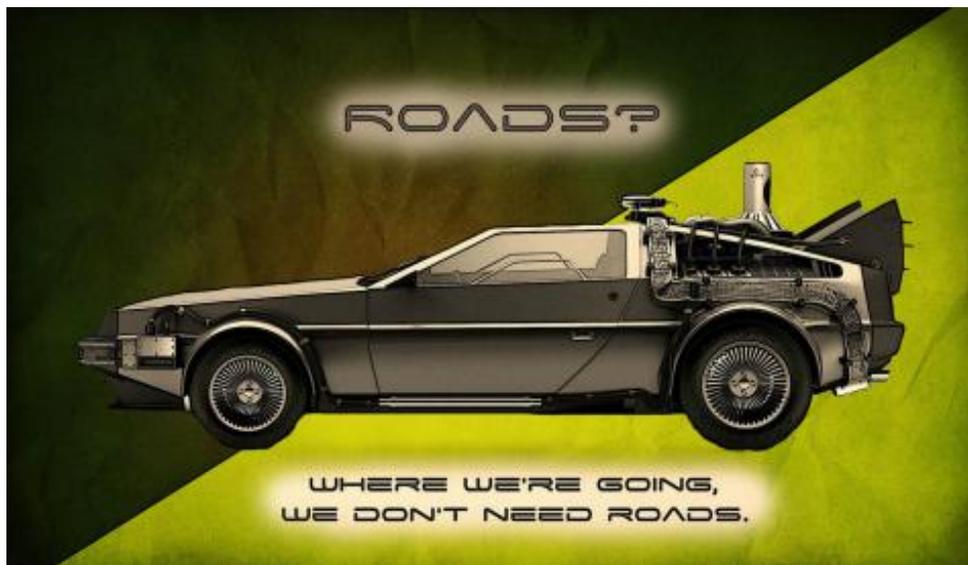


# Extraconstitutional #7: Do You Have the Right to Travel?

[www.thelastbastille.com/2016/12/20/extraconstitutional-7-right-travel/](http://www.thelastbastille.com/2016/12/20/extraconstitutional-7-right-travel/)

*“A typical ‘traffic stop’ involves a man dressed up like a ‘cop’ committing numerous crimes against his victim. I mean crimes in the **lay** or **laymen’s** sense of the words, not in the so-called ‘legal’ sense. These are not considered to be crimes because, in ‘Legal Land,’ it’s **not** false imprisonment, it’s called an ‘investigative detention’ or some equally inane political label. Nothing has changed except the label or opinion that’s been added to it. The political or statist ‘Legal Land’ words cover up the real issue and **distort** reality. That reality is **someone is taking my property through physical violence, threats, and organized coercion.**”*

– [Marc Stevens](#)



## Introduction: Overview of the *Extraconstitutional* Series

Constitutionality is that which is authorized by a constitution. Whatever is unconstitutional breaks or violates the letter of the law. When the government operates under [color of law](#), they violate the spirit of the law; this is known as being extraconstitutional. Regarding constitutional interpretation, it is most accurate and simplest to go with an [originalist](#) view, and [original intent](#), in particular.

[Legal interstices](#) are a lack of specificity within the law that can be used to violate the spirit and the intent of the law. These gaps in the law can take the form of either [loopholes](#) or [lacunae](#); the former relies upon ambiguously vague or inadequately phrased laws where circumvention is still possible, whereas the latter is the sheer absence of a law. Not all [lawfare](#) conducted by government against the citizenry takes the form of unconstitutional actions, for such lawfare could also take the form of extraconstitutional interstices; that is, gaps within constitutional law that are exploited by legislatures and bureaucracies in order to perpetuate a tyranny upon Americans.

Over the past three months, I have examined different infringements of the right to travel. The entire series is as follows:

- [Extraconstitutional #1: Are Texans Required to Become Licensed Drivers?](#)

- [Extraconstitutional #2: Are Texans Mandated to Register Their Vehicles?](#)
- [Extraconstitutional #3: Are Texans Compelled to be Inspected for Emissions?](#)
- [Extraconstitutional #4: Are Texans Obligated to Insure Their Automobiles?](#)
- [Extraconstitutional #5: Are Texans Extorted at the Side of the Road?](#)
- [Extraconstitutional #6: Who Pays to Build the Roads?](#)
- [The Freedom to Travel – May 22, 2008 \[transcript\]](#)
- [Freedom Cells for Right to Travel and Due Process Activists – June 25, 2016 \[transcript\]](#)
- [The Privatization of Roads and Highways \[book report\]](#)
- [Of Personal Liberty \[book report\]](#)

Suffice it to say, the right to travel infringements are now objectively documented, and not subject to mere dismissal as paranoid nightmares. Although there are a lot of directions one can go in examining this broad subject matter, there are two elements I haven't yet addressed thus far that I think are pivotal in understanding before I justify the right to travel itself.

