

## **Overcoming difficulties in privatizing roads**

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### **ABSTRACT**

*The present article considers, and rejects, four arguments against the privatization of roads, and in favor of our present system of road socialism. They are 1. Eminent domain is cheap, efficient, and necessary, but only government can avail itself of their “benefits.” 2. Roads are not perfectly competitive, but rather, necessarily, are characterized by monopolistic elements, which only the state can address. 3. Roads are different than everything else; people impose waiting costs on others without taking them into account; this externalities problem is a market failure that, again, only government can solve. 4. Road privatization is unfair to abutting property owners. In section 3, the paper deals with five objections to, or difficulties with, street and highway privatization: 1. The government has violated “Non-Compete” clauses to protect private investors in roadways. 2. Private industry would find it impossible to discern rational prices for its services. 3. Should public roads be commercialized before being privatized? That is, should the state first charge a price for these services and then privatize, or do the opposite? 4. Road privatization would be a public relations nightmare. How should this be dealt with?*

### **1. Introduction**

For the purposes of this article, we will take it as a matter of stipulation that it is desirable to privatize all traffic arteries. That is, all extant streets, roads, avenues, highways, etc., should forthwith be taken out of the control of governments, whether federal, state or local, and placed into private hands. There is a wealth of literature attesting to the benefits of market provision of goods and services vis-à-vis governmental, in general, which is well known especially since the demise of the Soviet economy, and also with specific reference to roadways, (1) which is far less well known.

Rather than reiterating the case for free enterprise in this domain vis-à-vis socialism, (2) we will instead focus in section 2 on several objections to implementation, in

section 3 consider some difficulties with the transition period. We conclude in section 4.

## 2. *Objections*

### 2.1 *Eminent domain is cheap, efficient, and necessary*

One argument against private roads is that the costs of amassing rights of way on which to build them would be enormous. Suppose a private highway company is trying to build a facility stretching from Boston to Los Angeles, or even from New Orleans to St. Louis. They have purchased sufficient acreage in order to do so, when they approach Mr. Harry Holdout, who refuses to sell at any but an astronomical price. This, alone, would put paid to the entire enterprise. Not only would not coast-to-coast highways be impossible under private enterprise, but this applies to intra state roads as well. Nor would, even, city streets be free of such impediments; after all, Harry Holdouts can be found anywhere there is money to be made by obstructing progress.

No. What is needed if roads are to be built in the first place is the government, for this is the only institution in society that can rely upon powers of eminent domain. (3) Here, the state simply commandeers the property in question, paying what it determines is a fair market price. This can save millions of dollars, rendering public provision of highway building far more efficient than private.

There are difficulties with this objection. For one thing, it commits a very basic economic fallacy, a confusion of real costs with out of pocket expenses. Of course, it government sets its own price, based upon what *it* feels is “fair market value” this is likely to be far below the level the property owner might insist upon. But the true costs are the alternatives foregone, and no one can know them apart from the owner in question.

Even to characterize him as “Harry Holdout” is to do violence to economic reality. For anyone, in any transaction, can use such a derogation against anyone who will not sell his wares for what the buyer deems an appropriate price. The point is, there is simply no objective way to distinguish the so called holdout from any other property owner who will not sell at a price favored by the would be purchaser.

Then there is the fact that there are often several if not numerous routes that a road from one city to another could take. All one need do is purchase *options* to buy contiguous land, at previously agreed upon prices, and if there is any supposed “holdout” activity, e.g., high prices on the part of one or a few sellers on any of them, merely utilize another. In this way, the property owners along each of these routes are

made in effect to compete with each other. And this is to say nothing of the possibility of bridging over, or tunneling under, the holdings of a recalcitrant seller. It will of course be more expensive to do so, but this expense places an upper bound upon what the road assembler need pay to any one property owner along his selected route. This analysis can also be used to refute the claim that free market operation of roads will be paralyzed, given that one road owner can always refuse to allow another to cross his own property with another such facility. Suppose that there is a road running from east to west; it does not matter whether this is a highway between two cities, or a street within any one city. Another entrepreneur wishes to install a north south road, which would have to cross the first one. He has assembled all the land he needs for this purpose, except for one parcel: the land now occupied by the east west thoroughfare. When he approaches the owner of the extant road, he is met with a stony rebuff; he refuses to sell at any price!

