

1 After We're Gone: Prudent Speculations on America in a Post-Racial Epoch

DERRICK A. BELL, JR.

IT IS time—as a currently popular colloquialism puts it—to “Get Real” about race and the persistence of racism in America. The very visible social and economic progress made by some African Americans can no longer obscure the increasingly dismal demographics that reflect the status of most of those whose forebears in this country were slaves. Statistics on poverty, unemployment, and income support the growing concern that the slow racial advances of the 1960s and 1970s have ended, and retrogression is well under way.

Perhaps Thomas Jefferson had it right after all. When musing on the future of Africans in this country, he expressed the view that blacks should be free, but he was certain that “the two races, equally free, cannot live in the same government.”¹ Jefferson suspected that blacks, whether originally a distinct race, or made distinct by time and circumstances, are “inferior to the whites in the endowments both of body and mind.”² Such differences prompted Jefferson to warn that “[i]f the legal barriers between the races were torn down, but no provision made for their separation, ‘convulsions’ would ensue, which would ‘probably never end but in the extermination of the one or the other race.’”³

Jefferson’s views were widely shared. In his summary of how the Constitution’s framers came to include recognition and protection of human slavery in a document that was committed to the protection of individual liberties, Professor Staughton Lynd wrote: “Even the most liberal of the Founding Fathers were unable to imagine a society in which whites and Negroes would live together as fellow-citizens. Honor and intellectual consistency drove them to favor abolition; personal distaste, to fear it.”⁴

In our era, the premier precedent of *Brown v. Board of Education* promised to be the twentieth century’s Emancipation Proclamation. Both policies, however, served to advance the nation’s foreign policy interests more than they provided actual aid to blacks. Nevertheless, both actions inspired blacks to push for long-denied freedoms. Alas, the late Alexander Bickel’s dire prediction has proven cor-

34 ST. LOUIS U. L.J. 393 (1990). Originally published in the St. Louis University Law Journal. Reprinted by permission.

rect. He warned that the *Brown* decision would not be reversed but “[could] be headed for—dread word—irrelevance.”⁵

Given the current tenuous status of African Americans, the desperate condition of those on the bottom, and the growing resentment of the successes realized by those who are making gains despite the odds, one wonders how this country would respond to a crisis in which the sacrifice of the most basic rights of blacks would result in the accrual of substantial benefits to all whites? This primary issue is explored in a fictional story that could prove to be prophetic.

The Chronicle of the Space Traders

The first surprise was not their arrival—they had sent radio messages weeks before advising that they would land 1,000 space ships along the Atlantic coast on January 1, 2000. The surprise was the space ships themselves. Unlike the Star Wars variety, the great vessels, each the size of an aircraft carrier, resembled the square-shaped landing craft used to transport troops to beachhead invasion sites during World War II.

The great ships entered the earth’s atmosphere in a spectacular fiery display that was visible throughout the western hemisphere. After an impressive, cross-continental “fly by,” they landed in the waters just off the Atlantic coast. The lowered bows of the mammoth ships exposed cavernous holds that were huge, dark, and impenetrable.

Then came the second surprise. The welcoming delegation of government officials and members of the media covering the event could hear and understand the crew as they disembarked. They spoke English and sounded like the former President Ronald Reagan, whose recorded voice, in fact, they had dubbed into their computerized language translation system. The visitors, however, were invisible—at least they could not be seen by whites who were present or by television viewers to the special coverage that, despite howls of protest, had preempted football bowl games. American blacks were able to see them all too well. “They look like old South sheriffs, mean and ugly,” some said. They were, according to others, “more like slave drivers and overseers.” Particularly frantic reports claimed, “The visitors are dressed in white sheets and hoods like the Ku Klux Klan.” In whatever guise they saw them, blacks all agreed that the visitors embodied the personification of racist evil.

The space visitors cut short the long-winded welcoming speeches, expressed no interest in parades and banquets, and made clear that their long journey was undertaken for one purpose, and one purpose only: trade. Here was the third surprise. The visitors had brought materials that they knew the United States needed desperately: gold to bail out the almost bankrupt federal, state, and local governments; special chemicals that would sanitize the almost uninhabitable environment; and a totally safe nuclear engine with fuel to relieve the nation’s swiftly diminishing fossil fuel resources.

In return, the visitors wanted only one thing. This demand created more of a shock than a surprise. The visitors wanted to take back to their home star

all African Americans (defined as all citizens whose birth certificates listed them as black). The proposition instantly reduced the welcoming delegation to a humbling disarray. The visitors seemed to expect this reaction. After emphasizing that acceptance of their offer was entirely voluntary and would not be coerced, they withdrew to their ships. The Traders promised to give the nation a period of sixteen days to respond. The decision would be due on January 17, the national holiday commemorating Dr. Martin Luther King, Jr.'s birthday.

The Space Traders' proposition immediately dominated the country's attention. The President called the Congress into special session, and governors did the same for state legislatures that were not then meeting. Blacks were outraged. Individuals and their leaders cried in unison, "You have not seen them. Why don't you just say no?" Although for many whites the trade posed an embarrassing question, the Space Traders' offer proved to be an irresistible temptation. Decades of conservative, laissez-faire capitalism had taken their toll. The nation that had funded the reconstruction of the free world a half-century ago following World War II was now in a very difficult state. Massive debt had debilitated all functioning. The environment was in shambles, and crude oil and coal resources were almost exhausted.

