

Anthony Comegna ([00:21](#)):

Welcome back everybody and much like we did a few weeks ago with historian, Steve Davies, talking with us about his IHS history and our program on Chinese philosophy, this week and next, we're joined by Georgetown's John Hasnas. Hasnas is another veteran IHS faculty, who's been involved with events of all sorts over the years, more on that to come. He's our discussion leader at an upcoming program on liberty and civil society, co-sponsored with Liberty Fund.

Anthony Comegna ([00:50](#)):

So, this week we'll talk about his own experiences with IHS and next week we'll move to talk civil society. John Hasnas teaches law at Georgetown University's McDonough School of Business, where he is also the executive director of the Georgetown Institute for the Study of Markets and Ethics. All right, welcome, welcome, John Hasnas. Without fawning too much here, you're easily one of my favorite people from the IHS network and we had Steve Davies on a bit ago, and he's also one of my favorites.

Anthony Comegna ([01:21](#)):

So, I'm used to fawning over IHS faculty at this point, although I really can't place exactly when I first encountered you, but I definitely know that you were giving some sort of a keynote lecture on your famous thesis about the myth of the rule of law. And I say it's famous because I think you're ... In keeping with our 60th anniversary theme here, I think you're most well-known in our network for your summer seminar lectures and your student program lectures, your keynote style things, especially about stuff like this myth of the rule of law. So, definitely start there, tell us all about this idea and why you think it's important, or maybe even where it came from in your studies as a student.

John Hasnas ([02:10](#)):

Okay. That's an interesting way to start, and I might go backwards in time a little bit, because the reason that particular lecture and articles since has been published exists is because the IHS invited me to lecture in the summer, when I had completed my graduate studies. So, I'm sure you're going to ask me questions about the IHS and my history with the IHS. To explain where the myth of the rule of law came from, I have to do a little bit of that anyway, if that's okay with you?

Anthony Comegna ([02:45](#)):

Oh, please.

John Hasnas ([02:46](#)):

All right. So, unlike most of my faculty colleagues that I've met through the IHS, I'm one of the few that never did an IHS program as a student. So, I only participated as a faculty member. Us older people go back so far in time that you couldn't find things out because there was no such thing as the internet and I hadn't encountered the IHS. And in fact, even though there was a flyer up in my graduate department, it was a flyer for the Institute for Humane Studies, and we assumed that was some kind of animal welfare group. So, we didn't know to look for it.

John Hasnas ([03:31](#)):

As a result, the first encounter I had with the IHS was when Tom Palmer, who was with the IHS at that time, asked if I would do two lectures in a summer seminar about common law, and that sounded great to me. I loved the idea of doing it. I didn't know what the IHS was. I sat down, I made up the two best

lectures I could on the common law. I showed up in the summer and I gave these lectures and they were really boring. Why were they so boring? And after having done it once, I realized that at that time, all the people who were attending the IHS summer seminars, which was at that time, smaller groups and mostly graduate students and advanced undergraduates, were all fairly committed classical liberals to begin with.

John Hasnas ([04:26](#)):

And I had made up two lectures that I could present to my students at Georgetown, to a ordinary audience. Well, they were already far beyond that. The things that I was saying, which would be controversial or interesting to a mainstream audience were just boring to those students because they were already there. And I assumed I would never be invited back again, but I was. So, I was invited back for another year and now I understood. So that year I said, what can I present that would be interesting and challenging to people who already have a classical liberal attitude and mindset?

John Hasnas ([05:07](#)):

And thinking through that, I said, well, most classical liberals constantly harp on the importance of the myth of ... Sorry, rule of law. That's sort of a mainstream point that they agree with. Well, how can I challenge them or push their thinking on this? And that started me thinking about it, it eventually became a written article, but it was to present a challenging lecture to classical liberals.

John Hasnas ([05:35](#)):

A little coda to this story is, if you're familiar with that article, there's a story in it about an alternative world where everybody has to wear the same size shoes, and it's my attempt to illustrate something about the law not having to be a monopoly. And I remembered exactly where that came from because I was trying out this lecture at the University of Virginia in the summer and that particular summer, the rooms or the dorms that the faculty stayed in were a long walk away from where the lectures were.

John Hasnas ([06:14](#)):

And I used to walk over with David Schmitz, who was also doing these lectures. And one night I just had a weird dream, and while walking over with David, I described the dream of this society with just, everybody has to have the same size shoes. And he just said, "Yeah, that's great. Put that in." So, that got in that way and that's where the lecture came from.

