

**Puerto Rico and the Promise of United States Citizenship: Struggles around Status
in a New Empire, 1898-1917**

By

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DEDICATION

For my parents.

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* Sam Erman, “An ‘Unintended Consequence’: *Dred Scott* Reinterpreted,” review of *Origins of the Dred Scott Case: Jacksonian Jurisprudence and the Supreme Court, 1837-1857*, by Austin Allen, *Michigan Law Review* 106 (2008): 1157-1165; Sam Erman, “Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1895 to 1905,” *Journal of American Ethnic History* 27 (summer 2008): 5-33.

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TABLE OF CONTENTS

DEDICATION	ii
ACKNOWLEDGEMENTS	iii
LIST OF ABBREVIATIONS	x
CHAPTERS	
1. INTRODUCTION	1
2. STATUS IN THE SHADOW OF WAR, 1898-1900	24
3. MAKING ALLIES, MAKING CLAIMS: ISLAND LEADERS ON THE MAINLAND, 1900-1902	77
4. “AMERICAN ALIEN”: ISABEL GONZALEZ AND THE SUPREME COURT, 1902- 1905	141
5. “THE FORGOTTEN ISLAND,” 1905-1909	196
6. A “PECULIARLY GOVERNED” ISLAND: THE TWILIGHT OF U.S. CITIZENSHIP IN PUERTO RICO, 1909-1917	230
7. EPILOGUE	278
APPENDIX	290
BIBLIOGRAPHY	293

LIST OF ABBREVIATIONS

MD NARA, 350/_/_/_	Maryland National Archives and Records Administration, Record Group 350, Series, Box, File
DC NARA	District of Columbia National Archives and Records Administration
46/_/_/_	Record Group 46, Box, Label, Folder
233/_/_	Record Group 233, Box, Folder
85/_/_~_/_/_	Record Group 85, Entry, Volume number out of total number of volumes, page, no.
AG . . . /_/_	Archivo General de Puerto Rico . . . , Caja, Expediente
OG	Oficina del Gobernador
DE	Fondo del Departamento de Estado
SPR	Sección del Secretario de Puerto Rico
COS	Serie del Correspondencia Oficina del Secretaria
CG	Correspondiente General
RC	Sub-serie del Registro de Correspondencia
T	Tarea
CIHCAM _/_/_	Centro de Investigaciones Históricas, Colección Angel M. Mergal, caja, cartapacio, documento
L	Libro
LOC	Library of Congress
CDOSIP/MC/_	El Centro de Documentación Obrera Santiago Iglesias Pantín,

Microfilm Collection, Roll.

BCSPCEPHC/_/_/_	Blase Camacho Souza Papers, Centro de Estudios Puertorriqueños, Hunter College, Series, Box, Folder
SGL _/_	Library of Congress, Samuel Gompers Letterbooks, 1883- 1924, volume, page
EIA	Ellis Island Archive, available at http://www.ellisland.org/

CHAPTER 1

INTRODUCTION

When Frederic Coudert opted to tell the legal history of early-20th-century relationships between U.S. empire and U.S. law, few were better positioned. Following U.S. invasions of Cuba, Puerto Rico, and the Philippines in the 1898-99 war with Spain, and U.S. annexations of Puerto Rico, the Philippines, and Guam, Coudert had acted as counsel in innumerable claims concerning the status of the newly acquired lands and peoples. Appearing alongside and on behalf of Puerto Rican political leaders, a migrant from the island seeking work on the mainland, and merchants involved in U.S.-Puerto Rican trade, he had presented arguments to U.S. agencies, courts, and legislators. By 1926, his activities—especially his arguments before the Supreme Court in the disputes on the topic that came to be known as the *Insular Cases*—had won him wealth, prominence, and influence. Reflecting on these events in the pages of the *Columbia Law Review*, he described the *Insular Cases* as presenting the Supreme Court a choice between its “reverence for the Constitution” and allowing “the United States properly to govern a people so alien.” “These two conflicting desires,” Coudert explained, “were reconciled by [an] ingenious and original doctrine” that “failed anywhere to specify what particular portions of the Constitution were applicable to the newly acquired

possessions.” “The very vagueness of the doctrine,” Coudert concluded, “was valuable.” The genesis, persistence, and significance of that doctrine, which he called “Territorial Incorporation,” lies at the core of this study.¹

This study proposes a new scholarly perspective on the *Insular Cases*, especially *Gonzales v. Williams* (1904). Like Coudert, I argue that doctrine emerged from the balance and interplay between legal and administrative concerns. But these two strands within the U.S. state are not the whole story. This thesis also traces how a group of Puerto Ricans articulated legal claims about their citizenship in response to the evolution of this legal doctrine, sometimes challenging it, sometimes working within in, and sometimes acting to shape it.

As Coudert indicated, struggles over law and empire in the United States involved institutional actors both within and beyond courts. U.S. expansion in 1898 created opportunities for federal administrators—especially those in the Department of War—to emerge alongside courts and political parties as lead actors in the federal government. As they cooperated and competed to secure autonomous control over and policies for Puerto Rico and other newly U.S. lands, such officials deployed and deferred to legal claims. Members of U.S. political branches also drew upon legal language and norms, responded to judicial decisions, and acted in accordance with their declarations that they were bound

¹ Frederic R. Coudert, “The Evolution of the Doctrine of Territorial Incorporation,” *Columbia Law Review* 26 (1926): 850 (quotes 1, 3-7), 828 (quote 2); see also, e.g., *Gallardo v. Noble*, 236 U.S. 135 (1915). Recent scholars join Coudert in examining post-annexation cases concerning the status of Puerto Rico and Puerto Ricans as of a piece. For works defining the *Insular Cases* to include such cases, see, e.g., Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence: University of Kansas Press, 2006); Christina Duffy Burnett, “A Note on the *Insular Cases*,” *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, ed. Christina Duffy Burnett and Burke Marshall (Durham, N.C.: Duke University Press, 2001), 389; see also Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington D.C., American Psychological Association, 2001).

by law.²

Coudert observed that courts navigated similarly competing pulls between governance and law. Judges knew that their decisions variously influenced, empowered, and hindered administrative and political officials. They expressed and displayed fidelity to law, but sought to avoid creating a conflict between what they perceived to be needs of governance and the constraints they saw as essential for avoiding tyranny. Some contemporaries described judges' law as the mere, nearly automatic deduction of results from preexisting and apolitical axioms. Others perceived a law predicated upon evolving social conditions and morals. And some considered judges to be instrumental and idiosyncratic arbiters. But judges belonged to and were influenced by a broader community of legal academics and commentators, private lawyers, and government attorneys. To varying degrees, these heterogeneous legal actors shared norms about the substance, nature, and practices of law that judges felt at least partly bound to honor or address.³

² For work describing and theorizing the slow emergence of powerful, autonomous agencies from a U.S. state largely constituted by political parties and courts, see Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (Cambridge, Eng.: Cambridge University Press, 1982); see also Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass.: Harvard University Press, 1993); Peter H. Argersinger, "The Transformation of American Politics: Political Institutions and Public Policy, 1865-1910," in *Contesting Democracy: Substance and Structure in American Political History, 1775-2000*, eds. Byrn E. Shafer and Anthony J. Badger (Lawrence: University Press of Kansas, 2001).

³ On classical legal thought and its detractors, see, e.g., Morton J. Horwitz, *The Transformation of American Law 1870-1960: The Crisis of Legal Orthodoxy* (New York: Oxford University Press, 1992); Thomas C. Grey, "Langdell's Orthodoxy," *University of Pittsburgh Law Review* 45 (1983): 1-53; Duncan Kennedy, "Toward an Historical Understanding of Legal Consciousness: The Case of Classical Legal Thought in America, 1850-1940," *Research in Law and Sociology* 3 (1980): 3-24; Christopher Tomlins, "Framing the Field of Law's Disciplinary Encounters: A Historical Narrative," *Law & Society Review* 34 (2000): 933; Robert W. Gordon, "The Elusive Transformation," *Yale Journal of Law & the Humanities* 6 (1994): 137-162 (reviewing Horwitz, *Transformation of American Law*). Stephen A. Siegel has examined historical views of law as systematic and yet also predicated on the morals and conditions of particular groups in specific times and places. See, e.g., "Francis Wharton's Orthodoxy: God, Historical Jurisprudence, and Classical Legal Thought," *American Journal of Legal History* 46 (2004): 422-446. On elite lawyers, law schools, legal academics, and the broader legal community, see Robert W. Gordon, "'The Ideal and the Actual in Law': Fantasies and Practices of New York City Lawyers, 1870-1910," in *The New*

People not employed by the U.S. state also participated in these negotiations. Because U.S. officials throughout the state sought myriad, often-conflicting ends, the concrete disputes and problems that they faced influenced the priorities that they emphasized and pursued and thus the relationships that they formed, the compromises that they reached, and the conflicts that they perpetuated. Those seeking to harness or stave off state action found opportunities in the resultant indeterminacy and plasticity of official policy and decision making. Many, including the five Puerto Ricans whose claims making in 1898-1917 is the focus of this project, sought to exploit this dynamic by becoming students of the state. They learned the competing commitments and aims of U.S. judges, administrators, and elected officials and used that knowledge to pursue their ends by turning some arms of the state against others or positioning one to influence another's decisions.⁴

To perceive processes and changes like those Coudert described requires identifying and exploring dynamics that encompassed courts, other arms of the state, and claimants largely devoid of political, economic, or social power. Hoping to harness judicial power, individuals crafted claims, presented them to authorities, and thereby framed the arguments and conflicts that courts faced when they rendered decisions. Often, moreover, those conflicts were predecessors of and heirs to similar disputes that had arisen before courts, agencies, and political officials.

This study builds on conceptions of legal history that look beyond judicial

High Priests: Lawyers in Post-Civil War America, ed. Gerard Gawalt (Westport, Conn.: Greenwood Press, 1984), 51; Neil Duxbury, *Patterns of American Jurisprudence* (New York: Oxford University Press, 1995); Horwitz, *The Transformation of American Law 1870-1960*; Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill: University of North Carolina Press, 1983).

⁴ On the complexities of the incentives, circumstances, and senses of self of U.S. officials that shaped their actions, see, e.g., Daniel Ernst, "Morgan and the New Dealers," *Journal of Policy History* 20 (2008): 447-481; Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1896-1928* (Princeton, N.J.: Princeton University Press, 2001).

proceedings to encompass the various struggles over concepts that unfolded between people outside the state and officials from all across it. The core case at the center of this project, *Gonzales v. Williams* (1904), thus only emerges at the midpoint of my seven chapters. The balance of the study attends to other aspects of the struggles around, law, empire, and status of which *Gonzales* was but a part.

The 1898 U.S. invasion of Puerto Rico interrupted and redirected years of struggle by Spanish Antilleans with Spain for greater freedoms. It occasioned a realignment of island politics that intertwined with debates in Puerto Rico and among U.S. officials over the rights and status of post-annexation Puerto Ricans. U.S. lawmakers initially saw Puerto Rico primarily in terms of the Philippines, the annexation of which worried most mainlanders more than did that of Puerto Rico. By providing Puerto Ricans little self-government and no recognition as U.S. citizens in the 1900 Foraker Act establishing civil government in Puerto Rico, Congress hoped to create a model for U.S. rule in the Philippines that could be challenged in court without risking an adverse ruling directly applicable to the Philippines. But the first round of *Insular Cases* (1901) did not settle the status of Puerto Ricans or Filipinos. Seeking to clarify matters, the elected Puerto Rican representative in Washington, Federico Degetau y González, launched numerous claims to U.S. citizenship on behalf of Puerto Ricans. His opportunity came in 1901, after immigration officials excluded the Puerto Rican Isabel Gonzalez as an undesirable alien and she and her uncle, Domingo Collazo, launched a lawsuit claiming U.S. citizenship.⁵

When the Supreme Court issued its opinion in the case, it established that Puerto

⁵ I follow the usage of Isabel Gonzalez and her brother Luis Gonzalez in signing their names and omit the accent marks. Isabel Gonzalez to Federico Degetau, 10 Apr. 1904, CIHCAM 5/I/5; Luis Gonzalez to Federico Degetau, 5 Feb. 1903, CIHCAM 3/VII/35.

Ricans, and thus likely Filipinos, were not aliens. Many also understood *Gonzales* to signal the Court's unwillingness to decide whether Puerto Ricans were U.S. citizens.

After *Gonzales*, federal administrators and the U.S. political branches became increasingly amenable to a U.S. citizenship for Puerto Ricans that courts seemed unlikely to construe as constraining U.S. rule in the Philippines. In Puerto Rico, the decision also preceded a political realignment that swept Degetau's party from power and firmly installed a coalition, led by Luis Muñoz Rivera, that took a more confrontational attitude toward perceived injustices of U.S. rule in Puerto Rico. Muñoz and his co-partisans became more incrementalist, however, after 1909, when Congress reduced Puerto Rican self-government in response to protests by elected islanders for greater democracy. During the years that followed, organized labor in Puerto Rico became increasingly powerful and assertive as one of its leaders, Santiago Iglesias, helped expand its reach from the cities into the fields by co-leading large agricultural strikes that began in 1915. Drawing on a decade-long alliance with the American Federation of Labor, a powerful mainland labor organization, and on years of experience claiming for Puerto Ricans rights that mainland workers sought or held, Iglesias also aligned Puerto Rican and U.S. organized labor firmly behind U.S. citizenship for Puerto Ricans. Those latter efforts culminated with congressional extension of U.S. citizenship to Puerto Ricans in the 1917 Jones Act, an event that altered but did not resolve struggles around the status of Puerto Rico and of Puerto Ricans.

Through this reframed legal history of the first two decades of U.S. imperial rule in Puerto Rico, several revisions to standard accounts of the *Insular Cases* become apparent. The relative importance and coherence of the longest and most-cited of those

cases—*Downes v. Bidwell* (1901)—has tended to overshadow the significance of *Gonzales* to the history of U.S. citizenship and empire. In explicating *Insular Cases*, some scholars have argued that the Court used them to try to reconcile fidelity to constitutional norms with exigencies of empire by explicitly altering the constitutional order. Other scholars have disagreed, stressing that the Court had long accorded U.S. political branches wide discretion in territorial governance and that the Court ultimately explicitly denied U.S. colonized peoples few rights. This investigation finds much truth in both positions. The *Insular Cases*, which attempted to reconcile Constitution and empire, involved few explicit alterations to constitutional rights. To do so, justices met claims seeking clarification of the status of Puerto Rico and Puerto Ricans by announcing narrow holdings in opinions that maintained a studied and productive ambiguity.⁶

But evasive decisions were decisions nonetheless. Slowly, a new legal landscape emerged. Between 1898 and 1917, a conventional wisdom formed among many U.S. officials and Puerto Rican political and organized-labor leaders that judicial actions seeking U.S. citizenship for Puerto Ricans were likely to remain unavailing and that

⁶ In advocating a link between potential U.S. de-annexation of Puerto Rico and the *Insular Cases*, Christina Duffy Burnett stresses longstanding congressional power over U.S. territories and the relatively few constitutional rights that the Supreme Court has explicitly denied residents of Puerto Rico. “Untied States: American Expansion and Territorial Deannexation,” *University of Chicago Law Review* 72 (summer 2005): 797-879. Additionally, she collects and distinguishes herself from scholarship depicting the *Insular Cases* as having distinguished unincorporated territories like Puerto Rico—where residents only received fundamental constitutional rights—from incorporated territories where the U.S. Constitution applied in full. *Ibid.* 808-809 & nn.39-41. For more on U.S. discretion in territories, see Sarah H. Cleveland, “Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs,” *Texas Law Review* 81 (Nov. 2002): 1-284. On *Gonzales v. Williams* (1904), see Sam Erman, “Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1895 to 1905,” *Journal of American Ethnic History* 27 (summer 2008): 5-33; Christina Duffy Burnett, “Empire and the Transformation of Citizenship,” in *Colonial Crucible: Empire in the Making of the Modern American State*, eds. Alfred W. McCoy and Francisco A. Scarano (Madison: University of Wisconsin Press, 2009), 332-341; Christina Duffy Burnett, “‘They say I am not an American . . .’: The Noncitizen National and the Law of American Empire,” *Virginia Journal of International Law* 48 (2008): 659-718. For an overview of research using social and legal histories to trace potentially legal problems, see Rebecca Sandefur, “Access to Civil Justice and Race, Class, and Gender Inequality,” *Annual Review of Sociology* 34 (2008): 16.3-16.5; see also Hendrik Hartog, “Pigs and Positivism,” *Wisconsin Law Review* 1985: 899-935.

consequently Congress was the only source from which such recognition could reasonably be sought. In 1898, many U.S. commentators and officials along with some leading Puerto Rican political men insisted that Puerto Ricans would secure U.S. citizenship, eventual statehood, and full constitutional protections all in a bundle or not at all. By 1917, piecemeal official decision making had convinced most observers of the contrary. The growing consensus that securing U.S. citizenship would win Puerto Ricans few new rights and provide them little help winning U.S. statehood for their island increasingly weakened arguments that depended on more robust visions of U.S. citizenship. These same shifts, men elected to office in Puerto Rico discovered, left open ever fewer promising or even plausible paths to home rule.⁷

Yet doctrine deferred was not doctrine denied. During the first two decades of U.S. rule in Puerto Rico, the Court decided very little about the status of U.S. colonies and their peoples. Most notably, the justices held, the colonies were neither part of the “United States” for purposes of a single clause in one section of an article of the Constitution nor a “foreign country” for purposes of pre-1900 U.S. tariff laws. Similarly, the Court later decided that Puerto Ricans were not alien to the United States for purposes of federal immigration law, but did not thereby clarify their U.S. citizenship status. Even territorial non-incorporation—the doctrine for which the *Insular Cases* are best known and which remains binding constitutional law today—did not receive unambiguous support from the Court for more than two decades. And though the Court held that Puerto

⁷ For work examining the invention of citizenship as a legal category in the French context, see Peter Sahlins, *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca, N.Y.: Cornell University Press, 2004); cf. Frederick Cooper, Thomas C. Holt, and Rebecca J. Scott, *Beyond Slavery: Explorations of Race, Labor, and Citizenship in Postemancipation Societies* (Chapel Hill: University of North Carolina Press, 2000) (observing that because freedom, like slavery, unfolded differently across locales, citizenship is an institution to be described locally). For an example of a concept—in this case capacity—that shifted shape as judges applied it in different doctrinal areas, see Susanna L. Blumenthal, “The Default Legal Person,” *UCLA Law Review* 54 (2007): 1135-1265.

Ricans and others who shared their status lacked constitutional rights to certain criminal procedures—most notably jury trials—what further constitutional rights they lacked remained largely undetermined. By 1917, then, the justices had interposed relatively little in the way of holdings with which their successors would have to reckon in further clarifying the constitutional relationships between law, empire, status, and rights.⁸

Though they often argued and addressed disputes around law, empire, and status as matters of legal reasoning, effective administration, and political priorities, petitioners and federal officials also frequently referred to the popular and academic ideas about race and empire that they understood these disputes to involve. Among the most powerful such socio-cultural concepts were those identifying and justifying global racial hierarchies. Such theories spoke of eugenics, degeneration, environmental factors, the line between civilization and savagery, and relationships of states, nations, and their laws to peoples and races. To many in the United States, these theories were grounds for treating certain racial groups as inferior. American Indians, Filipinos, and other tropical or indigenous peoples, some thus claimed, were savages. Others—and often the same people—deprecatd the level of civilization of Asian peoples, especially the Chinese. Yet another group—again frequently overlapping in membership—portrayed people of southern and eastern European descent, including residents of lands formerly within the

⁸ For an overview of the *Insular Cases*, see Sparrow, *The Insular Cases* (emphasizing the extent to which the doctrine of territorial non-incorporation gained ground after 1903, delineating and seeking to rationalize instances where the Supreme Court did and did not deny constitutional protections to residents of unincorporated territories, and reviewing much prior research analyzing the *Insular Cases*); José Trías Monge, *Historia constitucional de Puerto Rico*, vol. 1 (San Juan: Editorial de la Universidad de Puerto Rico, 1980), 244-267, passim; see also José Trías Monge, *Historia constitucional de Puerto Rico*, vol. 2 (Río Piedras, P.R.: Editorial Universitaria, 1981); Note, “Status of Filipinos for Purposes of Immigration and Naturalization,” *Harvard Law Review* 42 (1928-1929): 810 & nn.10-11 (failing to identify a Supreme Court holding to support the claim that peoples annexed to the United States in 1898 were not all then U.S. citizens);. As Gary Lawson and Robert D. Sloane have recently explained, the “category of fundamental rights is as arbitrary and ill-defined as the concept of incorporation,” from which it derives. “The Constitutionality of Decolonization by Associated Statehood: Puerto Rico’s Legal Status Reconsidered,” *Boston College Law Review* 50 (2009): 24.

Spanish Empire, as incompetent at and inexperienced with law, liberty, and self-government. At the same time, some in Puerto Rico and the mainland deployed these theories to distinguish different levels of degradation among non-Anglo-Saxon peoples and thus establish their own relative superiority vis-à-vis others.⁹

Annexation also brought Puerto Ricans into a U.S. empire-state still grappling with the aftermath of its Civil War. That conflict had long stood, especially in the memories of many northerners and of many southerners of color, for union and for emancipation, racial justice, and national inclusiveness. In the 1890s, however, mainstream white U.S. opinion had increasingly come to vilify a key legacy of that conflict: Reconstruction. This renunciation drew inspiration from the academic writings of William Dunning, a professional historian at Columbia University who portrayed Reconstruction as a northern imposition on the U.S. South. It had resulted, he claimed, in misrule by a combination of southern blacks unprepared for office or the franchise, “carpet-bagging” northern whites, and southern white “scalawags” who sought to

⁹ On the concept of the “Anglo-Saxon” and its relationship to scientific racism and U.S. white mainstream thought on American Indians and Filipinos, see, e.g., Mark S. Weiner, “Teutonic Constitutionalism: The Role of Ethno-Juridical Discourse in the Spanish-American War,” in Burnett and Marshall, *Foreign in a Domestic Sense*. Alexandra Stern presents a helpful overview of recent work on U.S. eugenics in her introduction to: *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America* (Berkeley: University of California Press, 2005), 1-26. On perceived racial differences among those of European descent, see Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass.: Harvard University Press, 1998). On notions of savagery and civilization, see Matthew Frye Jacobson, *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917* (New York: Hill and Wang, 2000). A popular mode of thought that Stephen A. Siegel terms “historicism” sorted nations and races in part based upon their laws. “Historicism in Late Nineteenth-Century Constitutional Thought,” *Wisconsin Law Review* (1990): 1431-1547. On U.S. perceptions of Filipinos, see Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, & the Philippines* (Chapel Hill: University of North Carolina Press, 2006). The classic overview of U.S.-American Indian relations remains Francis Paul Prucha, *The Great Father: The United States Government and the American Indians*, vols. 1-2 (Lincoln: University of Nebraska Press, 1995 [1984]). In “‘Chinese Demons’: The Violent Articulation of Chinese Otherness and Interracial Sexuality in The U.S. Midwest, 1885-1889,” Victor Jew recounts anti-Chinese violence in Milwaukee and reviews scholarship on the Chinese-American experience in the United States. *Journal of Social History* 37 (winter 2003): 389-410. For an early work discussing one manner in which Gilded Age intellectuals synthesized many of these ideas, see David N. Livingstone, “Science and Society: Nathaniel S. Shaler and Racial Ideology,” *Transactions of the Institute of British Geographers* [n.s.] 9 (1984): 181-210.

advance themselves at the expense of the “mass of” southern whites over whom they exercised authority. In its uglier forms—which included and drew upon longstanding portrayals of blacks as potential rapists of white women—this theory contributed to the epidemic of lynchings in the United States. As intended, such attacks on Reconstruction also figured prominently in its rollback, including black disfranchisement and imposition of Jim Crow. These ideas became U.S. cultural touchstones as well, winning expression in popular media such as Thomas Dixon’s novel *The Clansman* (1907) and D. W. Griffith’s adaptation of it to film, *Birth of a Nation* (1915).¹⁰

Ideas like those Dunning espoused also became commonplaces of U.S. politics, administration, and law. White-supremacist U.S. Democrats’ embrace of them was unsurprising. But following U.S. Republicans’ failure in 1890-91 to pass the Lodge Bill with its federal-elections protections for U.S. blacks and the perceived wartime need for national unity in 1898, substantial numbers of members of Abraham Lincoln’s party also came to accept and espouse such ideas. U.S. administrators and judges also operated within this ideological frame. Grasping the power of these concepts, men heading what came to be the dominant Puerto Rican political coalition took them up, asserting that the injustices they perceived in U.S. governance of Puerto Rico reenacted Reconstruction-era

¹⁰ William Archibald Dunning, *Essays on the Civil War and Reconstruction and Related Topics* (New York: The Macmillan Co., 1904 [1898]); Charles E. Merriam, “William Archibald Dunning,” *American Political Science Review* 16 (Nov. 1922): 692-694; Thomas Dixon Jr., *The Clansman: An Historical Romance of the Ku Klux Klan* (New York: A. Wessels Co., 1907); *The Birth of a Nation*, Dir. D. W. Griffith (Epoch Producing Corp., 1915); David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001), 108-122, 335-366; Mark Elliott, *Color-Blind Justice: Albion Tourgée and the Quest for Racial Equality from the Civil War to Plessy v. Ferguson* (Oxford, Eng.: Oxford University Press, 2006), 237-243; C. Vann Woodward, *The Strange Career of Jim Crow*, commemorative ed. (Oxford, Eng.: Oxford University Press, 2002 [1955]), 85-96; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, Mass.: Harvard University Press, 2005), 159-166.

abuses.¹¹

U.S. jurisprudence reflected both the emancipatory legacy of the Civil War and the narrowing of that legacy in subsequent decades. Postbellum Supreme Court treatment of U.S. citizenship illustrates the dynamic. In the Dred Scott case, *Scott v. Sandford* (1857), Chief Justice Taney had held free U.S. blacks not to be U.S. citizens. Claiming that states had traditionally denied civil and political rights associated with citizenship to free blacks, he had reasoned that the Founders could not have intended the Constitution to cloak free blacks with U.S. citizenship. The 14th Amendment repudiated that holding, guaranteeing that “All persons born or naturalized in the United States, and subject to its jurisdiction, are citizens of the United States.” Prior to 1898, U.S. postbellum jurisprudence construed this language to classify peoples subject to U.S. jurisdiction and born in lands under U.S. sovereignty as U.S. citizens. Afterward, and in light of U.S. annexations of territories in which millions of non-whites resided, federal judges indicated a willingness to revisit the matter. The Fourteenth Amendment also prohibited state abridgement of “the privileges or immunities of citizens of the United States.” In their opinions, Supreme Court justices addressed this clause ambivalently too, variously celebrating the significance and substance of U.S. citizenship and construing the status to provide few judicable rights.¹²

While Reconstruction and the Civil War figured prominently in the U.S. past, it was Spanish rule that dominated pre-annexation events on the island. Afterward, many in Puerto Rico and on the mainland analyzed U.S.-island relations through this lens. U.S.

¹¹ On the relationship between the 1898 war between Spain and the United States and renunciation of the heritage of Reconstruction by many Republicans, see Blight, *Race and Reunion*, 335-366. See also Elliott, *Color-Blind Justice*, 243-249; Woodward, *Strange Career of Jim Crow*, 85-96; Scott, *Degrees of Freedom*, 159-166.

¹² Am. 14, sec. 1, U.S. Const. (quotes); see also note 337 below and accompanying text; .

officials and commentators often cast Spain as a tyrant who had denied Puerto Ricans self-government, individual rights, and rule of law. For advocates and opponents of U.S. imperial policies, such portrayals proved double-edged: In light of them, U.S. rule appeared to be an improvement. But they also potentially undermined the legitimacy of U.S. policies in cases where those policies could be portrayed as less liberal than Spanish ones.¹³

Puerto Rican men at the forefront of island politics generally held a more complex view of the legacy of Spanish rule. For decades, most prominent island-born politicians had been what came to be known as *Autonomistas*, or autonomists. Federico Degetau y González and Luis Muñoz Rivera, both Puerto Ricans at the center of this study, emerged as leaders of this movement in the late nineteenth century. Unlike participants in the Cuban Revolutionary Party such as Santiago Iglesias and Domingo Collazo—urban artisans whose activities also animate this project—Autonomistas did not seek to end Spanish rule in Puerto Rico or in neighboring Cuba. Instead, they worked within the Spanish system and disavowed Puerto Rican independence, seeking to end preferences for those born in continental Spain, to secure full Spanish citizenship and political participation for island-born Puerto Ricans, and to win islanders control over island affairs. They had made progress on all fronts by mid-1898. In the years following the

¹³ On the relationship between U.S. perceptions of Spanish tyranny and U.S. understandings of the consequences of U.S. military actions in 1898, see Louis A. Pérez, Jr., “Incurring a Debt of Gratitude: 1898 and the Moral Sources of United States Hegemony in Cuba,” *American Historical Review* 104 (Apr. 1999): 356-398. For interrelationships between U.S. domestic issues and U.S. imperialism, see, e.g., Shelley Fisher Fishkin, “Crossroads of Cultures: The Transnational Turn in American Studies,” *American Quarterly* 57 (Mar. 2005): 17-57; Lanny Thompson, “The Imperial Republic: A Comparison of the Insular Territories under U.S. Dominion after 1898,” *Pacific Historical Review* 71 (Nov. 2002): 535-574. On gains by Autonomistas, see, e.g., Astrid Cubano-Iguina, “Political Culture and Male Mass-Party Formation in Late-Nineteenth-Century Puerto Rico,” *Hispanic American Historical Review* 78 (Nov. 1998): 631-662; notes 17-25 below and accompanying text; see also Astrid Cubano Iguina, *El hilo en el laberinto: claves de la lucha política en Puerto Rico (siglo XIX)* (Río Piedras, P.R.: Ediciones Huracán, 1990) 77-144.