Bureaucratic control over the public roads by the Texas government is now despotic. The state legislature birthed the [Department of Public Safety](#), the [Texas Commission on Environmental Quality](#), the [Department of Motor Vehicles](#), and the [Texas Department of Transportation](#) (modeling the practices of the federal government in creating an unconstitutional [fourth branch of government known as the administrative agencies](#)). These bureaucracies enjoy police powers that are largely enforced by the [Texas Highway Patrol](#), not to mention [254 county sheriffs](#) and [565 municipal police departments](#).

Motorists are compelled by law to immediately show their papers upon demand of a "peace" officer. Texas Transportation Code (TTC) [§§ 521.025\(b\)](#), [548.605\(c\)](#), & [601.053\(a\)\(1\)](#) each say, respectively, that:

*"A peace officer may stop and detain a person operating a motor vehicle to determine if the person has a driver's license as required by this section."*

*"A peace officer may require the owner or operator to produce a vehicle inspection report issued for the vehicle if the Texas Department of Motor Vehicle's registration database includes a notation for law enforcement to verify the inspection status of the vehicle."*

*"As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting: a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy..."*

Should a motorist fail to produce either a driver's license, vehicle inspection report, or automobile insurance card (exceptions notwithstanding) to the police, then the motorist will be charged with a misdemeanor. The burden of proof lies squarely upon the motorist to show that he is in compliance with the law, not upon the officer to show that the motorist is either incompetent or dangerous. "[Papers, please?](#)," much?

This is *prima facie* evidence that Texas has become a police state, [much like the rest of America](#). I sincerely doubt that the Founding Fathers of Texas sacrificed as much as they did during the [Revolution of 1835](#) to secure Texan independence away from Santa Anna's Mexican dictatorship just so that their progeny can enjoy being harassed on the side of the road by [the Bluecoats](#). Texans can do better, even if that requires them to exercise their constitutional prerogative under [Article I § 2](#) of the 1876 [Texas Constitution](#) to abolish "their" government.

## The Philosophical Justification of the Right to Travel

[Argumentation ethics](#) is a logical [proof](#) that demonstrates the [performative contradictions](#) within all political arguments *except* those for private property. It upholds the validity of both the [non-aggression principle](#) and the [self-ownership axiom](#) by showing that individuals who argue with each other have not only foresworn coercion (that is, the *initiation* of the use of force), but also have affirmed property rights, simply due to their own exercise of such rights within the very act of arguing *itself*. Fundamentally, argumentation ethics as a concept insists on integrity by steadfastly opposing hypocrisy.

As an ends, a means, and an insight, argumentation ethics serves as the yardstick by which to judge *who* enjoys [natural liberty](#). Austrian economist Dr. Murray Rothbard's great discovery was that all [human rights are property rights](#). Given that means determine ends and that function determines form, discovering both the nature and extent of any right to travel is imperative towards genuinely appreciating human liberty.

The individual right to travel is argumentatively justified by the simple fact that any such arguer is consistently upholding property rights during said arguing, and thus, private property is logically irrefutable. By contrast, any opposition against the right to travel (such as the "[driving is a privilege](#)" stance) is self-contradictory, because in the very act of denying the right to travel, such an arguer is simultaneously denying property rights, the very selfsame property rights he is using in the very act of arguing! Until such time that individuals are not solely responsible for the statements and arguments they personally make, anti-property "arguments" in any context are *literally* irrational.

For example, Austrian economist Dr. Walter Block's dichotomy of **road socialists** and **road entrepreneurs** might be one way to make sense of the right to travel arguments. Simply put, road entrepreneurs are consistent in their support of the right to travel (even if only implicitly), whereas road socialists *actively* demonize the individual right to travel. Obviously, [road privatization](#) is argumentatively justified much like the right to travel itself, because any such arguer opposing privatization must simultaneously exercise property rights *in the very moment* of said opposition, thereby engaging in an inextricable contradiction.

