

## ROTHIANS VERSUS A ROTHBARDIAN

### *THE PRIVATIZATION OF ROADS AND HIGHWAYS, HUMAN AND ECONOMIC FACTORS*

WALTER BLOCK  
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### *STREET SMART, COMPETITION, ENTREPRE- NEURSHIP, AND THE FUTURE OF ROADS*

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**T**hese significant and imposing works were published almost at the same time and are directed to readers interested in the topic of road infrastructure management. Today the production, maintenance, and management are assumed to be the domain of

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the State, with its different levels of jurisdiction and administrations, and few people could imagine any other alternative. As it is stated by Block, "The institution of government has planned, built, managed and maintained our highway network for so long that few people can imagine any other workable possibility." (p. 8) These two books contest the idea that only the government is able to manage the highway network and provide the potential private alternatives to the public management of highways. They will be compared to determine the difference between these two approaches, which, although they agree on the need to break with the present tradition of state highway management, are rather different in terms of the methods and processes of reform to be implemented.

### **1. BLOCK'S APPROACH: A REVIEW OF 30 RESEARCH YEARS**

The work by Walter Block consists of many previously published papers, especially in the *Journal of Libertarian Studies*. Any relevant investigation of the market's capabilities to manage both the building and the management of the road network will have to refer to Block's essential contributions in chapters 1 to 4 of this book. However, what is interesting in this work is the proposed perspective, that is the consistent review of the whole production by the author. About thirty years of work are compiled in a single book, defining the theoretical approach and providing the basis of a free market in road services, with concrete applications (the insurance management, the production of network use standards...). Block also reserves significant space for the modalities of the privatization process of the road network, and a last section (the weaker one according to us) to the debate with other authors.

### **BREAKING WITH THE TRADITIONAL APPROACH OF THE PUBLIC INTERVENTION FAILURES**

While the usual critics of government intervention into highway infrastructure management focus mainly on costs and congestion, Block is breaking with this approach in a clever manner. While he does not neglect the consequences of the lack of infrastructure-use pricing, (Chapter 2), Block widens the topic to denounce the

lack of road safety that results from public management. In fact, congestion and the high level of accident victims both result from the lack of clearly defined and protected property rights: "...in fact a privately owned and operated highway system is the answer to the congestion problem" (p. 52) and further "... the dismal highway safety record is due to the absence of a free marketplace in the provision for, and management of, highways" (p. 132). The private ownership of infrastructures thus appears as the obvious remedy to the recurrent problems of public management. This solution thus implies the need to design both the privatization process for the present highway network and the operation mechanisms of a highway network without any public intervention.

### CHANGING THE INSTITUTIONAL FRAMEWORK

Block underlines the relevance of the causes of these public failures: the lack of liability of the public agents in charge of the highway network (p. 8) and the lack of mechanisms to improve the quality of the service provided to consumers (p. 132). In fact, this stresses a basic institutional failure. Implementing physical changes in the infrastructure, defining new government regulations for drivers and vehicles are wrong solutions. Only a change in the institutional framework will lead to the correct changes (p. 8). *"A more ambitious undertaking in this direction involves the substitution private or marketplace-oriented road and highway ownership and management for the current institutional arrangements under which such tasks, rights, and responsibilities are accorded to the public sector"* (p. 131). The significance of the institutional framework constitutes a real contribution by Block because it allows us to understand both the failures of the present system and the potential of a private system as a credible and required solution for managing the highway network.

### THE LOGIC OF FREE ENTERPRISE AND THE ENTREPRENEUR

The proposed developments in the theory section demonstrate that there is no reasonable justification to prevent private operation, both for the production and the management of the highway network. Some entrepreneurs who would like to satisfy their customers and to build customer loyalty are obliged to provide

good quality services to consumers (p. 13). The entrepreneurs who cannot satisfy the users' demands will eventually go to bankrupt, progressively disappearing from the road infrastructure market (p. 14 and 193). This incremental process results in the progressive emergence of a suitable highway network with adapted traffic and use regulations (p. 21 and ff.). This entrepreneurial logic leads to innovative proposals, for example to improve the traffic safety (p. 279). What should be defined now is an integrative logic, based on the establishment of property rights, which no longer considers traffic accidents as a physical problem which could be solved through new public regulations focused on the driver, the vehicle, or the infrastructure. In the end, the entrepreneurial management makes it possible to ensure a better quality of services provided to users with a lower cost than the present proposed cost in the framework of collectivist management (p. 144).

