

N. STEPHAN KINSELLA
4848 PIN OAK PARK #703
HOUSTON, TEXAS 77081

TELEPHONE (713) 664-8184 (HOME); (713) 752-4360 (WORK)

Wednesday, March 31, 1993

Professor Robert A. Pascal
Paul M. Hebert Law Center
Louisiana State University
Baton Rouge, Louisiana 70803

Dear Professor Pascal,

I'd like to thank you for taking the time to speak with me about jurisprudence, philosophy and other matters last Friday when I was at LSU for the Mineral Law Institute. Philosophy, especially political/legal philosophy, is my passion, and it is such a stimulating (but rare) experience when I'm able to discuss the really interesting, deeper ideas with someone. As I promised you, enclosed is a copy of the article I just had published in the journal *Reason Papers*, published by the philosophy department of Auburn University, entitled "Estoppel: A New Justification for Individual Rights." I am currently working on a much larger, expanded version of many of the ideas discussed in that article; hopefully it will be long enough and good enough to be published as a book. My working title is: *Estoppel and Rights-Talk: Why and Which Rights Exist*.

Pursuant to your urging, I have looked up Voegelin's works, and plan to read his *The Nature of Law and Other Writings*.

Again, I enjoyed meeting and speaking with you, and hope I run into you again in the future. Best wishes for (the remainder of) 1993!

Yours,

My C



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

Tel: (504) 388-1126
FAX: (504) 388-3677

April 6, 1993

Mr. N. Stephen Kinsella
4848 Pin Oak Park #703
Houston, TX 77081

Dear Mr. Kinsella:

Friday I received your overly kind and gracious letter of Wednesday last enclosing a copy of your Estoppel article published in Reason Papers last fall. I thank you sincerely for both.

I too like to meet and have exchanges with people interested in legal and political philosophy and I learned quickly that your concern is a serious one. I am not able, however, to share the views you expressed and implied in Estoppel, at least if they are as they seem to me to be.

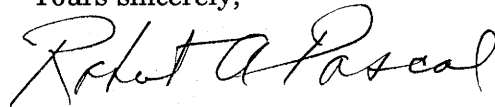
Your repeated statement that one who uses aggressive force against another may not object to similar force being used against him because, in taking his action, he implicitly has approved of aggressive force, is in essence a denial of the aggrieved person's obligation to act morally toward his attacker in spite of the fact that the latter has acted immorally toward him. In Christian terms, one must love everyone, including one's enemies. In philosophical terms, all men form, ontologically, a community of mankind, and everyone in every instance must respect every other person as a member of that ontological community, even one who does not act as he should. Returning to Christian phraseology, one's sin toward another does not justify the other's sin against the first. Punishment that goes beyond action necessary to prevent the offender from harming others, or that is administered for reasons other than eliciting the reform of the offender, simply cannot be justified morally. In that event the initial aggressor indeed may object.

In all probability you posit a mankind of individuals ontologically unrelated to each other. If you do, then you must admit that moral obligations and moral rights cannot exist among them. Each, then, may treat every other as he wishes and none has a moral right to complain of the actions of others toward him. This is Hobbes' state of war. Such persons might enter social contracts creating societies, these societies might enact laws prescribing and proscribing certain behavior, and individuals might enter into private contracts prescribing certain order among them. But none of these conventions — societies, laws, contracts — could have moral force and, lacking moral force, they would neither command respect nor be respected except to the extent, always insufficient, force might be effective. On the other hand, if ontologically persons do constitute a community of mankind, then each is obliged ontologically to respect and cooperate with every other for the good of all. This being true, the conventions of society, law, and contract acquire moral force as means of specifying an order appropriate for securing respect and cooperation for the common good.

You will understand from the above why I cannot in conscience ally myself with the Republican Party, much less the Liberation Party, or any form of individualism, even if such thought is rampant today. I cannot think of my advantage only if I would be a moral man.

You would be well advised to rethink your premises. Philosophy is not logic applied to assumed premises. This is ideology, not philosophy. Philosophy is the perception of reality, not its distortion by seeking to put reality into one's mold. You need to perceive the nature of the human being.

Yours sincerely,

A handwritten signature in cursive script that reads "Robert A. Pascal". The signature is written in black ink and is positioned above the typed name.

Robert A. Pascal
Professor of Law Emeritus

RAP/tjs



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

May 4, 1993

Tel: (504) 388-1126
FAX: (504) 388-3677

Mr. N. Stephen Kinsella

Dear Mr. Kinsella -

I appreciate your time and effort in writing your letter to me dated 4/15/93 and my failure to acknowledge it sooner is attributable only to my having to attend to such different things as attending to the building of a patio at home, having major air-conditioning repairs made, driving to New Orleans several times on family affairs — and two days of unproductive fishing.

You are very articulate, certainly, but I cannot understand how anyone as bright as you can entertain your opinions. Your world is indeed a horrible one. I wish I knew how to lead you to a better understanding of who and what we are. I don't think that anything I could say now would be effective.

I wish I knew more of your background. The Admissions Office here tells me you attended LSU before entering law studies

and received a degree in electrical engineering. This means to me that you did not have the benefit of a liberal education here, at least. You told me you spent a year at the U. of London, but whether in law, economics, or what, I do not know. But I see nothing in your article or letter to indicate any familiarity with the history of the human effort to discover who and what we are, the derailment of thought in the last 500 years, etc.

You said you are acquiring Voegelin's The Nature of the Law. I would like to suggest you acquire & study two other works by Eric Voegelin, The New Science of Politics (1952) University of Chicago Press (now in paperback too) and Science, Politics, & Gnosticism (1968) Henry Regnery Company. You will find them fascinating and instructive. Perhaps they will help you—

Perhaps someday I will say more about your letter of 4/15/93.

Don't hesitate to write me if you wish—or to see me if you come to BH—

Sincerely

Robert A. Pascal



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

6/23/93

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

My letter (to the Southern Law School professors, authors of the article in the February La. Bar Journal) and yours to the Editor of the LBJ, in the June issue, show that we both noticed the "missing hypothesis". You wrote directly to the point, and properly so. I thought I had better be less direct and less obvious and therefore wrote accordingly in my 3rd numbered paragraph —

I do wish the LBJ had noted that my letter had been addressed to the authors of the article, not to the Editor of the LBJ — but alas!

Regards
Robert A. Pareol

N. Stephan Kinsella
4848 Pin Oak Park, No. ~~614~~ 703
Houston, Texas 77081
6-29-93

Dear Professor Pascal-

I was about to drop you a line to tell you I enjoyed your letter to the La. Bar J. - but you bent me to the punch in your letter of 6-23. Strangely, I felt I had to be careful in my comments (also labeled a racist or worse) - and I tried to be subtle and tactful, and as indirect as possible. I thought your letter more controversial - but felt you could afford it, since you're already established; and I am not, quite, yet. I guess we are all - naturally - more circumspect about our own images. I really despise this modern P.C. movement that stifles, chills, and shuts down non-conforming opinions.

