like that, with the decentralized ones, to watch those people. — As long as [laughter] — is that as long as the tap is there, the next ones can open it. You can close it; they can open it. The solution is not to have a tap. — It's efficient, and — — actually he says the solution is to give work,

[1:04:57] you know? Yes. — And the fight against evil is more efficient. — Well, now they're struggling, sir, — — ours, now, here — — still all continental law. — Aha. — Which legislates laws — — "sir, the laws — those laws are good. The problem is that now someone came who makes laws much faster — emergency ordinances" [sigh] — and in America and here, everywhere, there's this problem. And you can tell him: "Well, it no longer passes through the filter of parliamentarians' thinking, where we have to sit and think; someone comes from the government — bang — in two days, a law" — — no? So it's already the speed at which it's created. — Well yes, that's the argument. It's the conservative argument, you know? We're moving too fast. Wait, take it easier. — It's not the principle — we don't attack it — only the speed at which change unfolds. — Yes. I don't know whether this is the moment to say that further on in the chapter there are Kinsella's suggestions for how to control

[1:06:03] a tap, however small. — Uh, I don't know what you're referring to. — Uh, he says further on that he has some suggestions like this — since, anyway, fine, instruments — but we'll talk about them. But it seemed to me that at the end — — he says they're useless anyway, including those. I mean, it's been shown — many of them have been tried; "they tried them and they failed them." — Anyway, it's funny that he went through them, so that some people don't live with the impression that — — you have to — yes, you have to go through them, because — exactly — someone comes and says: "No, because we have the constitution — " — " — or we have mechanisms of oversight," and — — Yes. Or "we keep an eye on them." — We keep the proverbial eye on them. — Good. How do decentralized systems work? Well, there are limits — we talked about this — there are limits on the decisions of some courts, on

[1:07:05] jurisdictions, on scope. There's precedent. Precedent isn't binding; it's only informative. We talked about this, and likewise. Alex said earlier that a law that's discovered applies only — or you said, I don't remember — applies only to the parties — — involved; it doesn't apply to the whole population, as is the case with centralized systems based on legislation. And that at the level of decentralized courts even the free market can operate. The purpose of the court isn't to find the law but to give satisfactory decisions. More than that, in those systems — in the libertarian system, or in the private system of — uh — why does it also have to be — the idea is why

[1:08:09] it also has to be private — — because then the people who come to judgment have agreed beforehand that they'll follow the judgment's answer. Yes. No — there's no imposition, not even on the losing party — — in the judgment. — Yes. There's no legislative imposition even on the losing party in — because they agree beforehand: "Sir, we go to this one," and on the contractual side. — Exactly. — Good. But if these courts had legislative power — they'd be state ones; in short, they'd be state ones — — and they'd have extra powers given from outside the market — then we fall into the same, into the same methodological sins as if it were legislated, as if it were legislation, because the judges themselves would have the power of a legislator. — Yes. Practically, the mechanism — whether it's a gang

[1:09:16] in Parliament or many judges across the territory — if they have the power, about the same thing will happen. — Yes. Good. A few words about civil codes, because the argument — good, and the argument — sorry — the argument for predictability, yes, for certainty, is exactly this: if the law can change from one day to the next and apply to you too, it's clear the degree of certainty you have about the law is lower than if the law can't change from one day to the next and apply to you too. Yes. This

"and apply to you too" is ensured by the decentralized system of laws — — but those don't generate a law, though — — judges don't generate a precedent — — and precedent can be taken into account,

[1:10:21] but it's not obligatory to take it into account. It depends on the specificity of the case. — At the next judgment, — — the fact that the judge generated a precedent — you couldn't care less, unless that precedent becomes binding. If that precedent becomes binding, it's as if it were legislation. It's hidden legislation. — Someone imposes that obligation. — Yes. I was saying it's somehow a counterintuitive conclusion — — that a system that seems [snore] so chaotic, like the free market, applied in the domain of courts actually generates more legislative stability than a centralized system. Besides, if we — regarding this, we can observe this even in our everyday life, regarding legislative stability: since

[1:11:25] Honorable Cheliuță's government is no longer allowed to issue emergency ordinances, suddenly we have more legislative stability in this country. So power was decentralized from Cheliuță's hands to — how many are there? 420 people. And regarding that — 432 people. Yes. However many are in Parliament. And regarding that, for the USR people who watch us and have wet dreams of a 300-member Parliament: 300 people is a more concentrated power than 432. I'm just saying, so that maybe someone — — never mind them understanding — maybe someone understands. — More parliamentarians, — — no? But never mind, whether 400 or 700, that they understand. Plus that a dream — — no, precisely the costs — the costs of agreement are higher. Part of the wet dream is that USR people watch us. [laughter] — I say they still watch — — right

[1:12:28] — regarding these private courts: a judge makes a decision on a theft only when two people come to him. He doesn't go and sit and give a judgment just like that, out of the blue, you know? So if, let's say, for 500 years nobody comes to the judges — — not even one of the parties complains. One of the parties complains like that, and to the judgment both have to come — — in private courts. That's right. They have to — — Wait, wait, wait, wait, wait. I don't want to derail you. Yes, — — but if — if I steal from you, you go to the agency, right, — — the agency says: "We know who it is; we know — we have evidence that he stole, but we can't find him." — You can go to the judge and — and what will the judge do if we can't find him — — in absentia? He takes his money. — And what will the judge do if we can't find him?

[1:13:31] — When you find him — — he only makes a decision, but says yes, it's right. Well, when you find him, you can do this without a judge. If the thing is yours and it's in his house. — Well, maybe it's not in his house. With him alone — — if it's on his land. If it's at his place, each, him, in — — libertarianism you don't need a judgment. — You lay hands on that thing, he lays hands on you, and then — — ah, you're saying practically — so we didn't find him. Fine. "Give me the — give me the compensation," since you got to the judge. Yes, — — you can do justice — sorry. — Right. So — — right. So these two come, and if nobody complains, — — it's not that for 500 years, if nobody complained in the domain of theft, — — in a domain — — right, in some domain, — — what happened 500 years ago remains as precedent, as case law. — Yes. — So for 500 years that law isn't modified. No. And especially since if it doesn't create another precedent, from a loophole, from a small detail,

[1:14:34] no central legislator comes, as on the continent, — — to step in here with the curvature of the banana. But nobody complained. Leave us alone; go away. — Yes. — And here someone complains, you know? I don't know — interest groups, you know that — well, that discussion [laughter] — the discussion of interest groups is a bit further on; now we've got to the Civil Code. The Civil Code is something that theoretically precedes the law. It should be something more stable. Uh, there's a difference, it seems, between the Civil Code and civil law in the state — in the United States, for example — he says a civil code is more a constitution than legislation. Only that, as we know, with the United States Constitution, which is as restrictive and bare-bones as can be, it was modified I don't know

how many times, including in writing, because initially there were 10 amendments to the Constitution. Now it

[1:15:36] seems to me there are some 18, 19 — I don't remember exactly how many — and there are others on the way. So we have an amendment procedure that can be carried out in the end. Okay, it's somewhat more difficult, but de facto it's been modified hundreds of thousands of times, with every decision of the Constitutional — of the — — Supreme — — Supreme Court of the United States. Now, if we're to talk about our legislation and our Constitutional Court — the second round back, something, I don't know. No, well, doesn't matter — — what was ours has already been modified, born. Ours — the Constitutional Court actually gave laws, and said "well, that one isn't allowed to participate in that; she isn't allowed to participate in the elections" — things like that that didn't exist in the law. — An aspect related to this — — an aspect that reminded me: in Chile the constitution is modified very often. Mm. — It's even got to several times — — and it's getting bigger and bigger. — Mm — — it's no longer a little booklet; it's getting bigger and bigger. So the constitution — — that's one of Kinsella's suggestions further on: let them also lapse, right? Let them expire. And in the system with private judges, the fact that you stick to case law, to previous cases, means you're good, and so you're preferred by the people around you. Let's talk — — Not necessarily that you're good — you're preferred by people — exactly — who want more predictability, you know, if — — Good. And the idea is that we've talked so much about predictability that we should also say why the situation opposite to predictability is to be avoided — the situation in which you have unpredictability, or uncertainty. Yes, because everyone

[1:17:45] is rationally moved to positions of shorter, higher time preference. I have a higher time preference; I want immediate results. Yes — immediate results. Higher time preference leads people toward consumption. Instead of leading people toward production — the economic results speak for themselves. We are — we already live in a world in which preferences — the greater the difference — and this is another thing — the greater the difference in time preference, yes, preference — a person will be willing to take loans at higher interest rates. — Hm. — Yes. Also, the greater the difference between

[1:18:50] the average time preference, let's say, and a person's time preference, when you lend money at interest you'll want to receive where you'll be compensated more. I mean, even the one who lends at interest, yes, if he has a higher time preference, will demand higher interest to part with that money for the moment. — Hm. — Yes. — Thank you. Exactly. — Good. This thing has structural effects throughout — throughout the whole economy, and implicitly throughout the whole organization of society. There's a quote here from Hoppe; let's give it in full. He says that the simple fact that legislation — or the way of legislating democratically, to be clear we're talking about this, not about despotisms or other crazy things — yes, increases

[1:19:57] the degree of uncertainty. Instead of being fixed and predictable, law becomes more and more flexible and unpredictable. Do you remember? When within a few months we went from "we're not raising taxes" to "damn it, let's raise taxes and break you all." Yes — some people, you could really say, voted on the promise that they wouldn't raise taxes, — — no? Some of them who'd be more naive, like, by — — by nature. Good. "What is right or wrong today may change tomorrow." Yes. "So the future becomes more subject to chance." Yes. "Consequently — " — " — the degrees of time preference throughout

[1:21:01] the whole of society will rise. Consumption and short-term orientation are stimulated by such a system, and at the same time respect for all laws will be systematically undermined. As a result, criminality will rise, because as long as there is no fixed, immutable — " I don't know — not "imuabil," it's ambiguous — — Yes — " — standard of what is right and wrong, we have no firm definition of

criminality," and then — — this — but it's worth underlining — — he can try. Yes, I've seen this in Hume too, sir. Probably, by changing laws, a lack of respect is created for — and

[1:22:04] the continuation of the argument is that a criminal is the one most optimized for — has the highest time preference, because for him the result is immediate. "I committed the crime, I got the result. Exactly what I was looking for." He optimizes on this system. Already you are — you can observe the effects in a country like Great Britain, — — there, where criminality is rising. — Yes. When you bring in people with a preference — with a — — chronic preference for the short term, and you import them into society, you'll observe fantastic increases in criminality across all criminality indicators in society. — If they came out of those that have violence. — What? — If they came out of those that have violence. No, but not [laughter] necessarily — not necessarily of

[1:23:07] violence. Look, for example, you can say this: here in Romania, yes, times of hardship and economic insecurity, yes, and economic uncertainty, produced a population that was more short-term oriented than a population oriented toward the structure of a longer production chain. Yes. The moment the gates of Europe opened — where did Romanians go in Europe — well, Romanians, yes, — — Romanians and the cohabiting nationalities — where did they go? Did they go to work in Europe or to steal in Europe? — To work. — And an important part — — Well, well, and the others worked too. — Another kind of work. [laughter] "I've quit stealing — I mean, I don't work anymore." — Time preference. — "Now I do a — " — Time preference is important in these choices. — Ah, and you say the legislative chaos and

[1:24:12] these created — this — — that's the argument. Yes. — I'm wondering whether you don't also have reverse causality: time preference leading to the laws — you know, yin and yang — and the system is a system that can reinforce itself. Someone from Digi — — had a saying: "Sir, these people have legalized theft" — he was referring to those at the Constitutional Court who give themselves salaries, and you simply can't do anything to them. They give themselves pensions, they give themselves salaries, they give themselves — they get even all medicines free — — from public funds. — We'll go in quickly and pass only quickly through Bruno Leoni's argument about central planning and economic calculation — and why we'll pass quickly through it: because in the prelude of this piece of the chapter, Kinsella says he no longer agrees with the great majority of the arguments, that it's

[1:25:16] a bit of a stretch; but the idea would be the following: Mises demolishes, and Hayek further on, on the basis of the fact that, with — what's it called — with — — with information — thanks — that information is distributed. There can be no central planning. A centralized system of laws closely resembles central planning. Therefore — good, he takes it: therefore a central planner of laws won't have all the information from the people he wants to represent, or he won't be able to act as a central planner, in the sense of giving the directives, the laws, that lead society in a direction that maximizes prosperity. For example,

[1:26:21] here I can say I don't necessarily agree — leaving aside that yes, maybe a central planner — here I agree that a centralized system won't be able to — it contains within itself the seeds of destruction. Yes, that's the whole argument of this chapter: that a centralized system will grow, will lead to uncontrollable and discretionary legislation, however it may be, however it starts — even if it started strictly from libertarian principles. On the other hand, a [clears throat] person is capable, on his own, of understanding and stipulating what the law should be. As they say — even in the book we have Rothbard, who goes tut-tut-tut. — We do exercises from an early age.

[1:27:27] — Good. And the idea with the systems — here everything is disputed; here all the discussions arise on the basis of this so-called representative legislative system. There are two — there are two things here. So the argument rests on the fact that, information being distributed, the representative

doesn't actually represent you, because he can't have access to all the information. I'd say the representative doesn't represent you because the principle itself is a wrong one. It's not that someone says here: "Sir, participation in a community of 100 people doesn't generate the same effect as participation — the same participation — in a community of 100,000 people." And the answer here is that you're talking about a difference of power —

[1:28:34] only if the system adopted is imposed democratically; because, to take it — to take it step by step: between two people, yes, what matters? That they agree. Yes. So two people undertake an enterprise together only if they both agree. What's that called, when two out of two people agree to do something? Well, the principle is unanimity. Yes. Good. We add one more person to the two. [clears throat] Yes. If you don't want to change the principle, the three will have to agree. We add another one. If you don't want to change the principle of unanimity, the four will have to agree. We add one, one, up to 100,000

[1:29:39] people. If you don't want to change the principle, they'll all have to agree. Therefore one of them, any of them, has the same veto power, — — regardless of how many there are. If you don't want to change the principle of unanimity — the problem is that you, being stupid, — — say "democracy," — — yes? And your principle breaks down at three people. You're stupid, because you understand that democracy can't be had between two, and there you have to have unanimity. Yes, — — maybe the stronger [laughter] of the two of us — — but then you say: "O holy democracy, help us, give us light" — — and it doesn't give us — — and that's why participation actually falls. — Hm. — Not because there are more of them, but because there are more of them and you have democracy.

[1:30:46] Because, as I just said, if the principle were unanimity, regardless of how many there are, one person's participation has the same power. — Yes. And for me, I'd add that very many people dream of — well, each has an image in his head of how the world should go, and that's a package. Which is why they dream that the whole life among those 100,000 people is a package of many things, and that veto power would interfere with other things when — — it goes contrary. "Well, but what do we do, sir? We won't do anything?" No — we'll do only what we can agree on, because we do it together. No. And — — otherwise you're free to do it separately, insofar as you can. The basic idea I want to emphasize here is that people know how to mind their own small affairs in

[1:31:53] everyday life, and it seems very natural and normal to them: "Sir, this is my little business. I like to put more salt" — little things like that. Yes, but at a larger level they're afraid to think that interests can be granular, and to agree with the 100,000 on one little subject, on another not; on another yes, on another no. To come back and buy them, to come back and buy them. "But no — well, but you won't have sewerage; you won't have — " Yes. "You won't have streets; you won't have — they must be forced," I mean. Okay. Good. So that's — that's the result. Yes. We've got to the level that — — Yes. If people want, they'll — — Good, — — a bridge won't be built. If people want, it'll be built. It won't really be built. And somehow the by-product of the democratic system of doing things is that the democratic system — as [Leoni] well observed the effects

[1:32:56] but diagnosed poorly — is that the democratic system comes with a very large disparity of costs. Yes. The costs you have to bear — we talked about this at *The Machinery of Freedom*, David Friedman — the costs you have to impose on yourself in order to agree with — in order to be up to date with all — — the legislative initiatives; not to mention that even if you're up to date — — still pointless — — still, still, you can't stop it. Because, for example, a parliamentarian can be bought by some, to promote — by an interest group. Yes. An interest group can consolidate itself behind the legislative process — — which can extract certain benefits for which the costs of bribing a set of parliamentarians to promote its law

are minor compared with the benefits. And you, who agree and keep an eye on them and see what they do and

[1:34:01] "oh my, how they've done you" — take the million out of your pocket, brother, to make a counteroffer. — Well, no — "the laws are being broken; very well, sue them." Which law? The ones they made. The ones they're immune from — — in one of — in one of the cases. — Yes, exactly. — How does it seem to you it's going, after some 200 — 250 years — since America has had it? — Yes. Since America now has had its 250th anniversary of existence. After 250 years of existence, how does this experiment of "keeping an eye on them" seem to be going? 40 trillion in debt. Yes, yes. We don't have — — for the new — for the unborn. — Then you have — — Well yes. [laughter] Well yes. I ask them — — eyelash to eyelash. I liked it. I say we could split 13 in two. — Yes. Let's stop it. Anyway, I want to

[1:35:06] — I'd have insisted on this one too, with planning, because it's not clear to me. — Well, we can take it up again next time, or insist on it. We still have a bit of time. — I like that Hayek said this long ago. He said that language, laws and money should — in his opinion, and mine — should be decided by the free market, not imposed; and intuitively people can see it, for example, with spoken language, right? When someone comes and changes it arbitrarily — look, there are a bunch of young people who use millions — no, you keep talking. [laughter] — It's not okay. Keep talking. — La la la la la. — They/them. — They/them. Yes. So you have impositions of words — you absolutely have to use

[1:36:09] something — and things don't actually happen that way; as Kinsella says too, that's why Esperanto didn't succeed. Certain things have to happen between people. Language — however much the Romanian Academy comes and says what's correct — people will speak as they want. What's important is that they understand each other when they communicate things. And here too, for example, people's intuition is that price is formed through the market. That they can understand. They say: yes, supply and demand. Okay, we get it. If you tell them "a market of rules of justice on a free market," they'll say: "Well, how? So it'll fluctuate like market prices?" And what do I say is counterintuitive? What do people demand on the market for justice? Predictability. Well, so what will it produce? It'll produce predictability. People will be satisfied at the market prices. Why

[1:37:14] do prices exist? Because people are satisfied. Otherwise there'd be no prices. Nothing would be bought, nothing would be sold. — There'd be no demand. — Yes. — Okay. Thank you. — Well, I have a separate argument about Esperanto. Esperanto broke down because it was anyway, somehow, an attempt at — that Anglo-French conflict — a bad one, because the answer to the Anglo-French conflict isn't to make everyone learn from scratch the same language, which anyway doesn't come naturally — — because it has influences from all the world's languages except the Asian ones. The major problem at the time — anyway, Esperanto didn't address it, because the largest — the largest non-English-speaking population is in Asia. Yes. And Esperanto didn't even take the principles

[1:38:19] of the grammar and ideas as they're expressed among the Asian peoples. The language structures of Asia aren't present in Esperanto, and therefore the answer there is that the presumed least-effort option was for the rest of the world to learn English, not the reverse. And that's what actually happened. Nobody learned Esperanto, and the degree of adoption of English grew everywhere in the world. We didn't need an Esperanto; we already had one. For Costel Stăvărache, Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu, and we say goodbye. Get ready, the crisis is coming.

Video 14 (#319): Legislation or Law Discovery, Part 2 (Chapter 13)

Original title: *#319 | The Legal Foundations of a Free Society - S. Kinsella - Legislation or Law Discovery p2*

Length: 1:55:55

Link: https://www.youtube.com/watch?v=cNud8fBuAkc

[0:00:00] It is — — it's the second-to-last. [clears throat] — It's a suitcase. Yes, yes, yes. No, — — wait, let me do a new parody: "Good evening, beloved, I wait for you as if — " and about that one I say "the Murișan government" [laughter], pretty much again — — after 180 days, or however long we smile when we have the [coalition]. [laughter] — You've framed us well; I'm sitting well. [sigh] — You? Yes. — You don't need to get up anymore — — there. Yes. Here. Yes. — Bravo. — I haven't gone through them [clears throat] mentally once more. — So in Chapter 13 you go to point four — — and you've turned on the phone — I mean, you've turned them on. — Negative effects of uncertainty. — Wait, I'll go. — We talked about them. — We talked — — about them. We finished last time. Eh, you can mention them if you like. You do — — after, since we remember. — So after them we take

[0:01:02] — with time preference and all. We talked about — — We talked. Yes, — — yes, yes. — Fine. — That means central planning and economic calculation come next. — How do you want to sit at the table — even more forward? It's good, it's good. Even more forward. — Do you want me to move — no, no, no, no, not with the chair. I want you to go — you lean as far forward as comes to you. Naturally. — Ah, naturally. Naturally. Like this. — Yes, that's good. Okay. What — done. So where did we stop? Indeed we stopped at point four. You remembered something well. — Hm. — Only it's point four: "Decentralized Law-Finding Systems." — Aha. — Yes. Good. — Yes. Wait, let me turn off my sounds too. — When you want to tap, you can tap. — "No person in their right mind would

[0:02:05] ally with Soros to sell their country, language, history and faith for money. Thank you." — That [laughter] one — that one we put directly before the show starts. Yes. And from the Elan[?] now he pulled out this one — he said something about Soros, and I remembered, and there was an article about how Soros brought out good books, even if over time — in the '90s — — Yes. Ah — — in Romania, yes, including — — even if over time his intention, it seems, was football. — Man, you have no way of knowing what his intention was then. Eh, I don't think — — that he too adapts, you know? He sensed Romanians didn't want leftism then, that it wasn't the moment [clears throat]. [music]

[0:03:11] — If I told you that authority — [music] — Hello! We're back today on În Doi to talk about Kinsella, continuing the book. You know: Chapter 13, part two, about the debate between legislation and the discovery of law. But before that, I'll ask you to give a like, a

[0:04:14] share, a subscribe — whatever you like there — so the video does well. In the description you'll find a Telegram link where we can chat in real time; and also in the description, if you look, you'll find a crypto link and a Patreon link if you want to support the effort we make here, and we take this opportunity to thank those who already do so. — [bell] — And before everything, we went to the autumn school at Breb, run by the Mises Institute Romania, and I invite Gabi to tell us how it was, because it was his first time. — Yes, I liked it. It was an extraordinary experience, and I'd like to say that the host, Marius Cetarche, was first of all very welcoming; he

[0:05:19] made us feel — how shall I put it — he created a setting for us, actually, for discussions from morning till evening. At least I stayed there; I didn't wander the mountains, the valleys, the monasteries

or other places. I stayed there at his place, at Marius's, and together with others we put the country to rights, so to speak. I liked very much that — — Well, what did you put to rights, man? Ah, and — what country did you put to rights? — In the longer term. — That happens on the surface, with a day — — ah — — out of the job. We act subversively. It isn't visible. It isn't visible. — Television doesn't report what we do there — — and we do well. [laughter] — Right. I was very glad I met many young people who were eager to get involved in this — in this activity of libertarian

[0:06:22] activism. [clears throat] Uh, yes. And the discussions late into the night, until around 1 a.m., again — — Ah, he stayed. — I stayed. Yes, that — — I told you to stay at [laughter] — — So if you ever want to talk about liberty and more. Yes. Jokes of all kinds were told too, but I don't want to go into details now. But to talk, how shall I put it, interestingly, sparklingly, about libertarianism from morning till evening, go to Breb and you'll have people to talk to. And if you go during the autumn school next year, you'll have even more company. — Yes.

[0:07:27] — Good. In the coming weeks, if it hasn't happened already, we'll also see the talks Costel gave at last year's and this year's events. So keep an eye on the channel; subscribe, click the bell too, so you see when these wonders happen. Good — last time we were talking about the difference between a centralized legislator and a decentralized process of establishing law, and there we stopped, namely at decentralized systems for discovering law. What's the premise they start from? That law itself would be a natural one; there'd

[0:08:33] somehow exist — — something to discover — — to discover, from the very seeds of people's behavior. That's roughly how things should be seen. And then, when there's a dispute — so the basic premise would be this: it's in people's interest and in their nature to cooperate and to get along when they have some endeavor, some enterprise. And if they end up not getting along, it's presumed they still want to establish who's right. I mean, it presupposes that there an error of evaluation of the situation occurred on one side or the other, or maybe even on both, and they're still interested in re-establishing this spirit of cooperation; and then they say, "man, what's the law? What should we roughly have done here and didn't?" And they go nicely to

[0:09:38] a judge, and that judge turns it over on all sides, including the cause, and says, according to — — "cut the child in two" — — according to everything — I don't think that [laughter] — no — — not if — — that one, really — I don't think, I don't think a libertarian judge would say that — — if they're very, very stubborn — — right, and absolutely want to file for divorce, no? [laughter] — Good. — This is a small thing, and as a preliminary detail for the discussion, regarding how he discovers: he says, "did you talk between yourselves? Yes. Did anyone hear? Do you have something written? What premises are in that contract?" Then let's say you don't have some premises, but in the area you have legal frameworks, let's say, respected, whatever, to which the judge can

[0:10:44] refer. Anyway, the idea is — where I want to get to is that it matters very much what they agreed, because otherwise it still sounds as if it comes from above "in the spirit of cooperation." Eh, look, now they no longer want to cooperate, because they have friction. Yes, but it depends. You see, here the premise is that they still want to cooperate, because they go to the judge together, by mutual agreement. They agree on the judge — yes, yes, yes. Yes, I mean — — "enlighten us." — Yes. Okay. Then it's great. — It's coherent. — It's ideal if, if they act like that. — Good. And the judge sets about judging the situation and pronounces a verdict. He reaches a decision. Now, what's important — because we're talking about decentralized systems, yes? We said a bit about this last time too, but we didn't get into details. The decision applies only to them. It's recorded as precedent, but if somehow someone else

[0:11:48] ends up in a similar dispute, — — but proves something else — — and doesn't necessarily agree with that decision, he goes to a judge. The judge again re-examines, and isn't bound as he would be

bound by precedent in a system — in a legislative system based on precedent, like the American one. — Practically, lawyers can use precedent, invoke it, but the judge isn't bound. — Yes, he has to judge once more, because that's where his name comes from. He has to judge, to use his judgment, to — — with that decentralization, — — to think. Yes. The decentralized one — and you'd done — did you want to say something? Yes, I wanted to draw the parallel with how it is in the current continental system, namely: if you have a law, you don't really sit and judge, to see an interpretation between the two and how

[0:12:53] the two relate to the text of the law. Actually — — if it says so one way, that's the criterion of justice; you don't make it. Yes, but unlike — again, unlike the precedent-based system — in the continental system the judge isn't bound by previous decisions. He does indeed look for correspondence with an external standard that was determined by fiat by the legislature. There's no dispute here, but he'd still have to judge each case separately in relation to — — that law. — But sometimes here too there's case law, you know? Those who insist on the closeness between the two — and here it's "look how the Constitutional Court judged, how it judged with the couple." — Yes. The Constitutional Court is an invention that has less to do with the judiciary, from my point of view, and more to do with political

[0:13:56] machinations. Besides, if we remember, the president of Romania's Constitutional Court was, for I don't know how many years in a row, a jurist — one who hadn't been a judge, hadn't been a prosecutor, hadn't even been a lawyer; he was a jurist. Good. And to draw the parallel a bit — because Kinsella does this in the book too — with why a decentralized system would be better than a centralized one: we said last time that the centralized system will turn on the tap for making laws, since it has nothing else to do. That's why it exists. The decentralized system would offer a service of conflict resolution, practically, and only secondarily would it discover a broader methodology

[0:14:58] for resolving conflicts, which wouldn't be the main purpose — somehow similar to the way all players on the market want to get rich by offering certain services on the free market — I'm talking — offering certain services, and secondarily the economy grows. They don't have the plan of growing the economy. Yes, but lo and behold, it happens, if it's left to function properly. Unlike the centralized system, which, when a decree comes, a new law — see Bolojan's tax increase last year — yes, does nothing but shatter the whole universe that had settled somewhere there. — Look, I just realized how many people probably have a view of society vaguely resembling,

[0:16:03] well, a garden. People will say: "Well, we want to have a controlled cultivation here in society. What you want doesn't exist. It's a jungle." And when you said "jungle," that's it. Everyone's ears close. Plus, obviously it wouldn't be a jungle; the bigger and stronger one doesn't eat you — which is many people's favorite caricature of libertarians: "Ah, well, the rich man will buy himself justice." Uh, and that's exactly the view. That's why subsidies appear in society too, and all these things. Because they say: "Well, here, water doesn't reach here; we have to make a little ditch so the water flows. We have to put in some sprinklers. Look at this little plant; these have to be trimmed; this has to be picked. Look, society has given us fruit." Well, they're not its to give us — anyway, that would be my observation: you have a garden, let's call it, versus, well, free nature,

[0:17:09] — dead — — because I avoid "jungle." Leaving aside that I'll use Alex's example to get into the point about the proliferation of legislation, or of laws — but before that I'll make a small parenthesis and say this. On this earth, as it is — I don't remember, 95% of the earth's surface is covered by water. Something like that. — A lot, a lot. — Yes. — Like the human body. — Leaving [laughter] aside the water in the human body, since we're not — — coincidence — — since we're not in Dune. — I don't think so. Right. If we really had an accessible, cheap, easy energy source, like what solar energy is claimed to be —

[0:18:12] but we see that solar energy isn't enough from this point of view, or the subsidized technology isn't enough to capture it — starting from what Alexandru said earlier, with "we see there's no water there" — — we've taken from this water that occupies 95% of the planet's surface, and toward which we now have a problem — that coasts are eroding. Haven't we seen in previous weeks all sorts of calamitous news from California, that coasts are eroding there? Yes. So we could take this water, desalinate it, using that cheap, free energy we could use,

[0:19:20] and take this water where it would be needed. I don't know why these things don't happen. — Because you don't have a free market. Because — — because probably — exactly. There are some legisl— there are some regulations. Some entrepreneurs would be found — would be found who'd build some mini nuclear plants. — Yes. — Which I think you were talking about. — Which I was actually talking about. Exactly. — And they'd do this thing. They'd take water where they'd get a good price, where there's demand. Why can't they do this? Well, you see why not: bureaucrats, zoning, as they say, building regulations, all sorts. And — "well, and what if that thing explodes?" — to answer once again, in a loop, the same nonsense: if those small ones explode — if there were a danger that the small ones explode, they'd have very expensive insurance, and maybe they shouldn't even — you know, maybe they shouldn't necessarily be

[0:20:24] small ones. I mean — — there's talk of them being at sea. — We talk — we talk today — regarding — yes, correct. We talk today about Fukushima — oh dear, what a disaster it was. But in — — it wasn't — — at Fukushima, the tsunami did a bigger disaster than the — so there are many — radiation — there are — — many areas in Fukushima today where people live normally. No — not to mention that animals, which don't have to respect people's rules, frolic around there through the exclusion zone in a startling way. Yes. Good. Where I wanted to get to with this whole thing is that if the government discovers at some point that there's no water somewhere, yes, what will it do? It'll give a law, a decree; it'll make a program, a subsidy.

[0:21:26] — It'll tighten inspections; it'll say, "that's it, don't keep it anymore." We have — we have a — first of all, an influencer will come — will come — — and say: "We have a water crisis. Normally we had water; now we no longer have water. We're in crisis. Everyone must — " — " — in solidarity, be in crisis and tighten their belts." — We all pitch in together — — to build the right socialism, the one that'll work. — And if they tighten the belt, water flows. — Depends how tight you pull it. — It flows [laughter] — — Depends how tight you pull it. — Sometimes it can even drip. Depends on the subsidy. — Exactly. Exactly. Well, one advantage of the decentralized system of discovering law is that it isn't subject to the same temptations of special interests that come and say, "sir,

[0:22:33] make the law this way," or "tilt the balance toward a certain — " — Look, I was thinking about this. Is it really so — — what? Regulatory capture. — Ah, because — — what does it matter whether it's a judge or a deputy, you know? — Because, pay attention, — — when you're a deputy and you make a law, — — it applies to everyone for a good few years from now on. Whereas in this case, what you do — let's say you are — — the verdict — — that verdict — let's say you're a big company — applies only to the two; it no longer applies — I mean, you're not sure — — or, well, to the participants; there can be more — — you have no motivation to put in — — you don't do it locally — you do it locally, it's local corruption; another has another local corruption; another, another local corruption; and in the end — — well, corruption — corruption, to pay off, really works through centralization. It doesn't have — think like this: you deserve. Think: you, as a company, say, "okay, we buy this judge so he always rules in our favor." — Yes. Yes, but remember what I said

[0:23:37] earlier. They both have to go to this judge. Yes. So let's say you fool one, two, three, four. After 20 people start to catch on: "Man, this guy finds too many silly things like this. We won't go to this one

anymore. Let's go to another." You have to shell out money to buy the next one too. To shell out money and buy — after 20 cases you have to shell out more money to buy the next one too. Exactly. It's somehow a reflection of the argument for why Bill Gates or Elon Musk or Jeff Bezos can't control the whole market. — Yes, but you have this problem with parliamentarians too. Look, Tullock had made this — the public-choice area — a study. He was surprised how small the bribes actually are, you know? Likewise because you had competition, you know, for — but do you understand what I'm saying? That there too you can have local — that person with a specific interest. — That one's a state one. That court with a centralized judge is a state one. No — my question would be: okay, and compared to what? Isn't a place better in which

[0:24:42] you'd have to buy a number — I mean, isn't it more counterproductive for a company to be in a system where it has to buy a possibly unlimited number of judges than somewhere where it buys 50% of a fixed number of parliamentarians? — Well, pay attention, because in Romania, say, you can have 50 judges, right? Or 100. You can — let me see how many parliamentarians you have — — on — no, because the judge — three judges and — — no, Costel, because the judge offers a service on the free market. — Yes. Anyone can go into entrepreneurship in this direction of judging. — Well yes, but we still have — the others are the same. Then the others are the same. Well, well, the others aren't the same, because that's exactly it: you're analyzing two systems that are fundamentally different in that one is open and the other centralized.