[Dialogical estoppel](#) is the enforcement mechanism for argumentation ethics. As an extension of (or a parallel to) argumentation ethics, dialogical estoppel forbids self-contradictory arguers from complaining about being punished for their opposition to property rights; for instance, road socialists would be dialogically estopped for their advocacy of [central planning](#). In essence, dialogical estoppel is the rationale for the punishment of criminals, although the nature and extent of any *specific* punishment ought to be proportionally sentenced on a case-by-case basis, as adjudicated according to the demands of [natural justice](#).

[Driver licensure](#), [vehicle registration](#), [emissions inspections](#), [liability certification](#), [traffic stops](#), and [general funding](#) are *all* infringements against the right to travel. Each of them assumes that [victimless crimes](#) are legitimately punishable by [the State](#); given that the criminalization of victimless activity is *itself* a property rights violation, therefore, the State is dialogically estopped from enforcing its infringements against Texans. This means statisticians cannot complain should Texans decide to abolish "their" government precisely *because* of these right to travel infringements.

As a parallel example to Texas, I've asked former municipal judge and political candidate (now [Montanan legislator](#)) [Matthew Monforton](#) whether he thought [vices are crimes](#) and if he supported the right to travel. According to [my](#)

partial transcription of podcast livestreamer (now political prisoner) [William Wolf's The Montana Republic](#) on August 5<sup>th</sup> of 2014, Monforton and I said the following (in part, given that this is the most pertinent excerpt):

**Kyle Rearden:** Judge Monforton...

**Matthew Monforton:** Oh, by the way, you don't have to call me "judge," anymore. You can call me Matt; I appreciate the formality, but you don't need to worry about it.

**Rearden:** Matthew, do you believe that vices are crimes? If so, will you attempt as a legislator to outlaw more vices?

**Monforton:** The answer to that is yes, I do believe that some vices are crimes...I understand and appreciate the argument that many libertarians make about how these activities are victimless and it's none of the government's business. I respect those arguments, but I also respectfully disagree with them, because...I think the government has an obligation to criminalize them...I realize that doesn't quite jive with what a lot of libertarians think, and those are issues I would disagree with as what those sorts believe in...I don't know if that answers your question, or if it does, it probably isn't the answer you're looking for, but that's where I stand on that.

**Rearden:** You did answer the question, thank you. Matthew, do you believe that Montanans enjoy the natural right to travel? If so, would you introduce legislation to repeal the entire Montana Vehicle Code?

**Monforton:** Right to travel? You mean, based on the U.S. Constitution?

**Rearden:** More or less, yes.

**Monforton:** Because there is no right to travel within the United States Constitution itself? It's something that we all kind of recognize, and we all sort of take for granted. It's not a right that it's in the United States Constitution. As far as repealing the traffic code, I think most of the traffic laws are there because they're needed, because there needs to be some kind of...a system of traffic control. I've been to Third World countries where they don't have that, and as annoying as many of our traffic laws are, I'd rather be able to get my kids to school safely than not.

**Rearden:** Just to be clear, you would **not** be interested in introducing legislation, should you be elected, to repeal the requirements in Montana for Montanans to get a driver's license, register their vehicles, get the automobile insurance, and so forth; you would **not** be in favor of repealing those requirements.

**Monforton:** Correct.

Granted, while I should have been more specific with Monforton about emphasizing whether he thought the right to travel was based on the *Montana* Constitution, I now think that his support for the Montana Vehicle Code suggests that he is a road socialist.

According to the Western natural rights tradition, the right to travel is foundationally rooted in the [freedom of movement](#). Ironically, many ideologues [against securing the southern border with Mexico](#) favor such a freedom of

movement *internationally* between nation-states, but just not *domestically* on the “public” roads. Conservatives are relatively more consistent in their authoritarianism when they support these right to travel infringements because just as they support monopoly border controls, they also support the aforementioned licensure, registration, inspections, and so forth (like Monforton did).

Unfortunately, the oxymoronic “sovereign” citizens have largely [poisoned the well](#) regarding the right to travel. These disgusting ingrates have done the work of the government for them in giving a false pretext for the [unjust criminalization of dissent](#); simply put, the “sovereign” citizens are [the Devil’s plaything](#). Never let it be forgotten that it was actually the legitimate [state citizens](#), like [Richard McDonald](#), who raised awareness and developed techniques for travelling without a license (for example).

### **Exercising Your Right to Travel: What Are the Available Options?**

Just as the government wages lawfare on Americans through their exploitation of interstices via “[legal opportunism](#),” I see no good reason why Texans can’t use legal interstices as a form of self-defense. If it is accurate to say that [the law is a racket](#), then anything that can be utilized to secure our liberties by way of using the government’s own monopoly laws against itself shouldn’t be automatically dismissed out of hand. In many ways, [legal interstices](#) are what [distinguish the grey market from the black market](#), although both of them encompass the counter-economy ([the agora](#)); put another way, [grey markets](#) may violate the *spirit* of the law while keeping the *letter* of the law.