In addition, the race problem had greatly worsened in the last decade. A relatively small group of blacks had survived the retrogression of civil rights protection that marked the 1990s. Perhaps twenty percent managed to make good in the increasingly technologically oriented society. But more than one-half of the group had sunk to an unacknowledged outcast status. They were confined in former inner-city areas that had been divorced from their political boundaries. High walls surrounded these areas, and entrance and exit were carefully controlled. No one even dreamed anymore that this mass of blacks and dark-complexioned Hispanics would ever "overcome."

Supposedly, United States officials tried in secret negotiations to get the Space Traders to exchange only those blacks locked in the inner cities, but the visitors made it clear that this was an all-or-nothing offer. During these talks, the Space Traders warned that they would withdraw their proposition unless the United States halted the flight of the growing numbers of blacks who—fearing the worst—were fleeing the country. In response, executive orders were issued and implemented, barring blacks from leaving the country until the Space Traders' proposition was fully debated and resolved. "It is your patriotic duty," blacks were told, "to allow this great issue to be resolved through the democratic process and in accordance with the rule of law."

Blacks and their white supporters challenged these procedures in the courts, but their suits were dismissed as "political questions" that must be determined by co-equal branches of government. Even so, forces that supported the proposition took seriously blacks' charges that if the nation accepted the Space Traders' proposition it would violate the Constitution's most basic protections. Acting

swiftly, supporters began the necessary steps to convene a constitutional convention. In ten days of feverish work, the quickly assembled convention drafted and, by a substantial majority, passed an amendment that declared:

Every citizen is subject at the call of Congress to selection for special service for periods necessary to protect domestic interests and international needs.

The amendment was scheduled for ratification by the states in a national referendum. If ratified, the amendment would validate previously drafted legislation that would induct all blacks into special service for transportation under the terms of the Space Traders' offer. In the brief but intense pre-election day campaign, pro ratification groups' major argument had an appeal that surprised even those who made it. Their message was straightforward:

The framers intended America to be a white country. The evidence of their intentions is present in the original Constitution. After more than 137 years of good faith efforts to build a healthy, stable interracial nation, we have concluded that our survival today—as the framers did in the beginning—requires that we sacrifice the rights of blacks in order to protect and further the interests of whites. The framers' example must be our guide. Patriotism and not pity must govern our decision. We should ratify the amendment and accept the Space Traders' proposition.

To their credit, many whites worked hard to defeat the amendment. Nevertheless, given the usual fate of minority rights when subjected to referenda or initiatives, the outcome was never really in doubt. The final vote tally confirmed the predictions. By a vote of seventy percent in favor—thirty percent opposed—Americans accepted the Space Traders' proposition. Expecting this result, government agencies had secretly made preparations to facilitate the transfer. Some blacks escaped, and many thousands lost their lives in futile efforts to resist the joint federal and state police teams responsible for the roundup, cataloguing, and transportation of blacks to the coast.

The dawn of the last Martin Luther King holiday that the nation would ever observe illuminated an extraordinary sight. The Space Traders had drawn their strange ships right up to the beaches, discharged their cargoes of gold, minerals, and machinery, and began loading long lines of silent black people. At the Traders' direction, the inductees were stripped of all but a single undergarment. Heads bowed, arms linked by chains, black people left the new world as their forebears had arrived.

And just as the forced importation of those African ancestors had made the nation's wealth and productivity possible, so their forced exodus saved the country from the need to pay the price of its greed-based excess. There might be other unforeseen costs of the trade, but, like their colonial predecessors, Americans facing the twenty-first century were willing to avoid those problems as long as possible.

Discussion

It is not a futile exercise to try to imagine what the country would be like in the days and weeks after the last space ship swooshed off and disappeared into deep space—beyond the reach of our most advanced electronic tracking equipment. How, one might ask, would the nation bear the guilt for its decision? Certainly, many white Americans would feel badly about the trade and the sacrifice of humans for economic well-being. But the country has a 200-year history of treating black lives as property. Genocide is an ugly, but no less accurate, description of what the nation did, and continues to do, to the American Indian. Ignoring the Treaty of Guadalupe Hidalgo was only the first of many betrayals by whites toward Americans of Spanish descent. At the time of writing, Japanese Americans who suffered detention during World War II and lost hard-earned property and status were still awaiting payment of the small compensation approved, but not yet funded, by Congress. The country manages to carry on despite the burden of guilt that these injustices impose against our own people. In all likelihood, the country would manage the Space Trader deal despite recriminations, rationalizations, and remorse. Quite soon, moreover, the nation could become preoccupied with problems of social unrest based on class rather than race.

