

# U.S. Economic Fraud

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## ABSTRACT

These economic papers pertain to a pattern of illegal accounting and regulatory practices in the United States that have resulted in an overstatement of economic growth.

“Post WWII US Economic and Policy Analysis” shows established illegal activities at high government levels over the past 60 years. “M4 Derivatives” shows specific illegal practices in US economic sectors over the past 25 years.

Copies have been submitted to: The US Supreme Court, Department of Justice and several US Senators; The United Nations, World Court, and International Monetary Fund; Over 20 nations’ Chief Executive Offices selected from both the developing and industrialized G8 nations; The California Governor, Legislature, Attorney General and Supreme Court; And concerned individuals and organizations.

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# **U.S. Economic Fraud**

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### **Chapter One**

#### **Post World II U.S. Economic and Policy Analysis**

##### Summary

Einstein held that the Alpha and Omega of science is experience. If economics is a science, then its theory must then derive from and end in experience.

The United States, with 5% of the world's population, maintains the largest economy and trade deficit, the widest military and foreign policy presence and has suffered the most severe terrorist attack (3,025 deaths, 9/11/01), and the highest overall standard of living. But it has 1 in 8 (37 million) below the poverty level; and while it boasts the most equitable criminal justice system, 1 in 6 (46 million) are ex-felons and it has 2.1 million prisoners, or 1/4 of the world's 8 million prisoners. These disparities are used to develop an economic model relating economic forces to policies and practices that determine global events.

This theory is a composite derivative of John Maynard Keynes' principal that the wealth of a nation is in its productivity, John Nash's Controlling Dynamics principal that the best course of action is that which is best for the individual and the whole, and President Eisenhower's 1961 prediction that the conjunction of government and industry will result in "the acquisition of unwarranted influence" with a "potential for disastrous rise of misplaced power".

The measure of unwarranted influence is determined by the deviation between current policies and practices and the standard of limited authority and responsibility defined by the U.S. Constitution. The standard of proof is the Racketeer Influenced and Corrupt Organizations Act (RICO) enacted by Congress in 1970.

The conclusion is that an economic system must include constraints that deflate profits in proportion to the deflation of human rights, and if the unwarranted influence exceeds a country's ability to limit it then the global economic community must do so with trade sanctions to avoid contamination by the unwarranted influence.

## The Standard of Measure

"All the powers delegated by the people of the United States to the Federal Government are defined, and NO CONSTRUCTIVE powers can be exercised by it...." Calder v. Bull, 3 U.S., 386,387 (1798). This 1798 interpretation of the Constitution is the basis of authority of all Federal law and Calder was cited as the basis of the unanimous Lynce v. Mathis, 117 S. Ct, 891,895 decision in 1997 so it still holds.

"The people of the United States erected their Constitution ... to establish justice, to promote the general welfare, to secure the blessings of liberty; and to protect their persons and property from violence. The purpose for which men enter into society will determine the nature and terms of the social compact. ... There are certain vital principals which will determine and over-rule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property for the protection whereof the government was established." (Calder at 388)

For the construction of the Constitution the Framers borrowed from the English writer on Law, Sir William Blackstone, and the French jurist, Montesquieu. This was a unique strategy specifically aimed at unifying 13 independent colonies with diverse political and religious views, since Blackstone represented aristocratic-monarchical law and Montesquieu represented democratic law.

From Montesquieu came the concept that "Laws are the necessary relations arising from the nature of things" and the "Law in general is human reason." From Blackstone "came the most" universal and effectual way of discovering the true meaning of law is by considering the reason and spirit of it and "the only true natural foundation of society are the wants and fears of individuals".

Thus a social compact between people and a "government of laws, not men," (John Adams) was seen as a way to form a more perfect union, establish justice, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity..." The power derives from the people and government acts to protect that.

Montesquieu believed that "all men are born equal" but society makes them lose it, and they only recover it by the protection of the laws" and Blackstone believed that "Democracies are best calculated to direct the end of law; aristocracies to invent the means by which that end shall be obtained; by which that end shall be obtained and monarchies to carry those means into execution." Thus arose a structure of government where the people (democracies) elect from themselves representatives (aristocracy) to invent laws to obtain their objectives with a chief Executive (monarchy) to carry the laws out.

To ensure the integrity of the compact a judicial branch was erected to over-rule any "Constructive powers" such as "abuse of legislative power" and "manifest injustice". Government is an artificial entity created by the social compact and it cannot grant itself additional powers or twist the meaning of the law into unjust actions.

A fundamental concept shared by Blackstone and Montesquieu is that the "it is better that ten guilty escape than that one innocent suffer". This concept defines the standard of reason for interpreting the law. No innocent person should suffer a wrongful conviction or be harmed in

the pursuit of the guilty. In a democracy one person cannot be sacrificed to benefit the whole no matter what the circumstances. This was liberally construed throughout the constitution and Bill of Rights (first Ten Amendments) in the form of specific duties and limitations on government and explicitly guaranteed rights.

No ex post facto laws or penalties may be imposed to disadvantage people for past acts. No bills of attainder may be passed to taint a group of people or punish them without a trial. Habeas corpus may not be suspended except in cases of rebellion or invasion where public safety may require it. People have the rights of freedom of speech, press, peaceable assembly and judicial review, the right to be secure in their person, houses, papers and effects against searches and seizures without probable cause, based on oath and specific description of the place to be searched or person or thing to be seized, and they cannot be deprived of life, liberty, or property without due process or have property seized for public use without just compensation, to list a few. A capstone (Amendment IX) ensured that enumeration of rights can not be construed as a limit of rights.

The basic premise of the Calder court is that government is only empowered to establish justice, promote the general welfare, secure liberty, protect people and their property, guarantee people's rights and prevent manifest injustice, and the reason and spirit of the people establish and direct the law. A very important and overlooked construct of the constitution, in its preamble with the other precepts of the social compact, is to "secure the blessings of liberty to ourselves and our posterity." The rights of one person cannot be sacrificed for the benefit of the whole and that includes future generations. They are guaranteed, inalienable, and all men including future generations are created equal under the law of the Constitution. For this reason, deviation from the original interpretation of the Constitution will serve as the standard of measure of "unwarranted influence" and the "rise of misplaced power".

### **The Standard of Proof**

The RICO laws (18 U.S.C. §§1961-68) were designed to eradicate "organized crime in the United States by strengthening the legal tools in the evidence gathering process ... It is to be liberally construed to effectuate its remedial purpose". (Organized Crime Control Act of 1970). Congress' enactment of an intentionally broad RICO statute supersedes any court's authority to restrict its application. U.S. v. Turhette, 452 U.S.576, 587 (1981); H.J. Inc. v. Northwestern Bell, 492 U.S. 229, 248-49 (1989); Reeves v. Ernst and Young, 507 U.S. 170, 183 (1993).

Because legislators are presumed to act in the people's interest they are granted immunity so as to avoid endless litigation by disenchanted individuals. Chappell v. Robbins, 73 F3d 918, 921-22 (9th cir. 1996). Similarly, the federal government cannot commit acts chargeable under state or federal laws and therefore cannot violate RICO. Berger v. Pierce, 933 F2d, 393,397 (6<sup>th</sup> cir. 1991). Mc Neily v. U.S., 6 F3d 343,350 (5<sup>th</sup> cir. 1993). To apply Rico in these cases the statutes must be applied directly to the individuals who hold and misuse the authority of their office, such as extortion of campaign contributions for favorable treatment of an issue or diverting government funds into an enterprise in which they hold a financial interest. Justice Department statistics indicate that 48% of RICO prosecutions are for "white collar" crimes such as corruption of government.

RICO does not require mens rea (criminal intent) beyond that of a predicate act. Bruner Corp. v. R. A. Crunner Co., 133 F3d 491, 494n.3 (7th cir, 1998); Gentry v. Resolution Trust Corp., 937 F2d 899, 907-08 (3d cir. 1991), U.S. v. Biasucci, 786 F2d 507, 512 (2<sup>nd</sup> cir. 1986). Such acts include those chargeable under state law for one or more years such as murder, robbery, bribery or extortion (the taking of property by fear, threat, or under the color of office). Or acts indictable under federal law such as counterfeiting, pension or welfare fund embezzlement, fraud, extortion, obstruction of justice, investigations, or law enforcement, tampering with or retaliating against a witness or victim, peonage (selling of convict or debtor labor) and slavery, interference with commerce, money transactions derived from unlawful activities, money laundering, criminal infringement of a copyright, union fund embezzlement, illegal payments or loans to labor organizations, and Currency and Foreign Transactions Reporting Act violations.

The predicate acts must only be chargeable; no conviction is required, which means that only the elements of the offences need exist. Even acquitted behavior can serve as the basis of a predicate act. U.S. v. Gambino, 920 F2d 1108, 1112 (2<sup>nd</sup> cir. 1990); Cosmos Form Ltd. v. Guardian Life Ins. Co., 113 F3d 308, 310 (2<sup>nd</sup> cir.1997). Two or more predicate acts constitute a RICO violation if they establish a pattern of criminal conduct such as "similar purposes, results, participants, victims, methods of commission, or are otherwise interrelated by distinguishable characteristics". Sedima, S.P.R.L. v. Imrex, 473 U.S. 479 (1985) and 18 U.S.C. §3575(e). Continuity is established if they pose a threat of continuing criminal activity, such as being related and occurring within 10 years of each other or pose an open-ended threat of racketeering activity in the future. H.J. Inc. v. Northwestern Bell Tel. Co. 492 U.S. 229 (1989); Corley v. Rosewood Care Ctr. Inc., 142 F.3d 1041, 1048, (7th cir. 1998); U.S. v. Shenburg, 89 F3d 1461, 1471 (11th cir.1996); Tabas v. Tabas, 47F. 3d 1280, 1295 (3d cir. 1995); Sun Savings & Loan Assn. v. Dierdorf, 825 F 2d 187 192,194 (9th cir. 1997); Allstate Inc, v. Hecht, 65F 3d 1523,1527 (9th cir.1995).

Rico prohibits a) using racketeering income to acquire an enterprise, b) acquiring an enterprise by racketeering, or c) conducting the affairs of an enterprise by racketeering, if they affect interstate commerce, or d) conspiring to do any of these activities, because the aim of Rico is to remove organized crime from legitimate organizations. An enterprise is established by a common or shared purpose, a continuity of structure or personnel, and a structure distinct from the pattern of racketeering. Any group, or organization, business or government entity may constitute an enterprise within the meaning of RICO. U.S. v. Freeman, 6F. 3d 586,597 (9th cir. 1993), Jennings v. Emery, 910 F. 2d 1434, 1440 (7th Cir.1990); U.S. v. Thompson, 685 F.2d 993, 998-9 (6th Cir.1982).

Since an "enterprise" is an entity and a pattern of racketeering activity is a connected series of criminal acts the enterprise is established by the pattern of racketeering. U.S. v. Turkette. 452 US 576(1981); U.S. v. Mazzei, 700 F, 85, 89 (2d Cir. 1983). No proof of conspiracy is required since every pattern of racketeering becomes an enterprise who's affairs are conducted through a pattern of racketeering. Chang v. Chen, 80 F. 3d 1293, 1298 (9th Cir. 1996). There is no economic motive requirement; it only needs to effect interstate commerce. National Org. for Women v. Scheidler 510 US 249,261 (1994). The motive can be political, racial, ideological, nationalistic, disenfranchisement, or even genocide, as long as the pattern, enterprise, predicate acts and affecting commerce aspects of RICO are met. U.S. v. Ellison, 793 F. 2d 942, 950 (8th Cir.1986), against a Ku Klux Klan leader. Thirteen percent of Rico prosecutions are against violent groups such as terrorists, white-hate, and anti- Semitic groups.

Affecting interstate commerce only requires a diminimus (slight) impact, U.S. V. Frega, 179 F. 3d 793, 800(9th Cir.1999), even if the predicate acts only occur within a state, US v. Miller, 116 F. 3d 641, 674 (2d cir. 1997). A religious cult's efforts to spread its influence to other states and countries satisfies the "slight" effect requirement, U.S. v. Beasley 72 F. 3d 1518, 1526 (11th Cir.1996). Even "proof of a possible or potential impact" satisfies the requirement. U.S. v. Juvenile Male, 118 F. 3d 1344, 1349 (9th Cir.1997) International commerce is included if it affects U.S. commerce.

Thus a RICO offence is established if:

- A) the elements of two or more predicate racketeering acts exist;
- B) a pattern of similar purposes, results, participants, victims, methods of commission, or interrelated distinguishing characteristics exist;
- C) any individual, partnership, association, corporation, government or other legal enterprise is involved;
- D) there is a probable, potential, or actual impact on interstate commerce; and,
- E) the enterprise function is acquired by use of racketeering income on activities, used to perform racketeering activities, or there exists a conspiracy to do so.

Since the purpose of RICO is to eradicate "organized crime in the United States" and a conjunction of government and industry that results in acquisition of unwarranted influence and misplace power constitutes a pattern of constitutional crimes that fall into the category of predicate racketeering acts RICO becomes a standard of proof that measures the impact on commerce and deviation from the Keynes and Nash economic principals and the constitution.

It also measures the degree of correction necessary to restore the economic system and the law to its optimum function, and should therefore be used in conjunction with Nash's Controlling Dynamics to yield an optimized economic model.

### Activities

#### 1) Nuremberg and the Marshall Plan

After defeat of the Nazi's in World War II the Marshall Plan was implemented to reconstruct Germany and the Nuremberg trials were conducted to De- Nazify Germany by "applying the rule of law to the atrocities of war." The cases were prosecuted by Justice Robert Jackson and Professor Telford Taylor from the United States and others from the victorious Allied powers.

Although the "mass genocide" and other illegal fascist activities involved" the active complicity of hundreds of thousands", "only a small number of Nazi criminals were actually tried and a majority of those convicted were pardoned by John McCloy," US Commissioner to Germany.

In addition to pardoning them, McCloy, a leader in US industry, returned their property, factories, and status, and they became friends and business sources. (Trials and Cases of the 20<sup>th</sup> Century in America, Alan Derschowitz, Litigation, winter 2001,vol.27,no.2,pp. 814). Although RICO did not exist at the time, Nazi activities in pre-WW2 Germany demonstrates its need by the magnitude of the global impact that resulted from their organized criminal activities. Similarly, McCloy's pardoning of the offenders and engaging in business with them would constitute obstruction of justice and law enforcement (predicate RICO acts), a pattern affecting interstate commerce, and use government as its enterprise (by his position).

This misuse of the Marshall Plan promoted criminal behavior by showing that genocide and illegal activities pay because selective prosecution of a few scapegoats allowed the vast majority of the criminals to repatriate into respected positions in the judiciary, academia medicine, business, and the arts. In Gregg v. Georgia, 428 U.S. 153, 173, 183 (1976) the US Supreme Court determined that punishment is not excessive if it does not involve unnecessary or wanton infliction of pain, has a legitimate penological justification so as not to result in gratuitous suffering, and is not grossly disproportionate to the underlying offense.

Legitimate penological interests are 1) quarantining offenders while a danger to society, 2) deterrence of future offences, 3) rehabilitation and 4) prevention of offences. Because government is expressly empowered under the social compact of the constitution to establish justice, promote the general welfare, protect people and their property, and prevent manifest injustice and has a fiduciary responsibility to do so under the due process and equal protection clauses it could only involve itself in the Nuremberg Trials and Marshall Plan within these constraints. Failing to prosecute Nazis, pardoning those found guilty, restoring their businesses and property, and then engaging in business with them, after committing mass genocide and attacking all other European countries created a gross criminal justice disparity. Under the Gregg determination of legitimate penological interests all punishment to all other offenders is grossly disproportionate if the Nazi's were not punished.

The RICO and Gregg standards were not in place at the time of McCloy's action but the social Compact was and his actions demonstrated a gross miscarriage of justice, criminal action under color of office, and set a pattern of constitutional deviations for economic reasons in motion. Under RICO 18 §1963(a) forfeiture of property derived from racketeering is mandated. McCloy's return of the Nazi's property and engagement in business with them would have been a RICO violation itself, creating a RICO enterprise.

## 2) McCarthy Hearings

In a November 1953 radio- television address President Truman stated, "McCarthyism the meaning of the word is the corruption of truth, the abandonment of our devotion to fair play. It is the use of the big lie and the unfounded accusation against any citizen in the name of Americanism. This horrible cancer is eating at the vitals of America and it can destroy the edifice of freedom."

During the great depression of the 30's there was extreme U.S. unemployment. In an effort to find work many people attended "tent meetings" about forming labor unions, finding jobs and improving working conditions. The meetings had names like "Jobs for America" "Workers United", and "Workers for Fair Wages", and when people entered the meetings they were asked to sign in, which they did without realizing that they were an American Communist Party splinter group.

Senator McCarthy, with an eye on the Presidency, needed an edge to ensure his election so he fabricated one. At government expense his staff obtained the 15 year old sign-in rosters and searched them for celebrity's names. Because actors, entertainers and authors started as workers many of their names showed up and they were called before McCarthy's Senate Internal Security Sub-Committee.

“Are you now or have you ever been a member of the American Communist Party?”

“No,” not knowing that the tent meetings were Communist Party splinter groups and not remembering specific activities 15 years prior.

"In 1933, were you not in fact a member of a group known as "Jobs for Americans?"

When they couldn't remember their names were read from the roster and they were accused of lying under oath and obstructing justice. Now scared and facing criminal prosecution they were asked if certain other individuals attended the meeting with them. There is a reason coercion of a witness is illegal. Faced with a possibility of imprisonment, what witness would not verify what a prosecutor wants them to say?

McCarthy quickly convinced the nation that "The Red Menace" was taking over America because of all the well known names, and would have succeeded in becoming elected had it not been for the fact that his heavy handed tactics created a back lash from the other celebrities. When Einstein's friend, William Fraenglass, was called in 1953 Einstein wrote, "Every intellectual who is called before the committee ought to refuse to testify .... This kind of inquisition violates the spirit of the constitution.

Truman gave his speech shortly thereafter and ended McCarthy's reign of terror, but without closure. Bills of attainder are prohibited by the Constitution (Art. 1 §9.3) because no one should be able to gain power by tainting the image of an easily identifiable group. This calumny is the tactic of fascists. In Italian, French and Latin, fascismo, fascio and fascis mean bundle or group. Hitler stated, "The size of the lie is a definite factor in causing it to be believed," (Mein Kampf, 1925-26) and his propaganda minister, Goebbels, said, "It is an absolute right of the state to supervise the formation of public opinion. (1923). Not in a democracy.

Hitler further wrote that "the masses of the nation are in the depths of their hearts more easily deceived than they are consciously or intentionally bad" and " [Democracy], the deceitful theory that the Jews would insinuate-namely, the theory that all men are created equal." In a 1932 letter to Dr. Freud, Einstein wrote, "As one immune to nationalist bias ... the quest of international security involves the unconditional surrender by every nation, in a certain measure, of its liberty of action, its sovereignty...."

In 1932 Einstein's warning against "nationalist" policies and practices was ignored and the Nazi's (National Socialist Party) almost succeeded in dominating the world with devastating results. In 1953 his words were heard and McCarthy's contrived nationalist scare was exposed. However people lost their jobs and careers were ruined. Some committed suicide and anyone who came to their defense at the time was subjected to investigation and branded a "sympathizer".

McCarthy was never prosecuted for his de facto Attainder and as with John McCloy, criminal fascist behavior was shown to work with impunity. None of the injured parties were compensated, government resources were used to create injustice, and its fiduciary responsibility "to establish justice" under the social compact was ignored.