Road privatization is better suited as a long-term goal that might very well be multi-generational due to the necessary capital investment required. As a legal interstice, road privatization is implied by [TTC §§ 502.040\(a\)\(1\), 502.001\(35\) & \(45\)](#) – in that, vehicle registration is only applicable to “public” highways **and** that private roads are *specifically* excluded from what is legally defined as a “public” highway; given that the current emissions inspection laws are tied to the hip of vehicle registration due to [TTC § 502.047](#), road privatization would be a way to kill two birds with one stone (or get two birds stoned, as the [old psychedelic joke](#) goes). Any controversy surrounding road privatization as a concept is more symptomatic of economic illiteracy rather than legal or even political qualms, because I think such privatization is a grey market activity, much to the ire of road socialists everywhere.

Of course, the main problem here isn’t so much the lack of sufficient capital investment, but rather, the State’s power of [eminent domain](#). As an evil the [Institute for Justice](#) has litigated against for years, eminent domain really is the ace up the State’s sleeve, for all it has to do (should road entrepreneurs become successful enough in building a suitable network of private roads that render travel on “public” roads optional instead of necessary) is to simply use eminent domain to forcibly seize said private roads. It is chiefly for this reason, strategically speaking, that government abolition must occur in order to ensure the best chance of long-term success, if for no other reason than to “pave the way” for road privatization (pun-intended).

[Driver licensure](#) could’ve been replaced by driver certification had the legislature here actually given a damn about the freedom of Texan motorists. Rather than explicitly recognize [a right to travel on the “public” roads](#) (especially given the fact that [motorists are also taxpayers](#)), the legislators preferred to [convert a right into a privilege](#) that is granted by the State – **whatever the State giveth, the State can also taketh away**. A driver certification that testifies as to a motorist’s *competence* in using an automobile would’ve been an acceptable concession to most advocates of liberty, but no, that was too much to ask of Leviathan!

[Liability certification](#) does include other non-insurance options, such as making a deposit of \$55,000 with either the Texas comptroller, or the county judge wherein whose jurisdiction the vehicle is registered. Personally, as a matter of preference for the least amount of bureaucratic red tape, I’m partial to the option of the county judge deposit. If you follow the instructions located at [TTC § 601.123\(c\)](#) and then pony up the cash, then be sure to keep the certificate of deposit with you in your car, since you’ll need that to satisfy the [§ 601.053\(a\)\(6\)](#) requirement should a “peace” officer ever ask you for your papers.

[Traffic stops](#) could give such “peace” officers real pause if you insist they acquire a search warrant whenever they ask you if they may search your car. [Role-playing police interrogations](#) and [keeping your own counsel](#) were largely developed as methodologies over time, based upon the legal interstice against [self-incrimination](#), as a reaction to the heavy-handedness of so-called law enforcers with all of their deceptive psychological trickery. Although now largely a [security culture](#) matter, [refusing consent](#) by insisting that police obey the Texas Constitution’s [Art. I § 9](#) (Fourth Amendment equivalent) could be a fallback position should you fail to travel in an [inconspicuous car](#).

Modern right to travel activists, like [Verl Engel](#) and [David Krouse](#), typically advocate that people ought to exercise their right to travel by litigating *pro se* in a government court once they get a traffic ticket. The goal here is to plug or clog up the courts by making the costs of enforcement too high for the police and the courts. I vehemently disagree with this particular strategy because it unnecessarily **increases** one’s [vulnerability to coercion](#), as evidenced by not only the concentrated police presence within a courthouse, but also the danger of being held in “contempt of court” by a judge.

Instead, I suggest going on a circuit of [political fieldtrips](#), including at least one to [a municipal](#) or [county courthouse](#). Generally speaking, I have no problem with anyone holding [mock trials](#) so as to hone their litigation strategy and practice [cross-examination](#) given that it is both a lower risk activity and good preparation should you ever be unlucky enough to fall victim to government prosecution, despite good security culture. Until such time the *pro se* right to travel litigants succeed where [Danny Murphy](#) failed in launching a constitutional challenge to *any* right to travel infringements, I honestly don’t think there is any effective litigation strategy whatsoever that can help you secure your right to travel, as also pointed out by [John Bush regarding the astronomical court costs](#).