It is clear that without north south roads, our transportation system will collapse, perhaps before it even gets started. However, there are several difficulties with this scenario. First of all, it is exceedingly unlikely that the would be builder of the north south artery would have invested any money in his enterprise without first ensuring that he had complete right of way. Perhaps this “up and down” route could avoid the “sideways” one entirely, if the owner of the latter were adamant. Secondly, it is unlikely in the extreme that the east west corridor owner would take any such stand. After all, if no roads cross his own, then the capital value of his own possessions will be greatly attenuated. Motorists will be able to use it, only, to traverse in and east or west direction, as opposed to using virtually all 360 degrees. If he did, it is exceedingly probable that his board of directors would toss him out on his ear. Third, if all else, somehow, fails, the north south would be builder still has the same option available to him as did the land assembler we were considering above who was faced with Harry Holdout (which is precisely the role now played by the east west owner): he can build a bridge over the latter’s land, or tunnel under it. (4)

## *2.2 Roads are not perfectly competitive*

A private roadway industry would not be perfectly competitive. Therefore, there would be dead weight inefficiency losses in its operation. Thus, it should not be privatized.

There are several flaws in this objection and they are serious ones. First, a perfectly competitive industry is an utter impossibility in the real world. The requirements for this status are numerous and ridiculously otherworldly: completely homogeneous products; an indefinitely large, not to say infinite, number of both buyers (to stave off

monopsony) (5) and sellers (to preclude monopoly); full and complete information about everything relevant on the part of all market participants; zero profits and equilibrium. The *reductio ad absurdum* of this objection is that not only could roads not be privatized under such impossible criteria, but neither could anything else be, either. That is, this is a recipe for a complete takeover by the government of the *entire* economy, whether by nationalization (communism) or regulation (fascism) it matters little.

Second, even if, *arguendo*, it were somehow possible for such a state of affairs to come into being, it would not be advantageous to mankind for it to do so. This is because perfect competition speaks only in terms of structure of industry; it is totally silent on the issue of behavior. Specifically, there is simply no room in this concept for *rivalrous* action, the fountainhead of true competition and progress.

### 2.3. *Roads are different than everything else; people impose waiting costs on others without taking them into account*

Consider the thinking processes of the man ready to commute to his downtown job, during the morning rush hour. He can be counted upon to take into account the degree to which the congestion he expects to find will slow him down. He would not embark upon this trip did he not regard its benefits greater than its costs, and the slowness of traffic is one of the costs he will most certainly incorporate into his decision making process.

However, in traveling on the highway at this time, he also, albeit to a very small degree, *adds* to the traffic congestion that would exist without his participation in it. To wit, by making this decision, he imposes waiting costs on other drivers. Does he take this second, very different cost into account? He does not! But in refraining from doing so, he acts as an external diseconomy on every other driver. Of course, he is not the only motorist to be guilty of this oversight. Our analysis is perfectly general at this point: what we have said about this one road user is true of every other one as well. Thus, *all* drivers in this situation impose such waiting costs on every other one of them, with not a one of them taking them into account.

Such is the objection we are now considering to road privatization.

It is a very poor one, insofar as it operates, if it does so at all, not only with regard to roads, but far more widely. This objection applies, at least in principle, to *every* good or service for which there are queues, or waiting lists, or uneven demand. For example, seats at popular movies or plays, demand for pretty much *most* goods right before Christmas, Super Bowl or World Series tickets, etc. In *each* of these cases, the same could be said of people on the demand side as of motorists during rush hour: they take into account their own waiting time, but not that they impose on others by

their own participation in the queue. If this objection were with merit, therefore, and it barred road privatization, then all of these other goods and services would have to fall to government provision as well. But in this direction lies communism

However, while it is indubitably true that this is indeed a problem of epic proportions on our nation's roadways, it is far less so in any of these other situations. Why? Because in the market place, when there is a peak load demand, prices tend to *rise*. And when they do, this tends to mitigate the original problem. For example, tickets for the NBA or NHL playoffs are far *higher* than for ordinary games; prices are greater right before Christmas than right after, during January and Boxing Day sales. Movies and plays typically charge more for weekend evening shows than for matinees, or Tuesday nights. Thus, the uneven or peak load demand gets flattened out. In other words, deep within the bowels of the free enterprise system is the *cure* for this so called "market failure." In other words, it is not a "market failure" at all, but one of *government* mismanagement.

The contrast with the public sector is a stark one indeed. Compare and contrast the reactions of public and private sellers during the Christmas rush. For-profit firms roll up their sleeves, hire extra workers, stock their shelves almost to the bursting point, and proudly announce they are open for business, ready and willing to help the consumers satisfy their demands. And what of statist counterparts? Take the post office as an example. They urge that people mail early, to avoid the Christmas rush! The customer is not "always right," it would appear, in government "service."

It is the same with roadway use. Do the street and highway managers charge more for use of these facilities during peak load times, which would have the result of ironing out the peaks and reducing congestion? To ask this question is to answer it: they do not. Rather, the same prices exist all throughout the week, namely, zero. Things are worse, far worse, with regard to bridges and tunnels also under the control of our road socialists. (6) Here, anti peak load pricing is engaged in? In other words, *lower* prices are charged during the hours of heaviest demand, thus *exacerbating* the problem. How does this come about?