U.S. invasion, they drew on those experiences to evaluate U.S. policies, chart strategy, justify their actions, and craft arguments to present U.S. officials. In particular, they deployed this history in service of self-portrayals contesting U.S. images of them as passive, politically inexperienced, and unsuited for full citizenship.

While the focus of this history is U.S. law, empire, and status as they involved Puerto Rico in 1898-1917, the questions it raises about the relationship of modestly situated claimants to legal and political change over time have relevance to broader concerns in history and throughout the humanities. Recent work on race, class, gender, discourse, and culture has made less plausible an earlier ambition of some humanities scholars: grand, accurate narratives describing the human condition and its change over time. Observing that centers of power like the state were never the whole story, humanistic scholars increasingly ask how variously situated people experienced and contested everyday power. This scholarship avoids overly neat causal stories but risks sacrificing causal explanations altogether. One way to escape this Hobson's choice—and it is the path chosen in this study—is to explore citizenship as a venue both for large-forces narratives and the complexities of individual agency. Because claims of citizenship rested at the nexus of individuals and the state, they provided a tool that individuals used to harness state power and that the state deployed to justify coercive actions against them. This is not a story in which causation worked neatly—people struggled over meanings of citizenship with unpredictable results—but it is one that illustrates mechanisms by which the complex processes that formed our past evolved into those that form our present.¹⁴

¹⁴ On concern over a loss of unifying narratives following the cultural turn in legal history, see, e.g., Ariela Gross, "Beyond Black and White: Cultural Approaches to Race and Slavery," *Columbia Law Review* 101 (2001): 640-689. On the loss of traditional grand narratives in legal history, see Robert W. Gordon, "Critical Legal Histories," *Stanford Law Review* 36 (1984): 57-126. For works focusing on citizenship as a

This study attends especially to the ways that the circulation of people and ideas could offer resources to those whose positions were otherwise weak. What Rebecca Scott terms “concepts” of citizenship provide one example. As people articulated concepts of citizenship in one part of the Atlantic World, those concepts could accompany travelers and writings along paths of trade, governance, and conquest. This circulation created an Atlantic intellectual space in which numerous concepts of citizenship co-existed. When residents drew upon this suite of ideas to make claims, they engaged the concepts creatively, recombining, inventing, inflecting, and creating alternatives to them. These new concepts also entered circulation, becoming bases for new claims.¹⁵

To explore more specifically how powerful institutions affected and were affected by those of more modest means, I draw on scholarship examining what is broadly characterized as “claims making.” Such work does not aim to answer classic dichotomous framings of questions of rights and repression, an end its methods could not achieve. Instead, it looks for mechanisms of negotiation between powerful institutions and individuals. Such claims and counter-claims are not mere snapshots of the past; they

legal category, see, e.g., James H. Kettner, *The Development of American Citizenship: 1608-1870* (Chapel Hill: Published for the Institute of Early American History and Culture by The University of North Carolina Press, 1978). Hilda Sabato insists on the importance of citizenship as a word in “On Political Citizenship in Nineteenth-Century Latin America,” *American History Review* 106 (2001): 1290-1315. Different characterizations of citizenship can produce seemingly inconsistent results. In *Revolution, Romanticism, and the Afro-Creole Protest Tradition in Louisiana 1718-1868* (Baton Rouge: Louisiana State University Press, 1997) Caryn Cossé Bell finds free, antebellum New Orleanians of color placing U.S. citizenship at the core of their claims and senses of self. William J. Novak, by contrast, argues that U.S. citizenship was merely one status among many in the United States during these years. “The Legal Transformation of Citizenship in Nineteenth-Century America,” in *The Democratic Experiment: New Directions in American Political History*, eds. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton, N.J.: Princeton University Press, 2003).

¹⁵ Rebecca J. Scott, “Public Rights and Private Commerce: A Nineteenth-Century Atlantic Creole Itinerary,” 48 *Current Anthropology* (Apr. 2007): 238 (quote). On reconstructing circulation and development of ideas in the Atlantic World by those in modest positions, see Laurent Dubois, “An Enslaved Enlightenment: Rethinking the Intellectual History of the French Atlantic,” *Social History* 31 (Feb. 2006): 1-14; Lara Putnam, “To Study the Fragments/Whole: Microhistory and the Atlantic World,” *Journal of Social History* 39 (spring 2006): 615-630.

offer opportunities to study the dynamics through which negotiations between unequal agents produced historical change.¹⁶

This study examines such dynamics of historical change by focusing on five Puerto Ricans' struggles with each other and the state over citizenship and other status relationships. They are Federico Degetau y González, Luis Muñoz Rivera, Domingo Collazo, Isabel Gonzalez, and Santiago Iglesias.

Twenty-five-year-old Federico Degetau was a rising member of the liberal, cosmopolitan, Puerto Rican elite in 1887. His grandparents hailed from Puerto Rico, Britain, and Germany, and his extended family included abolitionists. Though Degetau's parents hosted meetings of leading liberals in their home, his father owned property in people until the end of his life in 1863, at which point the twenty-eight-year-old enslaved man Chalí appeared among the effects in his will. In the 1870s, Degetau began an education in Europe that culminated in an 1888 law degree in Spain. While there, he cultivated liberal causes and associations. He joined the freemasons, discussed abolition of the death penalty with Victor Hugo, published commentary on pedagogy and fiction, participated in the *Société Française pour L'Arbitrage entre Nations*, met the Puerto Rican nationalist leader Ramón Betances, and became both a protégé of a leading Puerto Rican pro-autonomy politician. In 1887, that politician, Ramón Baldorioty, founded and Degetau then joined the Partido Autonomista, which became the primary party for Puerto Rican-born politicians. Baldorioty soon faced repression and imprisonment. Still in

¹⁶ A list of claims-making scholarship is necessarily illustrative rather than comprehensive: Rebecca J. Scott, "Reclaiming Gregoria's Mule: The Meanings of Freedom in the Arimao and Caunao Valleys, Cienfuegos, Cuba, 1880-1899," *Past & Present* 170 (2001): 181-216; Laurent Dubois, *A Colony of Citizens: Revolution & Slave Emancipation in the French Caribbean, 1787-1804* (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture by The University of North Carolina Press, 2004). On making claims as a learned skill and its relationship to power inequalities, see Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (Chicago: University of Chicago Press, 1990): 1-10.

Spain, Degetau launched a newspaper to protest. Some months later, Baldorioty was freed.¹⁷

Like Degetau, Luis Muñoz Rivera joined the Autonomist movement of the aging Baldorioty. When Baldorioty died in 1889, the thirty-year-old autodidact Muñoz founded *La Democracia*, an Autonomista newspaper. There Muñoz, the son of a slave-owning merchant, continued to advocate on behalf of the party, which sought local power in local matters, greater civil and political rights, and enjoyment of constitutional rights for those born in Puerto Rico on equal terms with continental Spaniards.¹⁸

The years 1894-95 found thirteen-year-old Isabel Gonzalez growing up in a Puerto Rican home alongside her brother Luis and her four-year-old sister Eloisa. Her mother, Antonia Dávila González, was again pregnant. Though the family lacked financial security, they had the resources to secure an education for Isabel Gonzalez. But between the looming need for Luis Gonzalez to produce income for the family and the concomitant lack of secure resources, the family's ability to provide educational

¹⁷ Ángel M. Mergal, *Federico Degetau: un orientador de su pueblo* (New York: Hispanic Institute, 1944), 30-34, 39-46; Untitled document, 27 May 1864, CIHCAM 6/VII/14; Copy, Certificate of Federico Degetau upon receiving his law license, 29 Oct. 1888, in A. M. Melgar, Documentación relacionada con la vida y la obra de D. Federico Degetau, 1941, 29, CIHCAM 20/L2; Copy, Inventario, in Melgar, Documentación, 20; Certification of membership in El Porvenir, 20 Jan. 1882, CIHCAM 6/VII/16; "Delegate from Porto Rico," *The Times*, Worthington, Ind., [Dec. 1900?], available at CIHCAM 22/L1; José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Conn.: Yale University Press, 1997), 11-12; Gonzalo F. Córdova, *Resident Commissioner, Santiago Iglesias and His Times* (Río Piedras: Editorial de la Universidad de Puerto Rico, 1993), 25; Fernando Bayron Toro, *Elecciones y partidos políticos de Puerto Rico (1809-1976)* (Mayagüez, P.R.: Editorial Isla, Inc., 1977), 92; see also David Ortiz Jr., *Paper Liberals: Press and Politics in Restoration Spain* (Westport, Conn.: Greenwood Press, 2000), 4-6, 9, 105, 108, passim; Dominique Soucy, *Masonería y nación: redes masónicas y políticas en la construcción identitaria cubana (1811-1902)* (Spain: Ediciones Idea, 2006); Sandi E. Cooper, "Pacifism in France, 1889-1914: International Peace as a Human Right," *French Historical Studies* 17 (autumn 1991): 359-386; Félix Ojeda Reyes and Paul Estrade eds., *Ramón Emertio Betances: obras completas*, 16 vols. (San Juan, P.R.: Ediciones Puerto, vols. 1-3 published in 2008-2009, vols. 4-16 are forthcoming); Pilar Barbosa de Rosario, *De Baldorioty a Barbosa: historia del autonomismo puertorriqueño, 1887-1896* (San Juan, P.R.: Imprenta Venezuela, 1957).

¹⁸ Córdova, *Resident Commissioner*, 24, 26-28, 31; Ortiz, *Paper Liberals*, 21-22; Trías Monge, *Trials*, 11.

opportunities for the other children was not assured.¹⁹

Though the date of Domingo Collazo's marriage to Isabel Gonzalez's aunt is unclear, Isabel Gonzalez eventually came to call that Puerto Rican typographer uncle. Collazo had arrived in New York from the island in the late 1880s or early 1890s. Once there, he rejected Autonomistas' attempts to merely alter the terms of Spanish rule in Puerto Rico and instead became an advocate of Antillean independence. Though he would be counted as white in later censuses, for the moment he closely followed the trajectory of Sotero Figueroa, perhaps the most prominent Puerto Rican activist of color to promote an Antillean revolution against Spanish colonial rule. Around 1895, Collazo became Secretary of a political club that Figueroa had founded and led three years earlier. The club aimed to unite Puerto Ricans in New York behind revolution. Collazo also joined Figueroa in a second revolutionary club, this one comprised largely of Puerto Ricans of color. There, Collazo attended meetings alongside revolutionary activists like Arturo Schomburg and Rosendo Rodríguez.²⁰

A native of continental Spain, Santiago Iglesias had trained as a carpenter, participated in republican protests, gained exposure to labor and political thought, and

¹⁹ Gonzalez to Degetau, 5 Feb. 1903; Gonzalez to Degetau, 10 Apr. 1904; Manifest for the S.S. Ponce, 12 May 1903, 78, EIA; Transcript of Record, No. 225, Gonzales v. Williams, 192 U.S. 1 (1904).

²⁰ U.S. Manuscript Census of 1910 for Ward 12, Manhattan, New York, Supervisor's District No. 1, Enumerator's District No. 619, Sheet No. 13 A, Line 43, n.d., available at HeritageQuestOnline database, Series T624, Roll 1024, Page 13; U.S. Manuscript Census of 1920 for New York County, New York, Supervisor's District No. I, Enumerator's District No. 974, Sheet No. 7 B, Line 76, 5 Jan. 1920, available at HeritageQuestOnline database, Series T625, Roll 1209, Page 151; Juan Carlos Mirabal, "Momentos del club Borinquen en el Partido Revolucionario Cubano (1892-1895)," *Anuario del Centro de Estudios Marianos* 7 (1984): 140-141 (quoting Sotero Figueroa, Modesto Tirado, Francisco Gonzalo Marín, and Antonio Vélez Alvarado, *El Porvenir*, 24 Feb. 1892, 1); Bernardo Vega, *Memoirs of Bernardo Vega: A Contribution to the History of the Puerto Rican Community in New York*, ed. César Andreu Iglesias, trans. Juan Flores (New York: Monthly Review Press, 1984 [1977]), 76-77; "Club 'Borinquen,'" *La Patria*, 23 Jan. 1897, 3; Las Dos Antillas Political Clubs Minutes, 1892-1908, Schomburg Collection, NYPL; Jesse Hoffnung-Garskof, "The Migrations of Arturo Schomburg: On Being *Antillano*, Negro, and Puerto Rican in New York, 1891-1938," *Journal of American Ethnic History* 21 (fall 2001): 3-49. I thank Jesse Hoffnung-Garskof for guidance with research and analysis on Antilleans in New York and for sharing work and ideas in progress.

written for the labor press before relocating to Cuba in 1887. There, he was a *lector* in a tobacco factory, charged with reading aloud from novels and newspapers to workers as they performed their work. He also organized workers, published a labor newspaper, and assisted strikes. Like Collazo, though at greater personal risk, Iglesias eschewed Autonomism for revolutionary politics, winning a commission from the head of the Cuban revolutionary movement to write a manifesto on behalf of pro-independence Cuban workers and securing the rank of Lieutenant from insurgent leader General Máximo Gómez.²¹

In 1895, partisans of Cuban independence took up arms against the Spanish colonial state. Within months, José Martí—an advocate of separation from Spain who would soon be remembered as a major intellectual and political leader of the Cuban revolutionary movement—joined the troops already in the field in Cuba. Martí depicted Cuban independence as one goal in a larger social revolution that would create an egalitarian Cuba free from race and class divisions. When he died in battle later that year, partisans of such an Antillean revolution lost their most articulate and influential advocate. Some responded by seeking to shore up support for Martí’s vision. Thus, in 1896 Collazo helped found and briefly became the administrator of a new revolutionary newspaper, *La Doctrina de Martí*. Headed by Rafael Serra, a leading Cuban revolutionary thinker and journalist of color, and frequently featuring Sotero Figueroa’s writings, *La Doctrina* located itself on “the extreme left of the Separatist Party.” It rejected calls for U.S. annexation of the Spanish Antilles and advocated a “free and

²¹ Santiago Iglesias Pantín, *Luchas emancipadoras (crónicas de Puerto Rico)* vol. 1, 2d ed. (San Juan, P.R.: [Imprenta Venezuela] 1958 [1929]), 15-19, 31-32, 43-44, 88; Córdova, *Resident Commissioner*, 12-13, 46-47, 50-52; see also, e.g., Jean Stubbs, *Tobacco on the Periphery: A Case Study in Cuban Labour History, 1860-1958* (New York: Cambridge University Press, 1985); Louis A. Pérez, Jr., *Cuba Between Empires 1878-1902* (Pittsburgh, Pa.: University of Pittsburgh Press, 1983), 14.

sovereign” Cuba and Puerto Rico where its envisioned revolution would improve the status of workers, women, and people of color. In his two articles, Collazo stressed Puerto Rican independence, asserting that the revolution “is not only a Cuban question, but an Antillean question, in which Puerto Rico and Cuba share equally.”²²

Santiago Iglesias initially remained at his desk as a *lector* in a Cuban cigar factory as battles raged elsewhere on the island. Then, in 1896 Cuban authorities searched his home, seized his papers, and issued a warrant for his arrest on charges of sedition and collaboration with the revolution. Iglesias fled to Puerto Rico. While workers’ guilds (*gremios*), mutual-benefit societies, and strikes were visible there, organized labor in Puerto Rico remained weak and overall working conditions were poor. The young, rural, and island-born Puerto Ricans who made up the bulk of the work force generally lived in the countryside, faced rising mortality rates, and were poor and illiterate. Few owned real estate. Many worked in the coffee, sugar, and tobacco industries that dominated the island. Iglesias treated the dearth of unions as an opportunity. Focusing on urban artisans like himself, he began organizing workers and in May 1897 launched a labor newspaper. He benefited from his status as a continental-born Spaniard, he later recalled. “I was frank and spoke in the colony without any kind of reservation,” for “the fact of having

²² “Nuestra labor,” *La Doctrina de Martí*, 25 Jul. 1896, 1 (quote 1); “Ni española ni ‘Yankee,’” *La Doctrina de Martí*, 30 Jan. 1898, 1 (quote 2 (“libre y soberana”)); D. Collazo, “Deber cumplido,” *La Doctrina de Martí*, 25 Jul. 1896, 2 (quote 3 (“no hay solamente una cuestión cubana, sino una cuestión antillana, de la cual la de Puerto Rico forma parte lo mismo que la de Cuba”)); Title unknown, *El Porvenir*, 13 Jul. 1896, 1; Banner, *La Doctrina de Martí*, 25 Jul. 1896; Banner, *La Doctrina de Martí*, 10 Nov. 1896, 1; Pedro Deschamps Chapeaux, *Rafael Serra y Montalvo obrero incansable de nuestra independencia* (La Habana, Cuba: Unión de Escritores y Artistas de Cuba, 1975); D. Collazo, “¡No más corderillos!” *La Doctrina de Martí*, 6 Aug. 1896, 3; see also, e.g., S. Figueroa, “Cuba, para los cubanos,” *La Doctrina de Martí*, 24 Oct. 1896, 1; “A nuestras damas,” *La Doctrina de Martí*, 10 Oct. 1896, 3; “Patria Libre,” *La Doctrina de Martí*, 2 Oct. 1896, 1; “Un periódico y un libro,” *La Patria*, 1 Jul. 1896, 3; “Rasgos de José Martí,” *La Doctrina de Martí*, 6 Aug. 1896, 2; Pérez, *Cuba between Reform and Revolution*, 108-110; Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868-1898* (Chapel Hill: University of North Carolina Press, 1999), 112-138; Pérez, *Cuba Between Empires*, 14-17, 40-43, 46, 90, 99-100. In becoming administrator, Collazo took on the post that Figueroa had recently filled at *La Patria*, the official newspaper of the Cuban revolutionary Party. “Administración de ‘Patria,’” *La Patria*, 20 Aug. 1895.

been born in [continental] Spain was, in a way, a form of security for me then.”²³

As fighting in Cuba continued, Puerto Ricans observed and maneuvered. Some were optimistic. Spain, they knew, was on the defensive, caught between a resilient insurgency and U.S. pressure to engineer a prompt peace. During prior anti-Spanish foment and uprisings within and beyond the Antilles, Puerto Rico had secured at least temporary gains. In 1812, a short-lived Constitution had treated colonies such as Puerto Rico as Spanish provinces with full representation in the Spanish Cortes, or legislature, and had extended full Spanish citizenship to white islanders. Under attack during a prior Cuban insurgency in the 1870s, Spain had restored some Puerto Rican representation in the Cortes, abolished slavery in Puerto Rico, and promulgated an 1876 Constitution that it had partly extended to Puerto Rico. Luis Muñoz Rivera now sought to repeat this history by remaining loyal to Spain and treating the crisis that the Cuban insurgency had produced as an opportunity to seek autonomy. He traveled to Madrid to form a commission of Puerto Rican Autonomistas that also included Federico Degetau. Once there, and notwithstanding Degetau’s dissent, Muñoz negotiated a deal on behalf of a majority of the commission with the liberal-monarchical party of Práxedes Mateo Sagasta. That party—along with the Conservative Party currently in power under Antonio Cánovas del Castillo’s leadership—dominated Spanish politics. Under the agreement,

²³ Iglesias, *Luchas emancipadoras*, 38-39 (quotes (“era franco y hablaba en la colonia sin reserva de ninguna clase”; “el hecho de haber nacido en España constituía en cierto modo una garantía para mí en aquel momento”)), 31-32, 43-44, 88; Córdova, *Resident Commissioner*, 12-13, 46-47, 50-52; Pérez, *Cuba between Empires*, 14; Juan Carreras, *Santiago Iglesias Pantín: su vida, su obra, su pensamiento (datos biográficos)* (San Juan, P.R.: Editorial Club de la Prensa, 1965), 9; Trías Monge, *Trials*, 15-17; Fernando Picó, *La guerra después de la guerra* (San Juan, P.R.: Ediciones Huracán, 1987), 23-29, 33, 35; Henry K. Carroll, *Report on the Industrial and Commercial Condition of Porto Rico*, 2d ed. (San Juan, P.R.: Ediciones Puerto, 2005 [1899]), 40-52; Gervasio L. García and A.G. Quintero Rivera, *Desafío y solidaridad: breve historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Ediciones Huracán, 1986), 18-28; Juan Ángel Silén, *Apuntes para la historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Publicaciones Gaviota, Inc., 1978), 22.

Autonomistas were to fuse with Sagasta's party, instrumentally retreating from their republicanism to make island autonomy more likely. Though Autonomistas as a whole approved the measure, a substantial minority that included Degetau dissented and withdrew from the party. The schism produced two new parties: Muñoz's Liberales, and the Ortodoxos to which Degetau belonged. In 1897 Sagasta's party came to power. Still facing U.S. pressure to end the fighting in Cuba, it extended relatively liberal charters of autonomy to both Cuba and Puerto Rico, albeit ones that also left metropolitan authorities substantial power over the islands. Island-wide elections were scheduled for early 1898.²⁴

U.S. leaders monitored events in Cuba with growing concern. As 1897 drew to a close, they increasingly realized that Spain would not be able to halt the revolution in Cuba. They thus faced a choice: wait for Cuban rebels to win independence for their island or intervene. Here, competing U.S. aspirations for Cuba muddied matters. For decades U.S. officials had coveted the island, vaguely imagining that Spanish rule would some day end and that Cuba would migrate to U.S. sovereignty. Cuban independence threatened this vision. At the same time, however, much of the U.S. public had come to sympathize with the Cuban independence movement. While this sentiment would prove fleeting, it now led to an unusual situation. U.S. President William McKinley tried to negotiate for purchase of Cuba and then declared the United States on the path to war shortly before the U.S. Congress passed a resolution disclaiming any "intention to exercise sovereignty" over Cuba "except for the pacification thereof." As active fighting between Spain and the United States loomed, U.S. goals seemed to be defined in contradictory ways. But however unclear the goals of intervention, Congress authorized

²⁴ Córdova, *Resident Commissioner*, 21, 33-37, 53-55; Pérez, *Cuba between Empires*, 54, 142-144; Mergal, *Federico Degetau*, 50; Bayron Toro, *Elecciones*, 107-108; Trías Monge, *Trials*, 11-15.

war on April 20, 1898. The decisive step toward overseas empire had been taken, despite an apparent renunciation of the intent to rule.²⁵

The events that followed sparked a constitutional crisis over the relationships of U.S. imperial governance to U.S. law and democratic norms. That crisis unfolded across the U.S. state. During it, judges, lawmakers, and administrators struggled to variously channel, implement, and contest legal underpinnings of U.S. colonial rule. Those outside the employ of the state, including the Puerto Rican leaders and litigants upon whom this study focuses, also participated. Wielding concepts of citizenship, they made claims that drew official responses and thereby altered mainland-Puerto Rican status relationships. During these debates, actors on all sides drew on, responded to, and transformed powerful, competing metaphors and terminologies involving race and empire. The *Insular Cases*, as well as the extension of U.S. citizenship to Puerto Ricans in 1917 via the congressional Jones Act, followed. Those legal landmarks largely reflected—even as they shaped—the broader and surrounding set of conversations about race, citizenship, empire, and the Constitution, which, crucially, included a handful of remarkable Puerto Ricans.

²⁵ Pérez, *Cuba between Empires*, xviii-xix, 58-227; Joint Resolution for the Recognition of the Independence of the People of Cuba, *Statutes at Large* 30 (1898): 738-739.

CHAPTER 2

STATUS IN THE SHADOW OF WAR, 1898-1900

U.S. invasion hit Puerto Rico like a hurricane, destroying or transforming many aspects of life while leaving others intact. People residing on the island found that the war left their allegiances in question and in flux. Drawing on their backgrounds as native-born Puerto Ricans, as islanders born in continental Spain, or as foreigners, residents navigated their competing potential obligations and sought to define their status vis-à-vis Spain, the United States, and other nations. With U.S. occupation also auguring a potential transformation of Puerto Rican tariff policy, businesses and their lawyers contemplated means with which to shape and profit from the upcoming settlement. Partisan differences between island political leaders Federico Degetau and Luis Muñoz Rivera survived the U.S. takeover relatively unscathed. As they considered which political advantages to try to retain from the times of Spanish rule and to seek from the United States, they also considered their differing roles in the Puerto Rican state. In promoting themselves and their policies to potential island voters and to U.S. officials in control of island governance, the men deployed both the language and the ideal of the United States as a guardian of democracy and individual rights. For Santiago Iglesias, a labor leader on the island, U.S. rule altered the conditions but the nature of his struggle for prominence and

worker welfare. A new metropole did not alter workers' poverty or powerlessness. It did reshape opportunities for and threats to labor organizing and activism by bringing new investors and employers, a new history of metropolitan labor activism and governmental responses, and new potential allies. The U.S. invasion of Puerto Rico also struck many mainlanders as likely to transform the United States. Some opponents of annexation worried either that it would extend U.S. citizenship, full constitutional protections, and eventual statehood to racial inferiors and thus erode the U.S. nation from within. Others feared that the United States would violate its constitution to exclude such people from the polity. The challenge for those promoting annexation, then, was to reconcile U.S. empire with fidelity to constitutional norms.

The War Department Shapes the Debate

The U.S. War Department lay at the center of debates around the legal implications of U.S. expansion. As the agency responsible for governing territories that the United States occupied, it was among the first parts of the U.S. state to confront potential constitutional and other legal limits that arose through implementing U.S. imperial policies. In Puerto Rico, debates centered on two events: the U.S. invasion and then annexation of the island.