[0:25:45] If you put an arbitrary limit on the open one to make it resemble the centralized one, you've refuted the hypothesis. It's open. Well, if we want to have a decentralized market for finding law, it has to be open, because otherwise it's no longer a market. — It's not private property. I mean, the judge proposes to a puffed-corn-snack firm: "Look, I'll do you justice," and people come, and how — — why not? — Well yes, if it were so; but it seems to me you shouldn't have something like a free market over here too, you know? At — — you say it's no longer — that's the difference — that there it's a free market and — yes. — Well yes, still, we haven't had — what we've had — a free life in — — Well, now you too start asking me where in this world libertarianism has existed? — These resemble — — we'll [clears throat] get to this question too. I'm thinking — it's this discussion of whether you have local administration and whatnot, only — — So Kinsella here isn't campaigning for the Roman legislative system or

[0:26:51] for the common-law legislative system or for the civil-code system of Louisiana, which we're about to get to. Kinsella campaigns for a system of this kind coupled with a free market for services. — Yes — the good parts of, and, well. Good and correct. — Because the others [laughter] have shown their limits. Clearly. They're no longer — — That's what he criticizes. Yes. — Ah, well, and that would be the difference: that one is private and that one isn't private. Legislation isn't private. — Yes. Yes. — That way you've solved the problem from the start. You know? It's socialist versus capitalist, and you apply the arguments for capitalism. You know? — That's exactly the idea. Yes. — Yes. To me it seems not. And that's what you should compare. First of all, the difference between them isn't very clear, you know? It's not very clear. Look, not even that precedent, about which we were supposed to say it's pretty decisive — not even it is so decisive. — In some areas they are — it's — has to — — Okay. What — that would be the difference? That that one

[0:27:55] is the free market and — — uh, that would be the difference — — in the libertarian proposal, right? It proposes — — that would be the first difference. The second difference is that the judge's decision binds only the participants. It's what Gabi said earlier. Whereas the legislator's decision binds everyone. That's a fundamental difference. — No — to me it seemed the difference was that this one — — uh, is more — — precedent matters more with that one. No, — — no. Here you're confusing it with the American system, in which precedent ties you hand and foot and you struggle very hard to reverse it

if you're a judge; but that's not the system being considered here. Well, not even in America is it extremely — it's hard, but — — to me — no, it seems to me Kinsella analyzes these existing ones. No, — — no,

[0:28:56] — not a libertarian model of — — he makes — — if you read the conclusions. You read the conclusions; he raises exactly this objection: "Sir, these tell us nothing about the content of the law — whether it's liberal, whether it's socialist." And he says something like this: that's right. In the end they don't demand it. I was saying it's right to make a comparison, because that way — yes, if you say that one's a free market — here it's fairly clear that, libertarianly, you were trying to find something. Ah, but you say that one can't be state; legislation can't be other — — than state. Yes, — — yes, yes. A comparison — this could be — and that one could be like the argument, like the discussion about decentralization, you know? Both are state, only you say: look, with decentralization you have competition between regions; if one gives unjust sentences, people move, they move. — Kinsella talks here about a system in which judges are state judges and there's no longer a Parliament. — Yes.

[0:29:57] — But the judges arrogate to themselves the right to create law simply on the basis of an instance, of a case. — And he says it's [snore] worse than this system we're discussing today. Yes. And he says, sir, in this case too this error appears — how a judge, starting from a specific case in his area, can extend and generalize a law that maybe in another area or in another — — Yes, but that would be a hybrid; it wouldn't be purely decentralized. — He mentions this one here too, right in this subchapter — — because that's what I was thinking. Look, the objections raised against legislation you can raise on the other side too. I don't know — corruptibility, instability — — no? Or even if you raise them, to say: look, competition — and to me this argument about competition between regions doesn't seem weaker: even if it's state, it gives you better judges, better laws, you know? People leave, you know? — Because maybe that's not the argument he's interested in putting here.

[0:31:00] — Yes, I don't know. I wasn't thinking of that. — Well, what's the argument then? That of the two systems of building — that you can use to build law, the premises of a centralized system are inherently worse for libertarianism, but [do they make] the content of the law worse, you know? I mean, look, let's — let's say, for example, that you have some judges who judge according to the — I don't know — according to the Nazi system. Yes, it doesn't matter what the case is. They effectively go through your family with a fine-tooth comb, and if you have more than 25% Jewish blood, they find against you. Yes. How is it better for this law to be? To have your rights taken by default, 25%, if you're Jewish, from the center

[0:32:08] downward, with the police and the flunkies enforcing this thing; or conflictually, one by one, if you happen to quarrel with someone and end up before a judge? Where will more people be aggressed against — in which system will more be aggressed against — I mean, looking strictly from the point of view of aggression? Regardless of the content of the law, aggression is greater where you have legislation than where you try to discover it case by case, even on wrong principles. — Well, but if it's shared, — — shared by the locals — the law, this norm — — shared. — How shared can it be? Because in the end conflicts must exist; otherwise you don't appear before the judge. — No, the question is whether there's any difference, you know? How good that

[0:33:11] I give — it's local, what does it matter that — — Well, that's exactly what I said. To me it seems there's a difference. — I mean, there are several — — even for the most atrocious law you can imagine, there's a difference. There's a chance that a judge somewhere — why — — doesn't enforce it, or — — no? Let's say they agree, both the locals and the central ones. The question is where you do more harm, you know? — From the center downward. — Because there you've obliged everyone. — Well yes, but the whole state isn't tried. Likewise they go to court. Likewise they go to court. — They don't go — they

don't go to court anymore. The police come straight down on them to apply the law. — Ah, that — — you don't have the right. If it's found so, you don't have the right to property; you only have the right to be on the way to the Gulag. — No, look, here I was saying that you don't respect — what you're making disappear, Bus— because you compare a Nazi thing with a liberal thing. — No. Ah, that's exactly what I said: they're both Nazi. The judges are all Nazis.

[0:34:15] — Well, if they're both Nazi, they no longer sit and discover, you know? I no longer sit and discover. — Well, that's what you're saying too — — the law is applied the way they apply it to you. Well yes, but the way they apply — — no, that's what I'm trying to say: what they sit and discover is whether — — they do less harm — they discover, or exactly whether you're Jewish or not. — And they're concerned. The idea is that, as a judge, they're concerned only with the person in front of them; as a legislator, they're concerned with every living soul. — Well no, but the judgment — pay attention, Vali — the judgment you make in a state court — — oh yes, you have to see whether that person is Jewish, you know? — Yes. He says too — — there you lose time, you know? In — no, I don't think — I don't think it's clear to you where the source of the difference lies. All Jews, all people who have 21% Jewish blood, are to — — have no rights. They have no rights. Period. That's the answer. They have no rights. — Whereas in the case where the judges are Nazis, only when he catches him

[0:35:20] in front of him, in front of the court, does he take that one and strip that one of rights. — They're Nazis personally. — Yes. The rest he leaves alone. Until they too have come before him, he leaves them alone. — So with this one you don't go to a judge, or what is it? — Yes, yes. That's what he says — — with this state one with courts with — — Well, with the state one you don't go to a judge anymore; the police come straight down on you. — So you're already judged en masse, so to speak. — You — you — when you break the law, when you break the law today in the street, do they grab you, or do they wait for you to go to a judge to see whether you were wrong or not? — You can contest, but meanwhile you've been grabbed. Yes, but likewise I can say the difference is between some who give judgment with a trial and some who give judgment without a trial. — Yes. — Judgment with a trial, and judg— — Yes. The Gestapo came. It came. — Yes, yes. — Well no — here, here I think the misunderstanding maybe is — — I'm looking for what you make disappear, so that it's the same. I mean, that one doesn't come down on you either. You still

[0:36:22] have to get to a judge. He has to document that you're Jewish. So you still lose time. You know, that's what I wanted — then it's the same — to get to justice. — That's what I'm trying to point out. — Yes. Okay. — Uh, I mean the case built by Vali wouldn't respect — — but how not? Look, — — I mean, you have on one side a pure and hard Nazi, and on the other side a Nazi — yes. And which of them is less toxic? Which of them is less aggressive? — Well no. The criticism is that you don't homogenize the groups; you don't homogenize the conditions. That's my criticism. — How not? — Oh, this one was homogeneous — likewise, the Nazi legislative court. — Costel, Costel. The legislation — the legislation says the following: "Jews have no rights." That's the law. Tomorrow — that's the law. "Jews have no rights. Period." The law has come out. Yes. — What does that mean? — It means that from tomorrow everyone behaves according to this law. Yes. What does that mean? It means that if you know

[0:37:25] your neighbor is Jewish, yes, and has property, you break in on him, shoot him, and nothing happens to you. Why? Because he doesn't have the right to that. — No. — Oh yes, — — the principle of charity has to be instrumentalized. You didn't put the world like that. — Well, wait a moment. In Vali's example, — — if you want a Nazi system — a totalitarian state does exactly this. It doesn't give you the right to — — ah — — be a freelancer, you know? It decides that — — Well, and how does it seem to you Nazism was applied in Hitler's Germany? The way I said, or the way — I mean, not that all Germans sit in their houses and only we look for the Jews and only we take them? — We're not studying historical Nazism. We're building, building an example. Well no, but it's exactly — — in which we want to see the

difference between the two systems. — Well yes, if you're building — if you're building an example, don't make references that muddy the waters. — It's not about — but it's not about that; but in that system, yes, exactly what I told you appears. It was legislated; those racial laws were given at a certain

[0:38:29] moment, yes, which "exempted," in quotation marks, the Jews from rights. Yes. What happened in the second second after the Jews were exempted from rights? — The others being the same, it would mean that in your example with the courts too you'd have no discussion, you know? Locally you execute him and that's it. So it doesn't exist. Well no, [clears throat] because the difference is that in that system with courts, all people go and go to the judge, and the judge decides case by case what can be done to Shlomo, by first and last name. — That's not Nazism. That's no longer Nazism. — That's no longer Nazism. — Well, it really isn't Nazism. Nazism means prison without trial. — If the judge judges by the same — by the same rule, namely "Jews have no rights" — if all judges use the same rule I stated, "Jews have no rights,"

[0:39:32] yes? The rule is the same. Only in one system it's a rule, and it's applied case by case, by first and last name, if someone drags you before the judge. Yes. In the other system it's a law, and it's applied by everyone. — Well yes, but even the law in the continental system isn't applied like that. You still go through a court. That's what I was trying to say. — No, that's exactly what I told you: if they catch you breaking the law in the street, they grab you — — In — wait, let me repeat. In — — at some point you get to a court, but grabbed you've been grabbed from there. — Yours is no longer Nazi. — Wait, let me understand. The one in which — so the Nazis didn't sit and "let's see whether there's precedent, whether there's no precedent" — if you want to be homogeneous. Example, you know? So, Costel, that's my criticism. — You said that in the continental system — — let Gabi in too, because he's been meaning to speak for 20 minutes. Go on, go on. — Well no, but you've got tangled in a thing — — and I between you. [laughter] — Eh, that's it — — that's the bath.

[0:40:34] So you're saying that in the continental system, when a law is given, when you have a conflict, you still go to court? — Well, you don't go — — Vali, — — when you have a conflict over some land, you don't go to court? — Okay. When you have a conflict with the state, you go to court — — and then you go. Isn't there administrative law, in which you sue the state? — You sue the state. — Let's take an example. Stop. Stop. Pause. Gap. The state comes and says, "we're building a highway," expropriates you — can you stop that thing through a trial? I'll tell you directly: no — so it doesn't seem that I'm doing — you can sue the state, or you can accept its decision. — Anyway you have to sue it for compensation, because otherwise it gives you a pittance, but it doesn't matter. Well no — but if it gives — "sir, give me a pittance, because I know that," or "I don't feel like — " — Ah yes. — Or the state gives you a fine because you didn't park properly, or whatever — you rarely go to

[0:41:37] — Alexandru — that situation transposed into — well no, because that's the whole discussion, you know? To take exactly the same situation in which the state doesn't talk to you, and put it into a precedent system in which the state doesn't talk — — to you. — And you show that a system in which the state doesn't talk to you is better. So we're not talking about a system [laughter] of precedent, Costel. — Did you get it? I think Gabi's on his own. — The idea is [clears throat] [laughter] that in — — So most of the time, yes, uh, the one who's the victim of an abuse by the state — — doesn't sue the state in the system, well. — You rarely go to court with the state. — Okay. Yes. Yes. — But why is that? You know you don't win your case — or maybe because — because you don't win your case because — — because the judgment will be made according to the laws, and the only way you win your case is if the state broke its own laws when it abused you. — Okay. Yes. Yes. [laughter]

[0:42:39] — Yes. — That's why you don't sue it. — Yes. Okay. Whereas on the other side there wouldn't be a law like that, but only — — case by case, in a judge's head, — — even if there are many judges, —

— it can change; maybe it generates a good law, let's say. No, — — until you get — no, — — no. — Until you get before him, you've escaped; you're not abused, so to speak. Only in the case where — — you get before him are you subjected to that abuse. — Exactly. That — — in one system the abuse is done en masse; in the other it's done individually. For the first it's easier to do; for the second it's harder. That's why, between the two systems, in which nothing varies but the way of legislating or deciding, in the second fewer will be abused, because the effort is greater. — Everyone you want has to get before a judge in order to

[0:43:46] Yes. Good. Here the law can't be changed. — There's no law. — No. In this one — — in which, in the first. — Ah, yes. Ah, the law can be changed. — Well yes, the law can be changed, just as judges can change their minds. — Uh — — he says here, sir — but I think further on — once he says that these continental-type enacted laws are clearer, more intelligible, more — — friendly to — — human reason, so to speak. Whereas when you have 7,000 similar cases and the judges have each expressed a decision in their own language, as each saw fit, it's hard to — — the terms, the area, tricks, because he — — say it, say it completely.

[0:44:49] — Yes. And because he — for example, here, how property is opened up in the common-law system — — Hm. — — your head hurts from — — go on, go on, because I don't know, and it really seems to me — well, he doesn't go into detail. I know that — — he says that to determine — — that it's about someone's property in a certain case, and then to go and look for similar things in another case — so it's an intellectual effort; whereas all the judges who are under, let's say, under — — the continental system, — — a continental system like this, use those terms, sir. — Yes, — — you know, — — look, if the law is strongly Nazi, and in 10 years you want to save 7,000 people, you know? Here you pass a law under the continental system and you've escaped. There you have to go to each one. — Well yes. Only [laughter] if — if you have a system, you don't pass that law — — to keep proportions.

[0:45:52] — You go to each judge. I mean, you do good with more difficulty, you know? — Yes. Yes. Even if you prevent, let's say, the evil — those who had no rights. — No — because from this point of view, if the principle is the same, yes, ceteris paribus, you're now presupposing that the aggression has already taken place. If the aggression has already taken place, it's rather late. — Even — — let's say the law is unjust. How do you get rid of an unjust law? You get rid of it immediately through Parliament. You've voted and that's it? It's over. That's — — or you go to each judge. — Wait, wait, wait, you'll see [laughter] that in the decentralized system too you can go as a big group of people and ask for all of them at once. — Yes, correct. — How? — How? With a class action. — Now it's called a class action. Then, in the decentralized system, it would be called how — "we constitute ourselves to sue — " — No, no, no, no. That's still talking about a — — case that got before a judge — — class action. But I'm thinking how you go — applied —

[0:46:54] — let's say you go before [a judge] in Craiova with this. — Hm. — But in two months a case appears again, let's say in Botoșani. — Hm. That judge has to be influenced again: "Man, don't judge according to the old paradigms anymore." — Yes, but from — — "See, a class [action] appeared in Craiova which — " — Again the question arises: why would you go to a judge who'd judge according to some outdated paradigms? Because, we repeat, — — they arrive before the judge voluntarily. Craiova. You say it's — or it's an eminently local matter and you can't go there. You know there's a circuit there — — of an opportunity. Well, otherwise why would you go — again, I ask you again — why would you go if you know that — so this whole idea, yes, works in — if we set about extracting things from it to make them uniform, you see it breaks; the example goes to hell. So this whole idea is this: people want to cooperate — it's an

[0:47:59] embedded assumption — and they go to the judge so that the judge explains to them what they did wrong. Yes, — — that's the ideal situation. We said from the start that people want — this is the situation in which judges set about discovering law. Yes — the premise is that there's a natural law in people's DNA that tells us how to cooperate with each other. — Yes. Look — — and if we have a dispute, it means we've broken this law, and we go to someone cleverer to explain to us where we went wrong. — How was it around 1800 in America — was it a system, or a system of laws enacted by the states? — Each state with its own — — because that's why Louisiana remained separate. — That's why Louisiana remained separate. Yes. The idea is that the abolitionists went along — fought: "Sir, let's

[0:49:04] put it in the law" — so to legislate. — Not even they — they went to a higher level — — to the federal one — — to the federal level — — to tick off what Costel says: to give it from above — tr— — so you don't waste that time, click-click. The whole idea was like this — precisely to give it top-down — it started from the fact that certain states didn't recognize slavery. Yes. So there were states — at the state level, slavery was abolished at the level of the northern states. — Yes. — Yes. — So far, no problem. — Yes. — The problem appears when people from the south had to travel to the north. Yes. Didn't the question arise whether the northern states recognized or not their property right over the slaves they had? — Okay. Yes, that was one of the disputes. The second dispute was on the basis of — the right — on the basis of the Electoral

[0:50:11] College and the slaves' voting [weight], — — which cut both ways. But this was the main dispute, because — — certain states began to say that — — they no longer recognized the property right, and a slave who comes — crosses the border into their state — — is free. — Is free. — Is free by default and can run. — Yes. And they — those states — no longer formed posses, because otherwise their law-enforcement forces were obliged to go after slaves who ran away and bring them back, since they had "stolen themselves" from the slave-owner's property. And this is what they put at the federal-government level, namely to say that states are no longer obliged to recognize the property laws, including slavery, of other —

[0:51:14] — states — — states — — on — this reason was what generated the secession movement. They said: "OK, so you want to change the rules so that we can no longer live together — we no longer live together." — Divorce. — Good, — — we've cleared it up. — Good. Rationalism and legislation. Naive rationalism and legislation. Do you want to say a few words, Gabi? Yes. This is something I discussed at Breb too. I mean, it's a line of reasoning Hayek stated at some point, namely: sir, the rules, the laws we have in the family, we shouldn't apply collectively, to the whole nation or the whole

[0:52:21] society — — because we're not family with them — — and vice versa: what we apply in wider society we shouldn't apply in the family. — Yes. — It sounds, it sounds logical. — The simplest example would be, sir, in the family — property rights, for example: if I, as the father, have the biggest steak and the biggest cake, you know? Uh, the mother can come and take and give to the children, you know? You don't get upset, you don't sue or other things. You can't apply this [laughter] in wider society. Yes. And say, "ah, well, such-and-such industry has too many cakes." — "I'm society's mother." — "I'm society's mother." Yes. — The mother who has no children and has nothing to do. "I take from there and give to others," you know? — whom I consider more hard-done-by. Now, in Kinsella's case, he talks about

[0:53:27] naive rationalism and critical rationalism, and he says: "Well, we have the naive rationalism of Descartes and other rationalists, who said: 'Sir, from thought, from the human mind, we can extract the best law to apply to all people. We need nothing else.'" Whereas critical rationalism — and this leads to the positivist legal system, that is, the continental one. Yes. A legislator turns out laws on the conveyor belt — — because they said "from people's minds," but they didn't say from the minds of all people; some said "some experts." — Okay, — — it can come from everyone's minds too and be chosen by

everyone, but — — but it doesn't let you. — Uh — the problem is different. In the reasoning on the other side, when we talk about critical rationalism, — — he says: "We can't — yes, we must have an evolutionary thing for law, in

[0:54:32] this case, for laws." Uh, and the Scottish Enlightenment is the supporter of this rationalism, and it says: "Sir, in reality, in society, in a complex system, we must go in slow motion. Yes, we see what works. Empirically, we look. Were the problems solved? They weren't solved. That means we have to change a bit more here and there. No, no — — we can't just extract it like that, sit and think hard, and extract the good one at the first go." — Aha. Hm. Well — like the others, like the rationalists. — And people can see this in their daily lives, that you don't take hold of — — Precisely here, here is actually, it seems to me, the whole sore point of the subchapter for me too. Yes. Go on. — We as libertarians have it like this, sir: we have axioms. Someone sat down. We're a priori guys. We sit, we think, we make the non-aggression principle. That's it. We don't need

[0:55:37] reality to explain to us that it's not good. — Okay. Okay. — That's it. So we've solved it. — Yes. — Whereas in the system Kinsella prefers here, he says: sir, no — to bring out a good law you have to take it easy. See what works, what doesn't work. You look empirically; you've resolved the cases, because human interactions are infinite. You say Kinsella doesn't start from some foundations. He just says, let's discover what falls. — How did I — how did I — how did I connect it, so the whole thing makes sense? — You make the non-aggression principle. You make some laws — — that apply to the individual. — Hm. But they can't be applied to a society, to a — — class, category, mass — — mass. — Yes. — What follows from this? That afterwards you have the right to consume [drugs], or to engage in prostitution, or to blackmail, and all

[0:56:42] those things, to carry a weapon, and so on. That follows from a law of the individual. Yes. And the fact that afterwards — let's say a judge, when he looks: "sir, a punch, aggression on one individual, on the other" — and then they give a law and say "theft — " — by the judge, not by law — — not by law; by a judgment, verbal. Okay. Okay. Okay. Okay. Okay. "The theft of a hen is an offense," and they give so much, they give three years. He says "a hen" — he gives a law too, if it's customary. No — — he gives you a new law. He creates — he doesn't give, he binds. No — he creates a precedent by which others afterwards may or may not go, to make it easier for them, let's say. Like this. — Yes. It may be a judicial practice, let's say. These things — as he says too — they give three years' hard labor if he has no money to pay, or they give two hens as retribution, or they give seven hens, or I don't

[0:57:45] know what. These things are discoverable and create a system of laws such that next time, whoever steals a hen knows what to expect. So in this sense — or limitation periods, sir: you can't come after so many years and say, "you know, so many years ago such-and-such professor sexually harassed me." Yes — whether so many years, five years, two years; whereas the legislator says: "But, sir, after three years you're no longer allowed. If you come after two years and 11 months, we'll take notice of you. After three years and one month we won't take notice of you anymore." Someone sat at a table and thought it up; whereas law, according to critical rationalism, is discovered: "sir, now we give three years, afterwards maybe four years, afterwards so many years," and we arrive over time at a certain

[0:58:48] — at a good practice. — A good practice, so to speak. That's how I saved it. — Say what bothers you. Three things about this bother me. The first of them is that here, in what Gabi just explained, [clears throat] one sees — assuming this is also Kinsella's idea of how a law-finding system should work — — yes, — — it seems to me it's poisoned, not to say permeated. It's really poisoned by the fact that in Kinsella the justice system doesn't deal only with justice; it also deals with prevention, it also deals with deterrence, it also deals with punishment, — — it deals with. So it doesn't deal only with justice, which means only restitution, yes,

[0:59:51] but it deals also with prevention and with retribution. We know for sure it deals with retribution, because Kinsella starts his whole argument from the system of punishments, — — which have nothing to do with restitution but have to do with retribution. — Yes. And — — revenge. — And also we know he prefers there be no limits, precisely so as to fulfill — or no clear limits, precisely so as to fulfill also this function of prevention. And then, of course, people all being different, you can't know what motivates — what perfectly motivates everyone not to break the law. We've said something like this in the past: if you want to have a property — if you want to have an ultra-polite society, give the death penalty for every curse word, and then you'll see people no longer curse. Or that those who want to commit suicide-by-cop curse.

[1:00:55] — The margin. The margin. — Yes. The margin. Yes. Good. Uh, and this would be the first problem: that he actually introduces certain things that can only be arbitrary by their nature, since they vary depending on the people who have to submit to these laws. He introduces certain things that can only be arbitrary and tries to solve the problem of this arbitrariness through iteration. Yes. — Hm. — My counterargument — the second thing I don't like about this — is that I'd come back and say: and when do we stop? When do we know it's good? — Well, it's never good. [snore] — Yes. And then the third argument is — and then the third argument is: if it's never good, what's the point? — We're approaching the good. As— — look, this, this could be a problem. With Hayek this critical rationalism — it seems to me that it too is a form of scientism, you know — although he criticized all his life

[1:01:58] scientism: imitating the methods of the natural sciences — imitating them when you do law, when you do philosophy, when you do economics, you know? — Human things. — And that would be the error of scientism. To me it seems that in this too, in which you say that law is discovered, — — it's still — — it's a form of scientism. You know, one thing is the law "do not steal" — the norm, nomos — and another is economic law. You know: when such-and-such happens — the law of supply and demand — — that one's discovered. I mean, Mises didn't create it, you know? Whereas "do not steal" — I'm inclined to believe it's created, that these are created. I can say, yes, certain norms approximate better, or serve better, other ends people have; but it's created; it's not like a law of nature. And see here too, including the comparison between price — price discovery — between centralized economic planning and law, let's say, you know? Well, okay, you needed the empirical part to know the price. You can't know the price from the castle, you know? But laws you can know a priori, you know?

[1:03:00] If you have the non-aggression principle and you have 5,000 things, you can deduce them. So you don't need to — "wait, let's wait until some case appears, let's see." No — you can [know] them, and there, when it appears, you can apply a priori; you can even not look at what those people are discussing, you know? "We have a cloning case. Does the clone have rights?" Well, look, there, and whatever they say, yes, you know? Or do you understand? It seems to me this scientific image — "we keep discovering," you know? — — we discover exactly as in science, you know? "We've discovered there's something beyond the atom. We've discovered such-and-such virus." Likewise here, we keep discovering norms, you know? To me it seems — fine, but — — you pretty much know, — — not only — — you pretty much know. His claim isn't that we discover norms but that we refine them. — Let me ask you. — The norms pretty much stay the same. Didn't you hear it from Gabi too? What do we refine? Eh, after how long? What is it? And we refine these arbitrary things that — — sometimes you didn't even have, you know? Cloning didn't exist, and we didn't face this problem, you know? — Yes, yes, yes, yes. But now we've got to the chapter that I — go on —

[1:04:02] — uh, I wanted to give an anecdote, a recent case. — Hm. — In America there's no law for child pornography made with AI — — against. You mean? — Against. Right. — For prevention. [laughter] — Yes. And — — for regulation. — Uh, and a judge said: "Sir, let's see — is there any victim, any child who was photographed and was molested because of this?" — Right — — no. Everything was AI-generated.

There's no real child. And the person who held gigabytes of this AI-made child pornography got off. "Sir, he's free. There's no — he didn't distribute it. It was at his home. He'd made it — his business." — Now, honestly, even if he distributed it, what's the difference? — Uh, there was a difference in current law. — In the law. Yes, yes, yes. Current. — But I mean —

[1:05:06] — and now the legislator — yes — will come, maybe, and give a law after this case appeared, which was — and a verdict was already given by a judge. — From this point of view, any law of this kind falls at the Constitutional [Supreme] Court — — because it has contrary precedent. — It's freedom of speech. — Ah no, no, I'm not talking about that case. I mean that — — no, no, I mean any law they'll give saying you're not allowed to use AI in a certain direction, — — yes, — — however repugnant it may be, — — yes, — — falls at the Constitutional Court, because it violates freedom of expression. That's why the only way the gatekeepers want to control this is to block it at the — — AI. — At the AI, yes. Only, only, even this guy you're talking about — I'm sure he generated it with a local model.

[1:06:08] — Probably. Yes, — — because Google doesn't let you do this today. — Yes, but if it was a girl. What I mean is also a thing: now too, in the continental system of the legal system, uh, many verdicts are given and judged not on the basis of laws, because new things appear. Precedents are created. The judge doesn't have a law, you know? He says: "Sir, I look at the old laws; I also look at what was given in the past to — " — a new case. Here I'd be very interested to understand. — Laws are created in an old system, as I say. I'd be very interested to understand how they sued him. Uh — — well, they put him in one of these existing categories. The judge said he's not in that category, and leave him alone. Yes, — — yes. — What was it — hand in hand. Anyway, I wanted to — so, so if you don't want to — — on pornography, let's give more. [laughter]

[1:07:11] — Yes. By hand. Yes. Eh, HS. What I wanted to say earlier was that you have a [sigh] — it seems to me Kinsella's approach is that they should be discovered. It seems to me Kinsella says norms too should be discovered, because otherwise who comes up with the norms? How do you get all people to agree on a foundation? Don't you have a society, bigger or smaller, that says, "from now on we manage ourselves starting fundamentally from the NAP" — which I don't know how we show we understand the same way, since that's why we have the show. — Eh, that's it, including that. Yes. — And — and afterwards, afterwards you have discovery. Afterwards you can have discovery. What did that mean? And not discovery of

[1:08:15] preferences, but discovery of logic gates, let's say. No — click, click, click, click, click, click. What do you deduce from — the problem is only that it seems to me I push it further back. How do you get people to say, "yes, okay, we want it," well? Practically, that would be a kind of fundamental law. Good — we don't have laws, but we have a principle. Fine. And how does this materialize in society? Well, everyone respects it. Fine, but how do we have — we have a kind of contract between the parties — social contract, blah blah blah. And — — you don't need to make — you don't need to make a contract; it spreads in the population like any philosophy. Yes, but afterwards — afterwards — afterwards you have the dilemma that you have two libertarians in a society, bigger or smaller, who say, "Sir, we respect the NAP," and they have friction over understanding the implications there, and they go to the judge, and then again you push — push the problem. You have that judge — how does he understand it? Well,

[1:09:18] — no — in a way that's what we're trying to discuss here, what's normative. A thing: you mustn't have something you don't deserve. That would be the libertarian fundamental idea. Because what do you say? What does the NAP say? "Don't steal." Actually — — it doesn't say — — not only "don't steal"; it says "don't use." — We discuss like this out of elitism — Hayek and whatnot. The rest, the bulk — these are clear. Uh — — he says "legend." — He's actually a supporter of a kind of hybrid. — Hm. — That we answer later. There is — afterwards we make a civil code, or there's someone who

standardizes and studies all the cases there have been, all the players, what verdict they gave, and we bring out the new civil code, or we add a chapter, a volume to those, you know? Rothbard too is pretty much likewise for — — Yes. So that new judges won't sit going through all the cases from the past with a fine-tooth comb. They look in this code, where they're already synthesized, arranged, whatever —

[1:10:22] free whether they can sit and say: "Sir, I judge from my gut; I write it on my door outside, and people come to me if they want." And after I've read all sorts of norms and civil codes and all these, to say that — — "that's it, I know law; come to me, I'm a walking encyclopedia." — But it's not an imposed thing, you know — a disadvantage. Actually, you say that I go in another direction after this. Ah — I mean that we, on our lovely show, want people to understand a principle that we say is the most coherent, and if people understand it, they'll demand — they'll be more freedom-loving and will demand services that support whatever preferences they have. Now, you could say that in today's society too,

[1:11:25] people — apart from what they're already obliged to by the state, and you have an inertia like that — but people actually, how ready are they to invest from their life for this thing? We say justice between people is very important. Other people say, "no, look, I have other things to do." Their business. And where I want to get to is that practically this kind of political and legislative service, and whatnot, in a way — given what we've already said — in a way it responds to society's demand. They're a kind of services that people want; afterwards they're dissatisfied and want to change these people, but actually they want something like this — — political demand, let's say, not voluntary demand. Yes. Yes. It responds. Because he either — — when he hears of libertarianism, he's pragmatic;

[1:12:28] he has a time preference. "Well no, because now I want — " — "look, I say I want to do such-and-such things for myself. You can't do it for me; you leave me hanging like that." — That's the thing, you know, of time preference. Another maybe really doesn't share it: "No, because I want free education," which — yes, indeed it means violation, — — no? And what I want to say is that very many people don't want to bother their heads — and, well, their business, maybe rightly — they don't want to bother their heads with details like these, and they say: we need some experts; it's not now this thing; we turn to experts — and in this case to legislation. Who are the experts? Well, some politicians who understand how to sense the needs — — It's a confrontation, yes, between experts. Until we get to be the experts — — it'll take time, — — well, it'll take time. — The one who — — Wait, no, sorry — I'm saying the individual is the greatest expert in what he prefers and what he needs, and that's what we hope people understand: to no longer let others decide for them. — In ends, but not in means. I mean, you — the problem — — as Mises said, the problem isn't one of ends. I too want him to be well, and

[1:13:31] that one wants to be well. The idea is how we do it. — But then to — — He, because of Gazprom[?], brings European money and creates — — then for him to remain dissatisfied and check, to say, "okay, I'm no good at methods, but these people who promised me methods — do they tick my boxes? They don't tick my boxes, and so maybe the system is bad." — Well yes, he has to pose this problem. But no — he doesn't blame the system. AT— — He doesn't blame the system. Yes, sorry. That's it, I'm saying. — Good. Uh, two seconds. It seems to me you want to head toward the deficiencies of the centralized system. No, — — no, — — no. Then you say it, and I'll say after. — Yes. A major deficiency of the centralized system of creating laws is unpredictability. When the state gives a law, it usually creates problems; a crisis appears at some point, and the state again comes and says: do we refine the existing law, or create a new one to repair the problems created by the old law?