Bridge and tunnel authorities commonly sell monthly passes at lower prices per trip than otherwise obtain. But precisely what kind of driver is likely to travel to the central business district 20-24 times per month? A suburban shopper? An out of townner? A rare visitor to the city? None of the above. Rather, obviously, the lion's share of these tickets will be taken up by *regular commuters*, precisely the ones most likely to use them during morning rush hours into the city and afternoon ones out of it.

#### 2.4. Road privatization is unfair to abutting property owners

It is impossible to predict precisely how a competitive market would function with regard to roads. If shoes were always and everywhere the province of government, and some rash individual were to advocate the end of footwear socialism and the implementation of private profit making firms in this industry, it might strain credulity. The objections would come thick and fast: how many shoe stores would be located on each block? Who would determine the color of the shoes? How would resources be allocated between boots, sneakers, runners, bedroom slippers, shower-thongs? What would be done to ensure a sufficient supply of shoelaces? Or, would there be loafers? Or would they be fastened with Velcro? Would the market provide high-heeled shoes for women? What about changing styles? Without government control, would profit seekers be able to accommodate alterations in taste, or, more ominously, would they impose their own aesthetic sensibilities on consumers? How, oh how, would the poor get shoes?

These difficulties present no particular problem. There is no movement afoot to nationalize the shoe industry. Were we to find ourselves in any such predicament, we would readily de nationalize, secure in the knowledge brought to us by years of reasonably satisfactory service from this quarter.

Roads are different. Although at one time in our history turnpike companies provided these services to travelers, no one now alive has had any experience with them. (7) That alone goes some way toward explaining why, despite a large literature supporting roads (see footnote 2), regardless of the failure of the Soviet system that should awaken society to the benefits of privatization, we still suffer under government control of streets and highways. Moreover, difficult as are the problems of envisioning a fully free enterprise road system in operation, even more challenging are those of the transition period.

Take the problem of access as an example. One of the criticisms of free market roadways is that the homeowner or business firm will be “trapped” on its premises, if it is completely surrounded by four privately owned roads, as in the nature of things, it inevitably would be. In making the case for markets in this industry, it is easy to show that this “problem” is a straw man. For one thing, just as we now have title search when property changes hands, so under a system of free enterprise for streets, there would be “access search,” to ensure access and egress. For another, it would be in the financial interest of the road owner building a new facility to *attract* customers. Surely, he would fail dismally in this regard did he not ensure them of such basic amenities. (8)

But matters are far different when we contemplate not a private enterprise street and highway system de novo, but rather the transition period from our present road socialist institutions to one of pure laissez faire capitalism. For in this process, those in charge of the conversion will have to attempt to mimic the market, and, as we have established above with the shoe example, this cannot be done on the basis of

economic theory alone. Rather, it is essentially an *entrepreneurial* task to establish how the shoe, the road, or, indeed, any other industry would function under a regime of economic freedom. But mimic the market they must, otherwise how else can the access and egress problem be addressed? If the roads are given to private firms, and no provision whatsoever is made for this phenomenon, this would be equivalent to giving these companies not only the streets themselves, but also everything abutting them. For, if they were given the roads with no strings attached, and could charge whatever they wished, they might set the tolls at a rate that the internal home and factory owners would be indifferent between keeping their property and relinquishing it. That is, the road owners, with the means at their disposal of blocking the internal property holders from access and egress, (9) would be able to capture, at least theoretically, the entire capital value of all these holdings. In order to obviate this possibility, those responsible for privatizing roads will have to mimic the street use charges that *would have been* imposed by a non-existent private industry, in this contrary to fact conditional scenario.

Suppose, now, that somehow, this was accomplished. Still, our difficulties are not over. For a property owner abutting one of these avenues might say something along the following lines: "I don't care a fig for the price you are allowing the road owner to charge me. I reject it, utterly. These tolls might seem fair to you, but not to me. Had I been confronted with them when I purchased my land, I never would have bought it." (10)

It cannot be denied that this is a powerful objection to the process of road privatization. We have not, after all, been able to offer a purely *market* process of transfer from the public to the private realm. Rather, we have been forced to use a bureaucratic process, wherein we non-entrepreneurs have attempted to mimic the (non-existent) market. And yet, and yet.... This objection seems too harsh by half. After all, it is not our fault that we cannot fully anticipate the market prices that would have eventuated, had the state never entered into this realm with its cloven feet. And even if we could, *arguendo*, any particular economic actor, such as the objector, could have legitimately rejected it. From one perspective, what we are trying to do is to unscramble the egg, and it cannot be done.