In World War II the fascists were the declared enemies of the United States and its fundamental premise of constitutional equality, and the Russian and Chinese Communists were its allies. The Russians openly waged war against the Nazi's when Europe was occupied. The Chinese, while occupied by the Japanese and under penalty of death, gave assistance and protection to US airmen who crashed landed there after bombing raids on Japan. How, in the matter of only a few years after the end of World War II, did people who fought beside and protected American's become their enemy?

### 3) Eisenhower's Warning

Eisenhower, a conservative Republican and respected as a hero for defeating the Nazi's in the European theater, emerged in 1961 with a dire warning after 8 years in the White House. "This conjunction of an immense military establishment and a large arms industry is new in the American experience ... In the counsels of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist."

What would provoke a career military man and 8 year Chief Executive to make such a public and condemning accusation against the military and industry? The military reports to the president, Commander in Chief of the armed forces, but industry does not. This conjunction was a joining together of separate entities for a common purpose, which in the case of the military is de facto diminuendo of Executive authority and a serious breach of the Constitution, since industry lobbies and finances the political campaigns of members of Congress who appropriate military budget and approve arms expenditures.

Eisenhower was a man of strong convictions and principals and a noted strategist since he had out foxed the Nazi's by going into Normandy under adverse conditions, where they least expected it. Had he been able to legally prove a military-industrial alliance he would have done so but the RICO laws strengthening the legal tools in the evidence-gathering process were not in place yet and he was a "lame duck" on his way out of office. No one would jeopardize their careers by taking on those behind the "rise of misplaced power" if Eisenhower was not going to be around to back them, especially if most people felt that a strong military was good in the face of a cold war with the Red Menace.

Eisenhower saw the Nazi's pardoned and reinstated under McCloy, he saw the rise of their industry and business alliance with America, he saw McCarthy use calumny to create paranoia in America, and he saw American military form an alliance with American business. Even though McCarthy was deposed there were no public hearings or trial to expose McCarthy's lie and dissuade the public from their newly created fear of the Red Menace. He was exposed for coercive misuse of authority but the fear created in the public's mind was never discredited. This had two effects. The communist nations saw US Senators align the US against them and the American people saw their fears manifest as an anti-US posture by those nations. By the early 60's the cold war was a firmly established reality created by a fabrication from a senator intent on securing the presidency by fascist tactics. Since Eisenhower couldn't address it formally he raised it to the attention of the public.

### 4) The 60's

Three significant events occurred in the 60's that substantiate a "rise of misplaced power" a) Kennedy was assassinated, b) 87 American's were mass murdered by the department of defense, and c) America entered the Vietnam conflict.

In 1995 a civil suit, In re Cincinnati Radiation Litigation, 874 F. Supp. 796 (S.D. Ohio 1995), was quietly decided in Federal Court. Between 1960 and 1972 the Defense Department contracted with Cincinnati General Hospital, under the auspices of Cincinnati College of Medicine, to conduct Human Radiation Experiments "designed to study the effects of radiation on combat troops."

Eighty seven "patients were selected to be subjects in experiments because they had cancer." They were not "in the final stages" of cancer or "close to death," and had been diagnosed with "life expectancies of up to two years." Patients were selected because they were "deemed in reasonably good clinical condition, ... primarily indigent, poorly educated, and of lower than average intelligence." They lacked the sophistication necessary to understand what was done to them.

“The patients . . . were told they were receiving radiation for their cancer” and would “receive treatment to help their sickness.” They had no knowledge that they were being experimented on, no consent forms were used the first 5 years, and after that the consent forms “failed to state the real risk of radiation exposure” or that they were part of an experiment.

Because the radiation doses ranged from “20-300 rads,” many times what would safely be used to treat cancer, “There was a risk of death from bone marrow infection within 40 days.” The “experiments either led to the patient’s deaths, seriously shortened their life expectancies, and/or led to radiation injury resulting in bone marrow failure or suppression, nausea, vomiting, burns on patient’s bodies, severe and permanent pain, and/or emotional suffering and emotional distress,” and also impairment of “cognitive and other functions.”

The Court dismissed the Defendants arguments and motions to dismiss, finding the Plaintiff’s (heirs and relatives of the deceased patients) allegations to be true and determined that “the plain language of the Constitution must lead a reasonable person to the conclusion that government officials may not arbitrarily deprive unwitting citizens of their liberty and their lives.” (p. 815) The court then went on to expound upon the “pursuit of happiness,” (p. 816), “right to be free from unwarranted government intrusiveness,” and “right to determine” our futures. The court followed this with a comparison of the Defendant’s action with the Nazi atrocities brought out in the Nuremberg Trial (pp. 819-820) and “the atrocities of Nazi doctors,” in addition to showing constitutional violations, the Nuremberg Code, Federal Law, and that it “shocked the conscience,” Rochin v. California, 342 US 165, 169 (1952). The Court found for the Plaintiffs.

The significance of the case is that a branch of the government believed that it was permissible to do such an atrocity, that they had the authority to do so, actually mass murdered people, and then attempted to defend and justify their actions. Indeed, because of the Defendants’ attempts to conceal their actions by deceitful practices the case did not come to trial for over 20 years, and would not have come out at all had not a relative of a deceased victim become suspicious as to the manner of the victim’s death.

None of the Defendants were criminally prosecuted for mass murders, again substantiating that major Nazi type crimes may be committed with impunity if done in the “national” interest, as with McCarthy and McCloy. Even though the Court found for the Plaintiffs it is still a case of members of government misusing their authority to perpetrate major constitutional crimes with no actual accountability and a major disparity in justice, in violation of the Gregg Court’s “proportionality” determination since average citizens with lesser offenses receive much greater punishments and even death.

When taken in conjunction with McCarthy and McCloy it is a trend of developing Nazi practices, deception, and criminal behavior with impunity for political and economic reasons under a nationalistic color of office. The elements of these predicate acts meet the RICO standard of proof with government as the enterprise by which racketeering activities were perpetrated, a clear pattern of prolonged racketeering activity, and interstate commerce was affected because government funds were used to commit each of the crimes. In each, the constitutional deviation was 100% since the acts violated the spirit and intent of establishing justice, promoting general welfare, protecting people and their property, guaranteeing their rights, and preventing manifest injustice provisions of the Social Compact.

In 1963 President Kennedy was assassinated after signing National Security Action Memoranda 55, 56 and 57 to curtail CIA (Central Intelligence Agency) operations and refusing to intervene in Vietnam. The CIA was under the President’s direct jurisdiction and as soon as he signed the orders transfer of their functions to the military should have commenced. He was assassinated before this could happen and the CIA retains its authority to this day.

There is no direct evidence to prove that Kennedy's assassination resulted from attempting to disband the CIA and refusing to enter the Vietnam conflict but in the words of Lucius Cassius Longinus Ravilla, a Roman Judge (127 BC), "Who benefited by what was done?"

The determination of the Warren Commission charged with investigating the assassination was less than conclusive, with the bulk of its findings sealed for 75 years by President Lyndon Johnson. This action left many unanswered questions that cast significant doubt on the veracity of the official finding that a lone assassin, Lee Harvey Oswald, could overcome all the security, with one of the biggest questions being his motive. He in turn was assassinated before trial could be held to determine his culpability.

The only things that may be stated with absolute certainty are that a President was assassinated after attempting to disband the most powerful intelligence agency in the world and resisting significant political pressure to enter Vietnam. His successor by ascension as Vice President ordered the findings of the investigation sealed, entered the US into the Vietnam conflict, and retained the CIA. Vietnam was important economically for the two reasons. An open conflict would involve significant profits for the arms industry that Eisenhower said was responsible for "unwarranted influence" only two years prior, and Exxon rose to become one of the world's three largest oil companies by pumping Vietnam oil.

Historically colonialism was the economic mechanism by which countries expanded and acquired new resources. Colonial governments were established under the auspices of the parent country and charged with the responsibility of maintaining order in the colony. Companies from the parent country invested capital and manpower to set up the enterprise and paid taxes and/or tariffs to the parent country for military protection of their investments. Absent development of new technology or natural resources this was the only large scale economic growth opportunity for a country.

As colonies developed they usually sought independence by open conflict as in the American Revolution if legal-political measures proved inadequate. Eventually colonialism evolved into joint enterprises where the colony maintained its own government and the parent country provided military protection but benefited by free trade agreements so its businesses could freely operate and benefit from abundant natural resources and labor. From 1884 to 1940 Vietnam operated as a French colony until the Nazis occupied France and their Axis Power partner Japan occupied Indochina. The French continued government administration in both France and Vietnam under Nazi and Japanese military control.

In France the Allied Powers worked with the French Underground and in Vietnam the US worked directly with Ho Chi Minh, leader of the Vietnamese Liberation Army (Viet Minh), by providing arms. After Japan's surrender in 1945 Ho Chi Minh took control of Hanoi and declared Vietnamese independence. Their Declaration of Independence state, "All men are created equal, they are endowed by their creator with certain inalienable rights. Among these are life, liberty, and the pursuit of happiness", patterned exactly after the US. However the French moved into regain control of Saigon and South Vietnam, precipitating armed conflict.

This time the US financed the French effort with nearly \$3 billion over the 9 year conflict and the British contributed nearly \$1 billion. Ho Chi Minh's troops defeated them at Dienbienphu in 1954 but the French had reinstated Emperor Bao Dai who had ruled Vietnam during their

pre-1940 colonial period. Ngo Dinh Diem unseated the Emperor within a year and declared himself to be President of the newly formed South Vietnam. Under Diem many South Vietnams became displaced and formed the National Liberation Front (Viet Cong) who aligned with Ho Chi Minh's Viet Minh in Hanoi in 1956 & 1957.

By this time Ho Chi Minh had aligned with the Russians and Chinese and was receiving arms and financing from them since the U.S. had financed France's attempt to re-colonize Vietnam and McCarthy had publicly declared Russia and China to be US enemies in his Senate Hearings. A Viet Cong insurgency became firmly established in South Vietnam which was countered by a U.S. CIA "advisor" effort. President Kennedy, questioning U.S. involvement, ordered 1,000 US troops withdrawn and President Diem was assassinated on November 1, 1963. Three weeks later Kennedy was assassinated and Lyndon Johnson re-committed the US in Vietnam.

Why was Vietnam of such intense concern to the US, British, French, Russians and Chinese aside from the political-ideological division created by McCarthy? Very simply, Vietnam was rich in oil and mineral wealth. Every major nation maintains domestic and international intelligence gathering agencies to ensure national and economic security. In the US the national Security Agency (NSA), or "The Firm", monitors all forms of communication for possible threat. In 1996, they gave McDonnell Douglas a \$250 million contract for "listening post" satellites to monitor cellular and long distance satellite to satellite communications over the US and Congress appropriated \$500 million to place phone monitoring equipment in all major US telephone exchanges as part of a joint international effort with Canada, Australia, and Great Britain called Project Eschelon.

Similarly, the CIA uses field agents to gather intelligence directly and support US interests abroad. It is no accident that the CIA is unofficially referred to as "The Company" since this is how colonialism is conducted as a matter of practicality today. Formal colonization is no longer viable because open territories no longer exist and countries prefer their independence to being under the jurisdiction of a major power because they can "lobby" for support from different powers and receive greater benefits than they would from one alone. This however does not satisfy a major power's need to maintain strategic, business and economic security on sources of natural resources. Businesses do this competitively on their own of course but national security cannot be left in the hands of business executives whose primary concern is corporate profits.

"The Company" maintains a strategic colonial overview to safeguard US interests. In the case of Vietnam this meant oil and mineral deposits and Exxon, a legitimate business enterprise trying to expand by obtaining oil leases and sell its products in US domestic markets, was the "primary contractor". From "The Company's" stand point this ensured the US a major source of energy for its industry and citizens. Colonization is covertly maintained under cover of legitimate enterprise and the only thing necessary is a friendly "legitimate" local government to secure the oil leases from.

The US had once again betrayed an ally, Ho Chi Minh, after his efforts against the Japanese in WWII in favor of a stronger economic position, the French and Emperor Bao Dai, just as they had done against the Russians and Chinese in favor of alliances with Nazi business interests. Ho Chi Minh was a democrat however they didn't count on the patriotic sentiment of the

Vietnamese people and the McCloy/McCarthy tactics left them in an unfavorable position so their only option was to support President Diem with “advisors”, since Ho Chi Minh had been forced to seek Russian/Chinese support.

Organized crime makes use of legitimate enterprises as cover operations and involves a pattern of activities (predicate acts, victims, similar practices, etc.) that impact US commerce, or potentially do so. The French merely attempted to re-instate their pre-1940 legitimate enterprise and backed out of Vietnam after Ho Chi Minh’s victory, but the US financed them and then continued its intervention in Vietnam by fraud, misrepresenting a democratic ally as an enemy in order to gain control and install democracy. These actions “do not pass the smell test”. It was extortionate interference with a nation’s sovereignty purportedly to install democracy where it already existed, for economic reasons (oil and mineral wealth).

Congress designed RICO “to combat organized crime” and “intended that it be liberally construed to effectuate its remedial purpose...by strengthening the legal tools in the evidence-gathering process.” The proof of the pattern, enterprise, and affecting commerce requirements were formulated in exchange for reducing the burden of proof on predicate acts, mens rea (criminal intent) and the motive requirement in non-Rico offenses. Only the “chargeable” elements of predicate acts are required and only the criminal intent of predicate acts like murder, fraud (misrepresentation), extortion (taking property under color of official right), embezzlement, and obstruction of justice need be shown.

Supporting a colonization attempt on an anti-fascist ally, especially one founded on democratic principles, is attempted extortion of an entire country. President Diem ousted Emperor Bao Dai after the French defeat and the US sent “advisors”, alliances for political or economic reasons, after Diem declared sovereignty. Kennedy acts to disband the CIA and withdraw the advisors. Diem is immediately assassinated in a military coup and Kennedy is assassinated within weeks. Oswald is then accused and assassinated within days of Kennedy’s death so there is no trial and determination of guilt. McCarthyistic calumny by official channels occurs and the only official investigation (Warren Report) is sealed by Executive order, from Lyndon Johnson who ascended to power on Kennedy’s death, reinstated the CIA and started the Vietnam War.

An official investigation and justice was obstructed, a technically innocent man was tainted, as McCarthy had tainted celebrities, and fraud was committed on the public. The CIA benefited, the military and arms industry benefited, as Eisenhower predicted would occur by “unwarranted influence” and a “rise of misplaced power”, and Vice President Johnson benefited by ascension to the Presidency, where he implemented a war that allowed the US to obtain the oil of a country they had previously attempted to assist in the colonization of and he obstructed the reporting of an investigation to the public. A RICO interpretation of the evidence leads to a different conclusion than the “official” version presented to the public.

##### 5) Watergate

The next US President, Richard Nixon, was impeached and pardoned by President Ford, after it was shown that he had used illegal practices to secure the Presidency, like McCarthy’s attempt. He had been elected in 1967, after previously being Eisenhower’s Vice President and attempting to run against Kennedy. In 1971, as re-election approached, he set up an illegal secret police known as “The Plumbers”, so designated for their ability to plug leaks, in the White House basement. Members included Howard Hunt, a member of the CIA since its

formation in 1947 and head of their Domestic Operation Division from 1962 to 1965, during Kennedy's assassination, and James McCord, also a member of the CIA during the same period and member of the Committee to RE-Elect the President (CREEP).

Hunt and G. Gordon Liddy, General Counsel to CREEP, broke into Dr. Fielding's office, psychiatrist to Daniel Ellsberg, a Defense Dept. analyst, who had leaked The Pentagon Papers which revealed that misinformation had been presented to previous Presidents and the public concerning the reasons for entering the Vietnam War and subsequent activities. When Ellsberg came to trial and the Dr. Fielding break-in became public the judge declared a mistrial and set Ellsberg free because it came out that the judge had been offered the FBI Directorship at Nixon's California White House after he finished the Ellsberg case, an apparent bribery attempt.

The Plumber's then set about discrediting the Democratic Party by a series of illegal tactics, like fabricating letters that charged Presidential Candidates Hubert Humphrey and Henry Jackson of sexual misconduct and alcoholism, Congresswoman Shirley Chisholm of mental problems, and Senator Muskie of making derogatory remarks about French Canadians. Other tactics included "favors" and ambassadorships for \$100,000 campaign contributions and \$220,000 in bribes to silence Watergate defendants, electronic surveillance, muggings, kidnappings, and use of prostitutes to obtain compromising photos of Democratic candidates.

On June 17, 1972 five months before the election, the Plumbers were caught breaking into the Democratic Campaign Headquarters at the Watergate Hotel. On January 8, 1973, the trial of Hunt, Liddy, McCord, Sturgis, Barker, Gonzales and Martinez began. Sixteen days later Sturgis, Baker, Gonzales, Martinez and Hunt had plead guilty on all charges and Liddy and McCord were found guilty on all counts. There had been no mention of a Nixon connection, who had been inaugurated to his 2<sup>nd</sup> term the day after the trial began.

Three days before sentencing on March 21, 1973, a taped conversation occurred between President Nixon and his aide John Dean:

Dean – "there is the problem of the ...blackmail which...will go on while these people are in prison and will compound the obstruction of justice..."

Nixon – "How much money do you need?"

Dean – "...a million dollars..."

Nixon – "We could get that...the question is who the hell would handle it?"

However McCord had already sent Judge Sinica a note saying that they had been given money by higher ups to perjure themselves and plead guilty. At sentencing four days later Hunt received 35 years, Liddy 6 ¾ - 20 years, Sturgis and the others 40 years, and McCord's sentencing was postponed, eventually 1-5 years and then reduced to 4 months. On debriefing McCord implicated people as high as Federal Attorney General John Mitchell. Within a few weeks information was flowing freely from these people and the White House was implicated. On July 16, 1973, at the Senate Watergate Committee Hearings it was revealed that the secret service recorded all Oval Office meeting and phone conversations. Nixon resisted turning the

tapes over, the Committee insisted. In April 1974, 1300 pages of edited and censored transcriptions of the tapes were turned over. The Committee demanded the unaltered tapes, in July 1974 the Supreme Court ruled that Nixon must turn over the 64 tapes, the House Judiciary Committee began drawing up Articles of Impeachment for: 1.) making false and misleading statements to investigative bodies and the public, ordering others to do so, and obstructing justice; 2.) criminal misuse of Presidential authority involving the IRS and FBI, establishing a White House secret police, and unlawful surveillance; and 3.) actions contrary to and subversive to the Constitution in violation of his Presidential Responsibilities, oath of office, and public trust.

On August 5<sup>th</sup>, Nixon appeared before the Committee and on August 8<sup>th</sup> he publicly resigned from office. Eisenhower's "acquisition of unwarranted influence" and "rise of misplaced power" was confirmed and organized crime was shown to exist at the highest levels including the President, Attorney General, FBI and CIA but more was also revealed. In October of 1973 Spiro Agnew was found guilty of the tax evasion, fined \$10,000 with no jail term, and resigned over bribes and payoffs between 1967 and 1973, 7 months after the Watergate breaking, as Governor of Maryland and Vice President of the United States.

In December 1973 Ford replaced Agnew as vice president and then pardoned Nixon after he replaced him as President. The General Accounting office also determined that by December of 1973 over \$20 million had been raised by secret or illegal campaign contributions from major corporations like Ashland and Gulf oil who admitted to them. The illegal contributions were used to fund illegal activities ranging from the Ellsberg and Watergate break-ins to the payoffs of the convicted Plumbers. Bribes, extortion, obstruction of justice and investigations, fraud, and breaches of the Constitution occurred within RICO, with pardons or no prosecutions except for a few scapegoats, as in McCloy's implementation of the Marshall Plan. Businesses involved in illegal acts were protected, manifest injustice occurred because all other punishments are grossly disproportionate by comparison, and the people were fraudulently manipulated for election purposes.