[Tax resistance](#) has also been broached, given the reality of [general funding](#) with all the [greenmail](#) involved. The annual vehicle registration and emissions inspection fees come out (for me) to be ~ \$60 and \$30 (respectively), whereas the *bi*annual insurance policy premiums are ~ \$500. Despite the fact that the driver’s license renewal every six years is \$25, what is truly “taxing” me is not so much the government here, but rather, the insurance carrier. Even if you factor in additional sales (excise) taxes on oil lubricants and gasoline (not to mention *potential* ticket fines, such as [the \\$108 I was fined once regarding that speeding charge years ago](#)) that still doesn’t come close to my automobile insurance premium, which is susceptible to [rate hikes](#) at any time, especially if there have been more claims filed than usual.

Even if I lived in a [privatized city](#), what is to prevent [oligopoly](#) insurance companies from unjust rate hiking in the attempt to socialize the costs of satisfying claims themselves onto the rest of their client base, thereby preserving their profit margins? Of course, if you have sufficient liquid capital to invest in the aforementioned certificate of deposit, then that would be ideal, but what about the rest of us who don’t have that kind of net worth lying around hidden underneath the couch cushions? Must we all first achieve [financially independent early retirement before](#) lowering the long-term costs of liability certification? If so, that sounds like an awfully raw deal to me, because policyholders have virtually become a [captive market](#) due to [legal plunder](#) via [politically corrupt profiteering](#), not entirely unlike the dreaded [Obamacare](#).

Yet, the technique closest to practical tax resistance would actually be a [vegetable oil conversion](#). As an [environmentalist myself](#), I understand this is not a long-term solution, but for the present, [it’s kinder on the environment](#) and it lowers your [tax incidence](#) somewhat by avoiding the gasoline excise taxes. If there were any effect way to conduct pushback against [the Big Oil cartel](#) and their [fascist fuel lobbyists](#), it would be through the variety of [environmental impact-minimizing automobile tunings](#).

Contracting out your *ability* to travel might be a way out of the regulatory burden imposed by the State. Although I do take a rather dim view of right to travel litigation and counterproductive tax resistance, there might be an opportunity here to [Uberize or Uberfy](#) your right to travel. [Real-time ridesharing](#) has really exploded in popularity in recent years, and for very good reasons, despite statist whining about [droll “safety” regulations](#).

[As I’ve mentioned before](#), Uber’s smartphone app has single-handedly begun real market competition against the

licensed [taxi monopolies](#) strewn across America. Despite this, Uber is *not* a [privacy-enhancing technology](#), as is the case with most smartphone apps. Emergent technologies are usually built on top of preexisting ones, yet as much as I would love the taxi monopolies to go embarrassingly bankrupt, the fact of the matter is that until [end-to-end encryption](#) is *somehow* used between drivers and customers, then exercising your right to travel by contracting it out, while simultaneously practicing good security culture, becomes a rather moot point.

That being said, [Uber is a grey market approach](#) to exercising your right to travel. While some may complain that Uber engages in “[price gouging](#),” the truth is that (unlike the auto insurance cartel), Uber’s services are 100% *voluntary*, and as such, if you don’t like Uber, there’s always its competitors you could patronize with your business, like [Sidecar](#) or [Lyft](#). Not only that, but since Uber does charge higher prices during peak travel and holiday times, then as long as you keep a watch on you and keep track of the time, then how differently is that from riding on a bus, train, or subway in terms of keeping your own costs down as a passenger, honestly?

For those of a more nomadic bent, becoming a [perpetual traveler](#) is yet another option in exercising your right to travel. Regardless of which [flag strategy](#) you adhere yourself to (whether three or five flags), the fact of the matter is that you will be exercising the more classical freedom of movement between the ports of entry amongst various nation-states. Although this type of approach may be beneficial for some, the truth is that not everybody is capable or willing to just sell off their [accumulated goods](#), bid farewell to their relatives, and then go globe-trotting.

Arguably similar to perpetual travelling is [seasteading](#). While usually proposed in the form of a [freeport enclave or exclave](#), seasteading can also take the form of just “[minimalist](#)” [perpetual travelling via sailboat](#). If you keep a bicycle or two aboard so that when you anchor, then you can travel into town fairly easily to acquire supplies (what is the regulatory burden placed upon sailboats? Are such sailors required to maintain licensure, inspection, and so forth? If not, then I think that’d be a powerful incentive to just ditch your cars in favor of boats).