Anthony Comegna ([06:41](#)):

I just love that. I love that story because I tell you, that is an iconic idea and I know it's not just for me either, because I've heard this in other interviews you've done on other shows and it's a really moving concept because it breaks down, I guess, what Albert Camus would have called, "The absurd walls that are all surrounding us." This idea that somehow law has a controlling force on our lives just simply is not true. Only individual agency does, and I suppose, the limitations of nature, but even those we can apparently conquer or bend to our purposes. So, how do you explain, or what are your reflections on the power of this idea?

John Hasnas ([07:32](#)):

That's an interesting question. My attitude towards what I do is that I don't do anything particularly difficult. When I lecture for the IHS in the summers, I have an extremely unfair advantage over all of the

other faculty members, because the others are lecturing on economics or philosophy or any subject that the students have already taken in college. And when I'm lecturing on law, I'm lecturing on a subject that they haven't been exposed to because they're not in law school yet.

John Hasnas ([08:12](#)):

And so, I don't say anything that takes a lot of insight. I'm just describing what the law is, and since from the time we're little kids up until the time we go to college, what the law is, is so completely misrepresented, that just by stating the obvious people will say to me, "Oh, I never thought of that before. Oh, that's so brilliant."

John Hasnas ([08:37](#)):

I'm not brilliant. I'm just saying things that are really obvious. In one of my lectures, I put up on the screen, the Schoolhouse Rock version of where a law comes from. It's that, the law is sitting on the steps of the Capitol and he's singing his way through and the students walk in and they think that's what law is. Simply describing our legal system, where the rules evolve through the settlement of actual disputes and describing what the common law is and saying something that's not at all controversial, as far as the facts go, it seems extremely enlightening to the students.

John Hasnas ([09:15](#)):

So, I have another article that developed out of a lecture I give to students in the IHS seminars, that's called the Obviousness of Anarchy. And all that is, is a description of how much work the common law does for us in providing necessary regulation, necessary safety rules, everything we need in order to live together, sets of rules that are not created by politicians, not created by the government.

John Hasnas ([09:50](#)):

And the reason why the lecture is the Obviousness of Anarchy is because after you get them describing the way the underlying Hayekian common law evolutionary system works, there's nothing left for government to do. So, this all seems very radical. I know you said it's an interesting idea and I'm sure people who read it for the first time, treat it that way. That's what I've been told. But from my perspective, I'm not saying anything interesting. I'm just describing the way the world works, if you take the time to look at it.

John Hasnas ([10:26](#)):

No one looks at the common law before law school. So, to everyone else, it's like it doesn't exist. The view of the world is complete laissez-faire capitalism with no regulation or the government regulates. And what that leaves out of the picture is where almost all of the regulation we had comes from. The government doesn't regulate business, contract law does. That evolves. The government doesn't regulate our interpersonal reactions very much. I teach tort law. That's what tort law is about. It's just that if you can't see it, it doesn't exist for you.

John Hasnas ([11:05](#)):

I just finished an article now, the title is something like Market Failure, Regulation and Invisible Gorillas. Do you know what the invisible gorilla is?

Anthony Comegna ([11:19](#)):

I do not. I'm happy to say, so that you can explain it to us.

John Hasnas ([11:22](#)):

All right. It's a psychology experiment. It's about human beings and how they focus. So, the experiment was, people had to watch a video of two teams with different color shirts, passing basketballs back and forth, and they had to count the number of passes for each team. While watching the video, while this is going on, a woman dressed in a gorilla suit walks into the frame, stands in middle of the frame, looks at the camera for a few seconds and then walks out.

John Hasnas ([11:58](#)):

After they're done, 50% of the people never saw the gorilla, because they couldn't see the gorilla. And then, they didn't believe there was one there and they couldn't be convinced until the video was re-shown, because they were focused on what they were doing. The phenomenon is called inattentional blindness. If you're focused on something, you don't see other things, even though they're right in front of your face. So, my entire career with the IHS is just pointing out this inattentional blindness.

John Hasnas ([12:32](#)):

Tort law is obviously in front of our face because people spend all their time complaining about it, right? Everybody wants tort reform. The McDonald's coffee cup case shows how over-regulative tort law is. But when it comes time to say, where do we get regulations from? It's like, it just disappeared. So, most of what I do is nothing more than pointing out what's obviously in front of us, but people don't see, because they're focused on something else. Those are my lectures for the IHS. That's what the myth of the rule of law is.

John Hasnas ([13:07](#)):

I mean, the rule of law supposed to be impersonal and objective, and it's something that, just the rules govern what the results are going to be. And every time there's another Supreme Court appointment being made, everybody acts as though that's going to determine the outcome of cases. Well, if that's the case, it's clearly not the rules that are determining the outcome of cases. All you have to do is open your eyes and look around. So, my career with the IHS is just being the guy who says, "Look at this, it's obvious." I don't do anything that requires a great deal of insight.