#### 6) Reaganomics

Ronald Regan began his political career as President of the Screen Actors Guild and as informant to the FBI on fellow Hollywood actors "thought the be Communists so they could be investigated by McCarthy's House Un-American Activities Committee, and coincided with the creation of the CIA by the 1947 National Security Act. After passing through two terms as California Governor he was elected to the Presidency in 1980, defeating Carter after only one term in Office. Carter, in the tradition of Kennedy, downsized US military importance by declaring that the US was not the police of the world and then downsized the CIA by firing 800 agents for questionable covert practices. He also implemented a policy of cutting US aid to all countries that practiced human rights violations.

As a result of the aid cuts, CIA supported colonial dictatorships in Iran, Chile, the Philippines and other countries started to fail because they could not sustain the military forces necessary to maintain their political power. After the Shah of Iran fell its liberated citizens attacked the power behind the Shah by seizing the American Embassy in Tehran and 52 American hostages.

An assassination of Carter for implementing Kennedy's policies would have been too obvious a connection and Carter was nearing the end of his term while Kennedy was early on in his so

it was more practical to character assassinate Carter and replace him. Even though Carter's aid and CIA cuts precipitated the Shah's fall he was unable to secure the hostage's release, which became the most highly reported media topic in the US. After 444 days the hostages were suddenly released on Reagan's Presidential Inauguration.

Unofficial reports (from White House aide Barbara Honnegor and others) claimed that a deal involving former CIA director and Reagan's Vice-Presidential running mate George Bush had been made with the Iranians to keep the hostages from being released until after the election.

Upon taking office Reagan rode a crest of popularity because he had been elected by a large majority and the hostage release appeared to be a good omen after terrorists had held America's spirit captive for a year and a half. He immediately reversed Carter's policies by expanding the CIA function and manpower, and then increased US military budget and operations as the Iran-Contras scandal showed.

Since its 1947 inception the CIA has been implicated in gun and drug running, assassinations, financing right wing dictatorships, training and equipping "death squads", rigging elections, and importing large quantities of local counterfeit currency into countries to destabilize their economies and governments. Three US Presidents; Eisenhower, Kennedy and Carter took direct action against their practices and four US Presidents; Nixon, Reagan, George Bush Sr. and George Bush Jr. politically benefited from CIA actions. The Iran-Contras and Watergate scandals exposed much of it although no corrective actions were taken.

At the end of WWII President abolished the O.S.S. (the CIA's predecessor) and deactivated the military. The general sentiment was for peace in the world and the Russians and Chinese were our allies. In 1946 the United Nations was established in order to provide a forum for peaceful resolution of future conflicts. However none of this lasted because open forums are not equipped to resolve conflicts precipitated by hidden agendas and covert practices.

In 1947 Allen Dulles and others convinced President Truman that the Soviet Union was pursuing an Atomic Bomb. This was true but it was actually the Nazis pursuing an A-bomb that caused the US to actively pursue it with the Manhattan Project, and then US use of A-bombs in Hiroshima and Nagasaki that caused the French, British and Russians to all pursue their own A-bombs. However, because McCarthy's Un-American Activities Committee was creating the Red Menace scare at the time Truman was swayed into believing that a threat existed from the Soviet Union and the function of the O.S.S. was reinstated as the CIA.

Dulles served as CIA Director from 1952 to 1961 and transformed its operation from intelligence gathering into active covert operations involving US military and business in Third World country politics in order to promote arms sales and acquire natural resources. It was during this period that Eisenhower was President and was able to directly observe "unwarranted influence" in the "council of government" and a "rise of misplaced power". Kennedy fired Dulles in 1961 for lying to him after he realized that the Bay of Pigs was an independent CIA operation and pulled US military support. Shortly thereafter he also attempted to downsize the CIA and withdraw support from the Vietnam "advisory" operation, and was assassinated.

The CIA had been credited with the death squads of El Salvador, the overthrow of freely elected Jacobo Arbenz in Guatemala and his replacement with a military dictatorship, and the assassination of freely elected Salvador Allende in Chile and his replacement with Pinochet, but it was the Iran-Contras that exposed it all. As the result of the pre-1980 election deal to prevent the hostage release until after the election the US sold arms to the Ayatollah Humani via sales to Israel and then to Zaire, both the product of a profit motivated Military-Industrial Complex and treason since they were selling arms to a nation that had attacked American soil and people (the Embassy) so it had to be done very covertly. “Merchants have no country”.

In 1984 CIA Beirut Station Chief William Buckley was kidnapped, interrogated and executed on video tape by the Iranians. Buckley revealed the details on the CIA Middle Eastern network which the Iranians use to blackmail the US into providing details on Iraqi troop movements in the Iran-Iraq War and increase arms shipments, or they would turn the CIA network over to the Russians. So the US (CIA) does negotiate with terrorists and commit treason for the right price. This was ironic since the CIA and McCarthy caused the anti-Russian sentiment in America that caused Russia to assume an anti-US posture after being its ally and the CIA armed and financed the Shah of Iran and caused the Ayatollah’s “liberators” to overthrow the Shah and seize the Embassy and hostages, and then gave them arms to kidnap Buckley.

Eisenhower was correct, it was “a disastrous rise of misplaced power”, Kennedy was correct, “they should be disbanded,” and Allen Dulles created them by manipulating a President to create them and then turned them into a threat to the stability of the world. Between 1983 and 1986 Lieutenant Colonel Oliver North was operating the sales of arms to Iran at inflated prices. The profits were then used to finance the Contras invasion of Nicaragua by selling obsolete arms to them at inflated prices to fund covert operations, until a Lebanese newspaper exposed the arms sales to the Iranians in 1985.

Initially it was made to appear as if Lt. Col. North had organized a joint Army, Navy, Air Force, Marines and CIA operation against Communist expansion into South America. When it became obvious that North lacked the authority to do this, attention shifted to President Reagan as the only one with enough authority. Reagan claimed he did not know what his subordinates were doing and attention then focused on Chief of Staff Donald Regan, and finally on it being part of the deal to free the hostages with the question of whether President Reagan had authorized the arms sales to Iran after they had kidnapped the hostages. Reagan could not remember so a congressional investigation was convened to determine who was responsible for violating the Constitution and Federal Law.

Suspicious focused on National Security Council head Robert McFarland, Oliver North’s boss. He overdosed on Valium, failed to die, and then told investigators of an effort to cover up Reagan’s participation. Attention focused on Vice President Bush, North, John Poindexter (McFarland’s N.S.C. replacement) and CIA head William Casey, who suddenly died from a seizure attributed to a brain tumor, at which point everyone became silent.

Reagan appointed the Tower Commission to investigate, which focused on Ollie North and deceased CIA head William Casey. Finally Congressional inquiries were held and after 15 months charges were brought against North. In 1988 North petitioned to have the charges dropped because he had not been advised that lying in an investigation and destroying documents was illegal. The motion was denied and his trial began in spring of 1989, after

Reagan was out of office and Vice President George Bush Sr. became the President elect, just as Watergate was postponed until after Nixon's re-election.

Documents in the trial revealed that both Reagan and Bush knew of and approved of the Contras funding, including a 42 page FBI document that had been withheld from the Congressional investigation committee and which revealed that Bush had met with the President of Honduras to negotiate Honduran aid for the Contras in exchange for increased US foreign aid to Honduras. North was convicted of 3 felonies in May of 1989, pardoned by President Bush, and then exonerated by the US Supreme Court in 1991. Once again two elections were manipulated, Reagan's and Bush's justice was obstructed, domestic and international crimes occurred, US government funds were used, and people in other countries were injured and killed with complete impunity, all of which was provable as organized crime by RICO standards.

The gravity of these acts was further aggravated by Reaganomics. Domestic funding for social and education programs were diverted into military spending increases justified by the American hostages and other international instabilities caused by the Iran-Contras arms deals, ultimately by the "unwarranted influence" and "rise of misplaced power" from a conjunction of military industry motivated by profits and the CIA's colonization agenda to obtain the resources of other countries.

Because of less expensive Asian labor the "outsourcing" of labor intensive production jobs started to occur in the early 80's. Hundreds of thousands of American workers lost their jobs, homes, and families ended up living on the streets "between" 1985 to 1990 because the "Homeless Epidemic" coincided with the Social program cuts and outsourcing of jobs. Justice Department statistics indicated that crime rates had been declining since 1981 and continued falling until 1997 where they reached a 30 year low, with the exception of a 34% rise in violent crime between 1985 and 1990. Sociology and Penology studies indicate a 75% correlation between education/income levels and crime, which the homeless epidemic and crime increase supports.

Under RICO there is no mens rea requirement except in commission of the predicate acts and only the elements necessary to make those acts "chargeable" are needed to sustain a RICO violation. Families were destroyed and people committed crimes under extreme circumstances while the fiduciary responsibility to promote the general welfare was subverted by organized criminal acts on a global scale. Law is to be interpreted by the spirit and reason of it, that men came together to form a society for their benefit and protection and empowered government to carry out this function. Actual results showed that the opposite occurred and the worst crime occurred in conjunction with the homeless epidemic, the education cuts.

Jefferson wrote that "The merchant has no country", meaning that their only allegiance is to profits. Therefore any conjunction between government and industry can only be made to serve the profit motive, at the price of government's obligation to its creators, the people. Both government and industry are only legal entities created in law, the authority for which derives from people, so they may only legally operate for people's benefit, and at the very least cause no harm. However, business has a profit motive for its owner and employees and if a conjunction occurs with government that diverts its function into business profits then profits

have been made at the expense of people's rights, Equal Protection at the very least since government would only be functioning for the benefit of people associated with the business.

American Educator Abraham Flexner wrote that "Probably no nation is rich enough to pay for both war and education" and "The Common School Is the Greatest Discovery Ever Made by Man". Hitler wrote "Either the world will be ruled according to our modern democracy, or the world will be dominated according to the natural law of force; in the latter case the people of brute force will be victorious". (Mein Kampf) He later wrote, "We do not intend to abolish the inequality of man... There will be a great hierarchy of party members. They will be the new middle class. And there will be the great mass of the anonymous, the serving collective, and the eternally disenfranchised. Beneath them there will... be the subject class of alien races..."

Jefferson believed that "liberty depends on freedom of the press", "that every man should read those papers, and be capable of reading them", and that "tax... paid for the purpose of education is not more than the thousandth part of what will be paid to kings, priests and nobles who will rise up among us if we leave the people in ignorance". Reaganomics cut education. Democratic principles cannot be maintained without an educated people because "The basis of our government is the opinion of the people" (Jefferson) and if they are not informed by the truth "the state... supervise[s] the formation of public opinion". (Goebbels)

It is no secret that American literacy fell to an all time low among foreign nations since the Reagan cuts. The Framers of the Constitution wrote, "to secure the blessings of liberty to ourselves and our posterity." If "liberty depends on freedom of the press" and people "capable of reading" then the "rise of misplaced power" has been firmly established by Reagan's cut to "The Common School" to pay for contrived wars that only profit business. It is not the number of people in school that determines that quality of education, it depends on whether they are capable of discerning if their opinion is supervising government or whether government is supervision the formation of their opinion.

In America today there are two tiers (classes) of education, The Common School for the majority whose opinion authorizes government activities and Private Schools for those who enjoy the political advantage of "unwarranted influence" that formulates the common opinion. People think in terms of the words they know and common schools teach state authorized facts while Private Schools teach the thoughts of Julius Caesar and the other Formers of history. Without equitable education there can be no equality among men, blessings of liberty, establishment of justice, domestic or international tranquility, or general welfare. John Nash's Controlling Dynamics, the best course being that which is best for the individual and the whole, becomes that which is best for an unwarranted few who acquire misplaced power by practicing the deceptions of organized corruption.

#### 7) The Bush Doctrines

George Bush Sr. was elected because inquiries into the Iran-Contras scandal, showing his participation, were delayed until after election. He entered office with a massive Reaganomics deficit, the "fall of '89" stock market crash, a massive jobless and homeless epidemic, implications in the BCCI banking scandal, his son Neil implicated in the savings & Loan Industry collapse, and the prospect of exposure from the approaching Oliver North trail. The Savings & Loan Industry collapse was a particularly innovative form of racketeering that cost the American public over \$50 billion and no one went to prison for it.

The Savings & Loan Industry, insured by the Federal Savings and Loan Insurance Corporation, was in an extremely cash rich position at the beginning of the '80's. In the words of Jefferson, "banking establishments one more dangerous than standing armies", and that "the principle of spending money to be paid by posterity, under the name of funding, is but swindling on a large scale", which is exactly what occurred. With the organized precision of Hitler's Blitzkrieg, groups of predators wiped out the entire industry in less than 10 years.

One person would sit on an S&L Board of Directors, one operated a Real Estate development company, and one purchased low value land in unincorporated areas. The Developer would propose a project in the order of \$100+ million to be built on the undeveloped land, which the land purchaser had inflated in value by getting it re-zoned for commercial use, and the S&L Board of Directors member would push through a loan approval based on a projected high return on investment using data from similar projects in incorporated areas. Since the land even though rezoned, was still less expensive than incorporated areas the projected returns appeared very attractive.

This was similar to Oliver North's tactic of selling less than state of the art arms to the Contras at state of the art prices. It's a fraudulent form of arbitrage that works by keeping financial backers in the dark on the facts. This meant that the entire S&L Industry had to be targeted in the same time frame, the construction period for the developments, or the industry would become aware of the strategy and stop it. Once the development loans were approved Developers purchased the land at inflated values, constructed the buildings, and then defaulted on payment of the loans, turning worthless developments in unincorporated areas that couldn't be leased out over to the S&Ls. They profited on the land value inflation and construction costs, and the S&Ls were left with billions of dollars of worthless real estate assets on their books.

The entire S&L Industry went bankrupt, the land purchasers, developers and directors made billions, and the FSLIC paid off the S&L savers out of tax dollars, since it is federally insured. Amazingly not one FSLIC auditor questioned the high number of these commercial development projects in unincorporated areas or their values based on projected returns. Neil Bush was a Director and was exposed as part of the fraud at the same time his father George came under fire for the BCCI banking scandal and his involvement in the Iran-Contras. As accusations mounted against Bush he mounted accusations against Saddam Hussein amassing nuclear, biological and chemical weapons. This was an easy sell because he was a known dictator who had nerve gassed 5,000 people in his country.

Bush immediately sent 125,000 troops to protect Saudi Arabia, who didn't want them but agreed to take the troops when Bush threatened to cut off their foreign aid. Bush sent another 125,000 when Saddam invaded Kuwait and "Desert Storm" became a reality. America was entertained from the ease of their arm chairs as a "Strong America" used "smart bombs" to obliterate the opposition. The oil fields went up in flames, oil industry profits soared, and the arms industry once again sold their wares into a created market. All thoughts of scandal and corruption at the highest levels were replaced with visions of America's supremacy as the police of the world.

The only problem that could not be resolved by the war was the jobless and homeless epidemic, which Bush “solved” by “Trickle-down economics”. Under this plan, contracts were awarded to the leaders of industry, who in theory “knew” how to use the money where it would do the most good, specifically by creating jobs for people who needed them. Only it didn’t work out that way. Faced with the prospect of increasing profits, the industry leaders “outsourced” production jobs overseas to lower labor cost Asian production facilities. Profits soared, the stock market recovered, and the only jobs created were low wage retail and service positions that paid 1/2 to 1/3 what that former production jobs paid. “The merchant has no country” and there is no way Bush could have been CIA Director and that stupid. It was a clear contrivance to lower American labor rates, increase business profits and stimulate the stock market.

Except for wasting half a billion dollars of government funds in an attempt to scandalize President Clinton to prevent his re-election, nothing significant occurred until George Bush Jr. ran for President. The election was coming down to one state, Florida, and his brother, Jeb Bush the Governor of Florida, told him publicly not to worry because he would make certain that he carried that state. A major scandal erupted when it was determined that Democrats in three parishes (counties) were prevented from registering to vote and police were discovered with “stuffed” ballot boxes in their cars. Al Gore won the nation’s popular vote but Bush carried the Electoral vote because the three Democratic parishes ended up with Republican majorities and Bush ended up as the President Elect.

Al Gore filed suit in the Supreme Court and Bush retained the nephew of Justice Scalia as his counsel. The court decided that it was not their place to interfere with state elections, even though it was a national election and “right to vote” is a constitutional principle. In effect George Bush was appointed to the Presidency by the Court’s refusal of it fiduciary responsibility. As the issue developed into a public controversy the 911 World Trade Center attack occurred and Bush initiated 3 responses.

A “Patriot Act” broadening Executive Powers was immediately pushed through Congress, “Homeland Security” was formed to detect terrorists in America, and allegations of Weapons of Mass Destruction in Iraq were made to justify invading Iraq. Because of high emotions over 9/11 anyone who opposed these actions was labeled “Un-American” or “Un-Patriotic” and the Patriot Act was passed almost unanimously.

In 2005 however, after emotions cooled, a Patriot Act II was submitted to Congress and even a Republican majority would not pass it. Bush accused them of being Un-American but by this time there was too much evidence of misuse of authority for the tactic to work. Under Homeland Security guards with bullet proof vests and automatic weapons roamed airports and other strategic points. Americans were detained incommunicado without charges or counsel, people on planes were arrested if they complained, one was even shot to death, and people were protesting the war. There was an Anthrax scare and the Anthrax was traced by DNA markers back to the US military research facility version. The Anthrax scares stopped after this was exposed.

All the “9/11 terrorists” were traced back to the Saudi Arabia so the US invaded and took control of Afghanistan to search for Bin Ladin and Bush said that our greatest threat was from Saddam Hussein in Iraq who was developing chemical, biological and nuclear WMD’s. UN

inspections turned up nothing but old facilities full of cobwebs. Colin Powell then presented “artificial evidence” of mobile bio-weapons facilities to the UN based on “first hand” evidence from an Iraqi defector and informant known to the CIA as “Curve Ball” because his information had been shown to be fabricated in the past.

Aside from being technologically unfeasible, no evidence whatsoever was found by UN inspectors and allegations that Saddam had obtained Uranium from Africa and Aluminum Tubes for gas diffusion enrichment to weapons grade materials were proven totally false. Bush was investigated by Congress for initiating a war based on false allegations. He blamed his actions on CIA reports but when the reports were investigated it was shown that he had embellished CIA speculations. The reports said Iraq “may” have WMD’s or materials to make them and Bush said they “had” them. When Senator Boxer asked Bush’s spokesperson Condoleezza Rice about this her official response was “Get over it”.

It was also shown that there was sexually perverse treatment of Iraqi detainees at Abu Graeb and illegal abuses at the Guantanamo Detention Facility. The White House justified torture of suspected terrorists as necessary for the security of America, just like irradiating citizens was necessary in In re Cincinnati Radiation Litigation for the good of the state. The CIA is currently under investigation for illegal detention of people in Europe in “underground prisons”. The Swiss and Germans are investigating possible human rights violations. These are well respected countries.

Over \$100 billion has been spent on a war justified by false allegations. Over 2,000 American servicemen/women and 100,000 Iraqi citizens have been killed. Companies like Halburton with connections to White House staff were awarded lucrative contracts without open bids from other companies which was only revealed because they were caught on gross markups and overcharges on goods and services. America was embarrassed in front of the entire world by the exposure of illegal and unethical practices and they started asking for an “Exit Strategy” from Iraq. On top of this global terrorism increased dramatically, including televised beheading of abducted people, a London subway bombing, a train bombing in Spain, and an exponential rise in suicide bombings to one a day in 2005, double the rate in 2004.

