

REFLECTION

PATRICIA J. WILLIAMS*

This symposium has been unquestionably the greatest honor of my life. I am deeply grateful to all who planned it, particularly Katherine Franke and Suzanne Goldberg; to each of the remarkable speakers; and to the ever-supportive institutional community of Columbia University. Anything I say beyond that much risks sounding like a bad speech at the Oscars, without benefit of a recuperatively fetching gown. But I am appreciative beyond words for the work invested in shepherding this event into being. It feels as though a truckload of fairy dust had been dumped on me, and suddenly, suddenly . . . little academic wings have sprouted from my shoulders!

I am grateful too because this occasion was an opportunity to pause and reflect upon the trajectory of struggle that this body of writing grows out of—well beyond even what collected on these pages. I apprehend it as a coming-together of so many of the people with whom I have been in conversation my entire career. And nothing I have ever written could have been written without that colloquy—without the reading groups that met in rotating living rooms, the writing support retreats, the fights about the meaning of “critical legal studies,” the feminist legal theory workshops, the huddles in committee meetings, the glass ceilings broken, the culture wars waged, the vulnerabilities consoled, the life stories offered, the political assaults wreaked upon friends like Lani Guinier and Anita Hill—to say nothing of the personal toll all of us felt as they endured the brunt of those assaults on our behalf. I am grateful for the sustenance of remarkable mentors like the late Derrick Bell and Barbara Johnson, for their spirits abide; for time spent in deep interdisciplinary thought, time like Robert Pollack’s faculty seminars or the three summers I passed at Anna Deavere Smith’s Institute for Arts and Civic Dialogue. And I am lucky indeed to have had practical assistance from mentors like Sacvan Bercovitch who sent the essay that is the subject of this symposium off for publication at a time when publication of it was as far from my intention as the moon.

Let me turn to the story of how *On Being the Object of Property*¹ launched the personal trajectory that brings us to this point. When I wrote this essay for which I have become so

* Patricia J. Williams is the James L. Dohr Professor of Law at Columbia Law School. She also writes the *Diary of a Mad Law Professor* column for *The Nation* magazine.

1 Patricia J. Williams, *On Being the Object of Property*, 14 *SIGNS* 5 (1988).

notorious, I'd been a trial lawyer for five years, and a law professor for another seven after that. I was lonely and miserable in my chosen profession. How lonely? How miserable? Not quite as dismal as the generation before, like Ruth Bader Ginsburg or Pat Schroeder, but it says something about the intransigence of those times and law schools as bastions of tradition that there very were few women and virtually no women-of-color in legal academia. When I began teaching in 1980, as best as I have been able to determine, I was one of six of women-of-color [in legal academia] in the entire United States: four African Americans, one Latina, and one Asian American. Things were to change rapidly in the next decade, but they hadn't at that point.

Given all this, in 1987 I decided to chuck it all, go back to school, and get a Ph.D. in English. I was going to wipe the slate clean, start over, try something that wasn't so seemingly insurmountably an exclusive gentleman's preserve. Testing those waters, I signed up for a summer course at the School of Criticism and Theory, then situated at Dartmouth College. And I loved it. I loved literary criticism and theory and all its peculiar philosophical rigors. There was one class in particular, taught by Sacvan Bercovitch, on the form of political rhetoric we know as the American Jeremiad, and I found the experience a revelation, absolutely eye-opening.

Now the American Jeremiad is not what most people find particularly engaging, I grant you. But there's the added background factor that I grew up in Boston, literally atop the bones of the Puritans and their dour inheritance. I grew up in Boston, where in high school we had to read John Winthrop and Samuel Danforth and John Cotton.

If there's anything that can make adolescence more miserable than it is as a constitutional matter, it's growing up in a world where, just beyond one's window, the rest of the world was popping with joyous color, with Peter Max posters and rainbow coalitions and music thrumming open-heartedly to the strains of Miles Davis and the Rolling Stones and Nina Simone; and there were cultural fireworks going off everywhere, like Haight-Ashbury and the Freedom Riders and women's lib and all those apocryphal bras being tossed onto all those apocryphal crackling bonfires.