Thank you also for your letter of May 4. I would love to hear your substantive critique of my or Hoppe's ideas, if you are ever so inclined. I must admit I am unfamiliar with the significance (to my ideas) of "the derailment of thought in the last 500 years..." I do appreciate your recommending Voegelin's works - I love having books recommended to me, (over)

and I would also be happy to learn of any others — especially background or foundation type books, especially those you consider classics or essential reading for political philosophy inquiries — that you'd like to recommend.

(Currently I'm ~~still~~ searching for & planning to study the writings of Bentham, Rousseau, Hobbes, Dewey, Popper, Freud, Kelsen, Hart, Hannah Arendt, Franz Oppenheimer, Husserl, Hohfeld, ~~Albert~~ J. Nock, H.L. Menckon, and others (Kant, Hume, Nietzsche, Sartre).

Perhaps you won't disagree as strongly w/ my less-political, more legal writing, such as my article on La.'s Civil Code "Battle of the Forms" provision v. the UCC 2-207 version — for th coming in #5 of the La. Law Review.

Best wishes,

Stephen Kusella



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

7/2/93

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

My letter, published in the La. Bar J., really was addressed to the authors of the February article. The LBJ should have included the address, but didn't. Such is the quality of editorial help.

My initial idea was simply to write the authors. But I did send copies to the LBJ & to "the deans". Michael Rubin, editor of the LBJ, asked my consent to his printing, and I said yes. I have not had the habit of mincing words or disguising my opinions, for good or for bad —

Even so, I thought that my referring to the "missing hypothesis", directly, as you did, might be construed as a too direct attack on the authors, for, very obviously to me, they had thought about ^{it}, but had not figured out a way to handle it — Thus my not-quite-as-direct way of discussing it in my paragraph 3.

over

At the same time that I received your letter of 6/29, I received another from Bill (W.T.) Tate in New Orleans, my former student, former colleague, and very good friend. He & his partners thought I was "very brave" to let it be published. This disturbs me. If people exercising an office for the public good (I consider a law professorship to be such) cannot speak the truth without fear of reprisal, then we have lost freedom of speech, certainly. And I feel the same way about a lawyer's responsibility. He cannot in honesty and loyalty to his profession urge anything on behalf of his client that is known by him to be inconsistent with the common good — (Hope you can make the connection)

About "the last 500 years". This is the subject of two Eric Voegelin books I recommended to you: The New Science of Politics (1951) and Science, Politics, and Gnosticism (1960s). The first is basic. The second discusses the intellectual dishonesty of Hegel & Marx.

Best wishes
Robert A. Parent

LOUISIANA STATE UNIVERSITY
PAUL M. HEBERT LAW CENTER
BATON ROUGE, LOUISIANA 70803-1000

Retired Faculty
(504) 388-8588

July 19, 1993

FAX No.
(504) 388-5773

Dear Mr. Kinsella -

Yours of the 9th reached me on 6/15. I have read your letter, but hurriedly, and must read it again. Needless to say I have not yet had a chance to read your book review or your review essay. Besides being in the throes of trying to regulate ^{the life of} my nursing-home-inmate sister, I have been trying to read critically the draft of a monograph, by my ex student, ex colleague, and good friend - probably the brightest person I have ever taught, on Eric Voegelin's The Nature of the Law. I must give that priority.

But I must tell you frankly I cannot take Hoppe and Ayn Rand seriously. I am convinced - we are a community of mankind by creation - or ontologically, as I like to say. Accordingly individualism is out for me. Each of us has the obligation to respect every other and that obligation generates the obligation to cooperate with each other and to generate and to share with

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each other, in accordance with our needs and capacity to enjoy, all the material goods that will make it easier for each and everyone to develop fully his humanity. Competition is out, as far as I am concerned, though I believe it well to honor those who live most humanly, for the good of all — Sometimes I describe myself as a Christian, or more precisely, a Coltrane "communist" — Not an atheistic communist, to be sure. Of course I believe in original sin, know that humans never will live up to all their obligations, and accordingly know that it will be impossible to achieve perfect economic, political, and moral states. We must, however, do the best we can given the facts of existence at any moment.

But I must, before I go further, wish you well in your marriage. Is Mr Kinsella a vegetarian also? I hope I get to meet her sometime.

Your conviction that animals do not feel pain is one I share completely.
(cont'd)

Perhaps the reason can be expressed in terms of deficiencies of their brains, as you put it (though I admit you spoke of crowfish only and not all animals below the human level) but I think the matter can be explained better in terms of the non-humans' lack of self-consciousness. Even though many animals have reactions to conditions under which humans would experience pain, I personally doubt these animals can experience pain itself if they cannot experience their own existence. If they can experience pain in any degree, then to that extent they must experience the possibility of choice and freedom of will. And, if they have freedom of will, I, as a Christian, would have to urge their baptism.

Have you ever read Pierre Thiard de Chardin's The Phenomenon of Man (English trans. 1958)? You might like to do so. For him, the story of creation is one of the steady, increasing development of consciousness. Although I do not recall his direct discussion of consciousness and pain, he does argue the case for will being born with the

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development of the possibility of reflection
by reason of self-consciousness. Others
see his notion as the basis for the
consciousness - pain connection
(Théod was a Jesuit priest and paleontologist,
one of the principals in the discovery of
Peking Man.)

Now that you are married,
you must make considerable effort
to make certain you and your wife
will have time to enjoy each other
as persons. No doubt this will reduce
the time available for your scholarly efforts.
But that's the way things are!

With all good wishes,

Sincerely,

Robert A. Pascal

N. STEPHAN KINSELLA
713/752-4360 (work)
713/664-8184 (home)

December 3, 1993

Professor Robert Pascal
Paul M. Hebert Law Center
Louisiana State University
Baton Rouge, Louisiana 70803

Dear Professor Pascal:

I haven't heard from you in a while. Today I was talking with Professor Devlin, and he mentioned your name, so I thought I would drop you a line and my most recent article that you may find of interest. Therefore enclosed is "Smashing the Broken Mirror: The Battle of the Forms, UCC 2-207, and Louisiana's Improvements," 53 *La. L. Rev.* 1555 (1993).

I hope you have a Merry Christmas and a Happy New Year!

Very truly yours,

N. Stephan Kinsella

Enclosure



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

Dec. 13, 1993

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

It was kind of you to write me and send me a reprint of "Smashing the Broken Mirror". I appreciate your doing so —

My failure to respond to your previous lengthy epistle must be attributable to my failure to understand how we might discuss matters fruitfully. Not only do we start from very different premises, but we use many of the same words with very different meanings. I am too old and now too slow of mind to try to cope with that. I must leave the task of your "conversion" to more energetic people —

But do not misunderstand me now. I will be most happy to see you any time. I respect your dedication to your convictions —
May the first Christmas as a wounded man be a happy one — Sincerely, Robert P. Pineda

JACKSON & WALKER, L.L.P.