Suicide bombers are unique in that there is no accepted profile for them. They are not depressed or suicidal, they do not do it for money, they sacrifice their lives for ideological convictions, a number of them are done by women, and they predominately target supporters of US policies, but they can’t be identified. The more terrorist cells that are uncovered by the US, the more terrorists that are created by perverse, illegal and unethical practices. When 9/11 occurred there were some allegations of it being a CIA operation to divert public attention from Bush’s questionable election, as there was when Bush Sr. initiated Desert Storm amid the BCCI and Iran-Contras allegations. This is unlikely since it involved expensive real estate and the lives of many Americans. The 9/11 terrorists were suicide bombers and such acts are political statements and reactions to perceived injustices. If the CIA was involved, it was most likely indirectly as the inciter or instigator of a terrorist response.

In 1776 George Washington stated to his troops, “The fate of unborn millions will now depend...on the courage and conduct of this army...We have to resolve, therefore, to conquer or die”. In the original Declaration of Independence Jefferson and the other Framers wrote, “He [King George] has waged cruel war against human nature itself, violating its most sacred

rights of life and liberty in the persons of a distant people who never offended him...” Emotions run high and people will sacrifice their lives to combat perceived injustices. The true patriots of America died for a Constitution prohibiting warrantless searches and surveillance or detentions without probable cause, charges and representation. Bush forced through Legislation that took those rights away and called it the “Patriot Act”. Samuel Johnson stated, “Patriotism is the last refuge of a scoundrel”, and a document that contravenes the Constitution and subverts what the real patriots died for cannot by any reason be considered patriotic.

In reality suicide bombers probably consider themselves patriotic to their own beliefs, “distant persons who never offended him”, reacting to CIA and other US actions. If the US was caught for sexually perverse acts, illegal detentions, and illegal contracts to companies with White House connections, what else was done under cover of covert operations, like the Iran-Contras holding of American hostages and illegal sale of arms to subvert an election, murder of citizens seeking medical treatment for national interests, and going into business with Nazis. Organized crime has no boundaries, not even the Constitution, when done under a guise of Nationalist sentiments justified by claims of patriotic duty.

In addition to illegal domestic and Middle Eastern activities there have been numerous instances of similar activities in Central and South America, all involving countries like Vietnam with natural resources and potential arms sales. The CIA was caught by several countries importing large quantities of local counterfeit currency. The agents were arrested, the currency seized, and the State Department asked for their return but was told “no” because they had committed crimes and the currency was evidence.

Five hundred million dollars may not seem like a large amount but in smaller countries it is enough to destabilize their economies because pay rates stay the same while cost of goods rises on a large scale. A total of \$1.5 billion in the local currencies of three countries would have required very large printing operations because the denominations of the local currencies are small compared to the US dollars. This had to involve a large US effort and was never even investigated by the Justice Department even though counterfeiting is a RICO violation. Absolutely no where in the Constitution is the US government authorized to commit illegal acts for any reason. It is bound to prevent manifest injustice under positive law and strictly forbidden “CONSTRUCTIVE powers” to create authority that was not explicitly granted by the Constitution.

#### 8) Environmental Impact

Thus far the activities presented were chosen because they are well established in media, congressional records, and court cases, and therefore serve as examples of an ongoing pattern of RICO activities since the initial business alliances with the Nazis under the Marshall Plan. There is an activity however that does not rise to a level of criminal activity but deserves mention as an example of unethical activity that endangers the public. Since the subject is controversial determination of civil or criminal liability must be made by considering “the reason and spirit of the law” in regards to promoting the general welfare and protecting people and their property. It pertains to the fact that the US, with only 5% of the world’s population, consumes 25% of the world’s fossil fuel resources and produces 25% of it, CO<sub>2</sub> while refusing to assume responsibility by taking proactive preventative measures, like signing the Kyoto protocol, for “economic reasons”.

In 2001, the United Nations sponsored a report that correlated global warming in CO<sub>2</sub> emissions from fossil fuels since 1900. The report showed a stable average global temperature from 1000AD to 1900AD with a one degree C rise from 1900 to 2000, a significant heat increase by global standards. The US then funded a study, via a Texas Senator, by an economist and oil company consultant, McCormick and McKitric that disputed the UN report's statistical analysis. Their report was then disputed by scientists around the world and in particular by Woods Hole Oceanographic Institute. This was a clear attempt by the US to discredit a legitimate UN study on a subject that affects every nation.

The report was dubbed "The Hockey Stick Report" because of its resemblance to the shape of a hockey stick, with a clear relation between global warming and CO<sub>2</sub> emissions. The report has been controversial over the past several years because of 26,000 deaths in Europe from a heat wave two years ago, increased earthquake activity, probably from expansion of the earth's crust, including an Indonesian Tsunami from an earthquake and major quake in Pakistan, a never before recorded hurricane in Brazil and cyclonic weather on the US west coast, the most severe hurricane and tornado season ever recorded, an increase in volcanic activity, and extinction of frogs in Chile from fungus proliferated by global warming, a species replacement.

The Hockey Stick Report may also be understating the severity of the problem because the temperature did not simply increase from 1900AD. Instead it rose 0.5 degree C by 1950 then dropped 0.3 degree C by 1975 and then rose 0.9 degree C by 2000, nearly a 1 degree C rise in only 25 years. The 0.3 degree C drop thermodynamically correlates to heat absorption, as occurs when ice melts. Significant ice cap and surrounding ice shelf regions have disappeared.

This is classical chemical thermodynamics in refrigeration systems, controlled by the  $dG = dH - TdS$  free energy relation. No chemical reaction is occurring so the  $dH$  change in enthalpy is zero and the relation becomes  $dG = -TdS$ , which means that  $-T = dG/ds$  temperature drops as the  $dG$  free energy is dispersed by an increase in  $dS$  entropy. In short, as the Permafrost and ice melt the number of parts increases, absorbs heat and cools things down. Global temperature increased 0.5 degree C in 50 years and then decreased 0.3 degree C over 25 years so there was a  $0.3/0.5 = 60\%$  heat absorption in only 25 years. However since fossil fuel consumption and CO<sub>2</sub> production increased during these 25 years it means that the heat absorption was actually much greater than 60%.

The thawing was sufficient to absorb the heat until 1975 but by that time the rate of CO<sub>2</sub> production had increased and outpaced the refrigeration effect from the thawing's entropy increase. There is now increased CO<sub>2</sub> from increased fossil fuel consumption, increased CO<sub>2</sub> and methane from Permafrost decomposition, and decreased reflection of solar radiation back into space because of reduced ice pack areas. Thus the heat sources have increased by three and the refrigeration function has been reduced to half capacity so the 0.9 degree C rise in 25 years is not only four times the rate of 1 degree C in 100 years, it is an exponentially increasing rate so a thermal cascade may be occurring.

A 2-mile ice core from Antarctica indicates that CO<sub>2</sub> is 27% higher than at any pointing the last 650,000 years. This is important because gases like CO<sub>2</sub> and methane (CH<sub>4</sub>) are quantum energy transformers. They can work like a CO<sub>2</sub> laser that uses low energy electromagnetic (EM) waves to "pump" up the carbon-oxygen bonds in small quantum steps and then discharge the energy in one high energy EM wave pulse, or they can work like an inverse laser that

absorbs a high energy EM waves (ultraviolet light) from the sun and then releases it in small quantum steps of low energy EM waves (Infrared light), as energy accumulators or diffusers.

Global warming occurs because these low energy thermal EM waves cause atoms to vibrate, which increases temperature, instead of being absorbed by the atoms to pump up their quantum energy states so they can be accumulated and released as high energy EM waves. In effect, transformation of UV light into heat waves becomes a one way function and CO<sub>2</sub> and methane become like one-way mirrors that let light energy in and then hold it trapped as heat. There is much controversy over this, mainly from politicians protecting fossil fuel interests, but it is basic chemical thermodynamics and CO<sub>2</sub> laser physics applied on a global scale. In any system energy in equals energy out, unless by the 2<sup>nd</sup> Law of Thermodynamic heat losses occur by entropy increase which occurs in all systems naturally. To dispute this is to dispute known chemistry and quantum physics.

Human and scientific reason dictate that there are life threatening global events occurring, that weather patterns are caused by and affected by heat energy, that geological events occur by the thermal energy, that CO<sub>2</sub> and methane transform energy according to Quantum physics, that chemical thermodynamics describes refrigeration and heating functions, and that climatological, geological, and biological effects are increasing as CO<sub>2</sub> production from fossil fuel consumption increases. Human experience dictates that a conjunction of government and oil industry would create an unwarranted influence to discredit anything that threatens profits and campaign contributions.

A US Senator from the US “Energy Capitol” (Texas) used government funds in an attempt to discredit an UN report and minimize a threat, just as Senator McCarthy used government funds to discredit people and create a threat. The White House also censored its own National Academy of Sciences report connecting global warming to CO<sub>2</sub>. This is a concerted pattern to suppress scientific information for political and industrial profits. Since global warming represents a life threatening global public safety issue this intentional mischaracterization could be legally interpreted as public endangerment by fraud for economic and political reasons and an international crime by RICO standards.

#### 9) Civil Genocide

No one disputes the need for criminal justice but justice based on political determination instead of equity under the law violates the Constitution. In actuality “All justice is political and all politics are economic” to some degree. From a societal standpoint legitimate political interests are to ensure that people’s opinions influence government for their benefit and posterity and legitimate penological interests are rehabilitation, deterrence and prevention of future offenses. These legitimate functions support Nash’s dictum that the best course of action is what is best for the individual and the whole.

However when politics profits from crime and administration of justice an unwarranted influence and misplaced power arises which is itself criminal by violating the Bill of Attainder (Art. I, §9.3), and other constitutional protections. A bill of attainder is a law that groups people into an easily identifiable category and takes their liberties without benefit of trial. It prohibits de facto fascist practices that “group” or “bundle” people into a “mass of the anonymous, the serving collective, and the eternally disenfranchised”.

Prior to 1970 the US had a comparatively small prison population and percentage of ex-felons. In 1980 crime actually started declining to a 30 year low in 1997 except for a 34% rise between 1985 and 1990 coinciding with the Reaganomics homeless epidemic and job outsourcing. However from 1990 to 2005 the prison population rose to 2.1 million people, ¼ of the world's 8 million, with 46 million ex-felons, 1 in 6 citizens. With only 4.76% of the world's population the US has a 0.7% incarceration rate, 7 per 1000, while the world averages 0.127%, or 1.3 per 1000.

Either the US is very criminal society or it has an overzealous criminal justice system. It may be argued that its leaders are criminal from the evidence presented, but they do not contribute to US prison or ex-felon population since they are either not prosecuted or they are pardoned. By and large the US prison population has an average 6<sup>th</sup> grade education and comes from the 37 million people (1 in 8) who live below the US poverty level, hence a 75% correlation between crime and income and education levels. If “poverty is the mother of crime” (Cassidorus) why are the impoverished of America subject to a higher incarceration rate than the poor in other countries unless they are subject to a different form of judicial scrutiny.

In 1964 Justice Brennan stated in Malloy v. Hogan, 378 US I, “The American system of criminal prosecution is accusatorial, not inquisitorial, and the Fifth Amendment is its essential mainstay”, referring to prohibitions against being held without charges, being placed in jeopardy twice for the same offenses or elements of offenses, requiring testimony against oneself, deprivation of life, liberty, or property without due process of law, and seizure of property for public use without just compensation. However during the Reagan administration major erosions to these and other protections and the legal rights of citizens occurred.

In 1984 the Supreme Court implemented a series of decisions that authorized police powers beyond what the Framers incorporated into the Constitution. The Calder Court determined that “NO CONSTRUCTIVE powers” are authorized and the “secure the blessings of liberty to ourselves and our posterity” clause in the Constitution's preamble requires that those liberties be preserved for future generations, “The fate of unborn millions...” as George Washington expressed to the original Patriots who sacrificed the lives for the Constitution's principles. These decisions included allowing illegally obtained evidence to be used in trials as long as the police were not aware that it was obtained illegally, allowing public school students to be searched without warrants, and allowing “trickery” to be used to obtain confessions or plea agreements.

The concept of equity and protection under the law did not authorize exceptions that permitted disparity of treatment between citizens, and if the Framers' “posterity” phrase is to be viewed as an intentional act and legitimate protection then the Constitution does not authorize disparity between generations either. Authorizing use of illegal evidence because of police error, warrantless searches of students, and use of trickery were not powers explicitly granted to government and therefore their creation is a CONSTRUCTION and illegal under Calder.

Use of government error and trickery to obtain convictions and warrantless searches are criminal justice expediencies that contravene the Constitution's mandates to establish justice and prevent manifest injustice because they do not comply with substantive due process rights and do not provide equal protection with respect to citizens of prior generations. How can citizens receive justice when government errors and lies are permitted to obtain convictions? It

defiles the concept of justice, does not protect people, guarantee rights or prevent manifest injustice. Such interpretations defy human reason and the spirit of the law.

In addition to this change in direction by the court, states started amending their laws to allow admission of hearsay testimony at Preliminary Hearings. Evidence was thus admitted to legal fact finding hearings in which defendants could not cross examine witnesses to determine the validity of the evidence; the state conviction rates increased by 20%. Also, in 1984 congress enacted the Bail Reform Act which authorized denial of bail if a defendant was perceived to be a threat, thus negating the principle of innocent until proven guilty. This was followed by the Prison Litigation Reform Act and Anti-Terrorist Effective Death Penalty Act which severely restricted prisoners' opportunities for judicial relief.

As a result of the broadened police powers and restrictions on judicial review the convictions, prison populations, and percentage of ex-felons increased radically, even though crime rates were falling. The situation was further aggravated by a nationwide "Get Tough on Crime" campaign because of "podium pounding politicians and sensational news accounts." US Justice Dept. "Highlights" in 1994 showed that even though crime had decreased by 15% the first 3 years after 1990, 95% of the public believed that crime was increasing because of the politicians statements and increased news reporting of crime.

Mandatory Minimum Sentencing Laws, including "Three Strikes Law", legislatively removed sentencing discretion from the courts and radically increased sentences for recidivist offenders and Federal Aid was increased to states that pass these laws. California, with 10% of the nation's population, was one such state that had less than 100,000 prisoners in 1990 and 165,000 by 1997. It's Three Strike Law was sponsored by the CCPOA Prison Guards Union whose salaries rose from \$20,000 a year in 1989 to over \$50,000 a year by 1998, along with a comparable increase in benefits. Its union revenues similarly increased from \$7 million a year to over \$20 million a year. These union revenues were used to pay campaign contributions for the Governors and Legislators who passed bills the CCPOA sponsored, a "Political Machine" in control of Legislation from which it financially and politically profited.

Initially the CCPOA attempted to pass a Three Strikes Law in 1992 but could garner no support. It was however able to pass both a Legislative and Voter Initiative version of the law in 1993/4. Their public relations firm, McNally Temple Assoc., produced a one minute spot commercial that depicted a heavily "tattooed" and seedy looking ex-felon kidnapping, raping and murdering a little girl, with the words "Stop Violent ex-felons who kidnap children, rape women and commit murder – Vote for Proposition 184; sponsored by the CCPOA." The voters passed the law by 72%, a panic reaction to the misconception that ex-felons are after their children. Actually child molesters and rapists are attacked and killed by other prisoners and child molestation – murders are actually very more accounting for less than 0.04% of total crime, but they are highly publicized.

"Through clever and constant application of propaganda, people can be made to see paradise as hell, and the other way around, to consider the most wretched sort of life as paradise." (Mein Kampf) This tactic was developed by Hitler to promote his rise to political power and justify atrocities against the Jews, and it constitutes a de facto Bill of Attainder. They represented all ex-felons to the public as perverse child molester-murderers to pass a law that put people in prison for 25 years to life for offenses as minor as petty theft with a prior petty theft conviction.

This practice of Bill of Attainder mischaracterization for political and financial gain was first implemented in the US by McCarthy to create the “Red Menace” and Allen Dulles to create the CIA and Cold War in 1947. It works because it is done by people with political credibility and sophistication, targets people who least expect it like celebrities or allies in a war, or the poor and uneducated who are ill-equipped to legally defend themselves, and incites people’s fears to direct their emotional response toward a political goal. Create the threat and become the leader with a solution for it. “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic”. Schenck v. US, 249 US 47 (1919) “To declare that in the administration of criminal law the end justifies the means – to declare that government may commit crime in order to secure conviction...would bring terrible retribution. The makers of our Constitution sought to protect Americans”. Olmsted v. US, 277 US 438 (1928) - Justice Louis Brandeis (dissent).

At the same time the public was being bombarded by the Three Strikes commercial the Legislature and Governor were being lobbied by the CCPOA to pass a Legislative version of the Law. This time it was passed with a wide margin because, in light of the commercial, any Legislator who opposed the Law appeared to politically support molestation – murderers. To further ensure passage of both the Legislative and Initiative versions of the Law, both Governor Wilson and Attorney General Dan Lungren were awarded \$500,000+ and \$90,000+ “campaign contributions, respectively, after they publicly discredited their own crime statistics reported to the US Justice Dept.

The statistics showed that, except for the 34% rise between 1985 and 1990, all crime rates had fallen sharply since 1981. Governor Wilson and Attorney General Lungren stated that the statistics were wrong and crime was rising, and then received their “contributions”. Between the spot commercials, endorsements by the Chief Executive and Prosecutor for the state, and political taint of Legislators being labeled pro-molestation-murder, like the “un-American” label Bush used to pass the Patriot Act, there was no opposition and both versions passed.

The motive for a law that had the effect of tripling sentences in a declining crime rate was simple. Prison populations had been falling and they rose from 100,000 in 1991 to 165,000 in 1997 after passage of the Admission of Hearsay at Preliminary Hearings and Three strikes Laws. It costs \$32,000 in taxpayer dollars per year to keep a person in prison but only \$1,000 a year is actually spent on them directly in the form of food, clothing, etc. The bulk of the prison budget was lobbied by the CCPOA as salary and benefit increases for their members, which increased 2 ½ times during the period, and union due revenues tripled to \$20 million a year and were then “contributed” to politicians.

Incarcerating people is politically and financially profitable because they get \$30,000 tax dollars per prisoner per year by creating fear in the public (Extortion of their property by fear), spend only \$1,000 a year to keep the prisoner (Oppressive Actions against prisoners), pay the campaign expenses of politicians who support their incarceration for profit scheme (Bribery), and receive gross salary and benefit increases by mischaracterizing prisoner’s offenses to the public (Bill of Attainder and Fraud). In addition to manipulation of the Legislative process, interpretations of existing laws were internally manipulated to create a de facto elimination of parole for indeterminately sentenced prisoners.

Murder is categorized into 3 degrees of culpability in California Penal Code 187: 2<sup>nd</sup> Degree, without premeditation and punishable by 15 years to life; 1<sup>st</sup> Degree, with premeditation and punishable by 25 years to life; and special circumstances, punishable by death or life without parole. In 1975 (*In re Rodriguez*, 14 Cal. 3<sup>rd</sup>, 639) the Indeterminate Sentencing Laws were interpreted to require that an upper term be fixed in proportion to each offenders individual culpability followed by a parole determination for early release based on an offender's behavior in prison. Fixing all offenders' terms at life was prohibited because it violated "proportionality".

A "Matrix" was then established for the purpose of fixing terms proportionate to the particular degree of murder and any aggravating factors. At the time of the court's decision the sentences for 1<sup>st</sup> and 2<sup>nd</sup> degree murders were "7 to life" and "5 to life", respectively, and were increased in 1978 to "25 to life" and "15 to life", with proportionate increases to the Matrix. In 1980 the parole rate was over 40% of eligible offenders and the recidivism rate for those offenders was less than 0.5%. However, as the crime and incarceration rates started declining the parole rate was decreased to 10% between 1984 and 1990, to 2.5% after Governor Wilson took office in 1991 and to 0.5% by 1997, even though the crime rate was falling and the recidivism rate for this category of offenders was less than 0.5% and 120 times lower than the 60+% recidivism rate for all categories of offenders.