One could apply (fellow Texan) [John Bush’s idea of freedom cells to right to travel activism](#). Instead of relying upon legal interstices, right to travel litigation, or lifestyle changes, freedom cells as applied would be a vehicle for [civil defiance](#) (pun intended). Necessarily, as Bush points out, this would require the cooperation of your peers in order to make happen in any practical way, and even then, it could still end up bungled much like [Citizens for Constitutional Freedom](#).

I think lifestyle changes and legal interstices are the most efficacious strategic approaches in exercising your right to travel. The main problem with right to travel litigation is that it requires you to essentially throw yourself upon the gears of the State, [ending up as a pasty mush](#), with not much else to show for it. Civilly defiant freedom cells (similar to the “clogging up the courts” approach) is impossible if you’re surrounded by [disingenuous activists](#) who promote [fake grievances](#).

Lastly, it should be mentioned that there ought to be a greater [spontaneous order](#) in discovering the [direct action methods](#) for exercising your right to travel. Many contemporary activists rely upon human *design* instead of [human action](#). All too often is there a desire for a “one-size fits all **solution**,” as opposed to the *variety* of techniques that are emblematic of purposeful behavior.

## **Conclusion: An Indictment Against “Public” Roads**

The aforementioned right to travel infringements are nothing less than a glaring indictment of “public” roads. Much like “public” education, “public” lands, and “national/homeland” security, the reality of the “public goods” stance is that it’s adherents must first exercise *private* property rights while simultaneously wholesale condemning them, thereby resulting in a performative contradiction. Therefore, the advocates of “public” roads are dialogically estopped from demonizing road privatization.

Not only that, but the “public” roads themselves are a **tragedy of the commons**. Driver licensure, vehicle registration, emissions inspections, liability certification, traffic stops, and especially general funding are *all* indicative of such a tragedy; [to paraphrase Kyle Bennett](#), private property owners tend not to destroy their own property, whereas any public commons are routinely destroyed or exhaustively consumed. Either humanity learns from history, or it will be doomed to repeat it; until humans reject communal “public” ownership in its *entirety* (particularly with the government as a despotic trustee, at least until such time they return to constitutional intent), mankind will continue to suffer, but only so long as we allow it, and *it has to end* – [so that our progeny can exercise their right to travel amongst the stars in peace and liberty](#).

Right to travel issues are *literally* a matter of life and death. [George Sibley and Lynda Lyon](#) are **dead**, [Michael Hill](#) is **dead**, and [Samuel Dubose](#) is **dead**. How much more **democide** needs to take place before people realize that these infringements are deadly serious violations of our liberties, as enforced by the police and legitimized by attorneys?

Fascinatingly enough, the main villain here is *not* the federal government, but rather, the Texas government; while the federal government is certainly aiding and abetting, it is primarily the Texas Legislature that has perpetrated this tyranny upon the Texan people. Much like [civil asset forfeiture](#), I fear, these right to travel infringements are so extreme that nothing less than an abolition of the government here via [Art. I § 2](#) is going to solve it. I, for one, would welcome the opportunity, should Texans decide that they desire no longer to be under the oppressive yoke of these tea sippers right here in Austin, for I think that a truly freed Texas doesn’t require a government at all.

So, what is it going to be: **tyranny, or liberty?** *That*, I think, is the choice facing Texans when it comes to these right to travel infringements. [As the wonderfully insightful Rayo wrote back in 1969](#):

*“Libertarians are devising many clever schemes for fouling up the State. But rather than applying these erratically and willy-nilly, I suggest they be reserved for well-defined limited objectives beneficial to libertarians. As retaliative capabilities grow, libertarians may be able to realize the de facto immunity from [conscription](#), [social security](#), [travel regulations](#) and other especially onerous violations of liberty.” [emphasis added]*

While [restoring constitutional government](#) is more admirable than upholding the **statist** quo, I’d welcome Texan (and American!) patriots, should their attempts in establishing and running *local* [Committees of Safety](#) not pan out, to consider [vonu](#) and [agorism](#) as fallback strategies, if nothing else. Although the long-term goals of road privatization and government abolition are certainly worthwhile, I’m more concerned with the here and now, of living in freedom *despite* the State, not *because* of it.

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**Postscript:** *I’d like to acknowledge that the inspiration for this series came from reading [Richard McDonald’s articles and webpages about the right to travel in California](#). Also, feel free to download the original documentation for this series from the [Right to Travel Bibliography](#), which has now been completed and was kindly organized by [Shane Radliff](#) at [LibertyUnderAttack.com](#)*