#### **THE PROPOSED TRANSITION PROCESS: AN ELABORATION WHICH SHOULD BE REFINED**

Once it has been demonstrated that the present management of road infrastructures has proved to be disastrous and that a private system is promising from many viewpoints, the question is how to encourage the institutional framework to evolve. The privatization process and the desocialization of the highway network should be designed. The author proposes to build the process on the libertarian theory of property rights and on *homesteading* (p. 196). He emphasizes that there is no perfect solution and that the privatization process should resolve very complex problems (identifying the legitimate owners, defining the parts of each of them, clarifying the manners of apportionment...).

On these different points, Block's analysis seems too quick, neglecting to note parallels or to discuss alternative proposals by other authors from the same stream (Carnis 2001, 2003; Hoppe 1991).

Block's proposition has proved to have a lack of consistency sometimes. For example, he emphasizes that it is difficult to identify the taxpayers who financed the road infrastructure. In that case, it would be necessary to distribute the properties on the basis of land criteria, which must be defined beforehand (the size of the land ownership, the value of the land ownership, the definition of the

concerned highway corridors...) (p. 199 and ff.). In another paper, he demonstrates that the distribution of land ownership cannot be made on the basis of land ownership criteria only, but should rely on the previous tax contributions (p. 231). In fact, this lack of consistency is the result of the strategy adopted by the author to put together various contributions from different drafts at different times and for different journals, without having tried to smooth the contradictions. An effort to integrate the various lessons thus seems to be needed. The effort to produce an integrated theory of the privatization of highways certainly would have provided more clarity, such as the need to distinguish the various steps of the privatization (the identification of the former owners, the merging of several land ownerships, the presence of several land owners or not...) and to discuss the advantages and the drawbacks of the various propositions (the identification of the land owners, the equity of the process, its acceptability by citizens, the seeking of equality or of effectiveness). Another debatable proposition in Block's adopted viewpoint consists in considering that the privatization concerns the land titles resulting from the socialization process. But if privatization is considered to be a process of justice, it is on the contrary a search for the legitimate owners, to whom the land titles should be returned, and if possible before the effects of the collectivization process. Indeed, nothing enables us to specify the potential use of these returned land titles. In fact, some land titles could be used for something other than for a part of the road network. The privatization process does not consist in producing the distribution rules of land ownership to legitimate owners on collectivized property, but to give the previously confiscated properties back to their owners.

## **2. THE ROTHIAN ANALYSIS: TO INTRODUCE THE ENTREPRENEURIAL MENTALITY WITHIN A COLLECTIVIZED SYSTEM**

The book edited by Gabriel Roth represents a considerable work, putting together twenty contributions by authors from various perspectives. Some of them are academics, while others are working or have been working for government administrations, or for international organizations. An obvious advantage sometimes

originates in the lack of consensus among the multiple perspectives, since some contributions are demonstrating the inefficiencies of the state management (chapter 1), whereas others remain more careful, recommending a private management under the control of the public authorities only, or limited to some types of networks (chapters 18 to 20). The privatization of highways would not be possible all the time (p. 446) and it would not be desired all the time. The major drawback of the book is that the contributions' quality is quite inconsistent. There are abstracts from previous and/or published works (historical perspectives), with contributions on known experiences which have already been debated many times, such as the introduction of toll mechanisms in Singapore.<sup>1</sup> In the same way, a chapter on congestion management seems to be more an administrative technical report than a scientific contribution as such, while another contribution results from the improved revision of work for international institutes.