The trade would solve the budget deficit, provide an unlimited energy source, and restore an unhealthy environment. The new resources, however, would not automatically correct the growing income disparities between blacks and whites as reflected in the growing income gap between upper and lower income families in the nation as a whole. According to the Center on Budget and Policy Priorities: "In 1985, 1986 and 1987, the poorest fifth of American families received only 4.6 percent of the national family income. . . ."⁶ The poorest two-fifths of American families received 15.4 percent of the national family income in 1986 and 1987.⁷ In contrast, "the richest fifth of all families received 43.7 percent of the national family income in 1986 and 1987, the highest percentage on record."⁸ The top two-fifths of all families' share was 67.8 percent, which broke another record.⁹ The poorest two-fifths of American families received a smaller share of the national family income in 1986 and 1987 than in any other year since the Census Bureau began collecting data in 1947.¹⁰ Meanwhile, the richest two-fifths of American families received a larger share of the national income in 1987 than in any year since 1947.¹¹

These statistics are shocking, but they are certainly not a secret. Even more shocking than the serious disparities in income is the relative silence of whites about economic gaps that should constitute a major political issue. Certainly, it is a matter of far more importance to voters than the need either to protect the American flag from "desecration" by protesters or to keep the "Willie Hortons" of the world from obtaining prison furloughs. Why the low level of interest about so critical a pocketbook issue? Why is there no political price to pay when our government bails out big businesses like savings and loans, Chrysler, Lockheed, and even New York City for mistakes, mismanagement, and thinly veiled theft

that are the corporations' fault? Why is there no public outrage when thousands of farmers go under due to changes in economic conditions that are not their fault? Why does government remain on the sidelines as millions of factory workers lose their livelihood because of owners' greed—not the workers' fault? Why is there no hue and cry at a tax structure that rewards builders who darken the skies with gigantic, expensive condominiums for the rich while the working class spend up to one-half of their minimum-wage incomes for marginal housing, and as our poor live on the streets?

The reasons are likely numerous and complex. One substantial factor, however, seems to be the unstated understanding by the mass of whites that they will accept large disparities in economic opportunity in comparison to other whites as long as they have a priority over blacks and other people of color for access to those opportunities. On any number of occasions in American history, whites have acquiesced in—when they were not pressuring for—policy decisions that subordinated the rights of blacks in order to further some other interest. One might well ask, what do the masses of working class and poor whites gain from this continued sacrifice of black rights that justifies such acquiescence when so often the policies limit whites' opportunities as well as those of blacks?

The answer is as unavoidable as it is disturbing. Even those whites who lack wealth and power are sustained in their sense of racial superiority by policy decisions that sacrifice black rights. The subordination of blacks seems to reassure whites of an unspoken, but no less certain, property right in their "whiteness." This right is recognized by courts and society as all property rights are upheld under a government created and sustained primarily for that purpose. With blacks gone, the property right in "whiteness" goes with them. How long will the masses of whites remain silent about their puny share of the nation's wealth?

The film *Resurgence* shows a poor southern white, mired in poverty, who nevertheless declares: "Every morning I wake up and thank God I'm white." But after we're gone, we can be fairly sure, this individual will not shout, "Thank God, I'm poor." What will he and millions like him shout when the reality of his real status hits him? How will the nation's leaders respond to discontent that has been building for so long and that has been so skillfully misdirected toward a group no longer here? It will be too late to call off the trade—too late to bring back African Americans to fill their traditional role. Indeed, even without an extraterrestrial trade mission, the hour is growing late for expecting that black people will always keep the hope of racial equality alive. For millions in what is now designated the underclass, that hope has already died in the devastation of their lives. The cost of this devastation is not limited to the ghetto. As manifestations of self-hate and despair turn to rage and retaliation against the oppressors, those costs will rise dramatically and frightfully.

When I ask audiences how Americans would vote on the Space Traders' offer, rather substantial majorities express the view that the offer would be accepted. That is a present day measure of an almost certain future decision—one that will be required whether or not we have trade-oriented visitors from outer

space. The century-long cycles of racial progress and reform cannot continue, and should not. Those subordinated on the basis of color cannot continue forever in this status, and will not. Politics, the courts, and self-help have failed or proved to be inadequate. Perhaps the prospect of black people removed from the American landscape will bring a necessary reassessment of who has suffered most from our subordination.

NOTES

1. Quoted in Staughton Lynd, *Slavery and the Founding Fathers*, in *BLACK HISTORY* 115, 129 (M. Drimmer ed. 1968) (citations omitted).

2. DONALD L. ROBINSON, *SLAVERY IN THE STRUCTURE OF AMERICAN POLITICS, 1765-1820*, at 91 (1971) (quoting T. JEFFERSON, *NOTES ON THE STATE OF VIRGINIA* (Abernethy ed. 1964)).

3. *Id.* at 90.

4. Lynd, *supra* note 1, at 129.

5. ALEXANDER BICKEL, *THE SUPREME COURT AND THE IDEA OF PROGRESS* 151 (1978).

6. CENTER ON BUDGET AND POLICY PRIORITIES, *STILL FAR FROM THE DREAM: RECENT DEVELOPMENTS IN BLACK INCOME, EMPLOYMENT, AND POVERTY* 21 (Oct. 1988).

7. *Id.*

8. *Id.* at 22.

9. *Id.*

10. *Id.* at 21.

11. *Id.* at 22.