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0.1 The problem

1. Judicial schizophrenia
2. Dangers of too little protection
3. Dangers of too much protection
4. Unbalance in the explanations

0.2 Possible explanations

Spheres of discourse

- appeal of the property formulation
- sensitive calculus of interests: its world

Slippery slope: fear of eroding property

1. Describe
2. Slippery slope works both ways: what are the dangers in too much property
3. Is i/p nonformal trtmt likely to erode protections for tangible prop?
  - Summarize directions to come: we will look at diffs betw phys & nonphys prop and see if any secure differences, and at whether phys prop really is so monolithic (water rts, bcast rts)
4. Is i/p formal trtmt likely to erode protections for freedom of action ?
  - Summarize disc to follow, including paralysis prob and slip slope to duty to aid (how this happens is a function of the difficulty of determining the exclusive rights)

0.3 Phys Prop and I/p: differences in physical  
characteristix and functions

Exhaustability

Diff functions

First Am problem

PERCEIVED diffly (the idea feels like it shd be free)

0.4 The allure of property analogies

Locke

Possession

Rothbard maybe

0.5 Breaking down the property analogies

Locke doesn't work

ect.

0.6 Defining a taking: the problem of defining the sphere of  
use

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W. Gordon

New organization

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0.7 Explaining characteristics of i/p systems

Concreteness & transferability

Publication (the exploitation problem)