Puerto Rican revolutionary Domingo Collazo was implicated in the invasion that came as part of the broader military conflict between Spain and the United States. That military conflict began with the U.S. routing of a Spanish squadron in the Philippines on May 1, 1898. As U.S. military officials prepared to invade both Cuba and Puerto Rico as well, they met with numerous Puerto Rican members of the Cuban Revolutionary Party,

including Dr. Julio Henna, R. H. Todd, and Antonio Lluveras. Though all three men were members of the same club within that Party, Lluveras proceeded independently from Henna and Todd. He helped the commander of the U.S. invasion of Puerto Rico, General Nelson Miles, plan an invasion that was predicated on Lluveras's promise that 2,000 Puerto Ricans in the town of Yauco stood ready to receive U.S. arms and rise up in support of U.S. troops. Having already transported Cubans to Cuba to join those already fighting against Spanish forces, U.S. officials selected what came to be known as the Puerto Rican Commission. The seven commissioners, who included Collazo and Lluveras, were to act as guides, aides, and interpreters for the invading army. On July 25, General Miles landed troops and arms near Yauco. Soon Collazo and the other commissioners were ashore.²⁶

Speaking in Ponce shortly after his arrival, Miles requested Puerto Ricans' "cheerful acceptance of the Government of the United States" and promised Puerto Ricans "the liberal institutions of our Government" and "the largest measure of liberty consistent with this military occupation." Hopeful that U.S. rule would in fact bring liberal rule and liberty, many local island leaders welcomed U.S. troops by displaying U.S. flags. At least some commissioners and their allies led campaigns by Puerto Ricans on behalf of U.S. forces, including attacks by armed squads seeking quick, orderly

²⁶ "Porto Ricans Will Go," *The Washington*, 22 Jul. 1898, 7; [Roberto H. Todd], *Memoria de los trabajos realizados por la sección Puerto Rico del Partido Revolucionario Cubano. 1895 á 1898*, reprint (San Juan, P.R.: La Obra de José Celso Barbosa y Calcalá, Inc., 1993 [1898]); Louis A. Pérez, Jr., *Cuba between Empires, 1878-1902* (Pittsburgh, Pa.: University of Pittsburgh Press, 1983), 11-42, 96-112, 196; "Van Guard of Cuba Invaders," *Los Angeles Times*, 23 May 1898, 3; Edgardo Meléndez, *Movimiento anexionista en Puerto Rico* (San Juan, P.R.: Editorial UPR, 1993), 24; Bernardo Vega, *Memoirs of Bernardo Vega: A Contribution to the History of the Puerto Rican Community in New York*, ed. César Andreu Iglesias, trans. Juan Flores (New York: Monthly Review Press: 1984 [1977]), 76-77; Enrique López Mesa, *La comunidad cubana de New York: siglo XIX* (Habana, Cuba: Centro de Estudios Martianos, 2002). For scholarship using multiple archives to trace family members as they traveled throughout the Atlantic World, see, e.g., Jean Hebrard and Rebecca J. Scott, "Rosalie of the Poulard Nation" (paper presented at the University of Minnesota Legal History Seminar/Workshop, Minneapolis, Minn., 6 Nov. 2008).

capitulations of lightly defended island towns. By mid-August, fighting had ended and Spain had promised to transfer sovereignty over Puerto Rico to the United States at a future date.²⁷

Formal U.S. annexation of Puerto Rico did not come until April 11, 1899, when Spain and the United States exchanged the ratifications of the Treaty of Paris ending the war. They had finalized the text four months earlier. The delay in ratification resulted partly from internal opposition. In the United States, a powerful anti-imperialist movement arose to fight annexation of the Philippines. Characterizing Filipinos as a barbaric threat, Anti-Imperialists in the Senate spoke against the treaty. They and allies argued that U.S. colonialism would rend the U.S. constitutional system or, conversely, that the U.S. Constitution would require a disastrous incorporation of Filipinos into the U.S. polity. When the Senate advised ratification on February 6, 1899, it declared that it did “not intend[] to incorporate the inhabitants of the Philippines into citizenship of the United States.” Humiliated by its recent military defeat and reluctant to dismantle the bulk of its remaining empire, Spain delayed ratification somewhat longer, until March 19.²⁸

²⁷ Nelson A. Miles to the Inhabitants of Porto Rico, Headquarters of the Army, Ponce, Puerto Rico, 28 Jul. 1898, in *Annual Reports of the War Department for the Fiscal Year Ended June 30, 1898: Report of the Secretary of War. Miscellaneous Reports* (Washington, D.C.: Government Printing Office, 1898), 41 (quotes); Mariano Negrón Portillo, *Cuadrillas anexionistas y revueltas campesinas en Puerto Rico, 1898-1899* (Río Piedras: Centro de Investigaciones Sociales, Universidad de Puerto Rico, Recinto de Río Piedras, 1987), 27-28; A.D. Hall, *Porto Rico: Its History, Products and Possibilities* (New York: Street & Smith, 1898), 98-100. I have not found evidence that Collazo led such campaigns or had military training.

²⁸ “McEnery Resolution Adopted,” *Los Angeles Times*, 15 Feb. 1899, 2 (quote); Treaty of Paris, *Statutes at Large* 30 (1899): 1754-1762 (official presidential ratification on February 6); Robert L. Beisner, “1898 and 1968: The Anti-Imperialists and the Doves,” *Political Science Quarterly* 85 (Jun. 1970): 188, 201-202, passim; Paolo E. Coletta, “McKinley, the Peace Negotiations, and the Acquisition of the Philippines,” *Pacific Historical Review* 30 (Nov. 1961): 341-350; “Philippine Race Problem,” *New York Times*, 14 Jan. 1899, 4; Fred H. Harrington, “The Anti-Imperialist Movement in the United States, 1898-1900,” *Mississippi Valley Historical Review* 22 (Sep. 1934): 222, passim; William George Whittaker, “Samuel Gompers: Anti-Imperialist,” *Pacific Historical Review* 38 (Nov. 1969): 431, 439, passim; see also Allen H. Merriam, “Racism in the Expansionist Controversy of 1898-1900,” *Phylon* 39 (4th qtr. 1978): 369-380;

Once in place, Article IX of the treaty shaped struggles over allegiance, status, and governance. The article settled one set of lingering questions: whether and which Puerto Ricans owed allegiance to the United States. It demanded U.S. allegiance from all Spaniards born outside the Spanish peninsula then resident in Puerto Rico and gave Spanish “natives of the [Iberian] peninsula” who resided in Puerto Rico a choice: remain Spanish or renounce that citizenship and adopt “the nationality of the territory in which they may reside.” Additionally, Article IX extended congressional discretion over Puerto Rico and Puerto Ricans close to its outer constitutional limits, asserting that the “civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.” The impact of the provision was less broad than its language, for treaties did not nullify constitutional restraints on Congress. A debate among legal academics soon began over what courts should and would do in the face of such a political assertion of power. Initial commentators split into two broad camps. One set claimed that U.S. annexation would automatically extend peoples in the acquired territories U.S. citizenship, full constitutional protections, and eventual statehood for their lands. The other asserted that the United States could deny the peoples it acquired this entire bundle of status and rights.²⁹

At the War Department, occupation of Cuba and formal annexation of Puerto Rico and the Philippines lent growing urgency to questions around the legal ramifications of empire. Recognizing the shift in emphasis from conquest to law, President McKinley

“To Delay the Treaty,” *The Washington*, 16 Jan. 1899, 3; “Democratic Row Delays Treaty,” *Chicago Daily Tribune*, 21 Jan. 1899, 1; “M’Kinley Issues Edict of Peace,” *Chicago Daily Tribune*, 12 Apr. 1899, 1.

²⁹ *Treaty of Paris* 30 (1899): 1754, 1759 (art. 9); Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence: University of Kansas Press, 2006), 42-51; Elmer B. Adams, “Causes and Results of Our War with Spain from a Legal Standpoint,” *Yale Law Journal* 8 (Dec. 1898): 119-133; Selden Bacon, “Territory and the Constitution,” *Yale Law Journal* 10 (Jan. 1901): 99-117; James W. Stillman, “Citizenship in Ceded Territory,” *Green Bag* 11 (May 1899): 203-208.

on August 1, 1899, appointed as Secretary of War Elihu Root, one of the most respected, capable corporate lawyers of his day. Now an adviser to the U.S. political branches, a peer of other secretaries, and the head of the agency chiefly responsible for governing new possessions, Root became a central architect of U.S. imperial policy. Joining his subordinates in deprecating Filipinos, Cubans, and Puerto Ricans as racial inferiors, he sought ways to ensure ongoing U.S. influence in governance of all three communities.³⁰

Root variously described Puerto Ricans, Cubans, and Filipinos as being “as incapable of self-government as children” and thus as sharing the attitude “which causes the continual revolutions in . . . other West Indian islands and the Central American states.” Attributing this degraded state to accrued, persistent, and intergenerational—though not biologically determined—racial differences, he did not “doubt their capacity to learn to govern themselves,” but argued that self-government would “be slowly learned, because it is a matter . . . of character and of acquired habits of thoughts and feeling.” His immediate subordinates agreed. According to the public report of Puerto Rican military governor George Davis, Puerto Ricans resembled “negro illiterates” in the U.S. South, “reservation Indians,” and “Chinese”; lacked “true manhood”; were but “a few steps removed from a primitive state of nature”; and threatened to become another “Santo Domingo, Martinique, or Guadeloupe.” Cuban governor-general Leonard Wood told the *New York Times* that Cuban self-government could mean “establishment of another Haitian Republic.” Root’s men in the Philippines saw their charges as “large children” and “Indian[s]” who would need one or two generations of U.S. tutelage to avoid reprising “all the oppression and all the evils which were known in Spanish

³⁰ Philip C. Jessup, *Elihu Root* (New York, Dodd, Mead & Company, 1938), 215, 222; John Griggs to Elihu Root, 10 Aug. 1899, MD NARA 350/8/12/C-182-70.

times.”³¹

Though Root’s Republican Party formally opposed southern disfranchisement of former slaves and their descendants, Root personally and publicly deemed Reconstruction a failed experiment in extending men of color citizenship, suffrage, and equal rights. Joining southern white-supremacist disfranchisers to portray voting as a privilege that could undermine good government if dispensed too liberally, Root and his agents advocated suffrage restrictions. In the Philippines and Puerto Rico, U.S. officials limited voting to combinations of property holding, tax paying, office holding, and literate men. Root sought a similar result in Cuba, later describing to Governor Wood the importance of “exclud[ing a] great a proportion of the elements which have brought ruin to Haiti and San Domingo.” But having failed to disarm fully the thousands who held no property but enjoyed prestige and had proven their willingness to fight for their vision of Cuban independence, Root and Wood had little choice but to let veterans vote. Though that expansion of the franchise may have helped preserve an uneasy peace in Cuba, it likely contributed to the election of constitutional-convention delegates who disappointed U.S. officials by constitutionally guaranteeing nearly universal male suffrage. Following the reestablishment of civil government in Puerto Rico, lawmakers there too moved to liberalize suffrage laws until in 1904 nearly universal male suffrage had been restored.³²

³¹ Jessup, *Elihu Root*, 332 (quote 1), 288; Elihu Root, *The Military and Colonial Policy of the United States: Addresses and Reports* (Cambridge, Mass.: Harvard University Press, 1916), 164-165 (quotes 2-4); Geo. W. Davis, Report of the Military Governor of Porto Rico on Civil Affairs, in *Annual Reports of the War Department for the Fiscal Year Ended June 30, 1900*, vol 1, pt. 13 (Washington, D.C.: Government Printing Office, 1902), 117 (quotes 5-6, 8-10), 115 (quote 7); Pérez, *Cuba between Empires*, 308 (quote 11); *Report of the Philippine Commission to the President*, vol. 3 (Washington, D.C.: Government Printing Office, 1901), 378-380 (quotes 12-13); *Report of the United States Philippines Commission to the Secretary of War for the Period from December 1, 1900, to October 15, 1901*, pt. 1 (Washington, D.C.: Government Printing Office, 1901), 21 (quote 14).

³² Pérez, *Cuba between Empires*, 311-312 (quoting Elihu Root to Leonard Wood, 14 Apr. 1900), 260, 307-310, 313-327; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge,

Root and his subordinates also sought to write U.S. control into the civil governments of the territories that they administered. With the U.S. Congress having rejected annexation of Cuba, Root moved to circumscribe eventual Cuban sovereignty in ways that would nonetheless guarantee a continuing U.S. role in Cuban governance. Synthesizing the ideas of many high U.S. officials with select British imperial practices, Root suggested to Secretary of State John Hay that future U.S.-Cuban relations include a U.S. right to intervene to protect independence, stability, and rights in Cuba; a limited U.S. veto over Cuban treaties; and a U.S. naval station in Cuba. Aware that Cubans would not accept such infringements on their sovereignty once granted independence, Root and the U.S. Congress made these concessions, in a slightly modified form known as the Platt Amendment, the price of sovereignty. They represented, Root told Cuban representatives, the “[e]xtreme limit of this country’s indulgence in the matter of the independence of Cuba.” Given little other choice, Cubans enshrined the Platt Amendment in their constitution and then in a treaty with the United States.³³

With no congressional promise of independence impeding U.S. rule in Puerto Rico or the Philippines, Root promoted explicit U.S. controls. Contending that Jeffersonian government “does not depend upon consent,” Root characterized independence as “the most fatal possible gift” to peoples in need of political guardianship. “[J]ustice and humanity require,” he added, “that . . . the weak shall be

Mass: Harvard University Press, 2005), 186-187, 202-206; *Report of the United States Philippines Commission . . . 1901*, 20; General Orders, No. 160, Headquarters Department of Porto Rico, San Juan, 12 Oct. 1899, MD NARA 350/5A/311/1286:2; *Constitución del a República de Cuba* (Habana, Cuba: Imprenta de Rambla y Bouza, 1901), 11; Elihu Root, *Address of the Honorable Elihu Root, Secretary of War, Delivered at a Meeting of the Union League Club, Held on the 6th Day of February, 1903, To Honor Its Fortieth Anniversary* ([1903?]), 7-10; Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932* (Boulder, Colo.: Westview Press, 1999), 180-182.

³³ Pérez, *Cuba between Empires*, 322 (quoting *Washington Evening Star*, 1 Jun. 1900, 1), 317-321, 323-327; Scott, *Degrees of Freedom*, 206.

protected, that cruelty and lust shall be restrained, whether there be consent or not.” Root initially looked to British colonial models for inspiration, but soon concluded that non-democratic versions of U.S. state governments were a better fit. He and his subordinates thus argued that both archipelagos should enjoy U.S. governmental institutions—e.g., a governor, executive agencies, and a legislative chamber—but little electoral influence. At most, they wrote, elected islanders should form a lower legislative chamber that lacked the power to “chok[e] the government” by preventing passage of the annual budget.³⁴

Anticipating that his policies and proposals would occasion status-based challenges and congressional questions, Root produced legal arguments denying that the Constitution imposed substantial restraints on U.S. rule in Puerto Rico, and arguing that Puerto Ricans were not U.S. citizens. In an internal Department memo and his annual report, he argued that the dominant understanding of the source of U.S. power to acquire territory was not a constitutional provision but the powers of sovereignty of all nations under international law. That authority, he went on, included a plenary federal power to govern acquisitions limited only by express constitutional provisions and natural law. Because the Constitution primarily limited federal reach by reserving powers to individual, interested states, he added, it had little effect where Congress administered territory for all states. Root cast U.S. rule there as “an inheritance case” where the “[e]xecutor may yield to individuals where their particular shares are at stake, but will guard the general fund for all.” Similarly, Root wrote, the Constitution primarily protected individual rights from federal but not state interference and so ensured a

³⁴ Jessup, *Elihu Root*, 332 (quotes 1, 3-4); 370 (quote 2) (quoting Elihu Root to Mrs. Lowell, 11 Feb. 1904), 288-379; *Report of the United States Philippines Commission . . . 1901*, 22 (quote 5); Sparrow, *The Insular Cases*, 34-35, 40-55; José A. Cabranes, “Citizenship and American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans,” *University of Pennsylvania Law Review* 127 (Dec. 1978): 412-435.

federal-state balance, but did not confer individual rights to those residing beyond state borders. This all made sense, he wrote, because the U.S. Constitution was designed solely for U.S. benefit, which Root defined as encompassing the pre-existing U.S. populations and not annexed peoples. Only a “very few” “general limitations” “protected equally by the Constitution[,] Magna Charta,” and natural law, he concluded, restrained congressional action in the territory. Even this limit on U.S. rule, he elaborated, was enacted for U.S. and not Puerto Rican benefit. It thus only encompasses strictures that were “a part of the nature of our Government.” The Uniformity Clause—with its prescription that “all Duties, Imposts and Excises shall be uniform throughout the United States”—would not qualify. Due Process and Contracts clauses would ³⁵

Root found support in precedents inscribing U.S. expansion and ascription into law. Assessing judicial review of U.S. actions during the periods of non-state status of Louisiana, Florida, Alaska, the Guano Islands, and Montana, Root found consistent recognition of congressional discretion. Cases involving Mormons, slaves, antebellum free people of color, and American Indians had reached similar conclusions. Thus, Root found, the legal legacy of U.S. expansion and subordination provided doctrinal underpinnings for U.S. colonialism.³⁶

For the proposition that Puerto Ricans were not U.S. citizens, Root and a law officer in his Department, Charles Magoon, drew on U.S. political practice, international law, and the Constitution. In his Department memorandum, Root discussed the judicially

³⁵ Memorandum, n.d., MD NARA 350/5A/197/1444:9, 2-36, 61 (quotes 1-4); Art. 1, sec. 8, U.S. Const. (quote 5); *Annual Reports of the War Department for the Fiscal Year Ended June 30, 1899. Report of the Secretary of War. Miscellaneous Reports*, vol. 1, pt. 1 (Washington, D.C.: Government Printing Office, 1899), 3 (quote 6); Root, *The Military and Colonial Policy of the United States*, 161-168. War department officials wrote that the above memorandum was “probably by Sec’y of War Root,” which its topic, orientation toward legal materials, and conclusions indicate. War officials who rediscovered it apparently also gave it a 1904 stamp. Memorandum, n.d.

³⁶ Memorandum, n.d., 38-56.

validated U.S. practice of extending U.S. citizenship to non-tribal residents of annexed areas. Here he stressed that these settlements of questions involving citizenship, governance, status, and rights in acquired land came through treaties and similar documents. They thus reflected, he argued, not fidelity to constitutional mandates but the necessity of political action to accomplish ends that the Constitution did not require. Such discretion over the citizenship status of acquired peoples, he indicated, paralleled international precedents. Britain did not extend its Magna Charta to all people over whom it was sovereign, he wrote. Similarly, international law recognized conquered peoples as nationals of the conquering nation but had no effect on what status the conquering nation accorded such peoples for its domestic purposes.³⁷

In a February 12, 1900 memorandum later published by Congress, Magoon turned to constitutional issues. The “correlative of allegiance is protection,” not citizenship, he argued, because citizenship was more substantive. It encompassed “great powers, rights, privileges, and immunities,” he continued, noting that were Puerto Ricans to be U.S. citizens, ethnic-Malaysian and -Chinese islanders would have a right to enter the mainland under U.S. immigration laws. Not only were foreign-national soldiers, aliens, Indians, Chinese, and convicts “persons within the jurisdiction of the United States from whom allegiance in some form is due who are not citizens of the United States,” he expanded, but “in another and limited sense,” so were U.S. “minors and women,” who held only limited political rights. As a result, that Puerto Ricans owed allegiance to the United States under the Treaty of Paris did not make them U.S. citizens despite the 14th

³⁷ Charles E. Magoon, *Report on the Legal Status of the Territory and Inhabitants Acquired by the United States during the War with Spain, Considered with Reference to the Territorial Boundaries, the Constitution, and Laws of the United States*, Sen. doc. no. 234, 56th Cong., 1st sess., (Washington, D.C.: Government Printing Office, 1900).

Amendment injunction that “All persons born . . . in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” Summarizing the amendment as making U.S. citizens of those who could establish “[b]irth within the territory and allegiance of the United States,” he turned to *Elk v. Wilkins*, an 1884 Supreme Court case holding that an American Indian who had been born into a tribe and had thus been outside “allegiance of the United States” at that time did not come within the amendment upon abandoning his tribe and joining non-tribal U.S. society. The decision drew on several arguments, the most prominent of which compared Indians to immigrants to argue that the quasi-national nature of tribal governments made individual Indians’ decisions to join non-tribal U.S. society akin to expatriations, hence matters of naturalization and not birthright citizenship. In his memorandum, Magoon focused on a less prominent part of the opinion: “Persons not . . . subject to the jurisdiction of the United States at the time of birth cannot become so afterwards” for purposes of claiming U.S. citizenship under the 14th Amendment. As a result, he concluded, individual naturalizations were Puerto Ricans’ sole path to U.S. citizenship.³⁸

In early 1900, U.S. political branches turned their attention to an organic act addressing the status and governance of Puerto Rico and Puerto Ricans. Drawing on Root’s proposals and legal analyses, among other sources, politicians and commentators mixed legal and political questions involving tariffs, the status of people and places, and constitutional injunctions. Frequently they did not detail what links joined their themes. They also cited prior U.S. activities in former territorial acquisitions, though frequently

³⁸ Am. 14, sec. 1, U.S. Const. (quote 6); Magoon, *Report on the Legal Status*, 71-72 (other quotes); *United States v. Wong Kim Ark*, 169 U.S. 649 (1898); *Elk v. Wilkins*, 112 U.S. 94 (1884); above note 29; Memorandum, n.d., 65-75; Chinese Exclusion Act, *Statutes at Large* 22 (1882): 58; *Statutes at Large* 23 (1884): 115; Geary Act, *Statutes at Large* 27 (1892): 25; *Statutes at Large* 28 (1893): 7.

without specifying whether the analogies were political or legal authorities. Authors and speakers tied governance to race, characterizing Puerto Ricans as superior to ostensibly “savage” Filipinos. But because the Philippines were larger than Puerto Rico and, racially, seen to pose a greater threat, U.S. Congressmen were quick to sacrifice Puerto Rican interests for what they perceived to be a favorable settlement of the Philippines question. Aware that the Supreme Court would likely use its review of any organic act for Puerto Rico as an opportunity to clarify the constitutional status of Puerto Rico and other new U.S. acquisitions, Congressmen treated the act as a chance to test of the legality of a possible legislative scheme for the Philippines without risking an adverse ruling directly applicable to that archipelago. Imposing a modest tariff on U.S.-Puerto Rican trade, Congressmen observed, would facilitate the envisioned test, because such non-uniform tariffs were constitutionally barred for trade within the “United States.” On April 12 Congress did just that, setting customs and monetary policy for Puerto Rico and delineating a new government to replace War Department rule. By not specifying whether and what constitutional protections, U.S. citizenship status, and eventual statehood status Puerto Ricans would receive, the bill, known as the Foraker Act, indicated that the myriad legal issues raised by annexation could and perhaps should be addressed separately.³⁹

The bill created a civil government for Puerto Rico with some but not much democracy, thereby closely tracking the proposals that Root had made in his 1899 annual

³⁹ F. Degetau y Gonzales, “Antecedentes del debate: I. Económicos,” *El País*, 4 Mar. 1900, available at CIHCAM 18/L2; “La constitución Americana: conferencia de Degetau,” *El País*, 17 Apr. 1900, available at CIHCAM 12/L2; F. Degetau y Gonzalez, “Educacion civica,” Parts I-VI, newspaper unknown, [Aug. 1900?], available at CIHCAM 12/L2; articles collected in CIHCAM 18/L1, 26-53; Foraker Act, *Statutes at Large* 31 (1900): 77-86; “Judge Magoon’s Memorandum,” *Washington Post*, 12 Apr. 1900, 4; see also Cabranes, “Citizenship and the American Empire.”

report. Under it, the President would appoint the Governor, top judges, and Executive Council for the island, with the last forming both a gubernatorial cabinet and an upper legislative chamber. Puerto Ricans would elect the House of Delegates, a lower legislative chamber unable to legislate without Executive Council consent, and the Resident Commissioner, a nonvoting representative in Washington. As Root had earlier observed, this thin democracy had precedents in prior U.S. territorial laws, though, importantly, inexact ones. Previously, Congress had reserved such strong federal controls for territories with relatively few non-tribal residents, anticipating that greater democracy would follow migrations by U.S. citizens into those lands. Puerto Rico, by contrast, was already densely populated. Additionally, in prior organic acts, Congress had tended to create nonvoting “Delegates” to Congress to represent territorial residents’ interests in Washington. The new nomenclature of Resident Commissioner suggested uncertainty over the status of the island. So too did both the instruction that the commissioner file his certificate of election with the Secretary of State, like a foreign dignitary, and the lack of mention of the commissioner enjoying a voice in the House of Representatives as delegates generally did.⁴⁰

Responding to financial and constitutional concerns, the Foraker Act also reshaped Puerto Rican commerce and labor. It set the official exchange rate at \$0.60 for each peso and imposed a temporary tariff on goods transported between Puerto Rico and

⁴⁰ *Foraker Act*, 31 (1900): 81-84, 86 (secs. 18-28, 31, 33-34, 39); Root, *The Military and Colonial Policy of the United States*, 167; “Porto Rico Delegate’s Status,” *New York Evening Post*, 7 Dec. 1900, available at CIHCAM 12/L2; “Las gestiones de Degetau en defensa de los emigrantes á las islas Hawaii,” *La Correspondencia*, 25 Sep. 1901, available at CIHCAM 12/L2; “Floor Privileges to Degatau,” *Washington Post*, 22 Apr. 1902, 4; cf. “El Juez Rodey,” *El Aguila*, 9 Feb. 1909, available at CHICAM 8/L1; Act of September 9, 1850, *Statutes at Large* 9 (1850): 451-452 (New Mexico); Act of March 23, 1870, *Statutes at Large* 16 (1870): 76-77 (Arizona); Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Governments, 1784-1912* (Pittsburgh, Pa.: University of Pittsburgh Press, 1968); Northwest Ordinance, *Statutes at Large* 1 (1789): 51-52.

other U.S. ports that was 15% of the rate charged on foreign goods imported into the United States. While powerful corporate and state sugar interests weighed in on the tariff, their impact was blunted by the conflicting interests of sugar growers and processors, the opportunities mainlanders with capital saw in Puerto Rican sugar, and the emergence of antitrust sentiment and tariff policies as partisan U.S. political issues. Consistent with what Degetau had read during the debates, congressmen also saw a tariff as a way to secure Supreme Court clarification of the status of Puerto Rico. Because it would potentially violate the constitutional injunction that “Duties . . . be uniform throughout the United States,” a tariff was likely to give the Court an occasion to decide whether Puerto Rico was part of the United States, at least for those purposes. U.S. political branches embraced this opportunity to create a doctrinal hook for judicial review while declining to impose a tariff sufficiently high to slow growth substantially in the Puerto Rican sugar industry.⁴¹

Concerning the citizenship status of Puerto Ricans, the Foraker Act obscured as much as it clarified. Republican Senator Joseph Foraker of Ohio, who had authored the law in close collaboration with the White House, had originally included a provision recognizing Puerto Ricans as U.S. citizens. In response to colleagues’ objections, he had on March 2 explained that the provision was not “giving to those people any rights that the American people do not want them to have.” This had not satisfied colleagues who worried that the provision might prejudice the issue that they anticipated the Supreme

⁴¹ Art. 1, sec. 8, U.S. Const. (quote); *Foraker Act*, 31 (1900): 77-78 (sec. 3), 80 (sec. 11); César J. Ayala, *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean 1898-1934* (Chapel Hill: University of North Carolina Press, 1999), 48-73, 108-109; Frank R. Rutter, “The Sugar Question in the United States,” *Quarterly Journal of Economics* 17 (Nov. 1902): 65-71, passim; “Democratic Platform for 1900,” *The Second Battle or The New Declaration of Independence 1776-1900* (Chicago: W. B. Conkey Co., 1900), 42; note 68 above.

Court would soon decide—whether Puerto Rico was part of the United States—in ways that would tie their hands when legislating for the Philippines. To quell dissent, Foraker backed down, substituting a vague provision describing Puerto Ricans as “citizens of Porto Rico.” It would be for later actors to determine whether this was a national status like French citizenship, a regional status like state citizenship, or something new.⁴²

Taken together, the provisions of the Foraker Act reflected only a modest clarification of the constitutional and status issues surrounding U.S. annexation of Puerto Rico. The law made no mention of whether Puerto Rico would one day become a U.S. state, instead extending the island a measure of democracy that was small for such a densely populated territory, but similar to that which had existed in other territories that were now U.S. states. Similarly, Congress was reticent about the application of the U.S. Constitution to Puerto Rico; it used a modest tariff to create grounds for a test case that would determine whether the Uniformity Clause applied to the island, but otherwise remained silent. As to citizenship, Congress elected ambiguity. Even as these issues remained unresolved, however, legal analyses like those that the War Department produced shaped the terms of debate, providing argumentative tools to allies and constituting targets for opponents’ rebuttals. By treating each of these issues separately, the Foraker Act made it easier to see constitutional protections, eventual statehood, and U.S. citizenship for Puerto Ricans as independent issues that could be addressed separately through subsequent claims and future legislation.⁴³

⁴² Cabranes, “Citizenship and the American Empire,” 428 (quote 1) (quoting *Cong. Rec.*, 56th Cong., 1st sess., 1900, 33, pt. 3:2473), 413; *Foraker Act*, 31 (1900): 79 (sec.7) (quote 2); *A Civil Government for Puerto Rico: Hearings before the Committee on Insular Affairs House of Representatives Sixty-Third Congress Second Session on H. R. 1318 A Bill to Provide a Civil Government for Porto Rico, and for Other Purposes*, 26 Feb. 1914, 32 (statement of Lindley Garrison) (citing concern that U.S. laws might automatically apply in Puerto Rico).

⁴³ For an example of an attempt to undercut Root’s influence by undermining his arguments, see “Majority

Crafting Claims against the U.S. State

While the War Department sought to establish what they could do in Puerto Rico, individuals resident there and businesses with interest in island trade struggled to discover and influence what was done to them. Differently situated people in Puerto Rico pursued a variety of strategies vis-à-vis the U.S. state, dependent in part upon the status that they had held under Spanish rule, the relationships to Spain that they now desired, and the shifting relationship of Puerto Rico to Spain and to the United States. Mainland businesses that feared competition from Puerto Rican products lobbied Congress to tax them. Those that traded in those goods sought to defeat such duties, at times in court. Both groups directed their claims to U.S. officials who generally responded to such concerns by altering policies in ways that avoided rather than answered questions of status.

