

Yield: Right of Way

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caveat lector

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All progress is change, but not all change is progress.
—Frontiersman, January 1995

Public Land — Originally, all land was public land and the concept didn't have a special name because it didn't need one. So long as men moved freely about the business of survival, there wasn't a need to distinguish between the different legal categories of land. There was only the one category. Eventually, people fenced pastures as early pastoral cultures arose, or planted crops in early agrarian settlements. When men began to feel protective or possessive about certain pieces of land, and began to

property.... Something owned; a possession....

—*The American Heritage Dictionary of the English Language, 1992*

property.... More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it....

—*Black's Law Dictionary, 1979*

public.... Of, concerning, or affecting the community or the people....

—*The American Heritage Dictionary of the English Language, 1992*

control access to and use of that land, then they owned the land. When that happened, the land became property. After that, there was more than one category of land. The remaining public land became discernible as the part that wasn't owned.

Right of Way — I have (rooted somewhere in the past) a right to go my way. It is my Right of Way. It is a right to travel, a right to move about. I don't need to qualify for it or to ask for permission. People have always moved about in their own best interest and they have done so in spite of all of the efforts of tyrants to discourage it. Even today, millions of refugees and so-called illegal aliens continue to do so. There are, of course, people who do not have the Right of Way: prisoners; slaves; the infirm; and people who have sacrificed their Right of Way in exchange for a licensed permission to travel. The Right of Way exists when people have the ability to travel, when they do so without permission, and when their action is generally or customarily accepted or at least tolerated.

*Sweet to ride forth at evening from the wells
When shadows pass gigantic on the sand,
And softly through the silence beat the bells
Along the golden road to Samarkand.*

We travel not for trafficking alone:

*By hotter winds our fiery hearts are fanned:
For lust of knowing what should not be known
We make the golden journey to Samarkand.*

—from *The Golden Journey to Samarkand*
by James Elroy Flecker

The Roads — Any land upon which the Right of Way is customarily exercised is public land. Indeed, private property will become public land if the Right of Way is customarily exercised upon it. Such use has always been recognized as necessary, proper, and inevitable. Throughout history, strips of public land have been preserved for the use of travelers.

In times past, various institutions undertook to improve the narrow strips of public land thus preserved. Materials such as gravel, rock, concrete, or asphalt, were placed on top of the public land. That material was not public land but, instead, was the private property of the institution that placed it there. That continues to be true today.

Fraud — As a result of such improvements, a change in terminology and understanding occurred. As the public land became buried under private property, the concept of *public land* was quietly replaced by the concept of *public property*. However,

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inherent in the definition of property is the fact of ownership. At the same time, a thing that is public cannot be owned but is the domain and concern of the entire community. Thus, the concept of public property is a contradiction in terms. There can't be any such thing as public property.

Today, most public land is covered by private property in the form of roads. In each case, the private property is owned by a government. Notice that a government isn't the community. It isn't the people. It's a corporation, a body politic, an individual person for legal purposes. Thus, the roads are not public. They are private property each of which is owned by a government.

Extortion — Associated with the roads is a set of traffic regulations. Those regulations were enacted by the parties that own the roads. However, the owner of property can legitimately regulate the use of only what he owns. Thus, the traffic regulations apply to the use of the roads but not to the use of the public land under the roads. The use of land that is public cannot legitimately be regulated by legislation because the legislatures do not own the public land. The use of public land can be regulated only by such customs of use as have evolved from antiquity within the community.

However, the owners of the roads have arranged their property in such a way as to absolutely and completely obstruct all access to the public land. They have made it impossible for anyone to exercise the Right of Way upon the public land. They have dictated instead that people can travel only upon the private property. That is an unlawful conversion of the Right of Way into a privilege of use. Upon that privilege of use the owners of the roads have placed prerequisites that reduce every applicant into a condition of servitude. Government will admit only two alternatives. A traveler must either submit to the rules and pay the fees or remain forever imprisoned by the barrier of roads that obstruct his access to the public land.

The Remedy — The owners of the roads cannot legitimately regulate the use of what isn't theirs, that is, the public land. Furthermore, travel isn't a privilege. It's a necessity of survival. So long as governments force people to use the roads as the only possible way to travel, then the people don't have any obligation to the traffic regulations because there isn't any obligation under duress. Only when the use of the roads is a voluntary choice between alternatives does an obligation accrue. Therefore, the remedy is clear. The traveller must neither pay the fees nor acknowledge the traffic regulations. He must exercise the Right of Way and use the public land as if the roads were not there. If the owners of the roads object, then they can remove their property from the public land. They can put it someplace where it isn't in the way, where it doesn't obstruct the access to the public land, and where it doesn't interfere with the exercise of the Right of Way. The owners of the roads have committed the violation. The owners of the roads should yield.

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