When Governor Gray Davis took office in 1998 he announced a "No Parole Policy" and the parole rate for indeterminately sentenced offenders dropped to zero, effectively changing all of their sentences to Life without Parole. This ex post facto increase in punishment was accomplished because the Board of Prison Terms (parole board) is appointed by and reports to the Governor. Both Governors Wilson and Davis were elected to office with the direct support of multi-million dollar contributions from the CCPOA and their sponsoring of the Governor's Cup Golf Tournament which raised contributions in the order of \$10 million. These "Lifer" prisoners constitute 1/6<sup>th</sup> of the California prison population and their unilateral denial of release was a significant contributing factor to maintaining the "incarceration for profit scheme."

Attempts to litigate these Bill of Attainder, Ex Post Facto, Due Process and Equal Protection claims failed in State Courts categorically. The CCPOA was contributing to and supporting the elections and appointments of the judges, including a \$25,000 contribution to the California Supreme Court Chief Justice Ronald George. All contributions and expenditures were tracked via CCPOA PAC Allocation Records from 1989 to 1999. These records also indicated that the CCPOA had sponsored Proposition 111 (1990) which cut education funding by 1/7<sup>th</sup> and resulted in a sharp decline in education levels. Ironically the CCPOA tainted prisoners as child molesters to increase prison population while they themselves sponsored a law that cut children's education to divert funds into their prison expansion program and increased the children's chances of ending up in prison, the guiltiest always being the first to accuse others.

Federal Courts provided no relief because the changes in Constitutional interpretation started in 1989 by the Supreme Court and passage of the Prison Litigation Reform and Anti-Terrorist and Effective Death Penalty Acts enacted by Congress resulted in judicial relief falling from 3% of all cases in 1984 to less than 0.1% at present, a 30-fold reduction. The effects of these actions were compounded by decreased funding and access to prison law libraries. There were also numerous cases such as "LA Rampart" where police were caught framing and convicting 100

innocent people, exposed only because one of the police involved was himself convicted on drug charges. In Illinois the evidence of wrongful convictions became so overwhelming that the Governor commuted all Death Penalty sentences.

There are many such examples that support the existence of a nationwide strategy to incarcerate citizens but one example was particularly egregious, on a level with the mass murders of *In re Cincinnati Radiation Litigation*. While touring California to promote the Three Strikes Law one of the Committee members pointed to a group of young African American children playing basketball and said, "This is how we will take care of these people" (San Jose Mercury, 11/14/99). Their actions targeted the poor, uneducated and racial minorities, just as was done in *In re Cincinnati Radiation Litigation*. Coincidentally, in 1999 when the CCPOA distributed its "Gold Shield Plan" to its guard union members the "O" in "GOLD" was a "Sun Circle", ⊕, a symbol for white supremacy used by the Ku Klux Klan. The guards target and classify prisoners with tattoos of this symbol as racists so the union is aware of its significance.

Over 2/3 of all prisoners are Hispanic and African American but only represent a little more than 1/3 of the state's ethnic profile. Their education was subverted and they were specifically targeted by police and proponents of the Three Strikes Law so there is a racial undertone to the "incarceration for profit" scheme. However, setting aside the racial aspects, the evidence supports the existence of a de facto Bill of Attainder against all prisoners who as a whole are poorly educated and of lower economic status.

They cannot adequately defend themselves against such a sophisticated orchestration of political power because of their 6<sup>th</sup> grade education. They came from poor backgrounds and cannot afford adequate legal representation. Government targeted them, passing laws and Acts that deflated their Constitutional protections, ex-Attorney General Dan Lungren, upon election to US Congressman, even authored a Bill to eliminate access to Federal Courts by Writs of Habeas Corpus, and the Courts are already granting 30 times less relief (from 3% to 0.1% of all cases) in a practice dubbed "Rubber Stamp Denials". With no meaningful judicial review they are civilly exiled from the Constitution and become a disenfranchised class condemned to servitude. The disparity in justice is exemplified by the Supreme Court overturning the conviction of Arthur Anderson in 2005, only 3 years after his conviction in the Enron Accounting Scandal. White Collar Crime that affects millions of people is given judicial relief while the poor are simply denied review.

In the words of the Irish poet Thomas More, "If you suffer them to be ill-educated so they do not learn what behavior is to be expected of them and then punish them for what they consider to be normal and necessary, who has committed the wrong". The 2.1 million prisoners and 46 million ex-felons are an intentionally created subclass, disenfranchised by subversion of their Constitutional rights. It is a de facto Bill of Attainder and Civil Genocide of the poor and uneducated for economic reasons that rises to the RICO standard of proof.

## Analysis

In November of 2005, at a summit in Argentina, Hugo Chavez, President of Venezuela and the world's 5<sup>th</sup> largest oil producer, stated, "The planet's most serious danger is the government of the United States...The people of the United States are being governed by a killer, a genocidal murderer and a mad man". In January of 2006 Harry Belafonte led a coalition of Americans to meet with Hugo Chavez and stated that President Bush is "the greatest terrorist in the world...Not hundreds, not thousands, but millions of American people support your revolution". They understate the problem.

Last year a dozen US Senators ask 10 major oil companies to donate a portion of their profits to help the poor. Only Citgo, Hugo Chavez's refinery and distribution Company, supplying 6% of US oil and refinery capacity, responded by giving heating oil at a 40% discount to the poor. This cost \$20 million, was the only response to the Senators' request, and was discredited by US analysts who said that it was only a political move to embarrass President Bush. "By their acts ye shall know them."

Bush and the other 9 oil companies who did nothing to help keep the poor from freezing should be embarrassed, not just for turning their backs on people in serious need but for attempting to politicize and denigrate Chavez's philanthropic action as they all enjoyed record breaking profits. This tactic by US analysts emphasizes the fact that "unwarranted influence" and "misplaced power" in the United States from "the conjunction of " government and profit motivated industry is much bigger than just Bush and illustrates how "clever and constant application of propaganda" make people see " the most wretched sort of life as paradise".

The WWII impact of fascism arose from three Nationalistic movements and the effort of hundreds of thousands of Nationalist Socialist minded individuals, not just Hitler and the handful of Nazi's prosecuted at Nuremberg. Similarly, the harmful domestic and international practices and policies of the US arise from the efforts of many who believe that it is acceptable to do things like In re Cincinnati Radiation Litigation in the "National interest" on let people freeze for record profits.

It is an underlying corruption of spirit that trades human rights for political or financial profits; It is organized crime on an international level never seen before in the world; It meets the RICO standard of proof; It is done under a mask of propaganda that attempts to twist good actions into bad ones in order to cover up gross deviations from the Social Compact of the Constitution and its protection clauses and "for their posterity" requirement; And it violates John Nash's controlling Dynamics thesis, that the best course of economic action is that which is best for the individual and the whole.

American Historian Henry Adams wrote in a letter to Brook Adams, "The Marxian theory of history I take to be the foundation of yours...The assertion of the law of economy as the law of history is the only contribution that the Socialists have made to my library of ideas. If as Adams asserts is true, that the laws of history are the laws of economics, then we are doomed to repeat the great errors of history (i.e. fascism) if we do not examine and correct the laws of economics that give rise to the errors.

In his “Degradation of Democratic Dogma”, Adams stated, “A science cannot be played with. If an hypothesis is advanced that obviously brings into direct sequence of cause and effect all the phenomenon of human history, we must accept it...The mere fact that it over throws social organizations cannot affect our attitude”. He also wrote, “Some day science may have the existence of man in its power, and the human race may commit suicide by blowing up the world”.

Adams is quoted because his sentiments succinctly identify economics as the science of history, that its principles of cause and effect cannot be ignored, and that when it is our master it holds the fate of our existence in its hands because serving economic motives can be self-destruction on a global scale. “The world is made up of a few immense forces, each with an organization that corresponds to its strength”. (Adams) This is particularly significant when one force’s strength overshadows any possible equilibrium with all of the other global forces because of its military and economic influence, “unwarranted”, into the affairs of the rest of the world.

In 1972, Chief Justice Donald Wright, Supreme Court of California, wrote in “The Role of the Judiciary: From Marbury to Anderson”, (California Law Review, Vol. 60:1262), that the Constitution is a statement of principles designed to allocate power between people and their government and borrowing from Lord Bryce, “the court when exercising powers of judicial review is functioning as the conscience of a people.” (p. 1266) The court performs a ‘legitimizing function’ in addition to its...’checking function’, which is necessary because “legitimizing” a law...encourages the minority to acquiesce in the law’s validity....”

The underlying principle in Marbury v. Madison, 1 Church 137 (1803, Chief Justice John Marshall) is that “The government of the United States has been emphatically termed a government of laws, and not of men”, “designed to limit government action and protect individual rights”. This “burdensome and ...unpopular procedure...can often prevent the will of the majority from unfairly interfering with the rights of individuals who ...may be unable to protect themselves through the political process”, because if we “[r]emove this avenue for protection of the constitutional rights of the individuals...the fight, inherently incapable of being waged in the legislative halls, has only one remaining battleground. That is the streets.” (p. 1268)

Thus “preventative maintenance” in the legal system is the economic cost of preventing a system failure. The system failure can manifest as a collapse of the social structure if the individuals realize they are being taken advantage of or the system failure can manifest in a “runaway” mode if the individuals are convinced to see “the most wretched sort of life as paradise” by “clever and constant application of propaganda”. Both of these failure modes are occurring on a global scale, with suicide bombings increasing at an exponential rate as the US government increases its police powers domestically and abroad.

An unknown author once said that “Suicide is the most severe form of self-criticism” but if freely done as an attack it becomes the most severe form of social criticism, an extreme protest when the “avenue for the protection of the...rights of the individual” have been removed. American interference into the affairs of other countries has become so common that other nations and Americans visiting Hugo Chavez in Venezuela and calling Bush a terrorist, Cindy

Sheehan also visited Hugo Chavez and showed her support for his protest against American “police action” on international television.

Cindy Sheehan is a mother whose son was killed in the War on Iraq and led a sit-in demonstration outside the Bush ranch in Texas. After her visit to Venezuela she attended Bush’s State of the Nation address and was arrested for wearing a T-shirt that displayed the number of American Service men killed in Iraq. The following morning she was released because there is no law that permits such an arrest, but that did not stop the police from doing it. This is a serious offense because if the police have no scope of authority to take action then they are acting illegally in unison to suppress a simple statement of facts.

This is not the action of a government protecting the world from terrorist acts, it is a terrorist act intended to intimidate a mother from protesting her own son’s death. It is the despicable act of people who have no allegiance to any form of decency, the act of people who would irradiate and mass-murder the sick in the national interest, the act of fascists who tortured and mass-murdered million to improve the world, all justified in their own minds at the time.

Now the US targets Iran, along with overtures of doing so to Venezuela. Fortunately, enough countries like Russia, China and other members of the United Nations are questioning the US allegations to stall the action, but that did not stop the US attack on Iraq. None of the corrective actions have stopped these nationalistic policies and practices, not WWII, the Nuremberg Trials, exposure of McCarthy, exposure of “unwarranted influence” and “rise of misplaced power”, firing of Allen Dulles and attempt to disband the CIA, exposure of the mass murder of the sick in the national interest, exposure of Watergate, the Iran-Contras, collapse of the Saving & Loan Industry, or exposure of wars based on entirely fabricated allegations.

This is because it is not possible for corrective actions to correct an error in a system designed to commit the errors. The corrective actions themselves in such a system are fraudulent, such as pardoning Nazis to go into business with them, pardoning a President who defrauds a nation and sabotages his opponents to get elected, or passing Supreme Court decisions that authorize trickery and deceit. The actions legitimize corruption that justifies accumulation of economic and political power by any means under a guise of patriotism and “police action”. Such a system cannot correct itself because it no longer has any standard of justice to protect individual or standard to promote general welfare. It is all directed to promoting political and financial profit in the “national interest”.

“A Corporation [and government] is an artificial thing, invisible, intangible, and existing only in the contemplation of law.” Dartmouth College v. Woodward, 4 Wheaton 518 (Chief Justice John Marshall, 1819) They have no powers except what men give them under the law or they take outside the law (“CONSTRUCTIVE powers”) at the expense of the powers retained by men, human rights. Corrective actions do not work with artificial entities that function by subterfuge shown by the pattern of organized criminal acts over a period of 60 years. Corrective actions do not work with sociopath behavior characterized by repeated injuries to people with attempts to justify it in the name of a nationalistic ideology.

Such criminal behavior requires preventative actions, deterrence, rehabilitation and quarantine while a danger to others, legitimate penological Interests designed to restore the offender’s character so they no longer behave in anti-social ways. Their words cannot be trusted because

they have repeatedly claimed to be acting in the name of justice only to be exposed in another artistically crafted corruption, becoming so adept and clever at twisting fabrication into justifications that they betray the principles of their own constitution and call it Patriotic Duty.

Historically when countries behave like this war is declared to halt the offenses, but wars are inadequate to the task. WWII did not stop fascism, it simply transferred the practice from one country to another even better equipped to carry it out. The one thing that the Framers of the Constitution did not foresee was the United States becoming the King George of the world, exerting its colonial influence into every corner of the globe by overt threat of force and covert actions. War could never correct this because the corrupt behavior has already infected others who now seek to exert their own influence by similar techniques.

“Merchants have no country” because they pursue only profits, from the capitalization of Nazi businesses by John McCloy, to the colonization of other countries resources, to the incarceration of their own citizens for economic reasons. It was the conjunction of the industrial profit motive and government authority that gave rise to the unwarranted influence that has had such a disastrous effect on the world. The Framers implemented a Social Compact that unified 13 independent colonies into the most technologically and economically advanced nation because its principles worked to benefit the individual and the whole. Now they are twisted to take advantage of those for whom they were created to protect, being used to justify predatory behavior by businesses against citizens in Supreme Court decisions like Kelo v. City of New London where individuals’ property is seized by government and sold to real estate developers “to promote commerce and economic development”.

America has become a debtor nation that now resorts to seizing its citizen’s property for economic reasons. In pursuit of profits it has outsourced its own jobs and productivity under Reaganomics and Trickle-Down Economics. If, as John Maynard Keynes says, “Productivity is the true source of wealth”, and the US seizes its own citizens property to rezone and develop to promote commerce and economic development, then it has shifted from an economy based on productivity to one based on inflating the value of tangible assets to show economic growth. This is nothing but an implementation of the Savings & Loan scandal as a national policy. Buy the land cheap, rezone it, and develop it to profit businesses who can lobby government that sits on the Board of Directors of the public trust.

The scheme is the same, only the characters have been changed, and it’s a fraud that extends to international levels. Every year the US builds up a Trade Deficit in the order of \$70+ Billion which it pays off by issuing Treasure Bills to creditor nations. These promissory notes are backed by the US Gross Domestic Product, which is now based on inflation of real estate and service based industries like TV cable companies, cell phone services, and novelty coffee shops, since productivity has been outsourced. Thus the Treasury Bills are only backed by inflated asset values on the books, which have now placed other countries in the position of being the insurer of the economic scheme since they have transferred goods to the US and accepted the treasury bills as payment, the S&L scandal on a global economic level.

Countries like China however have implement increased job and productivity programs, expanded social programs and education, and even reinstated private ownership and conduct trials of their own party members for civil rights violations, and enjoys an actual annual economic growth of over 9% a year. These countries have started selling the US Treasury Bills

they hold as US Creditors to other countries in exchange for title to natural resources to support their economic expansion. Because the Treasury Bills are valued by the US based on inflated tangible assets and are used to purchase real tangible assets they are sold at a discount to make their interest yield more attractive. Interest on short term Treasury Bills have been raised, thus causing an inversion between long and short term Treasury Bill pricing, reflecting negative confidence in the US long term economy.

The US has moved away from the principles of its Constitution and has implemented divisive practices that are contrary to the unifying forces of the Constitution while its economy has changed from a production based one to a service and real estate inflation based one and it has gone from a creditor nation to a debtor nation. Its economy grows, according to its accounting and between 1% and 3% a year, comparable to its inflation rate.

However China has implemented Democratic practices, social and education programs, and increased jobs and productivity, all of which are unifying practices and principles and their economy grows at a consistent 9% a year. The US continuously pressures China to revalue their Yuan upward, making its goods more expensive to the US and US goods less expensive to China, a back door way of implementing trade tariffs and avoiding devaluing the dollar to the rest of the world which would increase the US trade deficit.

Over the past 25 years, starting with Reagan, the US decided to become the police of the world, contrary to Kennedy's policy before he was assassinated. In order to finance this effort the US switched from a credit based economy (i.e. source of wealth based on industry and colonization of other nation's resources) to a debt based economy where other nations serve as the source of wealth where their productivity and resources are purchase with Treasury Bill promissory notes. This practice was used to finance a military build up to serve as the "peacekeeper" police of the world. This was not a manpower buildup; it was a weapons technology build up with "Smart Bombs" and televised wars showing the effects of these weapons to the rest of the world.

This propaganda tool makes the US appear to be a more formidable adversary and adds an intimidation aspect to its police force function. During this same period the US broadened its domestic police powers by "CONSTRUCTIVE powers" Supreme Court decisions that were illegal under the Constitution. The same hearsay testimony that is now permitted to be used to bind defendants over for trial, the same trickery and deceit that is now permitted to be used to entrap people and obtain convictions, are used by the Chief Executive at international levels to fabricate allegations and attack them, putting them under US police control, specifically Iraq, to make an example to the rest of the world that the US can do and justify whatever it chooses to do in the name of the Patriot Act, peace, freedom and justice for all, and making the world a safer and better place. The bigger the lie the more readily believed.

The US has also demonstrated its intent to continue these practices and policies by focusing its attentions on North Korea, Iran, Hugo Chavez in Venezuela, and Evo Morales in Bolivia, so the pattern is established and indicates a likelihood of continuing. It has financed this practice by the same fraudulent method that was used to extract funds from the Savings & Loan Industry and cause its collapse, only this time the funds are being extracted from other countries in the form of resources and products in exchange for promissory notes whose values are based on inflated real estate and service industry values. It's announcement to begin selling

30 year Treasury Bills also indicates that it intends to continue the practices by increasing US debt to the world.

The practices fit the criteria of “chargeable” RICO offenses of fraud, extortion, murder, embezzlement, obstruction of justice, and others, and the elements of these offenses and mens rea in their commission is proven by the facts from their own Congressional Hearings, Court cases and media exposés that shows repeated used of fabricated allegations and tactics to commit the criminal acts. It affects interstate and international commerce and the enterprise vehicles of the RICO offense are the US government, United Nations, and other countries used to finance the activities.

John Nash’s economic thesis that the best course of action is that which is best for the individual and the whole was proven by the rapid expansion of the US economy and technology under the Constitution’s principles that unified diverse people and promoted general welfare, individual’s rights, and equality, and then the rapid decline of the US economy that is only sustained by creation of massive debt and deficit spending by racketeering practices, mass deceptions, and deviations from the Constitution, in short the fascist practices initiated at the end of WWII.

There is no doubt that Nash’s thesis is correct, but it is incomplete because it provides no preventative mechanisms to modulate the economic process to prevent a “rise of misplaced power” from an “accumulation of unwarranted influence”. Thus his principle permitted the accumulation of wealth, with financial and political influence, but did not prevent its misuse and transformation of the economic system into a negative and detrimental global influence. However, only a very slight modification is required, one that measures and adjusts the economic forces that define the laws of history.

Since profits drove the rise of corruption, and the level of corruption is measured by deviation from the human rights defined in the US Constitution all that is necessary is deflation of the profits in proportion to the deflation of human rights from those of the original Constitution. Fortunately this is very easily measured in the US because it was marked by the post -1984 “police power” US Supreme Court Decisions and “CONSTRUCTIVE powers” enactments by Congress and the state Legislatures that gave rise to the 2.1 million prisoners in the U.S., five times the global average, which would not be incarcerated were it not for the political “incarceration for profit scheme” and the court decisions and enactments, such as the Bail Reform Act, Mandatory Sentencing, Three Strikes Laws, No-Parole Policies, and the Prison Litigation Reform, Anti-terrorist and Effective Death Penalty and Patriot Acts, trading human rights for profits.