ATTORNEYS AND COUNSELORS

1100 LOUISIANA, SUITE 4200

P.O. BOX 4771

HOUSTON, TEXAS 77210-4771

TELEPHONE (713) 752-4200

OTHER LOCATIONS

DALLAS
FORT WORTH
SAN ANTONIO

TELECOPIER (713) 752-4221
TELEX 79-1932

N. STEPHAN KINSELLA
713/752-4360

January 31, 1994

Professor Robert Pascal
Paul M. Hebert Law Center
Louisiana State University
Baton Rouge, Louisiana 70803

Dear Professor Pascal,

I thought you might be interested in seeing an advance draft of an article entitled "A Civil Law to Common Law Dictionary," a version of which will be published in the *Louisiana Law Review*, Vol. 54, No. 5 (May 1994). If you have any suggestions or see anything significant I've left out, I'd appreciate your comments.

Very truly yours,



N. Stephan Kinsella

Enclosure



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

Tel: (504) 388-1126
FAX: (504) 388-3677

February 8, 1994

Mr. N. Stephan Kinsella
Jackson & Walker, L.L.P.
1100 Louisiana
Suite 4200
Houston, TX 77210-4771

Dear Mr. Kinsella:

Your letter and "Dictionary" arrived Friday, February 4, 1994 and I began reading it immediately. You are to be congratulated on your desire to be of service to your Anglo-American legal colleagues and on your enormous energy.

I have read carefully only the first seven pages and I have only glanced at the footnotes. At the moment I am not in a position to devote more time to your project. In my opinion, however, you should delay publication of the "Dictionary" until you have improved its accuracy in both content and language.

The two most serious errors I have noted so far are attributable to your giving too much credence to Shael Herman's recent booklet. Herman would have everyone believe our Civil Code is French in spirit and substance as well as organization and style. I know its substance is basically Spanish and its spirit anything but positivistic, though recent revisions have moved that way. The organization and style, of course, are French. But one may not say that the Louisiana Civil Code was "derived" from the French. The second error, also derived from Herman, is to define "Civil Law" in terms of codification. Roman Law was the original Civil Law and it was not codified in any sense until Justinian's day. French, Spanish, Italian, and Dutch private law were Civil Law systems before their codifications. The South African and Scottish private laws are Civil Laws. It is the Roman tradition that is Civil Law. (Note I have capitalized Civil Law when speaking of law of the Roman Tradition. This is common if not universal practice).

I am enclosing the book review and book note I wrote on Herman's booklet and sent to various law reviews and newspapers. Please read them and correct your "Dictionary".

Being a professor, I could not refrain from improving some of your language in the first seven pages.

Even in those seven pages I found definitions that were either incomplete or inaccurate. You must be more careful or your energy and ambition will work to your detriment.

Mr. Stephan Kinsella
February 8, 1994
Page No. 2

Finally, I don't think you should use Anglo-American sources to define Louisiana terms. If you are citing Black's Dictionary for comparison only, then let your references be clear on that point.

I return herewith the first seven pages of your "Dictionary". I have made copies of them so that my copy of the draft will be complete.

Cordially,

A handwritten signature in black ink that reads "Robert A. Pascal". The signature is written in a cursive style with a large, prominent initial "R".

Robert A. Pascal
Professor of Law Emeritus

RAP/tjs



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

3/28/94

-8588

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

First, my apology for being an unthinking host. I had Sarade pound cake + Texas (Blue Bell) ice cream on hand for us and never thought to serve it, or even offer you a glass of water!

Secondly, I am enclosing a copy of my Rice Institute Pamphlet paper of 1959 published in 1960. We spoke of it Saturday.

Thirdly, about the differences between Babiza + Pascal on the Digest of 1808 as formerly Spanish or French. I say the historical record is that Spanish law was in force in 1803, retained in force by Congress in 1803 + 1804, declared in force by the legislature in 1806, ordered stated in the form of a "code", in French + English in 1806, this "code" was published as a "Digest" of the Law in Force in 1808. Babiza thought — or thinks — that because the drafters used an organizational plan similar to that of the French Civil Code + the Project of that Code (1800) and copied many articles

from those documents in whole or in part, they must be considered to have substituted French law for Spanish law to that extent — Batiza seems to ignore that the drafters copied French texts only to the extent they reflected Spanish law as well and rejected or modified them so as to retain the Spanish rules —

Faithfully, I haven't yet had time to get into my Jurisprudence files. My classes, whether "lectures" or seminars, were always discussion (+ debate) occasions. The "texts" like Bodenhaimers' and Morris' ~~Wander~~ Great Legal Philosophers, N.Y. Pennsylvania Press 1959, were only for student reading. I'll have to see what I have that might be useful —

I was glad to talk Sunday —

Sincerely

Robert A. Pascal

P.S. Father Hubert Brown remembered you + your father + mother very well —



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

June 13, 1994

-8588
Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella -

I have wanted to write you since you telephoned me. Attribute my rather abrupt termination of our conversation to my being very tired and unable to think as clearly as I would wish. My wife + I have had too many engagements of various kinds in the last several weeks and they simply have drained our energies. We were supposed to go to N.O. yesterday for a granddaughter's 3rd birthday party, but cancelled. We were to attend a gala reception + dinner at the dedication of the N.O. City Park Botanical Gardens, largely financed by Mrs. P's wealthy friend, that is to take place Thursday, but we have decided not to go. We just can't take too much exertion any more -

The reprint you have read in MS form, but I thought you would like to have it.

About the ontological foundation of moral obligation. We perceive the obligation to act in a certain way when we note that we are a part of the whole of mankind (a matter of experience), that there is a lack of the order that could be for the good of other persons, and that the good of

of others depends on our actions in the matter. It is the tension between the existential situation and the situation that might be and the realization that our action could have the existential conform more closely to the letter that gives us this sense of obligation. I believe this paraphrases Voegelin fairly well. He discusses this in The Nature of the Law. But it is not new with him.

