

Commentary

His Only Crime Was Against the Old Guard

■ **Milken:** In the best tradition of free enterprise, he made money by serving the public.

By MURRAY N. ROTHBARD

Michael Milken, in the eyes of the public, enjoys the moral status of a mass murderer, somewhere between Richard Speck and Adolf Hitler. There is general outrage that the proposed judicial settlement on more than 150 civil suits against Milken leaves him with \$125 million, and his immediate family with more than \$300 million, and also that Milken will serve "only" 40 months out of a possible 10-year jail term. Apparently stripping Milken of 90% of his wealth and putting him in prison for nearly four years is akin to letting a murderer go free. What then is his just punishment supposed to be: public drawing-and-quartering?

And punishment for what, exactly? Not only has Milken murdered no one; he has harmed no one. Instead of sacrificing Milken as the supposed embodiment of our "decade of greed," we should be hailing him as a brilliant financial innovator, as creative in his field as Thomas Edison and Henry Ford were in theirs. In the best tradition of free enterprise, Milken made money by serving the American public.

It is no secret that the American industrial base has been in decline, especially in the northeastern Rust Belt. One problem: By the 1960s, inefficient old-line corporate managers, allied to old-wealth financial elites such as the Rockefellers, began dragging down their companies and lowering profitability. The free-market solution came in the form of bright, hungry, new kids on the block from Los Angeles or Texas, brash newcomers from outside the blueblood preppy Eastern Establishment. Through takeover bids, these new entre-

preneurs were able to persuade the stockholders to shake up and transform the old corporate hierarchies. They did us all a favor by bringing healthy competition to the stuffy old boardrooms.

But the Old Guard struck back at their pesky competitors, persuading Congress to pass the Williams Act in 1967. This law prohibited the quiet accumulation of a majority of stock on the market. A takeover group now has to stop short when they obtain only 5% of the stock, publicly announce their intent to take over the company and then wait for a fixed number of weeks before they can buy any more. The result: expensive legal battles, "green-mail" and "poison pills," and a chilling effect on takeover challenges to entrenched Eastern Establishment power.

The genius of Michael Milken was to find a way to make the free market work, a way around the roadblock of the Williams Act. He also made an end-run around the Old Guard banks and blue-chip bond dealers with his new concept: financing takeover bids by issuing high-risk and therefore high-yield bonds, misleadingly called "junk" by their blueblood competitors.

Once again, the Wall Street elite turned to their buddies in Washington: after orchestrating a frenzied and hypocritical media campaign against Milken's high earnings, they succeeded in sending to prison the most creative financial innovator of our time.

And so, Michael Milken is in jail, and now suddenly everyone wonders why American industry can't compete with the Japanese. Let us liberate Milken and look instead to New York City and Washington for the causes of our economic ills.

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