[1:14:33] — Problem — and an avalanche is created. Yes, if we look now at any volume of laws given by the state, those volumes are getting bigger and bigger. And what happens to people who are subjected to such systems — systems of laws are actually systems that should be just, yes? — that should create

justice around, in society — and they'll say: "Sir, maybe the existing law isn't good either. Yes, another will follow soon, in a month." I've — I addressed this point last episode, but somewhat in passing. Respect for the law is lost, because the law becomes — the nuance Kinsella puts in this part of the chapter is this: in the end man no longer believes that the law is a thing, an instrument of justice, but that it's actually an order from above; and it creates

[1:15:37] a docile population that says: "That's the order." But it's not a law that — — It depends, this thing with the docile population. It depends. If it's, as he says — — if it's of German extraction, very possibly. If it's of another extraction, let's say more Eastern European, as the laws become more and more ridiculous, people take up the club and — — I say not — — it's explained — they can create — a European — let's take a shovel and dig some ditches — — with [clears throat] this thing of the abundance of laws and with — — Yes — — with the inflation of laws — — no — respect is lost for — — for the legislator and for the law, and — — once respect is lost, docility disappears. Yes. Good. The idea is this: let's look a bit at the decentralized system,

[1:16:42] uh, and what would presumably be the problems with this decentralized system. The first of them Gabi talked about earlier. We said that even if judges are the ones who discover law, they mustn't be state judges, they mustn't legislate; the character of their decisions must remain decentralized. The second objection, which Costel raised earlier — and somehow Hayek raises it too, and others raise it too — is that you don't move fast enough. "Sir, you want to fix some irregularities around society? It's simpler to give a law that applies to everyone than to change the way of application judge by judge." It is harder. Yes. So one necessarily, if you have 50 judges and 300 parliamentarians, and maybe

[1:17:45] the negotiation costs aren't quite — — Well yes, but you don't have — I mean, let's be — wait — let's not change the premises: theoretically, in a country you'll always have more judges than parliamentarians, because the level of power is distributed differently. I mean, empirically this has been proven in Romania, for example — how many do you have? 400 parliamentarians and how many tens of thousands of judges. Let's thin— — Good. And this — Hayek too said legislation is okay. I'd also say — and another thing would be: "well yes, but you can [limit] legislation." So somehow the third counterargument is that he wants to save legislation again — to pre[serve] it, and say: "wait a moment, you can limit legislation structurally somehow — constitution, you add

[1:18:49] application norms, things like this" — whereas with a judge, if you come across a madman — if you come across our Nazi from the example at the start of the show and go to him with Shlomo, you've finished off Shlomo. I mean, it doesn't happen — you don't have a guarantee of a uniform effect. Yes — because there the market should take care of this part, of promoting the judges who best resolve conflicts between people, for both parties, not necessarily only to the detriment of one. I mean, a decentralized system can't be limited structurally in any way, that would be one. But because Kinsella is very confident in — how — how — how — how do you translate into Romanian "to

[1:19:54] have your cake and eat it too"? — and with — — Yes — "with her in the trance and with his soul in heaven," because he likes — — he likes it that way. He says: "Well, wait a moment, we have the codes Gabi talked about a bit earlier, and if we have a libertarian civil code, or a constitution — a civil code compiled only by libertarians, or made so as to consult only libertarian decisions — to be able to resolve it," then this could guide a decentralized system in a libertarian direction. Yes. And here, Gabi, if you want to say more about the difference between — — Yes, the difference between two systems. I want to say one more thing, namely: if in the decentralized system, when a judge has two parties before him, what interests him is, sir, who's

[1:20:59] right, and to give the verdict in — and he listens to what each says. You know, in the current system, when you have a law, after you listen to the parties you have to look to find out roughly which

law refers to the case the two told you — to classify it: "man, actually is it about freedom of expression, or is it a financial thing," you know? It's — I don't know. So you have to sit and learn how every little word in the law is formulated. So you have to be very careful — that's where this jargon of — — legalese [snore] — — this legalese came from. You're very careful with words. Yes. You're less careful about dividing justice between two parties. Uh, which, which isn't actually

[1:22:03] your purpose as a judge. Yes — your purpose is to divide justice between — so that people go home in peace. That again is a difference Kinsella identifies and states here very, very beautifully. Right. — What? Because it's applied locally. Even if you could say that these too are particular — the judge's — that's why there aren't many; you don't have inflation, you know? Whereas on the other side there are particular and local interests. You know, that one gave the law for that airport — but there are many interests, you know? They are, and they grow, grow, you think, keep growing, you know? That's what I'm thinking. Although they're particular — law isn't, you know, as with Hayek, between law and legislation. Law: general, universal, whatever. Legislation is particular, you know? See, things — — legislation is what some people wrote — — and I think that judge too wouldn't be entirely universalist, would he? He judges — it's not "this law, up to the Pyrenees," is it? He

[1:23:06] gives — — gives only for those in front of him — for the thief: "don't steal anymore," you know? Exactly. [laughter] — No, he doesn't even, doesn't even tell him "don't steal anymore." He says, "that was a theft. What you do from now on is your concern." — Well, and if it's him again, he looks at his own precedent. — It depends. Maybe it depends. There are people who consider this, for example. But I'd say that if you consider that — if you consider the fact that you're a repeat offender — that already means you're concerned with more than restitution. — Hm. — If you take into account that he did it in the past too, it means you're concerned with more than restitution. That's all I can say. No, I'm not saying it's good or bad. — Look, I'm curious to see whether, — — when he talks about intellectual property, he'll say, "sir, it was legislated," or "it was discovered first by judges," — — because

[1:24:09] — well, nobody thought, "sir, such a thing exists." Surely a dispute arose between two parties at some point, and the director [judge] gave something, — — and afterwards those who had interests — Disney and the others — thought: "man, let's create, let's lobby to legislate." — Good. Skipping over — so, to connect with what Gabi said, skipping over the fact, we go directly to the conclusion: these codes, if they were to work, civil codes, would have to be made eminently by private parties, yes? And adopted likewise at the individual level by the judge, not enforced from somewhere, because if they're enforced the problem of centralization returns — of all the powers of interests, games, things. Good, — — common law versus civil law, being the last part of this chapter. What Kinsella says here is that this common law based on discovery —

[1:25:15] the Roman system, British common law — — didn't manage to survive the legislative model. Hm. — So somehow at some point in time both one and the other were, so to speak, embraced, clogged up, infested with legislation, until at some point they became codified in pure legislation. — Hm. Uh, and the reason — one of the reasons why this happened was because — and obviously a centralization of them took place too, once they were replaced — and one of the reasons would have been precisely economic need — of predictability.

[1:26:18] Exactly the slave owners of the South, but in reverse. I mean, if you were a merchant, and let's say you had your base in Brașov, yes, you had to go and exchange — exchange things, sell things — with all sorts of other locations in the empire. Yes. In Vienna, higher up in northern Germany. That meant you had to see what the law was over there. — Mhm. — I mean, every city, especially in the system of the Hanseatic League — every city had its own set of laws, of rules, of things that are done and not done.

For example, in the Romanian Principalities — so as not to — sorry, no, I didn't mean the Principalities; in Transylvania, yes, in the medieval Saxon citadels of Transylvania, if you were a member of

[1:27:22] the blacksmiths' guild, let's say, in Brașov, you could sell your things in Sighișoara and in Sibiu too. Yes, but maybe you couldn't sell them in Târgu Mureș, because there there were other guilds, under another protection, even if they did the same thing. And this burdened — burdened the economy, burdened trade; and practically, when the laws were unified within the empire — well, whether we're talking about Austria-Hungary, or the Holy Roman Empire, or the German Empire — afterwards they initially introduced a plus of productivity and predictability — — like a European [one] now. — Exactly. Thank you. — Exactly. The problem

[1:28:25] is — — that it didn't stop there. — Yes, [laughter] it's hard. — And they fell into the other trap of legislation. But one of the problems — well, these disputes between legislation and a decentralized system — is also this; and this would be a problem: that you don't have — that predictability is, how shall I put it, a problem of multiple complexity in a system, because you can leave, for example — for example, you can leave with things from Brașov to sell them in Sibiu, but you spend a couple of days on the road. Yes. What do you do if in Sibiu the law changes before you've arrived? — Hm. — I mean, in Brașov the law doesn't change. Yes, but the [lack of] predictability increases the degree of complexity of unpredictability when you have several centers like this.

[1:29:29] It's a potential problem to take into account, which you wouldn't have on the other side. — Well, — — fine. And this — if Magna Carta applies, being the NAP, they become more predictable too, you know? That, yes, without a doubt. — And that was roughly Rothbard's idea too: those may be what they are, but apply the NAP, you know? And by it I judge him. — Yes, — — yes. [clears throat] — Look — with Hayek I wanted to say one more thing, so as not to — — go on. — Look, Alexandru completed Gabi there — or corrected him — when he said, "look, you don't need some experts." Alexandru says: "well yes, but you need the whole society to [aggregate]." No, no. And that was roughly the idea of Hayek's argument about planning: that those people don't know, you know? But if you take everyone — one mind can't aggregate all the knowledge related to the price of whatever. But if you put the whole society, yes, you have prices. You have these; but to me it seems Hayek goes further when he starts discussing norms — his thinking in old age, and *The Fatal

[1:30:34] Conceit*. So in his youth he'd have said: the question isn't that planning is bad. Private parties plan, you know? Problems. The more the state plans, the less private parties plan. And, well, centralized planning doesn't see this dispersed knowledge. These people see it in lockout, you know? But it seems to me he goes further and says something like: these are selected somewhat evolutionarily; they're no longer planned — language, money, norms, you know? Look, with languages you could — coincidentally, it appeared strangely, you know? But with norms, look, Rothbard and Mises are of the idea that they can be planned — I mean norms — let's say, "from tomorrow we're social democrats," you know? — And the whole society — — becomes social democratic. I mean, it seems to me he'd have said this is naive rationalism — that you can plan moral norms, you know? Okay. And what's the alternative? The blind [snore] leap. The norm is selected blindly — because a criticism of libertarianism

[1:31:38] was precisely this: "Sir, if the free market is so strong, why doesn't it exist?" One answer could be: "Well, evolution isn't finished; maybe it appears in the year 4000. It's so clever that now we're around — " — or the market isn't free. — But on this I wouldn't agree with Hayek — that they're selected somehow evolutionarily without — I say it's not without an element of deliberate projection: "Look, let's do this; let's respect property; let's respect, I don't know — " — it seems to me he overdoes it, that he goes very far, you know? — If everyone — — one thing is to say that centralized planning was [bad] and private planning is good, and another to say no, it's not even planning anymore. — You say —

you say that — you say there have to be some — — his position is that norms emerge. Simply emerge. — Wait, no, I want to ask something else. So you say there have to be some entrepreneurs who say "let's go on." Mises thought of that one. How does it seem to you? "Well no, because I like the role more," or whatever. — Yes, but practically each individual too — — but each individual still in the end chooses and says, "fine, let's." — Yes, yes, but the idea is you have a plan, you know?

[1:32:41] Someone comes with a plan; he comes with a plan; people follow it or not. — No, but the distinction would be between, between, between proposal — — proposal, plan, and, well, imposition. No — he'd say you don't even choose it; it's a thing like that, you know — somewhat blind. That bothers me in late Hayek, you know? — This "blind" actually means someone proposes — a judge comes, reads Rothbard, and says, "from now on — " — " — 2 — " — " — 2x." — Look, Wittgenstein says: when I follow a rule, I don't choose; I follow it blindly, you know? — Something like that, you know? It's selected. We wake up libertarians, just like that — that we're libertarians. No, — — no, no, no [laughter] — like with the comparison that's made. An entrepreneur comes and says, "from now on I make a bread and actually put in a kind of cozonac, and I sell it at 500 lei apiece." Justice-loving citizens and law-abiding citizens —

[1:33:44] this market exists, and people start consuming this bread. "Man, what good bread. Look, it fills me up for hours, doesn't it? And it's good and soft and whatnot." — He'd concede that to you with bread; he wouldn't concede it with norms. He says norms aren't. He said that, there, in *The Fatal Conceit*. A judge comes and starts giving verdicts like these, and everyone says: "Where does this guy get these from, man? How well he puts them!" — How well he puts it [laughter] — if they say how well he puts it, — — discussions arise, things change in the newspapers, whatever, and other judges too start to follow. — Yes, but those norms are products of reason. The NAP is a product of reason. — That's what I'm saying. Reason — — those people were writing prose, you know — what do we do? We're actually writing prose, you know — — but the fact that it's also adopted — that's an evolutionary thing; it's an empirical thing. But initially it got into one person's head on a priori things, on principled things, and those choices are rational, you know? There's something for which you chose the NAP. Why didn't you choose something else? You have a reason, you know? — Uh — — it may be that it's a self-evident truth; it may be whatever. There's something rational

[1:34:47] in that choice, you know? No — "you became a libertarian," and then, I don't know — "I became a libertarian just like that," as if you sneezed, you know? And sing — sneeze-motivation — — well, I think Hayek was referring to the blind emergence from aggregation. — I think he overbid, from the rationalism of the communist who planned for the whole society, to him — — not even possible at all. You know? It's as if he says: "Well, wait a moment, the communists, the Nazis used reason." Yes — how not? Well, look, I just ate now. — Uh, "let's not use reason at all anymore," — — you see? — Yes. It wasn't a very rational choice. Yes. What — — that rip-off? [laughter] — The idea is that in each person's head — you can't say, as an external observer, man — — it wasn't a rational choice. You were hungry and you gave nicely. — Maybe it wasn't the most suitable means. — It wasn't an extended, perfect rationality, you know? — Yes. So [laughter] — — the difference between rationality and correctness. Yes.

[1:35:50] As an external observer, to say that — — a judge's verdict spread, let's say, to seven more judges, and you say, "man, what was in that one's head, that he took it like that" — you say, if you can't explain it to yourself — — but in each person's head there were certain reasonings — — Hm — — whether they were weaker or stronger reasonings, let's say — — the second part — — the idea is they were taken, and you, as an observer, want — "man, I want to see the reasoning by which this verdict went into their heads." — Hm. — You can't say — you say it's blind, — — sir. It's an evolutionary thing. — Hm. — Yes, — — but afterwards you can prefer not to go to those people if they haven't explained to

you? Okay, good. — But uh, this naive reasoning — — H— — that he wants to — — brand, — — yes — how shall I put it — you can't — you have to rely on empirical things, on critical reasoning in society, in a complex system —

[1:36:53] — in a single person's head. Yes, you can apply this; but you, as an external observer, when you want to reason about people's choices, — — Hm — — you stop and count it. — No, I say that's possible too. I mean, if you'd put Rothbard to deduce all these for you — possibly; fine, if he doesn't somehow make himself, you know? [laughter] — Well no, look — this, this is as if you said: put Rothbard to state the price of milk, — — no? That was it. That's how we started the discussion. A price needs empirical things; a thing like this can be done a priori, you know? Some deductions, some axioms, I think. I think what Gabi wants to maintain is that justice too is, so to speak, the price of agreement between people. — No, that's not what I want to tell you. — Go on, — — so — — come on, he has this scientistic image: that we keep discovering, discovering. Yes, — — you see? — So what's the difference between a norm and a price? — Hm. The norm is the law, the verdict a judge gives.

[1:37:56] The price is how many other judges adopt that norm. — Tell me a principle by which I can guide myself, and let Rothbard say: "Yes, sir, the NAP — in two months 18% of current judges will adopt the NAP." — Hm. — He'll never say that — — but we're not talking about the content of that norm. Oh yes, — — I'm not talking about the content; I'm talking about how many will adopt it. He has — — how could he know — he has no way of knowing. It's not irrelevant — for libertarians it's irrelevant. It doesn't matter. — But actually, — — well, that's not our problem — how far liberalism spreads in the population. That wasn't the problem. Your problem was the genesis of norms. You know? You see? — Well, well, [laughter] that — no, no, no. That's what I said too. The genesis of norms. So with naive reasoning, it's in a single person's head. — Hm. — Someone makes it — Rothbard. Yes. Judge Rothbard the Second. His son. Hm. — Anyway. — Yes. Someone. Whether the other judges adopt it or don't adopt it doesn't interest me. — It doesn't interest you either. — No — with price, you had no way, without interactions, of having the price, you know? But here you do have a way, a priori, and it's not only

[1:38:59] Rothbard; rather we think how to know — to know — to say, "sir, this is just in this case." But the problem Kinsella poses here is: "sir, but how — other judges, how many, at what speed — " mm — — a judge who said "that slave is free" — at what speed — — does it propagate? — Does it propagate. It isn't known; we don't know. Look, — — we take it with critical reasoning; whereas, and let's — yes, — — is it a blind thing, or — — is it a thing that a reason— someone with plural[istic] thinking, who creates the NAP, can't tell you the speed at which abolitionism propagates among the other judges? — Hm. — I hope I've made myself understood. — Yes, but no — I told you, you don't need it, you know? You don't need action. — Yes. This one comes with the central legislator and says: "I'm sure it'll happen the next day." He has no patience, so to speak, you know?

[1:40:03] — Yes, but the problem isn't to predict what those people will choose and whatnot. You know the truth, you know? — If you know the truth — — and you prefer the way of imposing it — — or you wait, because you don't know — you may wait 1,000 years, you may wait three days for the other judges to adopt it. You know the truth? You know? I don't have a problem imposing, you know? The problem is one of, well, realpolitik, isn't it? — Well, I have a problem with you imposing it. P— — Well, why? Since action — defensive force — we've had the discussion. — I know we've had the discussion before, and now I've — — tinkered with it and decided over — — and if they have a consensus on a toxic thing, what do you do? Do we remain like that forever because they have a consensus on a toxic thing? — Yes. — Run away from there. You've nothing to do. You have to — because, because — — if you have nothing with which — — you impose and [laughter] withdraw, — — you confer legitimacy on these methods, and someone comes after you and imposes otherwise. Like in politics now. — Well yes,

but the difference is that one is an aggression and mine isn't an aggression. It's as different as heaven from earth. — I believe you that one is aggression and the other aggression. The method

[1:41:06] of imposing it. — Okay. Then why not — why don't we stay with democracy? You know — — since, look, it's a way of sifting certain preferences, — — no? — It's not a way of sifting preferences. — Oh yes, people want — those want to — — It's an imposition. They want to keep it for themselves. — Well, that's what I'm saying. Why not stay with democracy? You know? — It's still an imposed thing. Even if democracy imposes the NAP on me, I still don't like it. — Well no — you rejected a non-imposed thing and pleaded for an imposed one, you know? Uh, uh, why don't you stay with democracy? That was the con— — Well, democracy — — is imposed, likewise imposed. Imposed. Well, the idea is: why don't you stay with this, and why don't you say, "well, maybe this is better"? — What? — No, I didn't understand. — So think — connect it, connect it also with Costel's discussion at Breb — — about just war. — Right. — Yes. In libertarianism there's this principle of just war. Yes. Yes. — You go in, uh —

[1:42:08] — well, let's call it a just repulsion, so as to — — whatever. You go in surgically; you stop only the aggressions; you defend those who need it; — — you finance yourself only from voluntarily raised funds. Bam, bam. — Yes. — Yes. Okay. Good. These concepts — yes — are — — what's used then, in Costel's — he says imposing the NAP. — Because those people may say, "man, but you're imposing it on me. I don't believe in libertarianism." — Actually it's not [clears throat] imposition but defense. — Well, that's what Costel said too. — And I say. I say — — okay — — I can say it's the imposition of some rules, because he doesn't want that rule. "I don't want an aggressive rule," let's say — I [say] imposition. — Yes. They, they want to — — they want to massacre the redheads, and you come and say: "No, no. These redheads — " — it's a non-aggressive imposition, if you like — — "if you want to go after them, smell my bullets."

[1:43:09] — Yes. No, but this seems to me the contrast: that laws you can deduce axiomatically from some principles; prices you can't deduce axiomatically. Whereas you — empirical, no — — the aggression — the aggression you prefer. — But this too is built on that — on the resemblance. Yes. — Whereas the aggression you prefer, in your example, is exactly this. You prefer aggression against the redheads. You, being outside of the group, yes? Being outside the group, you look at a group and see that it's massacring the redheads, — — and you say — and you say: "I can't come and defend the redheads, because I'd be imposing the NAP on them." But you actually prefer the redheads to be massa[cred]? — Pay attention. We have two impositions. We have two impositions. And I impose. — Only one is a non-aggressive imposition; one is aggressive. — Exactly. — And I say: if we're imposing anyway, let's impose the non-aggressive one. — Understood. Yes, yes, yes. Correct, correct, correct, correct, correct, correct. Yes. — Good. — Let's spend 10 minutes max on the chapter's conclusions too, although we've touched on them. Yes — on the great majority of them. What

[1:44:14] Kinsella starts with is that virtues such as individual liberty can't be delivered by a centralized system of legislation, because even if it starts from libertarian premises, mm, it'll still be populated by people and won't stop. I mean, practically, the centralized system of legislation would have to be — if we want it to be like the Big Bang — go "bang" once — these are the laws — and dissolve, and afterwards "manage, manage with them yourselves." So practically it would no longer exist after it had done — had done its job. Yes. Kinsella, however, seems to be

[1:45:23] fundamentally devoted to this version of discovering law through a system similar to the Roman one of the Republic — through, practically, through judges. You'd say we're somehow, as he too is, in this abyss — the Hayekian one, in which he said: yes, we evolve it, and at some point — but we never get there. — No, because it may make sense, in the sense that those people can see things when you hit up against them, you know? Need teaches you; you hit up against things, and — — Yes. — Go on — —

perspectives. — What perspectives? Look, one thing I didn't say is that when there's a species — an owl on the verge of extinction involved in a lawsuit —

[1:46:27] — the owl involved in the lawsuit. [laughter] Owner, owner, and it hired a lawyer. — Right. A judge can't say: "Sir, after I give this verdict, let's bring out an act — integers — the white owl is on the list of endangered species," you know? Mm — — he only refers to Gheorghe's owl; he says what's with it, and what's the matter with — — insofar as others imitate it, you can say it's something like that, can't you? If other judges imitate. — Yes, but imitation is voluntary; I mean, it's still the market's work functioning. — It may — it may not happen. I mean, you see that it doesn't happen — — you see that peaches sell well, and then you too take peaches to sell at the stall next door. — If it doesn't happen, what difference is there — that the judge does it, or not even that? — What do you mean? What's the difference between

[1:47:30] continental law and the customary one — say, from which you tell a person at — — But we're not talking — but between law with — — between the two: common law and this parliamentarist one. What's the difference then? Because when you try to put your finger on something, it's relativized. "Wait, look, the fundamental feature is precedent, the power of precedent." Well no — "wait, not even precedent has such power." — You try to put your finger on — well, that's voluntary too. [laughter] — I say the differences are like this. You have common law, in which precedent matters, but it's been struck by this legislative defect at the federal level — tra-la-la — and then it's no longer truly common law. We call it — we've struck it. — It no longer exists. No, — — but it isn't. And it still is somewhat. And it's a hybrid. It's a hybrid of

[1:48:34] legislative with a greater weight of precedent; and then you have this continental one, in which the legislature matters most, and rarely does something matter that resembles common law, in which you have case law — but only for cases between administration and magistrates and whatnot, in that — — Yes. — the population, no? — Yes. — And then these would be the distinctions, and, well, Kinsella says: "Both have fallen ill with these legislative mania," and — — you still end up at culture. If culture is toxic, — — it's good. What I find interesting is that Kinsella nowhere judges this — or nowhere captures this thing hidden in the American legal system, more exactly in its execution: the procedure of jury nullification. Yes. With the areas in which judges — only in the American system judges judge civil matters, but on criminal matters, where the state is

[1:49:40] the complainant, yes, the petitioner, — — yes, — — it's tried with a jury. — Hm. And one of the things the jury can do in that trial is to say that all the evidence was properly administered so that the deed is proven — — Hm. — "but we don't find guilt, because the law is — so we find him not guilty because the law is unjust" — — and they vote for him to be acquitted; and by virtue of precedent — since you were asking about precedent — this makes that law no longer applicable. — A small thing to ask. So it's called jury nullification. But you're not nullifying the jury. Yes, yes, yes, exactly. The jury nullifies the law — that is, makes it impossible to

[1:50:46] apply, because it finds that all the evidence was properly administered, according to the law. The deed is proven, but the person is not guilty. Therefore the law itself disappears. The law. Effectively — — dis[appears]. — And an interesting argument like this I saw from Humor on Facebook. He was telling about the Lindsay Clancy case. — Hm. And he said that actually the problem that — that the man who voted against — who voted for her to be found guilty — was maintaining — — was that the problem was actually one of jury nullification of the — — context for — for proving mental instability. Hm. — Because in most states it's the defense's job to prove mental instability, which is okay. But

[1:51:52] in Michigan — it seems to me that's where it happened, no? In the state where the trial happened — — it's the burden — because a law was passed — yes — it's the prosecution's burden to

prove mental capacity at the moment the crime was committed. — That's crazy. And that would have been the argument on which this juror stood — could have stood — to say he finds her guilty. Because discussions came out from the trial in which they said the man was convinced the evidence had been properly administered — — to show she was mentally disturbed, but he continued to consider her guilty. Therefore the only coherent interpretation you can give is that in fact he was pronouncing for the nullification — — of the law placing the burden of proving,

[1:52:59] on the prosecution's part, that she was in her right mind. — Okay. Legal complication, and congratulations for bothering to understand it. But yes — now we know too. — And I find it interesting that in Kinsella this American principle isn't raised at all. — I think it doesn't really happen. When did it happen the first time? — It doesn't really happen, but it can happen, and — — it doesn't happen much, but it could be a powerful weapon. It could. Yes. — For a libertarian movement. — Yes. — From this point of view. — For — because that way you'd have it that the ideas, once they'd entered the population, would cleanse the system of norms — well — — imposed — — and afterwards parliamentarians would say: "they can't nullify as many laws as we pass every day." — "You can't nullify." Wait [laughter] — maybe

[1:54:01] they're not afraid of them too. — Yes. — Good. Uh, other — — no — — no — things. — If it were — would you prefer — let's do a round, a go around. Thanks. Yes. — Tell us in the comments — — between, between the legislative system and the distributed system. — Distributed, all day? — Yes, distributed. — Man, the difference isn't clear to me, you know. It's not — — Okay. And it seems to me it doesn't select the law for you. Content matters. The genesis of the law is irrelevant, you know? — Well yes, but that was the question. — Well, I answered you that it's not a difference. — Okay. Good. — What about you? I lean toward what Costel said, but I think Kinsella made a correct argument in which he says a legislative system can only degenerate. So distribu— — that's the mainstream position. — It's the mainstream position of

[1:55:05] — Rothbard's, mostly everyone's — — mainstream for us means Rothbard, like that [laughter] — — the libertarian mainstream, right? — Yes. The mainstream — — Bruno Leoni. [clears throat] Yes. Good. For Gabi Munteanu, Alex Chiriac, Costel Stăvărache — I've been Valentin Berceanu — we've been În Dodii. That was Between Law and Legislation, from Kinsella. See you in the next episode, on intellectual property. Goodbye.

Video 15 (#320): Against Intellectual Property (Chapter 14)

Original title: *#320 | Bazele legale ale unei societati libere - S. Kinsella - Împotriva proprietății intelectuale*

Length: 2:00:39

Link: https://www.youtube.com/watch?v=LjIwyT7UzF0

[0:00:00] Recording. — When I heard the Moldovans had brought up the privatization of Chișinău airport — — Right, — — Claudiu, — — right — — on what? In Romania they privatized it. — Nice. — A sharp comeback. [laughter] Yes, — — they thought hard. — That's what it means. — That's [laughter] — that's politics. In politics you have to give a quick comeback and pray you don't say something very stupid. — Think: you're boxing in the heavyweight category. So you'd better know how to dodge. It's very — why are there so many knockouts there? Compare with the other categories. You'll see that's where you have the most knockouts. He lands you one — — and puts you to sleep. — Including Lennox Lewis — probably maybe the greatest. — Likewise, he was done twice. — He beat both Holyfield and Tyson. Yes, — — British. — Good, those are on. — How good it is to be — — where's the iPad? — What's Kinsella's message — that

[0:01:02] property is theft, or what? We finish, because it can be — — the chapter is fairly short, indeed, but we'll let Gabi — — let me [clears throat] take another T-shirt too. Have you seen what this text before a chapter, by Thomas Paine, is called? It's called a quote from a — — motto. — Motto, motto, like a motto — — it's an epitome. It's to be represented. [laughter] It says that time makes more — — Wait, I haven't started. — — converts than reason, than an argument. So time converts more people than an argument. — That's what — — Thomas Paine says. — Time. — Time. Yes.

[0:02:03] — That goes hand in hand with, if you have — — No, I don't think it refers to inertia — — Yes. — The way people accept. It refers to the status — — to the status quo. The power, the tyranny of the status quo, you know? — Hm. — No. Even though you have a good argument, it doesn't give. Look, see the libertarians' situation too. Yes. — Come on, man, Gabi, man. What [music] — If I told you that authority — [music]

[0:03:19] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book, *Legal Foundations of a Free Society*: Chapter 14, the most important chapter of this book, about intellect — about intellectual property. Before talking about this important thing, an even more important thing is to give a few seconds to Mr. Valentin Berceanu. — Thank you. Give a like, a share, a subscribe. Press the bell too, because otherwise you won't get notifications. All this so that good things happen in YouTube's algorithm. — Comments. — Comment if you want to tell us something, and if you want a reply in real time rather than waiting there for the reply to your comment, you'll find in the description a Telegram group where we can chat. Also in the description you'll find a place where you can get the book online, because, isn't it so, Kinsella doesn't

[0:04:24] believe in intellectual property. Spoilers. And also you'll find in the description a crypto link and a Patreon link if you want to support the efforts we make here, and we take this opportunity to thank those who have already done so. — Kinsella begins with a motto from Thomas Paine, referring to this concept of intellectual property, and Mr. Thomas Paine says: "Time makes more converts than reason." What he wants to say is that we've been accustomed to this idea of intellectual property because of state propaganda for about 200 years. Kinsella says that here. I don't know where he got this figure from, but I knew it was more

[0:05:26] — It's argued. — Oh no, there's this argument that the industrial revolution was based on the cistern of great ideas, you know? — Yes. Okay. And there were patents [snore] — — and because of this, when you want to say, "sir, intellectual property doesn't exist," you seem very out of place; it seems very absurd, and it's hard for anyone now to bend seriously over this subject. We're trying, and I hope we convince at least you who watch us on the show. At the start he goes over — but I think we won't go over it again — — in this chapter, the whole theory of property in general, up to intellectual property — — and says what ownership of one's own body means, what ownership of external resources means — that they're scarce. Whoever gets to a tree first takes it into his own

[0:06:33] property; and crucially, that property is the right to exclude others from doing something; and then he brings this up. — Well, if you started with "in the beginning was the Word." — Yes. — That was more likely than — — Yes, correct. Why do we concern ourselves with intellectual property — why does Kinsella concern himself with intellectual property? Well, because it concerns us. It's a legislated domain, — — and like any legislated domain, if it wasn't the case — if it hasn't been clear so far — people have different opinions about what should be legislated and what shouldn't be. The market itself, sometimes, when legislation proves too harsh, or when the prices demanded by

[0:07:35] the holders of these so-called property rights are too high, solves the problem, as it solved it in the past too. We're talking about software piracy, video piracy — because don't imagine those cassettes, those garage shops with video cassettes copied by the neighbors, were legit from the point of view of property rights. Likewise the market solved the problem, and even produced new technologies, such as Napster, yes, which — — gave — set off this kind of peer-to-peer transfer based on torrents, right? And so many more. Yes. — But now it's seen in digital. People themselves are starting to

[0:08:42] be dissatisfied with the way they are. One of — how shall I put it — one of the things that are maybe the most visible, or I could say would affect all of us very quickly, would be if Disney lost the property right over some of their properties, which theoretically should long since have been in the public domain. So, according to the Mickey Mouse law — Mickey, who was drawn I don't know how long ago, 19— — — 20s — — right. So theoretically artistic property was protected for 100 years. No, no. At least with Disney I know it was some 20, 30 years. Afterwards they increased it. They kept increasing it. Yes, but now in legislation it was protected — the last version of

[0:09:46] the legislation protected it for 100 years — — for copyright. — Even so, as you see, in 2020 Mickey Mouse didn't pass into the public domain. — I have the impression the black-and-white one did pass into the public domain. — Uh, only the black-and-white one — the color version — yes, yes, yes, yes, — — uh, — — yes, yes. That one, that one is — how shall I put it? Wait a moment, the next one's turn comes soon. — Yes. In 10 years. — Right. And you wanted to say — imagine what will happen. — And I want to say that Disney fights with lawyers to extend the copyright, so as not to lose control over its brand's image. Effectively. — Hm. [clears throat] So if a company lobbies the government around property rights, it means the problem isn't solved in principle. If the problem isn't solved in principle, let's see how we can

[0:10:49] take a principled approach to intellectual property rights. — Let him make Mickey Mouse official too [laughter], and that's it. Everyone will follow only that one. Mickey Mouse TikTok, short. — We have two categories of intellectual property rights that Kinsella dwells on here in this chapter. We have copyright and patents — [besides] the others, like image rights, insult and other things like that. Those aren't even IPs — — they — yes, they're very — — They're not really relevant for Americans, so he doesn't deal with them. — Yes. Not even — copyright is the property right over a book, over a song, over a film, over an artistic creation, or software. So things like that, already

[0:11:52] made — let's say of an idea, sorry — whereas a patent is ownership over an idea, a process, an invention: the property right over an idea, as for example the property right over the formula or process for obtaining aspirin, for example. — Hm. — That's patented. — Hm. — You can't obtain it by the same path the company makes aspirin. — Hm. — The parent [company]. Can you obtain — can you obtain it otherwise? The process being pretty much the same, since you have to arrive at that formula — — you're not allowed, — — because someone made the invention of this idea, let's say of this formula, and you're not allowed to — — it has to let you if it's not the same. — How must — I mean, if it's close, it's not the same. You said if it's close. If not — — you can — because in the end you still get there.