Years ago I was discussing the basis of moral obligation with an old friend, Donald Borders, now the retired Archbishop of Baltimore, when he stated simply "all moral obligation is ontological". I confess I did not understand him at the time, but after some years I understood, and later I found Voegelin emphasizing the same thing. Perhaps another thing you might check sometime is "The Basic Values in Law", a study by Rev. Thomas E. Davitt, S.J., in Transactions of the American Philosophical Society, New Series - Vol. 58, Part V, 1968, at pp 16-18 especially, but not only —

Don't stop calling me if you have the inclination to do so. If I tell you I can't talk long or at the time, believe me. It will not be because I do not want to think with you —

Sincerely,
Robert A Pascal

N. Stephan Kinsella

1513-305 Manchester Court • West Chester, Pennsylvania 19380
Schnader, Harrison, Segal & Lewis • 1600 Market Street, Suite 3600 • Philadelphia, PA 19103-4252
(215) 751-2157 (work) • (215) 751-2205 (fax) • (610) 701-0508 (home) • nskinsella@shsl.com (internet)

June 21, 1994

I today received your La. L. Rev. book review of Shael Herman's recent book, and your letter, for which I thank you. I read your review in draft form, of course, but have just re-read most of it in its published form. I just put in a request with my firm's library to have copied from a local law library your and Batiza's and related articles in the Tulane Law Review so I can read them myself. I must say that I am leaning in your direction just from the little I know of it so far. I am not sure that it matters very much in terms of interpretation, especially today after so many revisions; and I am not sure that I care too much anyway given my personal antipathy to legislation as such (i.e., that I prefer decentralized lawmaking a la common law). I do not know if I am convinced by your thinking that people favor the French interpretation (even if they know better) simply in order to help foster a more individualist society.

First, I don't know that there is much practical difference in interpretation of the current code, whether or not French or Spanish law is considered to be the source. If so, how would it "help" the individualist cause to support a distinction without a difference. Second, even if I personally believed that urging the French interpretation would lead to a more individualist interpretation of the civil code, and granted that I do prefer individualism and laissez faire, I still would not be willing to falsely say that the French code was the source if I really believed that Spanish law was the source. Rather, I would say that Spanish law was unfortunately the source, but that French law would be better, etc.

I guess my point is that I don't see much of a motive for people to misrepresent the source of the civil code. Therefore, if Spanish law is really the source, yet most thinkers say otherwise, I think they honestly believe it but are merely mistaken. Why they are mistaken, I do not know. Perhaps your article will help me figure that out. I look forward to reading it when my library copies it for me.

* * *

I enjoyed our talk the other night and hope I didn't exasperate you too badly. I didn't call to argue, but I just like to discuss things, especially with a thinker like you, and sometimes I carry it too far. Anyway, I just read Voegelin's *The Nature of the Law*. I must confess that, either it's not that analytically or systematically written, or I just didn't get it all. Lots of it I did, but it seemed to vague and meandering for me. I still do not understand the significance of "ontological" as he (and you) use it. He says (I don't have the book with me so can't quote) that for something to have a nature, it must ontologically exist, i.e. it must exist as a real entity in a definite realm of being, or something like that. I don't see how one can reduce the basic fact of reality like this seems to try to do. To my mind, anything that exists has to have a nature, because nothing can exist without *identity*, a basic part of which is nature. (Which, to my mind, is yet another reason why supernatural things like "God" cannot exist—the way the term God is used, the referent simply has no nature. How often is it said that He can't be

understood, has no definite nature, you can't "limit" him even by defining his essential characteristics, etc. I take this definition as it is used—He has no nature; but then to exist, something must have a nature. But this is another discussion.) Voegelin asks what the nature of law is, and I think he has very many interesting insights. But it seems too mystical to me in some areas; or perhaps the jargon is just over my head because of my ignorance of certain areas. But I do not think so. Perhaps part of the problem was that this is in somewhat rough form since Voegelin never got to clean it up before publication.

I did find his notions of there being a tension between the Order we perceive and the order we experience, and how we feel a tug on us to become more in align with it. But to me that's not enough. It's just not rigorous enough; or, at least, I don't think so yet. We'll see after I read more of him. I do have a sort of natural or intuitive sense as to simple matters of right and wrong; it repulses me to think of murder. But I'm afraid that telling someone to just look inside themselves is not a justification. I never have believed in revelation or a sixth sense. I believe only in normal, sensory evidence; to me the "moral sense" (the title of a recent book by James Q. Wilson) is an appeal to another sort of mystical sense, which I am afraid does not really exist. At least the onus of proof is on the urger. I think it seems intuitive to some for *other* reasons. I know you disagree with these, but I tell you that I am a complete atheist, yet I believe it important to be moral, and I think these things have meaning whether or not there is a God. As I've explained to you before, even if there is a God I don't see what relevance that has to morality, because I am not, in any sense, a positivist. Yet one would have to be a positivist to believe morals could ever be legislated, even by a super-powerful being like God. As I've mentioned, if God exists, and if he is Good, that is indeed fortunate. But it is possible to contemplate an evil super-being running the universe; which implies to me that morals are apriori or come before any notion of a supreme being attempting to decree morals.

So I do not see how you can say that, unless one is a mystic, there are no morals. (Even if this were true, I would gladly admit: "No, there's no God; and this does imply that there are no morals. Thus, unfortunately, in this world there is no right and wrong." I would not want to be dishonest. The world is at it is, and even if it's intolerable that's no reason to delude oneself.) But I do not think this true. I think morals must be independent of the whims and decrees and powers of any Beings. So, therefore, far from your saying that my being atheist precludes my being moral (or, the universe being Godless precluding the possibility of good and bad), I disagree. It seems to me that, if you believe that there are no morals without a God, then you must accept the fact that there are simply no moral truths, since I think it can be shown that there is no God. But additionally, if you say that morals depend on the existence of a supernatural realm, I just don't see your evidence or reasoning for this. It seems to me that your strongest reason is the sort of vague pointing to the emotional and intuitive feelings people have of wrongness, and claiming that this somehow shows that there's some connection to some other realm, or Order or Ought or God. But this seems mere assertion to me, a hypothesis of potential explanation for emotions that does not seem testable nor to satisfy Occam's Razor.

But I am not saying where I do believe morals do come from, because I do believe this in spite of the Godless universe. It has to do with the reasons enunciated in my "Estoppel"

“rational” than the common law—just like communists and socialists are incorrect when they think central planning is more “rational” than the “chaos” and “anarchy” in the market.

* * *

I’ll have to get back to patent-law for now. I must earn the food for my stomach that sustains my mind. Take care, and I’ll speak with you soon. Until then, I remain,

Affectionately yours,

N. Stephan Kinsella



RECEIVED

JUN 28 1994

Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

6/23/94

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

Your letter reached me today. I have read it. I appreciate your honesty. But I almost despair of your ever understanding, such is your desire to be right in your libertarianism. Yet I will not despair. The fact you keep coming back to me gives me comfort & hope —

I am including Dean Semney's Foreword from the Batista special issue of the Tulane L.R. and two chapters, in the rough, & largely without footnotes, of my projected book for laymen on the La. Civil Code —

Yours —
Rita Pascoe

FOREWORD

It is the virtue of history not to be an objective reality, but rather an evocation of events vanished in time. Some, it is true, despair of the condition of the discipline, deploring as it were the tendency of a new generation never to reconstruct the historic past in quite the same way as the previous one. Yet it is well it should be so, since the reconstruction of what once existed can never be definitive and must forever be left open to reshaping at the hands of an imaginative scholar.