Supplying resources and production goods in exchange for Treasury Bills supports these human rights violations and the US military police actions globally and threatens the economies of the countries that accept the Treasury Bills because of their inflated values. Thus the preventative measures can be incorporated into Nash’s thesis by simply refusing to accept the Treasury Bills as payment and refusing to export goods to the US until corrective measures are implemented, which means repealing the enactments and court decisions that authorized the illegal US actions and human rights violations.

This would end financing US intervention into other countries affairs and reverse the incarceration for profit scheme based on the massive number of convictions under the “Police Power” decisions and enactments. When this occurs the original version of Constitutional protections and guarantees will be restored, along with the “proportionality” requirement of the Gregg Court which implies a fiduciary responsibility of government to punish government members who commit these RICO violations. Only when government is held accountable for its actions can Nash’s thesis be correctly applied since government controls the economic structure of any country and its treatment of individuals measures its adherence to Nash’s thesis.

“The spring comes, the sun shines, the rain falls, the grass grows” v. “There will be a great hierarchy of party members. There will be the new middle class, and there will be the great mass of the anonymous, the serving collective, the eternally disenfranchised. Beneath them there will still be the class of subject alien races.” (Decision Pending)

## M4 Derivatives by William Gray

### Abstract

“Post WWII US Economic and Policy Analysis” showed how unwarranted influence since 1946 have caused deviations from the US Constitution and an escalating pattern of practices that derive profits by deflating human rights. “M4 Derivatives” demonstrates how the current US debt based economic system outperforms the Keynesian high production credit based economics of other countries and why under developed nations are unable to achieve economic stability under these conditions.

It further demonstrates that John Nash Controlling Dynamics economic theory, that the best course of action is that which benefits the individual and the whole, is in need of feedback mechanisms that deflate profits in proportion to human rights deflations.  
American Capitalism

How is it possible for a country with 5% of the world’s population to maintain a \$50+ Trillion economy, \$160,000 per capita, with limited resources, production and high labor costs while the rest of the world struggles with their economies?

“[B]anking establishments are more dangerous than standing armies and.. . the principle of spending money to be paid by posterity, under the name of funding, is but swindling on a large scale.” (Thomas Jefferson) “Labor.. . is the real measure of the exchangeable value of all commodities.” (Adam Smith) “The market price. . . is regulated by. . . the quantity.. . and the demand of those who are willing to pay.. . the rent, labor and profit which must be paid...to bring it [ market].” (Smith) “Capitalism...is not intelligent, it is not beautiful, it is not just, it is not virtuous — and it does not deliver the goods.” (John Maynard Keynes) “It is ideas, not vested interests, which are dangerous....” (Keynes)

The secret of America’s success was the evolution of an idea. Over the course of time it has existed within the meaning of many economic principles and it is the mechanism by which wealth is derived. Jefferson considered it an evil profit by obligating future labor while today credit is a recognized necessity in business. In more recent times it has been recognized as derivatives that capitalize on market adjustments like options or futures contracts. However these are just the mechanisms of its function. It is also seen in arbitrage, where profits are derived from reporting discrepancies between markets or by purchasing shares sought by corporate raiders.

Smith saw it as the profit that motivated the bringing of goods to market and Jefferson saw it as a profit that enslaved men. Keynes recognized it as an idea that created vested interests, an “ism” that had no objective other than to promote itself by the accumulation of capital. Nash saw it as an underlying dynamic force that could generate greater economic success if it worked to everyone’s benefit. And it is an idea that has evolved more rapidly in America than any other country because of its form of government.

In the United States there is no royalty, everyone is equal under the law, and government is only authorized enough power to promote its Social Compact with the people. ( v. Bull 3 US 386, 388 (1798)) Everyone is created equal and its laws are designed to keep them that way. While these principles were incorporated to promote a more perfect union, the general welfare, and individual rights, they ultimately resulted in the opposite.

As Freud said in 1905, “No matter how much restriction civilization imposes on the individual, he nevertheless finds some way to circumvent it.” And as Alfred Adler said 50 years later, “To be a human being means to possess a feeling of inferiority which constantly presses toward its own conquest..., that is, we have a need to succeed. When the Constitution created equality it also restricted its citizens to the mundane state of being equal. To many an apathetic existence may be acceptable but as Freud and Alder pointed out, there is an inherent need to succeed and restricting people to equality only motivates to circumvent it.

While Jefferson saw credit as a mechanism to oppress men through future obligation others saw it as a way to promote one’s future success. In other words, with the prospect of nobility foreclosed, one man’s future obligation is another man’s success. With royalty out of reach the accumulation of wealth became an acceptable substitute because it not only benefited the one achieving it, it also placed those whom it was achieved from in their debt. In the words of Mencias, “Those who labor with their minds govern others; those who labor with their strength are governed by others.”

This then established a new definition for Adam Smith’s “labor” that adds value and Keynes’ “idea” that creates vested interests. Those who labor physically obligate their futures and those who develop ideas to promote this endow themselves with authority over them. This is actually a form of arbitrage, profit by reporting delays in ideas, and it is perfectly legal and beneficial. In Jefferson’s mind debt was a burden that obligated one’s future but in today’s society credit is the means by which individuals raise their standard of living and become successful. Without it there can be no education loans, mortgages to buy homes, car loans to provide transportation, and business loans to start companies.

The concept at work here is a derivative that puts money to work in order to free the person from work through the accumulation of assets. While debt is considered a burden that enslaves credit is an opportunity for success and freedom from the burden of equality. Not only does it provide a higher standard of living, it also provides individuals with an added motivation to succeed because establishing “good credit” is itself an asset that entitles the individual to greater credit and greater accumulation of assets that separate people from equality. It is not “Keeping up with the Jone’s” that gave 5% of the world the largest economy, it is surpassing the Jone’s that makes accumulating capital and “ism.”

Thus while professing to be a nation of freedom and equality, Americans practice capitalism with a passion to be freed from equality. The country is so good at this that its citizens boast a \$160,000 per capita net asset value and the highest standard of living in the world, but neglect to mention that over 70% of the nation’s wealth is owned by only 1% of its population and 37 million, 1 in 8, live below the poverty level. This disparity and the actual secret of US economic success is the result of a form of capitalism called arbitrage.

Arbitrage is normally thought of as a near simultaneous purchase and sale of securities or currencies in different markets to profit from price discrepancies. Its definition has also been expanded to include the practice of purchasing a company's stock in order to profit by selling it to a "raider" in a "hostile takeover." However arbitrage is much more than these simple definitions, it is the principle of deriving profits from market adjustments and when combined with the concept of Derivatives that compound its effectiveness it becomes a sophisticated tool for acquiring wealth.

### **Credit versus Debt**

In its more primitive form arbitrage is referred to as credit and consists of putting currency into business to capitalize on market demand or investing in individuals to raise their standard of living and capitalize on their abilities and motivations. This concept expands Adam Smith's formula of demand of goods and their natural market price. Under a credit system demand is no longer just what those who are willing to pay can afford to buy and the natural price is no longer the rent, labor, and profit needed to induce businessmen to bring it to market. Now demand is compounded by the consumption of those who are willing to pay from future earnings and the natural price is compounded by the individual's cost of realizing the benefit of these future earnings in the present and the businessman's cost of expanding to meet the increased demand in anticipation of future earnings.

This is all a form of arbitrage because it derives profits by selling money in the present to create a market discrepancy (demand) and it is a compounded derivative because it derives profit by creating new demand and the ability to meet it. It is a natural optimization of capitalism that develops new technology to market by funding research or by reducing labor and manufacturing costs through the purchase of new technology. This form of arbitrage is positive in that it stimulates an economy in which all parties benefit, the bank by extending credit, the manufacturer by increased production and sales, and the customer in his standard of living.

The extension of credit creates wealth for banks in the form of interest, for the company in terms of realizing future potential sales in the present, and for customers who acquire present assets from future earnings. The value of labor is no longer solely dependent on the commodities it can produce, it also acquires an intangible value that reflects its reliability and future potential. A good worker who is also versatile is more valuable to a company because they are more likely to help the company realize future earnings through continued employment and they are valuable to the bank as a reliable credit customer with reduced risk of default. This is analogous to cutting manufacturing costs applied to banks who are in the business of selling money as a commodity.

Some individuals are also innovative in investing and acquiring assets. They are proven credit risks so their promise has an asset value because the bank has less risk in extending them credit and does not have to expend as much effort to qualify them for future credit. This is analogous to developing new technology that creates market demand and they become valued customers who are attracted by lower interest rates. Their industriousness, innovation, and reliability thus become realized profits in this arbitrage process.

In order to realize these profits banks must secure funds as their raw material by paying interest to depositors. The bank's added value as an industry is thus in the function of accumulating capital and qualifying customers in order to market credit. In this process they are afforded a secondary profit derivative because when they extend credit the funds are re-deposited or parked in banks while awaiting to be used since all of the funds are not required immediately.

This creates additional temporary capital that can also be extended as credit, and the process is repeated so as to result in a compounding that creates capital. The process works as long as no one defaults on a payment or demands their deposit because in reality the banks are extending more credit than they have in their savings accounts. It is not illegal, it is simply creation of capital by realizing future potential earnings in the present. As long as the banks show extended credit as account receivable assets and deposited funds as liabilities owed to depositors they are merely capitalizing on an arbitrage opportunity created by delays in capital utilization. The loaned funds are temporarily parked by both the loan customers and loan fund recipients who use them to pay for goods and services. The banks are not required to determine the origin of deposits to avoid capital creation by market conditions.

This process has risks however since banks cannot foresee depositor's withdrawals or loan customer defaults so they maintain a reserve to cover unforeseen shortages. The growth of money under this credit system creates a stability of its own since no one benefits by its collapse and everyone benefits by its expansion and a higher standard of living. However all banks are not equal. The lure of profits can cause them to overextend credit and risk bank failure by not maintaining sufficient reserves.

In 1913 the Federal Reserve was formed to act as a bank for the banks. Under this system member banks maintain a reserve deposit, currently around 12% of their deposits, in exchange for the right to borrow short term funds at the Discount Rate, currently about 3/4 of the bank's Prime Rate to preferred customers. The funds ensure that banks are always able to cover depositor's withdrawals. With the 12% reserve requirement banks can loan out 88% of demand deposits without risk. They can also borrow Federal Reserve funds for longer terms at about 5/8 of the Prime Rate as long as they maintain 12% of the funds in reserve.

This arrangement maintains a very stable economic system with credit creating money to stimulate economic growth. If the Fed decides that growth is too rapid and inflationary it can increase the Reserve Rate to make the cost of money more expensive, applying the brakes, since the Prime and all other loan rates are indexed to the Reserve Rate. Similarly it can stimulate the economy by lowering rates.

Stock markets are the single largest creator of money because stock prices depend on investor confidence and corporate earnings. Even if a company has no earnings the promise of future earnings causes its stock price to appreciate. Similarly, if a company has a proven track record of generating earnings and profits for shareholders the stock will have a Price to Earnings ratio that also reflects its growth potential. If a company has a PE ratio of 20 and increases earnings by \$1 the stock price will increase by \$20, thus generating significant equity appreciation.

Because of the temptation to fraudulently create wealth there are strict accounting and regulatory restrictions on companies and stock transactions in order to prevent loss of investor confidence such as occurred in the 1929 stock market crash. This deflated the country's entire economic system for years by removing all fraudulently created monies from circulation. This money supply will be referred to as the M4 counterfeit or fraudulently created money supply from sources like the Enron-ic accounting practices that represented monthly earnings as indicative of annual earnings.

If a company earns \$1 per share in one month and this is recorded as an actual earning for each month for a year, justified by a belief that projected earnings will be realized from customers every month, and the next month new customers result in another \$1 per share earnings, and they are then projected into 12 months earnings, then the company ends up showing 12 times their actual earnings and the stock price is appreciated according to its PE ratio. This is nothing but a Ponzi Scheme variation that uses fraudulent accounting practices, except that instead of using investor funds to show earnings they used corporate officer's speculations and accounting determinations to fabricate paper earnings.

This is clearly fraudulent because it misrepresents an atypical accounting practice as being a generally accepted accounting method. It is different from banks creating money by re-loaning funds that are parked in accounts by loan customers because there is no way for the banks to track the source of the deposits so the accepted accounting practice is to report all deposits as liabilities and outstanding loans as receivables. Since the power to coin and regulate money is under Federal jurisdiction and money is created by the credit process the Fed regulates the overall money supply by the currency it prints and the money it loans to banks at the Discount and Federal Reserve rates. It then accounts for these monies according to their liquidity.

The most liquid M1 money supply consists of cash and demand deposits like checking accounts, currently valued at about \$1.4 Trillion. The less liquid M2 supply consists of Savings and Certificates of Deposit, currently \$6.8 Trillion. Previously the M2 supply only included savings and short term CD's while an M3 supply included the M1 and M2 supplies plus non-liquid long term CD's. With this system banks committed funds to loans according to their liquidity and because depositors were committing funds to long term time deposits there was no need to maintain a 12% reserve on long term CD's, making a larger portion of the deposits available for loans.

Prior to President Reagan in 1982 the price of oil was tripled in 1973 and again in 1978 by OPEC. The cost of goods inflated while corporate profits dropped. Interest rates were raised to curb inflation but companies were constricted by the increased cost of money so the country experienced a stagnant economy with rising costs dubbed "Stagflation." Reagan promised to cut taxes to stimulate spending and investment, increase military spending in response to Iran's seizure of the US Embassy and hostages in Tehran, and balance the budget. This "Voodoo Economics" actually contracted the economy 2% after a year in office. To compensate Reagan increased deficit spending and postponed plans to balance the budget.

Carter's deficit his last year in office was \$77 Billion and Reagan's deficit his first year increased by \$51 Billion, 66%, to \$128 Billion. His next year the deficit increased to \$208 Billion and the

practice has continued ever since, growing from less than a \$1 Trillion debt in 1980 to an \$8+ Trillion debt in 2005. In an effort to fund the military expansion all Social and Education budgets were cut and corporations were encouraged with subsidies and tax cuts to outsource production to lower labor rate countries, referred to as "developing under developed nations" and "corporate welfare." Corporate profits skyrocketed from the lower labor costs.

These incentives are still in place today and the practice was so successful that every major manufacturer now out sources their labor intensive production operations in order to stay competitive. The decline in cost of goods and increase in corporate profits negated the runaway inflation of the 70's by offsetting higher energy costs with lower labor rates. "Reaganomics" was thus somewhat successful with only a few drawbacks. People in the manufacturing sector lost jobs and had to accept lower paying service sector jobs. The country lost its production capability. Its education quality fell to one of the lowest levels among all industrialized nations. And the debt service skyrocketed as the deficit spiraled up to \$8 Trillion.

After Reagan's Deficit Spending was implemented the reporting of the M3 supply was suspended and the M2 supply was redefined to include long term CD's. This makes it more difficult to identify total extended credit because long term CD's cannot be easily isolated from the M2 supply so all funds appear to be subject to the 12% reserve deposit requirement. Treasury bill debt service is determined by market forces which factor in the amount of extended credit.

The value of financial instruments like all commodities is subject to marketing practices which include intangible factors like image and demographics. T-bills are backed by the integrity of the Government and strength of the American economy. As such they enjoy a relatively low interest obligation. If the integrity of Government or its leaders are brought into question the soundness of their financial practices are questioned and financial markets are affected. In the past banks were subject to "runs" on their deposits by savers if they did not appear sound. Stocks of large corporations like Enron crash with exposure of fraudulent accounting practices.

However if the integrity of the Government is questioned it is much more serious because it maintains the Federal Reserve Bank of the banks and the exchange rate of the dollar with respect to other currencies and the equity value of the stock markets are affected. In the early 70's when President Nixon declared that the US would no longer redeem dollars for gold the soundness of the dollar was tarnished and interest rates rose because higher interest makes less sound investments more attractive. This was followed by the Watergate and Iran-Contras scandals at the Chief Executive Office levels and collapse of the entire Savings & Loan industry.

These events seriously hurt the Governments image and the soundness of the US economy because they constituted the "fixing" of an election, manipulation of sovereign nations, and the fraudulent loss of \$56 Billion. The US then implemented a radical foreign policy change with a military build up financed by deficit spending and cuts to social and education programs. The new image portrayed the US as the police of the world and promoters of democracy with a massive military and sophisticated new weapons technology, even though there was severe unemployment and a homeless epidemic with families living in cars.

As George Bush Sr. took office domestic problems became the country's main concern. Corporate profits were up because of job outsourcing but crime was rising with the unemployment. Factory jobs were replaced with lower paying service industry jobs like trendy new coffee houses, fast food chains, and cable TV and Internet industries. Oliver North was tried and convicted of three felonies for his part in the Iran-Contras, Bush pardoned him, and then fell under scrutiny himself for his part in the CIA money laundering BCCI banking scandal and promising Honduras increased foreign aid if they would help finance the Contras forces in Nicaragua. His son Ned Bush also came under scrutiny for his participation in the Savings & Loan industry collapse.

Bush instituted Trickle Down Economics but all it did was award contracts to companies who used it to finance more profitable overseas expansion. The country had a growing economy because as profits rose the stock's Price to Earnings ratios caused their equity values to increase radically and real estate prices began escalating as the sudden equity increase caused the cost of money to drop. Paper profits and paper money growth gave the country an attractive bottom line but the real problems of high unemployment, lower wages, increasing crime, and a degradation of the education system continued to plague the country. In addition, a new corporate practice called "hostile takeovers" had become popular.

Many companies struggled to maintain production and manufacturing operations within the country's borders even though high labor rates made them marginally profitable at best. Because these companies maintained pension funds for their employees they became very attractive targets for "corporate raiders." Because pension funds are paid into as their obligation accrues but are not paid out until employees retire they become a large accruals of capital that is not reflected in the corporate assets and not payable to the employees. Raiders would raise capital to acquire controlling interest and then liquidate the assets and pension fund, paying off investors with a handsome profit.

This became a very lucrative and widespread practice that left millions of people unemployed and pensionless. At the height of these problems Iraq invaded Kuwait and threatened America's oil supply. It was a stroke of fortune for the very unpopular and scrutinized Bush who was able to divert the country's attention to America's first police action, "Desert Storm," and the world's first televised war. Massive US force and "smart bombs" made quick work of the Iraqi threat and everyone completely forgot about the economic problems as the spectacular show of force swelled the country with patriotic pride.

In addition to the boost in image and the economy from the war another growth industry sprang up to solve the nation's unemployment and crime problems~Dbriag~the~80's~ther~~was a complete transformation in the American Criminal Justice System as the US Supreme and lower courts transferred judicial discretion into Police Powers. These decisions undermined the "probable cause" requirement in searches, allowed "hearsay testimony" at Preliminary Hearings, and authorized Government to use lies, trickery, and deceit to induce Plea Agreements and entrap defendants in "Sting Operations," thus authorizing Government to commit crimes to create "criminals."

