

*Private Property, Mass Transit, and the Exercise of Rights*

By Mike Winther

The political and civil rights that we cherish cannot be fully exercised without certain tools. These tools are material things that allow or enhance the exercise of a right. These material things are property, which has ownership that can be either public or private. As a society, we must make decisions as to which form of ownership we prefer for these tools. Should they be privately owned or publicly owned? Those who advocate for big government usually prefer public ownership and are waging war against private ownership. Those who prefer smaller government, on the other hand, prefer that these tools be placed under private ownership. Unfortunately, the average citizen is unaware of this battle and obviously, those who are unaware that a battle even exists are destined to lose it.

**Property is essential to the exercise of rights**

Property and the exercise of rights are intertwined, and you cannot infringe upon one without infringing upon the other. However, today's society fails to understand this important relationship. In fact, most of our leaders on both sides of the political spectrum have never even considered this relationship.

For example, freedom of the press and freedom of speech are of little value without tools like printing presses, photocopiers, printers, paper, poster-board, radio stations, TV stations, and newspapers. If a government was to ban and confiscate these tools, citizens would have little ability to exercise their freedom of speech. Even if a government does not enforce a complete ban, regulation of the necessary, physical tools can greatly impair the citizen's freedom of speech.

Consider also the freedom of religion. Since religion is a spiritual matter, one might be inclined to think that the exercise of this liberty would be independent of property. But like other rights, the full exercise of our freedom of religion and freedom of worship requires tangible, material things. Without Bibles to read and buildings in which to engage in corporate worship, this right would also be in great jeopardy. These buildings and Bibles are property, which must be owned and controlled by someone.

Additionally, we might note that the freedom of religion is also dependent on other rights like freedom of speech and freedom of movement.

It is difficult to think of a right that is not at least partially dependent on the use of some kind of property. Even the right to bear arms is of no value if guns or ammunition are unavailable or illegal. The full exercise of the right to freedom of movement is also dependent on the citizen's access to certain tools. One can walk from point A to point B, of course, but our movement is greatly enhanced by a horse, a car, a train, or an airplane. The full exercise of this right requires the tools of transportation.

**The battle to preserve rights**

If we learn anything from history, it is that governments are always attempting to limit the rights of their citizens. One of the most dominant themes in the study of history is the attempt of governments and other organized groups to restrict the rights of the people. This has been clearly demonstrated in every era of time and in every region of the world.

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Governments employ two main strategies to infringe upon individual rights. The first strategy involves the direct regulation of the right. This is the most obvious approach, and citizens usually will not tolerate it unless they can be fooled into believing that the violation is necessary to avert some sort of tragedy—usually a tragedy contrived by the government. The second strategy is more subtle and involves gaining control of the tools that people use to exercise their rights.

For example, it is not necessary to legislate against the freedom of the press if the government can gain ownership or control of the media.

### Transportation as one example

Consider transportation. In our society, there is a persistent push for more and more public transportation. Public transportation includes things like city buses, subway systems, light rail, high-speed rail, and, of course, the Amtrak system. To the extent that these systems are public, they are owned by government at some level—either city, county, state, or federal. Once people become dependent upon these systems, these levels of government have substantial control over the freedom of movement.

There is nothing inherently or ethically wrong with the use of buses, subways, commuter rail, or other mass transit systems—as long as they are privately owned. Unfortunately, the lion's share of American mass transit systems are not privately owned, but government owned. These government systems crowd out private enterprise transit systems and force the taxpayer to pay the bill.

Private mass transit can never compete with government mass transit systems because the government systems are almost always subsidized by tax revenue, and they frequently receive favored status against zoning and environmental regulations.

There are many dangers that arise when transportation is owned or controlled by government. High costs and inefficiency come immediately to mind as undesirable outcomes, but we should be far more concerned with the risk to our freedom of movement. Access to public transportation systems could become limited for any number of reasons, including political unrest, natural disasters, or environmental concerns. Even a wage dispute and a resulting strike by the union can shut the system down.