In his article on the true sources of the Digest of 1808, Professor Batiza presents us with an evocation of the past which is quite at variance with the reconstruction by others of the events surrounding the birth of codification in Louisiana. He performs his task discreetly, and with great care. Yet the restraint of his scholarly style and method cannot attenuate the startling features of the picture he now gives us of the drafting of this document.

It is fair to say, I submit, that my colleague has solved the mystery, now a century and half long, of the sources of the Digest. There are some, it must be admitted, who suspected the truth all along and to them Professor Batiza gives due credit in his article. Still, it is one thing to foresee the answer to a riddle of history, and another to dispel it by compelling evidence and proving beyond reasonable doubt the French origin of 85 percent of the articles drafted by Moreau Lislet and James Brown.

By a paradox which is not unusual in historical matters, the very resolution of one mystery of the past now serves to unveil another just as elusive. But the new one is of a different character. It is contained in a single paragraph of the *Avant-Propos* apparently prepared by Moreau Lislet for the first edition of the Digest. And it springs from his assertion, advanced as a fact, that the sources of its articles are listed in the interleaves between the French and English texts.

Professor Batiza contends, however, this simply cannot be. He compared the French text of some 1500 articles in the Digest to some 1500 articles in the French Civil Code of 1804 and its *Avant-Propos*, and with startling results. For the comparison shows such a degree of identity or strong resemblance in so many cases as to bar the possibility of mere coincidence. It would strain credulity to suggest we are confronted with an accident of history. So it must be the drafters used the Civil Code of 1804 and the *Avant-Propos* as their primary sources.

Why the references on the interleaves do not include any reference to the French documents which were used as the source of some 1500 articles in the Digest, my learned colleague does not pretend to know and wisely so. There are other mysteries in the sources of the Digest, not the least of which are the use of texts from Blackstone and Justinian. These, and others yet to be discovered, await unraveling and the attention of devoted and imaginative scholars.

It is not out of place for me, at this juncture, to express admiration for the scholarly research of Professor Batiza. He brought to it unusual gifts, being equally at ease in reading English, French, Spanish and Latin. Yet gift for languages is not all. He traced the origin of more than 2000 articles of the Digest to texts ranging across Roman law, French law, and Spanish law, to name only a few. It took extraordinary erudition and unfailing dedication to conduct the research. It is a privilege to praise his article.

JOSEPH MODESTE SWEENEY*

* Dean, Tulane School of Law.

46 Tulane LR (1971)

N. Stephan Kinsella

1513-305 Manchester Court • West Chester, Pennsylvania 19380
Schnader, Harrison, Segal & Lewis • 1600 Market Street, Suite 3600 • Philadelphia, PA 19103-4252
(215) 751-2157 (work) • (215) 751-2205 (fax) • (610) 701-0508 (home) • nskinsella@shsl.com (internet)

July 21, 1994

Dear Professor Pascal,

After our telephone conversation last night, I thought I would send you the initial, tentative abstract for my planned article on "The Irrationalism of the Civil Law" that we discussed. I had briefly mentioned it in my last letter to you, so I enclose a second copy of the last article in case you didn't receive it, although I assume you probably did. However the enclosed abstract of the article provides more detail.

I also wanted to clarify the intent of my question regarding the Ph.D. review we discussed. Regarding a certain Ph.D. thesis that you wouldn't accept, I asked you if it was only because you disagreed with this. You took offense, but when I protested you did not wish to discuss it further. I hope you will realize that if you do not allow me to defend myself it is hardly fair to hold the mark against me. But let me briefly explain what I meant. I suppose my question was an unartful way to express what I meant, and I assure you I did not mean to insult you. I was serious. Often I consider a question, but realize that it may be interpreted as not being "politically correct," but usually I resolve to go ahead anyway, because I refuse to reform my character to conform with other people's misunderstandings. Maybe this is unwise, but sometimes being principled is unwise, I suppose. But it has other benefits.

But I have often wondered how people sometimes seem to separate the judgement of others' works into sort of procedural and substantive aspects. I was a teaching assistant in electrical engineering electronics lab for a while, and had to give and grade tests. But these were tests with objective, scientific answers. Even if the answer is wrong sometimes you give partial credit if you see he was on the right track. In the humanities I realize the standards are more subjective, personal, and ambiguous. How does one fairly grade an essay in an english class, for instance? It is not as simple as the hard sciences.

But in philosophy, where not only technique, but the *truth* matters, I've often wondered how it is possible for a teacher grading a paper to ignore the wrong conclusions of a student and still award him an "A" on some other basis. Suppose I do believe in God; and, moreover, that evidence and reason for God is abundant. Anyone that argues there is not a God is not only wrong in his conclusion, but of course his method must be wrong if it leads him to the wrong result. So, as a teacher, I could give him an "F" merely by looking at his conclusion, since I know his reasoning must be wrong if he reached the wrong result. But teachers don't do this, they try not to be "judgmental" in this way. But if so, I am not clear what standard there could be to grade a paper. How can you isolate in clean fashion the conclusion from the method? If one is corrupt, usually so is the other.

Nevertheless I realize teachers must usually try to grade the style, skill, and content of a thesis but not necessarily its conclusion. But, Professor, in my opinion there are some things that are just too blatant to ever successfully argue against. E.g., suppose a philosophy student

of mine attempted to argue that arguing was not possible. I can't see how I could ever "praise" his work—for what? style? wit?—because his thesis is so absurd. If I give him an "F," or fail to approve this as a Ph.D. dissertation, in a sense I am judging him based on the fact that I disagree with his conclusion. But it is because it is a case where, if the conclusion is wrong, the reasoning must also be very shoddy. Perhaps some fields there is debate. Maybe you could have a brilliant (though incorrect) argument for God's existence; as well as brilliant (as well as correct) arguments for atheism (although you would reverse the parentheticals). But still, and I know you must agree with this somewhat, there is some merit in being *right*, in finding the correct answer. And how is that to be judged other than by comparing the students' opinions/conclusions with one's own?

So I suppose what I meant to ask you in the question at which you took offense, was, when you disapproved the Ph.D. dissertation, was it because it was a case where the conclusion was just so wrong that his reasoning could not matter; or, instead, would it have been possible for him to reach his same conclusions, to hold his same thesis, yet have argued more intelligently for it? That is what I meant to get at in my question, but you would not allow me to explain. In a sense, if a conclusion is obvious or fairly easy to see, arrive at, or demonstrate, then actually, would it not be more excusable for a student to arrive at the wrong conclusion if his reasoning is *bad*? Paradoxically, the more intelligent and well-argued a dissertation, the less excusable it is that the author arrives at the wrong conclusion, assuming the right conclusion is not that difficult to arrive at.