Rather than answering this particular objection, we will take refuge in the claim that *all* or at least virtually all privatization efforts are subject to it. Thus, there is nothing here in particular aimed at *road* privatization; it rather constitutes an objection to *all* such efforts.

In order to see this point, consider the privatization of a Russian nobleman's castle. It might have been nationalized in 1917, and is given back sometime during the period 1989-2003. Is it the identical castle as existed in 1917? Of course, it is not. Is it even, to continue our analogy, the same castle as an imaginary one that *would* have existed, on the assumption that it was never nationalized in the first place? (11) It is

difficult to answer this, to say the least. And, any answer we could give to the Russian nobleman (or his heirs) could be rejected by him (them) on similar grounds as those offered by our objector to road privatization. Namely, “well, this is the way *you* might have treated this castle in the intervening years, but it certainly isn’t the way I (we) would have managed it.”

But we need not resort to an example as esoteric as a castle. Any bit of farmland (or indeed, any other kind of land) will do. For it, too, will have or *might have* been treated *differently* than the manner that might have ensued had there been no initial land seizure. The person to whom we are now returning it will always be in a position to quibble with us; to assert that what he is being given back is not *precisely* what was taken away from him. He can say, no matter what additional amount is given him to compensate for this phenomenon, that it is unfair, that he would never have agreed to it. Merely the passage of time will *always* render this true. Therefore, we road privatizers need not worry about this objection any more than any other privatizer, of anything else other than roads.

Here is a second reply to the objection: (virtually) (12) any conversion to the market is better than allowing the status quo of road socialism. If we were to accept this objection as definitive, not only would there not be any road privatization, there would not be a return of *any* property from the public to the private sector. Ostensibly, the person making the objection is on the side of the angels. He can be, and we have so far, interpreted him as making this objection in behalf of the property owner abutting the road. However, this is also a more ominous interpretation that can be placed upon this objection. Objectively, at least, if it is taken seriously, it will spell the death knell of privatization efforts. Quo bono, from such an objection? Obviously, socialists. (13)

A third rejoinder is as follows. Privatization, at least for our present purposes, may be likened to the just response to a crime. Someone (the government in our case) in effect stole something from the rightful owners (private roads, here, by either nationalizing private property and/or refusing to allow this industry to come into being in the first place). Naturally, in the case of crime, the emphasis should be on compensating the victim. (14) However, it is impossible to peer into the victim’s mind, to discern the contrary to fact conditional regarding how much he would have voluntarily accepted for what was in reality stolen from him had this nefarious deed not taken place. Given no interpersonal comparisons of utility, stipulate that there are no objective criteria for such losses, it is necessarily *impossible* that this problem be solved to the extent that the victim can never complain about the level of compensation given him.

### 3. *Transitional problems*

#### 3.1. “*Non-Compete*” clauses to protect private investors



Under contract with the government, private express toll lanes were built in the median of California's State Route 91. The firm in question was guaranteed that this State would not later add to its capacity in competition with its own new facility. In other words, there was a “non compete” clause in the agreement, similar to that which exists in many private labor contracts.

However, traffic increased in this area. As a result, Orange County exercised an option in this contract and bought out the SR-91 investors. This, in effect, renationalized the initially private Express Lanes, and allowed the State to build as more road capacity as it wished.

At the other end of the country, a similar initiative was dealt with in a very different way. Consider the private firm that built the “Dulles Greenway” toll road near Washington D.C. With no such stipulation in their contract the State of Virginia was not estopped (15) from building as much new capacity, in competition with this private roadway, as it wished. As a result, they added to their parallel Route 7, and economically undermined the private builder.

One obvious comment is that private and public road capacity, serving side by side, is like trying to mix oil and water; it is unstable at best. It is rather difficult for an entrepreneur to continue to exist, let alone to prosper, when the government is giving away a very similar service for free. (16)

So, should the government sign contracts with private builders, offering “non-compete” clauses? To ask this is to answer it, at least from a libertarian (17) perspective. The government should absent itself from this industry, root and branch, immediately if not sooner. All roads should be commercialized at once; then, this problem would cease to exist.

Nor is this problem by any means confined to roads and streets. It exists, too, with regard to private bookstores being forced to compete against public libraries; for private gymnasiums faced with the competition from governmental playgrounds, parks, municipal swimming pools, etc. The state, here, plays the role of the ghoul, or the “undead,” in horror movies; short of killing it with a silver bullet, or with garlic, or whatever, the latter pair have an unfair advantage over humans, or entrepreneurs. They can be bankrupted, but their governmental sector counterparts cannot be. (18)

Suppose, now, that this happy scenario is not in the cards. That is, like it or not, governmental road systems will not disappear, at least not right away. Suppose we are confronted not with the question of whether the state should play any role whatsoever in highway management, with rather with the issue of *given* that it will for the foreseeable future continue to play a gigantic role in this regard, should it or should it not offer non compete clauses to the private establishments who add to roadway capacity?