However, the common background of that book is inspired from Roth's precursory works (1996, 1967), consisting in encouraging the introduction of toll mechanisms and introducing the private enterprise operating rules in the management of road infrastructures. In fact, what was demonstrated was the benefits of the marketing of highways, which is assisted by the introduction of new technologies today, enabling the control of the toll payment. The book consists of five parts. One deals with theoretical developments and with considerations of the notion of the private management of the highway network. Part 3 focuses on the consequences associated with tolls. The historical dimension is addressed in section 4, while the last section looks at perspectives on the privatization of highways based on current policies.

## THE MODERATE SENTENCE OF THE PRESENT PUBLIC MANAGEMENT

Chapter 1, a drafted introduction by Roth, sums up with accuracy the various contributors' viewpoints, consisting in denouncing

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<sup>1</sup> Interested readers will refer to Stephen Glaister and Daniel J. Graham (2004), *Pricing Our Roads: Vision and Reality*, Research Monograph 59, Institute of Economic Affairs, and Gregory B. Christainsen (2006), "Road Pricing in Singapore after 30 years", *The Cato Journal* 26, no. 1: 71–88 (Winter).

the present management of road infrastructures by the public authorities as being unsatisfactory. Indeed, as Roth appropriately emphasizes, the management of the highway network now comes to a political management, leading to unavoidable wastes such as the gratuitous building of infrastructure, insufficient maintenance of the network, and excessive management costs as compared with the costs of practices in the private sector. Indeed, referring to the lessons by Bastiat, the political management consists in fact in making tax payers pay a part of the expenses, and thus in transferring the associated charge with the network use by those who use it most. The big consumers of road infrastructure thus are those who benefit the most from it without paying the full cost. The costs of the public management also result in significant levels of congestion, representing obstacles to the freedom of flow. On these various points, some convergence with Block's analysis can be noted. Divergences quickly appear though, with the proposed solutions in Roth's line of thinking. The infrastructure management or even the infrastructure building should be appointed to private entrepreneurs. No property transfer is proposed, but the introduction of managerial mechanisms only on the various operational levels (buy, build, operate, maintain, design...) (p. 86) and state levels, enabling a break with the political management of highway infrastructure, not with the public property (p. 392 and 425).

The private commercial management is justified by the capability of the entrepreneurs to improve the performance, aiming at satisfying consumers, but not at satisfying the political goals of reelection (p. 402). This management also is characterized by its capability to process information, by its reaction flexibility to satisfy the consumers' demands, and its capability to collect significant funds, whereas the States have to cope with heavier and heavier budgetary constraints. At last, the competition between the various operators should enable them to fulfill the unsatisfied needs of customers at lower cost. (pp. 12 and 13).

## PRIVATIZATION AND MARKETING: TWO DIFFERENT REALITIES

In fact, the notion of privatization appears as a concept with variable geometry all through the work. While for Block privatization means a private road system with *legitimate* owners, Roth's

mainly refers to the introduction of toll mechanisms to have access to the various networks. This is an exercise of "social cost minimization," or a trip planning work (chapters 6 to 10). For others, privatization consists in transferring the building, maintenance, infrastructure management, vehicle registration and driving license management to the private sector, coupling these responsibilities with an adapted rating of insurance premiums (chapter 5). In that way, the propositions consist in marketing road services, based on the mechanisms of the market economy to seek efficiency. While for Block and the libertarians, the legitimacy of land ownership constitutes an essential data, a search for justice, for the Rothians, efficiency should be sought through marketing. It explains why the ethical question of private and public property is defined by one of the contributors, without any further development: "from a purely economic and ethical perspective, it is not private streets but governmental streets financed by forceful means that require justification and explanation" (p. 323). To illustrate the search of efficiency, another contributor will be quoted, giving a very relative significance to property rights: "Nonetheless, even many of the strongest critics of compulsory purchase practices do not conclude that this power should be withdrawn from the government" (p. 64). In that way, expropriation becomes legitimate if it allows resources to be distributed in an efficient way. In fact, public property is considered by these authors as data to be used by entrepreneurs as they manage. Thus there is no question here about ethical considerations and even less about any change in the institutional framework.