As the war persisted into August 1898, inhabitants owing Spain their permanent allegiance found themselves caught between regimes. As citizens of a Spanish empire-state at war with the United States, they faced charges of treason for cooperating with U.S. troops. Thus, after retaking towns that Puerto Ricans had helped capture, Spanish troops arrested or killed more than a dozen of the Puerto Ricans they found there. Yet, as U.S. troops overran broad swathes of the island and appeared certain to win the war, Puerto Ricans' incentives to cooperate with and pledge allegiance to U.S. forces grew.⁴⁴

Cognizant of these competing pressures, Commanding General Miles issued an order three days after landing in Puerto Rico that clarified the U.S. position on mutual

Kept in Line," *Washington Post*, 12 Apr. 1900, 1.

⁴⁴ Negrón Portillo, *Cuadrillas anexionistas*, 19-26.

obligations of allegiance and protection. U.S. forces, he wrote, primarily sought “to destroy or capture all who are in armed resistance.” While Spain might not agree that refraining from “armed resistance” was sufficient to prove allegiance to Spain, Miles’s order created a safe haven of sorts for Puerto Ricans, letting them meet their obligations to the U.S. state through inaction. If they could reconcile passivity with their obligations to Spain, they could avoid a choice between treasonous betrayal of a former or future master.⁴⁵

Yet within days, Miles’s subordinates raised the price of liberty and access to governmental institutions. For U.S. forces administering conquered territory, military and political prisoners were a distraction, while the expertise, experience, and effort of Puerto Ricans were key resources. Consequently, U.S. forces paroled prisoners and hired Puerto Ricans willing to give their “word of honor” that they did not “sympathize with Spain” “in the current war” and “will not give aid nor assistance . . . to the enemies of the United States.”⁴⁶

The oaths ostensibly only solicited Puerto Rican passivity—an absence of aid and assistance—but many oath-takers saw little middle ground as to national sympathies during wartime. Before taking the oath, islanders provided their birthplace—generally Puerto Rico or Spain. For those who desired to remain Spaniards after the war, the dilemma could be particular acute. So it appeared to be for Pedro San Clemente who,

⁴⁵ Miles to Inhabitants of Porto Rico, 28 Jul. 1898, 41; cf. General Order No. 101, War Department, Adjutant General’s Office, Washington, D.C., MD NARA 350/5A/21/168 (McKinley’s prior order concerning Cuba).

⁴⁶ E.g., Parole of M. Gonzalez, 10 Aug. 1898, AG/OG/CG/179/Justicia, Ciudadanía, 19 octubre 1898-1899, C.F. 140, D.P. 1898 (“palabra de honor”; “simpatiza U. con España”; “en la guerra actual”; “no dar ayuda ni asistencia . . . á los enemigos de los Estados Unidos”); Parole of Rafael Cintron, 9 Aug. 1898, AG/OG/CG/179/Justicia, Ciudadanía, 19 octubre 1898-1899, C.F. 135, D.P. 1898. On Cintron’s form, the word “Parole” is circled and a hand-written note reading “Custom House employee” appears, suggesting that he signed the oath as a condition of employment rather than release. *Ibid.*

after indicating that he was a Spaniard, sought to satisfy the oath while affirming his allegiance to Spain by focusing on his opposition to war: “I say as a Spaniard, that my natural sentiments and sympathies are with my nation; saying at the same time, that I don’t sympathize with any type of war.” For others, oaths confirmed a prior decision to oppose Spain. Island-born Manuel E. Vidal y Vidal, who had already decided to work for the United States, “salute[d] the great power, initiator of the liberty of the American world, and [was] at its service.” Some Puerto Ricans used the oaths to align publicly with the U.S. cause. Native-Puerto Rican Pedro M. Fort y Ramírez declared, “To be a slave or to be a citizen of a free and powerful nation is a great difference, and all my soul and sympathies are with the United States.”⁴⁷

After U.S. and Spanish representatives signed a protocol suspending active hostilities on August 12, 1898, U.S. officials again tightened the oaths that they regularly administered as prerequisites to official employment. For the next eight months U.S. military officials would build and administer a Puerto Rican state to govern a population that technically continued to owe Spain its permanent allegiance. While doing so, they used promises of U.S. citizenship and the related issue of allegiance to promote U.S. rule and encourage Puerto Ricans into more robust relationships with the U.S. state. On October 18, 1898, General Guy Henry, a future military governor of Puerto Rico, announced, “The forty five States . . . unite in vouchsafing to you prosperity and

⁴⁷ In AG/OG/CG/179/Justicia, Ciudadanía, 19 octubre 1898-1899, see Parole of Pedro Sam [sic] Clemente, 10 Aug. 1898, C.F. 135, D.P. 1898 (quote 1 (“Digo como Español, que mis sentimientos y simpatías naturales son á mi nación; diciendo [así] mismo, que no simpatizo con ninguna clase de guerras”)); Parole of Manuel E. Vidal, 10 Aug. 1898, C.F. 143, D.P. 1898 (quote 2 (“Saludo á la gran potencia iniciadora de la libertad del mundo Americano y estoy á las ordenes”)); Parole of P. M. Fort., 10 Aug. 1898, C.F. 139, D.P. 1898 (quote 3 (“De ser esclavo, á ser ciudadano de una Nación libre y poderosa hay una gran diferencia, por eso toda mi alma y simpatias [sic] estan [sic] por los Estados Unidos”)); cf. Hall, *Porto Rico*, 109-110 (noting a more substantial oath forces briefly required of judges); Conditions of Parole, Aug. 1898, AG/OG/CG/179/justicia, ciudadanía, 19 octubre 1898-1899.

protection as citizens of the American union.” In the months following, subordinates had islanders swear to undertake such traditional duties of citizenship as allegiance, service, and defense. Under one oath, islanders gave their word to “bear true faith and allegiance to the United States of America, . . . serve them . . . against all their enemies,” and act “in accordance with the orders of the President.” The other went farther, requiring that they “swear that it is my loyal and true intention to become a United States citizen” while making them “renounce forever every . . . state or sovereignty[,] . . . particularly the King of Spain.”⁴⁸

Some Puerto Ricans found these oaths coercive. With no treaty specifying their future relationship to Spain, taking the oath raised troubling questions about their Spanish pensions, their Spanish status, and their prior services to the crown. One native Puerto Rican who had served in the Spanish militia told U.S. officials that losing his Spanish citizenship would contradict his military oath and make him a perjurer. For those born in continental Spain who desired to retain their prior allegiance, the oaths constituted a reversal of sorts, for it was the overwhelmingly island-born Puerto Ricans who embraced U.S rule who were best positioned to comply with oaths of office. Thus, one man wrote the government as “a Spaniard and Notary Public” to see if he could decline the oath, while Antonio Álvarez Nava later sacrificed his notarial post to preserve his claim to “Spanish nationality.”⁴⁹

⁴⁸ Hall, *Porto Rico*, 167-170 (quoting a *Boston Herald* article) (quote 1); Oath of Allegiance, 1898-1899, AG/OG/CG/179/justicia, ciudadanía, 19 octubre 1898-1899 (quotes 2-3); Oath of Allegiance of José Siaca, 1898-1899, AG/OG/CG/179/justicia, ciudadanía, 19 octubre 1898-1899 (quotes 4-5 (“juro solemnemente que es mi propósito leal y verdadero hacerme ciudadano de los Estados Unidos”; “renuncio para siempre todo . . . estado ó soberano[,] . . . en particular al Reino de España”). For examples of the many jobs for which such oaths were prerequisites, see AG/DE/SPR/COS/RC/1, C.F. [multiple numbers], D.P. 1898 (multiple dates).

⁴⁹ Document, 19 Oct. 1898, AG/DE/SPR/COS/RC/1, C.F.81, D.P.1898 (quote 1); Certificate Issued by Secretary of Court of First Instance and Examination of the District of Catechal, 6 May 1899,

On April 11, 1898, Spain and the United States promulgated the Treaty of Paris. In it, the nations addressed ambiguity around Puerto Ricans' allegiance by transferring the allegiance of the island born to the United States and by giving those born in continental Spain one year to choose between that outcome and continuing their loyalty to Spain. But by failing to clarify the citizenship status of Puerto Ricans now under U.S. sovereignty, Spain and the United States gave Puerto Ricans incentives to claim that status. For instance, the continental-born Dr. Valeriano Asenjo did not merely accept transference of his allegiance from Spain to the United States, but instead took affirmative steps to be recognized as a U.S. citizen. His doing so raised the possibility that continental Spaniards would not only have greater opportunities under the Treaty of Paris to determine their new allegiance, but also might have greater access to U.S. citizenship. Those Puerto Ricans born in continental Spain who remained alien to the United States under the Treaty of Paris could potentially have access to U.S. naturalization procedures on the same terms as other foreigners, an opportunity it was not yet clear that Puerto Ricans who owed their allegiance to the United States would have. Thus in June 1899, Asenjo submitted what he called an "application for naturalization papers" to military-governor George Davis. With no established naturalization procedure in place, Asenjo supplemented his request with biographical details relevant to a variety of conceptions of U.S. citizenship: desire to become a citizen, residence, capacity, achievement, loyalty, language, military service, community, and character. He thus stressed his seventeen-year residence in Puerto Rico, his four years of medical education

AG/OG/CG/179/justicia, ciudadanía, mayo 1901, 1787 (quote 2); U.S. Census of 1910, Series T624, Roll 1778, Page 103, accessed via HeritageQuest Online; Correspondence surrounding Juan Rocafort y Ramos, 17 Mar. to 17 Apr. 1900 in AG/OG/CG/179/justicia, ciudadanía, julio 1899-1900. On uncertainty faced by Puerto Ricans, see, e.g., Document, 25 Oct. 1898, AG/DE/SPR/COS/RC/1, C.F.344, D.P.1898; Document, 7 Nov. 1898, AG/DE/SPR/COS/RC/1, C.F.525, D.P.1898.

in New York, his professional status as a doctor, his “desire to become an American citizen,” that his “sympathies are entirely American,” and his fluency and literacy in English. Additionally, he attached a reference from a member of the U.S. armed forces attesting that Asenjo was “well known and respected in this community—[] intelligent, conscientious and of high moral character.” An aide-de-camp to Davis deflected this claim by explaining that no court in Puerto Rico was yet authorized to naturalize.⁵⁰

Asenjo gained a second opportunity to claim U.S. citizenship on October 12 when Governor Davis promulgated new election laws. In crafting his order Davis faced a populace that included island-born Puerto Ricans who now owed the United States their permanent allegiance; frequently long-term-resident foreigners who under international law owed the United States only the temporary allegiance of sojourners; and Puerto Ricans born in continental Spain who had eight more months to choose which status to occupy. Davis decided to give “foreigners of long residence in Puerto Rico [including Puerto Ricans born in continental Spain] an opportunity to vote in the election.” He thus ordered that qualified “[c]itizens or subjects of foreign countries . . . be permitted to vote . . . provided . . . that they shall have made renunciation under oath of their foreign nationality.” More than 1,000 men, including Asenjo, responded by “solemnly declar[ing] and swear[ing] that it is my bona fide intention to become a citizen of the United States of America. I renounce forever all allegiance and fidelity to the [state to which allegiance was currently owed].” Though Davis later insisted that his order “in no

⁵⁰ Valeriano Asenjo to George Davis, 7 Jun. 1899, AG/OG/CG/179/justicia, ciudadanía, junio 1899, 3728; Aide-de-Camp to Valeriano Asenjo, 15 Jun. 1899, AG/OG/CG/179/justicia, ciudadanía, junio 1899, 3728. Within weeks, a U.S. Provisional Court did begin issuing declarations of intention to become U.S. citizens, including some which eventually ended up in the naturalization files of the U.S. District Court for the District of Porto Rico. E.g., Oath of Allegiance to the United States of America of Alberto Bravo, 25 Jul. 1899, NY NARA RG 21, Early Naturalization Records for U.S. District Court in Puerto Rico, Box 1, Declarations of Intention.

way related to naturalization,” the French Chargé d’Affaires, on December 26, 1898, asked the U.S. Secretary of State if the order extended U.S. naturalization laws to the island. If so, both men knew, it could mean U.S. citizenship for and French expatriation of oath-takers. Though of little concern to French officials, Davis’s order also again raised the possibility that the United States would reenact Spanish favoritism toward Puerto Ricans born in continental Spain by giving them and not native-born Puerto Ricans access to naturalization.⁵¹

An official in the State Department then wrote the War Department for clarification, launching correspondence that revealed agreement that the order had been a mistake but disagreements—rooted in officials’ differing roles—over responses. The State Department argued that the second part of the oaths raised troubling questions. While the declaration of intention to become a U.S. citizen merely tracked “the first act necessary to naturalization” under U.S. law, the renunciation of foreign nationality “superadd[ed] thereto the performance of an act which under the naturalization laws of the United States is an essential feature of the final act of admission to citizenship.” For the State Department, which had to explain U.S. policy to foreign officials, Davis’s order could “create for a foreigner accepting its provision an anomalous situation, inasmuch as by renouncing his foreign allegiance he would cease to be a citizen of the country of

⁵¹ Wrapped document, Secretary of State to Secretary of War, 18 Jan. 1900, AG/OG/CG/179/justicia, ciudadanía, marzo 1900, 7171 (quote 1); General Orders, No. 160, 12 Oct. 1899, 3-4 (quote 2); Gobierno Militar, Secretaría Civil, Bureau de Estado, Legajo numero ___ formado con las declaraciones y juramentos de fidelidad prestado al Gobierno de los E.E. U.U. de America por los extranjeros que fueron súbditos del de ___, AG/DE/T76-16/1, 3 (quote 3); Assistant Secretary of War to Secretary of State, 20 Jan. 1899, MD NARA 350/5A/311/1286 (quoting correspondence from Davis) (quote 4); Translation, Thiebaut to John Hay, 26 Dec. 1899, AG/OG/CG/179/justicia, ciudadanía, marzo 1900, 7171; Fernando Cortes, Summary of Oaths of Allegiance, 11 Mar. 1901, AG/OG/CG/179/justicia, ciudadanía, 1900-1901, tarjetas 11125, 1399, 1593; Valeriano Asenjo y [Pascual], 31 Oct. 1899, Juramento de fidelidad á los Estados Unidos de América, in Legajo num. 6 formado con las declaraciones de juramento de fidelidad prestado al Gobierno de los EE.UU. de América por los extranjeros que fueron súbditos del de [sic] España, no. 128, AG/DE/T76-16/3; Robert Phillimore, *Commentaries upon International Law* (Philadelphia Pa.: T. & J. W. Johnson, 1854), 278.

origin without thereby acquiring any new allegiance.” Agreeing that a foreigner in Puerto Rico might, under Davis’s orders, renounce one allegiance while “having acquired no right to any other citizenship,” Root wrote not of fear of foreign states but of individual claimants. A “French subject” in such a position, he predicted, “would very naturally complain of having been misled.” Thus, he concluded, the provision should be stricken. Describing his “embarrassment” that his policy had placed hundreds “in the anomalous condition of ‘a man without a country,’” Davis asked to retire rather than rescind his order. Less concerned with international reaction or future claims, he worried that revocation would invalidate recent local elections, creating local “turmoil and excitement.” Instead, he proposed, only address the issue if forced. Root and his staff concurred, at least temporarily leaving open the issues raised by the French Chargé d’Affaires. If Dr. Asenjo pushed the matter further, I have yet to find evidence of the effort.⁵²

As other Puerto Ricans continued to claim U.S. citizenship, U.S. officials established a regular response: avoidance. In one example a former Puerto Rican resident who had sworn an oath of allegiance to the United States and served under U.S. forces in the Insular Police, Rafael Molinari, wrote the Puerto Rican government from Mexico. He sought certification of his prior service, which, he presumed, would prove his U.S. nationality. U.S. officials demurred. Avoiding the substantive issues of whether residence in lands under U.S. sovereignty made him a U.S. national and whether his oath and quasi-martial service entitled him to U.S. protection, the Secretary of Puerto Rico wrote that the

⁵² In AG/OG/CG/179/justicia, ciudadanía, marzo 1900, 7171, see John Hay to Secretary of War, 27 Jan. 1900 (quotes 1-3); Elihu Root to George Davis, 6 Feb. 1900, (quotes 4-6); [George Davis] to Secretary of War, 12 Feb. 1900 (quotes 7-9); Clarence Edwards to Geo. Davis, 7 Mar. 1900. See also Memorandum Card, 27 Feb. 1900, MD NARA 350/5A/311/1286:4; John Hay to Secretary of War, 10 Apr. 1900, MD NARA 350/5A/180G/1286-5; Assistant Secretary of War to Secretary of State, 20 Jan. 1899.

oath and service had not naturalized Molinari and that Molinari was not listed as a U.S. citizen in existing documents. In November 1900, Carlos Rampola launched a claim with similar results. He told U.S. officials that he and his siblings, children of U.S. citizens who had resided in Puerto Rico for eighteen years, sought recognition as U.S. citizens. The Acting Attorney General of Puerto Rico, in a letter to the Governor, advised otherwise. Despite agreeing that the siblings were U.S. citizens, he saw no need for official confirmation. Rather, “[i]f the persons . . . are citizens of the United States, and any right belonging to them based thereon shall be hereafter denied them, ample remedies for enforcement of such rights exist in Porto Rico.” In other words, Rampola needed a better test case.⁵³

While Puerto Ricans were failing to clarify their status, a second and related line of claims involving challenges to federal customs policy made headway. By October 1899 the Coudert Brothers international-law firm had begun to lay groundwork for such challenges. Writing former colleague Secretary of War Elihu Root, they expressed professional interest in the “many questions arising in Cuba,” which the United States also still occupied, and requested legal opinions and circulars from Root’s Department. Such documents would help them dispense advice to and mount legal challenges to U.S. policies adversely affecting their clients. By late 1899, the *New York Times* reported, “[n]umerous protests” were “pending before the board [of general appraisers] regarding duties levied on merchandise from Puerto Rico and the Philippines.” Initially some failed for a variety of technical reasons: shipment predated annexation; U.S. sovereignty did not

⁵³ Correspondence Wrapper, dating from 20 Nov. 1900, AG/OG/CG/179/justicia, ciudadanía, 1900-1901, tarjetas 11125, 1399, 1593; Summary, Rafael Molinari to [Governor?], 14 Jul. 1900, AG/OG/CG/179/justicia/ciudadanía julio 1900 10906; Summary, W. Hunt to [Rafael Molinari], 19 Dec. 1900, AG/OG/CG/179/justicia—ciudadanía diciembre 1900.

cover Cuba; and filing in customs court created a presumption that goods were imported. But beginning in July 1900 federal circuit courts began issuing rulings on whether Puerto Rico was part of the United States for purposes of tariff laws and constitutional provisions. The Coudert Brothers law firm brought two particularly well-framed challenges. On March 12, 1900, it sued George Bidwell, the collector of customs at the port of New York, in state court on behalf of D. A. de Lima and Company. In the suit, quickly removed to a U.S. circuit court, De Lima protested tariffs that Bidwell had levied in late 1899, before enactment of the Foraker Act. In a perfunctory October 17, 1900, opinion, the court rejected De Lima's complaint. De Lima appealed. Then, on November 23, 1900, Coudert Brothers brought a new suit against Bidwell on behalf of Samuel Downes and in the circuit court. Downes contested tariffs that Bidwell had levied in late 1900 after enactment of and pursuant to the Foraker Act. The court rejected this complaint perfunctorily on November 30, 1900. Downes too appealed. By year end, appeals of both cases pended before the U.S. Supreme Court.⁵⁴

Autonomists Reconstituted: Luis Muñoz Rivera and Federico Degetau Face U.S.

Rule

Proceeding under the Charter of Autonomy that Spain had extended Puerto Rico the year before, Luis Muñoz Rivera moved in early 1898 to establish himself as the head

⁵⁴ Coudert Brothers to Elihu Root, 19 Oct. 1899, MD NARA 350/5A/169/1116; "Cuba a Foreign Land in Law," *New York Times*, 9 Nov. 1899, 7; Virginia Kays Veenswijk, *Coudert Brothers: A Legacy in Law: The History of America's First International Law Firm 1853-1993* (New York: Truman Talley Books/Dutton, 1994), 135; Sparrow, *The Insular Cases*, 55; see also, e.g., "The Porto Rican Decision," *Cleveland Plain Dealer*, 19 Jun. 1900, 6; *Goetze v. United States*, 182 U.S. 221 (1901); Transcript of Record, no. 456, *DeLima v. Bidwell*, 182 U.S. 1 (1901); Motion to Advance, *DeLima*; Transcript of Record, no. 507, *Downes v. Bidwell*, 182 U.S. 244 (1901); but cf. "Outside of Tariff Laws," *Washington Post*, 15 Feb. 1900, 4 (reporting that "the board of classification of the United States general appraisers" had denied a claim that Puerto Rico was part of the United States for purposes of "goods imported").

of a new, autonomous Puerto Rican civil government. On March 27, 1898, in what the Charter had decreed would be the first island-wide election with near-universal male suffrage, 121,573 Puerto Rican men cast ballots. Securing more than two-thirds of the vote, Muñoz's Liberales looked forward to controlling the upcoming island legislature. Degetau's party, the Ortodoxos, received less than 20% of that total, though Degetau himself won and quickly occupied a post as a deputy in the lower chamber of the Spanish Cortes in Madrid. Within weeks, Spain and the United States were at war and then on July 17, eight days before U.S. troops came ashore in Puerto Rico, the island legislature opened with Muñoz at the head of the cabinet-like Council of Secretaries.⁵⁵

Across the Atlantic, Federico Degetau faced the war as a deputy in the Cortes. Like most elected Puerto Rican officials, he did not support a Cuban-style revolution in Puerto Rico and instead advocated Puerto Rican autonomy from, allegiance to, and participation in the metropolitan state. But such loyalty, he and his compatriots in Spain discovered, did not insulate their policies, posts, or constituents from danger. After word of the U.S. landing in Puerto Rico reached Spain, Juan Ramos y Velez, a fellow attorney, wrote Degetau that he expected a Spanish colonial policy of "the offering of Isaac sacrificed by his father Abraham." A recent copy of the Madrid *El Heraldo*, he then related with disgust, asserted that national interests meant that Spain "cannot arm the inhabitants because it would be to expose itself to what occurred in the Philippines." Now, he feared, Spain might send under-armed islanders into the "slaughterhouse." "Is it that the national honor commands it?" he wrote. "My God: no more of national honor; it

⁵⁵ Division of Customs and Insular Affairs, War Department trans., *Adaptation of the Electoral Law of June 26, 1890, to the Islands of Cuba and Porto Rico* (Washington, D.C.: Government Printing Office, 1899), 3, 5; Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico* (Mayagüez, P.R.: Editorial Isla, Inc., 1977), 107-108 and n.153. On Ortodoxos, see Introduction above note 24 and accompanying text.

has already been satisfied.”⁵⁶

Several days later, with U.S. annexation of Puerto Rico likely, Rafael María de Labra, a Puerto Rican politician and advocate of autonomy, described to Degetau another betrayal of the mutual obligations of allegiance and protection that allegedly bound the Spanish citizenry of Puerto Rico to their metropole. Spain, he wrote, accused Puerto Rico of “disloyalty” while itself preparing to concede rather than meet its duty to protect the island. Spanish cession of Puerto Rico, he noted, meant Spain “forgetting about the agreements that were contracted with us, respecting the government”; hard-won Puerto Rican autonomy might not survive annexation. Then, on August 7-8, liberal Madrid newspapers *El Heraldo* and *El Globo* addressed the anomalous position of Puerto Rican deputies, who represented soon-to-be annexed constituencies. Though the papers agreed that deputies could finish their terms, they encouraged them to and assured readers that they would resign their posts once their districts disappeared.⁵⁷

Federico Degetau thus occupied an uncomfortable position by the time Spain and the United States declared an end to active fighting in an August 12 protocol promising Spanish cession of Puerto Rico to the United States. An official state of war existed between the government of which he remained a deputy and the troops currently

⁵⁶ Juan Ramos y Velez to Federico Degetau, 27 Jul. 1898, CIHCAM 2/III/69 (“[ofrecer?] de Ysaac sacrificado por su padre Abraham”; “no puede armarse á los habitantes porque sería exponerse á que ocurriera lo de Filipinas”; “matadera”; “Es que el honor nacional lo impone?”; “Por Dios: basta ya de honor nacional que á la fecha esta ya satisfecho”) (I follow Ramos’s usage in not placing an accent on Velez).

⁵⁷ Rafael M. Labra to F. Degetau, 7 Aug. 1898, CIHCAM 2/III/71 (“Por oficiar de Ysaac sacriado por su padre Abraham”; “que no puede armarse á los habitantes porque sería exponerse á que ocurriera lo de Filipinas”; “matadero”; “¿. . . . Es que el honor nacional lo impone?”; “¡Por Dios! basta ya de honor nacional, que á la fecha esta ya satisfecha”); “Sin representación,” *Heraldo de Madrid*, 7 Aug. 1898, available at CIHCAM 22/L1; “Los representantes antillanos,” *El Globo*, 8 Aug. 1898, available at CIHCAM 22/L1; John L. Offner, *The Diplomacy of the United States & Spain over Cuba, 1895-1898* (Chapel Hill: University of North Carolina Press, 1992), 78; David Ortiz Jr., *Paper Liberals: Press and Politics in Restoration Spain* (Westport, Conn.: Greenwood Press, 2000), 99; Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico (1809-1976)* (Mayagüez, P.R.: Editorial Isla, Inc., 1977), 108.

governing the homeland that he represented. He responded by temporarily relocating to his property in France and seeking to convince Spain and the United States to mitigate the conflicting loyalties that the looming U.S. annexation would impose on Puerto Ricans. There, in mid-October, he wrote both to Praxedes Sagasta, the Spanish Prime Minister, and to U.S. President McKinley. Drawing on his commitments to international law and mandatory arbitration as an alternative to war, he advocated making mandatory, permanent arbitration part of the final treaty of peace. Otherwise, he argued, Puerto Ricans' "regional history, culture, and . . . language," which constituted a "moral" and "indestructible link of origin," would coexist with the "narrow, juridical link" they would soon owe the United States; renewed U.S.-Spanish hostilities would be for them "in part a civil war."⁵⁸

When U.S. and Spanish treaty negotiators arrived in Paris soon thereafter, Degetau secured meetings with them. Having drawn on his existing relationships in Spain and begun building enduring relationships with high U.S. officials, he shared his views with both. Although the parties rejected his arbitration suggestion, they accepted his proposal to promote Puerto Rican culture and education by allowing Spanish-language "scientific, literary and artistic works" to be admitted duty-free to the island for ten years following ratification of the treaty. Degetau then left for Puerto Rico, arriving in late November to restart his political life.⁵⁹

⁵⁸ Federico Degetau to Praxedes Sagasta, 15 Oct. 1898, CIHCAM 2/III/80 (quotes 2, 5 ("moral"; "en parte una guerra civil")); Draft, Federico Degetau to Mac Kinley, 18 Oct. 1898, CIHCAM 2/III/81 (quotes 1, 3-4 (historia y cultura regional y de nuestro idioma"; "indestructible vinculo de origen"; "estrecho vinculo jurídico")); Certification of Permission to Embark for Puerto Rico, 23 Sep. 1898, CIHCAM 2/III/77. On Degetau's pre-1898 interests and commitments, see Introduction above, note 17 and accompanying text.

⁵⁹ Treaty of Paris, 30 (1899): 1754, 1761 (art. 13) (quote); P. Sagasta to Federico Degetau, n.d., CIHCAM 2/III/83; John Hay to F. Degetau, 10 Nov. 1898, CIHCAM 2/III/88; [Illegible] to Federico Degetau, 26 Oct. 1898, CIHCAM 2/III/86; John MacArthur to F. Degatau, 31 May 1899, CIHCAM 2/IV/6; [Federico Degetau], "A el 'Diario,'" *El País*, 15 Sep. 1900, available at CIHCAM 22/L1; Title unknown, *La Nueva*

Muñoz spent the early months of U.S. rule trying to prolong his pre-war political power. As head of the first autonomous, democratically elected, insular parliament on the island at the time of U.S. invasion, he had nowhere to go but down. If the United States reduced Puerto Rican autonomy, the portion of the state that Muñoz controlled would shrink. Any position in Puerto Rican civil government except the top one would also be a demotion. As a result, progress for Muñoz lay in opposing and impeding U.S. innovations.

Indeed, Muñoz's position had promptly come to seem less powerful and less permanent under U.S. rule. Despite reconstituting Puerto Rico's elected Council of Secretaries as a U.S. institution and confirming Muñoz as both its interim President and its interim Secretary of State, U.S. military authorities made themselves the locus of state power. In December, newly appointed military governor Guy Henry foreshadowed imposition of a literacy requirement for suffrage by voicing his support for the measure. He then told a critical prominent island politician that "he [the governor] was the supreme authority of the Island." Both the decision and the response to criticism boded poorly for Muñoz, whose power depended upon robust civilian rule and winning elections. His *Liberales* had just won a commanding majority in elections featuring nearly universal manhood suffrage, but had not been tested before an electorate from which, as Henry intimated, the more than three quarters of islanders who were illiterate had been expunged.⁶⁰

Era, 22 Nov. 1898, available at CIHCAM 12/L2; Title and newspaper unknown, 22 Nov. 1898, available at CIHCAM 12/L2.