Anthony Comegna ([13:48](#)):

Well, I really love that actually, because I've said myself, just from my own experience, that among other things perhaps, grad school should teach you first and foremost, how little you know about everything, because you can never get to the bottom of your subject, even as specialized as it might be. There's no end to it. So, all you learn is how little that you actually know. And I love that idea then that the academics job or the really important jobs perhaps, are just cutting through all of that and recognizing some simple truths, that are simple yet profound or really meaningful, at least.

John Hasnas ([14:31](#)):

Yeah. Almost everything I know, or almost everything I've done, is something I stumbled upon. I wrote a dissertation as a graduate student on criminal law and attempted crimes, and to finish that up, I realized I had to look a little bit at legal history. And when, for the first time I started looking at legal history, and I found out, well, I don't know anything. And almost all of the work I do on common law, I stumbled

upon to finish my dissertation because it's not covered in law school. And so, it ended up being a career for me.

Anthony Comegna ([15:11](#)):

Now, I want to pick up on a few other related threads here. Interestingly related, to me, because when I first heard about IHS, it was a flyer on my undergraduate campus and the history department chair pointed it out to me as something I might be interested in. It was like an essay contest or some undergraduate award. And I just ignored it because it sounded like some leftist hippy-dippy group to me. Institute for Humane Studies, they're not going to be interested in all of the stuff I have to say about Austrian economics and the free market.

Anthony Comegna ([15:48](#)):

So, I liked that you thought it was an animal welfare group, because it says how little both of us knew. And what for me certainly was a humble experience once I realized how I really found my tribe here. Speaking of which, a duplicate shout out to Tom Palmer, a former colleague of mine at the Cato Institute, who helped me out a lot in discovering new routes of intellectual history that were worth pursuing. But I really want to follow up-

John Hasnas ([16:17](#)):

I'm interrupting to say-

Anthony Comegna ([16:19](#)):

Oh, please.

John Hasnas ([16:20](#)):

You should give a shout out to Tom Palmer. He helped you come to where you are now. He's the person who invited me to the first IHS seminar I ever did, and I think his mission in some ways is to spread the word to the rest of the world.

Anthony Comegna ([16:38](#)):

Yeah. He's also been very helpful in promoting the work of Ibrahim Anoba, who is an Africanist historian, who's been working on a book and has been on the show before. Everybody at Atlas, they do good work and I appreciate Tom, especially. But I really want to talk to you, I want to dig in because like you said, your experience with IHS is as faculty. So, I want to kind of focus on your interaction, both with students and with faculty at IHS events. Are there any especially interesting or compelling student projects or interactions with students that have stood out to you over the years?

John Hasnas ([17:17](#)):

I've done this for so many years that you don't have enough time for all of my stories. So, let me see, let me pick a couple. One student story, and I hope he doesn't mind me relating it, involves Jacob Levy, the political science professor at McGill. If we go back in time far enough, so I think it was the first or possibly the second summer seminar that I ever did for the IHS. He was a student at, he was an undergraduate at the time. And I gave my lectures as ... Jacob's a really smart guy and he knew I was wrong. He was sure I was wrong.

John Hasnas ([18:01](#)):

And actually, he actually talked to me several times about it because he was convinced I was wrong, but we never settled things. He couldn't quite present me with something that I didn't have an answer for. And so, the seminar was over and a couple of years went by and at the time he was going to do graduate work in Australia. And he stopped by the IHS, which was in Fairfax at that time. And he sent me a message saying, "Oh, I'm on my way to graduate work. Do you want to have lunch?" And I said, "Sure."

John Hasnas ([18:42](#)):

So, I met him for lunch in Fairfax. We were talking for a while and he said to me, "Remember when we spoke two years ago, I was sure you were wrong." I said, "Yeah." And he said, "Well, I've been thinking about it for the last two years, to find out where you went wrong, and when I couldn't come up with a good answer, I decided I had to change my mind." And what I got from that was the kind of things that we're presenting, which are pretty far outside mainstream thought, are not going to change anybody's mind on the spot. They need a two year germination period where people think through them on their own before anybody gets convinced. And ever since then, my attitude has been, I will present ideas and just try to encourage people to go away and think about them.

John Hasnas ([19:35](#)):

And that's much more likely to produce a good outcome than trying to make somebody come to a belief on the spot, when I'm talking to them. I think it's a feature of human psychology that people become committed to ideas that they come up with themselves. So our job, as a faculty member, or as someone who lectures for the IHS, I see my job as to just plant little intellectual seeds and send people off to think about them. And hopefully, we end up with a great many more Jacob Levy's out there in the long-term. That's my student story.

Anthony Comegna ([20:13](#)):

How about your interactions with faculty? Because we know that even student events are not simply student events. The other interactions with faculty and with IHS staff and stuff are really important too. So, share with us some of the more meaningful interactions you've had with faculty over the years.