[0:12:54] — Well no, but it depends on the path. How do you bring water to Bucharest? So pay attention. — Exactly at, exactly at [clears throat] — that, you can't do other things. For aspirin to happen it has to be like this. It depends — it's pretty much the same. — Well, that's the catch. Even if they don't tell you. If you find it, you're still not allowed. That's it — — any invention. Any — uh — I patent the idea that the process of arriving at the formula CH7-whatever, oxygen-whatever — that's how I invented it [snore] — — from carbon, hydrogen and oxygen. If you use these too, otherwise — — Hm. — — you still get there, at — — conflict with the parent company. Rothbard, I think, accepts — no? Patents, I seem to know he does. He accepts. — Well, I don't know about Rothbard. Oh yes, with that idea of the mousetrap and whatnot. Yes, — — yes, yes. — I don't think Rothbard accepts property rights — but you go a bit further: those established by contract;

[0:13:59] but Rothbard doesn't say the contract between two binds a third. — No, no, no. Well, because I can sell you a book — — or say you're not allowed to copy it. Yes. — Uh, you're not allowed to copy it; you're not allowed to resell it. — No, I wasn't thinking of that. — Yes, but Gabi's at your place and copies it — our contract doesn't bind Gabi in any way. I think that's the view of intellectual property as far as Rothbard is willing to go. — Look, this I don't know — that he's on this contractual position. I tend to think not. Man, I was thinking of that idea — you know, someone sees how you make something. But what seemed strange to me with him is that although you admit ownership over the recipe, you know, he says that if someone discovered it independently, — — yes — — it's inv[alid]. Look, I'd have accepted the independent one. You know he's independent, that

[0:15:02] he got there independently. He didn't steal from anyone. You know, let's say — — Rothbard wouldn't agree. He cites some medieval legal thing in which no — — Yes. — Okay. — That [clears throat] seemed strange to me. Uh, Kinsella makes a reference here to the way the monarchy and the church suppressed the free circulation of ideas in the past. And the modern state took over this thing with copyright and patents from there. I think he has in mind — not the petty intentions of — — they wanted censorship. That was the intention, and they used this to — so what did they get you with? You read something from Thomas [Aquinas], and "wait a moment, you're not allowed." — It could be something like that, or — — you quoted it, but the problem was that it was possible you'd quote it — at least from the church's point of view — quote it

[0:16:05] wrongly; and only priests who were educated could talk about such aspects, not you. Because you might go off the rails. — Yes, but that doesn't go along the line of Kinsella's argument. I think you're using the line — no, the line of Kinsella's argument is that — — their petty intentions were censorship. That's what they wanted. — No, I'd — before — we're talking now about the era before the printing press. Yes. When, to copy a book, you had to invest many hours and much painting. Yes. Okay. From this point of view the church didn't commission — so as you see today, brochures with prayers and others — it didn't commission books except for other churchmen. You theoretically weren't allowed to take and copy the book of hours, because — — you'd copy it wrongly.

[0:17:07] — You'd violate it. No, no, not so much that you'd copy it wrongly. It's clear it was a problem of interpretation, you know? They didn't want — — there to be debate in public life around ideas, because that had to be kept within the walls of the Vatican; but they used the property right over religious writings to make sure these didn't leave this closed circuit. — Yes. Well — — if you were forbidden to copy it. — Gabi Morsan said then, at Breb, — — that the economist Turgot, I think, had a book on economics, and back then, in those times, you had to have a stamp from the chancellery, from the monarch, for a book you'd written to be printed. So you couldn't print — just say, "here's a book; let's print it." Na-na-na. You had to get someone's approval.

[0:18:09] — Approval. Well yes, — — that's because in — — because [laughter] the printing presses — — for a good while weren't private, — — they were — — a forced monopoly. — Yes. — Of the state — — not for nothing was *Descriptio Moldaviae* written by a ruler. — Ah, what did he approve? Another idea before getting into the meat of the chapter, he says here: "Sir, what does this idea of patent law actually mean? The state doesn't permit you to use your own property in a way that another citizen who has obtained this — " — privilege from the state — — " — privilege — doesn't agree with." So if someone doesn't agree that you use your

[0:19:10] property in a certain way — let's say he invents a "patrocycle," yes, and you want to make it — you're not allowed to make it the way he wrote it there in his invention. — Even more: if you make it in a way that's sufficiently similar — because that was the discussion five minutes ago — you're not allowed that either. — Yes. And both patents and copyright law are actually monopolies granted by the state to certain persons or companies — — or, if we want to call them by their name, abuses. — Hm. — Yes. I have to admit that this business of intellectual property rights was maybe the last — the last brick that fell into place in the libertarian puzzle for me, and for a long time I didn't even pay attention to it, both on the one hand and

[0:20:14] because — what does this concern you, you know? In the end there are others that are much, much more stressful. I mean, you see half your salary disappearing — — but in the name of consistency, yes — the moment I paid enough attention to it to be interested — let's read on. — Good. There are two categories of arguments against these intellectual property laws: deontological and utilitarian. And he finds here — first he deals with the utilitarian ones. Let's see how we increase everyone's welfare — not to look at — and maybe this intellectual property law — these laws, since there are several — we should

[0:21:18] see whether they really — — do — — do these things or not — — and whether these arguments really stand as they're stated by the proponents of the laws. But before that he mentions that in the American Constitution the state has this duty toward citizens, namely "to promote the Progress of Science and useful Arts, by securing for limited Times — " — " — to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." — Yes. — So if it's in the Constitution, already the American constitutionalist libertarians — — have decided — — when he talks about the deontological arguments for intellectual property,

[0:22:23] he refers to two. "Sir, man has a right to the fruits of his labor" — and intellectual labor is labor too, and so he ought to have [rights]. Also — here I didn't really understand. — Mm — — it refers to, sir, when a work — or a book, a poem by an author — is performed by someone else, — — Hm — — it's re-instantiated, — — the author is somehow personified — — and this is seen more from Hegel, in continental law. Kinsella says here — if you want the English version, it says: these rights are based on respect for the personality, the extension of the creator.

[0:23:28] That's in English — yes, I said it in Romanian again. "Such rights are based upon respect for the creator's extension or reification of personality by the occupation of tangible or intangible things. The

personality theory of property is most commonly attributed to Hegel." — We have it too. It's reified, it's materialized, it's — — incarnated through daddy, or what? Incarnated? It's not — — not incarnated — you summon. — It's — how shall I put it? — When you set about performing a Shakespeare play, you summon Shakespeare's spirit; you invoke his personality. You invoke — — and he has a right to his, let's say, image, or to — — You don't invoke him. — Well, it resembles. I think — I think it's a kind of proto-right to one's image, something like that. — Invocation is more — — a calling — — declarative. A calling — you summon him because you bring him there, you instantiate him, and

[0:24:31] — and so — — you have to respect that author somehow. Man, — — well, that's what I was thinking: it somehow violates — it's an extension; human dignity — it harms him. — Yes, — — I think it's a kind of proto-right to one's image. — Well, and what's your opinion of this? — It's based on — well, the opinion is that you have no right to your image. — What opinion? — Well, how? Look, the state gave it to you. So if you want to say, "yes, sir, — " — " — this play was written by Shakespeare," — — you can say it if you really want, — — or you can perform the play as you like, when you like, without any attribution. There you go, — — because you use — those actors use their bodies, their resources, resources — — as they wish, but they don't violate anyone's scarce property. The ones with consequences, based on consequences. — Yes. Until — until we get to them, since just

[0:25:35] you brought something into the discussion, and maybe it's — — good to go through the recap Kinsella makes. Yes. Mhm — — which says that property rights, as I said earlier, arise so that you can exclude someone from using a certain resource. But the reason you want to exclude this person is that the resource is scarce; because if the resource is more than abundant, it no longer makes sense. Yes. For example, the classic example: there are four of us here in the room. Yes. None of us has to exclude the others in order to breathe. Yes. Why? Because there's enough air. Yes. On the other hand, a single coffee — I bought it; I excluded the others. Yes, but some may say: "Sir, ideas are scarce too." Well, that's how Costel likes to say it. But no, no [clears throat] — I don't hold that it sounds — it has —

[0:26:37] — well, in a way, if you watch [laughter] television you realize that — — or if you read books — when they're scarce, you know? Okay. — Yes, but they're non-rival; that's actually where it ends up. — I say they are [scarce]. — They're non-rival in the sense: I'll enjoy the idea, use the idea at the same time — — both Alex and I can use the Pythagorean theorem to solve something. Well yes, but it isn't Pythagoras's property right. No — but 100 years after Pythagoras died it should have been, for example. — Man, playing by the state's rules — because that's how it began for me. If the state bases itself on principle, I can only presume this legislation is discovered and in accord with the nature of things. — Fine, but you presume; I'm curious for them to explain to us what the universalizability of this principle is. Because if it's — I had two, two options. If it's property, well, then let it be perpetual

[0:27:42] until he renounces it, because — — that's how it works in general, although from this point of view many libertarians have a problem with that too, or — — with what has — — the theory of abandonment — — including Kinsella has — — he doesn't like to abandon anything. — Oh, oh, he wants to abandon. He likes abandonment. — With abandonment ex officio. Really — — his, he liked ex officio. — Exactly. Ex officio, in the sense that he likes to decide himself a term after which, if you haven't come, "I'm sorry, you've lost." — He — custom, custom. Okay. — What was his demonstration about, sir? Why do we make theories of justice? To prevent conflicts between people. To prevent conflicts. When do we have conflicts? Well, we have conflicts when the goods are rival; then we have conflicts. We fight over the same orange, and — — fine — uh — ideas not being rival, you know? Uh, it follows — — you produce conflict — — it follows that you don't need, you don't need

[0:28:46] — property over ideas. You know? — Now my counterexample was that — — oh yes, you have conflict; conflicts can arise even without rivalry, you know? Ah — regarding public goods, they're

excludable. You can exclude, you know? You see? You can encrypt, you know? Pythagoras's theorem, so that nobody finds out. You know Midas — — the goods. — So you can have conflict. That would be it. — Oh, I'd say that if you can encrypt the Pythagorean theorem and nobody finds it out — — or only a restricted circle finds it out. You know, the idea is that it's excludable. It's not like a [public] good — — a [public] good isn't, isn't excludable, you know? — Well, from this point of view you control it. If you can encrypt a piece of information and control access to that information, it's as if — I'd say as if you had the right to — you had that information, how shall I put it, as if you had it as property. Why? Because you've created the mechanisms by which you can exclude the others. But

[0:29:53] it's as if — — The idea is that it's possible. — The idea is that it's possible. — You're actually the owner only of — — We're not discussing now — — mechanisms. — Yes. — We're not discussing now the right — let's say a thief steals the idea and he excludes, you know? The idea is that it's physically possible, you know? Therefore it doesn't mean a public [good], which is non-rival — it's also non-excludable. That's non-rival, non-excludable. If you want us to translate it into this — — I wanted to say. Okay, my criticism is that you can have conflicts over non-rival things too. — Mm — — you can have — — proof that, well, people sue each other to — — So you could have — I mean, conflicts over ideas. — Well, — — Kinsella's whole construction was that you don't sit and sue — — for people to sue each other presupposes an artificial rivalry. No — they sue each other because they believe in property over ideas; that's why they sue each other. "I believe the Pythagorean theorem is mine, not yours. You know, if you took it, you're using the property." — I believe — they believe in the privilege the state granted them. — They believe in property over ideas.

[0:30:56] You know? — Good. And what does property over ideas mean? Do they use property in the same sense we use it — the right to exclude? — Yes. — Okay. So they believe they have a right. Yes. No, no. — Well [clears throat] yes, but if they believe they have a right, — — right, — — that's actually their mistaken belief. It's actually the source of the conflict. Not that you can have conflicts around ideas, but that you can have conflicts if people believe — — they have certain rights they don't have. — Just as you can have conflicts if people believe all sorts of other weird things. [laughter] — Exactly. Yes, but this — how shall I put it — his position is that you shouldn't have had such things, you know? You see? — Not — he grounded the position: "sir, why do we make theories of justice?" — To get rid of conflicts. — Where do we have conflict? You'll always have conflicts with someone who believes in a different theory of property from the rest

[0:31:59] of the world. Yes? If someone believes all the virgins in the world are due to him, — — Yes, exactly. — — you'll have conflicts. — Yes. The idea is that Vali said: "You have a conflict with the person's belief, not with the object discussed — " — and because of the person's mistaken belief. — I mean, not with the object discussed. And so you don't make a law, or a rule, or a principle — you don't go and make it in relation to the subject; rather you observe that that's a weird person and say, "leave us alone." — So we have conflicts because your theory is false. Otherwise we wouldn't. [laughter] — But if everyone agreed with — — property over ideas and with respecting them, — — you'd have had a society in which you'd have [laughter] had — had conflict, had conflict. You wouldn't have had conflict. Yes. — Okay. No — as it is now in Britain, where they pursue those people because they offended — — you must — but you'd have to dissolve the contradiction that appears when you agree that you can't — you agree that you're not allowed to do whatever, to

[0:33:08] link whatever thoughts in your head, — — if those are someone else's property. Man, and damn those thoughts — just to think that you're not allowed to think about them, you have to think about them. — Don't think — — I mean, it presupposes a state of affairs — — that can't, can't be rolled any further. — It's like the nice example: don't think of a pink elephant. — Exactly. You can't not think about what you're not allowed to think about without thinking about it. [laughter] You end up in a

contradiction. Well, your contradiction is that you think — — about what? — Did I make you think? — About what? That's it — — he said you don't think, but you think. No, — — Costel. [laughter] In order for me to know what I'm not allowed to think about, I have to think that thing. — You're not allowed to think about intellectual property. — Yes. [laughter] So if you use the Pythagorean theorem without consent — even if you say, "I don't want to think about the Pythagorean theorem," — — yes, — — right, and he doesn't want this one to use it. — It's easy not to think about a theorem

[0:34:12] when you don't know it. [laughter] — Yes, for example, they can't incriminate you for not using it — — the moment, the moment you know it — for example, look: Gabi has the right; he's paid Pythagoras a subscription, yes? And he's at the table with me and says — Gabi says "the Pythagorean theorem," and in your head $a^2 + b^2 = c^2$ appears directly. Have you — — violated it? — Who violated it? — You violated it. — Well, how did you violate it? Because I said it appears in your head. The association is involuntary. — It matters how you acted. Did your mind act? Well, maybe I [laughter] had — that's the idea — maybe I had, in the past, the right to use the Pythagorean theorem, because I bought — — I bought seven uses; I used them, yes, [laughter] — — I used them, I solved the problems there; but I can't forget it — that's the problem — because you can't order human nature to forget. Again Gabi comes with Pythagoras's theorem, and bam, my brain wakes up to find me put in prison. No — such a law isn't really in accordance with

[0:35:17] human nature. — That one with seven uses is invalid. — What do you mean? — Well, you said you bought seven uses. — Well, I have it, and I said I used it seven times. So what I paid I've — no, because it's fraud in principle. You know, for you to use it the eighth time. You know? Doesn't it seem to you that an invalid contract has to be created? Well, and then? — Well yes, but that's how I did it. Well yes, yes. That's how that man made [laughter] the contract. If I have agreement on both sides — no — then you want to tell me that — that you stop — how do you like to say it? — It's not a fraud. — You forbid him — no, no, Costel, excuse me — but do you forbid the seller to sell you units of the theorem? Maybe he wants to sell you only seven uses. "I'll give you only seven uses." What does the parties' agreement matter? The idea is that it's a pre-fraud, and [laughter] — — Okay, — — Vali [clears throat] caught on that it's a criticism of the position — we withdraw. Okay. — Okay. — Yes. So what was my criticism? That you can have conflict over whatever too; and your position, that it's a wrong theory. That's how

[0:36:19] you can — — that you end up — that you b— — and actually that's how conflict appears. Not that you believe — you believe you have things that — — no. Yes. And supposing, as you said, everyone agrees, it creates contradictory situations for you. For you to know you're not allowed to think about something, you have to think about that thing. — You don't think anymore. — Well [laughter] — — yes, exactly that — a lobotomy for each one. — Okay. One answer could be this — he even makes fun of this, with personality, doesn't he? Just as people come into property through homesteading, right? You tame a horse and it becomes yours, you know? Well, that's what you do in the case of an idea too. You use some words that are in the state of nature, that belong to nobody, and you give them a new, unknown combination, you know? The theorem didn't exist. — Wait, the Pythagorean theorem, you know? — Wait, now comes the pain. — What? — Words. — What, words? — Behind each word is there an idea? — No, no.

[0:37:22] — Well — — "Ion" doesn't mean anything. So — — who is — — doesn't mean anything, or chooses? — Fine — I'll redo it, I'll reflect — how not? "Ion" means something. — "Ion" evokes — — Iliescu. [laughter] — For you maybe it evokes Iliescu, but for "Ion" itself, the foundation, the essence, is Saint John. — Ah, good. Bravo. — But do you think Pythagoras didn't say something different from — — I, I don't — — previous formulations? Isn't it a new combination of — — I'm not saying it isn't a [laughter] new combination. I'm asking: did Pythagoras have a license on the words in order to create

this new combination? — Yes. It was open — — he had it on "square." — From where? Why would words be in the state of nature? Because every word that's been created in this world — property right — — every word that's been created in this world came out of a person's brain. By infinite regress, even words would have to be either in the public domain, which you'd have to accept, yes? Or they'd

[0:38:28] have to be the property of those who created them initially, and [others] speak and not use them — — with "triangle," bring the property right, and — yes. Bring the property right, you know? Or with Vali — with the term "Vali" — bring the property right; sure, I'll bring it to you. What was his name? Euclid. Sorry? Euclid created the triangle — — because the triangle doesn't exist in reality. — The term "triangle," you mean? — Yes. — And the concept behind it. — And the concept behind it, because all the geometry we know is based on Euclid's axioms. — He should have had a patent, since it's a process of thought by which you arrive at the triangle. — Yes. The triangle doesn't exist in reality. Look, the triangle — a triangular shape. The triangular shape is the only shape that isn't found in nature naturally. Some people did some studies — well, it was something like that in a book. — Well, and numbers practically aren't in — okay. Yes. — Uh, in a book about Vietnam that guy said

[0:39:32] that the triangular shape is the only one not found in nature. Therefore our base was made of three triangles [laughter] one inside the other, so you'd [spot it] that much. — Okay. So the answer is this: that guy can patent that term, you know? So he can forbid Pythagoras to use it. You know — if this one forbids things? — Well, I'd say if I — — if that one's free, he can use it. — No. — She [he] says we manage with the property right even without, and in the absence of, a patent office. I mean, either these are rights — yes — and Pythagoras obtained them because — — he was right, — — because he invented them. Yes. So it's on the creationist argument. — Yes. — This one's. You — you seem to form your argument on the basis of this one from libertarianism. It's not an aberrant thing. You know? — Well, then the first one who said the word "bă" — it's his. — Yes, — — it's his. If he asked for that, you know?

[0:40:35] — You see? How? Nobody asked for anything, and language is a spontaneous thing. Wait, wait a moment. — They're rather in the native state. — Wait a moment. — So, so a person, when he becomes an owner — in this case by creation — — bring the owner, and if yes — if you bring the one who — — Don't you want to play with me too? Don't you? — Go on, go on, go on. Well, no — but that's where you were going. You don't have to ask for it too. — Well yes. And whom do you ask? I mean, either you're simply right according to a principle, or you depend on certain third parties of whom you have to ask in a practicality. Because, okay, in reality, yes, you'll have the land registry, and in this case you'd also have a register of words. "Good day. I've invented a word." And this one will tell you unintelligible things — that's where I want to get to — because he didn't pay his subscription to the Romanian language, and he'll speak Turkish to you, and you won't understand each other, and you won't live together with the other

[0:41:38] people, and then you'll have some conflicts. Why? Because what you want to happen won't happen, and what he wants to happen won't happen to him either. And that's how it is — that's it. — So to me it doesn't seem aberrant, this thing that someone discovered a formula and that it's a thing resembling the taming of a horse, which is unproblematic in libertarianism. You know, now you say it's an aberrant thing with the term "bă" — with the term "bă," if you brought that first man who used it — — but if he says — — plus I didn't understand what you meant — a joke — a joke precisely in two, on purpose; no, okay — — well no, I wanted to understand taming — — no, because I don't think the joke was good; give another — but if a man sees that you've tamed the horse and goes and tames a horse too, and you weren't on the ball to ask, like all the things you've done — but you don't know what you've done, because it's the first one you've tamed; you don't yet have the concept of taming — but another does it too, and then others likewise, and others and others,

[0:42:44] and you don't get to make a patent, and afterwards, afterwards you get the idea: "Man, wait a moment — next time I make something new, let me declare it — I'll make the first office myself, yes?" It doesn't depend on third parties. "I'll make the first office myself, and I say the list of inventions is instituted. The first is mine, which is the office of inventions. Nobody else in the world is allowed to make an office of inventions, because I thought of it first." That was the earlier joke too. I'm dying. Do you understand what I'm saying? It's — it's weird. It's weird that practically you can invent rights for yourself, so to speak. That — that seems weird to me, and then you hunt the others. — That's what Kinsella says too, about the problem with patents: that there are many who do nothing; they just sit — with the term "Vali," we don't know where it came from. You know, if someone — if you come and say, "I'm the owner

[0:43:47] of this term; nobody else is allowed to use it," you know? Well, you didn't do anything; you didn't tame the horse. You see? If you put "Vali" — impecc— yes, I'd concede. — Yes, but that one's a — which is a kind of — — It doesn't matter. It's still in — — it's a kind of — let me not be wrong. — Still this discussion. It's still in this discussion, you know? No. The idea is that you created something new, you know, like the Pythagorean theorem, — — exactly the term "Vali," and there you put something next to it, you know? — Yes. — That didn't exist in the state of nature. But someone — not to mention that someone had to create these words at some point initially — the first — and by regression we come back to the first creator, yes, since the property system theoretically works even before you discover it. Yes, you can say — you can look at two prehistoric men hitting each other over the head with clubs because one ate the other's apple, and you can say which of them is right and which isn't. Yes. The

[0:44:53] problem with ideas is that ideas must be expressed through words, and words, if they express ideas, also have some ideas behind them. Yes. Concepts, at least. Yes. Only, for a word to be useful — yes — it must, as Alexandru said earlier, be understood. To be understood, it must not be — — excludable; it must not exclude the others. — So you end up, in the purpose of the word, creating a contradiction between the reason the word appears and this property right over the word. — And this — this is a particular thing about words: that you want to understand each other. But if you discover a chain of ideas, like some medicine recipe, afterwards you don't want to give it away. But here maybe one gets to: if you're able not to

[0:45:57] give it — what was discussed earlier — bravo. — If you're able not to give it, don't. Yes. But once someone sees — I mean, if you — — but we're talking about rights — — if — like at school: if you do this [cover your work], he doesn't see, and that's it. But if he saw, he didn't take anything from you. — Ah, that's about the whole discussion. — That's about the whole discussion. If we're talking about rights, you can keep it. — You have the right not to give it, — — but you don't have the right — — to prevent another from arriving at the same conclusion by linking the same ideas. — But pay attention, because we use their language, because you can — — But I concede. Pay attention: if you do it independently — you arrive, sorry — you arrive at the Pythagorean theorem independently — I wouldn't have a problem with that, you know? I mean, I have to prove you took it from me, you know? I mean, I'd recognize you created it. Well, you have no way of proving that — I mean, from this point of view we can prove. — Wait, but you can't even prove that you took an idea. Look, let's stay

[0:47:00] with Pythagoras — let's say I hear this — — a conversation on chat, let's say — it can be proven. — Wait, no, no. Wait a moment. Let's say I hear the Pythagorean theorem, and it's under patent, tricks, whatever; and afterwards I need to solve a side of a triangle, and in my head I do what I did. Yes — that gives me so much. Nobody can prove what happened in my head. Yes. "So how did you do this?" Well, I've — — and you invent — invent an excuse: "I thought — you know — it doesn't matter. I hit on it by chance" — this time, if you discover it, — — you don't discover it; you use that one; it passed secretly in your head. — That's the problem with proving. You can say, for example, how it was demonstrated —

not how it was demonstrated — how one arrived at the eureka. Yes. And this is exactly only about ideas — ideas that can stay only in the head; because afterwards you have all sorts of instantiations like this, in which you oblige a person not to use what he has,

[0:48:02] his toys, on the basis of things he has in his head. That's another complication. But speaking fundamentally — "I heard a word," Vali says; "I heard the theorem; I heard whatever"; and afterwards maybe you didn't even hear it consciously, and then the idea comes to you and you say, "wow, what I thought of doing." — There are two — either you do it independently, or I steal it, let's say, you know — — well, but you steal it on the basis of what? Because you — that — you didn't steal it; it came to you — with this epistemic discussion, which is irrelevant to the ethical part, you know? To the part about rights. You know what you're saying: "I stole a room and they didn't catch that guy." — Eh, okay, but wait a moment [laughter] — true for 10 minutes this — so, you know, Costel, it's irrelevant [laughter] for the ethical part, but then, in ethics, you have to find me a method, yes, by which this theft really happens. Because what you told me earlier, in application — two seconds. — Yes. What you told me earlier

[0:49:05] in application — theft — — is — yes — what you told me earlier, in application, is that the victim, yes, has the duty to prove the theft took place. — Yes. — Yes. — Yes. — Which means that, because we're talking about ideas, the victim has to prove how the idea got into Alex's head. — Yes. And you can say the idea got there because you told it to him, you showed it to him, you did anything to him that can also be documented. — Yes. — Chat, whatever. — Exactly. And Alex answers this and says: "Yes, but I'd reached this conclusion beforehand." Is that reasonable doubt? — It's still a problem of proof. What you're saying now is that it's unclear — that it's unclear. It's an epistemic problem. If Alexandru

[0:50:09] told it to me, and — — he has to prove the idea came to him. Let him prove the idea came to him before. No — precisely Costel — Costel said he has to prove that your idea came from him, and I say that — — just as a TV came from me, and came — — given — given the place in which these ideas appear and are created, it's impossible for you to prove this — — because you can't get into a person's head. Well, yes. — It's not impossible, man. I did my doctorate on the Pythagorean theorem, and then I show how he — — he bought my doctorate; he has it in his library. It's not that impossible, you know? — H— — Vali says: — "It's not that impossible." — Vali says the accused says: "But the idea came to me." — I have to prove it. So if you only know the idea and I haven't proved the path by which it got from me to you, we have no case. You know — — it's the case where you manage — — independently, correct. I was saying you say: pay attention, friend, I tell you an idea on chat —

[0:51:13] so proof, yes — bam — and the idea is Pythagoras's theorem, — — and I say — — "what a new thing." No, — — no, no, no. And I say in the chat: "Well, I'd already thought of that." — "I smoked those long ago." No. — Yes. We don't have the proof. [laughter] — You see? — We don't have proof. That was still the basis of the discu— — there was also a thing that all sorts of writers, creators of written content, did as auto-copyright: they'd send it by post, and later by email. So he'd make a work, ta-na-na, and send it to himself so it remained date-stamped, and afterwards nobody could say, "wait, I found the manuscript"; so, as with anything — someone stole a hen; we have no evidence; I give rigor, and whatnot. Yes. To close the case. — Yes, but if — but if he copied a hen — because that's it — — he cloned it. — That's with — — That's actually the problem — — in a way it's like with the flame. That nice, romantic example with the flame, in which you can light from one candle — you can

[0:52:18] light a whole hall of candles, and the first hasn't lost anything; it doesn't go out. — Yes. — Yes. Because stealing an idea is different from stealing a hen. Yes, — — I steal a hen from you. — It's still night. Still — — you no longer have it. I have it. — Yes. — Stealing an idea, sir — I didn't steal it from you. You have it. I took it. — You forgot. What did you forget? — Theft. — What did you forget? —

Theft. — Okay. Let's take it. It presupposes. — So two things I think are decisive against Kinsella. One would be the parallel with homesteading: just as you tame a horse, likewise you create an idea. I say it has sense and isn't aberrant. The other is on the definition of aggression as the use of someone's property without consent. You see? You used my idea without consent. Me — aggressive. — Well, wait, define property; define the idea as an object possessed, so that there's a property right. — I didn't use your idea. I used the idea. — My idea. [laughter] — Your idea, in its keeper, is still there. I didn't do anything to it. I used it — — theft, for there to be theft.

[0:53:22] — You didn't use Pythagoras's idea. It's Pythagoras's idea in your head. You know? What does the same — what does a reification, an instance mean — and it was "madam, tell me the remark." Well, I can't, since it's mine, in my head. It's — — Costel, what? Let's — let's — let's try to block. — Correct. [laughter] — Let's try to pin down the definition of theft. Yes. What does theft mean? It means there's a property — yes — which — — aggression. Aggression. The use of someone's property without consent. — Okay. Property. That — that's an aggression. Yes, that's an aggression. But earlier you said Alex stole your idea — — informally, and whatnot. But that's not even clear whether it's theft — — Well, you can't — that's what I'm trying to say: if you want to apply the definition of theft, yes — theft — for theft there must exist — — there must exist possession different from — — property. I used it informally and loosely. I don't use "theft." I use "aggression," and it's clearly aggression. — Look how it should — — Well, how, if you use my idea without consent. No,

[0:54:22] — wait, no. But so — so I use a resource you have. No — that's why I gave the definition earlier. So you have a glass. Take another — your glass — everything correct, whatever. And I reach my hand toward it, and you say: "Don't aggress against my property, because it's not good." Because if I lay a hand on it, it's aggression, since you can't use it. You wanted to use it — to let it sit idle there. — Your business. No, because it doesn't — it doesn't matter. Again into scarcity, and I know the other position, you know? To me it seems my position is new to Rothbard — — the parallel with homesteading. Okay, Kinsella thought about it, but — — they're not enough. — I mean, he doesn't answer decisively. To me it seems this — — really ticks off your consistency. And the definition of aggression — you know why aggression? Then not — but without understanding that

[0:55:27] it sometimes happens — sometimes happens not to. — Good, let's start from the definition — let's start from the definition of aggression. Yes. Use of property without consent. — Okay. Good. — For this you have to start from the idea — from the idea, yes, that ideas are property, in order to be able to use them without consent. Yes. Otherwise, as I said, air, which isn't property, we can use without asking anyone's consent. Yes. It's as if it were in a state of nature. Yes. The air that's inside you we can no longer use. Why? Because, as you too said earlier, it's become scarce. It's inside. — Why did it become scarce? Because it's surrounded by something that is in essence scarce. — Yes. The moment you exhale the air, suddenly, again, we can all

[0:56:33] use it. Even if you changed it, you transformed it, right when you exhale it. — Mm — — Yes. [sigh] [hiccup] I don't know where I want to go. Argument. I simply — I simply went off with it to see where — to see where, where it can lead you. Man. I say all the fallbacks are on this asymmetry between ideas and material products — those are non-rival — and so what? But if I accept my definition and the resemblance with homesteading — — Well, Costel, if, if everyone accepts that the person to whom an idea came should be respected — which we always do anyway. We always say "So-and-so made that joke"; "So-and-so said such-and-such"; "the concept of such-and-such was first made by whoever." We do this because, well, for us it matters. If you had a society in which everyone said, "we must respect the person to whom the idea came," because they want to support ideas — so as not to bring in the state — yes, people would say,

[0:57:35] would mention him, or, well, would do what the owner wants; they'd give him a subscription, give him money, not use it; they'd say: "Sir, that's how we believe it should be done," and here we're actually discussing whether it's correct. Because — to continue Vali's example — all air is non-rival, non-excludable, blah blah blah. You make yourself some air in a bottle, and you do something to that air. You make it special, like ideas. Ideas are a special formulation of some concepts, words, la-la-la — and that air. Wait, wait, wait — and you make pink air. — You have pink air, and then, and then I make my own pink air — — and that's why it's weird, because, because actually you only copy — — the process, — — a form — yes. Or, well, — — the process, let's say. — Copy — you copy. What? — You copy something — something you've seen. I don't know how to put it to you.