⁶⁰ Santiago Iglesias Pantín, *Luchas emancipadoras (crónicas de Puerto Rico)* vol. 1, 2d ed. (San Juan, P.R.: [Imprenta Venezuela] 1958 [1929]), 101 (quote ("él era la suprema autoridad de la Isla")); Cabán, *Constructing a Colonial People*, 64 (citing the 1899 census); Document, 22 Oct. 1898, AG/DE/SPR/COS, C.F. 74, D.P., 1898; see also "La alocución del General Henry," *El Liberal*, 10 Dec. 1898, 1. On Muñoz's power in late 1899, see note 61 below and accompanying text. On Muñoz's pre-invasion position, see

On February 5, island military governor Henry reorganized the elected Council of Secretaries into four departments whose heads reported directly to him. Muñoz and his colleagues resigned in protest and appealed to Washington. Military governor Guy Henry met the resignations with an attack on Muñoz, telling Puerto Ricans that the Council “was of Spanish origin[,] gave to one man the opportunity to dominate all the departments and to enhance his political power[, and was] contrary to that which should exist under the present form of government.” Under the new system, he wrote, Liberales and Ortodoxos were both represented, “so that all the people may feel they have representation.” Explaining that Muñoz wanted more—suffrage and a legislature—he wrote that “[t]hese come with Congressional legislation and are not possible now.”⁶¹

In attempting to divide U.S. officials in Puerto Rico from those in Washington, Muñoz misjudged the federal state and isolated himself from it. On February 15, the military governor wrote Washington that Muñoz was “a disgruntled politician [who] lost his power through his own fault” and that Puerto Ricans were “incapable of governing themselves and will be for some time to come. Like children, they have to be governed by fear.” Washington officials, who worked through and tended to trust their subordinates in Puerto Rico, appeared to concur, letting the change in island governance and the

Gonzalo F. Córdova, *Resident Commissioner, Santiago Iglesias and His Times* (Río Piedras, P.R. : Editorial de la Universidad de Puerto Rico, 1993), 60; José Trias Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Conn.: Yale University Press, 1997), 13-14.

⁶¹ Headquarters, Department of Porto Rico, General Order No. 17, 10 Feb, 1899, in *Annual Reports of the War Department for the Fiscal Year Ended June 30, 1899* (Washington, D.C.: Government Printing Office, 1900), 576 (quotes); Headquarters, Department of Porto Rico, General Order No. 12, 6 Feb. 1899, in vol. 4, *Laws, Ordinances, Decrees, and Military Orders Having the Force of Law, Effective in Porto Rico, May 1, 1900: Letter from the Secretary of War Transmitting, in Response to the Inquiry of the House of Representatives, Laws and Ordinances of and Military Orders and Decrees Affecting Porto Rico*, House of Representatives, 60th Cong., 2d sess., doc. no. 1484 (Washington, D.C.: Government Printing Office, 1909) 2191-2192. In this period Ortodoxos were known as Radicales. I retain the old term until they reconstitute as Republicanos circa mid-1899. For an excerpt from a letter Muñoz wrote after arriving on the mainland to lobby officials in Washington, see “Muñoz Rivera en los Estados Unidos,” *La Democracia*, 3 May 1899, 2.

resignations stand.⁶²

Muñoz's setbacks facilitated Degetau's gains. In February, Degetau secured the vacancy that Muñoz's orchestrated resignations had left at the head of the island's Department of the Interior, becoming one of four top civilian officers on the island and responsible for education, public works, and charities. Shortly after Spain and the United States formalized U.S. annexation of Puerto Rico via the Treaty of Paris, island political leaders reconstituted themselves into new political parties. On July 4, 1899, revolutionaries who had assisted the U.S. invasion joined former Ortodoxos like Degetau to launch a new party they called Republicano. Soon thereafter Muñoz and his allies, in a substantially weaker position than they had been a year earlier, reconstituted themselves into the Partido Federal.⁶³

Both coalitions retained the Autonomist ideals of liberal republicanism and Puerto Rican self-government that had dominated Puerto Rican politics since late in Spanish rule. Portraying themselves as the best men to lead Puerto Rico as it forged a relationship to a new sovereign, leaders in each party trumpeted their Puerto Rican patriotism and cast their political aspirations for Puerto Rico in terms of U.S. practices and constitutional traditions. Their rivals, they argued, failed on one or the other criteria.

To position themselves as vigorous and pragmatic advocates of Puerto Rican self-government, Muñoz and other Federales described the United States as a nation that valued regional autonomy and people willing to struggle for it. Celebrating U.S. annexation as a step toward autonomy, their platform contended that no other nation had

⁶² G. Henry to Adjutant General, 15 Feb. 1899, MD NARA 350/5A/21/168:3 (quotes); Cabán, *Constructing a Colonial People*, 167.

⁶³ *To the People / Al país*, ([P.R.], Imp. El País, [1899?]), available at CIHCAM 22/L1; Headquarters, Department of Porto Rico, General Order No. 15, 9 Feb. 1899, in *Laws, Ordinances, Decrees, and Military Orders*.

“a system of autonomy so broad and indestructible.” It was thus, they claimed, that the United States was not “called a nation[;] they . . . do not say: <Oh Lord, bless our nation,> but they say: <Oh Lord, bless these United States.>” Yet in joining the Union, Muñoz’s paper *El Liberal* argued, “*the race that inhabits Puerto Rico*” also faced a threat of domination by and absorption into the United States. Acknowledging that Puerto Ricans could only hold their own by achieving an unlikely national greatness like that of French Revolutionary troops and Frederick the Great’s armies, the paper told readers that the thirteen original U.S. colonies had once spoken “loudly because they didn’t know how to speak like slaves”; they did not seek “liberty as a privilege, but as a right.” Puerto Ricans, too, it wrote had won “liberty” and “autonomy” from Spain, and now should again “claim with . . . energy the respect that ought to come to our personality as a *pueblo*.” Previously, another Federal paper claimed in an English-language article, Puerto Ricans who had less than full freedoms under Spain had abstained from May 2 festivities that celebrated how “Spain combated with heroic impetus for its independence.” Now, it related, some Puerto Ricans who supported “the liberal principles upheld by Washington” would avoid Washington Day celebrations because they were “subjected to a degrading, depreciating inferiority, . . . are denied citizenship, [and] are not protected by a constitution.”⁶⁴

By depicting a United States that would extend ample autonomy to those who

⁶⁴ *Program del Partido Federal* ([1899?]), 9-15, available at CIHCAM 6/L3 (quotes 1-2); Puerto-Rico en la union Americana,” *El Liberal*, 27 Jan. 1899, 1 (quotes 3-4 (“¿De qué modo, evitando la absorción, puede sostener competencia con la americana la raza que habita Puerto Rico?”); “Entre claro y oscuro,” *El Liberal*, 10 Jan. 1899, 1 (quotes 5-6 (“habló alto, porque no supo emplear el lenguaje de los esclavos”; “no pidió la libertad como una merced: la reclamó como un derecho”)); “La personalidad de Puerto Rico,” *El Liberal*, 7 Jan. 1899, 1 (quotes 7-9 (“libertad”; “autonomía”; “reclamamos con . . . enérgica el respeto que se debe á nuestra personalidad como pueblo”)); “Spain Preferred to Our Neglect,” *Diario de Puerto Rico*, 24 Feb. 1900, available at CIHCAM 12/L2 (quotes 10-13); Art. 2, sec. 1, U.S. Const.; “Lecciones al pueblo,” *El Liberal*, 17 Jan. 1899, 1.

fought for it, Muñoz could position his clashes with U.S. officials as evidence of his fitness for Puerto Rican leadership rather than as examples of bootless anti-U.S. intransigence. Explaining his earlier resignation from the body that had been the Council of Secretaries in an open letter, Muñoz portrayed himself as a martyr to honor and country whose actions would hurry U.S. extension of autonomy to Puerto Rico. In reducing the responsibilities of Muñoz and the other highest-ranking elected officials on the island, Muñoz wrote, Governor-General Henry had “completely annulled” “the personality of our country,” “snatch[ed]” away “the autonomy we were enjoying when the occupation began,” and made it impossible for Muñoz to “continue with dignity” in his post. Drawing on a metaphor of polity as family, Muñoz advocated a Puerto Rican “emancipation,” that “Porto Rico be a brother in the [U.S.] family and not a slave.” With Henry’s contrary change in place, he did not think that new “[m]en of honor and character” should decline official posts. Change, he argued, would now come not from local protests but through appeals to federal authorities who, he predicted, “will not consent to the enslavement of the whites after spilling so much blood to prevent the enslavement of the blacks.”⁶⁵

Muñoz’s claim that struggle represented the surest path to Puerto Rican autonomy also facilitated his critique of Degetau and other Republicanos who had benefited from his and his colleagues’ travails. Republicanos, Muñoz and his allies claimed, resembled the Puerto Rican Unconditional Party from Spanish rule. *Incondicionales*—who had tended to be Iberian-born and used patronage networks to accrue electoral power—had supported centralized Spanish rule in Puerto Rico rather than autonomy. In opposition,

⁶⁵ Luis Muñoz Rivera to friends on the island, n.d., in “Luis Munoz Rivera,” *San Juan News*, 14 Feb. 1899, 1, available at MD NARA 350/5A/21/168:7.

Autonomistas had aligned emerging Puerto Rican patriotism with advocacy of autonomy, making Incondicionales national enemies in popular island memory. Although Republicanos joined Federales as successors to political movements that had long opposed Incondicionales, Federales now argued that Republicanos mirrored their prior common enemy in extending unpatriotic, disproportionate loyalty to the new metropole. They were, Federales argued, “unconditionally American.”⁶⁶

By the time the United States formally annexed Puerto Rico, Republicanos like Degetau had, unlike Muñoz and his Federales, aligned themselves with a new metropole that many islanders perceived to be a modern, affluent model of democracy. Degetau built on this prestigious association with U.S. rule by developing and displaying expertise in U.S. law and politics and by taking positions of leadership that publicly highlighted his commitments to promoting Puerto Ricans’ welfare through a mix of paternalistic and modern-liberal reforms. He thus entered the Puerto Rican Supreme Court bar, chaired the island Board of Charities, served on the Board of Trustees for the free library of San Juan, became President of the San Juan school board, and joined the Executive Committee of the Partido Republicano. Twining charitable service with paternalism toward purported social inferiors, Degetau offered lectures in San Juan for the betterment of unmarried women and working-class men. He also presented himself as a man of

⁶⁶ *Asamblea republicana. Celebrada en San Juan, Puerto Rico. Los días primera y dos de julio de 1899* ([San Juan,] P.R.: Imprento de “El País,” 1899), 29, available at CIHCAM 6/L2 (quote (“incondicionalmente americano[.]”) (quoting Federales)); F. Degetau y Gonzalez, *To the People* (P.R.: El País, [1900?]); Astrid Cubano-Iguina, “Political Culture and Male Mass-Party Formation in Late-Nineteenth-Century Puerto Rico,” *Hispanic American Historical Review* 78 (Nov. 1998): 642-643, passim; Eileen J. Findlay, “Decency and Democracy: The Politics of Prostitution in Ponce, Puerto Rico, 1890-1900,” *Feminist Studies* 23 (autumn 1997): 471-499; Córdova, *Resident Commissioner*, 20-59; Mariano Negrón-Portillo, *Las turbas republicanas, 1900-1904* (Río Piedras, P.R.: Ediciones Huracán, 1990), 21-22. On Federales’ ongoing charges of unconditionalism, see, Title unknown, *El Territorio*, 5 Jul. 1899, available at CIHCAM 12/L2; Title unknown, *La Democracia*, [Jul. 1899?], available at CIHCAM 12/L2; E. Astol, “Two Kinds of Unconditionalism. A Parallel,” *Puerto Rico Herald*, 22 Feb. 1902, 5. On Autonomistas, see Introduction, notes 17-18, 24 and accompanying text.

principle, risking controversy to reject a suggestion by a Muñoz newspaper that in Puerto Rican girls “the general instinct awakes very early” making “immediate vigilance, not of a teacher but of a mother,” necessary. Rather, he argued, the paper needlessly cast doubt on the virtue of Puerto Rican daughters and on the morality of Puerto Rican wives and mothers, for science, experience, and modern pedagogy all supported co-education. Then as Chair of the Board of Charities, Degetau investigated and confirmed charges that the superintendent of an orphan asylum had physically abused children in his care. The Board closed the matter after accepting the resignation of that superintendent but not punishing him further. Writing Governor-General George Davis that “neither you nor any other officer . . . could so punish soldiers—already robust men—with such impunity,” Degetau resigned.⁶⁷

At the same time he devoted himself to mastering English while supplementing his firsthand knowledge of U.S. practices and norms by consuming scholarly and political writings and commentary. These, he would later indicate to readers of island newspapers, included books like James Bryce’s 1888 treatment of U.S. people and institutions, *The American Commonwealth* and articles by professors and politicians in leading mainland

⁶⁷ “Protesta,” *El País*, 7 Jul. 1899, available at CIHCAM 12/L2 (quoting *El Territorio*, 1 Jul. 1899) (quotes 1-2 (“el instinto general despierta desde muy temprano”; “la vigilancia inmediata, no del maestro sino de la madre”)) (emphases omitted); Draft, F. Degetau to G. Davis, 30 Mar. 1900, CIHCAM 2/IV/18 (quote 3) (I have utilized what appears to be Degetau’s translation into English); Major Egan and F. Degetau, Investigation of the charges of Excessive punishment brought against Mr. Benjamin Delvalle, Acting Superintendent of the Boy’s Charity School, 29 Mar. 1900, CIHCAM 10/II/35 et seq.; Certification of Eugenio de Jesús López [Gartamlide?], 8 Jan. 1900, CIHCAM 6/I/17; Charles Allen to Federico Degetau, 25 Nov. 1900, CIHCAM 2/V/6; “Los exámenes generales,” *La Correspondencia*, 19 Jun. 1900, available at CIHCAM 12/L2; [Illegible] to Federico Degetau, 9 Jun. 1900, CIHCAM 2/IV/21; Headquarters, Department of Porto Rico, General Order No. 37, [3?]1 Mar. 1899, available at CIHCAM 2/IV/5; F. Degetau to Manuel Rossy, 31 Aug. 1900, in “Un acuerdo,” *El País*, 20 Sep. 1900, available at CIHCAM 12/L2; José Barbosa et al. to Federico Degetau, Sep. 1900, CIHCAM 2/IV/29; “Conferencia importante,” newspaper unknown, 9 Sep. 1899, available at CIHCAM 12/L2; “Ateneo,” *La Correspondencia*, 5 May 1900, available at CIHCAM 12/L2; title unknown, *La Correspondencia*, 6 May 1900, available at CIHCAM 12/L2; *Asamblea republicana*, 21-23; “Lo de beneficencia,” *El País*, 1 Apr. 1900, available at CIHCAM 12/L2; “Lo del asilo de huérfanos,” *La Correspondencia*, 3 Apr. 1900, available at CIHCAM 12/L2; “Lo de beneficencia,” *El País*, 4 Apr. 1900, available at CIHCAM 12/L2.

periodicals.⁶⁸

As a result of these efforts and his preexisting reputation, Degetau quickly emerged as a leading Republicano spokesman. In promoting his party and later his own candidacy to represent Puerto Rico as its first nonvoting Resident Commissioner in Washington, Degetau portrayed Federales as patriotic fools. Their sound and fury on behalf of the island, he claimed, signified nothing in comparison to Degetau's informed and effective, albeit more subtle, efforts to secure Puerto Rico a favorable status within the United States. Degetau attacked Federales' constitutionally doubtful demand that the United States immediately extend Puerto Rico a territorial government "with all the rights of a State, except the right of sending Senators and [voting] Representatives to Congress." Doing so would, for instance, contravene the Article Two reservation in the U.S. Constitution of electoral votes for President to the states. In making such a demand, Degetau charged, Federales displayed "total ignorance concerning the roles of States and Territories in the Union." Stressing the role of the U.S. Congress in shaping Puerto Rican status, Republicanos used their platform to counsel and even celebrate patient attention to meeting the expectations of an admittedly superior United States. It is, they wrote, "our duty to await" congressional action. In the meantime, they proposed, Puerto Ricans should "advance civilization" on the island, "lend every effort to . . . teach [islanders] loyalty" to the United States, and "strive to become worthy" of a United States that could help them achieve "the highest culture in human destinies."⁶⁹

⁶⁸ Federico Degetau to Adolfo Marin, [Mar. or Apr. 1899?], CIHCAM 2/IV/13; Degetau, "Antecedentes del debate"; "La constitución Americana"; Degetau, "Educacion civica"; articles collected in CIHCAM 18/L1, 26-53.

⁶⁹ *Program del Partido Federal*, 9-15 (quote 1); "Gran fiesta republicana en Rio-Piedras," *El País*, 4 Sep. 1900, available at CIHCAM 12/L2 (quote 2 ("la total ignorancia en que se hallan respecto de lo que son en la Unión los Estados y los Territorios")); Degetau, *To the People* (quotes 3-9); Art. 2, sec. 1, U.S. Const.

This full-throated embrace of U.S. rule, Degetau added in a speech at a Republicano convention, was no impugment of Republicanos' Puerto Rican patriotism. Only under "monarchical and centralized *pueblos*" like Spain, he claimed, does "patriotism . . . involve[] a tension between love of region and submission to the family or city that personifies or stands in for the entirety of national life." Because the U.S. federal government did not dominate its regions, he continued, there "patriotism has a double concept with profound love of native region acting as a basis and foundation for profound love and respect for the general state." In fact, Degetau asserted, his purported sophistication about the nature of U.S. politics and law would only enhance his vigorous advocacy on Puerto Ricans' behalf. Thus, shortly after the Foraker Act laid out procedures for electing a nonvoting representative of Puerto Rico in Washington and an island House of Delegates, Degetau asked his "Fellow-citizens" to select a Republicano legislature and to give him the "honor of representing our people [and] going to claim in Washington for us the right to the fullness of the American citizenship" as resident commissioner. He promised islanders that "basic principles of the Constitution of the United States" guaranteed Puerto Ricans "enjoyment of the American citizenship" and Puerto Rico status as an "organized Territory now, in preparation to become an autonomous state of the union." Honor and manhood, he intoned, demanded that they vindicate these rights. Just as the U.S. Revolution told "the world that mankind has reached its majority," islanders had reached "the hour . . . of assuming the duties and responsibilities of American citizenship." Failing to win "immunities and privileges of the citizenship," would doom U.S. rule in Puerto Rico and ruin "our honor . . . as Porto Ricans, as Americans, and as men." Unlike Muñoz and his allies, he insisted, only he had

done the “studies of constitutional materials and decisions involving the American constitutional questions that underlay issues of status” to succeed. He was ready, he elaborated, to “brandish” the “juridical meaning” of the Treaty of Paris “in defense of the rights of our country.”⁷⁰

Debate in Washington concerning U.S. rule in Puerto Rico, Degetau claimed, raised two fundamental, interrelated issues: the status of Puerto Rico and of Puerto Ricans. The dilemma, he wrote, was whether “Puerto Rico will be a Republican Territory today and tomorrow a State of the Union, or [if] Puerto Rico will be what the Anglo Saxons call ‘a crown colony.’” That question in turn raised another: if “there are in the United States . . . or can be two classes of citizens, two conditions of rights,” “citizens of a higher category called to govern other citizens of an inferior condition.” He argued that the answer lay in the highest U.S. authority, a constitution with two facets: the principles, organizations, and functions that it established, which then developed over time; and the legal document with its fixed, interpretable text.⁷¹

⁷⁰ *Asamblea republicana*, 29 (quotes 1-3 (“el patriotismo en los pueblos monárquicos y centralizados supone un dilema entre el amor á la región y la sumisión á una familia ó á una ciudad, que encarnan y absorben [sic] la vida nacional toda”; “El patriotismo Americano tiene el doble concepto de amor profundo á la región nativa, como base y fundamento del amor y respeto profundos al Estado General”)); Degetau, *To the People*, (quotes 4-5, 9-12); Degetau to correligionarios, 5 Sep. 1900, in “Candidatos o candiditos,” *El Diario*, 11 Sep. 1900, available at CIHCAM 22/L2 (quotes 6-8, 13 (“principios básicos de la Constitución de los Estados Unidos”; “plenitud de la ciudadanía americana”; “Territorio organizado ahora, que se prepara para ser uno de tantos Estados Autónomos de la Unión”; “estudios sobre materia constitucional y determinadamente sobre las cuestiones constitucionales americanas de que depende el *status*”)); [Degetau], “A el ‘Diario’” (quotes 14-16 (una significación jurídica de cuya interpretación surgen armas que es preciso esgrimir, y que un día esgrimiré en defensa de los derechos de nuestro país”)); “Gran fiesta”; Degetau to Rossy, 31 Aug. 1900; “Need the Best Candidate,” *San Juan News*, 1 Oct. 1900, available at CIHCAM 22/L1, 104; “La convención republicana,” newspaper unknown, [early Oct. 1900?], available at CIHCAM 12/L2.

⁷¹ F. Degetau y Gonzalez, “El Dilema,” *El País*, 20 Mar. 1900, available at CIHCAM 18/L2 (quote 1 (“Puerto Rico será un Territorio Republicano hoy y mañana un Estado de la Unión, ó Puerto Rico será lo que entre los anglo-sajones se llama <una Colonia de la Corona.>”)); F. Degetau y Gonzalez, “Puerto-Rico ante el Congreso,” *El País*, 16 Mar. 1900, available at CIHCAM 18/L2 (quotes 2-3 (“hay en los Estados Unidos ó que puede haber dos clases de ciudadanos; dos condiciones de derecho”; “unos ciudadanos de superior categoría llamados á gobernar y otros ciudadanos de inferior condición que solo sirvan para ser gobernados”)); “La constitución Americana.”

With him and his audiences presumably aware that the United States treated non-whites as “citizens of an inferior condition” in the popular sense of citizenship as full membership in a civic community, Degetau found reassurance in the history of the U.S. Constitution. He added that under it innumerable groups—all, he implied, inferior to Anglo-Saxons—held extensive, formal rights. Overlooking the failure of such legal forms to protect ostensible beneficiaries from such subordinating state policies as Jim Crow, Degetau instead focused on a whiggish recounting of the history of U.S. rights. After abolishing slavery, and despite worries that southern U.S. society, including its many former slaves, “‘was not prepared’ for the life of law,” he claimed, the United States had “not dared to deprive slaveholders or freedmen of the privileges and immunities of the Constitution.” Today, he wrote, the United States extended “equality before the law and liberty,” albeit a technical one, to a “*pueblo* composed of representatives of all the European families, and of the families of Cherokee, Chootawaw, Chickawa, Creek, Seminole, among other varieties of red skins, and of Chinese in California and of Blacks in the South.”⁷²

For those unimpressed by the chance to resemble U.S. blacks, Degetau also portrayed members of the Latin race like Puerto Ricans as coauthors with Anglo-Saxons of democracy, hence equal members in a shared civic tradition. Equating political

⁷² F. Degetau y Gonzalez, “Por honor y por deber,” *El País*, 22 Mar. 1900, available at CIHCAM 18/L2 (quotes 1-2 (“no estaba preparado’ para el derecho”; “no se atrevió á despojar a esclavizadores y esclavizados de las [] garantías y de las inmunidades de la Constitución”); Degetau, “Puerto-Rico ante el Congreso” (quotes 3-4 (“la igualdad ante al derecho y la libertad”; “pueblo compuesto de representantés de todas las familias europeas y de indios Cherokees y Chootaws y Chickasaws y Creeks y Seminoles entre las variedades de pieles rojas, y de chinos en California y de negros en el Sud”)); “La constitución Americana” (quote 5 (“las distintas razas humanas en ella representadas”)); “La constitución de los Estados Unidos,” *El País*, 23-24 Apr. 1900, available at CIHCAM 12/L2; cf. Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1997). For an overview of ascriptive strands in the history of U.S. citizenship, see Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, Conn.: Yale University Press, 1997).

organizations and political innovations of nations with the “distinct human races represented in” them, he depicted “Latinos” as affirming “the existences of the individual as the center of juridical relations” and unifying diverse peoples within a single state through common laws. Montesquieu, he added, developed the Aristotelian notion of separation of powers that the United States had put into practice.⁷³

Yet despite his assurances that the U.S. government would see Puerto Rican Latinos as Anglo-Saxons’ equals, Degetau also worried about the matter. The challenge, he wrote, was that because many in Congress both saw the Foraker Act as a precedent for Filipino legislation and did not believe that Filipino history had prepared those islands for U.S. institutions, they might equate Puerto Ricans and Filipinos. In response, he did not explicitly make Cuba his object lesson, though it shared a history of slavery and a populace with African ancestry with Puerto Rico; many mainlanders were racializing Cubans as dark, barbaric, dishonorable, and incapable of self-government; and some Cuban leaders were responding by stressing Cuban civility, culture, peacefulness, and whiteness. He did, however, tell readers, “our duty now is to demonstrate with information the reality that we are a civilized and Christian society and that it cannot be said that ‘we are not prepared’ to live with the principles of the Constitution.”⁷⁴

Though Degetau also asserted that the legal or textual Constitution as well as U.S. ideals, international standing, and honor would all ensure U.S. citizenship and

⁷³ “La constitución Americana” (“latinos”; “la existencia del individuo como centro de relaciones jurídicas”).