John Hasnas ([20:32](#)):

I will. The first time I did a seminar for the IHS was 1990. That means that in 2021, that'll be 31 summers that I've done that. Although, I think there was one that I missed, but anytime the IHS invites me to do one of these, I always say yes. There's a couple of reasons, but the reason is because it's been so beneficial to me. When I was first invited, I thought the idea of the IHS seminars was a very good thing for the following reason, in undergraduate education most students get nine months of mainstream and slightly left wing presentations and one week where they get a different point of view presented.

John Hasnas ([21:28](#)):

These are not debates, we're not doing both sides. We're presenting an alternative way of thinking, seemed to me to be a great thing to be doing because people who are classical liberal, especially if you're older, like I am, they spent their entire life trying to make basic points against others who are completely incredulous that anybody believes these things, and that's not productive.

John Hasnas ([21:55](#)):

But when you get a bunch of students together in the summer who are also already a little bit oriented towards classical liberalism, we don't spend our entire time trying to establish basic points. We get to explore ideas at a more controversial, more challenging level. We can have discussions where we agree on the basics, now in the tough questions, which way should we go?

John Hasnas ([22:20](#)):

So, I always thought it was really worthwhile. I didn't realize that in doing them, I was going to get the greatest academic benefit from anything that I do. When I'm at my job, if it's teaching ethics in the business school, that's all we do. If it's teaching in the law school, that's all the focus is. I graduated from law school and graduate school with a lot of knowledge of law, a lot of knowledge of philosophy and no knowledge of economics.

John Hasnas ([22:48](#)):

I didn't study economics as an undergraduate. I had no knowledge of economics, but I went off to the summer seminars, and for the first few years, Mario Rizzo from NYU basically taught me everything about economics. I just listened to his lectures. I had gotten a full undergraduate education on everything that I need to know about economics. And then Mark and others would give public choice lectures. Listening to the other faculty members give their lectures was the best educational experience I could have outside of my field of expertise, and I'm grateful to the IHS and to all the lecturers for that every day.

John Hasnas ([23:38](#)):

That's in general. I do have another story, if you want a story about an interaction with faculty member, do you have time for that?

Anthony Comegna ([23:44](#)):

Oh, please. Yeah, absolutely.

John Hasnas ([23:46](#)):

All right. Well, I've gotten to lecture with just the greatest people. So, lecturing with Dave Schmitz and becoming friends with him was wonderful. Sometime in another context, I can tell you many stories, but one of the people that I lectured with was David Beito and he's an historian and he does a sort of urban history. And one of his lectures is about how fraternal societies supply social welfare services without any kind of government interference.

John Hasnas ([24:23](#)):

I think his lectures are wonderful. Everybody should hear them. His articles on this and wonderful, but for me, it was an eerie experience, and here's the reason why, one of his lectures was about how fraternal societies provide services, all these services. How fraternal societies provide all of these services. My grandfather immigrated to the United States in 1902, I believe. And then, he brought his wife and his oldest son and oldest daughter over a couple of years later. And I knew my oldest uncle who was born, I think in 1902. When he was very old, we used to visit with him and he would tell stories about what life was like in Brooklyn, in the 19-teens and in the beginning of the century.

John Hasnas ([25:23](#)):

And his stories about his life included all of these references that when David was lecturing, I was having deja vu. I mean, David, in his lecture had captured the reality of what was going on. And I was familiar with it because I had heard the stories from my uncle simply describing immigrant life in Brooklyn, in the early part of the century. Descriptions of how they got the equivalent of Social Security, old age annuities and life insurance, and it's something called a tontine that used to exist, that immigrant groups did.

John Hasnas ([26:00](#)):

David had a story about how the fraternal organizations provided the equivalent of medical insurance by having lodge doctors. And one of my uncle's stories was about the Varian, his was the Varian, the Varian doctor that used to come and he would come and provide services, but always, always a representative of the group came with him because besides providing the service, they wanted to make sure you weren't a faker or a malingerer or somebody who's wasting the services. They had a quality assurance control that came with it. And Dave is giving a lecture to undergraduates in the 1990s and I'm hearing stories I had heard from my uncle about the 19-teens and the overlap was amazing. Afterwards, I had to go tell David, "That's the most accurate lecture I've ever heard."

Anthony Comegna ([27:12](#)):

Our absolute greatest thanks to John Hasnas for taking so much time to come on the show. We'll be back again next week, of course, where we'll happily pick up, right where John left off. Make sure you're subscribed to the show, so you won't miss part two with John Hasnas on civil society. And while you're at it, the best way to help promote the show is to rate and review on your favorite pod catcher. In any case, thanks for listening everyone and keep the progress coming.