Beyond these possible causes of access limitation, there are also more extreme possibilities, such as a government's refusal to transport those who might be considered political dissidents. Some people would say that this would never happen in America, but I would answer: turn the calendar back to 1980 and consider history. In 1980, Ronald Reagan had just been elected president, and many Americans could not have even imagined that in just a few decades, we would have state endorsed homosexual marriage, search and seizure without a warrant, or socialized national healthcare. Almost everything that we would have said "could never happen in America" has, in fact, happened. We must always be jealously vigilant against even the smallest infringement of our rights and liberties, even if an extreme outcome or abuse seems unlikely.

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## Subsidies and taxes

There is a long-recognized truism that states: if you subsidize something, you will get more of it, but if you tax something, you will get less of it. What is our current transportation policy in America? We tax private transportation, and we subsidize public transportation. According to Wendell Cox, a visiting fellow at the Heritage Foundation:

*The federal government has been providing subsidies to mass transit since the 1960s. The principal justification was originally to reduce traffic congestion and to provide mobility alternatives to cars for low income citizens. In addition, transit has been subsidized to reduce automobile emissions.*

*Since 1983, transit has received a share of the federal user fees paid by drivers, principally through fuel taxes. Additional diversions from federal user fees have been authorized by the Congestion Mitigation and Air Quality Improvement (CMAQ) program. In 2010, the latest year for which data are available, the total diversion from federal user fees approached \$6 billion. This left \$29 billion for expenditures on highways and roads. The 17 percent share of federal user fees was much greater than transit's little more than 1 percent of the nation's surface travel. Overall, highway user fees supported each transit passenger mile 17 times more than each highway passenger mile (\$0.1130 for transit; \$0.0067 for highways).<sup>1</sup>*

The original intent of gas taxes and highway user fees was to fund the building and maintenance of roads. Because fuel was taxed by the gallon, each driver would pay in proportion to their use of the roads. Unfortunately, many of these funds are now used to subsidize public mass transit effectively punishing private transportation and subsidizing public transportation.

Secretary of Transportation Mary Peters told a congressional hearing that 40 percent of highway user fees collected from drivers are diverted for uses other than roads and bridges.<sup>2</sup>

There is ample evidence of the war on private transportation. Portland, Oregon is just one example of this. According to a report published by the Heritage Foundation, "Portland's leaders have embraced an anti-highway ideology on the assumption that they can get people to ride transit instead. Portland went so far as to cancel a freeway and use the money to build its first light rail line, which opened in 1985."<sup>3</sup>

The push to "free" Americans from their private cars and "direct" them into public transportation is no small effort. This is a coordinated agenda, in which many statist think-tanks and government agencies are working toward the same goal.

Increasingly, land use and zoning officials are using their powers to promote this public transportation agenda as well. In some instances, cities and counties are granting favoritism to housing development that is close to public transportation, while limiting housing development they deem to be too far from these transit stations. In other cases, commuter colleges are refusing to add parking spaces to their campuses, in an effort to increase ridership on mass transit. Highway departments are often choosing to exchange automobile lanes for light rail tracks—and the list could go on and on.

This agenda is, of course, supported by most of our nation's media. Even private groups are now promoting this public agenda. Private think-tanks, energy conservation groups, and environmental organizations are touting the evils of the private automobile and the virtues of mass transit—even though there is little evidence that mass transit actually saves fuel.

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Although energy conservation, traffic mitigation, and cleaner air are often cited as arguments for these policies, a mountain of evidence suggests that public mass transit systems don't actually achieve any of these objectives. Some of the conservation-minded environmentalists who promote mass transit do so with the honest belief that they are making the world a better place. Those at the top of the public transportation agenda, however, know that the majority of these mass transit systems actually produce more pollution and consume more energy than private automobiles. (Semmens 2005<sup>4</sup>, Cox 2001<sup>5</sup>, O'Toole 2008<sup>6</sup>, O'Toole 2009<sup>7</sup>) If this is true, then there must be another agenda. That agenda is to make more Americans dependent on the government—in this case, specifically dependent on government transportation. To put it another way, they want to add the transportation industry to the growing list of American industries that are based on the socialist economic model.