This is by far a more difficult question to answer. We propose to do so under two very different headings: utilitarian and deontological.

The latter is easy. As a pure matter of justice, anything that supports private initiatives in this field is good. Non-compete clauses do so. QED.

The former is far more difficult. On the one hand, the worse shape statist roads are in, the higher the probability there is that they will be replaced by capitalist institutions. If so, then the *last* thing we want are non compete clauses, because this will strengthen the very few private road companies now allowed by the powers that be; this, in turn, will render the present situation more stable. Thus, paradoxically, supporting limited private enterprise in this manner will undermine placing roads totally under capitalism in the future. Worse is better, in this view of the world.

On the other hand, people *now* living need every bit of help they can get to rescue them from public road management. Non compete clauses will encourage private companies to take on some small percentage of the nation's roadways, and this, at least, will help some few people who patronize them.

The difficulty is that we literally have no way of weighting these two considerations, so that an overall determination can be made. Suppose, for example, that non-compete clauses increased private road management so that it now made up 1% of the total (this is a vast overestimate, in terms of present mileage totals). Posit, further, that this would save  $x$  number of lives per year, and  $y$  amount of motorist's time, but that it would put off, from 100 to 101 years, the date on which *all* roads would be privatized. Where is the interest rate, on the basis of which we could discount future time and lives saved, compared to present ones in this regard? There simply is no such thing. Therefore, it is impossible to definitively answer this question in any rational or objective manner.

### 3.2. Pricing

How much should road users pay for roads, and how should they be charged? As we have seen with our shoe example, it is difficult to anticipate the market. Nevertheless, it is possible to discern some patterns in the midst of the fog, and to make predictions on the basis of them.

There is little doubt that at least in the long run a private highway and street industry would utilize electronic road pricing (ERP). After all, universal product codes are now relied upon for a myriad of *private* goods; there is no reason to think that automobiles and trucks could not be similarly outfitted as is now done for bread and cough drops. However, the free enterprise philosophy would maintain that roadways should be privatized at *whatever* level of technology is presently available to a society; certainly, this quest should not have to wait until the development of ERP.

Nor *did* it, historically. The earliest roads, we must never forget, were private turnpikes. Tollgates collected on the basis of the weight of the wagon, the number of axels, the number of horses and the width of the wheels. Thin-wheeled vehicles could go faster, but would create ruts in the road, and were therefore charged more. Thick-wheeled ones would serve something of the function of a steam-roller, flattening out the road and making it more passable for others, and were thus charged less. In more recent history, places like Singapore used another low technology collection method. A bull's eye would be superimposed on the city map, and a different color assigned to each of the areas thus created. The highest fees would be charged for use of those areas of the city in the center of the bull's eye, with lower prices as the motorist was restricted, successively, to the more outlying areas. Strict penalties, needless to say, would be imposed on travelers found in areas not permitted by their color-coded permits. (19)

### 3.3. *Should public roads be commercialized before being privatized?*

That is, should the government be encouraged to institute electronic road pricing before the privatization process, or should we merely sit back and wait for private firms to do so once these facilities are under their control?

One argument for immediate ERP is that the sooner it is done, the sooner we shall have economic rationality on the nation's highways, and an end (or at least a vast diminution) of traffic congestion. Another is offered by Gabriel Roth: "One could keep the system of dedicated road funds and pay private owners out of such funds, in the same way that state roads are now financed. But there would have to be a mechanism for adjusting the road-use charges in accordance with the wishes of road users. All this would be easier if roads were commercialized before being privatized." (20)

But the arguments on the other side seem more powerful. For one thing, government roadway pricing (on bridges and tunnels) has already been tried, and it has been a dismal failure. Instead of engaging in peak load pricing, they have used *anti* peak load pricing, and have actually worsened the situation that would have otherwise obtained, not improved it. True, only some of this pricing has been electronic, more and more as the years go on, but this does not seem to be definitive. An institution that would misprice before the advent of ERP could be expected to do the same afterwards.

For another, let us suppose that, *mirabile dictu*, the state actually priced correctly; i.e., charged more for rush hour than other traffic. We make the heroic assumption, here, that not only would they engage in *some* peak load pricing, but would actually be able to anticipate the market in this regard, all of this without benefit of any of capitalism's weeding out process of profit and loss for business failures. Then, the problem would

arise that in so doing, we will have functioned as efficiency experts for the state; we would have, counterproductively, managed to *improve* state operation.