I did not mean to imply that or even ask if you were some unscrupulous teacher who would abuse his position of authority to impose his will on others. I simply don't see how it's always possible to avoid this, though, since in some cases you simply have to make decisions based on your own beliefs, and there is nothing one can do about that fact. But my question really went to the heart of your problem with the dissertation under discussion. I should have asked you instead if the dissertation could have come to the same conclusions, but be argued or presented in a different fashion, that would have allowed you to approve it—or, were the conclusions just so wrong that you don't see how any line of reasoning leading to it could be approved. I must say that I might feel the latter way about many theses; e.g. if a student tried to argue for the economic and/or moral superiority of communism over capitalism—I think this such a wrong position to take that I cannot conceive how any line of reasoning supporting it could be "good" thinking. I would be open-minded enough to give it a chance, but I doubt that anyone's writings could strike me as commendable. To give a starker example—suppose a Ph.D. dissertation was presented justifying the Holocaust; or black slavery. How in the world could any supervising professor ever pass this, if he recognized the immense error and evil of these things? Would it even be necessary to examine the author's reasons to find the error?

When you said you saw Hayek speak, I asked you if you thought him wise—you seemed exasperated and almost bewildered that I would ask such a thing, I suppose because I know that Hayek is somewhat libertarian and you aren't—and you said that how could you think him wise when he reaches conclusions that you know are wrong. Now maybe, as you later maintained, you said that you couldn't think him wise when his conclusions weren't supported by the evidence. But I don't know if there is always a difference. If the evidence shows things to be a certain way (e.g. the natural law philosophy vs. positivism in France at a given time), then you know this to be a fact; and if Hayek argues otherwise, of course you must think him

incorrect, because his conclusion is different than yours; and without even seeing his evidence, don't you already know he's missed something? Unless you, of course, see his reasoning and change your mind; but until you do, you must believe that not only is his conclusion wrong, but of course his "evidence" must be too.

I hope you see now that I meant no offense. It was a simple question, and I am not, and never will be, afraid to ask questions, even despite the "chilling effect" of doing so because of the potential for scorn or related negative opinion that may fall upon me for asking. But if you are still offended I must give up my arguing and simply apologize, and finally state that I did not intend to insult you.

Thanks for recommending Easterly to me—I'll attempt to contact him.



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

7/21/94

Tel: (504) 388-1126
FAX: (504) 388-3677

8588

Dear Mr. Kinsella -

Enclosed is a computer print-out of the information on Prof. Easterby's dissertation. You might get a copy from the microfilm (or microfiche) ^{dept. of the LSU General Library} for a fee, of course. You can call + see what is possible -

If I sounded exasperated last night, it is because I was. I know you are sincere, but I am disappointed in my not being able to get through to you. You seem so indoctrinated in individualism that you cannot see what is obvious - and has been obvious - to most thinking men for ages, that individual persons are not independent of others, but, on the contrary, participate in transcendence as parts of a whole, a community of mankind, and therefore are morally obliged to seek the good of all -

But I will not give up on you! You are too bright to persist in your error -

Sincerely
Robert A. Pascal

Mr. Kinsella
over



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

Tel: (504) 388-1126
FAX: (504) 388-3677

August 22, 1994

Prof. Steven J. Heyman
Illinois Institute of Technology
Chicago-Kent College of Law
77 S. Wacker Drive
Chicago, IL 60606

Dear Professor Heyman:

The reprint of your article, *Foundations of the Duty to Rescue*, 47 *Vanderbilt Law Review* 673-755 (April 1994), reached me some time ago. I want to thank you for it, to acknowledge your careful consideration and development of it, and to offer a few observations.

Of the utmost interest to me was your very clear analyses and presentations of the thoughts of Locke and Hegel. They have enabled me to see each one of them in a more favorable light, but Locke moreso than Hegel, for whereas Hegel's community of mankind is a construct in favor of the individual's welfare, Locke seems ready to acknowledge a community of mankind based on men's common nature. Yet I cannot say I can find in Locke a basis for a moral obligation to cooperate with others as opposed to a counsel to cooperate if one would protect his own life, liberty, and property. And of course I see no more than this in Hegel. And without the recognition of an ontologically indicated moral obligation toward others, there can be no moral obligation to obey a social contract or law. The individual's self-perceived advantage remains his basic norm. I think this is our greatest problem today.

Whereas Louisiana law has no general rule requiring one to act in another's interest, it does encourage action in the interest of others by assuring the unobliged actor of his expenses and costs if the "business" or affair has been "well managed". This, of course, is the Roman institution of *negotiorum gestio*, inherited through the Spanish law, and in our Civil Code under the title *The [Voluntary] Management of Another's Affairs*, Articles 2295-2300. To me this is the most important private law institution we have, for it manifests our appreciation of the need to encourage cooperative action even where it has not been solicited or required by law or contract.

A reprint and a Xerox copy of not-too-recent writings of mine are enclosed. I hope they will interest you.

Sincerely,

Robert A. Pascal
Professor of Law Emeritus

RAP/tjs
Enclosure

You might be interested in Heyman's
article — even though it is not very
libertarian —

Hope all is going well with
you —

RAF



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

6/20/95

Tel: (504) 388-1126
FAX: (504) 388-3677

Prof. James Gordly -

Dear Gordly -

Last week a Philadelphia patent attorney, a 1991 graduate of LSU (never my student, however, I having retired in 1980), FAXed me the citation of your 1994 article, Myths of the French Civil Code. Reading it was a delight, a great satisfaction, for I myself never was able to see the FCC as an instrument of high individualism or capitalist free enterprise.

Shael Herman of Tulane has espoused that thesis with enthusiasm and, further, has tried to maintain that the (Louisiana) Digest of the Civil Laws in force in 1808 in the Territory of Orleans was in the same spirit, quite contrary to the dominant Spanish law substantive content of the Digest and to the instructions which the Orleans legislative assembly had
(over)

given the redactors. But the general desire in Louisiana to view our history and culture as French rather than Spanish is difficult to counter -

For me, the FCC could not be considered a law of high individualism for the simple reason that negotiorum gestio was included among its institutions. N.G. can be explained only as an institution based on a communitarian concept of man, in my estimation, at least -

On the matter of the FCC being an enactment of Portalis' Projet de Gouvernement, I will agree insofar as the substantive content of the FCC is concerned. But it seems to me that it must be admitted that the FCC as enacted was based on the notion of legislative positivism, whereas, as you yourself point out, Portalis' original Preliminary Book speaks eloquently of the philosophical (not theological) foundations of positive law. Of course I know full

well that French legislative positivism
in 1804 did not mean that the legislators
were free of the obligation to follow the
droit naturel in enacting laws.

The notion that the solemnly expressed
will of the legislative representatives
was not subject to le droit naturel
developed only after the time of Auguste
Comte and his kind. In 1804 France
admitted that positive law (legislation)
had to be grounded philosophically, but
gave final judgment in the matter
to the elected legislative representatives
and not to the judiciary —

Many of us at LSU miss Francesco
Parisi. He is very bright and knows
very much —

My best regards —

Robt A Pascal

12-95?