If we look at air transportation, the details are slightly different, but the dangers are similar. Although we don't yet have any government owned airlines in America, our privately owned air carriers do fly out of publicly owned airports, and access to these private planes is strictly regulated by a government agency—the TSA.

### Transportation and ideas

Transportation is a powerful tool in the dissemination of ideas. I recently traveled over 1,500 miles to deliver a series of lectures to an audience in another state. While I was traveling, it occurred to me that without the freedom to travel, this new audience would not be exposed to my political views. (Ironically, I was lecturing about transportation policy at the time.) Without the use of cars and airplanes, I could not have made the trip. These tools enabled me to propagate my ideas—ideas that could be considered a danger to the job security of many government bureaucrats—to more people in less time.

If the state were to limit travel, though, it could severely restrict the expression of all ideas, but most particularly those ideas with which the state disagrees. Second only in importance to the mass media, travel (and therefore transportation) has always been a critical part of the wars of ideas. Without travel, the early church could not have spread the Gospel to the world. Without travel, the heroes of the protestant Reformation could not have confronted the papists in debate or organized lectures and discussions. Without travel, the American founding fathers could not have carried out a successful revolution. Media and movement are the primary means of spreading ideas and information, and we should be zealous to protect these tools from the controlling hand of government.

It is important to note that government control can be just as dangerous as government ownership. Control is ultimately more important than ownership. If the tools that support our rights come under government control, it matters little whether or not we can maintain private ownership.

### Root Principles

Regardless of the pragmatic implications of government transportation, there are some important matters of principle that we should address. First, taxing private transportation and redistributing the funds to public transportation is a clear example of wealth redistribution, a practice very consistent with the tenants of Marxism. Second, this practice of asset redistribution is a direct violation of property rights. The money that is being redistributed is some citizen's property. We are forcibly taking this money without respect to whether the taxpayer will ever use the public transportation they are indirectly funding.<sup>8</sup>

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Third, we must always inquire as to the proper role of government. Is civil government biblically authorized to engage in the provision of this kind of service? I would submit that providing transportation services is not necessary for the protection of our life, our liberty, and our property, which three areas are the only areas government is meant to protect.

In fact, as discussed above, government owned transportation systems actually violate the property rights of citizens. Fourth, the Constitution does not enumerate federal power to fund or subsidize transportation. The Constitution's only mention of ground transportation is to authorize the building and maintenance of post roads. This is hardly an argument for mass transit of passengers.

## Conclusion

If we want to protect our God-given rights, then we must promote and preserve private property. We must prohibit civil government from owning or controlling any property that is not absolutely necessary for carrying out its proper tasks. This is universally true, but especially true for property that could be a tool for the exercise of an individual's rights. Our governments should divest themselves of both ownership and control of these tools.

<sup>1</sup><http://www.heritage.org/research/reports/2013/01/transit-policy-in-an-era-of-the-shrinking-federal-dollar>

<sup>2</sup><http://www.heritage.org/research/reports/2007/09/mass-transit-separating-delusion-from-reality>

<sup>3</sup><http://www.heritage.org/research/reports/2007/09/mass-transit-separating-delusion-from-reality>

<sup>4</sup>[http://www.fee.org/the\\_freeman/detail/does-light-rail-worsen-congestion-and-air-quality#axzz2NvNfG8Nj](http://www.fee.org/the_freeman/detail/does-light-rail-worsen-congestion-and-air-quality#axzz2NvNfG8Nj)

<sup>5</sup><http://www.publicpurpose.com/ut-ieee.htm>

<sup>6</sup><http://www.cato.org/publications/policy-analysis/does-rail-transit-save-energy-or-reduce-greenhouse-gas-emissions>

<sup>7</sup><http://www.cato.org/publications/congressional-testimony/transit-climate>

<sup>8</sup> This article does not attempt to deal with the debate over the appropriateness of public roads. Although this is a legitimate issue for discussion, it is beyond the scope of this article. Without commenting on the practicality or ethics of public roads, I would like to point out that a system of funding road building and maintenance through a fuel tax does generally charge people in proportion to their use of the roads. As long as this system devotes all of the fuel tax to roads for the vehicles that pay the tax, this system is probably not a redistribution of wealth.