The 5th and 14th Amendment Due Process and 8th Amendment Cruel and Unusual Punishment protections suffered extreme erosions. As an example, the concept of proportionate punishment was completely removed from American jurisprudence. In 1958 the Supreme Court determined that a punishment violates the 8th Amendment if it contravenes "evolving standards of decency that mark the progress of a maturing society" in *Trop v. Dulles*, 356 US 86, 101. The concept of punishment proportionate to an offender's culpability was well established as shown by *In re Rodriguez*, 14 C. 3d, 639, 652-53 (1972) in which the California Supreme Court stated that the Board "must fix terms within the statutory range that are not disproportionate to the culpability of the individual .... "

In *Ingraham v. Wright*, 430 US 651, 667 (1977), the Supreme Court proscribed punishment "grossly disproportionate" to the severity of the offense and in *Solem v. Helm*, 463 US 277, 292 (1983), the Court specified a proportionality analysis that (1) compares the gravity of the offense with the harshness of the penalty, (2) compares the penalty with those for other offenses, and (3) compares the penalty with similar offenses in other jurisdictions. And in *Weems v. US*, 217 US 349, 381-82 (1910), the Court prohibited 15 years of hard labor and forfeiture of citizenship as disproportionate to the offense of falsifying a public record.

However in 1991, in *Harmelin v. Michigan*, 501 US 957, 990-96, the Court upheld a "life without the possibility of parole" sentence for possession of 672 grams of cocaine because even though it may be cruel it was not unusual since the Legislature had defined it for all such offenses. This ruling contravened the 1983 *Solem* proportionality test by saying that sentences in other jurisdictions did not matter, stating that *Solem's* "comparative analysis within and between jurisdictions is not always relevant to proportionality review." Two of the Court's justices even went so far as to state that *Solem* is "simply wrong; the Eighth Amendment has no proportionality guarantee" (@965).

As a result of these Police Power decisions the incarceration rate rose sharply to five times the world's average, 2+ million prisoners out of 8 million world wide by 2005, only 15 years after the *Harmelin* decision. The US also has 46 million ex-felons, 1 in 6 citizens, making it the most criminal nation on earth. This might lead one to conclude that a democracy erected to establish liberty, equality and justice actually promotes crime, were it not for the economic and political forces of the 80's and the high unemployment that fueled an industry based on incarceration for profit.

These economic and political practices were radical departures from the 1776 Declaration of Independence and Constitution that "recognized the natural rights of citizens and the limited rights of government" (Chief Justice Donald R. Wright, "The Role of the Judiciary: From *Marbury to Anderson*," *California Law Review*, Vol. 60:1262, 1972). In 1798, *Calder v. Bull*, 3 US 386, the Court interpreted the Constitution to be a Social Compact that only empowers government to establish justice, promote the general welfare, protect people and their property, guarantee their rights, and prevent manifest injustice under positive law (i.e. twisting the law).

The Court was very clear that government had "NO CONSTRUCTIVE powers" by which to give itself the authority to exceed the terms of the Social Compact. These principles were clearly stated in the Constitution's Preamble and the ~alder Court established once and for all the

judicial interpretation that the Preamble's language was mandatory and explicit. A very important aspect of this is the "secure the blessings of liberty to ourselves and our posterity" clause which means that it applies to all future generations. In other words, no one has the authority to modify or attenuate these fundamental protections because this was a commitment to protect the principles for all future generations.

The Constitution then explicitly stated the Powers, Limitations and Prohibitions to government in Article I, §§8-10. It can "regulate commerce" (§8.3), "borrow money" (§8.2), coin money and "regulate the value" with respect to "foreign" currency (§8.5), "provide for the punishment of counterfeiting securities and" currency (§8.6), and "provide for the general welfare" (§8.1), but it was never empowered to promote commerce by outsourcing its citizens' jobs to foreign countries with lower labor rates. That's duplicitous and subsidizing companies to set up offshore production facilities, "developing underdeveloped nations," so profits from lower labor rates can be transformed into economic growth by stock Price to Earnings ratios is criminal. It's using citizens tax dollars to pay companies to take their jobs.

It is also criminal because it reduces those countries to indentured servitude by using their cheaper labor to increase US corporate profits and economic growth through stock PE ratios so they can pay the countries for their goods with lower interest T-bills. It's a reverse form of usury that preys upon people's poverty and keeps them poor, as with "conflict diamonds." It's a predatory labor monopoly based on lack of jobs in underdeveloped nations and low labor rates and low interest T-bill payments that keep them poor. It is further used to maintain the military police power agenda implemented by Reagan. Government was authorized to "provide for the common defense" (§8.1) and to "declare war" (§8.11), but it was never authorized to become the police of the world, violating the sovereignty of nations like Vietnam, Nicaragua, Iran and Iraq, financed by the "conflict" labor of underdeveloped nations.

"The Role of the Judiciary" in all of this was to provide "checking" and "legitimizing" functions (p. 1268) that limit Executive actions and "strike down legislation that does not meet constitutional standards." Instead the Court authorized Executive Powers contravening the Constitutional guarantees. In conjunction with the Court's transfer of Judicial power to the Executive Branch, Nixon, Reagan, Bush Sr., Oliver North, and the Savings & Loan and corporate Pension Fund "raiders" operated with the impunity of Executive "pardon" (Art. II, ;2.1) and the Justice Department's "prosecutorial discretion" that allows them to overlook criminal activities "in the interest of justice." This duplicity only served to legitimize the impunity of office and economic status while the unemployed of the "homeless epidemic" they created were prosecuted under a justice system that now authorized illegal searches, hearsay testimony, lies, trickery, and deceit by Government, and disproportionate punishment.

### **Fundamental Commodities**

"Those who steal from private individuals spend their lives in stocks and chains; those who steal from the public treasure go dressed in gold and purple." (Cato, c. 200 BC) "If you suffer them to be ill-educated so they do not learn what behavior is to be expected of them and then punish them ... who has committed the wrong." (Thomas More, "Utopia") Those who created the

conditions of the crime were exonerated for their crimes while those who suffered the loss of their jobs, education, general welfare, and rights, were prosecuted and incarcerated. If "poverty is the mother of crime" (Cassiodorus, 550 AD) then government corruption is its father.

These actions controverted the "establish justice" clause but it was only a piece of a much greater corruption. Capitalism is historically the most successful form of economics because market forces continuously optimize it. Government wealth is measured by economic growth and it had discovered that it could transform "Stagflation" into wealth by perverting fundamental principles. The only major remaining problem was the unemployment-homeless epidemic and the 34% increase in crime between 1985 and 1990. In a country with declining productivity and jobs, limited resources, increasing unemployment and crime, and a growing Trade Deficit that could only be justified by continued economic growth the market forces dictated turning surplus labor into an asset.

Overt slavery and peonage (leasing convict labor to contractors) are illegal because the concept underlying such acts is the reduction of people to the status of being chattel, fundamental commodities to be traded and utilized to promote commerce. This form of economics has been practiced since ancient times, was a significant component of pre-civil war American economic, and is still practiced today in some countries. In America today it takes the form of creative accounting that has never been seen before, one in which 2.3 million prisoners are used to accrue nearly \$70 Billion from taxpayers annually and then compound it through the credit based banking system into an economic growth of nearly \$1 Trillion.

Had it not been for the fact that 2.3 million prisoners for 5% of the world's population is five times the global incarceration rate (8 million for 6.3 billion versus 2 million for only 300 million) this artifice might have gone undetected. Occam's Razor dictates that the simplest theory to account for all facts is preferred over more complex explanations that don't account for all the facts. How could the wealthiest nation on earth be predicated on justice, equality and liberty and have five times the crime rate as the rest of the world? It couldn't, unless justice, equality and liberty promote crime.

It costs \$32,000 a year to incarcerate an individual, nearly \$70 Billion, and 2/3 of that goes to pay correctional worker's salaries and benefits. These workers in turn utilize credit to purchase homes, cars and other assets and inject a large portion of their salaries into local economies which stimulates businesses and employment that compounds into more credit based assets and economic growth. Thus the unemployed and homeless were absorbed into businesses and corrections or, if they were unfortunate enough to commit a crime, into the ranks of the 2+ million prisoners. In short, criminal justice became a mechanism of incarceration for profit and economic expansion.

On its face the process was perfectly legal, it solved a major unemployment problem, and it stimulated the economy to offset the \$56 Billion in losses from the Savings & Loan industry collapse. The problem was that the crime rate had been declining since 1980 to a 30 year low in 1997 except for the 34% rise between 1985 and 1990 ("Highlights from 20 years of Surveying Crime Victims," Dept. of Justice, 1993; FBI Serious Crime Index, 1999). Politicians declared "War on Crime" with "Get Tough" platforms and the media followed their lead with a 250%

increase in crime reporting. As a result only 5% of the citizens realized that crime was falling in 1990 ("Perception in Neighborhood Crime," Dept. of Justice, 1995).

In conjunction with the "podium pounding politicians" the Courts had redefined what was permitted by the Executive Branch and conviction rates escalated to the present 2.3 million. This was supported by Mandatory Minimum Sentencing laws by the Federal Government and Federal subsidies for all states that passed "Three Strikes Laws" that effectively tripled sentences. Congress also passed the Prison Litigation Reform and Anti-Terrorist Effective Death Penalty Acts which restricted prisoner's appeal rights and further Supreme Court decisions eroded their right to appeal their conditions of confinement.

In 1968 the Court upheld prisoner's right to Equal Protection (*Lee v. Washington*, 390 US 333, 334). In 1974 the Court upheld prisoner's Due Process right subject to restrictions imposed by the nature of penal systems (*Wolff v. McDonnell*, 418 US 539, 556). And in 1977 the Court upheld their right to judicial review and meaningful access to legal materials (*Bounds v. Smith*, 430 US 817, 821). However in 1984 the Court determined that prisoners only retained rights compatible with the objectives of incarceration (*Hudson v. Palmer*, 468 US 517, 523). In 1987 the Court decided that it must be determined if an asserted right adversely affects guards and if there is an alternative that would minimize the cost to penological interests (*Turner v. Safley*, 482 US 78, 89-91). And in 1989 the Court abandoned the requirement that prisoners be subject to the least restrictive alternative (*Thornburgh v. Abbot*, 490 US 401, 414).

Then in 1999 the Court abandoned the traditional criteria for protecting liberty interests altogether and "afford[ed] appropriate deference to state officials trying to manage a volatile environment" (*Sandin v. Conner*, 115 S.Ct. 2293, 2299). From this point prisoners were no longer entitled to procedural (regulatory) Due Process protections as they were being crowded into prisons operating at 200% of capacity because the Court was awarding all discretion in this area to the Executive Branch. Now prisoners could only appeal to the officials they felt were being oppressive because the "volatile environment" created by the official's actions and overcrowded conditions justified the Court's decision to turn the responsibility for judicial review over to the officials.

This was duplicitous reasoning and a construction of Executive Power after the *Calder* Court had determined that Government had "NO CONSTRUCTIVE powers." In "The Role of the Judiciary" Justice Wright had pointed out that judicial review legitimates government to citizens by limiting Executive authority and overturning unconstitutional legislation. The *Sandin* Court overturned 200 years of judicial tradition by suddenly deciding that society's most disfavored citizens were no longer entitled to the Equal Protection of the *Lee* Court, the Due Process of the *Wolff* Court, and the judicial review of the *Bounds* Court.

Setting aside the Ex Post Facto and Bill of Attainder implications of more onerous punishment after the fact and denial of liberty interests to an easily identifiable disfavored group, the *Sandin* Court created an environment with no avenue for redress of grievances and implemented civil genocide of 2.3 million citizens. This, along with the tripling of sentences and Police Power decisions that increased conviction rates during

a declining crime period, created a near \$70 Billion a year industry (i.e. 2.3 million times \$32,000 a year per prisoner), two thirds of which ends up as correctional worker's salaries which translated to economic growth for communities and mortgages and other credit instruments that the banking system turned into creation of wealth.

Just as stock Price to Earnings ratios translate small earnings into large equity increases, the banking credit system translates individual earnings into compounded asset growth. This constitutes economic growth created by laws that trade human rights for national profits, people reduced to chattel (commodities) by clever legal and accounting practices that derive compounded profit from their incarceration.

### **A Standard of Proof**

Accounting fraud is typically understood to be an unorthodox practice that creates profits by misstating facts such as what occurred with Enron. Racketeering fraud however is much more complex and usually involves "legitimate fronts" and "money laundering" schemes designed to hide the illegal practices. Because the individual practices can appear legal on their face it is difficult to prove mens rea (criminal intent) so Congress enacted the RICO Laws (Racketeering Influenced and Corrupt Organizations, Title 18 USC §§1961 et seq.) that prove criminal conduct by the pattern of activities.

Under RICO "criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics" (Sedima, SPRL v. Imrex Co., 473 US 479, 496 n. 14, 1985, citing 18 U.S.C. §3575(e)). There are no mens rea requirements beyond the predicate acts (Brunner Corp. v. R.A. Crunner Co., 133 F. 3d 491, 494, n. 3, 7th Cir. 1998; Gentry v. Resolution Trust Corp., 937 F. 2d 899, 907-08, 3d Cir. 1991; US v. Biasucci, 786 F. 2d 504, 512, 2d Cir. 1986) because the pattern of activities establishes the proof.

Underlying predicate acts include any number of acts listed in 18 USC §1951 et seq. (Hobb's Act) and 18 USC §1961 et seq. (RICO) such as: interstate or foreign travel or mail use to facilitate racketeering; affecting commerce by extortion or conspiracy to do so, defined as obtaining property by force, violence, fear, or color of official right; money laundering, defined as attempting to disguise or conceal the nature or source of proceeds from an unlawful activity such as extortion or fraud; financial institution fraud; obstruction of justice; fraud in securities sales; and violations of the Currency and Foreign Transactions Reporting Act.

RICO also prohibits peonage (contracting convict labor and servitude for debt) and slavery (reducing a person to chattel, a commodity). Reducing people's rights to incarcerate them to resolve an unemployment problem, compensate for a \$56 Billion loss from the Savings & Loan industry collapse, and reduce the 2% economic contraction from Reagan's "Voodoo Economics" constitutes creating commodities out of people and thus slavery. Proof of the existence of a racketeering enterprise is established by the commission of racketeering acts (US v. Mazzei 700 F 2d 85, 89, 1983; US v. Turquette, 452 US 576, 583, 1981).

No country would openly admit such a fraud because they must maintain an image of propriety for international relations such as the sale of Treasury Bills to payoff national Trade Deficits. The duplicity of maintaining the image of establishing justice, equity and freedom while issuing Court decisions that controvert these rights, increase incarceration to five times the global average in a period of declining crime, deny appeal on-conditions of confinement, use political platforms and media to mislead the public in order to get elected and increase incarceration, and a \$70 Billion a year sector of the economy that translates taxpayer dollars into an economic growth of nearly \$1 Trillion through the credit based banking system strongly indicates more at work than a country's attempt to resolve a crime problem that is already declining.

It is just this type of circumstance that the RICO Laws were designed to handle by allowing a pattern of activities to serve as the measure of proof. By Occam's Razor the facts substantiate an incarceration for profit scheme to stimulate economic growth and the RICO standard of proof substantiates a criminal pattern. Although RICO has no profit motive requirement (National Organization for Women, Inc. v. Scheidler, 510 US 249, 261, 1994) a profit serves as the basis for money laundering and international fraud. When the US outsourced its productivity and implemented Deficit Spending based on issuing Treasury Bill promissary notes, acceptance of these instruments and their interest rate was dependent on the integrity of government and economic growth.

The country quickly built up an \$8 Trillion debt, which is not unreasonable for over \$50 Trillion in assets and a 3-4% annual growth rate, approximately \$25 Trillion on stock equities and \$25 Trillion in real estate and other tangibles. However if these assets are overstated or generated by illegal or fraudulent activities then it is a racketeering fraud on foreign banks and nations by misstating facts in order to induce acceptance of T-bills as Trade Deficit payments. The US outsourced productivity and accumulates over \$70 Billion in Trade Deficit each year. It currently pays a 5% rate based on a 3-4% growth on \$50 Trillion in assets. However when the economy shrank 2% under Reagan the rate rose to nearly 10%.

If the US is using incarceration for profit and other similar practices operating under a facade of legitimacy by Court decisions and enactments to legitimize illegal practices in order to show economic growth and misstate equity then it rises to a level of international racketeering. The pattern establishes the proof because under the Social Compact of the Constitution it constitutes "manifest injustice by positive law" (Calder v. Bull, 3 US 386, 388, 1798) and thereby renders all such activities fraudulent. It will now be shown that these M4 Derivatives have been intentionally implemented in every sector of the US economy.

### **M4 Derivative Patterns**

In 1929 the US and the world suffered a catastrophic economic contraction because no viable safeguards existed to protect investors from business promoters who misstated earnings to inflate stock prices. In the tradition of the Federal Reserve deposit requirements established in 1913 to protect savers from banks with fraudulent accounting practices the government established regulatory agencies to monitor business practices and protect shareholders. These agencies were

quasi-judicial in nature but existed within the Executive Branch with the power to both self-regulate and exert regulatory authority over business.

In theory, once empowered by Congress, these agencies became self-governing bodies with limited legislative, judicial and executive powers. In actuality, because of their licensing, investigative and policing authorities these agencies maintained total control over business. "No matter how much restriction civilization imposes on the individual, he nevertheless finds some way to circumvent it." (Freud) By the 60's businesses realized that campaign contributions gave them control over the agencies.

In both the state and federal legislative branches, committees are used to review legislative needs. There are finance committees that analyze cost and fiscal impact, judicial committees to review constitutionality, and public safety committees to review the need for new laws and amendments to existing ones. There are also specialty committees that monitor and protect special interest areas like energy or the environment. Seats on these committees are arranged by sponsorship and committee member votes. Junior legislators are then recruited into committees by senior members who hold seats on many different committees.

In this way a hierarchy of committee members is maintained with junior members introduced to the process through less crucial committees and advancing to seats on critical committees as they gain experience. In the words of Cicero (c. 50 BC) "Nothing is more unreliable as people, nothing more obscure than human intentions, nothing more deceptive than the whole system of elections." Because senior members sit on and Chair all the committees junior members only advance through the hierarchy if they receive senior member support, which means senior members must approve of their voting records.

Why would junior members tolerate such a practice? Because the only way to get a bill enacted is through Committee Review and then a floor vote, which means they must persuade the committees of a bill's merits. Also, "Follow the money" (paraphrased from "Who benefited by what was done?" - Lucius Ravilla, c. 100 BC, a Roman Judge noted for his integrity and wisdom in ferreting out the guilty). Campaigns cost between \$10 million for Legislators to \$40 million for Governors and \$60 million for a President. By being on the right committees they are ensured campaign support from lobbyists representing oil, finance, pharmaceuticals, manufacturing, media and other interests.

Under this scheme senior and supportive junior members ensure their continuation in office by trading political support for campaign support. They must still get the people's vote but campaigns cost money. As long as contributions are made without spoken "quid pro quo" attachments (i.e. this for that) it is all legal. In 2005 lobbyists contributed \$2.36 Billion to the federal legislative and executive branches, with health care contributing \$356 M, communications contributing \$308 M, and finance contributing \$301 M. This does not include "soft money" or state level lobbying contributions. Businesses account for assets and expenditures to the penny and would not contribute that much money without some expectation of "return on investment." While direct evidence of mens rea in regulatory fraud is difficult to obtain, the pattern of activities serve as proof.

In the words of Senator Fulbright (1963), "Government by the people is possible, but highly improbable," and it is the patterns of perpetrators, victims, and methods that establish the degree to which the people or illegal practices exert control over government. Recently the Supreme Court authorized local governments in Kelo v. City of New London to use eminent domain (5th Amendment - "nor shall private property be taken for public use without just compensation") to seize private dwellings for sale to real estate developers in order "to promote economic development." This deviates from the 5th Amendment's mandatory and explicit language "for public use" requirement. Instead local governments may now simply decide that such action is in their interest because it revitalizes real estate and increases their tax base. Now government has the power to condemn property in order to generate operating revenues.