⁷⁴ Degetau, “Por honor y por deber” (“nuestro deber de la hora presente es demostrar con los datos de la realidad que somos una sociedad civilizada y cristiana y que no se puede decir de nos otros que ‘no estamos preparados’ para vivir esos principios de la Constitución”); Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868-1898* (Chapel Hill: University of North Carolina Press, 1999), 170-194; Jessup, *Elihu Root*, 370; Pérez, *Cuba between Empires*, 200-260; see also, e.g., “A Sovereign Power,” *New York Herald Tribune*, 4 Feb. 1900, available at CIHCAM 18/L1, 34; “Nation’s New Possessions Not Ready for Complete Government,” [*New York?*] *Press*, byline 18 Feb. [1900?], available at CIHCAM 18/L1, 40; “Porto Rico Bill before the House,” *New York Press*, 20 Feb. 1900, available at CIHCAM 18/L1, 41C.

constitutional rights for Puerto Ricans. But by framing his claim as an argument that he could later deploy if necessary, he also he betrayed concern that U.S. officials might disagree. Degetau depicted a U.S. Constitution that constrained U.S action in Puerto Rico. Unlike Root, for whom sovereignty over Puerto Rico brought the United States inherent, unimpeded governing discretion, Degetau claimed both that all federal power over Puerto Rico sprang from the Necessary and Proper Clause of the Constitution and that this power was limited by the numerous constitutional provisions that protected individual rights from federal, though not necessarily state, infringement. As for U.S. citizenship, he wrote that subjecting Puerto Ricans would be both to say “Goodbye Washington, Goodbye Founding Fathers” and indicate, “with the entry of Puerto Rico into the Union as a ‘Dependency,’ that American citizenship had been reduced to the monopoly of 74 million oligarchs.” If the United States “shamefully” reneged on General Nelson Miles’s presidentially sanctioned promise to Puerto Ricans on behalf of the “honor and . . . dignity of the American *pueblo*” to bring them the blessings of the U.S. Constitution, it would be a “disrespect of [U.S. people’s] own honor and good name,” recognized as such “even in the eyes of a tribe relegated to the solitude of Indian Territory.”⁷⁵

As voters considered Federales’ and Republicanos’ competing arguments, the Executive Council of Puerto Rico proceeded under the Foraker Act to divide the island into seven electoral districts. Aware that the district lines would shape electoral fortunes

⁷⁵ Degetau, “Puerto-Rico ante el Congreso” (quote 1 (“adios Washington, adios Padres venerables de la Constitución”)); “El dilema” (quotes 2-6 (“con el ingreso de Puerto Rico en la Unión como ‘Dependencia’, la ciudadanía americana se redujo al monopolio de 74 millones de oligarcas”; “humillarse avergonzada por la desestimación de su propia honra”; “honor y . . . dignidad del pueblo americano”; “desestimación de su propia honra y de su buen nombre”; “ante la tribu perdida en las soledades de su Territorio Indio”)); “La libertad en la constitucion de los EE. UU.,” *El País*, 7, 15, 23 May 1900, available at CIHCAM 12/L2; see also F. Degetau y Gonzalez, “La palabra del Choctaw,” *El País*, 27 Jul. 1899, available at CIHCAM 12/L2.

for the major Puerto Rican political parties, the Executive Council proposed a procedural solution. After new Governor of Puerto Rico Charles Allen appointed five Puerto Ricans—two Federales, two Republicanos, and one independent—to the Executive Council, the Council instructed those members to propose electoral districts. At a subsequent meeting, the Republicano members accepted a plan proposed by the independent. Despite protests by the Federales, the Council ratified the choice. Hoping to improve their prospects, Federales charged gerrymandering; the two Federales on the Council resigned; and Muñoz cabled Washington in protest. As in 1899, Muñoz’s attempt to divide Washington and island officials failed. On September 7, the State Department cabled the Governor for details, and the Governor “[r]ecommend[ed] resignations be accepted at once” from the “declared obstructionists, openly and actively hostile to America and Americans.” The State Department told the Governor that President McKinley directed acceptance of the resignations.⁷⁶

With elections looming, Federales next faced extralegal violence unchecked by island officials. In successive September incidents, a group of mostly working-class residents of San Juan who supported Republicanos gathered outside of Muñoz’s home and fired shots, then destroyed the press with which he published the newspaper *El Diario*. These public performances of violence against a man of Muñoz’s standing by men he would have perceived to be his social inferiors overturned honor-based norms of deference and provided at least some who had long faced disfranchisement with opportunities to assert their equality or even their superiority. Though both attacks were

⁷⁶ In AG/OG/CG/179/justicia, ciudadanía octubre 1898, L. M. Rivera, see Governor Allen to Assistant Secretary Hill, 8 Sep. 1900 (quotes); Hill to Governor Allen, 7 Sep. 1900; John Hay to [Governor Allen], 3 Oct. 1900. See also *Foraker Act*, 31 1900: 82-83 (secs. 27-30); Cabán, *Constructing a Colonial People*, 167; “Se consumó la injusticia: nueve contra dos,” *La Democracia*, 6 Sep. 1900, 2.

brazen and lengthy, city officials did not prevent them. As November elections for the House of Delegates and Resident Commissioner neared, the extra-legal violence intensified, until Federales faced nearly daily attacks in and around San Juan. Finally, in early November, Muñoz and the Federales decided to withdraw from the elections, citing “lack of protection for our right to vote and the manifest partiality of the council in favor of the Republican[o] Party.” Two days later, Republicanos ran unopposed in November 6 elections, sweeping the House of Delegates and electing Degetau Resident Commissioner. Within days, Degetau had left for Washington to fulfill his campaign promise to win U.S. citizenship for all islanders. Soon thereafter, Muñoz joined him on the mainland in self-imposed exile.⁷⁷

New Labor: Santiago Iglesias Seeks Mainland Allies and U.S. Protection

Santiago Iglesias embraced U.S. rule from the outset. He perceived its potential to alter political and economic relations between island workers, local elites, metropolitan officials, and U.S. capital. He could observe that under U.S. rule island political leader Luis Muñoz and his partisans lost much of the political power they had been on the verge of locking up in mid-1898. Similarly, U.S. capital followed U.S. troops into the island. Admittedly unfamiliar with many facets of U.S. politics, government, and organized labor, Iglesias took an experimental approach to his new circumstances. He explored mainland alliances, formulated and revised arguments around U.S. rule, and sought

⁷⁷ Cabán, *Constructing a Colonial People*, 168 (quoting U.S. Department of State, *First Annual Report of the Governor of Porto Rico* (Washington D.C.: Government Printing Office, 1901), 47); Negrón-Portillo, *Las turbas republicanas*, 81, 87, 93, 108-109, 127-132, 138-139, 158-199; Iglesias, *Luchas Emancipadoras*, 197, 177-178, 188; Eileen J. Suarez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920* (Durham, N.C.: Duke University Press, 2000); Córdova, *Resident Commissioner*, 93; Bayrón Toro, *Elecciones y partidos políticos*, 115-116; “Porto Rican Delegate,” *Indianapolis Journal*, 3 Dec. 1900, available at CIHCAM 12/L2; “Topics of the Times,” *New York Times*, 17 Apr. 1902, 8.

opportunities to take advantage of U.S. protection and promises of freedoms of citizenship.⁷⁸

Iglesias's first opportunities came early. Shortly before the U.S. invasion Iglesias had learned of orders to arrest him that he presumed were Muñoz's doing. Captured while seeking to flee to the United States, he had been jailed by Spanish colonial officials who viewed him as a danger to a state on the brink of war. His release came five months later, on October 5, 1898, as part of a U.S.-initiated policy toward political prisoners. When a police inspector close to Muñoz immediately sought to re-arrest Iglesias, Iglesias sought protection from U.S. troops. Those troops, he remembered years later, told him, "Now you don't have anything to fear; the American flag protects you[;] . . . consider yourself a free citizen." Two weeks later, on October 20, Iglesias founded the Federación Regional de los Trabajadores de Puerto Rico to organize, represent, and advocate for island workers. Three days after that he launched the newspaper *Porvenir Social*, an organ of the Federación Regional that published American and European writings on labor organizing, economic battles, and socialism. By October 25, he had organized artisans and workingmen to petition for his appointment as a San Juan councilman. And at the end of the month, a large assembly of labor representatives supplemented their economic demands by declaring, "we are annexationists"; "the institutions of the

⁷⁸ Ayala, *American Sugar Kingdom*; Cesar J. Ayala and Laird W. Bergad, "Rural Puerto Rico in the Early Twentieth Century Reconsidered: Land and Society, 1899-1915," *Latin American Research Review* 37, no. 2 (2002): 221; Laird W. Bergad, "Agrarian History of Puerto Rico, 1870-1930," *Latin American Research Review* 13, no. 3 (1978): 73-74; Sidney W. Mintz, "The Culture History of a Puerto Rican Sugar Cane Plantation: 1876-1949," *Hispanic American Historical Review* 33 (May 1953): 229; Stuart B. Schwartz, "The Hurricane of San Ciriaco: Disaster, Politics, and Society in Puerto Rico, 1899-1901," *Hispanic American Historical Review* 72 (Aug. 1992): 324-325. On social organizing, legal and political change, and experimentation, see Mark Tushnet, *The NAACP's Legal Strategy against Segregated Education, 1925-1950* (Chapel Hill: University of North Carolina Press, 1987); Steven Michael Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton, N.J.: Princeton University Press, 2008).

American Republic should be planted in our Island for the good of the *pueblo*.”⁷⁹

Having regained a measure of space in which to maneuver, Iglesias turned to forging alliances. One opportunity came from Federico Degetau’s Republicanos, newly ascendant over Iglesias’s former adversary, Muñoz. When Degetau and his co-partisans met with Iglesias and the Federación Regional in mid-1899 to propose an alliance, however, a combination of self-interest and his expressed desire to keep labor independent of partisanship led Iglesias to demur. Other members embraced the chance to acquire electorally powerful allies. As the white Spaniard Iglesias later acknowledged, “[t]hat Dr. Barbosa [the leader of the Republicanos] was a prominent member of the race of color, and that many workers of all kinds were of the same race that society was prejudiced against, complicated my situation greatly.” When a fractious, chaotic labor meeting followed, Iglesias and his allies abandoned the Federación Regional to Degetau and his allies, forming the Federación de Trabajadores Libres in its stead.⁸⁰

Seeing mainland labor organizations as other potential allies, Iglesias and his colleagues resolved to reach out to the U.S. Socialist Labor Party and the American Federation of Labor. Socialist Party leaders saw U.S. annexation of hundreds of thousands of workingmen as an opportunity to grow. Within days of promulgation of the Treaty of Paris, they wrote Iglesias with information, sought links with socialists in Puerto Rico, and solicited an article from Iglesias for their organ, *The People*. Later that

⁷⁹ Iglesias, *Luchas emancipadoras*, 83 (quote 1 (Ahora no tiene usted nada que temer; el pabellón Americano le ampara[;] . . . puede considerarse un ciudadano libre”)), 96 (quotes 2-3 (“somos anexionistas”; “las instituciones de la República Americana deben implantarse en nuestra Isla para bien del pueblo”)), 62-72, 77-78, 82, 88, 92-93, 95; Document, 25 Oct. 1898, AG/DE/SPR/COS/RC/1, C.F.276, D.P.1898; Córdova, *Resident Commissioner*, 59; “The President’s Message,” *New York Times*, 12 Apr. 1898, 1.

⁸⁰ Iglesias, *Luchas Emancipadoras*, 59 (“La circunstancia de ser el Dr. Barbosa un miembro prominente de la raza de color, y de ser un gran número de obreros de todos los oficios procedentes de la misma raza perjudiciada en la sociedad, complicaba mucho más mi situación, haciéndola dudosa y delicada”), 117-122.

year, Iglesias provided the requested article, and the political wing of the Federación Libre formally aligned with mainland socialists. By contrast, the American Federation of Labor vilified U.S. expansion as a threat. In late 1899, protesting “against the forcible annexation to this country of . . . Porto Rico” rather than for better U.S. rule there, the Federation described Puerto Ricans being “deprived of the right of self-government” as putting “our [mainlanders’] political rights . . . in jeopardy.” Earlier, Federation President Samuel Gompers, had linked Puerto Rico to what he perceived to be the racial threat of the Philippines when, in opposing annexation of both, he had asked, “If the Philippines are annexed what is to prevent” “hordes of Chinese and the semi-savage races” of “the negritos and Malays from coming to our country [and] . . . engulfing our people and our civilization?”⁸¹

During a trip to New York hosted by mainland socialists in the first quarter of 1900, Iglesias saw benefits from associating with their party. At numerous socialist events he discovered an inclusive organization of male and female workers of Russian, German, Italian, Polish, French, Austrian, and Spanish descent; he heard speeches in German, Spanish, and English; and he saw an embrace of Puerto Rican unions. He also observed that U.S. socialists held banquets, used large meeting halls, and counted lawyers, doctors, writers, and journalists as members, indicating resources that outstripped those of the Federación Libre.⁸²

While there, he also gained access to mainland audiences. On March 8, for

⁸¹ *Report of Proceedings of the 19th Annual Convention of the American Federation of Labor Held at Detroit, Michigan, December 11th to 20th Inclusive, 1899* (James H. Stone & Co, 1899), 148-150 (quotes 1-3); “Samuel Gompers Is Hissed,” *Chicago Daily Tribune*, 19 Oct. 1898, 4 (quotes 4-5); “Chicago Peace Jubilee,” *New York Times*, 19 Oct. 1898, 3; Iglesias, *Luchas Emancipadoras*, 94, 113, 126, 162-164.

⁸² Iglesias, *Luchas Emancipadoras*, 136-139, 144-149, 165-166; Eddie Gonzalez and Lois Gray, “Puerto Ricans, Politics, and Labor Activism,” in *Puerto Rican Politics in Urban America*, ed. James Jennings and Monte Rivera (Westport, Colo.: Greenwood Press, 1984), 117 (citing Vega, *Memoirs*).

example, Iglesias tested his arguments before 6,000 workers and reporters at a socialist meeting at the Cooper Union hall that had previously been a forum for Cuban revolutionary activities. Stressing Puerto Rican workers' need for U.S. protection, he characterized U.S. rule in Puerto Rico as an interrupted journey from slavery to freedom. "[F]or four centuries, the privileged were the owners of lives and haciendas," he told listeners, and workers were "treated like servants." Even before "President McKinley . . . told Congress and the world: 'THAT IN THE NAME OF HUMANITY AND LIBERTY, I INTERVENED IN THE SPANISH COLONIES,'" "they [Puerto Ricans] accept[ed] with jubilation the DEMOCRATIC AMERICAN INSTITUTIONS." Problems, he related, arose due to "a privileged class of the republic" and "capitalist designs" aiming to create a "new slavery." The U.S. people, he contended, should not let the "ignorance," "humility and submission" of island laborers lead those laborers to "work nearly for free and be political slaves." Rather they should "loan their cooperation and protection" to Puerto Rico "until it has been elevated to a level of economic and political life like that in modest U.S. states." When Iglesias finished, the audience adopted a protest resolution that they telegraphed to President McKinley. Afterward, the socialist paper *The Worker* quoted Iglesias at length and the *New York Tribune* described Puerto Rican workers' claims of mistreatment, over-taxation, and disfranchisement to its broader audience.⁸³

The first major test of whether Iglesias could find space for labor activism under

⁸³ Iglesias, *Luchas Emancipadoras*, 146-149 (quotes ("por espacio de cuatro siglos, fueron todos los privilegiados dueños de vidas y haciendas"; "Presidente McKinley, quien había dicho en el Congreso de Washington y al mundo entero: 'QUE EN NOMBRE DE LA HUMANIDAD Y LA LIBERTAD, INTERVENIA [sic] EN LAS COLONIAS ESPAÑOLAS"; "ellos aceptan con júbilo las INSTITUCIONES DEMOCRATICAS AMERICANAS"; "una clase privilegiada de la República"; "designios capitalistas"; "nueva esclavitud"; "ignorancia"; "humildad y sumisión"; "trabajen casi gratis los obreros puertorriqueños y sean esclavos políticos"; "prestarle su cooperación y protección, hasta elevarlo al nivel de vida económica y política similar a cualquiera de las comunidades más modestas de los Estados de la Unión")), 144-145, 150, 155; López Mesa, *La comunidad cubana*, 25, 101-102.

U.S. rule and through recourse to mainland socialist allies came shortly after implementation of the exchange rate in the Foraker Act lowered workers' real wages. Employers implemented the exchange rate set by the Act by paying workers \$0.60 for each peso previously earned. Merchants did not, charging \$1.00 for goods that had previously cost one peso. Iglesias had few resources with which to respond. Though island labor leaders claimed to be translating documents from the mainland socialists for publication in the local labor press and anticipating organization of a socialist party throughout the island, Puerto Rican organized labor remained institutionally weak. As the *San Juan News* wrote, "Labor in Puerto Rico is not well enough organized to accomplish[] anything by strikes" because "a strikers' reserve fund is unknown among the local labor unions, and as the men live practically from hand to mouth, they cannot stay out over a day or so." Nonetheless, in early July Iglesias and fellow labor leaders planned a general strike centered in San Juan to target initially construction and municipal and insular works. On August 1, after employers denied workers' written demands, the strike began. As Iglesias recalled, their efforts paralyzed private and government works and municipal and military workshops.⁸⁴

For several weeks the strike occasioned official repression and party competition. For Degetau's Republicanos, it was a threat. A successful strike would raise Iglesias's standing; laborers would join the Federación Libre and might leave the Republicano-aligned Federación Regional; and Republicano vote totals could fall. San Juan officials, led by their Republicano mayor, thus repressed the strike. On August 2, the *San Juan News* sided with city officials, reporting that "notorious Socialist" Iglesias and some

⁸⁴ "Labor Leader Was Jailed," *San Juan News*, 2 Aug. 1900, 1, available at AG/OG/CG/disturbios, #11709, cuatro copias del periódico *San Juan News* 1900-1902, caja de procedencia 233 (quotes); Iglesias, *Luchas Emancipadoras*, 167-169, 173-174; Córdova, *Resident Commissioner*, 79.

colleagues had been arrested, but that it was “not probable that any of the strikes will assume any seriousness” “on account of the number of troops” available. Iglesias protested to the mayor that police had provoked strikers in order to arrest them, then arrested him for not rising to the bait. Those charged to protect public order and safety, he declared, had committed “acts [that] were truly cowardly and beneath the dignity of civilized men.” Repression continued. Within days, twenty-seven strikers and strike leaders had been arrested. Though eventually released pending a trial scheduled for early September, Iglesias was charged with criminal conspiracy.⁸⁵

During this period, Muñoz’s Federales and mainland socialists lent Iglesias some support. Federales shared Iglesias’s antipathy for Republicanos and criticized what they described as repression of strikers by Republicano officials. On August 5, for example, Muñoz’s paper *El Diario* reported that Degetau had overstepped the bounds of what even his U.S. allies would permit: “At 9:45 a municipal hygiene attendant passed through la Cruz street, exchanged words with a building worker, and in the presence of the mayor and Federico Degetau, set out to arrest him. Some Americans stepped in because they observed that this was unjust.” On August 22, Iglesias wrote to workers and socialist journals in New York about difficulties on the island. He subsequently reported that the association between Puerto Rican workers and such extra-island organizations helped Puerto Rican organized labor survive the oppression of the period. Some San Juan strikers, Iglesias also later reported, won gains.⁸⁶

⁸⁵ “Labor Leader Was Jailed.” (quotes 1-2); Iglesias, *Luchas Emancipadoras*, 189 (quote 3 (“actos resultan verdaderamente cobardes e indignos de hombres civilizados”)), 187-188, 193.

⁸⁶ Iglesias, *Luchas Emancipadoras*, 187 (“A las 10 menos cuarto pasó un celador de higiene municipal por la calle de la Cruz, tuvo algunas palabras con un albañil, y a presencia del Sr. Alcalde y de Don Federico Degetau, dispuso autoritariamente que se le arrestase. Varios americanos lo impidieron, porque observaron era una injusticia.”), 167, 191, 197.

During and after these months the Federación Libre faced extralegal violence from the largely poor San Juan residents who supported Republicanos and the Federación Regional and who engaged in anti-Federal violence too. These assailants fought members of the Federación Libre during the strikes, and, Iglesias reported, attacked him thrice following his release from prison pending trial. Lacking civil rights necessary for labor activism, blacklisted from many workshops, and vulnerable to vigilante violence, Iglesias left San Juan for New York in late September. Finding work and lodging with socialist friends there and uncertain if he would return to Puerto Rico, he joined a local union and began publishing articles in the mainland labor press. His first attempt to use U.S. rule and a mainland ally to advance his standing and the cause of organized labor in Puerto Rico had failed.⁸⁷

The range of potential consequences of the U.S. invasion of Puerto Rico for U.S. law, Puerto Rican status and self-government, and island leaders narrowed sharply between 1898 and 1900. In 1898, many Puerto Rican leaders, military officials, and mainland commentators predicted wholesale extension of the U.S. constitutional order to Puerto Rico, including self-government, liberal U.S. institutions, U.S. citizenship, full constitutional protections, and eventual statehood. Others on the mainland envisaged a U.S. empire unencumbered by a constitutional requirement to provide Puerto Ricans any of these advantages. By late 1900 War Department policies, unsuccessful claims by Puerto Ricans, actions by U.S. officials in Puerto Rico, and the Foraker Act had dashed

⁸⁷ Negrón-Portillo, *Las turbas republicanas*, 81, 87, 93, 108-109, 127-130, 138-139; Iglesias, *Luchas Emancipadoras*, 197, 177-178, 188, 198-199; William George Whittaker, "The Santiago Iglesias Case, 1901-1902: Origins of American Trade Union Involvement in Puerto Rico," *The Americas* 24 (Apr. 1968): 378; Córdova, *Resident Commissioner*, 80; "Bail Sent to Iglesias," *Washington Post*, 11 Nov. 1901, 5.

Puerto Rican hopes for immediate self-government. They had also revealed U.S. officials and lawmakers who repeatedly faced and failed to definitively resolve narrower and narrower questions concerning Puerto Rican status. It thus appeared that the United States would not make a single choice between Constitution and empire but instead try to navigate their competing demands case by case. Labor leader Santiago Iglesias and political leader Luis Muñoz Rivera were victims of this shift. After enthusiastically claiming rights as “a free citizen” and building an alliance with mainland associates, Iglesias found neither sufficient to win him adequate state protection during strikes. Muñoz, who consistently demanded that the United States immediately fulfill in Puerto Rico its ideals of self-government, found himself progressively driven from power.

For others, the fracturing of broad questions of Constitution and empire created opportunities. Degetau won the highest elected office available in Puerto Rico by joining the War Department and Congress in seeing the U.S. citizenship status of Puerto Ricans as a bellwether for their rights under the Constitution and for the status of their island under that document and in U.S. policy. Muñoz’s vocal failures to win gains from U.S. officials and ongoing transformation of broad status questions into multiple, increasingly technical and legalistic ones played to Degetau’s strengths as a prominent lawyer, intellectual, and student of the United States. Similarly, the Coudert Brothers law firm identified remunerative litigation opportunities in challenging the statutory and constitutional validity of tariffs on island-mainland shipments. Thus, as Puerto Ricans and U.S. officials broke overarching concerns about the meaning of U.S. expansion into specific questions about policy and status and then selected some for special attention, they reshaped and narrowed debate around discrete matters that claimants could press the

state to clarify and resolve.

CHAPTER 3

MAKING ALLIES, MAKING CLAIMS: ISLAND LEADERS ON THE MAINLAND, 1900-1902

In 1901, Republicanos, the Federación Libre, and Federales each had a top leader newly settled on the mainland. Given the differing circumstances under which Federico Degetau, Santiago Iglesias, and Luis Muñoz Rivera had left Puerto Rico, these men approached mainland interlocutors in different ways and for different ends. Degetau sought U.S. citizenship for Puerto Ricans, traditional U.S. territorial status for Puerto Rico, and full inclusion of both in the U.S. constitutional order as a proof and consequence of Puerto Ricans' meriting equal treatment as whites with full membership in the U.S. nation. Having become Resident Commissioner on promises of securing these ends and enjoying good relations with presidential appointees on the island, he aimed to use his position within the U.S. government to win immediate progress on his favored causes from federal agencies, political branches, and courts. By contrast, with presidential appointees in Puerto Rico, local courts, the Republicano majority, a rival labor organization, the leading island newspaper, and large employers all aligned against him, Santiago Iglesias sought a non-governmental ally on the mainland to offer him and his Federación the protection that U.S. Socialists had failed to provide. The most promising candidate was the large, powerful, and growing American Federation of Labor,

which had learned the benefits of federal lobbying and drawing on strands of U.S. law helpful to the labor cause. Luis Muñoz Rivera used oppositional tactics to highlight injustices and seek eventually to change the orientation of the U.S. political branches and courts toward Puerto Rico. As leader of a minority party that presidential appointees in Puerto Rico disfavored, Muñoz both lacked legitimacy when speaking to mainlanders on behalf of his island and had comparatively little access to island patronage networks. With consequently fewer responsibilities than Degetau or Iglesias to govern Puerto Rico or its leading labor movement, he and his co-partisans focused on courting potential constituents.

These men's struggles occurred amidst shifting U.S.-Puerto Rican relations involving dynamics in which they sometimes played only a small role. In the 1900 U.S. presidential election, for instance, the question of the U.S. relationship to its new acquisition had been a central issue. Embracing anti-imperialism, William Jennings Bryan had stated in accepting the Democratic nomination for President that the "forcible annexation of territory to be governed by arbitrary power differs as much from the acquisition of territory to be built up into states as a monarchy differs from a democracy." After McKinley had decisively won reelection, Anti-Imperialists turned their eyes from the polls to the courts, especially the series of tariff and fee disputes that came to be known as the *Insular Cases*. So too did Puerto Ricans.⁸⁸

⁸⁸ "Mr. Bryan's Speech of Acceptance," *New York Times*, 9 Aug. 1900, 8; Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence: University Press of Kansas, 2006), 108; José Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans* (New Haven, Conn.: Yale University Press, 1979), 1-6, 18-44.

“The very vagueness . . . was valuable”

In early 1901, facing seven *Insular Cases* concerning the relationship of Puerto Rico to the United States, the Supreme Court appeared poised to reshape the juridical landscape of U.S. empire. Two of these cases, *DeLima v. Bidwell* (1901) and *Downes v. Bidwell* (1901), presented the issues of whether Puerto Rico was “foreign,” hence subject to existing tariff laws, or a part of the “United States” within which the Constitution demanded tariff uniformity.⁸⁹

The driving force behind *DeLima* and *Downes* was the Coudert Brothers law firm. The firm had been founded in the 1850s by the three sons of Charles Coudert, a Frenchman who had fled to the United States in the 1820s to escape capital charges for participation in a conspiracy against the French state involving the revolutionary hero the Marquis de Lafayette and Napoleon Bonaparte’s son. As the law firm became a leader in international law in the latter 19th century, one founding brother, Frederic Coudert Sr., was twice offered Supreme Court posts. By 1900 his twenty-nine-year-old son Frederic Coudert, a veteran of the U.S. invasion of Puerto Rico, was the lead oral litigator at the firm. On January 8-9 the junior Coudert made front-page news with his arguments before the Supreme Court in *Downes* and *Bidwell*.⁹⁰

In proposing judicial responses to U.S. empire, Coudert and his adversaries, U.S.

⁸⁹ *Downes v. Bidwell*, 182 U.S. 244 (1901); *DeLima v. Bidwell*, 182 U.S. 1 (1901). Three cases were already pending before the High Court when Degetau reached New York. Motion to Advance, no. 340, *Goetze v. United States*, 182 U.S. 221 (1901); Motion to Advance, No. 158, *Fourteen Diamond Rings v. United States*, 183 U.S. 176 (1901); see also Chapter 2, above, note 54 and accompanying text. Four additional *Insular Cases* joined the docket of the Supreme Court in December. Transcript of Record, no. 509, *Armstrong v. United States*, 182 U.S. 243 (1901), 8; Transcript of Record, No. 514, *Huus v. New York & Porto Rico S.S. Co.*, 182 U.S. 392 (1901), 2-3; Transcript of Record, No. 501, *Dooley v. United States*, 183 U.S. 151 (1901), 14-15; Transcript of Record, No. 507, *Downes*, 182 U.S. 244 (1901).

⁹⁰ Sparrow, *The Insular Cases*, 80; *DeLima*, 182 U.S. 1 (1901); *Downes*, 182 U.S. 244 (1901); Virginia Kays Veenswijk, *Coudert Brothers: A Legacy in Law: The History of America’s First International Law Firm, 1853-1993* (New York: Truman Talley Books/Dutton, 1994), 4-12, 17-20, 26, 80-81, 90-93, 97-98, 108-109, 111, 116, 123-125, 149-150, 435; see also, e.g., “Locating Porto Rico,” *Los Angeles Times*, 10 Jan. 1901, 1; “Status of Porto Rico,” *New York Times*, 9 Jan. 1901, 7.

Attorney General John Griggs and U.S. Solicitor General John Richards, agreed that meanings of terms like “foreign” and “United States” varied by context. Coudert focused on the Uniformity Clause, arguing that “United States” should there be read to make the clause “apply throughout all [U.S.] territory regardless of whether it was a State or whether it was Territory of the United States.” In reply, Griggs contended that Puerto Rico was U.S. territory under international law but remained foreign under the U.S. Constitution. Richards further deconstructed the term “United States”—giving it different meanings for purposes of sovereignty, the Constitution, legislation, and international matters—and concluding that its constitutional sense did not encompass Puerto Rico. In support of these positions, the government attorneys drew precedents from throughout U.S. history, including many involving prior U.S. expansions and U.S. treatments of slaves and their descendants, Chinese, American Indians, annexed populations, women, and children. Though many of these peoples were U.S. citizens who held limited rights, Griggs rejected equating allegiance with naturalization by depicting U.S. citizenship in robust terms. “Suppose a cession of a small island with a half dozen inhabitants [to be used] solely as a fort,” he stated; “must the United States . . . accept them as citizens?” Doing so, he implied, would handicap the U.S. right to acquire territory.⁹¹

Griggs’s anti-citizenship stand reflected the potential importance of the issue to the cases at hand. “[I]f the inhabitants of these islands are citizens of the United States,” Coudert argued, “it would be admitted that the islands themselves were part of the United States.” To make the implications of his position more palatable, Coudert portrayed U.S.