[0:58:37] — The two types of rules for violating property. — Namely: I, as Costel says, am not allowed to — — use his property, the idea, without consent. — But he actually violates my right to use my mouth. Yes, but you attacked — you struck first. That's why it seems to me — so if you conceded property over the idea, the discussion would be over. It's as if a thief said, "it's with your TV" — "Well, wait, you're violating my property over my hands." You attacked first. You know that's their [clears throat] argument too — Kinsella on whatever: "Well, you're violating my property over the paper," you know, "on which I write," you know? — And it's an intrusion and a state grant and an aberration and whatnot. — But I say: "No — if it's that person's idea, you've violated his property; you're the aggressor," you know? He's defensive. Because there is — if we concede property over ideas, and I don't see why not to concede it. So — — you'll have to concede words too, you know? That's the discussion. We're trying —

[0:59:42] So — the problem is that the moment you want to concede property over ideas, you have to concede property over words. You have to explain why language exists in the absence of this property over ideas; you have to go back to the basic ideas. You know? No — we don't have property only over complex ideas. — Either you have property, or you don't. Or conceded. The level — and I'd tell you that if you concede this — — we can no longer understand each other. — Why can't we understand each other? — You violate the purpose of language. — No, because they're in the state of nature. Nobody has a problem. If you bring me the owner, yes, I won't use it anymore. Okay. Good. — You bring the owner of the term and you won't use it anymore. Let him want it. — But do you want to build this system — to admit this property — or let's take it another way? Because I tried this once already, but I see maybe I didn't express myself. Okay. The system of property over objects, yes, over scarce resources — or let's take the other one, since although I don't like it, yes,

[1:00:45] self-ownership, owning oneself, yes — — did it exist for the first man too, who didn't even have language? — Yes. No. — Okay. So this system existed for the first man, who didn't have language. Yes. — Yes. — Good. And then the system of property over ideas, yes — how can it exist for the man who invents language? — Well, it simply exists. — Well, like that one — I don't understand — — if that one — if that one had the property right — — brother, like with that theorem of Pythagoras, you come with documents, you know? So it's not — as we know, language and terms are in the state of nature. Well, the first man didn't have documents. Even today he didn't have documents. — Then it's not [laughter] aggression. If he doesn't have documents on the ocean. It's not aggression. — The first man — the first man didn't have documents for self-ownership. Yes. For owning himself. But if he found the idea and the concept of self-ownership, so as to write it on paper 200,000 years before

[1:01:51] Rothbard, it was as valid as today. Correct. — Okay. And — okay. And — — correct. Without — without having to — man — well, and — — he could have — he could have patented it too, so nobody else used it. — Go. Well, that's what I'm trying to say. Exactly that's what I'm trying to say. — Go back. — Go back. Yes. The purpose of language is for us to use it in common, to understand each other. Yes. That's the purpose of language. — Well yes, but you have to pay a subscription. — Yes. Not — you'd have no way of paying a subscription. That's what I'm trying to understand. If you don't give it initially —

so the purpose of language — for language to appear, for you to have something with which to formulate complex ideas, for simple ideas you have to have another system, one that doesn't presuppose property over ideas. — Vali, pay attention. You do like those with drugs. At first you invent a few words and hand them out — enough to explain that the others have to pay you afterwards

[1:02:52] a subscription to a language in which we'll understand each other and we'll be rich too. "Look, we'll have microphones." — Do you want to build a utilitarian argument? Because on my position no one would understand anyone anymore. Oh yes, it's utilitarian. My position is strictly deontological about rights and aggression. You know your position? "Wait a moment, the purpose is disturbed. Language has a purpose, and we no longer understand — " So I didn't even say that — that we no longer understand each other, or that we no longer — — The idea of rights and the idea of aggression can't exist if these ideas haven't been shared with everyone. The first one who found the idea of rights and the idea of aggression — yes — if he didn't give them — didn't give them — supposing your version — he has to give them for your system to exist — of his right whether he gives or not. — He has to give them for your system to exist. What don't you understand? He has to behave — has to behave, regardless of whether he wanted to or not — for

[1:03:56] your system to exist, the man who first invented right and aggression has to behave against the system. — Why? — Because otherwise they remain his, and the system can't be created, because the idea of rights and of aggression — the system [laughter] allows him — the system also allows him to give them. Look, he gave them. The system also allows him to give them. — No — the system, in order to exist — — libertarianism, my dear, doesn't mean you have to be selfish, you see? Libertarianism doesn't mean you can't also give, you know? Maybe you didn't know that. — Costel, Costel, I knew this thing. The position — no, you didn't know it [clears throat] if you say that he doesn't [give the] idea. Your system can't exist unless he behaved against your system. — Plus it was also a collective thing. I don't think there was an engineer who designed it — look, "speak Esperanto," these are it. I don't think there was a — — Well, a common thing, if you like, and — — that's exactly what I'm saying too. So you say — — well yes, but is this in my favor or not? Man — oh yes, because these terms are in the state of nature, you know?

[1:04:58] — Okay. Exactly. — And an idea is a modification of some — — How are the terms in the state of nature if they were created by the human mind? — I think — well yes, but they gave them — — they abandoned them. They — no, no — if they're in the state of nature, that means I can appropriate them. — Exactly. It used me. Hello. — So I don't think they're created. — Besides. — No, no, no, no. Wait, leave this one there, that they're in the state of — I don't want — I want to help Costel here. — No, no, no. Let's — — well, it seems to me he's helped me. — Well, I know, but now help Costel too. — With what do you — — take the term yourself. Leave him — if it's in the state of nature, why not appropriate it? — Wait, leave Gabi alone. — Take a break. Leave Gabi alone. — No, no, no. What did you do to the term? — See, the Kinsellian system — I bordered it; I announced to everyone that I'm looking — nothing. You didn't do anything to it. The Pythagorean theorem modified some things. You didn't do anything; you didn't modify anything. The Pythagorean theorem — the Pythagorean theorem only recorded a fact existing in reality. — He created that idea, you know? He generated

[1:06:01] it. It didn't exist before him. — If he discovered it. — Generate me five now. — You understand that if a triangle with a 90° angle — — Yes. In reality, all triangles that have this 90° angle — — Tell me other things from reality — about the ultimate brick of the universe — that's in reality. Tell me the idea about those. You know? — Well, and if I said it, it'd be the same thing. I wouldn't have a — — I wouldn't [clears throat] have property over it. That's what I'm trying to say. — General. — But you haven't listened to — — There are also ideas that have no correspondent in reality. Yes. I recite a poem. — Yes. Look — counterexamples, if you like, you know? — So it's not — — or it's luck, or you're thinking of

something else. — Yes, but all the words you use — — "asp and basilisk" — — mean something. And there's an object for the construction and — — Yes. Now — — what I wanted to say — let's say that — — yes — no, there isn't an object; there's a concept reflectable in reality. — Go on, go on —

[1:07:02] — in — yes. In software a license was created called copyleft. — Copyleft. — Precisely so that it can't be appropriated and used in a way that the creators — the first [creators] of the idea — wouldn't agree with; namely — — how you sell. — I'll first say it in software and afterwards make the analogy to words. I create software and say this: "If you use this software and modify it a bit — " — do you eat the wax? — " — the software, yes, that software you've modified — " — " — must be under the same license as the original was," — — namely: you distribute it free, you let others use it too, you let others make modifications too, and so

[1:08:04] on. — Linux, — — no, GNU — — GNU, yes, only Linux. — Okay. Okay. Okay. So let's say, if words aren't in the state of nature, and the one who first created the word "aggression" said — gave it a copyleft license and said: "Sir, all those who from now on will use the word 'aggression,' under any kind of modification, must pass it on free, likewise, with the same — " — " — as I gave 'aggression.'" — Then you've lost everything. All ideas expressed in words — because they're formulated, because they use those words — would have to be copyleft too. — Yes. — Well yes. It's not — it still doesn't help. It doesn't help Costel's case. — How does it not help Costel's case? — Well, it means — well, if all — he thinks only that that person doesn't want to give it to anyone — only this scenario. So this scenario isn't valid in my paradigm, you know? In

[1:09:08] which one gives and you have common knowledge, you know? — Understood. Yes, yes, yes. — You see? And I say no — I have no problem with this, with abandonment, if you like. — Well, it's not — — but it's not an abandonment, this — precisely, this isn't abandonment; it obliges you not even to — — abandonment to humanity. Well, to — — But copyleft — copyleft obliges you to give it free, never to take any money. — Exactly — it obliges you not to restrict it. Copyleft obliges you not to restrict it. Yes — he gives the rule for using a good. You know, at the well everyone has to drink — a contract; or the contract is implicit: if you used that one, to modify it, practically — — you become party to the contract. — Your whole new — your new software, or your new word, your new idea, must — — have the same license — copyleft, so to speak — as the bricks with which you built that idea or that work. I don't remember whether he explained this — unilateral contract. Ah, no — I saw it on the internet: in current law this concept exists — to concede you this — called a unilateral contract,

[1:10:12] by which a second party enters into the contract just by doing or not doing something — well — and you say, "abandon all hope, ye who enter here." — [laughter] — On the other hand, entered — — Gabi, it seems to me there are cases, yes, in which private forks were made — starting from open source, private forks were made, and nobody contested them — — and sold them for money, sold them for money — — no, yes — private in the sense that — — it wasn't the term "aggression" — he used it only on his own computer. I mean private: me and my friends, and we don't publish it. No, — — no, no, no, no, no, no. He sold it on — you can get money, yes: "sir, look, I made this modification." He publishes the code — — like that, through — no — that's exactly what I'm saying: they didn't publish it anymore. — No, no, no, no, no. Copyleft — you have to publish the source code. — That's what the license says, and you can sell it for money too.

[1:11:16] You have to publish the — — then it violates copyleft. That's what I'm saying: nobody sued them. This agency — GNU, Richard Stallman's association — should fight to sue, so that it — — which happened or didn't happen, anyway. Yes. Okay. — This I don't know exactly whether it happened. So I'm saying how the theory is. — Yes. Yes. — Uh, the Linux distro — — it happened — — Oracle's. — Did this. — It's not public. Oracle's Linux distro. — Hm. Is Oracle sued over this? It's not. — Yes. — And there are

also in this commercial domain things that took open source, absorbed it, reworked it, — — rewrote it from the ground up, they say. — Yes. After which they no longer published it — — and you don't know whether it's rewritten from the ground up. — And you have no way of auditing whether it's rewritten from the ground up or not.

[1:12:19] Slick, because they didn't publish it. Slick — — that's why — yes, because at first it was GPL version 2, and afterwards Richard Stallman published GPL version 3, which closed the loop. That was probably a loophole, but Linus Torvalds didn't republish Linux under the new GPL version 3; it stayed on 2.0. And I think that's where it happened. — Okay. You'll look for others too, because there are several open-source things. I mean, the temptation is huge. — I mean in general, but you can invent a — — look, from — — a type of license like this for using basic words and ideas with this obligation: whoever modifies, whoever combines these things in a certain way, is obliged, by me who created them, to pass them on likewise, so that the others can use them

[1:13:22] free, and freely — not free; yes, you can make money if you want to make money from the unicorn lily, look — but pass it on too, you know? And you say, "Sir, from now on, when I go to a conference and speak about unicorns, the ticket is 17 lei. But only I charge; others — their business, and others, their business." — Look, for example — what's the name of the guy who released the first agent this year? — I don't know. — It's a guy who said "to hell with it," because these people kept announcing "agents are coming, agents are coming." — And one got angry — a Swiss, or I don't remember what the hell he was — and bam, bam, bam, he released an agent; I don't remember what it's called, — — yes? — And he made it public. — Right. — Yes. He made it open source. He put it under GNU. — Yes. And lo and behold, afterwards, within about a month at most, these people too started releasing their agents — the big AI companies. Yes. — Right. — They didn't publish them. Yes, but you can't even know whether they used something from what

[1:14:27] this guy published as open source or not. You have no way, because you can't audit them. Someone — like this guy's association — would have to wrestle with all the AI companies. Well, that's not gonna happen. — Yes, but here we're not talking about the power to fight someone, you know? Here we're talking about what's right and what's not right. You know — — why would you want to — what did you say? That if you ask money you pass it on, or you pass it on anyway if you use it, right? Or — — you can — — Yes. So I oblige you. I created all the Romanian words in the world, — — and I say: all those who create any idea with these words, a combination — — no — — is obliged to pass it on. — Yes. No. — Free. — Free. — Yes. No. — But — — he can ask money for himself. — You can ask money — — for when he uses them — — when you use them, with your body. How — with your mouth — — or on your paper, or when you publish it. — Right. Hm. — Nobody stops you from asking money through this thing. Right. Well, and then — I give and I ask — — you have to pass it on too. You're obliged by me, because — — I pass it on when I take money, no? Or

[1:15:30] and — — So what Gabi is trying to say is that you have the obligation to put — not to put — a copy of your book, for example, — — free and available for anyone who wants it. — After which you can sell as many copies as you want. — Okay. Yes, — — but there has to be something free with your autograph — — so people have the option. Ah, okay, okay, okay. Well, I concede that too. The problem is that no particular person created it, you know? — Yes. We can't know with what intention, you know? — Ah — who created the word, the Romanian words? And I say it's okay to consider them in — — Listen, I don't want to — — in the state of nature, and — — I don't want to prolong the agony, but — — regardless — so the public domain is like the state of nature, because that was the problem: a lot of code used to be public domain, in the old days, until Bill Gates came and promoted this idea: "sir, the code shouldn't be

[1:16:32] — public domain before, like cake recipes — — code circulated in the old days. — Sir, there should be someone to maintain it, to make it, to improve it, to take money for it, and to close it." It's — — how to close it? Ah — to keep it closed. To keep it closed. [laughter] I thought — to publish all the source and give only the executable. — It closes itself. — The thing is that — — not my [aunt] closed — — in the second second after the executable came out, decompilers appeared. Anyway, the idea is the reaction against code that was public domain. — He invented this copyleft. — Hm. — Which is still a license that obliges the one using that code to respect conditions X, Y. — Right. You had no obligation. Public domain. It obliges — rather toothless. I mean — — yes, — — well, we're speaking legally; we're not talking about whether you can enforce it, because that guy says it can, but public code too — everyone uses it. Whoever wants — — yes, for example, that's how it is: besides Linux

[1:17:38] there's also BSD. Yes. — Hm. — From Berkeley, — — Screen of Death. [laughter] — The BSD operating system, on which your Apple and that iOS are based. That one was public domain: "Sir, do what you want with it. If you want to close it, close it. We do it like this because we want the public domain." They didn't publish under GPL and the like — — those from BSD. — What's the difference between these systems — between — — So if I use the code written by the BSD guys — — H— — I can afterwards not publish the source code further after I modify it. — Ah, okay. Whereas if I use the source code from the GPL — — I have to respect that — that's what the copyleft license says. — Hm. Hm. Okay. What I wanted to — — Again, for me it's very toothless, Pete. — From this point of view, copyleft isn't enforced by the state. — No. Yes. Wait —

[1:18:42] — it is. If someone goes and [sues] it should be. Yes. Well, that's what I'm saying — that it's not, because even it would have to be by the state. — Yes, yes, yes. By the state. Man, — — because we don't have options now. — So you, this understanding — — whoever has money and a lawyer can go. — No, but because you don't have a private justice system. But if — — no, no, no — now, on this public, state one. Gabi, of public, he binds himself to [laughter] — someone has to — — you go and sue the company. — Yes. — After which the company enters a discovery phase. Yes. Which means it has to make available to the court — that's how it works — it has to make available to the court all the documents that support the way it invented the contested product. — Research. — Yes. So the product — let's say we have a product this association contests,

[1:19:48] yes? And it says: this product was created using mainly such-and-such little piece of software from this domain — — copyleft — — right — and they haven't fulfilled their obligation to put it in, like that. Yes. Whom do they sue? They sue the company. Yes. And what does the company have to do to be compliant? Make available — — the source code — — and that's all. They don't get a fine, they don't get anything. Yes. — Yes. — What do they have to do to win this lawsuit? From the discovery process it must emerge very clearly how the company took it over. So there have to be emails in which things were discussed that clearly exist in this copyleft domain — so on that little piece of software over which they have a claim. Yes. Good. What did Hillary Clinton teach us

[1:20:53] about perma[nence] — Hillary Clinton, Mette — what the hell — Mette Frederiksen, and other politicians who needed to defend themselves by destroying emails? What did they teach us? They taught us that email isn't a permanent thing. Yes. That Microsoft deletes them automatically after so many years. After seven years. Yes. Therefore what happens? These people still, if they don't manage to prove — — the description — — if they don't manage to prove it, the case is dismissed. Probably. — Yes. Uh, so their financial incentive is zero. — I've seen — I've seen, I don't remember on what operating system, the GPL v2 license attached, and [snore] for the source code it gave a link: "Look, the source code is at — " — right — — from some firms that made money from

[1:21:54] certain software, you know? — Hm. Right. — But a case like this I haven't heard of so far. — Well, that's what I'm saying. I'm not saying — but the moment it really doesn't happen — they respect it, you know? — It's toothless. — Yes, — — it's completely toothless. — Following this discussion, I'd like to ask, for — Costel says — so, so you're saying, in a world in which we speak only legally: someone comes with a chain [of ideas] and tells the others, "man, this is my chain." Yes. The concept, or whatever we call it. Yes. And the others do something he doesn't want. He tells them — he says "don't do whatever, because it's mine, and I set you these boundaries of behavior" — and someone does it, and I — and I don't take it in, because he can't pursue them and whatnot. He only asks — he asks: "man, that one was wrong.

[1:23:01] I want him to give me reparations, restitution" — and what does he ask? What does he want? Anything, or — — no, you have this discussion with — — No, but — — the value of a hen, you know? I don't know. It's a conventional proposal. I don't know. — So I — I don't want to corner you — "oh, you don't know." I don't know — what I'm saying isn't specific to the discussion. I don't know. We can think about it, you know? No — the idea was — the idea was whether, if first, that it's not 2x — the answer doesn't come naturally when he asks; I wanted to see — again, I don't want to corner you, but I wanted to see whether — — uh — — that's the big vision, you know? — Whether — whether he can prove a loss. — Yes, — — that. — Well yes, well yes — that's what I'm — listen to me a bit, because you'll really like what I say. So the state gives money to farmers whose crops were destroyed by a storm, let's say, floods or

[1:24:06] whatever. And he says: "I had a lost crop" — but he hasn't harvested yet. — Yes. — Yes. And here you say — you say: "I have an idea; I ask you for money, because you should have given me money for this idea, and because you used it, now others use it too, and only you have to — since I caught you — " — no? Yes. Well, let's say — — that you catch that one and say, "you have to give me money for the whole loss." And the idea is how much the loss is, since he hasn't harvested — in discussion, how much it'd be for a hen. With a hen you lose the hen, and it's clear — it's a hen. But when you haven't yet harvested the revenues — that, that, for me, is weird. So if you harvest them and this one steals your money, he steals your money. But if — — if you don't get to do [it], — — we have to think. So what I gave you is the overall vision — — that it's not aberrant to draw the parallel with homesteading, and all that nonsense — — "you violated my property" — breaks down. No, if

[1:25:10] — who struck first, you know — — if I have — — the one with the idea struck first, you know? — But — — now, other discussions about what the punishment should be — I don't know. — It's a conventional thing — — and when that one says at some point that you can — — "Give me two ideas back. Give me two ideas back." — Let's forget — "you stole my Pythagorean theorem." We give ideas of the same quality. — Of the same? Well, and how? [laughter] Well, okay. And how much do you prove the quality was? — What? — How much was the quality? Say how much it was — — people made with — — Say [laughter] how much the quality was, so I give you — because I can give you some poetic formulations and say, "see, I gave you more back." — Some nonsense, you know? Give me. — Well, exactly [laughter], because you enter into the subjective. — Give me two ideas. — Let's [laughter] — let me ask you another question. Do you want — — political things. Okay. Take Nichita Stănescu and give me something stronger. [laughter] — There's nothing stronger. — Man, see, it's hard. — Uh, it's Kinsella. It seems to me he defends here that — wait, let's make a joke. Another parenthesis. I was at university in the lecture hall, and the professor —

[1:26:14] I've told you this one three times, but it's not a joke, since I lived it — and the professor at the lectern looks at someone in the front row and says: "That's my book." — Ah yes — — and [snore] he'd written — it was his course, with his books — and he says, "That's my book," and the other one, naively, like, says: "No, it's my book." [laughter] — Yes. Yes. And here likewise, anyway. And it seems to me

Kinsella defends this thing in which — man, if I make a contract with someone — — and say, "man, I'm telling you" — practically a non-disclosure agreement. — That we didn't discuss. — Very interesting. I [clears throat] understood — — which in a way — what you said — you said, man, if you enter into interaction with me, you have to do some things. Uh, you don't tell them — — Kinsella's position. I thought it was something like what Vali said, Rothbard['s]. I didn't find Rothbard's position anywhere. Let's say — maybe you'd have hooked it. I'd have thought Kinsella's position is this: that if we've created a contract, it binds only you; it doesn't bind third parties, you know? Or maybe that's what he says in his

[1:27:17] basic article — no, this isn't his classic one. — And here he says that not even the contract is binding. — It's not — it's not valid. It's not. — Well no, no — it doesn't bind third parties. — It doesn't bind third parties. A contract between two people can be valid. I don't know whether he says it, but I understood that it doesn't bind you, because it's likewise — again, the law isn't — he has no property. — Oh yes, it was important, because that's how I remember it. One of Kinsella's arguments was that — — Wait, — — he takes the one who put it on torrent. — It was important to scold him, to catch him red-handed, because otherwise, logically, a contract between the parties can't not be okay unless — — Oh yes, it can not be okay. — Unless it involves aggression. — Pay attention. It can not be okay in the Kinsellian paradigm — we're saying if you don't have property over those, it's not — what — — he doesn't talk about whether he has an opinion on contracts — whether the contract between the two of them is valid or not valid; he doesn't express himself; he doesn't express himself; he only says — — that's how I understood it — that it's not valid to — — look, "has no right," whatever, you know — — well, if you don't have property over ideas,

[1:28:21] what did we exchange, what did we agree on? And somehow that's more consistent with what he believes, — — no? Yes. Look, you can — — well, if we didn't have property over ideas — what didn't we agree on? On — — that's how I took it. See, there are three people in his discussion. — Mm — — Yes. Uh — — Leave the third party. The idea is whether the contract between those two remains valid, you know? The third party — okay, it doesn't bind him. We get past that. — Pay attention. It could be a kind of deception — to trick that one. — The theft of a hen has existed forever. — No, he says it doesn't bind the third. — The theft of an idea appeared recently among people. — Hm. — Until it occurred to some — as they say, the wheel was invented, and other things, millions of years ago. — Mm — — So — — to patent the wheel, or what? — Yes. Or to — well. The passage from bronze to iron — someone would

[1:29:26] say, if it had occurred to him. Now it was much further along. — But if we patent the wheel now — — you no longer can. — Well, why — — the office won't let you? No, — — we're not speaking strictly libertarianly. Why wouldn't you be able now? — Really. Why wouldn't you be able? — Well, I don't know. It's — why do you have the idea of the wheel? — I thought of it. — What — — I thought of it? — You thought of it? — You and the primitive man. — Yes. And I'm a primitive man too, and I do it with Vali. I exchange with Vali — Vali, if we invented a thing that made our work easier, we exchange some emails and invent. — Eh, he says it's in the state of nature, you know? And you haven't modified anything. If you make — — a wheel — let's say you make it square, and it's even worse, yes, it's really — — a square wheel [laughter] that works better. But — — you deserve the money — you deserve it for — bravo! No, no, no, [laughter] no, no, no, no, no. It's a square wheel. Attention: we invent a square wheel — — but which has an infinite degree of rounding.

[1:30:28] — Which, actually — — look, [laughter] actually even Pythagoras thought of protecting his ideas. — Go on — — because he said this idea — — Ah, they had that thing with secret-mania. — Yes, yes, yes. Only to the initiated. "Only — I won't tell you this idea." Right. "I see you in the street — " — ah, he'd tell it only to some guys. — Yes, yes, yes. So he tried to protect it, but not by going to the state or — that wasn't the idea. It was: "sir, if I tell it only to — " — "I know he'll keep his mouth shut, keep

the secret." — Look, the poor man. — I'll say, — — it's possible it went even further — I don't remember well — — on this system of property over ideas. If I get the idea of opening a shawarma shop at Obor, — — is anyone else allowed to open a shawarma shop next to me? — Look, that's a discussion too. How far do you go? It's a question similar to Alexandru's. What sanctions do we give? I don't know. I told you. I only gave the vision. I have to think more about what I say. The one who opens the shawarma shop next to me at Obor — is he allowed? Because he violates my idea. He puts it into practice. I had the idea to

[1:31:33] open a shawarma shop here. How do I know I had this idea? Because I had it. Look, I've even demonstrated it. I'm the first who opened the shawarma shop — or to put a pharmacy in this apartment block, for example — likewise a classic example for Bucharest. Well, if we go like that — — Yes. I say no — no, let's take this seriously, you know? — Well, and what if I do it next door? It's not exactly in that spot. — Oh, it is in that spot, since it's in the general spot, since — — this resembles our discussion. "Wait, it's the Pythagoras in my mind." — Ah, he's on the other position. Not that it's there. — No, no, no, no, no. You, you now [laughter] want to particularize the idea so that you can get yourself out — so that you can take it to your place. But I said: I want to open a shawarma shop in this area, because here it's crowded. Yes, whether I manage to rent this commercial space or that commercial space has nothing to do with my idea. My idea is for it to be around here.

[1:32:38] Not thought through. — How big an area? — Pay attention. No, leave it, leave it, let's — let's — — chew on it. Well, and did you think of it first? — Well, I thought of it first. Let's concede — let's concede this, that I thought of it first. Did you — — think of it first? — Someone at some point must have thought first of opening a shop in a new neighborhood. You know, this case certainly existed in the course of history. Yes. — To me it seems much more interesting whether — whether you can somehow define the second as having violated the property right over the idea. — But he opens the shop there, right? — Yes. — Well, he's the second. — Clearly he's the second. [laughter] — It matters who comes first. If you can — yes, you have to — — we run, we run after ideas, to catch them and keep them for ourselves. That's the problem with — — There's no problem, because you don't have to think about consequences. You think consequentialistly — the same with language — that, whatever, we'd no longer understand each other. You don't have to think. My problem — I told you I don't have all

[1:33:43] this. I'm not Kinsella, to know all the description with patents and whatnot. I haven't structured it in my head; I have only the vision, and I think the vision is correct, you know? I have to think, you know? Okay. — I have to think like that about this; with Pythagoras it's clear, you know — — one answer could be this too: yes, you were first, and — — you understand. — Okay, you sneak in through the back door — you sneak into libertarianism, through the back door, things we'd solved 100 years ago. — No, [clears throat] no. The problems are if we admit property over ideas — and I don't see why not to admit it. — Well, look, this is why [laughter] — it follows. The answer is — — your criticism is consequentialist. — The answer is that it generates contradictions for you; that it isn't consistent when you apply it recursively, infinitely; — — that you presuppose the violation of property in order to obtain the structure, in order to build property itself. I mean, you can — — Did you see these three consequences from what I said, from this thing with regression? I — — I didn't understand anything. Honestly, I didn't understand anything. — That you have no — you have no — you have no way of knowing, the one who created words — — what he wanted. What did he want?

[1:34:46] — Gabi, it doesn't matter whether I know or not. You see? For us to have the concept, for us to have something to build with these concepts, he must have given them. — Logically, he says — — logically he must have given them. So he must have acted against the idea of preserving them for himself. Well, and he can't give them — — the system. It can exist only because someone must have violated it in order to create it. — Wait, wait, wait, wait, wait. — Yes, yes, yes. — That's the problem. — But it's not violated — he chose something else. — Do you understand what I'm saying? — No, because

he says the source. Why do these conflicts appear, you know? — So you — so you say — so you say: when you express something, you have to let that one express the same thing too. You know, as if you said that, the first time, in order to instantiate non-aggression, I have to kill someone. — Wait, wait, wait. But if you make — — wait — for the non-aggression system to exist, I'd have to behave in

[1:35:50] contradiction with — if I meet — if I meet you and we make a new non-disclosure agreement on a piece of gossip, doesn't matter — — right — — something. You tell me, "I'll tell you some things; sign here so I tell them to you." Right. That's a specially made contract. — That's a contractual right. — Good. — We can have hundreds of thousands of contractual rights. — So — but if, if I come to you and you don't make me sign, you've chosen something. You chose to have it signed once. You wanted to have it signed. — No, I don't understand. Well, wait, I'm trying [to see where] you want to get. — So you say — you say, logically, every person who invented something should ask — because that's what I understand you said — should ask for property rights so that others — and look, he didn't ask for them, because he gave the words. Isn't that what you said? — No, no, I didn't say that. — But then explain that thing with "must," because there you want

[1:36:53] to say something and don't — — the parallel, so you understand — the parallel would be as follows. For us to obtain the NAP, — — yes, — — someone would have had to kill someone else or punch him. — Yes. — So, at the foundation, for the NAP to be able to appear, someone would have to behave contrary to the NAP. — Okay? — Yes. So in order to — — it's the same here: for this idea to appear — the idea that we have certain property rights over ideas, — — natural property rights — because that's actually the argument, yes? Not that they're contractual rights, but that they're natural property rights — for the idea of natural property rights over ideas to appear, — — someone must — — have behaved against [it]. Who was the someone — stole an idea from another. — Wait. So — — someone stole an idea from another. — Wait, Costel. — That's the answer. — Wait a moment. — So you say this. So, so you have an extremely pacifist society. — Wait, wait. You have a situation of

[1:37:57] — in which everyone gets along and doesn't even think of the NAP. — Yes. Someone commits the aggression and says, "what's this?" — He thinks of the NAP — yes. [laughter] — And you say: what's this? We have to make a principle so this doesn't happen anymore. No, — — it's not okay what we're saying — — or, well, or to observe that that one had — it's okay what he says — psychologically, to make it explicit. — Vali says a thing: "Okay, sir, to make theories of justice, aggressive violence has to pass, since otherwise we don't make them; maybe they're not needed." And that's what I was telling you. No, — — no, that's not what I said. — That — okay, then, then, then [laughter] what — — I understood. Wrongly — — that's what I said. So theoretically you don't need it. You — — you say the possibility — it doesn't have to be a — — but when you conceptualize the possibility — — next to us, you're contemporary, explicit. Not — — he says — I think Vali says this. — So — — there doesn't have to be an aggression in fact — what I said, nonsense — but you realize: man, why are we pacifists, and

[1:39:00] we describe — because the principle — look, we have these rights, which we've respected so far. No aggression has happened, but we describe them so as to be smarter. — You can think the other way round too. That was called aggression. Why was it called aggression? — Because they used property [laughter] a bit to — — because they had the theory, you know? Those people didn't say, "oh dear, look, an aggression." One was beating another — "look, an aggression," you know? — They knew what aggression was, you know? Well yes, but the theory is made by — that we say — — if such-and-such happens, you have an aggression, and "ah, look, an aggression" [laughter] — — no, but we want — we, we'd like to — — You see — also at the level of diagnosis — — So let's — let's suppose there exists — so it's true that it's very easy to imagine you see someone using — — property — which at the moment exists only at an intuitive level, yes — using someone else's property without asking him. Yes, it's very

easy to say: okay, when someone's property was used without consent, we have an aggression — easy. But also you can construct

[1:40:06] this concept without the aggression itself happening. Yes — there exists — if you start from the notion of agreement, yes, you can get to defining aggression on the basis of the absence of this agreement of use, and it doesn't necessarily have to happen. I mean, it's conceptualized. — We're capable of conceptualizing even what doesn't exist, without having a lack. — Yes. On the other side. However — so, therefore, being capable of conceptualizing this, you can conceptualize the NAP even without seeing an aggression — without meeting, in that society of Alex's pacifists — yes, without meeting aggression, you can conceptualize the NAP. Whereas what I'm trying to say is that the idea of natural right and the idea of aggression must

[1:41:09] not have had the theory of property over ideas applied to them, in order for you to be able to get to building the idea of the theory of property over ideas. — Say more, say more — but don't — like everyone who — who — who uses a — — This idea of intellectual property right wasn't conceptualized. Mm. — People used to steal like hell — — like in the forest. — Like in the forest, ideas and words. — Right. [laughter] And on — — and at some point it was theft. — Well no, no — — the problem with the idea is with the man and the hen. Wait, I have an observation — — because not even slavery — when you beat a slave — was aggression. — Oh yes, it was. — No, — — that's it. That's the idea: that the standard we hold is that that was aggression then too. — Well yes. The fact that it wasn't recognized as aggression — it was aggression. — This version — this version is — — with words it was an aggression — — always.

[1:42:10] — Always, but it wasn't enforced by anyone. — Well, that's where I'm trying, trying to get: people. People have tried to defend — — their own person — yes — always, that they didn't succeed — one [thing]; they tried. — I mean, intuitively this right of self-ownership has always been recognized. — I know. — Yes. — With words they weren't so subtle until now, and now this thing has been discovered — — well, they were voluntary. There were these religious things, and they sacrificed themselves. They were volunteers. No, but I'm thinking that individualism wasn't really such a thing. I mean, people were rather like the Borg, you know? Yes. — Well, — — I mean, it's a more recent thing, you know? Man starts to be seen as an individual, you know? — So, again, if he didn't resist when he went to his death — if he didn't resist, it was voluntary. If, at the moment he saw the fire, he tried to run, intuitively speaking — even if he didn't conceptualize individualism —

[1:43:14] he was carrying it out. — Enough. That's enough. Yes. Even if that whole society said he was wrong — maybe he had to sacrifice himself for whatever — 100%, well, 99.99% of the time, those people said, "this one's a madman," — — but we now judge that, well, — — good, come on, they give us right again. — Wait, I had an observation too, regarding "stealing like in the forest" — whether that isn't exaggerated, since who stole more than the state, for example? [laughter] You see? That's private aggression. Besides, in the forest you got robbed less, from this point of view — that's why people took to the woods. Uh, Gabi, — — yes. I looked something up too. Come on — — a few examples of wins in courtrooms by fans of GPL version 2, and there were — — right — — for example, in Germany in the early 2000s, the German programmer Harald Welte, yes, sued several companies

[1:44:17] that used Linux code in routers and network equipment without offering the source code. Right — and there was a buyer — — and they were obliged — — and they were obliged to give it, and that's all. — Yes, they were obliged to give it — — right — — and that's all. No. — Yes, but it didn't stop them selling routers. It rather helped there, unfortunately. I think it rather helped Huawei, but that's the second part. Go on. — Yes. — So the idea is that it isn't — they didn't lose. Well, they actually lost a competitive advantage, but they didn't realize it at the time. BusyBox, a suite of Unix utilities for

embedded systems licensed under GPL version 2, in America. That — — right. — Verizon, Samsung, Best Buy, Westinghouse, Monsoon Multimedia were sued by the Software Freedom Law Center. — Right. And how did it end? The companies were

[1:45:21] forced to publish the modified source code, to appoint an internal officer for open-source compliance, and to pay substantial financial damages. — How much? — I'd have to go further. — Well, leave it. — The idea is that more happened too — — More happened. — Yes. — Look, I wanted to take the economic discussion too, you know? Look, when — as Kinsella argues — there's research showing it's not really so good with these ideas, that — — they didn't get rich — — property didn't really deliver — — the cost, yes — this aggressive monopoly — not really. — And what I was thinking when we discuss oranges, let's say, you know: we cite the standard arguments with incentives, with whatnot, with prices; we don't set about investigating oranges somewhere — how production went, how

[1:46:24] — look, see, here there's something like this, although the argument should be the same for ideas. Well, the fact that that person has property over the idea should be an incentive for whatever, you know, just like property over the orange. You know, the explanation may be this: that people don't — — incentives — they don't accept — — they capture the benefits, you know, for more production, lower prices. The same argument as for oranges. I mean, "sir, we no longer research what this —" this is the argument — because this is the argument they make: that if you have property over ideas, you put more money into research and development than you would if you didn't have property over them. — Yes, — — that's their argument: that this way you stimulate — the utilitarian argument — this way you stimulate society's progress, because more money is put into research and development. — No, but I understand — what I'm saying is that he didn't come with — well yes. And this is one with a typical — I was criticizing exactly that, you know? I mean, the discussion should have been theory; it's based on theory, if Austrians don't argue empiricistically, so to speak.