And there I was, an earnest, nerdy grind whose only popular recognition in tenth grade was being elected "most ladylike"—for that is the kind of reward one gets for being perpetually locked away in one's room slogging through *Errand Into The Wilderness*.²

It is no wonder I grew into a bitter, cheerless adult.

2 PERRY MILLER, *ERRAND INTO THE WILDERNESS* 1 (1956).

Anyway, that's how I came to be in Professor Bercovitch's class, bitter and cheerless and, like Miranda in *The Tempest*, bracing myself both for as well as against this brave new world that had such literary people in't.³

Here we must stop and recalibrate. For despite that dreary weight of expectation coming in the door of that classroom, I stayed because I was electrified. To visit those puritan texts anew, through adult eyes, was jolting. As a lawyer, I had never remarked on the Jeremiads' indelible shaping of legal argumentation. As an ethicist, I had never remarked upon the Jeremiads' biologized location of the soul. As an activist, I had never remarked on the Jeremiads' indelible shaping of the form of those most powerful speeches during the Civil Rights Movement—even the straightforward, knock-you-over-the-head bits like King's "I Have a Dream" speech. It must seem obvious in retrospect perhaps.

Almost all my work since has been a kind of critique growing out of that summer; a critique of synthetic, totalizing interpretations of what Professor Bercovitch has called "the meaning of America."⁴ I began to appreciate the suppleness of rhetorical form and to play against the very notion of a singular American vocality, most especially as that insight extended to legal discourse.

With the transformative lens of that summer, I began to toy with legal fictions and the conception of legal subjects, legal persons, non-persons, and things. I began to interrogate what gets animated and what doesn't; I began to worry about the line between human and subhuman in an era when the limits of incarceration, torture, human trafficking, medical experimentation, and the right to due process often turn on newly minted meanings of words like corporate personhood, enemy combatant, market force, IQ, underclass, genocide, genes, gender, torture, race, hunger, home, and alienability.

But ultimately there's a more idiosyncratic dimension to my gratitude for that transformative course of study as well. Halfway through the summer of 1987, Professor Bercovitch gave us a homework assignment. For the life of me I can't remember the topic of that assignment; but, whatever it was, I was so inspired by it that I sat down and wrote the essay that literally did change the course of my career. My essay had nothing to do with Puritanism or Jeremiads per se, so I think the assignment must have been more open-ended, something about persuasion or form or constructing a polemic in some broader

3 WILLIAM SHAKESPEARE, *THE TEMPEST* act 5, sc. 1, lines 183–184 (Grace Tiffany ed., Wadsworth 2012) (1610) ("Miranda: O brave new world / That has such people in't.").

4 SACVAN BERCOVITCH, *THE PURITAN ORIGINS OF THE AMERICAN SELF* ix (1975).

sense. I entitled that piece *On Being the Object of Property*⁵ and it was a lamentation about chattel slavery and personhood. I wrote it quickly, in a single evening—it just came pouring out, a detailed answer sparked by a question that now I cannot remember.

It was an immensely satisfying project, and to this day I'm really proud of it. Sometimes it feels as though it has done the yeoman's work in my career, not I. It is as though I accidentally gave birth to a champion poodle and have spent years meekly trotting around after it, while it strikes pose after noble pose. I still believe it's far and away the best thing I've ever written, but I've never quite been able to equal it, never again found the place where I was when I wrote it, even though I perpetually share the same stage with it.

To make a long story short, Professor Bercovitch liked the piece too. He shot it over to Harvard Press, whose editor, the legendary Lindsay Waters, asked me to render it into a book. That book became *The Alchemy of Race and Rights*,⁶ a publication that opened all kinds of other doors for me. So, weirdly enough, the essay I wrote as an escape hatch from the legal profession ended up drawing me back into it, as I became both hailed and assailed for being genre-busting, and quirky.

I've been wandering around academia ever since, always in search of that original inspiration. I have the answer, I keep telling myself. I just cannot quite remember the question.

5 Williams, *supra* note 1.

6 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* (1991).