⁹¹ Transcript of Record, no. 456, *DeLima*, 182 U.S. 1 (1901), 5 (quote 1); Brief for Plaintiff in Error, *Downes*, 2 (quote 2); Opening Argument of Mr. Coudert for Plaintiff in Error, *Downes*, 18 (quote 3); Sparrow, *The Insular Cases*, 46-51, 80-85; Argument of the Attorney General, no. 340, *Goetze v. United States*, 182 U.S. 221 (1901), 73.

citizenship as broadly distributed and of little consequence. Broad distribution did not threaten the U.S. polity, he argued, for though popular opinion equated citizenship with political rights, U.S. law did not. Ignoring the fact that as elite a lawyer as the Attorney General had just implied otherwise, Coudert asserted that legal U.S. citizenship was “passive” or “naked,” synonymous simply with nationality. It encompassed such people lacking political rights as “women, children[,] and all persons in the Territories,” and those who did not meet state literacy requirements for voting. “[E]very person within a given territory,” he asserted, was generally either a “national[i.e., a citizen,]” or an “alien[.]” So too Puerto Ricans. Those born after annexation enjoyed what he described as the 14th Amendment extension of U.S. citizenship to all people “born . . . in the United States and subject to their allegiance.” The international law of cessions made U.S. citizens of Puerto Ricans already on the island in 1898.⁹²

On Coudert’s view, non-U.S.-citizen American Indians and antebellum people of color in the United States proved the rule. Though they occupied intermediate U.S. statuses that made them neither alien to nor citizens of the United States, he contended that the peculiar reasons for their status bolstered his case. Indians, he claimed, were not U.S. citizens because they owed allegiance to tribal political communities rather than to the United States; place of birth was irrelevant, because those born on Indian lands but not into tribal allegiance were U.S. citizens under the 14th Amendment. Here, in fact, was a potential way to placate those like Democratic Senator Donelson Caffery of Louisiana, who worried that Filipinos “incapable of reaching our standard of government or civilization . . . might inoculate our citizenship with the poison of theirs.” As Coudert

⁹² Brief for Plaintiffs in Error, *Downes*, 92 (quote 3), 88 (quote 4), 83 (quotes 6-8), 84 (quote 9), 82, 85-91, 93; Opening Argument of Mr. Coudert for Plaintiff in Error, *Downes*, 9, (quotes 1-2), 41 (quote 5), 42.

explained, the United States could class “uncivilized” Filipinos with American Indians for constitutional purposes. By treating them as owing an allegiance to their local leaders that would remove them from full U.S. sovereignty, the United States could also remove them from the 14th Amendment stricture that “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States.” The choice then, Degetau argued, was not between U.S. citizenship and alienage for Filipinos but between two forms of Filipino non-citizenship: quasi-tribal status or something else.⁹³

In advocating the former, Coudert reminded the Court of the antebellum people of color who had become noncitizens of the United States via the Dred Scott case. There Chief Justice Roger Taney had stressed their being “*capable of being made property*.” Even free people of color, Coudert related, had been “under the Constitution, . . . something different and apart from the rest of humanity,” “something . . . in the domain of natural history or zoology, . . . like a horse or a dog,” “half man, half beast.” Like conquered peoples of yore, he explained, they could in some instances be reduced to property under state law and thus subjected without being naturalized. But, he argued, Puerto Ricans should not “occupy that *debased* position.” In any case, such “views have been repudiated by the American people in the Civil War, by three amendments to the Constitution of the United States, by this court, and by forty years of advancing civilization.”⁹⁴

⁹³ “Caffery on the Philippines,” *New York Times*, 7 Feb. 1900, 5 (quote 1); Am. 14, sec. 1, U.S. Const. (quote 2); Opening Argument of Mr. Coudert for Plaintiff in Error, *Downes*, 42-44; Brief for Plaintiffs in Error, *Downes*, 78-99.

⁹⁴ Brief for Plaintiffs, *Downes*, 95 (quote 2), 84 (quote 4), 99 (quote 6), 78-98; Opening Argument, *Downes*, 43 (quotes 1, 3, 5), 42, 44; cf. Argument of the Attorney General, *Goetze*, 73-77. On re-enslavement in the antebellum U.S. South, see Ira Berlin, *Slaves without Masters: The Free Negro in the Antebellum South* (New York: The New Press, 1974), 370-380, *passim*.

Shortly after disembarking in New York on December 1, 1900, Puerto Rico's first elected representative in the United States, Federico Degetau, had hurried to Washington to hear arguments in the *Insular Cases*. Once there, he observed that U.S. political branches were loath to act pending that judicial resolution, and so focused on other levers of power: the administrative state and mainland media. Aware that agencies had great authority in domains like federal employment, international relations, immigration, and colonial governance and that courts, political branches, and agencies often gave administrative decisions precedential value, Degetau launched claims involving citizenship before them. In Washington, Degetau also got a closer look at a U.S. empire-state rooted in the construction and enforcement of distinctions based on "racial" difference. In Puerto Rico he had portrayed lines between purportedly inferior peoples—Chinese, Filipinos, blacks, and American Indians—and Puerto Ricans as sharp and natural. But race was more socially constructed than he acknowledged. He now saw how public opinion cast islanders as a racially inferior, dependent people by stressing their African, native, and southern-European heritages. In a media campaign like the one he had conducted in Puerto Rico, he made arguments drawing on languages of race, masculinity, citizenship, honor, and domesticity in newspapers and before academic audiences. The challenge was to highlight the paternal respectability of Puerto Ricans like himself without drawing undue attention to potential "racial" characterizations of the social dependents who were to be the objects of elites' benevolence.⁹⁵

⁹⁵ "Views of Porto Rico's Delegate," *Washington Post*, 3 Dec. 1900, 1; Draft, [Federico Degetau] to Manuel Rossey, 18 Jan. 1901, CIHCAM 2/VI/11; Federico Degetau to Manuel Rossey et al., 8 Dec. 1900, CIHCAM 2/V/12; Federico Degetau to Manuel Rossey, 4 Jan. 1901, CIHCAM 2/VI/2; Ariela J. Gross, *What Blood Won't Tell: A History of Race on Trial in America* (Cambridge, Mass.: Harvard University Press, 2008); "American Life Split into Parts," *Bulletin of Philadelphia*, 19 Dec. 1900, available at CIHCAM 22/L2.

While the Supreme Court deliberated on Coudert's argument, Degetau portrayed Puerto Ricans to mainlanders as a patriotic U.S. people seeking traditional U.S. status. Despite former Spanish ties, he told reporters, islanders were "naturally Americans" for whom "no more fortunate thing could have happened" than annexation. They sought eventual U.S. statehood and, in the interim, like U.S. citizens in other territories, "a territorial form of government" like that "of Arizona, Indian Territory, Oklahoma." Puerto Ricans did not want a unique status "that can be designated as a difference between the United States and Porto Rico"; they advocated application of the U.S. Constitution to them and, like residents of other territories, planned to finance their governments through self-taxation.⁹⁶

Degetau sought to exemplify the admiration for and integration into U.S. life that he attributed to Puerto Ricans, a task made easier by his relocation to Washington. At a distance from island arguments over *patria* and regional-cultural Latin pride he could tell a reporter that he "object[ed] to the Spanish appellation, 'Senor [sic]'" without derailing his political career. He also told newspapers, one of which found him "quite at ease in the use of the English language," that he planned to study English further and believed the U.S. constitutional system to be ideal. Blurring his earlier advocacy of a Spanish republic, his subsequent leadership of island Republicanos, and his current support for the U.S. national Republican Party, he asserted that "I have always been a Republican in politics." The self-portrayal worked. Newspapers, federal officials, businessmen, and academics treated him as important, capable, and worthy of attention. He addressed an

⁹⁶ "Porto Rican Delegate," *Indianapolis Journal*, 3 Dec. 1900, available at CIHCAM 12/L2 (quote 1); "Something about the First Porto Rican Delegate to the United States," *North American*, 6 Dec. 1900, available at CIHCAM 12/L2 (quote 2); "Porto Ricans Improving," *New York Times*, 3 Dec. 1900, available at CIHCAM 12/L2 (quotes 3-4); "American Life Split into Parts" (quote 5).

academic society, secured favorable coverage from and the opportunity to write in newspapers, and won a warm reception among Wall Street officials. Federal officials who welcomed Degetau included the President, Congressmen, and agency heads.⁹⁷

Despite these warm personal receptions, many and often the same mainlanders held opinions of Puerto Ricans that Degetau termed “much more negative than the worst ideas we had heard or imagined.” He learned that in correspondence and publications, mainlanders used racial, imperial, and gender analogies to deprecate Puerto Ricans and Spanish Antilleans as uncivilized, uncultured, or politically inept. For one author, the U.S. Reconstruction-era “experience with the colored man” illustrated “the danger of conferring too many privileges on” “Porto Rico.” Another labeled Degetau’s constituents “only 85 percent Americans,” albeit preferable to the “fifty percent citizens” in the Philippines. Editorial cartoonists cast islanders as children and defenseless women, travel writers depicted them in ways that deprecated their “culture and state of civilization,” and the *New York Times* announced that “Porto Ricans have a great deal to learn about the drafting of laws.” Because support from framers of the Foraker Act would be the surest way to reform it, Degetau added, congressmen’s “ignorance” and concomitant belief that the law treated islanders justly “ma[de] our political labor here hard.”⁹⁸

⁹⁷ “American Life Split into Parts” (quotes 1-2); “Something about” (quote 3); Joseph Miller to Frederick Degetau, 16 Jan. 1901, CIHCAM 2/VI/9; “Statehood Their Aim,” *Washington Post*, 15 Dec. 1900, available at CIHCAM 12/L2; “Porto Rican Delegate”; Samuel Lindsay to Frederico Degetau, 4 Dec. 1900, CIHCAM 2/V/8; Samuel Lindsay to Frederico Degetau, 5 Dec. 1900, CIHCAM 2/V/10; Degetau to Rossy et al., 8 Dec. 1900; George Morgan to Frederic Degetau, 17 Jan. 1901, CIHCAM 2/VI/10; Federico Degetau, “The Porto Ricans as Soldiers and as Legislators,” *Philadelphia Record*, 23 May 1901, available at CIHCAM 12/L2; “Porto Rico Delegate’s Status,” *New York Evening Post*, 7 Dec. 1900, available at CIHCAM 12/L2; Federico Degetau to Manuel Rossy et al., 14 Dec. 1900, CIHCAM 2/V/17; Degetau to Rossy, 4 Jan. 1901; Degetau to Rossy, 18 Jan. 1901; Draft, Federico Degetau to [Charles Allen?], n.d., CIHCAM 2/VII/62; Draft, [Federico Degetau] to Manuel Rossy et al., 1 Mar. 1901, CIHCAM 2/VIII/66; J.B. Foraker to Federico Degetau, 25 Apr. 1901, CIHCAM 2/IX/18.

⁹⁸ Degetau to Rossy, 4 Jan. 1901 (quote 1 (“la idea que se tiene del estado de cultura y por consiguiente de aptitudes políticas del país, excede con mucho al que los mas pesimistas entre nosotros haya podido expresar ni suponer que se expresara por otros”)); Title unknown, *Gazette of Taunton*, Mass., 5 Dec. 1900,

“[R]ectifying . . . erroneous evaluations” of islanders by mainlanders, Degetau told Rossy and a co-partisan, was his “foremost duty.” Though mainlanders knew little about Puerto Rico, he wrote, they displayed “sympathy for and interest in our country.” To defend Puerto Rican honor and capacity for and compatibility with U.S. practices, he drew on travel accounts, U.S. constitutional histories, newspapers, and government documents, and he spoke out in public gatherings, the press, and official contexts. Rather than argue that the United States and Puerto shared shortcomings, he described common advances. When Princeton Professor John Finley told the American Academy of Political Sciences that “Porto Rico under native rule will never be developed,” Degetau objected. Depicting Puerto Ricans as the driving force behind the Spanish legislative action, he argued that islanders had abolished slavery voluntarily and peacefully. Under U.S. rule, he added, Puerto Ricans had made “improvement in our judiciary, in our system of education and politics.” Describing islanders and mainlanders as “the blood and flesh of a single body,” he proposed that Puerto Ricans be “[t]reat[ed] as brethren” and, “in return,” be “loving peaceful citizens.”⁹⁹

available at CIHCAM 22/L1 (quotes 2-4); Title unknown, *Register*, [Dec. 1900?], available at CIHCAM 12/L2 (quotes 5-6); Degetau to Rossy et al., 8 Dec. 1900 (quote 7 (“de nuestra cultura y del estado de civilización”), 16-17 (quotes 9-10 (“El desconocimiento que hay sobre nuestro país, y la teoría del ‘precedente’, hacen nuestra labor política aquí difícil”)); “Porto Rican Lawmaking,” *New York Times*, 26 Jan. 1902, 8 (quote 8).

⁹⁹ Degetau to Rossy, 4 Jan. 1901 (quotes 1-2 (“La obra magna de rectificar esa errónea apreciación, entiendo que es mi primer deber”), 6 (“Somos como el cuerpo de un hombre que se tratara de dividir en dos partes; una misma sangre y una misma carne”)); [Federico Degetau] to Luis Sánchez Morales, 15 Mar. 1901, CIHCAM 2/VIII/79 (quote 3 (“simpatías é interés por nuestro país”)); “Porto Rico Glad of Our Friendship,” *Press of Philadelphia*, Pa., 19 Dec. 1900, available at CIHCAM 22/L2 (quotes 4-5, 7-9); Willard Thorp, “The Cleveland-West Correspondence: Record of a Friendship,” *Princeton University Library Chronicle* 31 (winter 1970): 92; see also, e.g., Notes of Federico Degetau, n.d., CIHCAM 2/VIII/82; [Federico Degetau?], reading notes, n.d., CIHCAM 16/L4; Comptroller to Federico Degetau, 8 Aug. 1901, CIHCAM 3/III/53; CR Edwards to Federico Degetau, 10 Aug. 1901, CIHCAM 3/III/57; Charles Magoon to Federico Degetau, 4 Jun. 1902, CIHCAM 3/VI/20; Edward McCauley to Federico Degetau, 23 Apr. 1903, CIHCAM 4/II/151; Edward McCauley to Federico Degetau, 7 May 1903, CIHCAM 4/II/170; O.P. Crustin to [Federico Degetau], 7 Nov. 1903, CIHCAM 4/VI/346; W.H. Moore to Federico Degetau, 1 Jun. 1903, CIHCAM 4/III/200; “What to Do with Porto Rico,” *Philadelphia Public Ledger*, 19 Dec. 1900, available at CIHCAM 22/L2; Lindsay to Degetau, 5 Dec. 1900.

Similarly, in a letter to Puerto Rican Governor Charles Allen about a hearing of the House Committee on Insular Affairs, Degetau described a witness's criticism of the morality of Puerto Rican judges as an attack on both the "honor of the judge" and "my own honor." Fulfilling his "duty," he continued, he "strongly protested to the Chairman."¹⁰⁰

When Degetau observed newspapers make the island legislature "the object of censure and jokes of middling taste," he defended it in a Chicago *Daily Tribune* interview and later relayed that Governor Charles Allen judged island "legislators honest, careful" contributors to a new "[s]tatute book [that] will start without a bad law upon it." "We of Porto Rico," Degetau also told reporters "are not a savage people," having demonstrated no "small degree of civilization" in securing duty-free admission of Spanish-language "scientific, literary and artistic works"; having adapted to the secret ballot better than mainlanders; and often speaking multiple languages. As a Latin people, he added, Puerto Ricans were coauthors of U.S. democracy, for the "Constitution is not exclusively an American product"; it "would not exist had it not been for the principles formulated by Aristotle."¹⁰¹

Degetau also tried to circumvent congressional unwillingness to act on Puerto Rican matters by bringing selected claims involving Puerto Rican status and citizenship before federal agencies. Each time he succeeded in convincing a federal actor to treat Puerto Ricans as U.S. citizens or Puerto Rico as a traditional U.S. territory, he neutralized arguments that the status he sought would hinder federal administration of the newest

¹⁰⁰ Draft, Federico Degetau to Charles Allen, 8 Feb. 1901, CIHAM, 2/VII/35.

¹⁰¹ Degetau to Rossy, 4 Jan. 1901 (quote 1 ("obgeto de censura y de bromas de mediano gusto")); Degetau, "Porto Ricans as Soldiers and as Legislators" (quotes 2-3); "American Life Split into Parts" (quotes 4-6, 8-9); Chapter 1, above, note 59 and accompanying text (quote 7); "Senor Degetau Here," *Evening Star*, 14 Dec. 1900, available at CIHAM 22/L2.

U.S. territories and peoples. Such victories were also precedents that subsequent decision makers might find persuasive. Degetau quickly learned that agencies were most likely to respond to claims involving status if individuals brought them and they did not require definitive resolutions of status questions, as when the Department of Agriculture made available a ration of seeds to Commissioner Degetau comparable to the one that it gave U.S. representatives without deciding whether Puerto Rico had the same status as other territories. A claim involving application of federal civil-service laws to Puerto Ricans illustrated the dynamic. How those laws applied to islanders, Degetau wrote, depended on a view of “the status of a native Porto Rican.” When a U.S. official refused to let a Puerto Rican applicant take the civil-service exam, that applicant brought an individual appeal to the civil-service commission. Eschewing the issue of U.S. citizenship for Puerto Ricans, the commission vindicated the applicant by finding that all who “prove citizenship in Porto Rico” “had such right” to apply.¹⁰²

In January 1901, Degetau sought to combine official responses to individual Puerto Ricans migrating throughout the United States into claims involving the status of all islanders. The migrations at issue dated to 1900 when Hawai‘ian sugar planters who faced tightening labor supply due to Chinese Exclusion had recruited financially distressed Puerto Rican laborers who they had anticipated would not be subject to U.S. immigration laws. Over the next two years they brought more than 5,000 islanders, most signed to labor contracts, through New Orleans to Hawai‘i. U.S. immigration officials did not inspect them. Federal officials at Ellis Island had followed a different policy. On November 24, 1900, Degetau wrote, “Mr. Alfonso Gómez y Stanley, a professor who had

¹⁰² “Citizens of This Country,” *Washington Star*, 1 May 1901, available at CIHCAM 12/L2 (quotes); Degetau to Rossy, 18 Jan. 1901.

acted as U. S. Interpreter at the Paris Exposition . . . was [temporarily] detained at Ellis Island, N. Y., when it was known that he was a Porto Rican, and that he had no money.” Complicating matters further, the New York *Tribune* on December 7, 1900, had reported that a contingent of Puerto Ricans bound for Hawai‘i “claim they were taken . . . under false promises.” Subsequent articles claimed men in Texas with rifles had held those migrants captive, that the migrants had attempted to mutiny on a steamship in Honolulu Harbor after being denied food, and that police had accompanied the migrants from one Hawai‘ian island to another.¹⁰³

In response, Degetau drew on his recent acquaintance with Acting Secretary of State David Hill to put two claims involving the status of Puerto Ricans before the Department of State in late January 1901. After Hill told Degetau that the “private . . . relations between the emigrants and the planters” were beyond his reach, Degetau charged a potential “violation of the fundamental constitutional rights of the Porto Ricans.” Newspapers, he reminded Hill, had reported that migrants in Texas had been “arrested as violators, not of a contract, but of the criminal law” and that police had restored and maintained order on the steamship in Honolulu Harbor. As he later told the Puerto Rican newspaper *La Correspondencia*, these charges suggested that “Puerto

¹⁰³ [Degetau] to Secretary of State, 31 Jan. 1901 (quote 1); Extract, “Contract Laborers from Porto Rico,” *New York Tribune*, 7 Dec. 1900, CIHCAM 2/VI/19 (quote 2); BCSPCEPHC, Folders 14-15: Migration to Hawaii, undated, 1900-1979 (especially Copy, “Seek Porto Ricans for Hawaii Plantation,” *The Pacific Commercial Advertiser*, 2 Aug. 1900); W.O. Smith to Henry Cooper, 22 May 1902, CIHCAM 3/VI/48; Henry Cooper to [State Department?], 27 May 1902, CIHCAM 3/VI/14; Carlo Mario Fraticelli, “A Puerto Rican Poet on the Sugar Plantations of Hawai‘i,” *Centro Journal* 13 (spring 2001): 94; Iris López, “Introduction: Puerto Ricans in Hawai‘i,” *Centro Journal* 13 (spring 2001): 79; [Federico Degetau] to Secretary of State, 31 Jan. 1901, CIHCAM 2/VII/65; Federico Degetau y González, Memorandum in Relation to the American Citizenship of Porto Ricans, CIHCAM 2/VI/19-A; Wayne Patterson, *The Korean Frontier in America: Immigration to Hawaii, 1896-1910* (Honolulu: University of Hawaii Press, 1994), 14; Henry K. Carroll, *Report on the Industrial and Commercial Condition of Porto Rico*, 2d ed. (San Juan, P.R.: Ediciones Puerto, 2005 [1899]), 48-52; Draft, [Federico Degetau] to Secretary of State, [30] Jan. 1901, CIHCAM 2/VI/19; “Puerto Ricans Fight for Food,” page and newspaper unknown, [Jan. 1901?], available at CIHCAM 12/L2; “Mutiny in Honolulu Harbor,” *Washington Post*, 26 Jan. 1901, available at CIHCAM 2/VI/19.

Ricans lacked all political protections, and did not know what type of citizens they were.” Hoping to clarify the citizenship status of Puerto Ricans, Degetau reminded Hill that immigration authorities had subjected Gómez but not the migrants to immigration examinations. Hill could prevent “trouble for the agents of the Government, and for Porto Ricans,” Degetau suggested, by stating when “Puerto Ricans are to be considered as aliens, according to the immigration law, and when they are to be allowed to land as citizens of the United States.”¹⁰⁴

Degetau’s claims produced immediate, limited benefits. Concerning treatment of Puerto Ricans for immigration purposes, Hill noted that there was “no judicial decision in the question.” Immigration officials, he explained, had not informed the State Department before detaining Gómez. The detention, he added, “arose from the lack of knowledge of some [immigration] officer as to the status of Porto Ricans.” The letter strengthened Degetau’s case. It implied that Puerto Ricans were U.S. citizens, conceded that U.S. immigration authorities made an “error” when they applied immigration laws to Puerto Ricans, and implied that it was not an error to let Puerto Ricans under labor contracts pass through the ports of New Orleans and Hawai‘i despite bars on alien-immigrant contract laborers entering the United States. But, as Degetau observed, “[c]oncerning the Administration’s opinion of the status of Porto Ricans nothing was said.” When he invited State to clarify its position, the Department, with no pending claim hinging on the answer, refrained.¹⁰⁵

¹⁰⁴ “Las gestiones de Degetau en defensa de los emigrantes á las islas Hawaii,” *La Correspondencia*, 25 Sep. 1901, available at CIHCAM 12/L2 (quotes 1 (“que dada la índole privada de las relaciones entre los emigrantes y los plantadores”), 4 (“los puertorriqueños carecían de toda protección política, y no se sabía siquiera qué clase de ciudadanos eran”)); Degetau to Secretary of State, [30] Jan. 1901 (quotes 2-3); [Degetau] to Secretary of State, 31 Jan. 1901 (quotes 5-6); Federico Degetau to Manuel Rossy, 1 Feb. 1901, CIHCAM 2/VI/24.

¹⁰⁵ David Hill to Federico Degetau, 16 Feb. 1901, CIHCAM 2/VII/40 (quotes 1-3); Degetau, Memorandum

As to violations of islanders' constitutional rights, Hill ordered and reviewed investigations of events in Texas and Hawai'i. When critics in Puerto Rico charged Degetau with inactivity or ineffectiveness in the face of the alleged mistreatment of the migrants, he could respond that he had addressed the matter and would soon make a public report. Hoping to continue recruiting Puerto Rican laborers, Hawai'ian officials and planters used the investigation to trumpet the benefits of migration. The final report included a statement by the alleged Puerto Rican mutineer affirming his "good choice of having come to this land of Hawaii," reports by ship and police officials justifying their actions and downplaying the alleged mutiny, and a letter from the president of the Planters' Association claiming that the migrants were "all satisfied with the treatment they received in transit." Had Degetau wanted to question the report, he could have noted that all statements in it were made by or before planters and their allies. But Degetau was no radical on labor questions. With a response to potential critics in hand and no further progress on status issues immediately possible on the front, Degetau told the Secretary of State on April 15 that he was glad the charges "were not true."¹⁰⁶

in Relation to the American Citizenship (quote 4); [Federico Degetau] to Secretary of State, 15 Feb. 1901, CIHCAM 2/VII/39. Degetau's arguments offer a wrinkle on Hendrik Hartog's observation that individuals often seek to counter oppressive structures with claims to rights, which they perceive to be durable and achievable. "The Constitution of Aspiration and 'The Rights that Belong to Us All,'" *Journal of American History* 74 (Dec. 1987): 1020-1024. Unlike the claimants whom Hartog describes—who partially cabined the tension inherent in their view of rights as durable and achievable by attacking prior interpretations as misguided and lauding proposed ones as proper—Degetau argued that Puerto Ricans were already U.S. citizens. Ibid.

¹⁰⁶ Baltasar Fortunio to Secretary of the H.S.P.A., 3 Feb. 1901, CIHCAM 2/IX/3 (quote 1); F. A. Schaefer to Sanford Dole, 6 Mar. 1901, CIHCAM 2/IX/3 (quote 2); [Federico Degetau] to Secretary of State, 15 Apr. 1901, CIHCAM 2/IX/13 (quote 3); Hill to Degetau, 16 Feb. 1901; "Las gestiones"; [Degetau] to Secretary of State, 15 Feb. 1901; Federico Degetau, "Replica," *El País*, 16 Feb. 1901; "Mr. Degetau?—Don't Know Him," *San Juan News*, 20 Mar. 1901, available at CIHCAM 12/L2. For newspaper reports of mistreatment of Puerto Ricans, see, e.g., articles collected at BCSPCEPHC, Folder 1: Citizenship and Status, 1899, 1991; BCSPCEPHC, Folders 14-15: Migration to Hawaii, undated, 1900-1979; Copy, "Well Treated Over in Hawaii," *San Juan News*, 8 May 1902, CIHCAM 3/VI/48. On attempts by planters to contest negative accounts of their treatment of Puerto Ricans and the limits of such attempts, see "Planters Growing Disposed to Grant No Assurances Porto Ricans Asked at Indio," *The Examiner* of San Francisco, 16 Dec. 1900, 1; [Federico Degetau] to J. B. Foraker, 15 May 1901, CIHCAM 3/I/19.

As Degetau's inquiries concerning Puerto Rican migrants ran dry in April 1901, he sought to win recognition of his and by extension all Puerto Ricans' U.S. citizenship by gaining admission to the U.S. Supreme Court Bar. Well aware that "the court permits only citizens of the United States before it," he applied on April 29, 1901. The Court, acting summarily, admitted him. Interpreting this victory as judicial rather than administrative, he telegraphed and wrote fellow Republicanos, Puerto Rican newspapers, and the Puerto Rican governor that "[m]y admission . . . fixed my personal Status and that of my constituents as American citizens." Some Puerto Rican newspapers agreed. On April 30, *El País* declared: "Degetau Declared a U.S. citizen." Another article entitled "Puerto Ricans are American Citizens: The Great National Constitution Covers Puerto Rico" declared that because Puerto Ricans had won "before the Supreme Court and the entire world the guarantees and privileges of the American citizen," Puerto Rico held the same status as "other territories like Arizona [and] New Mexico." Many mainland newspapers and lawyers also saw significance in Degetau's admission. The *New York Sun*, *Washington Post*, *New York Evening Post*, and *Washington Star* judged that the Court's decision had "given rise to considerable discussion" "among the lawyers in attendance," while the *Minneapolis Tribune* declared that Degetau's admission had been "taken to mean that the court will hold that the constitution follows the flag." Charles Needham, the Dean of Columbian Law School (today the George Washington University School of Law), told Degetau, "Now I believe that the Constitution is in Puerto Rico." The tariff that the Foraker Act imposed on Puerto Rico, these authorities implied, might soon be struck as violative of the Uniformity Clause.¹⁰⁷

¹⁰⁷ "Admission of Mr. Degetau, *Washington Post*, 1 May 1901, available at CIHCAM 12/L2 (quote 1); [Degetau] to Rossy, 3 May 1901 (quote 2 ("Mi admisión . . . fijaba mi Status personal y el de mis

Degetau also used his admission to the Supreme Court Bar to undermine adversaries in Puerto Rico. Although opposition leader Luis Muñoz was a strong advocate of autonomy, his political allies had decided to sacrifice that principle temporarily to ask the U.S. Congress and President to overturn a January 1901 tax law that Republicanos had helped enact in Puerto Rico. Casting himself as a defender of Puerto Rican self-government, Degetau had opposed these efforts in Washington and written in the Puerto Rican newspapers that the federal political branches had not and legally should not have been receptive to Muñoz’s allies’ entreaties. Despite these and other Republicano arguments, Barbosa told Degetau on May 13, “efforts to respond and shut [the Commission] up were inutile” initially. Only when Degetau entered the Supreme Court bar, he added, did island “opinion completely change[] to our satisfaction.”¹⁰⁸

representados, como ciudadanos americanos.”)); “Grata noticia,” *El País*, 30 Apr. 1901, available at CIHCAM 12/L2 (quote 3 (“Degetau declarado ciudadano E. U.”)); Un Puertorriqueño, “Importante comunicación: los puertorriqueños son ciudadanos americanos: la gran constitución nacional cubre á Puerto-Rico,” newspaper unknown, 10 May 1901, available at CIHCAM 12/L2 (quotes 4-6 (“ante el Tribunal Supremo y por tanto ante el mundo entero, las garantías y los privilegios de los ciudadanos americanos”; “los otros Territorios como Arizona, Nuevo Méjico”), 10 (“Ahora sí que creo que la Constitución está en Puerto Rico”)); “Citizens of This Country” (quote 7); title unknown, *New York Evening Post*, 30 Apr. 1901, available at CIHCAM 18/L1 (quote 8); “Constitution Follows the Flag,” *Minneapolis Tribune*, 1 May 1901, available at CIHCAM 12/L (quote 9); “Conferencia important,” newspaper unknown, 9 Sep 1899, available at CIHCAM 12/L2; Draft, [Federico Degetau] to Manuel Rossy, 3 May 1901, CIHCAM 3/I/4; [Federico Degetau] to Alejandro Besosa, 2 May 1901, CIHCAM 3/I/3; José Barbosa to Federico Degetau, 13 May 1901, CIHCAM 3/I/17; Degetau to Hunt, 2 May 1902, AG/OG/CG/17: Justicia, Ciudadanía, May 1901, 1787; Title unknown, *New York Evening Post*, 30 Apr. 1901, available at CIHCAM 18/L1; “Admission of Mr. Degetau.”

