

Private Prisons and the Thirteenth Amendment

by ALTON H. MADDOX JR.

For every action, there is an opposite and greater reaction. This law applies to white supremacy's response to the liberation struggle.

This was seen in Jena, LA., as sixty thousand persons marched in Jena on September 20 to protest the railroading of six Black youths in adult court for an alleged attack on a white youth, Justin Barkin, in December 2006.

In June 2006, an all-white jury in adult court convicted Mychal Bell of aggravated assault and battery and conspiracy to commit a battery. Before the march, an appeals court threw out the remaining conviction for lack of jurisdiction. Jena officials have chosen to try Bell again in juvenile court.

After the march, Bell's probation was wrongfully violated on another charge. He was given 18 months in prison and is awaiting trial on the December 2006 charge despite double jeopardy. His parents were ordered to pay for his current confinement.

Those who fail to learn from the lessons of history are condemned to repeat them. Among other things, in the past, Blacks secured the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Open Housing Act of 1968. In addition, the U.S. Supreme Court decided *Loving v. Virginia* and *Jones v. Alfred H. Mayer Co.*

While we were pumping our fists and beating our chests, the forces of evil were at work. Because we failed to respect or support watchdogs, we never knew what hit us in 1968. In the meantime, white lawyers were reviewing the Thirteenth Amendment. To them, there is a loophole. This is our future.

Congress has the authority to prohibit private racial discrimination as a badge of slavery. This is the rule in the Thirteenth Amendment and it was made clear in *Jones v. Alfred H. Mayer Co.* Thus, Congress has the authority to ban private prisons. Penology is also a public function.

Between 1970 and today, there has been more than a 700% increase in the prison population. This occurred not because of an increase in crime but because of the enactment of harsher sentencing laws. Without watchdogs, voting has allowed Blacks to endorse their own oppression.

In 1970, the state and federal prison population was under 190,000. Today, the same population is more than two million without counting persons on parole and probation. The total count is more than seven million persons in the criminal justice system alone.

The United States takes the gold for incarcerating people. China takes the silver, but you must consider its population. The United States also takes the gold for incarceration rates and Russia replaces China for the silver. This country is still a penal colony.

13th Amendment

Section 1:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2:

Congress shall have power to enforce this article by appropriate legislation.

Among the domestic states, Louisiana has the highest incarceration rate. Texas and Mississippi follow. The states with the lowest incarceration rates are Maine, Minnesota, Rhode Island and New Hampshire. There is obviously a correlation between race and incarceration rates.

History is repeating itself. After the Civil War, states established convict leasing systems to exploit Black labor and to put 'free' Blacks in check. The Ku Klux Klan was formed within a week after the ratification of the Thirteenth Amendment. The Chinese Exclusion Acts were enacted after the ratification of the Fourteenth Amendment. Connect the dots.

Prison populations in southern states increased dramatically after the Civil War due to private prisons. The prison population in these states became disproportionately Black. Private companies were formed to lease convicts from the state for a fee. There was a lucrative market for 'idle' Blacks.

The convict leasing system marched in lockstep with lynching. Private prisons are back in vogue. Nooses have followed. Although the convict leasing system may have never been challenged during Reconstruction, the convict leasing system yesterday as well as private prisons today violate the Thirteenth Amendment.

Operating private prisons today to re-enslave descendants of enslaved Africans is like having put newly-emancipated Blacks back under the constructive jurisdiction of the Confederates States of America after the Tilden-Hayes Compromise.

Slavery was a private institution similar to the Federal Reserve System.

The original meaning of the Thirteenth Amendment is that Africans could only be enslaved by the state after a criminal conviction especially since it is only state action coupled with due process that can deprive a person of liberty.

England gave the Royal African Company a monopoly over slave trading in 1662. This charter supplanted the Dutch's monopoly over the slave trade. Congress ended the slave trade in 1808. The institution of slavery would continue in the United States until 1865. Badges of slavery still thrive.

Persons in opposition to a fugitive slave law in 1793 noted the public expense of enforcing slavery. The Fugitive Slave Law of 1793 was ruled constitutional in *Priggs v. Pennsylvania*. It deputized all whites to seize 'fugitive slaves.'

The institution of slavery was not only protected by the U.S. Constitution but also by subsequent federal legislation. At least, nine clauses in the U.S. Constitution protect slavery although slavery is not mentioned in the Supreme Law.

Recently, Barron's urged its readers to consider investing in prison stocks. It listed GEO Group, Corrections Corp. of America and Cornell Co. as potential investments. Stocks and bonds are the staples of slavery. Investors should be required to disinvest.

Barron's noted the risks attendant with investing in prison stocks although 'the rewards to investors can be considerable - not only in stocks but also in bonds.' Blacks need to keep an eye on former Attorney General Edwin Meese, an advocate for re-enslaving Blacks through a loophole.

Prison stocks are traded on the New York Stock Exchange. Investors demand that states enact harsher sentencing laws like in the conviction of Genarlow Wilson in Georgia. Last week, the Georgia Supreme Court outlawed his sentence as being cruel and unusual. Five inmates still exist in the Wilson et al.

prosecution.

Black legislators led the fight to enact the unconstitutional law in Georgia which undergirded Wilson's conviction. Eleven of the twenty-one members of the Congressional Black Caucus voted for the Anti-Drug Abuse Act of 1986 which imposed a much harsher sentence for persons dealing or possessing crack cocaine.

The New York Stock Exchange is regulated by federal law under the auspices of the Securities and Exchange Commission. The fugitive slave laws were used to facilitate slavery in interstate commerce and, today, the Securities Act of 1933 and the Securities Act of 1934 serve the same function. Presidential candidates will not touch this issue.

The struggle against Jim Crow in education was initiated by attorney Robert Morris, Sr. in *Roberts v. City of Boston* in the 1840's. Dean Charles Hamilton Houston rekindled this struggle in the 1920's at Howard University.

Today, there should be several Robert Morris and Charles Houston. Instead, we are moving backwards and we are clueless as to the reason. Private prisons operate on the principle that two wrongs make a right. This is not right.

Before Hurricane Katrina, it appeared that Blacks would be at least fifty percent of Louisiana's population by 2025. During the 1990's, the state's white population increased by less than 1% while the Black population increased 12%. Judge J.P. Mauffray and LaSalle Parish District Attorney J. Reed Walters are obviously on assignment.

See: www.reinstatealtonmaddox.net for 'Letter to Sen. Barack Obama on the 'Jena 6,' and 'Democratic Party and the 'Jena 6,' 'Strategies to Free the Jena 6,' 'Letter to Louisiana Disciplinary Committee on 'Jena 6' and 'Civil Rights and One-Night Stands.'