ROBERT ANTHONY PASCAL

2159 Cloverdale Avenue • Baton Rouge, Louisiana 70808-2919 • Tel: 504-387-1325

Dear Mr. Kinsella -

Many thanks for the kindness of your card and attempted telephone call. Sorry I missed you in Baton Rouge. I hope your visit here was pleasant -

Mr. P. + I are well, but our relatives + friends have suffered much. Six of our close relatives died between January 4 and June 20th. My closest friend had two heart attacks, in July and December. As I write, my sister's husband is undergoing a five by-pass heart operation.

As if the above were not sufficient reminders of the perils of old age, a hunting camp operator telephoned me on two occasions,

each time on the day before⁹ hunts,
that under the prevailing weather
conditions the hunt would be too
strenuous for people like me!!
at least he was mindful of the
physical welfare of his patrons—

My best to you. Someday,
I hope, I shall meet Mrs. Kinsella—

Sincerely
Robert Pascal



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

3/1/96

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella -

At Christmas time you telephoned my home, told Mrs Pascal you wanted to ask a favor of me, & said you would call back - Then I did not hear from you. It's all of two months -

I hope all is well with you. I have been well, too occupied with trying to get Pascal relatives to participate in doing something about the Pascal tomb, in St. Louis Cemetery #2 in New Orleans, to mark well on something else. And of course I tried to do a little bird shooting, but, because of bad weather on the days of my reservations, failed to get any duck or goose shooting in - And this was the best season by far in many years -

Both Lapola and Tulone are

casting about for new deans.

Deans are hard to find these days, faculties being too difficult, largely because of a spirit of individualism, I judge.

Let me hear from you -

Sincerely

Robt A Pascal

Who's your candidate for President?

ROP



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

3/11/96

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

Thanks for calling me last week
and for the lunch & company Saturday —

Sometime you could get
better & fuller answers from me if you
gave me time to think. Your mind is
young and certainly very quick, but mine
is like an old computer rather than one of
of the new super-speedy ones. In addition,
often I must remember that whereas we
use the same words, your use of them may
be very different from mine. Your insistence,
for example, that one has a "right" to commit
a moral wrong, to me is a use of "right"
where you should use "power" or "capacity".
This in itself slows me down in
speaking with you —

Maybe the outcome of the



Monday, Dec. 12, 2011

Faculty

Dear Mr. Kinsella-

My thanks for your and Rome's Louisiana Law Dictionary is long overdue. It seems to be a very good piece of work and I am certain it will fill a local void.

As to our controversy on "occupation of land", you are right that the current legislation limits occupation ~~to~~ ~~the~~ movables. But before the articles were ~~amended~~ amended, the CC 1870 recognized "land owned by none" and the possibility of it being occupied. Zicarnopoulos is responsible for amending the legislation and giving the State ownership of land not owned by persons. Through him we have moved from Roman law background to a modern Germanic one. We are not now the better—

Another matter. The Morning Advocate of yesterday has a long article on the theft of land in Texas. You must have it on the Internet.

Sory this 96 1/2 year old no longer can write a clean letter—

Merry Christmas—
RAP



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

3/22/96

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella -

I mailed you my letter of 3/11 at noon
& received your book reviews in the afternoon
mail. Then later I received the copy of Thomas
Barnes' Introduction to The legal Classics & a new
edition of Henry Storer's System of Penal Law. I
thank you for both. I have read all with
some care -

Your book reviews reveal very well
your sharpness of mind and your ability to express
yourself clearly - but I must modify that last
word by noting one must understand how
you are using the word to understand you -
As I believe I remarked in my last letter,
for example, your (libertarian) failure to
distinguish license and freedom can cause
difficulty for those not familiar with libertarian
usage -

My attempt to comment at length
on your book reviews would be only to
repeat observations I have made before about

Utilitarian thought and I want to do that. I could help wondering, however, how you can in conscience be a patent, trade-mark, & copyright lawyer and yet say that ideas are not protectable, the violation not amounting to harm to person or to property. Don't tell me that ideas become property when protected by patents, copyrights, & trade-marks, for that would beg the issue —

Barnes' Introduction is fascinating. It demonstrates broad learning. I am not as satisfied as he is that Yarnopoulos has given the balanced view, and I can't understand his acceptance of Saul Herman's view, or appreciation, of the French Code Civil's character — He must know better. On the other hand his kind remarks about Dargoz's work led me to reread his chapters on the Digest of 1808 and, for whatever reason, I find them better now than I did in 1975. (Did you know that Dargoz's book is a revised Ph.D. dissertation for Columbia and that he turned completely about face after consulting me?)

Again my thanks — and regards.
I'll think of you at the breakfast on 3/29.
Sincerely,

SCHNADER HARRISON SEGAL & LEWIS

ATTORNEYS AT LAW
SUITE 3600
1600 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19103-4252

215-751-2000
FAX: 215-751-2205

DIRECT DIAL NUMBER

215-751-2157
(215) 972-7362 Direct Fax
kinsella@shsl.com

April 17, 1996

VIA Fax (504) 388-3677

Professor Robert A. Pascal
Louisiana State University Law Center
Baton Rouge, Louisiana

Dear Professor Pascal,

Thanks for your comments on my book reviews. I'm also glad you liked the Barnes piece. First off, I want to mention something I forgot to mention when I saw you last, that I ment to bring up— Of course I shall never want to call you anything other than Professor Pascal (even though I was not lucky enough to have you as a law professor), but I would like it if you could refer to me from now on as Stephan rather than Mr. Kinsella—

I don't know if it is sharpness of mind or what, but I do know that sometimes my words tumble out without always waiting for my conversant to finish his sentences. Sometimes I think I anticipate what you are going to say and just respond to the point without waiting for the other's thought to end, even though sometimes I msthink in this regard. But I of course do enjoy speaking with you. I just want to point out that I think that my usage of "rights" is not so obscure as you think it is. First, libertarian thought has grown quite a bit in recent decades, in both fashionableness, sophistication, and in widespread usage. Second, I think many of the terms and concepts we use themselves are not that controversial anyway. It is quite common to maintain that one has a *right* to do evil. This is because the relation between rights and morals is viewed in the following way.

First, for nonrelativists (of which I am one, as are you), there are clearly some things that are moral and some that are immoral to do. It is immoral to murder someone, or to steal from them; and it is also immoral to not use your life to its full potential, to be petty, nasty, selfish, rude, and ill-mannered, or to raise your kids poorly or as Satan-worshippers. Yet some things are immoral because they harm me, myself; some things are immoral because they harm others (and thus indirectly harm myself). Now if we only speak of moral duties, we don't need the language of rights if it is coextensive with morals. The concept *right* arises when we need to describe those particular actions which not only *should* not be performed, but also that *must* not be performed because they violate others' rights and thus may be prohibited by force of law. When we apply

law to some action, we are using force against the action; thus it is proper to ask if we are justified in using naked force against people anytime they do something immoral (something bad for their soul, say), or only for *some* immoral things that they do.