Why is this “counterproductive”? Deontologically, because roadway management is simply not a legitimate role for the state, which should be, at least according to the philosophy of libertarianism, be confined to protection of persons and property through the provision of armies to keep foreign invaders from our shores, policies to quell local criminals, and courts to determine innocence or guilt. (21)

But even on utilitarian grounds there are powerful arguments for not marginally improving state operation of roads. For if this is done, then the glorious day is put off even the more when government control ceases, and market forces once again take over this industry. For, make no mistake about it: public sector operation is responsible for an inordinate number of the tens of thousands of road fatalities which occur every year, and the sooner this can be stopped, the sooner this carnage will cease (or, at least be radically reduced.) (22)

So, which is better, purely on utilitarian grounds: a quick marginal improvement in roadway operation (23) coupled with putting off the glorious day of fully private control for an indefinitely long period of time, or, not attempting to be efficiency experts for the state, allowing them to wallow in their misbegotten management, and achieving full privatization earlier. Unfortunately, there is no discount rate, social or otherwise, on the basis of which a definitive judgment of this question can be made. Thus, the implications of a purely utilitarian analysis are unclear. Hence, we resort to deontology.

Then, too, there is the argument that if government charges tolls on the road, even if it engages in peak load pricing, inevitably more money will flow into its coffers. However, contrary to Galbraith, (24) at least from a libertarian perspective, the state already has far too much money at its disposal, and the people far too little. Therefore, this would constitute an argument *against* peak load pricing on the part of the public sector. (25) True, the government could disburse these new funds back to the long-suffering tax paying public, whether directly or in the form of tax reductions. But this is as unlikely as Dave Barry becoming the next president of the United States by acclamation.

### 3.4. *Public relations*

Right now, people are accustomed to street and highway use for “free.” How oh how will they ever be weaned away from this “entitlement” to which they have become accustomed? It will be appreciated that in a democracy, unless they are convinced to give up this privilege, there is little hope for ultimate privatization.

One approach is to reject this question as improper, even impertinent. After all, we are after the truth, here, with a capital “T” and if the masses are too moronic to see the benefits of privatization, well, they deserve to be killed like flies on the public highways, and to suffer the “slings and arrows of outrageous” traffic congestion.

But let us take a more sober tack. There is, after all, specialization and a division of labor in all things, and our present concerns are no exception to this rule. The average motorist can be forgiven for not reflecting carefully on something which, in the very nature of things, is out of his purview.

One tack in our public relations efforts might be to support such private road initiatives as California's State Route 91 and the “Dulles Greenway,” at either ends of our country. The advantage, here, is that there was no history of free access in either case; so it is not likely, or at least it is less so, that resentment will build up at having to pay for that which was hitherto enjoyed “for free.” If enough of these roadways are built, then, perhaps, eventually, the motoring public will come to see the benefits of this institution.

A better approach might be to convey to the public that even *if* it could enjoy public provision of highways and streets “for free” and had to pay for private counterparts, it might still be worth it to do so, given that the latter option would be vastly preferable in terms of safety and congestion concerns.

Better yet might be to point out to the typical motorist that he by no means enjoys public roadway services “for free.” Rather, that he *pays* for them, in the form of a myriad of taxes, both direct and indirect. Somehow, the term “freeways” indicates to him that he pays nothing for them. Although originally conceived as a characterization of the fact that highways were of limited access, without traffic lights, and thus that travelers could move “freely,” this phrase now functions to indicate to people that they pay nothing for them. Nothing could be further from the truth. And, given the general rule of thumb that private services come at a fraction of the cost of their public counterparts, it would be a shock to learn that this would not apply to the present situation. Thus, it is almost a given that the explicit costs of highway provision likely to be passed on to the consumer by a private industry would be a small part of those now imposed upon him, implicitly, in the form of hidden and not so hidden taxes.

## Notes

(1) Beito, David T., “From Privies to Boulevards: The Private Supply of Infrastructure in the United States during the Nineteenth Century,” in Jerry Jenkins and David E. Sisk, eds., *Development by Consent: The Voluntary Supply of Public Goods and Services* (San Francisco, 1993): 23-48; Beito, David T. and Linda Royster Beito, “Rival Road Builders: Private Toll Roads in Nevada, 1852-1880,” *Nevada Historical Society*