[1:47:28] If it were — we were talking about Douglass North or others, yes, they argued like this, on figures: "what for? Look what happened." Naturally, someone who was pro should have said: "well, like with oranges." So — — well, but that's an argument — — property over ideas. — That's the argument. — It increases — property over ideas increases. It increases the wealth of the nation; research increases consumption. — Research increases research. — How does research increase? — Because you're able to preserve more of the results, — — of the competitive advantage, because you have a competitive advantage guaranteed by law. — And yes. And that's how the anti-Covid vaccine appears too, and so all of human society benefits, because otherwise, if it hadn't been — — Let me make an experiment — an Austrian — an Austrian — — these people don't go to empirical data except at most to illustrate a theory; you know, his argument seems to me somehow empirical.

[1:48:30] "Look what empirical studies there are." You know, a discussion should be theoretical. Look, property right — — Yes, yes, yes. But such-and-such happens. He — well, the argument itself is utilitarian, and then, if it's utilitarian, you can say it's better served by a utilitarian approach. — He looks at the utilitarian arguments brought by — — and argues utilitarianly, but shows — — Yes. So he hits with utilitarian arguments those who use these arguments to support — all economic arguments are utilitarian, you know? I compare some costs with some benefits; but some can be theoretical, like Mises — if you take *Seven Lectures on Capitalism*, he doesn't measure. But what can you do if he didn't take such an argument to fight with? — Rather he took the other one, which he could demolish by answering — — in this way. You know? But if we were to take this argument, — — how is it that it slows creativity, that monopoly, or —

[1:49:31] — it would be — it would be that, from this point of view, the answer would be that the legal barrier that protects your return — the return on investment — is nothing but a distortion in the

market. It's a temporary monopoly granted at discretion. It's as if you had an office of monopolies. Yes. And simply: first come, first served. Look, this can be a contradiction. Why are these temporary, sir? If it's good, leave it permanently, you know? If it's bad, don't leave it at all. You know — — why temporary? You know? Because, because the state decides arbitrarily, through its council of visionaries, — — how long it takes you to recover the costs put into research and development. — I mean, the state, through this temporariness of the monopoly it grants you, wants to control even the degree of money

[1:50:35] you put into research and development. Why does it want to control? You can say — if you want to be very charitable to the state — so as not to create bubbles like this AI one — because it obviously doesn't work — so as not to create bubbles like this AI one we find ourselves in today, in which everyone puts money into research and development, betting on monetizing the product, and expects too much, as now in the years — — 2000s; but think — — yes — — in the 2000s, whatever nonsense you went with, "I'll give you a billion dollars." — Yes. How [laughter] is it to be on the net? Yes. And we have a domain, dot-com in the tail. — So Krugman was more realistic, how [laughter] — — that it won't go well. He was in the direction — he maintains that all studies show it's not true that when intellectual property rights such as copyright appear, more welfare is created in human society.

[1:51:37] And I'd give an example here, sir: think, with Mickey Mouse, how many derivative works, yes, how many cartoons derived from Mickey Mouse would have appeared. — The counterargument — the counterargument is that Mickey Mouse doesn't appear anymore. You know — — if it's not, as with any investment, you know? No, no, no, but strictly on — — abundance and — — Well, strictly on this let me answer too. Mickey Mouse wouldn't appear anymore, when that person has no incentive to generate him, you know? Oh yes. Or weak incentives — he can generate him; he can generate him and extract as much value from him as he can. Weaker — — without this monopoly. Well yes, they'll be weaker. Whereas with monopoly — — it's as with any — — property right, [clears throat] you know? — No, no, no. So these people studied and saw that with monopoly one Mickey Mouse appeared, but if there hadn't been the monopoly, let's say 1 million would have appeared. That's what these people studied and saw — — So the idea — the idea is that it artificially raises the monetary value of certain intellectual properties and kills

[1:52:43] the others. It's — it's exactly — it's somehow Bastiat's and Hazlitt's argument: it produces a distortion of capital, and you don't see what isn't created. — That's what I'm saying too. That's what I'm saying too. You don't see what isn't created — — because that one no longer creates, you know? — No, no, no — uh, no, no, you don't see — no [laughter] — you don't see what wasn't created. Yes. In the current conditions. — Yes. — No. Or wait a moment. — Something else would have been created. Wait, wait, wait. But if that one — if he doesn't have a law for him, he no longer creates; isn't it better for him to leave us alone, stay at home? — Yes, but it's like any property right, you know? — Like any. If we're talking about oranges and in conceptions, yes — if that one can capture the benefits, it's better for whatever. It's the same with ideas. — To me it seems — it seems to me it's not like with goods. It seems to me it's a thing — — if economic theory is true, it's like with goods, you know? No, — — no, no. For example, you have [laughter] goods and services. You have two categories at least. And here you also have this category of concepts, in which, for example, you

[1:53:47] see someone — the shawarma shop, he said — you see someone running his household, his marriage, his life, cats. — Fuck it. You see someone running his business — — to stay in the economic domain. Sorry. Do you copy or not copy? I have to prove he took the idea from you. Maybe it came independently, and then — — well [laughter], what? How do you know? You've proven — — fine, Costel, but I told you that in the case where you have to prove something like this, — — in the case where you have to prove something like this, the concept is no longer operationalized — — and I'm satisfied with that. — Look, pay attention. So you have a man who does something. Someone comes

next to him, does the Gopo little man [imitates him]. Yes — he goes and does the same thing. This one stops, looks at him, says: "Man, you're doing the same as me — already that's irritating." And the other says: "What? What are you talking about?"

[1:54:48] — "What, were you around here too?" — No, it doesn't matter. No. Let's say that one really — whatever. And he says: "Well, look, you're doing all the things I did." It's not enough to say "this is Moldova's," you know? You don't patent anything — how — you understand, if you tame a horse, you can't say it's forbidden for him to tame a horse too, you know? Ah, ah, no — — because well no — — no — — oh — — that's how it is with the patent: you go to the patent and invention office — leave the patent office. We're talking here about whether it's a right that's logically deduced, that's in the nature of things. — Ah, okay. — No — I mean, if I use a piece of land, we say it's in the nature of things that another not violate it, tra-la-la. Yes. — Well, and did you do that? — Wait, wait, wait. And here — — you tamed a horse for the first time. Let's say I tame a horse; someone comes, saw it, tames one too, and I go to him and say: "Man, have you too taken up taming horses?" Well — no, I don't know where I'm getting either, because what do I ask of him? Don't tame anymore, or

[1:55:52] whatever. — Yes, can you ask him that too? — No, but there's also this temptation. Now whatever you do — you raise your hand — that's it, "I've patented it — Vali, don't raise it anymore." No, no, no, it doesn't implicate. — Well, and then how? Which — where's the limit? That's the question. — Well, the limit is to do something new. That's the limit. If you go and do something new, — — you do something new, and you raise your hand. — Three people in the world. — No — because the moment you go to possibility — if you've tamed a horse, yes, you can ask. You know, you see? But you haven't tamed it. That — — no. But the idea is: whom do you ask? Because if it's a normal right — when he comes into my yard, I tell him to leave. I chase him off. Yes. Is it right to chase him off? Yes. How? With violence, — — if we can't agree; or I can explain to him — sorry — I can explain to him: "Man, pay attention, you know this is my place, and we here, so as not to have conflicts — do you know the concept of conflicts? No? I'll explain it to you. Well, look, pay attention, I could hit you, it hurts you — ow" — well, I don't know, bad joke, and

[1:56:55] — and you chase him off with kind words, or with whatever. You have the right to chase him off. Yes. Good. And afterwards you're in the world; you do something new. — A kind word — that's an idea. Wait a moment — you do something new and you tell that one: "man, so we don't have conflicts, don't do what I was doing anymore," because that's what I understand. "Go away, man, kitten." Special, and the idea is — you say it's right, isn't it? To tell him, "man, don't do it, because I made a new thing." No, no, no. Well yes, but afterwards you have to prove that you made it first, or that that one copied you. Prove — no, no, no, that's not the problem. — You can't prove it. That's the problem. I can't prove he copied. — No — that's why I said he does the same thing. Let's say I plant a flower — or it doesn't matter — I tame a horse, whatever. And afterwards — afterwards, to whom do I have to prove it? Because if I come to an agreement with that one, I come to an agreement. That one said: "Ah, okay, it's

[1:57:57] civilized for me not to do it too." Fine, then we make the separation — you have to prove. — Afterwards you get to a third party; you take that one from the moon: "won't you be our arbitrator?" And you explain to him: "Sir — " how do I prove he did it? "Well, pay attention. I was doing this, and he came, looked, and did it too." Yes, — — something simple. — And he says: "I knew how to do this beforehand." "It's not that, man — nobody else had done it." "Oh yes." Or "I'll do it." Oh no — that thing is important too: "I knew how to do it." — You know why this is important? Precisely — — it blocked this type of criticism in which you raise your finger and that's it — because that's how people understand it: someone raised one, so — so that means that's it. — Well no, but that's the idea: you can't get past this barrier, you see? — No, the idea is that the theory of relativity really was made by someone, you know? Primitive man didn't make it; Descartes didn't make it. You see? Some things really can be isolated, you

know? Formulated otherwise — Eminescu said it too. — No, no, he didn't really say it; but anyway, we don't like [laughter] to believe it, but

[1:58:59] — he didn't really say it — — has to fly, and — — I don't remember. Oh dear, I've forgotten how it went. — "Thousands of years the light needed to arrive." — "For the light to arrive." Yes. "To the star that rose, it's such a long way" — — but there's not really — there's no relativity there. — But that's how I can break up this water [argument]. You know, so you don't generalize at every step? — Oh yes, oh yes, oh yes, oh yes. It's with relativity there. He says something with "yesterday," and continuously puts something in — — like Protagoras too: "Man is — " — "everything is relative," and whatnot, therefore — [laughter] — luckily they're both dead and can't quarrel, you know? — Well, let's wrap up too [laughter], since we've — — Come on, we still have a chapter anyway. We still have a chapter on — — on intellectual property: it's when he revisits his article after 20 years. We haven't discussed all — — We haven't discussed all his counterexamples, when he talked about children, whatever, you know — but next time.

[2:00:01] — or if I do this at your place, you know, write Pythagoras's theorem on a sheet of paper, you know — — right — — the marble sculpture — — whose is it — or yes, or that one — we'll discuss them. Good, good, good — — For Costel Stăvărache, Vali Berceanu, Alex Chiriac — I've been Gabi Munteanu, and we say goodbye until next time. Come on, give a paw too. [laughter]

Video 16 (#321): Against Intellectual Property, Part 2: Twenty Years Later (Chapter 15)

Original title: *#321 | Bazele legale ale unei societati libere - S.Kinsella - Împotriva proprietății intelectuale 2*

Length: 2:11:45

Link: https://www.youtube.com/watch?v=eIHOsvtKPyA

[0:00:00] There are few who have [Bengal] apples. So I have to be — to be able to be owner of any kind of idea. Man, the idea "the man goes to school." — Doesn't it seem to me? No. Well, exactly, that's what I was saying. You know — — with an apple. Look, an apple pie. There are billions of apples. "That one's mine and only mine." — Well yes, but you did something, man. You fenced it, you did whatever. You know — — here? You didn't do anything. Good. And the idea, the idea, the idea. Wait, wait, wait. — "The man jumps — " keep the discussion for the show. — "The man jumps downward." — An absurd combination, a Dadaist poem. — "Descend downward, gentle Lucifer." — And then I have to — that's why I can stay, you know? If you make a — — So that's what you say: only certain combinations of ideas, only certain ideas can be property, — — but certain things are new ideas, you know, patentable, no? What's very — I gave you the example. — Yes, but all are new ideas at some point, Costel. All were new ideas at some

[0:01:04] point. I bring out a new one on that and see if — — I bring out a new and banal one — — and people say no, it shouldn't be this, because tomorrow maybe it's too banal. — Well, what — when with apples it's — — banal idea. I don't know. — The poem "the man jumps downward" — I want it patented. Well no — that one — when you go to the patent office, to copyright, it says no. No. — So because someone can intervene and say — and say, instead of ideas, I say apples: "These apples have something extra; they can be someone's property. These apples are too banal; they can't be property." What are you talking about? So because of this discretion of the human factor over ideas, it's clear something's not right [snore] with this reality of ideas. The idea is with the state of nature. Yes. If they weren't patented then,

[0:02:07] — why wouldn't we patent them now? — If it's possible. — Ah, because if we find something appropriable, we appropriate it. Yes. — Why wouldn't it — why wouldn't it work this way too? Man, — — now yes. — Well, my argument is that you haven't done anything new. — Well — — you haven't done anything new. — Well yes, but also — — when I find a boulder in the street somewhere, in the state of nature, it isn't new. — It's millions of years old. — Yes, but you modify it somehow so that it enters this property. The homesteading principle, you know? You do something to it. — Whereas you've done nothing to that thing. What would the threshold be, as they say — the level of novelty to call it "new enough," so you can take it — — By the way, yes, — — well, go by — how shall I put it — by paradigms, by models. The Pythagorean theorem — does it seem new to you, you know? — It's simply something new. You know what the level is? You know —

[0:03:09] — "this is something new"? It's something new, I can say. It's not quite so, — — sir. We don't know. No, no more — you can distinguish between new and old. — You can't make — — for some [laughter] — wait. For [clears throat] — the limits of distinction will differ from person to person. — Someone from Papua at — — It's also — no, it's not; it's also an objective thing. He doesn't come and say, "I — — invented the cow," you know? So no. — Well yes, but objective. — Objective in the sense that he really didn't invent the cow, you know? Since it existed before him, and — — Yes, but you know why we ask these things? He didn't do anything to it. You know? — Because if — excuse me — but if

[clears throat] if — — if you say objective, you have to agree with everyone else. Whereas if we say, "look, the cow is an objective thing that existed beforehand; nobody knows that anyone invented the cow." Okay. But afterwards, afterwards practically — it depends how you write this rule, or how — even if you give it a generalist form and agree with everyone. This is the generalist form. You'll find all the idlers on earth

[0:04:13] — who'll find the loophole in what we wrote, and then — — no — afterwards he even brings you the counterexample — that what he said is new, you know? Yes. — No, he goes another way. I go in this direction, sir: the banality — the banality of ideas or things must have the same — — behavior with respect to the right to — — but you can recognize it — if that one says something silly, you can recognize it through copyright, let's say, not through a patent; you know it's not an invention, you know — — so it has a side — let's say he writes a post, yes; someone else — recognition — isn't allowed to use that text — — exactly — — doesn't even want to — uh — — well, it's a creation, if you like, you know? It's a [clears throat] — — I mean simple people who, as they say, don't invent complex poems, or don't invent new varieties, or don't tame horses, or whatever. — Where — — the most banal apple. Yes, I'm the owner of it.

[0:05:19] — Why doesn't the same happen with — I've conceded it to you? Okay. — I've conceded it to you. [snore] In a way you have the same problem as with the NAP, as with abortion. Let's say all Pythagoras's descendants, whoever they are, are heirs to that property. They can sell it, they can do what they want, they can receive benefits from the theorem. "Sir, you brought something into the world; is it yours?" And — — the problem is when full of — — I said it last time too: I use it — — and nobody knows I've used it, and that's why I said it resembles abortion. Because if you do it privately, — — go on and prove it. — Well, and that's still an aggression. I told you the discussion isn't about — so these people didn't catch me downloading a film. But that's an aggression; we're not talking — you know? So how would it be right — — you say how would it be. — That one may never be discovered. You know? A serial killer

[0:06:20] may never be caught. — Yes. No, it doesn't change [anything]. — Uh — it was Mises's birthday on Tuesday, when you were at the café. — Ah, happy birthday! Long live Tuesday, when we weren't at the café. — On Mises's birthday, Mises's. — Right. Well, and did he bring something too — a cake? Or — — nobody brought any cake. Yes — at least the presence; but it's one of those big libraries, and you don't worry about it anymore. You can — — do Metallica, or — — Metallica? I don't think so. But does it have the Rolling Stones? It has many. So it has a contract with one of these — Vivo or one of these big ones. — Ah, and let — — and it lets them use [them]. [clears throat] You have a minute, or a few. You don't have all of it. — But do you also have Romanian hip-hop, for example, or not? — I don't know. I don't think so, but I'll look, because I haven't — — how — I'll think more, since, look, I left this one. I'll think more. [cough] [clears throat] — This is the Rolling Stones, "Gimme Shelter." What did I put on that one? — Ah, we don't know it. — You don't know it? Man, the coolest — fright. — Well, and how many likes are there, or views, or these, or what did you say? No — it didn't save us [laughter]

[0:07:23] — YouTube even more. But we try. Well, [clears throat] you lose. Especially since I make these for you. — Yes. — Eh, no — do you really have to stay too, or can I add some effects, you know, on the picture, like a zoom, you know? — Yes. To put the emphasis on a certain area of the picture, you know? So it comes close to — where are you looking, Vali? No more — — let me go, how was it, man? Well, I don't remember the film's name. There was a guy — Jack — was the owner of a record shop — *High Fidelity* [laughter] — — and it was always top five, you know? Top five coolest albums. Whatever

[0:08:26] top five coolest rock songs, or whatever, you know? Top five most memorable breakups, you know? Top five [laughter] — always with top [clears throat] five, it was — — a ranker. A ranker. Yes, yes,

yes. — Here it's Chapter 15, right? Which is thinner than — — 15, but it has some fairly thorny problems that he poses here. — He passes quickly through these utilitarian ones, and then we stop at the quarrel. — Bravo! Well, let's get to the scandal faster. — Hello! Welcome to — take a break too. Give the microphones time. Give the sound time to settle. — [music] — If I told you

[0:09:29] that authority — [music] — Hello! Welcome to a new episode of În Doi. We continue Stephan Kinsella's book on the legal foundations of a free society with Chapter 15, the 15th. — Hm. — "Against Intellectual Property After Twenty Years": a retrospective and that new direction, so to speak. But before getting into the meat of this

[0:10:33] chapter, Mr. Berceanu has the floor. — Hello! Click like so the video goes into YouTube's algorithm. Click subscribe, and the bell too, to get notifications when we post a video. If you want us to annoy someone else too, share. Make use of it. If you want to point out that we're talking nonsense — you're not watching the right show — but if you feel the need, write something in the comments. If you also feel the need for a more real-time reply, see that in the description you'll find a Telegram group in which we can discuss this and that in real time. Also in the description you'll find a link where you can get Kinsella's book free, because he doesn't believe in intellectual property. Spoiler alert. And also in the description you'll find a crypto link and a Patreon link if you want to support the efforts we make

[0:11:38] here. We take this opportunity to thank those who have already made use of these links. — [bell] — In the first part of this chapter, Mr. Kinsella takes on Ayn Rand and says that Ayn Rand, going to the American Constitution and to the Founding Fathers of America, who supported authors of useful arts, works and so on, so that they'd earn at least some usufruct from this effort of theirs, this labor — and this word "labor" is specially put in quotation marks here, because

[0:12:41] Kinsella will use it further on in the chapter's commentary — in order to enjoy, let's say, the effort made to discover these new inventions. And Rand says: "Yes, sir, we must grant these creators a period of time to enjoy a monopoly, a privilege, for what they've done." And Kinsella says: but why doesn't this apply — if it's about property anyway, and you enjoy intellectual property only for a limited period of time — why isn't the same thing applied in the case of a real object? Yes — I have a glass; let me enjoy it as property for only five years, so many years, not my whole life.

[0:13:47] And Kinsella says it's clear things are different when we talk about an idea and when — like planned obsolescence. — Exactly. — Things break anyway. [laughter] — Yes. But even if — even if it breaks, it remains your property, and it sticks. — If they're made by Germans and Russians, they never break. — Mm, mm — — It depends. — Yes, — — it depends. Well, — — you're too modern now and change your phones every two years; but in the old days — — I had a phone — in the times we were born, it was — and it was so important that it was tied with a wire in the house. No, [laughter] — — so nobody would take it, — — so it wouldn't run away. — Yes. So Kinsella mentions here, first, that, sir, indeed, when we talk about ideas, we're talking about things different from real things as regards this aspect of the property right over them.

[0:14:53] Even those who created the laws for [intellectual] property rights — which at first were called a monopoly, a privilege to use your creation in a certain way, and afterwards state propaganda carried the language further, let's say, so it'd be accepted more easily, because the word "privilege" was more and more hated by the population — put it into this thing with intellectual property. And so they used utilitarian criteria. Yes. They said: "Sir, nobody would create anything new and beautiful in this world anymore if we didn't grant them a certain privilege to enjoy [snore] this creation, only they, for a period of time." But Kinsella, here in this chapter, at the beginning,

[0:15:55] before talking about other things too, combats all these utilitarian criteria that the authors of intellectual property laws used. I've left my glasses in the house. Sorry. If you want to take over a bit while I put on my glasses — — anyway, here on the show we have this idea that with utilitarianism, if you like, you can justify absolutely anything, depending on how you — because anyway it isn't justified empirically, you can't measure it, and so what you define is what it is, and you make an argument for that. But besides that, studies have been done — and as paper bears anything, and statistics can do pretty much whatever you want with numbers — it can also be shown empirically that

[0:17:02] by comparison between countries that grant monopolies for inventions, or patents, or whatever we want to call them, and countries that don't, prosperity isn't necessarily better spread — I mean, the desire to satisfy more people isn't necessarily fulfilled by the fact that a society, let's say — so the argument would be this: uh, the longer you have the monopoly, the more you're motivated to spend more on discovery, because through the monopoly you can theoretically recover your investment and those expenses; whereas if you didn't have such a monopoly, then you'd no longer invent things, because you

[0:18:06] couldn't capture enough to earn back the invention, and practically you'd no longer invest as much. And the idea is: yes, on the one hand; but on the other hand, the function that really spreads welfare in society is when that thing becomes accessible to the masses. I mean, how shall I put it — when there were 10 iPhones in the world, yes, and they cost much more than they cost today — I don't think — they didn't cost more than these of today, well, yes — — I'd say in purchasing-power parity they cost more than the slickest iPhones cost today. Eh — then it wasn't spread through civilization. Yes, you can say that

[0:19:09] the appearance of the iPhone was indeed — you could say — helped by patents; although, if we stop to remember, the appearance of the iPhone rests on some alleged patent thefts. Patent thefts. Yes, let's leave that aside for now. Yes, but the appearance of the iPhone, yes, didn't democratize smartphones in this world. No — it wasn't, how shall I put it, it wasn't the main cause of the spread of smartphones in the population. No — when, when those people at Google [laughter] set about making a much cheaper model, yes, the concept of the smartphone began to appear in the population. So the spread, the rise in living standards — you can say, yes, it couldn't have happened without the appearance of the iPhone, but the appearance of the iPhone isn't the reason; rather, exactly the copies. The spread

[0:20:14] of copies grew the smartphone market and grew welfare in the population. So practically the argument that "we have more cool things" works only if you look at the first part. Because actually, if Apple had been able to protect — because I don't know if you remember, but the moment Google came out with the smartphone concept, Apple sued them. Yes — if Apple had been able to protect the smartphone concept completely, and we didn't have Android anywhere today, very possibly iPhones would cost much more today, would be much less widespread, and people would still be on — — old phones, on DS. — On Nokia, [laughter] — — on Nokia. Well, and would it have been so bad — — which — who knows whether it would have been so bad overall. I mean, it depends from what point of view you look, you know? — No. And a conclusion for me from what

[0:21:18] you said is that — — less access to information, but less addiction and ruin of children. I mean [laughter] — — you said — you said from the start: it depends what you want to measure. If you want to measure utilitarianly that everyone has a smartphone, then better allow copying, — — yes? — than to [protect] the original. Well, — — no. For example, Microsoft realized that it's even in their benefit to let people copy and pirate the Windows operating system and Office — — because that way it has access to a bigger base of future customers into whom to shove other products that depend on — — they

become mainstream — — they become a platform — — like many who made platforms that became successful — they didn't ask money for them. They were just a market. Yes, yes. — Well, there's a story about a guy — his name escapes me now — who sat and looked at

[0:22:22] the docks in New York, and loading and unloading a ship took very long in the old days, because they were all — over — — Washington, — — because they were all — no, — — that's a song: "sitting on the [dock of the bay]" [laughter] — anyway; but this guy realized that if there were a method of standardizing the cargo-transfer process, a lot of time would be gained and it would pay off. Thank you. The transport process — the logistics process of transporting goods from one place to another. Yes. And the man invents the container. — Today's shipping container. Yes. The man invents the shipping container. He goes nicely, [patents] it, and what does he do with the patent? He leaves it public.

[0:23:27] He leaves it so that everyone can use it, build containers, use them. He leaves [public] the patent for containers, leaves the patent for cranes, leaves the patent for how to organize the docks, — — because his interest actually was for things to move — — and he keeps the patent for building ships. — Bam, bam. Yes — it's a place that shows somehow how you can generate more wealth even for yourself, let alone at the level of society, as the utilitarians argue — — Uh, utilit— — — [by releasing] the invention, rather than keeping it. There's one more aspect of this intellectual privilege, so to speak. Sir, how on — — earth

[0:24:29] — do you motivate the creators of ideas, of creations from this realm of ideas, to bring them down here to earth by then granting them a monopoly, and to make money — when actually you make them lazy? Someone made one. "I'll live, man, off this idea for 50 years; I won't make another." If it hadn't been [for the monopoly], the guy would have had to work and produce ideas by the bucketful in order to be able — let's say he could profit until someone copied him — a month, two, or a year, two, depending on what idea he had. Afterwards he'd have had to do something else, let's say, if he didn't manage to make a profit from it in competition with the others. — Work is a cost, isn't it? I have to [clears throat] minimize costs, you know? What matters is whether it satisfies certain preferences; he may not do anything anymore. I

[0:25:31] — mean — I mean not the cost, or what happens to the author of an idea, but the argument of the proponents of these privileges: "sir, the prosperity of the whole of society would grow if we granted a monopoly." — It's exactly — it's exactly the protectionist argument. Here it's exactly the same protectionist argument: — "sir, we must take care of [industry]." Well, okay, who pays? Look — the costs that aren't seen, all the others pay them, who would have — — well, "not seen" — they're not seen because they don't take them into account; we take them into account and they're seen. No — they're not seen when you look like that, talking about the idea. Yes, all the people who don't have copied iPhones aren't seen; because — I mean, how many Disneys, how many beautiful cartoons would they have made if they hadn't stopped at only the few they made and

[0:26:34] put out — Mickey Mouse and Snow White and so on. There's also a valuation like this from some, who say: "it would have made — maybe, we imagine, Disney would have kept making cartoons, but it would have made, as today on these platforms, what suddenly attracts the most views. So it wouldn't have had a patent and would have had to make something that wins quickly, and that's it, until it's copied — " — " — and there'd have been different kinds of products. They wouldn't have been valuable, flam flam flam." — Well no, — — but value was measured only much later, when "oh, how sweet the cartoons were." — Doesn't that stimulate creativity — to come up with something else new? — How — — doesn't it stimulate creativity? You have to come up with something new, not with some copies, you know? There's value in derivative works too, or — — and that's ultimately an argument of private

[0:27:41] property. Of — — we talk more — yes — — of private property. It's like the argument for oranges. There's no difference. You know? I raised this objection last time. We Austrians, when we talk about oranges, don't count — — the oranges. We know the incentive argument, and the discussion ends. To me it seems it should be like that here too, you know? If that one has property. — Yes, but here we're talking only about the utilitarian, not the deontological. — Now he's criticized only the utilitarian ones. — Well no — the economic argument is a utilitarian one, the incentives argument, you know? — Well yes. And the answer would be that I too can make the same kind of argument in which precisely the absence of intellectual property stimulates creativity. — Apply it on the other side too. Okay, we take a break from ideas, and apply it on the other side too: that precisely distribution — — I mean thefts, let's say, you know — allow whatever. Look, poor children at school. — No, excuse me, they're not thefts. Okay. You start from — you start from the premise that the rights of

[0:28:42] — I don't call them thefts. We don't call them thefts. Distribution, you know, you see? The fact that you have, I don't know, some money. If I took this money from you — we don't qualify it ethically — and give it to whatever. Well, maybe I give it to a poor child, and who knows what he invents? No, no, no, no, no. On the contrary — the opposite — utilitarianly speaking, the argument holds. As I said too: if you take from me — if I'm sitting on a pile of money, yes, and I have, let's say, 1 billion euros, and you take it and give 1 euro to every person in the street, yes? What will I do next? I'll have to find a way to make other money, since you took this from me. Fine, I could also shoot myself, check out. Anyway I won't be motivated to keep making 1 billion euros, that's clear, because you took it; but I'm still motivated to make other money. — Okay, then what's left of the criticism of socialism? If you say theft — since even these people argue like this, you know? "If we tax them more,

[0:29:44] — wait, you said you no longer said — — "those people become more creative." — Well, the criticism of socialism is a deontological one; it's not a utilitarian one. — This one's utilitarian too. It's also utilitarian. — It's also utilitarian. — It's based — — when the unions say that if we tax him more, he becomes more creative — that's exactly what I'm saying. What are you saying now? — Yes, that's the answer. Yes. — Well yes, but the problem is that — — that's why I said distribution, you know? — And okay — utilitarianly society really grows. If it takes 1 million euros from you and gives it to 1 million people, it grows in the long term — I mean, utilitarianism works. The unionists actually oppose a regulation made by the state by which that one earned a lot on the basis of monopolies, entry restrictions. No — we're not talking about a free market, and those people come and say it's okay to — — Well yes, but you don't know whether in a free market — since we've never had truly free markets — you don't know whether in a free market you'd still have unions. — No, but — — that's our argument; regardless — conflict — this discussion is pointless.

[0:30:48] We have someone who makes money in a free market, and the unions say — or look, the minimum wage. If you make a minimum wage, that one has to find solutions, become more creative — and whatnot — it's a socialist argument for the minimum wage, you know? — So — — he makes robots, for example; he becomes more creative, you know? Like that — he was sitting with those people there. I don't think that's the argument we make. So once again — infect [laughter] — "that one becomes more creative because you squeeze him," you know? That's the argument, — — no? Because you're discussing, on the one hand, the distribution of property, and on the other hand we're discussing value creation. — Wait, briefly. Do you also have the concept of creative destruction? [clears throat] — I don't know what that has to do [laughter] with what I'm trying to tell now. I mean, I don't see where I could — "you make him more creative if you destroy him," or — — no — — in that sense maybe yes. — So it grows, how — how we think. Yes. Not leaving behind GDP. Yes. How we think

[0:31:53] the level of prosperity in a society grows. Yes. More people can afford more things. Correct. That's the argument — — now. Yes. That's how it was now. — Okay. Good. What leads to the ability to

— so what generates market growth? Yes, there are two things. One, a new product, — — which it's true generates market growth, because until that product exists, it doesn't exist. Yes. And the second thing that generates market growth is the cheapening of the product, which increases marginally — yes — the number of such instances of the product. — Exactly. And now, from the economy that goes toward the growth — toward the first growth — of a new product, there's [snore] this granting of a monopoly. Yes. On the design. Yes. But without the second —

[0:32:59] without spreading, yes, you don't generate as much welfare. So of these two methods, the one that creates more welfare in society is the second, not the first. — You stimulate invention. You stimulate other inventions, you know? — Yes. Yes. Yes, but the one who — — the one with Mickey Mouse, for example — Disney. — Plus, even the one with lots of money can't ask you any price, you know? It's a monopoly, and he can — he can't ask any price, because you're in competition with other expenditures. Expenditures — he can't stop them, if he can't — if he doesn't somehow have the possibility to stop the others from creating. — Yes, — — that would be it. If he asks for Disney, I don't know how much — you give him, because — — leave Disney. But if you make a product and in the patent you put the boundaries here, nobody can come in next to you anymore in competition and make it differently. You oblige this one to be — you oblige this one to be creative. He no longer makes the iPhone on whatever operating system, but makes it on Linux at

[0:34:03] the base, blah blah, or Unix, or whatever. And these people immediately sued them. — Man, but distribution — can't you have scaling in his case too — — because he wants to sell more — more scaling. You don't have an incentive. — The incentive is to earn money. If it sells to 10 people, I want to sell to 1 billion. — But why do you want to sell to 1 billion, if you can make the same money selling to 100? — Well, you don't make the same money selling to 100. You — — the same money. You can make the same money. — You don't make the same money, because, yes, there are hypermarkets, or these, you know? — How much — — they'd sell to five rich people like that. There'd be no mega-image. — Someone took two — two Bitcoin, or 12 Bitcoin — for a pizza. — Yes, — — yes. It's crazy. — So you can make the same money. There's the capacity to have products. There are luxury goods today. Costel — exactly the same argument. Yes, there are luxury goods. — The great rich men in capitalism, says Mises, are those who make toothpaste, not those with luxury goods. — And then why — and then why does Louis Vuitton exist today, and why don't they go and

[0:35:08] — and don't make bags for everyone? — No, I think not. So there's a value in exclusivity that we always see with the existence of luxury goods. Yes. — Diamonds. — Even [those], I can say, scale. If some poor person from Romania bought some bag, those people scaled too. You know? — Look, look, an example where things are more clear-cut, it seems to me. I mean, you can do it in the medicines market. There's indeed a company that sells them in certain countries at one price, in other countries at another price; but there are markets — in Africa — where not even the lowest price at which that company can come can those people afford that medicine; and that company doesn't want to lower the price, but nor does it let others make that medicine, who could produce it

[0:36:12] locally there at lower prices that could be sold. — The so-called generics. — Not necessarily. — I don't know which they are, but it's their business. No, no, not only those. Yes, true. — It's — uh — so where do we have greater prosperity: in the case where we have a monopoly on the property of the way a certain medicine is produced, or in the case where we've left it free and more people would benefit from that product? — Well, I told you: one, you stimulate invention; two, scaling. You know — — well, look, the example doesn't scale. — That's how I can say — chapter — how's that Marxist argument? "Well, someone buys all the land." Therefore let's come back to — — Well, the reason someone can't buy all the land is that he can't concentrate so much power. But if the state gave him a

monopoly on something that concentrated that much power, lo and behold, he'd be able to buy all the land too. I mean, the reason is exactly the free market.