For various reasons, there is only a subset of immoral behavior that rises to the level of being called a rights-violation, so that the behavior may be made illegal. One reason is epistemological. That is, it is too much to expect government to know what is right and wrong in every situation. It is just more efficient and proper to place the jurisdiction for deciding morality at the individual level, at least for “petty” sorts of “moral crimes” like lying, rudeness, and the like. Second, political. In this case even if we could outlaw all immoral behavior, as a practical matter the good occasioned thereby would be vastly outweighed by the harm caused by a government armed with enough power to prohibit anything it deems to be immoral. Such a government would surely be tyrannical, and thus would bring about more (and more serious) immoral actions than would individuals if we let them decide whether to be immoral or not and prevent the government from legislating in this area.

Third, moral. I mean by this that, especially from a moral point of view like your own religious viewpoint (which is consistent with my viewpoint in this regard), the purpose of morals and government and society’s rules are to, in the end, promote goodness in living our lives. We are all considered as having individual stakes in our lives, in leading a good life, in saving our soul, if you will; that is, the goal of morals is to guide us in voluntarily *choosing* the good over the evil. This is what it means to be a good person, to choose it. If we are all forced to do good by law, then we have removed from us the ability to choose it; we would thereby be turned into amoral robots. If you remove temptation, you remove the possibility of moral credit or righteousness. It would defeat the whole purpose of government and morals, which is to allow us to lead decent lives, since our lives would become meaningless, as we were forced like puppets to engage in “good” actions. I do not think religion or God or you or any other proponent of morals or opponent of relativism would be in favor of effectively preempting our volition, our God-given capacity of free-choice. We have free will, and it allows us to have a chance at achieving grace and goodness and morality by choosing the good; to think that all immoral actions should be literally prohibited is to obliterate our status as choosing, moral beings.

Fourth, and most importantly, we simply do not have the right to use force against anyone just because they are acting immorally. To use force against someone implies that what they are doing they do not have a right to do. We thus limit this to egregious types of immoral behavior like murder, etc. A libertarian holds to the reciprocal logic of this situation by saying that if we are using force against someone it can only be justified when the person has himself used force. Thus libertarians believe that the only rights we have are to not have force initiated against us; and thus these are the only rights for which we have an enforceable duty. This does not mean we do not have other moral duties, but only that these are the only enforceable ones. Most people believe we have additional “positive” rights like a right to food, welfare, education, or to be free from pornography, drug use, less-than-minimum-wage job offers, and the like, but even there

Professor Robert A. Pascal

-3-

there is still a distinction between “immoral” action that can be prohibited and between merely immoral action that does not violate rights. Thus for nearly everyone there is a class of immoral actions that you have a “right” to engage in, where right means others may not use force against you for engaging in this immoral action. That is all I mean. I do not mean it *is* right for you to do something immoral; and I do not mean that you have a “right” to do wrong in God’s eyes, for he does not want you to choose to do this (though he does want you to be *able* to choose to do wrong, i.e. have free will).

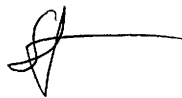
The concept “license” that you suggest is thus useless and unnecessary, as I see it, in the libertarian and indeed mainstream moral universe. In fact I think I have never had occasion to use this concept. I think distinguishing between immoral and moral actions is useful; as is distinguishing between rights-violating actions and non-rights-violating actions.

* * *

You are indeed right that I view all rights are inherently corporeal or tangible, and thus have a problem with the foundations of intangible-property law, such as patents etc. Yet just because I practice this type of law does not mean I support it; nor do I take the blame for an imperfect law existing by harming myself career-wise by boycotting it, anymore than I would refuse to drive on government-funded roads or attend a state-subsidized university just because I oppose these things. I am harmed enough already by the predations of others who accept varying degrees of statism. I refuse to worsen my situation by bending over backwards to navigate the channels others have set up, without my consent. That would be to add insult to injury. There is a famous libertarian novel by Ayn Rand, *Atlas Shrugged*, and in there she describes her perfect man, John Galt, as having a “face without pain or fear or guilt.” I am no John Galt, but, in this regard, I have no guilt.

Take care, and I hope to see you soon—perhaps when I come down for Memorial Day.

Yours,



N. Stephan Kinsella



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

8/13/96

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella -

Once more congratulations
on your writing skill, your industry,
your determination to put your ideas
across -

I cannot comment on "Protecting
Foreign Investment" etc. for I have not
yet seen the book and doubt I would
understand it then.

Your remarks on "Pride & the
Nanny State" and an "Opposing... psc" do not
conform to my appreciation of the
ontological condition of men, as
you must know well - But I am
glad to have the copies -

My best wishes and hope for
your eventual conversion -

Ref



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

Nov. 25, 1987

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella -

Thanks for sending me the formal announcement of the new Intellectual Property Department of Duane et al. It is very impressive - My best wishes for your eminent success there -

You may like to know that in March I will deliver the Tucker lecture here - almost 18 years after my retirement, at a time when my faculties certainly have diminished - But I promise it will be one to be remembered -

Yours
Robert Pascal



Louisiana State University Law Center

Baton Rouge, LA 70803-1000

Retired Faculty

10/17/97

Tel: (504) 388-1126
FAX: (504) 388-3677

Dear Mr. Kinsella —

My best wishes for a good future at Duane et al.

The move means, I'm certain, that you will remain in copyright and patent legal work for the time being. But perhaps someday, when you have become truly famous and very, very rich, you will be able to accept my suggestion that we abolish copyrights and patents as known currently, place them in the public domain, but insure royalties to the author or inventor for a reasonable number of years. My basis for this recommendation, you may remember, is that, believing firmly in a community of mankind

under God, all we do should be directed
to the common good. The royalties are
a concession to the fact persons must
be allowed profit from their activities
as long as there is no other way of
distributing the profits of all to all.

My best wishes, always —

Sincerely

Robert A. Pascoe



Monday, Dec. 12, 2011

Faculty

Dear Mr. Kinsella-

My thanks for your and Rome's Louisiana Law Dictionary is long overdue. It seems to be a very good piece of work and I am certain it will fill a local void.

As to our controversy on "occupation of land", you are right that the current legislation limits occupation ~~to~~ movables. But before the articles were ~~amended~~ amended, the CC 1870 recognized "land owned by none" and the possibility of it being occupied. Zicunopoulos is responsible for amending the legislation and giving the State ownership of land not owned by persons. Through him we have moved from Roman law background to a modern Germanic one. We are not now the better —

Another matter. The Morning Advocate of yesterday has a long article on the theft of land in Texas. You must have it on the Internet.

Sory this 96 1/2 year old no longer can write a clean letter —

Merry Christmas —
RAP