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*Policy*, May 1993, pp. 113-130; Klein, Dan and Fielding, G.J., "High Occupancy/Toll Lanes: Phasing in Congestion Pricing a Lane at a Time," *Policy Study*, No. 170, Reason Foundation, November 1993; Lemennicier, Bertrand, "La Privatisation des rues," *Journal Des Economistes Et Des Etudes Humaines*, Vol. VII, No. 2/3, June-September 1996, pp 363-376; Roth, Gabriel, *Paying for Roads: The Economics of Traffic Congestion*, Middlesex, England: Penguin, 1967; Roth, Gabriel, *The Private Provision of Public Services in Developing Countries*, Oxford: Oxford University Press, 1987; Roth, Gabriel, *A Self-financing Road System*, London, England, The Institute of Economic Affairs, 1966; Semmens, John, "Road to Ruin," *The Freeman* (December, 1981); Semmens, John, "The Privatization of Highway Facilities," *Transportation Research Forum*, (November, 1983); Semmens, John, "Highways: Public Problems and Private Solutions," *The Freeman* (March, 1985); Semmens, John, "Intraurban Road Privatization," *Transportation Research Record* 1107 (1987); Semmens, John, "Using Competition to Break the U.S. Road Monopoly," Heritage Foundation (December 14, 1987); Semmens, John, "Privatization: Saving While Serving the Public," Goldwater Institute (April 25, 1988); Semmens, John, "Taking Over the Roads," *Liberty* (November 1988); Semmens, John, "Why We Need Highway Privatization," Laissez Faire Institute (March 1991); Semmens, John, "Private Highways? They're Cheaper, Better, Fairer," *Phoenix Gazette* (April 3, 1991); Semmens, John, "The Rationale for Toll Roads: You Get What You Pay For" *Phoenix Gazette* (December 16, 1992); Semmens, John, "Highway Privatization: What Are the Benefits for Arizona?," Goldwater Institute (December 1992); Semmens, John, "From Highways to Buy-Ways," *Spectrum* (Fall 1993); Semmens, John, "How to Solve Mandatory Auto Insurance," Goldwater Institute (July 1995); Semmens, John, "Highway Investment Analysis," Arizona Department of Transportation (December 1994); Semmens, John, "Privatize Driver's License, Registration System," *Tribune* (December 25, 1994); Semmens, John, "Privatizing Vehicle Registrations, Driver's Licenses and Auto Insurance," *Transportation Quarterly* (Fall 1995); Semmens, John, "Selling the Roads: Privatizing Transportation Systems," *Liberty* (1996); Semmens, John, "Goodbye, DMV," *Liberty* (January 1996).

(2) Block, Walter, "Road Socialism," *International Journal of Value-Based Management*, 1996, Vol. 9, pp. 195-207.

(3) This process is called "expropriation" in Canada.

(4) For a debate concerning these phenomena, see Block, Walter and Block, Matthew, "Roads, Bridges, Sunlight and Private Property Rights," *Journal Des Economistes Et Des Etudes Humaines*, Vol. VII, No. 2/3, June-September 1996, pp. 351-362; Tullock, Gordon, "Comment on Roads, Bridges, Sunlight and Private Property, by Walter Block and Matthew Block," *Journal des Economistes et des Etudes Humaines*, Vol. , No. , 1998, pp. zx. Block, Walter, "Roads, Bridges, Sunlight and Private

Property: Reply to Gordon Tullock,” *Journal des Economistes et des Etudes Humaines*, Vol. 8, No. 2/3, June-September 1998, pp. 315-326. The first and third of these articles make the point that in bridging over, or tunneling under, someone’s property, the latter’s land ownership rights need *not* be abridged.

(5) For the argument that monopsony is not a market failure, see Block, Walter and William Barnett, “An Austrian Critique of Neo-Classical Monopoly and Monopsony Theory,” unpublished ms; For the argument that monopoly does not constitute a market failure, see Armentano, Dominick T., *Antitrust and Monopoly: Anatomy of a Policy Failure*, New York: Wiley, 1982; Armentano, Dominick T., *The Myths of Antitrust*, New Rochelle, N.Y.: Arlington House, 1972; Armstrong, Don, *Competition vs. Monopoly*, Vancouver: The Fraser Institute, 1982; Rothbard, Murray N., *Man, Economy, and State: A Treatise on Economic Principles*. (2 volumes.) Princeton, NJ: D. Van Nostrand Co., 1962.

(6) Block, Walter, “Road Socialism,” *International Journal of Value-Based Management*, 1996, Vol. 9, pp. 195-207.

(7) Recently, there have been several quasi-private road firms in operation. But these are all under the control of the public authorities, and thus do not constitute a pure form of private enterprise street and highway firms.

(8) For more on this see Block, Walter, “Free Market Transportation: Denationalizing the Roads,” *Journal of Libertarian Studies: An Interdisciplinary Review*, Vol. III, No. 2, Summer 1979, pp. 209-238.

