THE JURISPRUDENCE OF INNOCENT FRAUD:
Civil Injustice and An Analysis of Self-Deception

By

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Abstract

The constitutional doctrine known as the "separation of church and state" originated from an 18th-century American political experiment. Disputes regarding Christian hermeneutics, which led to several decades of religious wars in Great Britain, Germany, France, and other parts of central Europe, were the background and context for this constitutional doctrine in the United States. Today, however, this doctrine has stretched thin the moral fiber of the United States—particularly the moral fiber and the ethical foundations of its conception of constitutional jurisprudence and the practical administration of justice.

With the Christian religion (and, indeed, the Judea-Christian ethos) being culled out from secular American jurisprudence, the great ethical thinkers and theologians of the West are today disinvited from American law schools, bar associations, and courts. Consequently, American jurisprudence has become something that is undefinable; that is subject to whimsical changes or trends; and, indeed, subject to the interests of the most affluent and the most influential American citizens. The word "jurisprudence" is largely omitted from any mandatory first-year course in American law schools; and advanced-level law courses entitled "Jurisprudence" or "Equity Jurisprudence" are purely discretionary, if not altogether absent from the curricula of American law schools. In a word, we Americans have no real desire to know about, or to thoroughly comprehend, the divine origins or the divine essence of secular law and jurisprudence.

In ancient, medieval, and early-modern England, the secular law or secular jurisprudence were still considered to be "sacred," their chief English administrators were "ministers"; and English equity was superior to all laws. But in the United States, beginning in at least the late 19th century, economic monopoly interests and secularization changed this conception of law. Since then, *fraud*—innocent, systematized larceny—has become the accepted norm within the American legal profession. Based upon nearly thirty years of law practice and independent research in the field of political science, law, history, and theology, this master of arts

thesis is a polemic against this *fraud*. It is designed for the American legal profession and others who share the same concerns.

Dedication

American Association of Jewish Lawyers and Jurists

Southern Poverty Law Center

National Association for the Advancement of Colored People

The Ordinary People Society

Acknowledgement

This Master of Arts (Research) in Theology thesis is presented to the board of St. Clements University during its 30th Anniversary commemoration at the Royal Society of Arts, Manufactures, and Commerce in London, England. It is, in large measure, a critique of the institution of the United States District Courts, the American judiciary, and the American legal profession as a whole. Since its prescriptions are fundamentally economic in nature, this treatise is dedicated to the memory of **John Kenneth Galbraith (1908 – 2006)**, formerly the Paul M. Warburg Professor of Economics Emeritus at Harvard University and past president of the American Economic Association and the American Academy of Arts and Letters.

Professor Galbraith's writings[1] brought life and meaning to the otherwise trite field of economics. His writings also influenced me to enroll in a course entitled, "An Economic Analysis of the Law" (i.e., "law and economics") when I was a law student during the early 1990s. Professor Galbraith's critique of capitalism and, more specifically, its spillover effects upon the social order, resulting in economic monopoly and countervailing measures such as the Sherman Antitrust Act of 1890 and Roosevelt's New Deal legislation, caught my attention.

Later, during Professor Galbraith's long life, while I was still a young lawyer, he published what would then become his last book, entitled *The Economics of Innocent Fraud: Truth For Our Times* (2003)[2]—this would be his swan song, a sort of farewell address. And I, understanding its historical significance, purchased two copies of this

[1] The particular writings that principally influenced me were *American Capitalism* and *The Affluent Society*.

[2] John Kenneth Galbraith, *The Economics of Innocent Fraud: Truth for Our Time* (Boston, MA: Houghton Mifflin Co., 2003).

book— one for my notetaking, underlining, highlighting, and scribble marks in the margins of the pages; and the other as a keepsake. Since the legal theories, which undergird my critique of the federal court system's adjudication of human rights and civil rights cases, revolve around structural or institutional fraud, I have leaned heavily upon Professor Galbraith's insights in *The Economics of Innocent Fraud* as a guidepost in my law-logic and fundamental critique of United States District Courts and federal judges.[3]

Like economics, in the field of American jurisprudence (including the institutions of American state and federal courts, accredited American law schools, and American bar associations as a whole), "**monopoly [is] a major issue**"[4]—here, the unspoken conventional wisdom being that law and jurisprudence spring *solely* from a monopoly of Anglo-Saxon or European thought, culture, and experience, thereby making *only* men and women of Anglo-Saxon or European extraction most qualified to decide questions of ethics and law, even when their judicial decisions apply to socioeconomic, political, and historical circumstances that are almost uniquely exclusive to the lives of non-Anglo-Saxon or non-European peoples. For this reason, the United States District Courts do contain a fair amount of what I have called—while borrowing from, and paraphrasing, Professor Galbraith's *The Economics of Innocent Fraud* — **"structural, institutional fraud."** This fraud occurs in many types of federal adjudications—and not just in civil rights cases wherein the fundamental rights of African Americans or other minority groups are in jeopardy. Under the guise of "subject matter" jurisdiction, these courts can adversely govern the lives of millions of persons,— and especially those who are non-white. This, I have argued in this treatise, is *fraud*.

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[3] Ibid., p. ix [e.g., Professor Galbraith writes: "…to be right and useful, one must accept a continuing divergence between approved belief—what I have elsewhere called conventional wisdom—and the reality. And in the end, not surprisingly, it is the reality that counts."]

[4] Ibid., p. 11.

The other observation on Professor Galbraith's *Economics of Innocent Fraud* is that it makes no mention of the Christian religion, the Christian church, or the Judea-Christian ethos which seemingly constitutes much of its first principles and economic critique. But, here, I have essayed to achieve, in part, this very objective. And I trust that, were Professor Galbraith still alive, this treatise would meet his approval.

Finally, I would be remiss if I did not highlight recent theological developments within the Church of England, where, citing the Sacred Scriptures' conservative teachings on the family, human sexuality, and gender relations, the GAFCON, which is a majority-Global South communion that represents more than 80% of Anglicans worldwide, has decided to form an independent Global Anglican Communion. Here, I surmise that GAFCON's protest is against a type of *fraud* that is in the very structure of slavery and imperialism. Indeed, Western imperialism's historic callous indifference toward the socioeconomic needs of fathers, mothers, children, and families within developing nations could not be more readily apparent.

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