### **WHICH ROLE IS ATTRIBUTED TO THE STATE?**

Accepting "public" property implies that the government will go on playing a role. But which role will it play? What will be the consequences of it? In fact, the authors are aware of the contradiction in their position, which consists in denouncing both the political management of infrastructures, while going on giving a role to that management. The paper by Roth (p. 13) emphasizes that entrepreneurs should manage with the government's decisions, negotiate to obtain an appropriate compensation (logically meaning that the price is not determined through a free market mechanism, but is an administered price) while



managing under competition with the free public highways (the privatization thus should be partial) or with the State's regulative activity, which can lead to the loss of the private sector (chapter 12). Thus the proposed system is not based on a network of private land ownership, but on a road network which is operating on the basis of an hybridization between public and private interventions (p. 86).<sup>2</sup> The place attributed to the private sector depends in fact on its social acceptability (p. 228–229), which requires the design of a redistribution of the losses and gains among the population, obliging the re-allocation a part of the toll revenues towards the financing of public transport (chapter 10). "The point is not that there is some right formula, but rather that there is no formula that will be universally agreed to. Any formula will have to address a number of political issues, including compensation of the clear losers from road privatisation" (p. 94).

Since the State's place depends on empirical considerations, the book does not present any consensus with regard to what should depend on the private sector and on the government. Should this place be limited to the management of tolls and infrastructure? Should the entrepreneurs invest in the building, the management of networks? What are the concerned networks: urban, local, interurban, or highways? In the same way, differences appear concerning the management of road security. While some agree to attribute a place to the private sector<sup>3</sup> (p. 94 and ff.), others consider road security as a non-shared governmental domain (p. 518).

## THE FAILURES OF THIS APPROACH

Roth states that the superiority of private management in the area of road infrastructure is based on better management and a more efficient processing of information. In fact, this viewpoint is wrong for several reasons. In fact, the calculated tolls are based on the information which is produced as part of a collectivized management of the infrastructures. It is degraded information, as it already was demonstrated for the other sectors under the influence

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<sup>2</sup> In that respect, chapter 14 concerning the management of local roads by private associations in Sweden proves to be very instructive.

<sup>3</sup> A convergence with Block's viewpoint will be noted here.

of public intervention (Thornton, 1991). In fact, the selected values in the public economic calculation do not reflect in any way the values which would emerge in the frame of a free market. Moreover, the selected values mainly consist in modifying the trip behaviors in order to direct congestion. On the one hand, how do we determine the appropriate congestion level (p. 317) if there is no exchange between individuals, making it possible to calculate these ratings? On the other hand, on a free market, tolls would take into account not only the rating of the time spent on the network, but also other characteristics such as cleanliness, the security of the corridor, or the taking into account of other services such as food service, information, or the vehicle repair in a situation of failure, which is suggested only in chapter 13. No doubt, the authors are not very well-acquainted with the works on the economical calculation in the environment of the market economy operation (Mises, 1990) and thus they do not know what the operation of a market without any state hindrance implies. In the same way, the book title is somehow inappropriate: how is it possible to speak of entrepreneurial logic insofar as the risks taken by the enterprises remain measured and limited under the State's protection? At the most, it consists of outsourced tasks or in an activity of delegation within restricted partnerships. According to Kirzner's terminology, the adopted logic follows a Robbinsian logic of production cost reduction more than it adopts entrepreneurial dynamics. In fact, the proposed perspective in that work is affected by the aporia, linked with a planist approach (which do not put into question the collectivization of land ownership in a fundamental manner) and by a closed mindedness. While Block does not hesitate to mention Roth's works and correspondence with him, it is astonishing that the contributors to Roth's work neither mention nor suggest the works with more radical orientations. Do they even know them? How should these prejudicial omissions be interpreted? In that situation, it is probable that for these authors, the objective of a smarter management of road infrastructures will not be satisfied, and that the future will greatly resemble the past.

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