[0:37:16] — That's not a physical impossibility. Someone, yes, can really buy all the land, you know? — On the free market — — it's unlikely, but yes. — On the free market he can't. — He can't. — Well, wait, in principle — — how can he not — a contradiction, an impossibility, like — — There's no such thing as — there's what's called diseconomies of scale. At the moment — up to a point you have economies of scale; from a point on you have diseconomies [clears throat] of scale. Costel said — Costel said only that in principle it's possible as a mechanism, and you say no, because at some point something happens. Yes, it's true, at some point something happens; but if he's crazy in the head and keeps trying, maybe he still can't. — He has nothing to do with diseconomies anymore. That's what Alexandru understood — a million hectares. — I know. And afterwards, at the margin, it's more and more expensive. Obviously. — And Alexandru's argument — he anticipated the objection. If you were paying attention, he said that guy is so crazy he doesn't care about money. He pays. — He doesn't have the money. — The money doesn't exist. It's how — — he says the price increase is asymptotic. It's — — there can't be someone who has so

[0:38:19] much money that he — it's — no, — — why not? — No, no, no — — see the argument with diseconomies of scale. He can't produce them. Wait, wait, wait, wait. To me it seems that here the discussion again overlaps between what's right and what's possible. So economics tells us it's not possible, because the [remaining] land approaches zero and the price tends toward infinity. — Yes, that's how it is. That's an economic thing. What's possible? — It seems to me Costel said in principle, sir, that one can try to buy everything. — Plus, that's an empirical prediction. Who can try to — or whoever can try to buy everything — and I can try — it seemed to me that's what he said — — are you referring to today's money, or gold, or something? I mean — — it doesn't matter, you know — — ah, no, yes — — think that any transaction — — with what would he convince people to accept — — any transaction that takes place must produce value for everyone, for everyone involved in that transaction. Yes — for both parties. — Yes. — Yes.

[0:39:20] — Yes. We're talking about a free market. Yes. Here — — we're talking about a free market. — Well, what produces value? To make value of that land — he gives money — — that one has no way to accumulate so much money that — why does he have no way — — because he has to produce this value in order to — — he produced it in previous sales — — okay — it falls from Aunt Tamara — — how shall I put it — so — how shall I put it — he has so much money that, the money being plentiful — — since it's with him, but it's plentiful — — its value falls. When there are 2 hectares left in this world — — which, for the rest of people, their value — — they're infinitely valuable. — Exactly. Does he have that infinity too? — It [laughter] — he has an infinity of money. Okay, Costel, in a free market there's no infinity of money. No, — — no, but — — do you think private parties couldn't build highways because they don't have money? — No, I didn't say that — I really didn't say that. — No — it's a straw man. A straw road. Very much of straw. It's very much — you made a

[0:40:22] prediction regarding — no, you made a prediction — not at certain prices — you said one man can control — — all, whatever resource it may be. — Well, you know what my observation is here? That land — in this case you said land, but the argument is principled, because in any free market this matters. The only way someone will control all of the resource that exists is if he bought part of a very large resource at some point, at a price of nothing, and kept it in reserve until all the rest, which he didn't own, ran out. That's the only way someone can control all the resource in an economy. For someone to acquire all of the resource on the free market — whatever it may be — isn't possible. — Yes, but here there's another joke that changes the scenario: [snore] you said from the start, sir, we're discussing

[0:41:25] land, which is finite. It's a lot like that — a lot, a lot, we can't imagine — but it's, well, it's finite. But that's why in sci-fi films they go to the belt of whatever, to other planets — because practically they increase the available resource. — Yes, — — but anyway, that's something else. That makes concentrating it even harder. — Coming back to Mr. Kinsella's chapter, he says the internet became, let's say, the lens that put these intellectual property rights extraordinarily into the spotlight, because it was an extraordinary copying machine. And there were — — the copying machine. Yes. — Yes. And a mass of infringements of intellectual property rights were produced. In the old days only a few lawyers and a few companies in this world

[0:42:30] fought in this universe. After the internet appeared, everyone saw this problem with, sir, intellectual property, and why we bump into it at every step. And there were some cases of intellectual property infringement — young people, or, as the law says, single mothers who shared a song — bam, they were sued — — [stapled], they were nailed — — and because of the internet these cases were also given great publicity, and then people realized that, sir, there's still an aberration. I mean, we can't — in the old days these fines were: company X and company Y play — — Companies — — "we demand 7 million dollars"; whereas here you can demand 7 million from a lady in a studio flat in Drumul Taberei. — You can demand it, but — — you can demand it, — — but it doesn't exist — — right, and then

[0:43:32] — it's not — I can't demand it from her. That's the libertarian answer. I can't demand it from her. Okay. But in reality these things happened, and then people realized that — I mean, very many people began to discuss this subject. Uh, Kinsella was — if at first he was a lawyer on oil issues — — hm — — and connected industries. Afterwards he moved to — — IP, — — IP — — to patents, actually, — — to patents, and so — — and copyright, and yes, he was there with a few others, discussing these things in academia; and after 2000 everyone began, especially with — — Wait, don't let me — I'll get lost in this. Kinsella seems a contradiction, sir: against IP and a patent lawyer; and he always took care to stress that he wants to defend against

[0:44:35] those who have these habits called predatory patents, in which someone buys a patent and sits on it until someone wants to make something, and bam, he demands money from him; and he defends those who'd be the victims of these — — practices. Yes. — And not only. Also in this piece of the chapter he says that he tried — so starting from recognizing that Ayn Rand's argument — that he started from the idea — Kinsella was initially a Randian. Yes. And he recognizes that Ayn Rand's argument for intellectual property is weak. And he set himself — since he was working in this field anyway — to find a solid argument for intellectual property himself. With this he set out, and after he'd searched for about 10 years and didn't find a better argument, the conclusion presented itself to him

[0:45:41] in the same form in which any intuitive conclusion presents itself — one of those eureka moments: maybe the answer is that actually there's no good argument for intellectual property. — Yes. — And that was the moment he went over to the other camp. — Yes. — And he set about writing the chapter we're now revisiting. — Yes. Ayn Rand, he says, looked — I mean, her great inspiration was the American Constitution, and she put anything in America as good compared with the USSR, where she'd come from. And he mentions Jefferson in letters, for example; he says: "Sir, I haven't seen any difference between Great Britain, yes, which has laws for intellectual property, and other countries." At that time not many countries enforced this property right. He didn't see them as less — less

[0:46:45] prosperous, or — — Here you can say it was Jefferson's lack of vision, but that wasn't the reason. But — — the industrial revolution — where the industrial revolution appears: in Great Britain. — Uh, in Great Britain, — — yes. — Mokyr. Look, a guy, Mokyr, who maintains on this that IP grew [the economy], no? He, I think, and the other one — what's his name? Douglass North. If I don't know — — but the one who first invented that pump that pulls water out of mines with steam — uh, was this law

before, or after he made it? — The law of intellectual property existed in Great Britain in one form or another starting from around 1500, even earlier. — Yes, — — in general. For authors it was — — not for creators of machinery. — Not for inventions. But afterwards it got to inventions too. Look, I'll dig it up and — — tell you.

[0:47:47] — Mm — — good. And here afterwards he says that America then began, through treaties with various other states, to impose: "Sir, you see, we have companies that deal with intellectual properties, so your country too must respect such properties," so that pretty much everyone in this world respects them at present. Good — he puts here SOPA and PIPA, the Stop Online Piracy Act and the Protect IP Act, two things that happened between 2000 and 2020 and for which the honorable government — the prime minister, whatever — voted. Also in the chapter, Kinsella continues with changes and additions he'd make to his original article against intellectual property,

[0:48:52] and they're only a few notions where he could explain better, let's say. He says he'd replace "scarcity" with "rivalrousness." Rivalry — — rivalry. Right. Then, "silly arguments like IP is justified since good ideas are scarce" — he'd likewise replace that. "Corporeal," "material" he'd replace with — — no — he'd use "corporeal" and "material" instead of "tangible." — Tangible. And to add more, let's say, arguments and evidence, especially after what happened since the moment the article was published. Then we move to empirical evidence. He says: "Sir,

[0:50:02] the burden of proving that these intellectual property laws have a utility for the public must fall on those who support these ideas, and not on — it's not the burden of those who fight against these ideas of intellectual property." But he says that since the internet appeared, pretty much everyone has seen a mass of evidence that, utilitarianly speaking, intellectual property isn't supported by utilitarian arguments. And now we move to harder things, in my opinion. And he says: "Sir, intellectual property rights as

[0:51:07] negative easements" — I don't know how to translate. Negative easements — — servitudes. — Negative servitudes. Yes. — Yes. — So when I have an idea — — non-consensual, — — yes. I have an idea, and — — this is important. It's non-consensual. — Non-consensual. Yes. — Yes. And I — — can grant you a servitude if I'm nice, if we agree. — For example, as Alex likes to say, yes, look, the easement road, yes, which passes over my property. I can let you pass there, make yourself an easement road, given that I've surrounded your property, let's say. Yes. You were an idiot and didn't secure yourself a road, and I appropriated around you — I foreclosed you, as someone likes to say — and I say: "okay, since I'm a good guy, I'll let you go out here and pass through here." — But — — it's with my agreement.

[0:52:09] — Hm. I mean, it's us, and I tell you: "I allow you — see, go out here; look, you have from here to here; don't step outside," and you likewise have to agree. — Yes, but it's — — consensual. — Yes. — The nature of intellectual property is non-consensual. You say [something], and I've obliged you not to say it anymore. — Yes, yes. But here, compared with the case of the easement road, here it's about a servitude on my property, sir. You — — well, and the other one was also on my property. I was letting you pass over my property. Yes, done, done, done. Yes, yes, yes. — So what does Kinsella say here? When I obtain a monopoly from the state over a song, over a poem, over a film, yes, I can oblige you [in the use of]

[0:53:18] your [property] — with your hard drive, with your computer, with your mouth. So that's what he refers to in this chapter, and he says it's not right. Yes. He says it's against libertarian principles. Yes. Every dispute, he says here, boils down to assigning, yes, to someone the property right over a scarce resource — over who gets to say what happens to a certain resource. A copyright privilege gives a person or an entity a partial property right over the whole world, which could

[0:54:20] use — — their resources — — their resources in a way that would violate what that law, that copyright, says. Yes. — Mm. Look, one approach here is the following. If — if you have libertarian thinking and you limit yourself to physical, measurable things — yes — you then also have all sorts of concepts that are abstract before being measurable, such as, well, a threat. Someone throws an object [clears throat] toward you — it's his object. Yes. You can repel that object before it does something to you. Why? Because, well, it hasn't touched you yet, but conceptually it'll do you harm, and you're allowed to

[0:55:25] touch another's property against his will, since he wants something — to repel it; and anyway, this would be an observation on this limitation to physical, tangible things. — I'd say you've gone a bit far — I mean, that's no longer a threat. If he threw a stone toward you, that's no longer a threat; that's already aggression. — Yes, but here you're playing — here you're playing in that approach of mine with the range of action. — Well, because otherwise — otherwise how? Well, even [laughter] — even — okay. Even so: if I have a stone in my hand, — — yes, and you see me standing with the stone in my hand and aiming at you, and that — — that's already a threat. — Yes. But why? What do you mean? Why? — How what exactly? How do you prove a threat in a trial? — So I'm in a — so — — You look at him. — What did I — what did I say? Let you look at him

[0:56:28] and film him too. Because that's what I said imminence is. Imminence is the constitution of all the physical circumstances — — Hm — — except the triggering, the human action. Yes, — — all the physical circumstances are there except the action; and to measure those circumstances, you have to have the concept of — — Yes, you have to have it. You have the concept of — — You have to have it. Yes. Imminence, and that measurement before the action. So you say imminence constitutes aggression when the stone has left. But clearly — think — think that instead of a stone it's someone with a gun in your face. The bullet hasn't left, — — but all the physical circumstances are there. Yes, — — yes. But what I want to say is that [clears throat] I don't know whether it has much value. — You have to know what a threat is, don't you? Or what? The idea is that if, with IP, you think only of tangible things,

[0:57:34] material — that — not tangible, sorry, how was it — — on the contrary, — — ideal, — — not tangib— — — tangible. — He said he wants to change it, so it's no longer called "tangible" but "material," and whatever. — Corporeal. Material, corporeal. — The idea is that you have to have these concepts, which for us are easy, they're simple; but I want only to draw attention to them — which, even if they're easy, seem to me to be, look, some concepts. So you have the concept of ballistics, some calculations there; you say, "sir, if this bullet, stone, projectile, whatever, leaves," you have to say: "man, on the basis of these conceptual things I've measured the immateriality." — Yes. — That's imminence. Sorry. — Yes, you have to — — And then no — if you say he isn't allowed to use — isn't allowed to use his body. Well, how — I can do this with a sword, you know that example? I can do this past you, since I didn't touch you.

[0:58:36] — Some still say — and you say, "No, friend, it's a concept of — " — " — action, of measurement, which shows you'll do it to me." — Yes. It's — — as Costel said, ANAF isn't imminent — it doesn't aggress you, since it's not imminence. — Yes, but he says it's credible. You can drop that criterion of immediacy. — Yes, — — but it's credible. — Yes. Uh — — we've done it before. Each one — — well, so it's not a big deal, only that we always function with concepts. I mean, what we're talking about here, sir — the property right, why we designate, tra-la-la — these are concepts. You can't wait for only corporeal, material things to happen. — But look, when you write on a sheet — when you write on a sheet, I don't know, a theorem, or this — — things — — it manifests materially — the idea, the thought, you know — — that you wrote it — well yes, where do you see it? There. How do I know what idea? — No, but look, also when you say it — you say it, some material things happen. It depends where you draw the line at

[0:59:40] material. Yes, because electromagnetic waves are material. — Sound isn't [electromagnetic] waves — at him here. — But what is it — it's only vibration, only the vibration of the air. — Yes. — Well, and — — you modify the air, — — well, it's something material there, isn't it? Where? Which — — this is material? So we, in — pay attention — in a vacuum. — No, but okay. It's not a wave. Sorry, not you — yes, yes, yes. No. Yes. Water. When electromagnetic waves travel through a vacuum. — Okay. Thank you. — But through what do they travel? We don't know. How material is — — that medium? Not medium. The medium through which electromagnetic things propagate. Because if you compare with air — that's where the confusion comes from, I think — if you compare with air, electromagnetic waves, to travel through a vacuum, must travel through a medium, — — through space. — Yes. Yes. But what's the nature of that space? What is a woman? — Anyway. And from there people say: no, there should exist some dark matter something, whatever, through which these electromagnetic things travel, and we don't know.

[1:00:41] — You're going too [far] — — Well no, but we don't know. And the idea I want to — I don't want to act clever, but you don't know where to draw the line. That — — yes, but sometimes you do know that guy has a stone and throws — — you know, you know; but Newton [laughter] knew too, and afterwards Einstein came and said, "wait, buddy, because — " — no, but with simple things like this — you know, if you see that guy with a stone — okay, there too you can have — who knows why he took that stone, you know, to weigh it, you know? Or I don't know — they looked at you by chance. — Yes. He was weighing it, weighing it like that. — Yes. Again comes that about the objectivity of the threat, you know? And that you predicted wrongly, you know? Sorry. I interrupted you. — I don't think what you want to say. You can invent a new weapon. — Ah, yes. — Leave the eyes. You know — — "man, you think you are — and actually I've zapped you in the second second." — Yes. — Yes, but you're a threat to people even if he didn't realize — like you stole someone's wallet, you know? You're a threat. — One thing Kinsella considers

[1:01:45] incompatible with property rights as we know them is the fact that you sit quietly at home and believe you're the owner of your body and of your garden and of the papers and pencil in your house. — But no. — And afterwards the state comes and says — — a private agency could come too. — Yes. — Yes. Yes, that's another rhetorical thing — regarding rape, what I said before: "the state punishes rape." — It's very good that you punish it. — Yes. Yes. — I mean, these are rhetorical things here. Well, in his defense, he had the discussion regarding the conflict between deontology and utilitarianism. We, as deontologists, would accept — and even if it weren't — it would be better on an anti-utilitarian ground — indeed those copies, whatever — you'd say this is it — — it's right to have property if indeed — — what I say is valid — that you generate.

[1:02:50] Think too about schools, regarding the utilitarian discussion — someone would tell you: "well, who'd still go and build schools in Vaslui? These [people make] money in Bucharest" — likewise money in Africa. You know, Europeans [have] enough. "I won't go all the way to Africa to make money on pills." Isn't it good to nationalize education so it reaches every child? — No. — The original socialist argument was ethical: "We must give chances. You know, it's right to give chances." — Then it became economic. You know? "Man, but if we give these chances, that poor child — who knows — the pie grows overall. That one cements — the slide caliper [?] — " you know? — Yes, only they don't universalize those things; and we, deontologically speaking, say a mechanism by which we guide ourselves should be [clears throat] universalizable; because then, if the state says people must not move from the spot, and I'll bring them water, food,

[1:03:51] — energy — — and beatings, since that's the state's force too — then, then you can justify anything. "I have to bring them anything." And we say: well no, man must seek his own resources, his happiness. Right — we see how prices are formed. Whereas if some organization comes — in this case

the state — which says, "well, that man isn't — " the same old argument: "that man isn't free, because he doesn't have everything. Well, then let's bring him everything." You think? Yes. So — — or a decent living, or — another difference between intellectual property rights and property rights over things in the real world: the property right over things in the real world doesn't infringe — — doesn't violate — — doesn't violate another's right over his.

[1:04:53] — Cross, — — whereas my intellectual property right violates another's real property right. Hm. And so precisely — that's why we have property rights: to avoid conflicts; and then these intellectual property rights — — wait — to avoid unjust conflicts, because if [the aim] is avoiding conflicts, property will create conflicts. — They're not — they're not there to avoid them; they're there to resolve them easily — — or correctly. And if it's to avoid them, we avoid them because the solution is evident from the start. — Look, you have a school; some see icons, some — — are atheists — — you give property rights, and you have a segregation by preferences, you know? You've resolved a conflict. — Yes. — If you put them in common, well, they'll keep quarreling. — Fine, they can quarrel that way too, since I'll say no.

[1:05:59] Ah, even if you admit — — they can quarrel that way too; but they'll quarrel — but they'll quarrel over ideas, — — not over physical things. — It depends. If they're libertarians — — it doesn't matter. — I say that if they're libertarians you'll no longer have conflict, because they recognize Gabi's property, you know? — Yes. — No, I won't have a conflict with him, you know? Whereas with socialism, if I have a thing — like his — it's actually mine too; we have a conflict. — We have a conflict. My criticism of Kinsella was that you have conflict over these too. So if we admit property over ideas, yes — I believe it's mine, you know? We have a conflict: why do you use it, since it's mine, without my permission? What he says here is: sir, this, uh, right of — — You have conflict — you have conflict only if you have scarcity. What I say — so the negation of this proposition is that you can have conflict even without scarcity. You know — — ideas aren't scarce, but there's conflict. I mean, I don't want you to use this idea of mine. — Yes, yes, yes. But

[1:07:03] this right of yours, unlike ordinary property rights, restricts my exclusive property right over — — Well yes, but if we've conceded property over ideas — I keep making that parallel with the thief. It's as if the thief said: "well, wait a moment, there's an infringement on my hands." — The question. — When I take a TV from you, you violate my property right over my hands. You know — when you come to defend yourself, to take your TV back? — The question is: why would you concede a property right over ideas? — Homesteading. That was my answer. — How — and how do you homestead an idea? — Well, you create it. — Well no. Well, creating — creation — that's exactly the difference here. — Creating, for you, is different from homesteading. No — — I think you opened — or what is — — not what — not what you homestead. No, Costel — what you homestead must exist. — You homestead a piece of land.

[1:08:06] — It's — — words exist. — Wait a bit. Wait a bit — you're going — actions exist. The body must be real, must exist separately from you. Separately and separable from you. — Words exist, actions exist. Why must they exist separately? — Wait, wait, wait, wait. If you say diffuse things. Pay attention. My body doesn't exist separably from me. I have property over it. — Man, I'd say no, but — — not of — — we won't get into this discussion now. But it says you are your body. — Well yes — because who — I don't know — it seems to me Kinsella, by going down this road in which he keeps wanting to avoid [things], — — may end up leaving libertarianism. You know, — — I've said this before. So all [clears throat] people throughout history sat down — on the ground, squatting, on a stone, on a log. Someone says: "Look, I'll make a chair." Let's simplify. Yes — that physical chair is his. It's right for it to be his, since that's how we discuss here. Yes. And afterwards another sees — he's in a weird, fantastic sci-fi — and

[1:09:10] says: "Don't make chairs yourselves anymore; only come to me, because the concept of the chair is mine." And then — and let's say they accept, since that's what you said — you said let's accept the right of whatever. And they say: "Fine, okay. Give us the limits of your concept of a chair — since yes, you're still primitive, but you have concepts. Tell us the limits of this thing." And that, it seems to me, is the dilemma here: where the idea begins and where it ends, and whether it's right for the components in it — to appropriate those too. Because afterwards people will say: "Are we allowed to make other objects out of wood? Are we allowed to make a chair with four legs, since you made — I imagined — the Dacian one with three?" — Am I allowed to make a chair if I didn't take the idea from you — because that gets lost from — — if I didn't take it. Exactly. Yes. That — — I'm allowed. And my answer is yes. So

[1:10:13] if those people in Africa discover the medicine independently, they can make it. — Well yes. But how does IP work today? — We're not talking libertarian, right? — Well yes, but then if we don't play with where the limits are now? Because when we say IP, you're playing with the current limits. If you want to make a libertarian IP, someone has to give it — not you, not us, I don't know, someone — has to give it some coherent and universalizable limits, and I don't know whether they can exist so that we could verify them, because that's the pain point. We're talking about "sir, are you allowed or not allowed?" Well, wait, it's mine — and the point is being able to verify it. — Yes, the pain point is that for you the only attitude, when someone has made a chair, is that nobody — — he'll never donate the idea. — Mhm. — Nobody can make it independently. Or I'd say, why don't you say he can do it independently? Yes, he can make it independently, he can donate the idea, you know? So — — the problem is that your concept isn't operationalizable. If — — if we're discussing deontologically, it doesn't matter — no, wait a moment, it does matter, because if we've

[1:11:17] found, deontologically, a system that we want to apply to human actions, but it can't be applied — excuse me, it's useless. — To what can't it be applied? — To what can't it be applied? Look at this thing you said, that someone can invent the chair independently. Why? Because how can you operationalize that? To have his chair, that guy has to prove something that didn't happen — that he wasn't inspired by Alex's chair. — And you have to prove that he took the idea from you, you know? If you don't have proof, there's no aggression. — Well, and that's impossible. — Well, and that's impossible. — Well, then you leave it, if you don't have — It's not impossible. — OK. — Maybe I was a neighbor, I sit in the yard all day with Alexandru, and he saw it at my place and made a chair. You know? That's all. — It's plausible to say he took the idea from me. — Well, it's plausible. — Well, yes. Beyond reasonable doubt. — I don't know if that's beyond reasonable doubt. Here it shifts, it seems to me — — that way everything becomes no proof at all — — Exactly. That's the problem. That's the problem I mentioned. So if you get to — if you shift it, where

[1:12:23] are the limits? — But maybe there's no reality, maybe we live in a simulation. That ends any discussion. — Well no, no. I wouldn't go that far. I'd say there are some things we can prove. And the point is where you can verify things here. — Not in someone's heart. Not in someone's heart, not in someone else's brain. — It manifests through actions. — So you have things. — The brain — the chair is in that guy's brain. Aren't there actions that can be seen, so — so no — — the concept, the idea, yes. It has to be around there. — I mean, it isn't this postmodern discourse. Everything is vague, everything is — No, but it's not that there. — We didn't say postmodern, for example. — You said postmodern. That example with who discovered the telephone — — and there were some who said, well no, that guy was first. OK, — — but they were separate in their research. — Yes, see, that's how — there were — — two of these statist theories of intellectual property. — Who registers first at the — — right, or who invents first? — Provably.

[1:13:27] And some said, sir, whoever — whoever registers — — whoever registers first? [sigh] Yes. — And one said: "Sir, there are cases where — — two people struggled to — — invent something or other, like that, and — — the lady at the registry, hang on, slow down," or something like that. Yes. — OK. Nice. — So be it. — Well no, but it's a — it's a thing that really stands in the way. OK. Deontologically. Who is the one — the one who invented first or the one who registered? — There's the possibility of independent — irrelevant. These more complicated things, like in a factory somewhere, through a chemical formula, they make some super great gizmo — — ah — — and you find, somewhere in Siberia, someone makes the same one, and afterwards you prove: hey, a guy came from over there, — — I saw him, he climbed the fence, — — he looked at us, — — yes, these photos — — he took photos. He looked at

[1:14:30] — He took photos of — — these, along with your statements, and he left. — No, no, I don't have proof. He saw — — on camera. OK. — No, but the point is that you can — — So you can prove it, let's say, I'm putting in these more niche ones. Yes. — Aggressions that are 100% clear to us, that someone stole a television. But wait a moment, didn't he have to cover half the distance, then another half, then another half? — But we don't say that. Yes, you have the TV in your possession without owning it. — That's the proof. — No. And Costel says, why are you touching that guy's hands? Well, because he has already committed an aggression. — Yes. — Whereas here the discussion is whether an aggression was committed or not, in order to stop that guy. Speaking of the registry and the inventor, let's say, you have to prove who took it from whom. You know, if the one who registered first took it from the other, he's an aggressor. I — — that's what I'm saying. You can't prove it. — Let's say you can — — you have to prove it. You know that if he can't — if he can't prove it, Costel says you leave him alone. — Yes. — You leave him alone, as with anything. That's it — you know, we have a theft, and it isn't clear to us that the guy stole

[1:15:32] — again. Understand? No. — The physical fact that you can't prove it is a — is secondary to the problem. Costel says it has this thing, any impossibility. Someone stole a chicken. Wait a moment, maybe it's impossible. Which came first, the egg or not? Man, someone stole a chicken, you know? — OK, that's it. [laughter] Wait. You know what's cool? I'd say that for a very long time — but I won't drag you into anything abysmal. But there's one thing I've been saying, as the saying goes, for three years at this table. I've always said and maintained this. You can't know what's in a person's soul. You can't know. Well no, you didn't answer me. Because you assume that if he looked at your chair — — If I write down Pythagoras's theorem, do you know what's in my soul? — No. — I only know you wrote Pythagoras's theorem. — Well, that's what the discussion is about. That's what the discussion is about. Well no, it's not exactly — well, that's exactly what I'm trying to say, that you say: if I looked at you and saw you making the chair, yes, then the concept of a chair formed in my soul. Yes. And with the

[1:16:38] concept of a chair forming in my soul, I've stolen your chair. If I set about making a chair, I've stolen it from you. — Did I say that? — Well yes, that, exactly that is what you said. If you don't understand each other, it means you've said different things. Let's see where the difference is. That guy made a chair and I said: "Wait a moment, this is a chair." [laughter] — No, but if you — — it was the water of Moldova, you know? — No, but I started from — I started from Alexandru's example. Yes. In which someone invented a chair, and you said that if someone invents a chair independently, yes, he's allowed to — he's allowed to use it. Yes. No. — And independently. Yes. That presupposes you can prove, one way or another, yes? Something that happened in his brain. — That he made a chair. That's something that

[1:17:40] happened. — No, your problem isn't with the chair — — but with how the idea came about. — But with how the idea came about. Yes. Someone can make a chair and it's OK. Someone can make a chair and it's not OK. The difference isn't caused by the chair, — — but by how he arrived at the idea —

— in your system, but by how the idea arrived. And to be able to show that one chair is invalid and another is valid, for that invalid chair you have to be able to prove what was in the person's head, — — how he arrived at it. — One paid the copyright fee and one didn't. Simple. — We have nothing to do with a copyright fee. We're not yet at that level of discussion, — — the patent egg — — and my whole argument is that this proving isn't possible. It's not operationalizable. It's held to different standards of proof than what we've used so far in the physical domain. — If someone downloaded a film from the internet, that's enough.

[1:18:42] — Here you can produce proof, but with ideas you can't produce proof. The discussion is about ideas, and it ought to be universalizable. The idea manifests itself, you know? It manifests in the making of a chair. You don't know how — — I saw you making a chair. I made one too, and as a judge I'd rule: yes, sir, — — but you don't know how he downloaded that chair. — For example, if one is — — I don't understand the objection. — So someone — wait a moment — someone recites a poem. You're physically there and he memorizes it. You say you have proof that he was there when he heard it for the first time, and you also have proof that you said it first, blah blah blah. — You say a poem, a third party comes along with the poem, or with a verse of it, it doesn't matter. And you say: man, beyond reasonable doubt this guy copied it from someone who was physically there in the hall when I first said it. But you don't have tangible

[1:19:47] proof, it's just an inference. [clears throat] No, no, I'm proposing this, this — — situation. I was thinking, he said there are two scenarios. You can prove it and you can't prove it. You can prove aggression, as with any physical kind, you know? You can prove aggression. You can't prove it — there's no aggression. — Yes. And on that part we all agreed. — Well then — — the thing I'm adding, or the place where I pushed back, is that you can't prove it. And if you tell me how you can prove it — there are all sorts. Well, it depends on the situation. You have all sorts of situations where you can prove it, situations where you can't prove it. See, exactly — — and where you can't prove it, Costel says leave people alone. What is — again I repeat — what is — — that guy was next to that guy? What's the threshold of — — that guy was next to that guy? Does that seem sufficient to you? — Ah, crap. That's why I said you come with the world-is-a-simulation thing, and — — no, no, but I'm not coming with the world-in-a-simulation thing. Yes, I told you once before that I can look at something, yes, and not see that thing. Right now, we're

[1:20:50] looking at — — 100,000 levels of perception. Yes. For example, we don't know how many — even if it exists, we don't know how many grams of dust have accumulated on — — It's possible. It's possible the guy forgot, and I don't know, was thinking about something else, and made it independently. Are you thinking of a scenario like that? That's what I'm trying to say, that you can't — not that you can't — you can't prove what happens in a person's mind, because if you could prove what happens in a person's mind — — that's not the standard we've used. You can't make a proof of the kind — it's in human nature to remember things. If he was exposed to something, it's in human nature that it could somehow be imprinted on his mind. It's not one-to-one, because everyone has their own connections, blah blah. — Then — then we already have a different discussion. — Well yes, but then we have a different discussion — — because if this is your property — the idea, the chair —

[1:21:55] — and you exposed me to it without consent, you aggressed against me with your property, which suddenly appeared in my mind. — Yes. Good. I mean, if — if perception is involuntary, — — yes, then it becomes an aggression. — We've gotten somewhere. But Gabi has for a long time had a point he said changes the whole discussion. Go on — — but wait, I was also thinking about the chair. — Aha. — [laughter] — The fact that someone says — Kinsella, here, further on in the chapter — makes a chair. — Mhm. — We have to ask ourselves, sir, where did I get the wood? Whose wood is it? — Let's say it's all his. — Because no, no, no — because that particular wood he makes the chair from has a property title.