This legalized predation of people's homes to finance government was so controversial that it prompted scrutiny of other government actions to reveal the following pattern of activities contrary to the principles of the Social Compact outlined in Calder v. Bull. "NO CONSTRUCTIVE powers" can be exercised and "a law that takes property from A and gives it to B ... is against all reason and justice .... " Although the Calder decision was rendered in 1798 it was cited as the underlying authority on Ex Post Facto law in a 1997 9-to-0 decision (Lynce v. Mathis, 117 S.Ct. 891) so its analysis of the Constitution is still held to be valid.

The Court then held only 8 years later in Kelo that it is legal to take from A and give it to B if it benefits government. That is government operating for the benefit of government and real estate developer's interests, not "people's interests," and the finance industry similarly benefited by a new Bankruptcy Law that went into effect in 2005. Under this law citizens can no longer use bankruptcy to evade debt accumulated voluntarily in such transactions as credit card charges. Prior to this "bad debt" had to be written off each year as "uncollectible" because it was inappropriate to account it as a receivable asset.

Under the new federal law however the debt no longer has to be written off since it is now deemed "good debt" no matter how long it remains unpaid. As soon as the new law was enacted the finance industry could consider previously ineligible people as good credit risks. This opened up a whole new credit market and near zero interest credit cards were issued to low income people. As long as they pay the "minimum balance" each month and refrain from attempting to establish other credit they are considered good credit risks and eligible for the low interest rate. However if they miss a payment or establish other credit they are suddenly considered overextended and a poor risk so the interest rate jumps to 24% or more.

Because low income people are unused to the pitfalls of credit a high percentage became "overextended" and the banks suddenly acquired a large number of accounts receivables growing at a 24% rate. Further, since their stock prices reflect their earnings compounded by their Price to Earnings Ratios of 15 to 20, the financial institutions enjoyed record profits and equity increases as a result of the new law's treatment of credit card debt and the defaults from low income customers. In essence creative accounting legitimized by federal law transformed people's debt into record growth. In actuality if a person cannot payoff a debt at 0% interest they almost certainly cannot pay it off while it grows at 24% so all profits are only paper gains but considered to be legal profits.

This is a prime example of a regulatory derivative that causes us economic growth like the credit based growth derived from the corrections industry or the "eminent domain" based real estate development growth. These are predatory practices that result in economic growth from "legalized" unethical practices. In each case the practice controverts the "manifest injustice by positive law" prohibition in Calder v. Bull. They are sophisticated legal artifices that entrap unsuspecting citizens in financial and criminal obligations by changes in the law from unwarranted influences.

Another area where this occurs is under the authority of the Federal Drug Administration (FDA). This agency was created to protect people by ensuring the quality, effectivity and safety of pharmaceutical industry products. However in recent years it has been transformed into an agency that ensures higher prices to American citizens. Some medicines for life threatening diseases can cost \$1000 per week or more and many chronic treatment medicines are in the order of \$10-\$20 per day. These prices are unaffordable to average citizens, with 30 million (1 in 8) living below the poverty level and an even greater number of elderly citizens on fixed incomes.

High medicine costs placed them in a position of choosing between necessary medical treatment or healthy eating and other living expenses so they turned to Canada and Mexico where the medicines cost 1/10th of US cost. When the FDA discovered that this was occurring and American pharmaceutical companies were losing market share they sponsored legislation to make it illegal for Americans to purchase their medicines outside the country.

This practice is predatory, targeting the elderly and poor, which makes it unethical and inhumane. It also violates NAFTA (North American Free Trade Agreement) because it restrains trade with Canada and Mexico. And it is illegal, violating the Sherman Antitrust Act, 15 USC §1, enacted to promote and protect competition (American Column & Lumber v. US, 257 US 377, 400, 1921). Section 1 provides that contracts, trusts, or conspiracies "in restraint of trade or commerce among several states, or with foreign nations, is hereby determined to be illegal."

Government is empowered "To regulate commerce with foreign nations, and among the several states ... " (Art. I, ;8.3, US Constitution) but it is a limited grant of authority. It must operate within the constraints of the Social Compact (Calder v. Bull) with "NO CONSTRUCTIVE powers" to enact legislation that benefits business at the expense of citizen's general welfare. This principle was reestablished by US Supreme Court Chief Justice John Marshall in Marbury v. Madison, 1 Church 136 (1803): "The government of the United States has been emphatically termed a government of laws, and not of men."

This does not restrict government from passing laws to protect citizens but the laws it passes cannot restrict citizens from obtaining the benefits government was established to guarantee. Justice Marshall then stated, "That the people have an original right to establish for their future government such principles as ... shall most conduce to their own happiness, is the basis on which the whole American fabric has been erected." This Marbury principle was used by Justice Wright in "The Role of the Judiciary" (1972) as government's underlying responsibility to legitimate itself to its citizens. It can only act to benefit and protect its citizens.

Justice Marshal further established that "A corporation is an artificial thing, invisible, intangible, and existing only in the contemplation of the law." (Dartmouth College v. Woodward, 4 Wheaton 518, 1819). If corporations can only exist within the laws authorized by the Constitution then no government agency can legally use their authority to create profits for corporations by restricting citizens' access to lower priced medicines in other markets, especially when lives, health and well-being depend on the medicines. Such action is a fundamental Constitutional violation.

Creating captive markets to benefit business at people's expense is also illegal under Section 3 of the Robinson-Patman Price Discrimination Act, 15 USC §13a, which provides that "It shall be unlawful for any person... to be a party to... any transaction which discriminates to his knowledge against competitors..." The actions of the FDA show a clear violation of a firmly established Antitrust doctrine because the Department of Justice has an "Antitrust Division" to enforce and prosecute the laws. This shows selective prosecution when an agency empowered to protect people's interests is allowed to constructively transformed its function into an agency that acts to create profits by maintaining a monopoly for certain businesses.

When businesses conspire to do such a thing they are prosecuted however if they lobby government to do it for them they are not prosecuted. It is the act which is clearly illegal. The fact that the conspiracy is "laundered" by legitimizing it through a government agency does not lessen its illegality. The argument that these companies need to maintain high profits in order to finance research was put forth by the FDA. This might have merit if the companies were regulated public utilities, under the scrutiny of Public Utilities Commissions with public hearings to regulate prices. However these are large multinational corporations with strong lobbies to influence Congressional Committees that oversee the FDA and approve its administrators.

Federal extortion laws expressly forbid the taking of a persons property under color of office and the RICO laws apply to any group with a common or shared purpose (US v. Perholtz, 842 F. 2d 343, 362, D.C. Cir. 1988) including governmental agencies (US v. Freeman, 6 F. 3d 586, 597, 9th Cir. 1993). If the companies lobby the Committee members with campaign contributions and the Committee members hold oversight authority over the agency's administrators that act to increase their profits then there is a shared interest because profits translate to contributions and job appointments.

Congress mandated that RICO "be liberally construed to effectuate its remedial purposes," US v. Turkette, 452 US 576, 587, 1981. Using financial and political influence to legitimize extorting higher prices for treatment of life threatening diseases also invokes the "use of fear" clause in addition to the "under color of office" clause. The pattern of activities encompasses use of lobbying influences to pervert the function of government into a "manifest injustice by positive law."

The activities similarly constitute a fraud by misrepresenting the actions as legal, acting under the shield of government to create corporate profits. Government is only authorized to "regulate commerce" to protect people and promote general welfare. It is not authorized to promote commerce at people's expense. Because companies' PE ratios compound profits by 20 to 1 stock

equity increases and these translate to national economic growth they misrepresent extortive practices as legitimate growth.

These figures determine T-bill interest rates because economic growth equates to stability. Thus government created monopoly and higher prices translate to lower interest obligations. The T-bills are then used to payoff the Trade Deficit with other countries who accept them at low rates in the belief that the economy is experiencing legitimate growth. This is international fraud because it restricts trade with other countries to create profits, appreciate stock prices and show growth to secure lower interest obligations on promissory notes.

It should be noted that Legislators and their aides are exempt from prosecution for using "inside information" obtained by their position. In other words, members of government realize significant stock equity appreciation by enacting laws that realize profits for businesses. Lobbyists simply need point out profitability to elicit support from Committee members.

Racketeering operations based on a conjunction of business and government cannot be policed by members who profit from it.

Another example of a pattern of racketeering practices involving government is in the Public Communications sector. Prior to deregulation of public air waves, the Federal Communications Commission (FCC) maintained strict control over how many TV and radio stations a business could own and how much commercial advertising was permitted during programming. With the advent of satellite and cable networks the FCC deregulated all restrictions and auctioned off the channels. In this way the FCC made money directly from corporations who could now own TV and cable-satellite channels in the same regions. They then increased commercial advertising from the traditional 3 minutes per 15 minutes of air time to an average of 5 commercial minutes per 10 air time minutes, from 20% to 50%. Half hour "infomercials" further increased this ratio.

Public viewers inundated by commercials then turned to cable and satellite subscriptions from the same corporations and their profits tripled along with their stock prices from the increased advertising and subscription fees. The Communications industry enjoyed a dramatic equity increase, the government agency's function transformed from protecting public interests to revenue generation for the government, and the public lost their title to the "public air waves." This again constitutes extortion of an entitlement under color of office and fraud extending up to international levels by overstating economic growth through government regulation to generate profits.

### **Economic Growth**

Legitimate profits can only be generated by free enterprise based on equal opportunity and open competition. All of the previously mentioned profits were created by government intervention in which agencies and laws supposedly to protect people were legislatively controverted to generate profits at the expense of unsophisticated citizens. The problem is that these M4 regulatory profits can only be sustained until people become aware of the practices. They are not based on technical innovations and new ideas, they are based on perverting the intent of the law in order to

extort citizens' interests. As soon as this occurs in every sector no new economic growth opportunity exists because the laws and agencies have already been misused so no new profits can be derived from the scheme.

The "Stagflation" of the 70's and unemployment and homeless epidemic of the 80's was cured by "Voodoo Economics" that balance the budget and increased corporate profits by a hidden tax on citizens' liberty interests and the creation of over \$8 Trillion in debt, predominately through T-bill sales, up from \$300 Billion in debt before the practice. There was no actual economic growth, just real estate prices inflated by stock equity increases from regulatory created profits and an incarceration for profit scheme.

The pattern could have been construed as coincidental, a natural evolution of market forces, except that it was too consistently repeated. The common denominator was corruption of governmental function which Occam's Razor would conclude to be an orchestrated pattern of activity. No sector of the US economy has escaped the pattern. Agribusiness M4 Derivatives are particularly innovative in that they rely upon a high degree of technical expertise.

Previously farmers were paid subsidies not to grow certain crops when the Department of Agriculture determined that production would exceed consumption. This was a needed regulatory protection because individual farmers lacked the sophistication to determine market forces so the Agriculture Department published a "Farm Report" that showed crop production and consumption. Aside from determining the subsidies needed to regulate production the report was also the basis for agricultural commodity prices and futures contract derivatives so it was kept secret until published for everyone to see at once.

This was a "ripe plum" for businesses with resources to hire attorneys, accountants, crop and derivative specialists. During the 70's and 80's large corporations started acquiring farms and consolidating them. This way they were able to capitalize on farm subsidies on a large scale. Crated initially to keep small farmers from going under the subsidies now became a "corporate welfare" for those who had the sophistication to determine market forces. The subsidies translated into profits and then economic growth through corporate PE ratios. The profits did not stop there however.

Being large corporations with strict accounting practices, the businesses now had first hand information concerning the crops, exceeding that available to the Department of Agriculture. They could also hire better specialists than the DOA so they could better determine productions and consumption factors. Armed with this information, the growing cycles of the crops, and a commodities knowledge, they could regulate their production to optimize profits from both subsidies and futures trading, since they are large enough to affect commodity prices.

This practice is legal for a corporation because it simply optimizes production capabilities with market forces to maximize profits. Individuals however cannot take advantage of inside information. In other words the corporate data is proprietary to the corporation and not available to the public so corporations have an unfair advantage over private investors in futures markets and any investors who had access to the information would be trading illegally on insider information.

The Securities Exchange Commission does not monitor or act upon these types of corporate transactions but their profitability is attested to by the fact that nearly 80% of US farms are corporate owned. It represents unfair competition to farmers forced to sell out to the corporations and also to individual investors who don't have access to the corporations' commodities information. Other sectors like energy, transportation, and utilities exert similar lobbying influences to exact regulatory derivative profits. An obvious one is the continual effort of oil company lobbyists to open up protected lands for oil exploration and the depletion allowance tax treatment on oil wells. Another area is electrical energy generation and distribution.

This was actually the basis for Enron's profits. In December 2001 the nation suffered a severe electrical energy shortage. As a result many unprofitable generating facilities were placed on line to meet peak demands. Because peak demand wholesale rates are twice non-peak rates they yield a 2-for-1 gain potential for peak power generators and Enron acted as a broker between the marginal generating facilities and public utilities struggling to meet demand. This operation has been widely publicized and will not be repeated here other than to say that Enron realized an additional 12-to-1 profit increase by simply counting a one month spot market contract as a one year contract.

During this time California was brought into the news as a victim of the energy shortage because Governor Gray Davis ended up signing a 7 year contract for electrical energy at the peak spot market price. Normally 5% of the state's generating facilities are shut down for scheduled maintenance but for some reason 25% of the plants were scheduled down for maintenance, 5 times normal so the state only had 75% of its generating capacity. As a result the utilities companies that scheduled the shut downs had revenues 20% below normal and petitioned the Public Utility Commission and Governor Davis for a rate increase, along with substantial campaign contributions to make sure their plight was heard.

One utility, Southern California Edison, transferred \$3 Billion in profits to its parent company Edison International and then threatened bankruptcy along with the other utilities if they weren't awarded an immediate rate increase. This was granted. Utilities customers were suddenly shocked to see 300% increases in their bills from Gray Davis' contracts with brokers like Enron. Ironically Edison International owned and operated outside generating facilities that sold energy into the spot market that Davis was buying through brokers.

As soon as state utilities returned to the normal 5% scheduled down time the electrical energy shortage disappeared and Davis had obligated the state to 7 years of high spot market prices.

All of this was investigated and reported by the media but no definitive action was taken to relieve consumers of the increased rates. Voters were so upset by the events that they held a Recall Election and replaced Gray Davis with Arnold Schwarzenegger. A fraud occurred but no one was prosecuted and the citizens paid the bill.

One last incidence serves to illustrate how deeply these corrupt practices are ingrained in the US economy. It was called "Restitution" and was a derivative of the Criminal Justice System's practice of "Forfeiture." Around 1990 federal and state governments passed forfeiture laws that authorized them to seize property used in the commission of a felony. This meant that once a crime was proved and a conviction obtained by jury trial or plea agreement the government was empowered to take title to any property used in the crime. The actual practice however was to seize the property at the time of arrest and arrest was warranted for such simple things as possession of large sums of cash.

Citizens in possession of as little as \$5,000 in cash were arrested and the cash seized. However when it came time for arraignment the police had no other evidence of a crime so the defendants were released, minus the cash and any vehicle they may have been driving. To reclaim the property the defendants had to file a claim but this required the services of an attorney and could cost up to \$10,000. As a result the property and cash was forfeited to the government by default. This amounted to billions of dollars of unclaimed property and cash obtained illegally by the state and federal governments.

In conjunction with forfeiture the state and federal governments implemented Restitution, a financial levy in addition to an offender's sentence. In California the Penal Code required victims to file a Restitution Claim but there was no provision in the Code to notify them of its existence so the Courts failed to do so. Furthermore the Penal Code specified that unclaimed restitution funds should revert to a crime victims group. This group, Crime Victims United, an organization originally set up and financed by the California Correctional Peace Officer's Association, then contributed the restitution funds to the Legislators who enacted the law.

In other words, the Legislature with the assistance of Crime Victims United and the guard's union enacted a law that assessed restitution from offenders and awarded it to Legislators as contributions. When it was pointed out that victims were not receiving the restitution funds the law was amended so victims were notified but required to go through a lengthy filing procedure, taking up to a year, so many victims fail to complete the process. This provision resulted in a decrease in funds to Crime Victims United, and thus the Legislature, so the assessment levied on prisoners' funds was increased from 20% to 50%, with an additional 5% to handle the administrative cost of taking their funds.

Thus prisoners are charged 55% of any monies they earn or are sent to them until their restitution is paid off, most of which ends up as contributions to those who enacted the Restitution law. This final example was chosen to illustrate the extreme predatory measures being utilized in the United States. By assessing 55% of prisoner's funds for campaign contributions, seizing suspects' properties, overcharging the sick for life saving medications, indenturing the poor to credit obligations growing at 24% a year, bludgeoning TV viewers with so many commercials they are forced to subscribe to cable networks, replacing small farmers with large corporations that manipulate commodities prices, and overstating economic growth in order to payoff \$8 Trillion in debt with low interest T-bills, America maintains its economic lead and military control over smaller nations.

### **Developing Nations**

As a final note it should be pointed out that developing nations can never achieve economic stability under the shadow of "US economic growth." Their only resources are excess labor at low rates and possibly some natural resources, agricultural products, and low technology manufactured goods. The US on the other hand has a stock market that grows at 20 time corporate earnings and a matching real estate growth that derives from stock equity increases and the compounding effect of the credit banking system. As a result the overall US economic growth is 3-4% of over \$50 Trillion or about \$2 Trillion a year, and about 25 times the \$80 Billion a year US Trade Deficit.

Thus the US, with declining productivity and increased outsourcing and Trade Deficits, compounds these debt obligations into economic growth. Developing nations on the other hand don't have a stock market to compound equities to 20 times earnings, an appreciating real estate market, a credit banking system, and M4 Derivatives to create economic growth. They only have a labor based economy that produces wealth in direct proportion to the labor applied. This disparity between the creative mechanisms of the US economy and the static labor based economies of developing nations prevents them from ever catching up.

In essence a static labor based economy represents negative economic growth when compared to expanding industrialized nation's economies that depend on developing nation's lower labor rates. As a result most developing nations are forced to borrow from the International Monetary Fund, with the US being the controlling member with 18% of the vote. In order to qualify for IMF loans the developing nations must adhere to strict policies set forth by the IMF that cut government expenditures and social programs in the countries.

Thus developing nations pay high interest rates for US controlled IMF loans with directed austerity programs in order to indenture themselves to the US as a source of labor and natural resources while the US enjoys low interest rates on its Trade Deficit because of its "creative accounting" practices. In the words of Kurt Engel, US Olympic Gold Medalist, that brought a standing ovation from his British audience on April 28, 2005, "It's the American way. We smile in your face and stab you in your back."

### **Conclusion**

"All justice is political and all politics are economic." If the pursuit of wealth is the objective then the politics will direct justice to that end. In Kelo v. City of New London the US Supreme Court stated that promoting economic development justifies seizing people's property so the objective is clearly declared.

RICO analysis shows the pattern of "creative accounting" practices used to achieve this end. The \$8+ Trillion and growing debt to other nations, the 2.3 million prisoner and 46 million ex-felon class of disenfranchised citizens, and the adverse effects to developing nations after contact with the US, strongly substantiates that US debt based economics does not establish justice, promote general welfare, protect people and their property, guarantee their rights, or prevent manifest injustice.

The pattern of activities and results shows wealth created by fraudulent and unlawful practices. These practices do not work to anyone's benefit. Since the activities are funded by the creation of debt, either in terms of human rights or at the expense of other nations, the solution is to remove the profit by refusing to accept the T-bill debt instruments that make the practices possible.

In closing an 1869 prediction by the Knights of Labor seems most appropriate, "The alarming development of great capitalists and corporations, unless checked, will inevitably lead to the pauperization and hopeless degradation of the working masses." Outsourcing their jobs and incarcerating them for profit would certainly make this prediction true. The Knights of Labor then

went on to say, "It is imperative if he desire to enjoy the full blessings of life, that a check be placed upon the unjust accumulation and the power of evil of aggregate wealth." To condone these frauds is to partake in them.