(9) In making this statement, we implicitly assume away the possibility of using helicopters, and long pole-vaulting sticks, building bridges over, or tunnels under, these streets, in order to overcome the roadblocks. See also ft. 4, *supra*.

(10) I am indebted to my Loyola University New Orleans colleague Professor William Barnett II for posing this objection to me.

(11) We are now entering, with a vengeance, the arena of contrary to fact alternative science fiction history.

(12) Rothbard, Murray N., *The Ethics of Liberty*, New York: New York University Press, 1998 (1982), p. 54 mentions one such: a king, right before dissolving his unjust government “arbitrarily parcels out the entire land areas of his kingdom to the ‘ownership’ of himself and his relatives.” I owe this cite to Laurent Carnis and Andre Andrade.

(13) Strictly speaking, there are two kinds of socialists; those who advocate this position on a voluntary basis (the nunnery, the monastery, the kibbutz that receives no levies based on coercion; even the typical family is organized on the basis of “from each to his ability, to each according to his need.”) or coercively, e.g., state socialism. Needless to say, we are now alluding to the latter of these two meanings.

(14) This, at least, is the libertarian take on the issue. For more on this see Rothbard, *The Ethics of Liberty*, Evers, Williamson, *Victim’s Rights, Restitution and Retribution*,



Oakland, CA: Independent Institute, 1996, p. 25; Kinsella, Stephan N., "Punishment and Proportionality: The Estoppel Approach," 12:1 *J. Libertarian Studies* 51 (Spring 1996).

(15) See Kinsella, "Punishment and Proportionality".

(16) Obviously, the government does not provide highways and streets for free. They are, rather, financed through various and sundry tax levies. But the point is that at the time of decision as to which roadway to patronize, the motorist faces an *additional* fee for the private alternative, that does not exist for the public one.

(17) Block, Walter, *Defending the Undefendable*, New York: Fox and Wilkes, 1985; Block, Walter, "Libertarianism vs. Libertinism," *The Journal of Libertarian Studies: An Interdisciplinary Review*, Vol. 11, No. 1, 1994, pp. 117-128; Cuzán, Alfred G., "Do We Ever Really Get Out of Anarchy?," *Journal of Libertarian Studies*, Vol. 3, No. 2, pp. 151-158 (Summer, 1979); De Jasay, Anthony, *The State*, Oxford: Basil Blackwell, 1985; Hoppe, Hans-Hermann, *A Theory of Socialism and Capitalism: Economics, Politics and Ethics*, Boston: Kluwer, 1989; Hoppe, Hans-Hermann, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy*, Boston: Kluwer, 1993; Hoppe, Hans-Hermann, "The Private Production of Defense," *Journal of Libertarian Studies*, Vol. 14, No. 1, Winter 1998-1999, pp. 27-52; Kinsella, Stephan, "New Rationalist Directions in Libertarian Rights Theory," 12:2 *Journal of Libertarian Studies* 313-26 (Fall 1996); Oppenheimer, Franz, *The State*, New York: Free Life Editions, (1914), 1975; Rothbard, Murray N., *For a New Liberty*, Macmillan, New York, 1978; Rothbard, Murray N., *The Ethics of Liberty*, Stringham, Edward, "Justice Without Government," *Journal of Libertarian Studies*, Vol. 14, No. 1, Winter 1998-1999, pp. 53-77; Tinsley, Patrick, "With Liberty and Justice for All: A Case for Private Police," *Journal of Libertarian Studies*, Vol. 14, No. 1, Winter 1998-1999, pp. 95-100.

(18) In the short run, in any case. In the long run, there is of course for public enterprise in otherwise capitalist nations the fate that overtook the Soviet economy.

(19) See on this Block, Walter, "Free Market Transportation: Denationalizing the Roads," *Journal of Libertarian Studies: An Interdisciplinary Review*, Vol. III, No. 2, summer 1979, pp. 209-238.

(20) Unpublished letter to the present author, dated 12/20/02.

(21) The anarcho capitalist version of libertarianism, of course, would restrict the government to a far greater, indeed, total, extent.

(22) See on this Block, Walter, "Road Privatization: Rejoinder to Mohring," unpublished ms.; Block, Walter, "Theories of Highway Safety," *Transportation Research Record*, #912, 1983, pp. 7-10.

(23) Remember, we are still implicitly making the heroic assumption that government will get things right, road pricing wise, something neither they, nor their soviet planning counterparts, ever succeeded in doing.

(24) Galbraith, John Kenneth, *The Affluent Society*, Boston: Houghton-Mifflin, 1958.

(25) It is sometimes argued that one of the benefits of legalizing addictive drugs is that they could then be taxed, and the government revenues enhanced. From this perspective, this would be the only valid case *against* legalization.