It belongs to someone — either the one making it or someone else. — Hm. I can make a chair out of my own wood, as my

[1:22:59] property, and it follows that the chair is mine; or I can make a chair with someone else's wood, and the contract says: I undertake to make a chair from this wood for 5 lei. — Labor. — Labor. Yes. [laughter] And the resulting chair belongs to the one who owned the wood — — or whatever the contract says. I don't think so. So he puts the emphasis like this: "Sir, here's where it comes from, sir: any labor, any effort must be rewarded. Creation must be rewarded." He files creation under labor, but creation and labor are an action, not a property title. So ideas can't be subject to property rights. When you sell — as they say in the economic sense, we discussed it a few chapters back — your labor, — — what actually takes place is a transfer. Yes, yes,

[1:24:04] yes. You don't sell a good. There isn't a transfer of two property titles. Nope, nope — — it's a unilateral transfer from one party to another, conditional on my performing a certain action. — Yes. — So in legal theory of property rights, ideas have to fall under labor, under action, — — services — — and so they can't be subject to property rights. — Yes, services are actions [clears throat] and vice versa. — Yes. Services aren't subject to property rights either. Well — — they're only contracted obligations. — Eh — — So you don't have property in labor. Then why does that guy give you money? — He gives you money because you've done him a service. — The labor — you haven't done it yet — — So it's a gift — an employment contract is a gift. — No, — — wait a moment. I have this discussion. I have a piece of property — — and I give you 5 lei if you move my property from here to here. — The labor — you haven't done it yet. You've only performed an action. — They're some changes. — But

[1:25:06] — can you imagine — some changes, with services — — action, labor, services. So some changes aren't goods. — But words matter, and you have to know how you apply them, in what domain you apply them. — So you're not the owner of your labor in order to — — because it's not a — not a — not a good that [laughter] — because it's not a good that exists — — because it's not a good. Kinsella says this and I agree with him here. — You're responsible, then, as a moral actor, moral agent, or whatever you want to call it, you're responsible for the consequences of your actions. — Well, why? — That's — that's the most you can go to: if they're not mine, why should I still be? — What do you mean they're not — the actions are — they're yours — — But you don't have property over them? — They're not. They're yours, sure. I think he runs, he runs so far from these immaterial, intangible things, look, that — — even labor isn't, you know? So — — you were thinking of selling some

[1:26:08] — no, no. The labor is yours, but you don't have a property right in the legal sense over it. — Why? Why shouldn't I have a property right? — Because a property right in the legal sense means something else. — Wait, wait, wait — — because it isn't something else. — Let's answer Costel. If I'm owner of my body, am I not also owner of — — because the property right is a relation between two physical entities. — Yes. Between me and — the relation, a physical thing. The owner and — the profession is a physical thing. A physical thing. How is it not a physical thing? — It's not a physical thing. It's — — if I put it into the computer, it's not a physical thing. — It's your body producing some changes. Changes like this. And after you've done that, sell it to me. — Yes. — Well, what am I selling you? Give me 100 euros to do it. — Well no, give it [laughter] — — you have to give it to me so I hold it afterwards — he has to — he has to have it. That's what we're discussing. Well, where does he have it? — Give [laughter] — the property. — Where is it, man? — He has property rights — — over it. Because that's what we exchange. They're titles — — he has rights over it. No, but specifically over what? Over

[1:27:13] the hand and — — these movements — no, no, not over the hand, because the hand is his — — the hand is his — over what he does. — Yes. Over the movement. — Well yes, if you've already done them, afterwards when you sell them you're selling something else. It's not the same thing, understand?

— I don't understand. It seems like some — — Might be because [laughter] it seems characteristic from your point of view. — It seems to me he started from — Listen, man, if you want to understand what you don't understand. — Go on, explain. I'll explain. So if he makes a movement — you, sorry, you make a movement and he says: "I want to buy this movement of your hand." — Mm — — if he buys it, — — afterwards, theoretically, you no longer have the movement. — No, no, because we have to ask — wait, wait, wait, Alex, wait, wait, Alex. Here, here's what has to be asked. If I gave them, I gave them. [laughter] — When he buys the property right, Costel, when he buys the — — property — why it sounded strange is that there was this conflict between the physical and the transfer of rights. You know — — when he buys the property right [laughter], did he buy from you only that

[1:28:17] instance of the movement, or did he buy your right to make this movement? What did you sell him? — The first. Only the first movement. — The instance. The instance. — The instance. — Well, and what did he get out of this — — the job got done. He did a — he did it for him. I don't know who, you know? He got the job done for him. — Well no. Let's talk about this movement. — Or let's say he pays me just to wave for the first time — I told him like this — — after you make the movement. So you are — it's your property, so to speak. I want you to sell it to me after you've made it. — Yes. That one. — That one. — Yes. No, the instance. Not the instance. — Oh yes, the instance. The instance. That instance, that particular instance. — Namely that instance which he made. — Can you still take it and sell it? — Because it what? — It's gone. — Ah, well that's the one he wants. — That's against him because it's rivalrous. That shows it's rivalrous. — Exactly. — Well yes. — It doesn't matter that it's rivalrous. You can't sell him that one. — It's not anti-Kinsella. Anti the spirit of Kinsella. No, — — no, no, no. Costel, can you sell him that one? — You can sell it — — after I've already seen it, or what? No,

[1:29:20] no, no. After you've made it? After you've made it, — — you show, you show it. I want it. I can sell you this movement. Exactly that one. — A glass — I use it, and after I've used it I can sell you the glass, and after that it's yours. — Because it's anchored in something physical. — A movement. A movement, look, a movement like this. I can't sell it to you afterwards. — To you, and only as an instance. — As an instance. That's what I'm talking about. Yes. I made the instance of the movement. I made it, it's over. Yes. It doesn't have what's missing — what's missing with respect to labor, an activity, a service. It can't — — Well no, he wants that one. — I can't give him that one. — Well, why can't you give him that one? I give it — you want — you can't give it to him? That's the — that's the question. Why can't you give it to him? — That says it's an impossibility. Why won't you give it to me? I don't know. Give me — — Exactly. Well, I can't give it to you. I'll give you another one. Well, I don't want it. Go to hell, you know? — Well, look. Costel. Costel. Costel. The question remains. [laughter] — No, but maybe he asks me. — No, no, no. Leave it — no, not about what the context asks. Yes, that movement is yours, because earlier you said it's yours. It's

[1:30:23] — now it's no longer mine. It was, in the past. It's as if you said to me give me, I don't know, — — give me the movement of your hand from when you were five. Well, I don't have it. Well, [clears throat] — — why isn't it yours anymore? Why — the nature of reality. You know — the nature of reality, exactly, that's the answer. The nature of reality — — it is. And now apply that to an idea you've told him. — Well, and what is it? Because to me this seems absurd too, this with him. He makes some actions. He wants that one. I can't give them to you. I can't give them to you. — Exactly. — Well no, it's that I want past things you can no longer make. Go take it. Exactly. Correct. — That's what Kinsella says too — he says that just as with a service, an action, so it is with ideas. You can't put a property title on them. You can't sell your labor as a property title. — It has nothing — only — I want future actions. I want future actions. I want present actions. Where's the big counterexample? I want future actions. Take this money and give me future actions. — That's possible. That's possible. — Well, that's what all

employment contracts are. — Yes. Well yes. — Well, and what's the big — — He said that, ah, you can't turn back time.

[1:31:27] I've shown that ideas aren't — — He says there's a difference between a property title over labor and a property title over an object. No, — — because an object, after you've used it, — — you can — — you can sell it. The labor you performed at some point, you can no longer sell after you've done it. — Yes, it's the difference between goods and services. What's the problem? That doesn't mean you can't assign the property right. You know? — Well, that's exactly what Kinsella says, that you can't assign property rights over services. — Not over past actions, not over services. — Not over services in general. Over services. — No, no. So the service, the service — — a thing can be sold — after I've sold it to you, the same thing can afterwards be sold again and — — that, yes — — to change owners. — Good. Good. — Labor, once performed — — You've sold it only once, let's say — so its relevance is zero. So what? It's zero relevance.

[1:32:30] — Then it no longer — no longer — — it's a different system of property rights. — It no longer — no longer holds under the definition of property, which is delimitable, excludable, whatever. These are the conditions which, let's say, give rise to a property right. Then that contradicts the fact that it disappears. That damned instance no longer exists. — That instance. Yes. — Yes. It goes poof. — Yes. Something got done. — Yes. Yes. And, well, that set of movements, poof, disappears, and then it no longer fits the definition of property in which you can exclude third parties. — Rivalrous, labor is rivalrous. It's rivalrous, but the owner rec—

[1:33:33] the recipient of the services no longer has anything with which to exclude others. Yes. No, no, because in the definition of property, ta-da, ta-da. Excludability over — ha ha ha. And here it's not even a case of excludability, because she does it and leaves. Excludable, because what I perform then can't be simultaneous with Gabi's labor, let's say in the same space. That [laughter] — no, wait, that's an inherent property. — That's a property — an inherent property. But for all the other things, for excludability to be relevant — the relevance of excludability is that it could be done by two people at the same time — that two people could lay hands on it at the same time, or — — if — if it only exists at the moment when you and only you perform it, — — excludability has no relevance as a

[1:34:40] concept, because nobody can perform your actions at the same time as you — — they're equally serviceable, you know? Like two oranges. One orange isn't identical to another, you know? — Understand? That doesn't mean I can't have the same — — Yes, except — except that the second orange, which is equal to the first, — — then we can't talk about the law of supply, understand? — No, because those aren't — Think about it, wait, to keep it in two — no, no, no, no. One orange isn't equal. Let's follow Kinsella's reasoning. It means the law of supply no longer exists, because you can't have supply. Wait, wait, wait — — wait, wait, wait. Because I've specialized in fools. — You have an example where I sell you an orange, only it disappears. — Depends on the oranges. — Understand? Yes. [laughter] Exactly. Depends on the oranges. — We've had this discussion. — I mean, if you keep selling oranges and they disappear, then you had property in an orange, but the orange never reaches me. — Do services reach you?

[1:35:43] No, they don't reach — talk again — the fact that I can't sell you my labor from yesterday, or things I no longer control, doesn't mean we can't exchange — — services do reach you. — Well no, the services don't reach you, their effects do. The services don't reach you — we already discussed this. If the services had reached you, you could lay hands on them. — Ah, you sell the effects. The effects of a change. But the changes — — well, they're material — services are material. — The effects. The effects — — not the fact that I move my hand like this. The effects, good. — No, the effects are material, not the services — — right. You can say anything is an effect. And if I move my hand like this — well yes, but

the effect was that he wanted to see me move my hand, and, well, look, like this. — Well, it depends. I don't know what you sold when you moved. Mm — — Well, that's what I was saying. Whatever I did, you'd say they're not effects, you know? Well, that's what we find — — I mean, really, I didn't produce the glass, or — yes, it's a good. You know? — That's the discovery of this discussion. That's — yes, that's Kinsella's whole point. — I don't know if it's Kinsella's point. I

[1:36:45] have more faith in you than not. I say that's what he wants, to run away. He runs from all these material things, you know? — Well, and we don't want to run away. No, no, he runs toward all these material things. That's exactly why he says he wants to replace "tangible" with "corporeal" and "material" — because Kinsella's argument is the following, and this is his argument from head to tail. Yes. Property, property rights, exist because it's necessary to assign them over rivalrous objects. Objects with rivalrous uses are by definition corporeal, material. They're — they're not things that disappear in time, because it has to be such that you can — No, you can't have a conflict over the ones that disappear in time too? They satisfy your definition. — I didn't — I didn't — I didn't talk — I didn't just now talk about that. I said

[1:37:48] that property, yes, is something that arises because corporeal objects can — can have rivalrous uses. — Well, and services can have that too — — No, services can't have rivalrous uses, because you just finished telling me that only you are the one who can perform that action of yours at such-and-such a moment. — Well, that's what rivalry is about. — Well no, that's not what rivalry is about. Rivalry presupposes that someone else can too. That's what I told you earlier. For the concept of excludability to make sense, there has to be the possibility that someone else — — could do it — — could lay hands on it. And you exclude him, — — because if he lays hands on it, it's aggression, and you exclude him and tell him: hey, stop. This is my action. — Well, they're rivalrous. They're not rivalrous. — No. The nature of reality is that you can't be at the same time, you know? That doesn't

[1:38:51] mean they're rivalrous. — No. That's exactly what means they're not rivalrous. — You can't be a rival to yourself. — You can't be a rival — — to yourself. — Well, I'm not a rival to others, and I can be a rival to myself. Because I can't be there twice. Oh yes, you can be there twice, but you're identical. Well no, but for someone to force you to be twice in the same place would be far too great an aggression. [laughter] — No, but scarcity — what does scarcity mean? It means excludability. Well, but that isn't the definition. — That's exactly — well, that's exactly the moment, right? Because that's precisely Kinsella's argument, and that's what he wanted to change in this chapter to make his point of view clearer: to no longer use "scarcity" and to use "rivalry" — because that's exactly where the whole chapter starts — well, what he adds, yes — when he's asked what he would change, the first thing he says is I would no longer use scarcity — — and the point would be that these actions aren't rivalrous, right? Or something — — they're not rivalrous.

[1:39:53] — So what? — Well, — — "so what" or "what"? Rivalry is what gives rise — — Rivalry is what gives rise to property rights. That's Kinsella's argument. That's Hoppe's argument. So. So what? Plus, he told you you can have the conflict over ideas too. So what? You know? — Well, that's what we're doing here. We have a conflict over ideas. — No. He defined it himself. You define things so they come out your way. You know — — it's a different — — in such a way. OK. And I wouldn't even have a problem with that. — So that we make progress and don't tire out the audience, I'd have one more important thing to say here. Kinsella says: sir, we already live in a world in which economic goods are scarce. — Where are you? Which chapter are you at? I mean, not which sub- — which letter? — At letter — — E. Sort of — — no. Yes, at E. — Hang on, wait, wait, let me say it once more. You're saying

[1:40:57] action is non-rivalrous? — Yes. — Action is non-rivalrous — — because it can't be rivalrous. — Whereas an ordinary object is what? — It's rivalrous. — It's rivalrous — — because we can both lay

hands on it — — and you can exclude him. — That's not what it's about, man. What isn't it about? What exactly isn't it about? Well, the use of an apple isn't — — the apple is rivalrous. — The use is rivalrous. We can lay hands on it. Mine is rivalrous. — It's not rivalrous, because only you can do it. — Not in the sense that you can no longer do it. — Not in the sense that I can't do it anytime. Anyway, only you can perform your action. — Well, and with an apple, when you bite into an apple, at the exact same time and space? — Well, it's the apple. The apple is rivalrous, not the action. — Yes. — Nobody can bite your bite of the apple.

[1:42:01] — Ah, the apple is rivalrous. You said the action is too — — and the action isn't. Because, as Alexandru said, nobody can bite your bite of the apple. Only you. — Poetic. Go on, go on, go on, you say it. Done, — — wait, let Costel think a bit more. Ah, no. Let's see what he says, I'll think about it more. — Yes. Good. Uh, [clears throat] anyway, we live in a world with many problems. Yes. There isn't much water, there isn't much țuică, there isn't much ham. So why should we add so many problems and make scarce also ideas and the way we'd obtain these many goodies of this world? Yes. And Kinsella says it is downright obscene to invent these intellectual property rights so as to minimize, let's say, yes, access to

[1:43:04] knowledge, to learning, to wisdom — and even foolish and suicidal — to try to put obstacles in the way of learning and so on, by imposing property rights over ideas. Intellectual property is theft. Intellectual property is statism, intellectual property is death. Give us intellectual freedom instead. OK, here there's a rhetorical argument he makes. He puts it like this: "Sir, scarcity, or rivalry, to use his terms, — — yes, is an aspect of the physical world, and this aspect of the physical world in fact produces troubles. Yes, it in fact produces problems.

[1:44:09] — As the saying goes, if everyone had everything, if there weren't — if there were enough to go around for everyone, — — yes, that would be good. Fine. And then in the domain of ideas, the argument goes like this: sir, there we don't have an intrinsic scarcity, an intrinsic rivalry, because look, I can also put Gabi's idea on paper, and see how it multiplies, and there isn't any. And he says here that — — a moral argument, but — — this isn't — isn't a moral argument, it's just rhetoric. I was saying that you could — — He says that — go on, go on, go on, go on. — So imagine we had the same — the same properties with real things. Yes, we have apples, we have ham, we have drink. Yes, if Costel takes that bottle of drink, and it being mine, I still have it too. And all of us looking at it have already taken I-don't-know-how-many copies of the drink, and

[1:45:14] someone comes along in this world and says: "No, no, no, — — let's put up some obstacles. Yes, to this thing. Why should we all have abundance of this instantly, as with ideas, — — with real things? Let's say, sir, whoever created, let's say, his idea of a — — glass, of țuică, of ham first — only he gets to have it, because otherwise there would be no abundance without motivating those who create." — Otherwise — otherwise no value is created. — You say you're self-fulfilling. — I mean, why no abundance? I think we limited it ourselves. — I mean, let's suppose physical things duplicated exactly the way ideas duplicate. — Yes? I mean, not without effort — with no effort, without depriving the original person — I take this glass — well, right now, for example, it's wrong because it's my glass, but say it's Gabi's glass, you know? I take this glass from here, and Gabi's glass still remains there. — Exactly. — That would be good. We'd want it to

[1:46:16] happen that way, — — as Gabi said, a țuică for everyone. Problem over. — Yes. — That's how the world of ideas works today, and the argument would be that we should introduce scarcity, to make them like these. I mean, I took the glass, it's mine. Oops. Nothing's left here. — If you want to use the glass — — but we create a heap of added value from that point of view. No — plus I gave a bad example. I said, if you want to use this glass. Yes. Fine. And what else? [sigh] — And — — and so on. — And so on. But the problem is we've run long and — — is the camera still going? It's at 25. — It's going.

It's going. — Yes, because now it's going. — OK. Good. You know what I was thinking? That with our actions we define rivalry through uses, and those uses are

[1:47:20] actions. You know — — whatever object we talked about, apples, pears, you know how we define rivalry? — Uh, by the impossibility of using it at the same time — in the possibility of using it. — Well yes, but the action would be non-rivalrous. No, — — sorry. — It's — it's an impossibility. So you have the possibility of using it. Everyone can use it at any moment, — — but it's impossible to use it productively at the same time as someone else. — Impossible. Logically. I mean, it doesn't matter except with the exact same bite. The exact same bite. And then how — — I bite. If I want to — so we have an apple. — I want to get to the fact that you can exclude someone legally, not physically. You say, hey, I'm not doing anything with this. — Well, you — well, legally it's the right, but if you don't also exclude him physically it's useless. I mean — — yes, but we're talking about what's right.

[1:48:22] Of course you also have to exclude him physically, otherwise, come on, it's as if you'd accepted — — well, the rivalrous appropriation. What I was saying, when we talk about goods, about rivalry — — we appropriate them through actions. You know how we define rivalry? — Well, I said it. It's about the concurrent use of a good for two incompatible purposes. Actually, you're not even interested in two. — Well, can't you do that with a service? — What? That two people buy my labor power, so that — — uh — — two people buy me, and one wants it like this. So a double use, you know? I do this, one cries, one laughs. You know how it's rivalrous? Not rivalrous — how is it? — Well, it's not rivalrous — — because you make the same movement. — The consumption — the consumption is on their side. — Think, yes, think that you're an actor on stage. — You're like the sun. — Think that you're an actor on stage and you play the role. Everyone consumes it.

[1:49:27] and processes it — — at the same time — — and processes it — — non-rivalrous. — Not everyone, only those who are in the hall. No, the guy in Bulgaria doesn't consume it. It doesn't reach him. The gesture. You know? — It's enough that two can, Costel. It's enough that two can. — Oh yes. It's enough that two can, because two can't use the apple at the same — they can't eat it at the same time. — A shield. An anti-missile shield covers Romania, you know? Understand? Consumption, for them, rivalrous. — Not for Romania's citizens. Consumption is rivalrous for the citizens who aren't under the shield. — Rivalrous. Why rivalrous? It's rivalrous. — Yes, but that was exactly the problem. That's why we talk about that shield being a public good. I mean, exactly the problem you raised. Yes. It's a public good for all of Romania's citizens. Therefore property too, if you want to use it that way, has to be a public good.

[1:50:29] — Universalizable, because if — if you limit it to some public, yes, there's always — — there's still the whole public. It's only this public — — Michael Jackson's audience, but not those who don't see, you know? OK, but you understand the difference, yes, between the fact that the rivalry of the apple is that both can't do the same thing with that apple. Yes, sure, they can look at it, but they can't — both can't eat it, both can't consume it. Whereas the presentation — yes — — they consumed it at the same time. Yes, but it's in the nature — it's in the nature of the service. It's in the nature of the service that it can be consumed by many. — That's why you have the internet, tra-la-la, broadcasting stuff. — It's in its nature, but it's still not — it's not public. — Alexandru, there's always a public that isn't the public. — Exactly. There's always a public that isn't the public. — Well, that's exactly — — don't — don't make the mistake, Vali. That's a

[1:51:33] critique of this public-goods thing. You know what I say? That you have no additional costs, you put that there and — — and what I was saying, they're not excludable. They're always scarce resources. They're always scarce, not because you exclude, but by the nature of the good — — so some are excluded because it doesn't reach — — you cover the whole Earth, you don't defend Mars too. You

know — — I don't understand where we're getting to. You don't understand the difference between the fact that two people can't eat the same apple, whereas seven people can stand under the same shield? — Let's hear what Vali wants to say. Go on, say it — — there's a significant difference there. Yes or no? — You have goods of different natures. Some have the feature that they can be consumed by several — not all. Yes, it's not even public, but by several; and some can't be consumed by more than one, because that's their nature. Features. What can you do? — And if everyone stands under the shield, if everyone stands under the shield, you have to introduce taxation to collect the benefits. Pay attention. For those under the shield they're non-rivalrous. Let's say the consumption is like that.

[1:52:38] Farther away, it's rivalrous with others. I understand. Right. — And what's your argument? All the people under the shield have to be taxed because — because they can't — because they use the shield. — But it's the same thing with intellectual property. — No. How did you get to taxation? We weren't discussing strictly — — Well, maybe I ended up under the shield involuntarily. — Scarcity. No, maybe I ended up under the shield involuntarily. — No, there, discrimination is applied. — Where, at — — you pay a license? You can use that song. You don't pay? Whereas over there it's not possible. Here you can discriminate — with intellectual property you can discriminate — — and with the shield you discriminate. Yes, against someone outside, you know? Yes, against someone outside. — Well no, but you have a consumption. You have a consumption. So I consume — see how much rhetoric and words matter — and here I'll — it seems to me — I'm trying to understand the asymmetry between this, between action and — because I told you, by definition that apple — we're always talking about uses, and all

[1:53:41] those uses are actions, you know? — Pay attention. So you consume — you consume defense under the umbrella — the actions are rivalrous. You know — — Costel? — You don't look at the apple, you look at — you look at the same bite. If you've bitten, I can no longer bite. — It binds an actor, yes, or an actant, however you want to say it. Yes. Action binds an actant to a resource. — A good. — OK. Good. — A good. — An action you do, this. Yes. Who's the actant? What's the resource? — Who does this. — Yes. Who's the actant? What's the resource? Because the nature of the resource gives you — in the nature of the resource lies rivalry. Well, action. Me and my action. — Well, we said we have actant, action, resource when we talk about the apple, and we said rivalry lies in the nature of the resource. — In the apple. — In the apple lies the rivalry. — The hand can be. — Well, who's the actant? What's the resource? Again, — — the hand is the resource, says Costel. Yes, it's

[1:54:45] me — — and the action — — and the action, we do it like this. OK, perfect. Good, I agree with you. And now how can I act with your hand — — so that it's rivalrous — — so that — so that the resource is rivalrous. — But I don't think you have to do that. I think it's enough for me to exclude you for it to be rivalrous. Well, you exclude me by the nature of the fact? — Well, you exclude me because I can do this. — I don't — if I could take your hand and do this, then yes, the resource would be in your hand, which is tra-la-la. — Without controlling you as an actant. So, without needing your cooperation as an actant. — Whereas your hand — yes — with will. If with a resource, for it to really be a resource, its use doesn't depend on the resource's cooperation. — So how was that? Are actions non-rivalrous or

[1:55:47] rivalrous? Actions — — Actions aren't rivalrous because they're not — — I say you can — — I tend to believe they are — — they're not a resource. So we established once already: resource, action, actant. Rivalry resides in the resource. — Well yes, you can't — you can't use my hand simultaneously. — Well no, but I can't use your hand. — Hang on, wait, let's — — only you can use your hand, which is one more intuition that could lead you to the fact that in fact you are your hand, it's not a resource. But, well. Well yes, but it's not enough to say I've demonstrated rivalry from the fact that others can't do it. — No, rivalry presupposes that others can do it. Exclusion is — — that you don't let him. — That you

don't let him. Rivalry presupposes capability. Precisely when you say others can't do it, you've thrown out rivalry right there. — Physical capability. — Why? Why?

[1:56:50] — Well, can someone take your hand and perform actions with your hand? No, — — unless they cut it off. — In which case I think you're aware the self is no longer there, you know? — Yes. My own being. That's it. — Good. And once more he gives "selling does not imply ownership," which we discussed a few chapters back. We'll skip over it. And another thing, another argument, a counterargument Kinsella makes against property rights as they're structured today — — Intellectual. — Intellectual property. Thank you. Yes, correct. An important difference is that, the way intellectual property is structured today, it expires. Whereas property rights, as we've built them from Mother Nature, don't expire. We'll skip to the last part. John Locke and

[1:58:07] the Founding Fathers. — There'd be more things to say. There was also that thing about if I own a red car — — I'm owner of the car, I'm not owner of the color red. — Yes, that, well — — everywhere. Uh — — that's if I didn't invent their color. — Yes, as if you could invent all sorts of colors. But look, here too you end up in a problem of this relativist or non-relativist approach. If colors are a spectrum that exists and that we perceive — because there are also extra colors we don't perceive, outside our physical capabilities. And practically, that spectrum having been conceptualized by British scientists, practically you have — you have the colors in reality; practically you always have our perceptions as a possibility.

[1:59:13] So conceptually a color, somewhere in the whole spectrum of colors, existed beforehand. You [clears throat] can reproduce it or you can't reproduce it. It's not that you invented it. — Right, you can't invent it. — You can invent a method of reproduction. — Exactly. — Which would be a subject for discussion. Sir, you mix such-and-such, such-and-such. Go make this color yourself, without mixing things the way I do, for a period of 10 years. So we don't forget. — Good. Go on — — again with John Locke and the Founding Fathers. Things are short and simple. — Yes. They recognized only a kind of monopoly, sir, for those who create. We actually talked about — — they were more honest — — over those who create something in this world from the space of ideas, and [snore] let's give them, say, a grace period in which they can

[2:00:16] extract a material profit from the idea they had. But in letters and other writings left from them, it was seen that they were nonetheless not very — how to put it — easy, not very comfortable with such — — aspects. — Good, that's it. — Uh, good. Locke — he says that Locke didn't see intellectual property as emerging from natural law, but he wasn't against it as policy. So if the state wanted to, uh, put it in as law, he wasn't opposed to that law. One more argument where Locke, for

[2:01:21] example, didn't take things all the way. That's also why he could be attacked over the infinite regress in the way he set out the conditions of appropriation. But Locke says that if an author sets about writing, with a pencil on paper, yes, the ideas he has, he obtains a property right over that tangible copy of his idea, assuming the pencil was his and the paper — the pencil and paper were his. Yes, but it doesn't follow from this that he has a right over the intangible property represented by that idea. So — — and his example is: I go and carve something into your wood, into a tree you have, whatever, into a log, and afterwards I'm not the owner of the — — sculpture, — — the sculpted object, because the wood was actually yours. — I say yes.

[2:02:26] If I write Pythagoras's theorem on your sheet of paper, your sheet is still — it's aggression because I wrote without consent — but the theorem is mine. The theorem, the theorem, yes. Except that, how we — — sculpture — it's the idea of the sculpture, not that actual one, you know? Yes. The idea of the sculpture, and here's what I wanted to say earlier: so you have a defense over a territory, and the people underneath consume defense. — Yes. Wait, wait, wait, wait. And then — and then you

have a — then you have a person who — — declaims some content to a population, and afterwards that population remembers it, doesn't tell anyone — so that we see that in fact this whole IP is designed for — — the good of mankind, — — well, not some utilitarian thing like that in which some potential profits get harvested, but we don't know how much they'll be. Well — — think about the definition of property. It's a right — what kind of right — a right to exclude. Exclusive. An exclusive right. — The right to exclude, of the

[2:03:28] — exclusive. It's almost like a monopoly. — Yes. — Well, actually a monopoly. — Well, it's not — well, it is — — Well no, no, it's not a monopoly over me. It's not — it's not a monopoly. First of all — — you know what? Look, it's as if — — it's not a monopoly, because there's also property in common, which again works on the same principle. You have the right to exclude the alternative use of your property, of the object in your ownership, by all others. Yes? And if the two of us have property in common in an object, yes, I have the right to exclude all others, you have the right to exclude all others. Among those "all others," from my point of view, are you. From your point of view, so am I. The only way we'll use the object is if the two of us agree on its use. Otherwise, if you want to make pickles out of an apple and I want to make a cannonball, yes, and we have that apple in

[2:04:35] co-ownership, we exclude each other. Nothing happens with that apple. — And an example, — — so it's not a monopoly. That's what I'm trying to say. It's not a monopoly. We also have property in common, — — and it works exactly the same, on the principle of excluding all the others. It's — — it's still a monopoly. Only you have multiple owners. — Well, you exclude me too, and I'm a co-owner. — Well, well, that's what I'm saying. I've excluded you too. If you want to make pickles and I want to make a cannonball. It doesn't happen. I've excluded you from making pickles. — Even though you had the right — you excluded me from making a cannonball. — You have the right to — we make a decision rule. And I have 60 — — No. Well, we make a decision rule. Already there we're no longer owners. You know, on that rule — on that decision rule we have to agree. — Yes. We had 50-50. No, — — yes. — Ah, and I couldn't exclude you — no. — Exactly. — I couldn't. — Oh yes. You could exclude me. We have to come to an agreement. That's the point. Because what remains in the absence of exclusion? Agreement. Yes. If you want to make pickles and I want to make — we've excluded each other. Nothing

[2:05:37] happens. If we both want to make an apple cake — ah, we agree. — We agree. You know what I was thinking about actions and this rivalry? That if I sell something to Gabi, I can't sell the movement to someone else too, you know? And here you'd see rivalry. — But I just said you can sell it. — Not the instance, simultaneously. — I just said you can — — if you dig a hole — — dig a hole for — understand? Let's not do the movement thing, because you'd say those people watch it on TV and that's it, nothing more to say. I dig him a hole. Can I dig — — Well yes, but here it's the nature of the effects you produce that makes — — not the action. — It's not the nature of the effects you — — it can be one hole. I dig only for him. That's all, because I can't. A hole. — Again, it's the nature of the effects you produce with your action — — that bring about this rivalry. And why is it the nature of the effect? Because to dig the hole you need Gabi's land, to be able to dig in it. It's again action, actant, resource. — Well, and the action is rivalrous, you know? No, the resource is rivalrous. — The hole, the hole is a good.

[2:06:41] — So if — if Gabi and I are co-owners of that land, what do you know, you've dug the hole for both of us. — No, but the point is that it's possible. Think of it like the shield, and don't look only at those people. — You understand that property over the resource — the resource is what gives you rivalry, — — not the action. — Well, can you act in 5,000 places simultaneously? — Well, no. [sigh] Because of — — OK. It comes [laughter] from the resource, because — because you can't be in 5,000 places simultaneously. — There, you're the resource. It isn't even the place. — But what you want to say is that my action comes from my body. OK. That was the demonstration. — Well — — yes, agreed. You know, my action — — So it's non-rivalrous. — But it is rivalrous. I told you. If I dig a hole for him, I can't

dig one for someone else too. — Oh yes. That's it. Oh yes. If the resource you're digging in is co-owned, you've dug it for someone else too. And even more — even more. I can't dig it only for him. No, — — no, damn it. So you don't have universality. Understand? My counter-

[2:07:45] example to non-rivalrous consumption under the shield was to say that the shield doesn't cover that much. You know? It's rivalrous with respect to those under the shield, it's non-rivalrous if you look at the others. Same here. Yes, we can imagine you have the hole and it's for both of you, the hole — — the reverse. But anyway. Yes, — — but we can also have it not be, you know? Understand? — Well yes, but — — not be. Again, — — my action is enough. Forget the hole in Argeș or the hole in Bucharest. — What changes the concept of whether it's rivalrous or not is the resource used to perform the action. — Well, and my body, which can't be simultaneous. It's not your body, it's Gabi's land. Because again, go on, dig Gabi a hole without using the land. — So I can be in two places, I can be in a place. — Again, I can't be in two places because — because that place too is an anchor in land. — Similar — wait. — Which exists in someone's ownership. Vali's target is when, when —

[2:08:47] — Well no, I'm a resource too. Forget the land — I'm a resource too. — Well, you're not a resource. That's what I'm trying to say. You're not a resource. To be a resource, you have to be able to be used concurrently by two actants. — Forget the hole, man. The point is that I can't be a hole either. Just as a hole can't be in two places, I can't be in two places either. You know? Costel, Vali didn't say you're the actant, but that for you to be a resource, someone has to use you — two other actants — — at the same time. — At the same time. — And then, only then, would you be a resource. When you perform the action, you can't be multiple, both actant and resource, because you're not being used. That's what Vali means. Vali says the object gives you the nature of the action. — The fact that I work for those people and can't have five jobs at once. Yes, I've demonstrated rivalry, you know? My labor is rivalrous. And — — again, you can have five jobs at once, — — but you can also not have them. Understand? You can — — Yes, but you can have them. Because your whole premise

[2:09:51] is that you can't have them. You can have them — — if it's possible, then — — Yes. I'll give you this non-rivalry of ideas if you want, you know? Yes, they can be consumed simultaneously. — And it seems you'll convince him? You won't convince him. — Careful, he's not the one feeding you. Yes, — — no [laughter], I'm not trying to convince him, no. — Don't kick the kitten. — No. One thing I want to say before I finish. Locke — — describes the legislation of his time that authorized a monopoly for the stationers' company, let's say. — It had a monopoly on printing. — Yes. In his time, and Locke describes this monopoly, which is the closest thing to copyright in his time, as an invasion of the trade, liberty, and property of the subjects. So from this point of view we can't presume Locke was for intellectual property or for granting

[2:10:53] these monopolies on the basis of intellectual property. And there's another argument further on in which Locke himself, in his correspondence, indicated that he didn't consider his theory of property to extend to intellectual property, and that it could exist only by the grace of parliamentary acts. That last bit for Costel Stăvărache, Vali Berceanu, Alex Chiriac, Gabi Munteanu — I've been În Dodii. We say goodbye until next time. Now I've got it, you know? So his thesis — if his thesis is that they're non-rivalrous, and I show, look, they're rivalrous.