¹⁰⁸ Barbosa to Degetau, 13 May 1901 (quotes (“Inutil eran nuestros esfuerzos para defenderle se callaban”; “cambió la opinión completamente para satisfacción nuestra”)); Federico Degetau, partial draft letter, n.d., CIHCAM 6/V/2; [Federico Degetau] to Manuel Rossy, n.d., in “Carta del comisionado de Puerto-Rico en Washington,” *El País*, 3 May 1901, available at CIHCAM 18/L2; “Ley Hollander será modificado,” *San Juan News*, 23 Mar. 1901, available at CIHCAM 12/L16; Title unknown, *San Juan News*, 23 Mar. 1901, available at CIHCAM 12/L2; Foraker Act, *Statutes at Large* 31 (1900): 77-86, 83-84 (sec. 32); Charles Allen to Federico Degetau, 19 Feb. 1901, CIHCAM 2/VII/46; J.H. Hollander, “Porto Rico Revenue Act,” in *New York State Library Comparative Summary and Index of Legislation*, Bulletin 72, ed. Robert H. Whitten (Mar. 1902) 59-61 (summarizing the Hollander Act, *The Acts and Resolutions of the First Session of the First Legislative Assembly of Porto Rico* (1901), 43); Frank Moore Colby, ed., *The International Year Book: A Compendium of the World’s Progress during the Year 1901* (New York: Dodd, Mead, and Co., 1902), 643 (same); Degetau to [Allen?], n.d.; Draft, [Federico Degetau] to Manuel Rossy, n.d.,

Ten days later, Degetau aimed at mainland opinion, promoting the capacity of Puerto Ricans for citizenship and self-government with a May 23 contribution to the Philadelphia *Inquirer* series “Public Men on Public Questions.” There and in other public writings, Degetau asserted that “Puerto-Rican citizens are prepared by their love of liberty and their worship of justice to face with other American citizens, the responsibilities of solving the problems that we are called upon by Providential decrees to share together.” He also depicted islanders as praiseworthy voters and legislators, then aligned them with rights, ideals, and obligations frequently associated with the citizenship of white men. To do so, Degetau read the current struggles of Puerto Ricans through prior battles around creole political status and Puerto Rican territorial status within the Spanish empire. Drawing on the history that liberal island reformers had memorialized and retold, Degetau depicted Puerto Ricans somewhat contradictorily as both committed, effective advocates for liberties they had not held and as having extensive experience in self-government. Ignoring longstanding indigenous populations, Degetau described Puerto Ricans as “not the youngest Americans, . . . but the oldest Americans,” a people who had had the “despotic and arbitrary” Ponce de León relieved of duty as governor in 1510 and who had gained commercial and political liberties and privileges like those available to Spaniards in Spain by 1512. But it was not until after the U.S. and French revolutions released ideas of liberty that swept beyond their borders, Degetau wrote, that Spain had joined the circum-Atlantic struggle for liberty with what he termed the “noble and glorious” 1812 Constitution that he asserted Puerto Ricans had played a key role in creating. In one context he described a 19th-century Puerto Rico that

CIHCAM 6/V/3; see also Allen to Degetau, 19 Feb. 1901; Degetau to [Allen?], n.d. For President McKinley’s opinion, see Degetau, partial draft letter, n.d.

had been “a province of Spain equal to the other provinces,” that had enjoyed more autonomy than U.S. states, that had sent representatives and senators to the Spanish Cortes, that had long had “practically . . . universal” male suffrage, and in which islanders had held an identical juridical status to that of other Spaniards. Elsewhere he celebrated Baldorioty de Castro, a Puerto Rican liberal leader whom both Republicanos and Federales could claim as a forefather, as having held “‘Yankee ideas’ and ‘democratic tendencies to which the youth, fascinated by the new American school, . . . are irresistibly drawn.’” Degetau recalled that U.S. southerners had fought a bloody war to preserve slavery and that Lincoln had “recommended a gradual abolition with indemnification” into 1863. By contrast, Degetau claimed, Puerto Rican commissioners to Spain in 1866-67 had been inspired by Abraham Lincoln’s claim that “the Declaration of Independence . . . gave liberty . . . to the world for all future time” and had sought “immediate abolition of slavery with indemnification . . . or without it.” In this vein, he emphasized the rights Puerto Ricans had won more recently: representation in the Cortes in 1869; inclusion in the Spanish Constitution in 1876; autonomy in 1897.¹⁰⁹

Degetau sought to use the U.S. invasion to reconcile his stories of Puerto Ricans both enjoying and struggling for liberties. Islanders, he wrote, embraced U.S. rule optimistically, not desperately. Praising the autonomy Puerto Ricans had won the year before, Degetau argued that the Puerto Rican embrace of U.S. troops that left the “few thousand Spaniards . . . practically disarmed,” reflected islanders’ “ardent love of liberty”

¹⁰⁹ Degetau, “Porto Ricans as Soldiers and as Legislators” (quotes 1-2, 5, 7, 9-11); Federico Degetau, *The Political Status of Porto Rico* (Washington, D.C.: Globe Printing Company, 1902), 4-7, 9-15 (quotes 3-4, 8); Jacob H. Hollander, Henry C. Adams, and Federico Degetau, Discussion, *Publications of the American Economic Association*, 3d ser., vol. 3 (Feb. 1902), 347-350 (quote 6); see also “La American Economic Association y el Comisionado Señor Degetau,” *La Correspondencia*, 22 Jan. 1902, available at CIHCAM 18/L1, 15; Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico (1809-1976)* (Mayagüez, P.R.: Editorial Isla, 1977), 47, 11-45.

and not fear of Spanish tyranny. Conversely, he implied, neither Spanish despotism nor U.S. might had ensured U.S. victory in Puerto Rico or vindicated U.S. rule there.¹¹⁰

Aware that mainstream, white, mainland opinion in 1901 condemned Reconstruction-era black voting and office holding, Degetau deemphasized how Puerto Rican home rule would mean voting and office holding by former slaves and their descendants. Though free Puerto Ricans read *Uncle Tom's Cabin* and prayed for slaves, he argued, they ought “to have invoked the mercy of the Lord” “[i]n behalf of the poor unfortunate whites” “[b]ecause the whites were more enslaved by our mo[n]strous crime than our legal victims.” By contrasting “our” to slaves, Degetau associated Puerto Ricans with whiteness, not blackness or slavery. Then judging mastery worse than slavery erased slaves’ voices and experiences, emphasizing the point.¹¹¹

When Degetau sent copies of his article to U.S. congressmen and Vice President Theodore Roosevelt, the replies he received illustrated the success of his arguments with makers of federal colonial policy. Chairman Henry Cooper, for example, wrote: “I was very glad indeed to hear from you The article is a very forceful presentation, and I congratulate the Porto Ricans that they have so eloquent and effective a representative as your self.” These connections and arguments, Degetau anticipated, would facilitate congressional lobbying after the Supreme Court decided the *Insular Cases*.¹¹²

¹¹⁰ [Federico Degetau], Something that the American People Must Know about Porto Rico, CIHCAM 7/I/2. Two drafts of this chapter have been preserved. I draw from both.

¹¹¹ Ibid.; see also Degetau, *Political Status of Porto Rico*, 11; Bayrón Toro, *Elecciones y partidos políticos*, 17-45; José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Conn.: Yale University Press, 1997), 9-10; Luis A. Figueroa, *Sugar, Slavery, and Freedom in Nineteenth-Century Puerto Rico* (Chapel Hill: University of North Carolina Press, 2005), 108-109. On claims by slaves in the Spanish Antilles, see Alejandro de la Fuente, “Slaves and the Creation of Legal Rights in Cuba: Coartación and Papel,” *Hispanic American Historical Review* 87 (Nov. 2007): 659-692; Rebecca J. Scott, *Slave Emancipation in Cuba: The Transition to Free Labor, 1860-1899* (Princeton, N.J.: Princeton University Press, 1985).

¹¹² Henry Cooper to Federico Degetau, 8 Jul. 1901, CIHCAM 3/II/33 (quote); [Federico Degetau] to J.B.

While Degetau pursued claims to U.S. citizenship in early 1901, the Supreme Court deliberated on the opposing arguments that plaintiff’s counsel Frederic Coudert and the U.S. government had presented it in January in the *Insular Cases* of *Downes v. Bidwell* (1901) and *DeLima v. Bidwell* (1901). When the Supreme Court issued rulings on May 27, it gave Coudert and the government a split decision, revealing that Degetau’s admission to the Supreme Court bar had not augured a robust embrace of Puerto Rico into the U.S. constitutional fold. In *DeLima*, the Court struck down the tariffs that officials in Republican President William McKinley’s administration had levied on U.S.-Puerto Rican shipments prior to passage of the Foraker Act. Writing on behalf of the Court, Justice Henry Brown explained that no statutory authority existed for the administrators’ actions because Puerto Rico “was not a foreign country within the meaning of the tariff laws” in existence at that time. In *Downes*, however, the Court upheld the imposition by the 1900 Foraker Act of an explicit tariff on mainland-island commerce. In announcing that judgment, Justice Brown argued that because Puerto Rico was “not a part of the United States within the revenue clauses of the Constitution,” that legislation by the Republican-dominated U.S. political branches did not violate the U.S. constitutional prescription of tariff uniformity “throughout the United States.”¹¹³

In holding that the United States included Puerto Rico for one statutory purpose but not for a different constitutional one, the Court caused as much uncertainty as it settled. As Degetau observed, “[t]he decisions of the U.S. Supreme Court . . . have

Foraker, 27 May 1901, CIHCAM 3/I/38; E.L. [?] to Federico Degetau, 5 Jun. 1901, CIHCAM 3/II/5; Joseph Sibley to Federico Degetau, 20 Jun. 1901, CIHCAM 3/II/17; Theodore Roosevelt to Federico Degetau, 24 Jun. 1901, CIHCAM 3/II/22; Charles Fairbanks to F. Degetau, 2 Jul. 1901, CIHCAM 3/II/29; W. Moody to Federico Degetau, 21 Jul. 1901, CIHCAM 3/II/42; J.A. Tawney to Federico Degetau, 18 Jun. 1901, CIHCAM 3/II/4.

¹¹³ *Delima v. Bidwell*, 182 U.S. 1, 200 (1901) (quote 1); *Downes v. Bidwell*, 182 U.S. 244, 287 (1901) (quote 2); Art. 1, sec. 8, U.S. Const. (quote 3).

produced a perplexity.” After *DeLima*, “democrats shouted Victory . . . , although they did not proclaim it with the same intensity” following *Downes*. *DeLima* disappointed Republicans, but after *Downes* one functionary announced “that the Administration has obtained a victory on all material points.” “The confusion in the press . . . was great” as well, Degetau noted, with adversarial newspapers respectively proclaiming “victory” and “triumph.”¹¹⁴

This confusion resulted because the opinions were indeed fractured and ambiguous. In *Downes*, held by contemporary observers and their successors to be the most important of the *Insular Cases*, no opinion garnered five votes. In both cases four justices dissented. Republican Representative Charles E. Littlefield of Maine told the American Bar Association, “Until some reasonable consistency and unanimity of opinion is reached by the court upon these questions, we can hardly expect their conclusions to be final.”¹¹⁵

The most notable of the opinions was Justice Edward White’s *Downes* plurality concurrence. There, writing for three justices, White introduced a new doctrine, that of territorial non-incorporation. He reasoned that unlike prior territories Puerto Rico had not

¹¹⁴ [Federico Degetau], “Manifiesto del Comisionado Señor Degetau,” *La Correspondencia*, 6 Jun. 1901, available at CIHCAM 12/L2 (“Las decisiones del Tribunal Supremo de los Estados Unidos . . . han producido una perplejidad”; “los demócratas gritaron ¡victoria! . . . , aunque no lo proclamaban con la misma intensidad”; “que el Gobierno había [sic] obtenido una victoria en todos los puntos materiales”; “La confusión en la prensa . . . era grande”; “victoria”; “triumfo”).

¹¹⁵ *Downes*, 182 U.S. 244 (White, J., concurring); Charles E. Littlefield, “The *Insular Cases*,” *Southern Law Review* 1 (1901-1902): 477-521, 478. On the development, legacy, and doctrinal implications of the anomalous status of Puerto Rico and the *Insular Cases*, see, e.g., Christina Duffy Burnett and Burke Marshall, ed., *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Durham, N.C.: Duke University Press, 2001); Christina Duffy Burnett, “Untied States: American Expansion and Territorial Deannexation,” *University of Chicago Law Review* 72 (summer 2005): 797-879; César Ayala and Rafael Bernabe, *Puerto Rico in the American Century: A History since 1898* (Chapel Hill: University of North Carolina Press, 2007), 177, passim; Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, D.C.: American Psychological Association, 2001); Sparrow, *The Insular Cases*, 80, passim; Juan R. Torruella, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal* (Río Piedras: University of Puerto Rico, 1985).

been incorporated by Congress or by treaty into the U.S. Union. It was thus “foreign to the United States in a domestic sense”—that is, foreign for domestic-law purposes—but also part of the United States under international law. White here purported that the exigencies of empire could be reconciled with constitutional and democratic norms since the constitution did not need to apply uniformly throughout the territories. Yet he offered few details as to how specific constitutional provisions applied to unincorporated territories. Of that decision, which would become (and remains) binding constitutional law, Coudert later wrote, “The very vagueness of the [non-incorporation] doctrine was valuable.”¹¹⁶

What White did make clear was his willingness to deny U.S. citizenship to inhabitants of U.S. territories in some cases. Echoing Attorney General John Griggs’s argument, White wrote:

Take a case of discovery. Citizens of the United States discover an unknown island, peopled with an uncivilized race, yet rich in soil.... Can it be denied that such right [to acquire] could not be practically exercised if the result would be to endow the inhabitants with citizenship of the United States...., even although the consequence would be to...inflict grave detriment on the United States to arise [from] the immediate bestowal of citizenship on those absolutely unfit to receive it?¹¹⁷

By presuming that U.S. citizenship constituted too substantive a status for some

¹¹⁶ *Downes*, 182 U.S. at 341, 288-293, 300, 306 (White, J., concurring); Frederic R. Coudert, “The Evolution of the Doctrine of Territorial Incorporation,” *Columbia Law Review* 26 (Nov. 1926): 823-850, 850. Justice John Harlan sought fuller constitutional rights for Puerto Ricans while also joining an opinion disclaiming any position on their U.S. citizenship status. *Downes*, 182 U.S. 244, 375 (1901) (Harlan, J., dissenting); *Downes*, 182 U.S. at 347 (Fuller, C.J., dissenting).

¹¹⁷ *Downes*, 182 U.S. at 287.

colonized peoples, he concluded that the United States either enjoyed the power to annex territories without extending inhabitants U.S. citizenship or it was “helpless in the family of nations.” Coudert perceived how White’s argument could make decisions concerning the distribution of U.S. citizenship depend upon characterizations of its content. In the months ahead he searched for a test case in which to argue, as we will see, that U.S. citizenship had a fairly minimal content that could be adapted to the exigencies of empire and thus safely extended to all conquered peoples, including, he would come to imply, Filipinos.¹¹⁸

In the days and weeks that followed, Degetau developed an interpretation of the cases that served his legal-political ends. Republicanos advocated Puerto Rican integration into the U.S. polity. If the Supreme Court had held the island to be outside the United States, integration would be infeasible; if the Court renewed U.S. commitment to the territorial system integration remained a possibility. For Degetau, publicly characterizing mainland legal events so that they appeared to be consistent with his aims reinforced his political reputation based on legal acumen and promises to win U.S. citizenship and territorial status for Puerto Ricans. Such arguments would also be crucial in later urging courts to find claims to U.S. citizenship consistent with existing case law. To that end, Degetau had used an opportunity to meet Supreme Court Justice Henry Brown the day after the decisions came down to test his ideas.¹¹⁹

Satisfied by his conversation with Brown, Degetau portrayed himself and all Puerto Ricans to readers of the Puerto Rican newspaper *La Correspondencia* as

¹¹⁸ Ibid.; Henry Randall Webb to Federico Degetau, 15 Nov. 1901, CIHCAM 3/III/99; Juan F. Perea, “Fulfilling Manifest Destiny: Conquest, Race, and the *Insular Cases*,” in *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, eds. Christina Duffy Burnett and Burke Marshall (Durham, N.C.: Duke University Press, 2001), 159.

¹¹⁹ Draft, [Federico Degetau] to Besosa, 31 May 1901, CIHCAM 3/I/43.

sufficiently removed from national U.S. politics to judge the decisions objectively. Unlike mainland politicians still “dazzled . . . by the cloud of dust of the battle” in Congress, he wrote, islanders could join the Supreme Court in analyzing the cases “independent of all influence of governments.” The legal issue in the case, he argued, was not the political hot-button issue of “whether ‘the Constitution follows the flag.’” It was whether and why the United States could impose a tariff on mainland-island shipments. He had earlier joined with those who hoped that the Court would integrate Puerto Rico into the existing constitutional order by striking all tariffs on island-mainland shipments as violative of the Article I requirement of uniform U.S. tariffs. Now that it had not, he reported himself nonetheless “very much pleased with the” decisions. Arguing that the “Supreme Court has decided with practical unanimity that Porto Rico is ‘a territory of the United States’ . . . and ‘a territory appurtenant and belonging to the United States,’” he contended that one could not sensibly “speak of Puerto Rico like a ‘possession’ or ‘colony’ with better title than he would be able to apply such terms to New Mexico or to Arizona.” The decisions, he argued, affirmed what he understood to be the anti-colonial underpinnings of the Monroe doctrine, facilitating “an expansion essentially ‘American’” and “forever ratif[ying] liberty in the hemisphere.”¹²⁰

While the Insular decisions removed one impediment to congressional legislation concerning Puerto Rico, they revealed others. Degetau responded with a flurry of

¹²⁰ [Degetau], “Manifiesto del Comisionado Señor Degetau” (quotes 1-3, 6-8 (“se hallan ofuscados por su misma intervención en la lucha, y con la nube de la pólvora de la batalla aún ante los ojos”; “independiente de todo influjo de gobiernos”; “si <la Constitución sigue á la bandera ó no>”; “hablar de Puerto Rico como de una <posesión> ó de una <colonia> con mejor título que podría aplicar tales términos á New México ó á Arizona”; “una expansión esencialmente <americana>”; “ratificado para siempre la libertad en el Hemisferio Americano”)); “As Degetau Sees It,” *Baltimore Sun*, 28 May 1901, available at CIHCAM 18/L1 (quote 4); “Porto Rico, Territory,” *Buffalo Courier*, 31 Jul. 1901, available at CIHCAM 18/L1 (quote 5); Art. 1, sec. 8, U.S. Const., quoted in Draft, [Federico Degetau] to Manuel Rossy, 20 Feb. 1901, CIHCAM 2/VII/47; Untitled article, [News], 3 Dec. 1900, available at CIHCAM 12/L2; “American Life Split into Parts”; Draft, [Federico Degetau] to [?], [Dec. 1900?], CIHCAM 3/IV/24.

activity. On July 10 the *Washington Times* reported Degetau's complaint that progress on status issues remained difficult because many U.S. officials "classed" Puerto Ricans "with the Philippines and Hawaiians while as a matter of fact we have almost nothing in common with them." Chairman of the House Committee on Insular Affairs Henry Cooper confirmed that Republicans "don't want to bother with" Puerto Rican matters now because "Puerto Rico can't be considered in itself, but . . . the Philippines also has to be taken into account." The *Times* recorded, Degetau's complaints that "people do not seem to appreciate either our capacities, abilities, or political and civil status" and that "considerations affecting the Philippines, Hawaii, and other Territories and possessions of the United States . . . are entirely foreign and irrelevant to Porto Rico." The objections failed. The representative of a small, weak, distant island with no congressional vote, Degetau had little power. As his friend Ramón Lopez wryly observed of U.S.-island relations, "That country is so big, and this one so small, that it is smart to always be pushing something, just so they'll remember us."¹²¹

With Congress still largely closed to matters of Puerto Rican status, Degetau continued to place such matters before federal agencies, asking the State Department to give Puerto Ricans U.S. passports as U.S. citizens and the civil-service commission to let Puerto Ricans participate in civil service without traveling to the mainland. These two actions illustrated the interrelated natures of the status of people and places. When abroad, Puerto Ricans were "temporarily subject" to alien sovereignties that often

¹²¹ "Porto Rican's Ambition," *Washington Times*, 10 Jul. 1901, available at 18/L1 (quotes 1-2, 5-6); [Degetau], *Diary*, 10 Dec. 1901, CIHCAM 11/L4 (quotes 3-4 ("No quieren ocuparse de"; "no se puede considerar á Puerto Rico en sí, sino que hay que tener en cuenta á Filipinas")); R. B. López to Federico Degetau, 6 Dec. 1903, CIHCAM 4/VII/7 (quote 7 ("Ese pais [sic] es tan grande, y este tan pequeño, que es preciso estar siempre promoviendo algo, para que se acuerdan de nosotros")); Draft, Federico Degetau to Ramón B. Lopez, 31 May 1901, CIHCAM 3/I/42.

accorded those carrying U.S. passports a degree of protection. The civil service provided opportunities to individual job seekers via quotas and exams tied to the status of U.S. places as territories and states. Decisions by one agency were also likely to affect deliberations at the other.¹²²

On July 15, 1901, Degetau told Chairman Cooper that he sought to force the State Department to clarify the citizenship status of Puerto Ricans. “I have presented the question,” he wrote, “as involved in the issu[ing] of a passport to me, in which my American citizenship has been omitted.” In a reprisal of State Department indifference to Degetau’s prior request for clarification of Puerto Ricans’ status for immigration purposes, the Secretary made no decision on Degetau’s application. Previously the Department had not faced an aggrieved client for whom redress required settlement of a citizenship issue. But now, because federal law prescribed that “[n]o passport shall be granted or issued to or verified for any other persons than citizens of the United States,” it appeared that the State Department could only resolve Degetau’s action by clarifying Puerto Ricans’ citizenship status. Hoping to compel a decision through a test case, Degetau secured Henry Webb, a lawyer with connections to attorneys from the *Insular Cases*. Instead, Webb informed Degetau that federal courts were unlikely to intervene in a case that involved “ordinary official duties,[] even when those duties require an interpretation of the law.” Without proposing alternative ways forward, Webb wrote some weeks later “that Coudert Bros, who were the lawyers who argued the De [Lima] and Downes cases in the U. S. Supreme Court are anxious to take up your case with me

¹²² Henry Wheaton, *Elements of International Law*, 6th ed. (Boston, Mass.: Little, Brown and Company, 1855), 392 (giving the source of the quotation as “Grotius, in the second chapter of his third book,” while describing all sojourners as merely “temporarily subject” to foreign laws).

and make a test case of it.”¹²³

On September 14, 1901, the governmental landscape changed abruptly as Theodore Roosevelt became president following the assassination of William McKinley. For Degetau, the tragedy was a potential boon. Three months earlier, Roosevelt had replied to Degetau’s enclosure of his Philadelphia *Inquirer* article by concurring as to “the admirable appearance of the Porto Rican troops” during McKinley’s inauguration and announcing, “I am proud to call them, and you, my fellow Americans.” It was a victory on which Degetau would now seek to build.¹²⁴

In the interim, a civil-service claim was taking shape. On November 18, a San Juan resident named Hernandez forwarded Degetau a letter of protest that he had mailed to the civil service and asked Degetau for help. In the protest, Hernandez described being rejected for a job as an inspector of vessels in San Juan on the ground that he was not on the qualified civil-service list. Yet, he pointed out, qualification meant passing an examination not offered in Puerto Rico. In addition to offering no exams in Puerto Rico, the civil service had quotas requiring it to hire minimum numbers of residents from most states and territories but not from Puerto Rico. For Republicanos, the resultant near-total exclusion of Puerto Ricans from the civil service was bad politics. It potentially dishonored Puerto Ricans, as one letter writer indicated in a plea on behalf of his “honorable, educated, and intelligent” job-seeking brother-in-law. It also reenacted a

¹²³ [Federico Degetau] to Henry Cooper, 15 Jul. 1901, CIHCAM 3/II/33 (quotes 1-2); *Revised Statutes of the United States Passed at the First Session of the Forty-Third Congress, 1873-1874*, 2d ed. (Washington, D.C.: Government Printing Office, 1878), Title 47, sec. 4076, 786 (quote 3); Henry Webb to Federico Degetau, 14 Aug. 1901, CIHCAM 3/II/61 (quote 4); Webb to Degetau, 15 Nov. 1901 (quote 5); Webb to Degetau, 10 Aug. 1901; United States *ex rel.* Dunlap v. Black, 128 U.S. 40 (1888); “Federico Degetau Gonzalez,” newspaper and date unknown, available at CIHCAM 18/L1/195 (quoting [Federico Degetau] to [Theodore Roosevelt], 7 Dec. 1901). This collaboration was underway by August 10. Webb to Degetau, 10 Aug. 1901.

¹²⁴ Roosevelt to Degetau, 24 Jun. 1901 (quotes).

Spanish practice against which Puerto Rican liberals had long fought: preference for continental Spaniards over island ones in the distribution of positions administering the Puerto Rican state. As Republicanos told Degetau, “a clique of continental adventurers [in] official posts who are a discredit to the American government [and] who in their country would be nobody” “are preferred, and a consequent disgust here results.” Finally and relatedly, the Puerto Rican political system, like that in the United States, depended heavily on patronage. So long as government hiring and Puerto Rican status remained entwined, both issues were likely to remain Republican priorities.¹²⁵

In November 1901, Degetau joined his continuing efforts to win Puerto Ricans recognition as U.S. citizens to a lobbying effort designed to win Puerto Rico full access to the civil-service system. He again met with Supreme Court Justice Henry Brown, now for a “conversation concerning the citizenship of Puerto Rico.” When Brown asked “if Puerto Ricans would like to return to Spain,” Degetau told him that “the Puerto Ricans are and desire to be American, although they believe that they have not been done justice, but they trust.” A meeting with President Roosevelt “to speak of the Civil Service Law and citizenship” culminated in Roosevelt requesting a written statement. After a discussion with the “Com[missione]r of the Civil Service,” Degetau reported that “Puerto Ricans get a quota.” A week later, Degetau had a “Conference with the Sec of State concerning the citizenship” of Puerto Ricans.¹²⁶

¹²⁵ J. Henna to Federico Degetau, 30 Nov. 1902, CIHCAM 3/IV/11 (quote 1 (“honrado, instruido, é inteligente”)); [?] Rossy to Bonifacio Sanchez, 21 Apr. 1902, CIHCAM 4/II/147 (quote 2 (“una camarilla de aventureros continentales ocupando puestos oficiales que son un descrédito para el gobierno americano que nos rige: estos empleados que en su pais [sic] no serian [sic] nunca gente”)); J. Sifre to Federico Degetau, 1 Jul. 1902, CIHCAM 3/VI/30 (quote 3 (“Son preferidos los de allá y existe el consiguiente disgusto”)); [?] [Hernandez?] to President of Civil Service, 18 Nov. 1901, CIHCAM 3/IV/3; “Federico Degetau Gonzalez” (quoting Degetau to Roosevelt, 7 Dec. 1901).

¹²⁶ [Degetau], Diary, 18 Nov. 1901 (quotes 1-6 (“conversación acerca de la ciudadanía de Puerto Rico”; “si los puertorriqueños [sic] querian [sic] volver á España”; “Los puertorriqueños [sic] son y desean ser

In the December 7 letter that Roosevelt requested, Degetau asked him to clarify ambiguous policy, remedy harms to Puerto Ricans, and settle a legal controversy by recognizing Puerto Ricans as U.S. citizens. The administration, Degetau wrote, sometimes “consider[s] us to be American citizens,” as when the civil-service board opened the system to Puerto Ricans. At other times, as with the refusal of the State Department to respond to Degetau’s request for a standard passport, he continued, “doubts seem to arise.” The resultant ambiguity, he went on, caused Puerto Ricans “political and moral disturbance and . . . material harms.” By also claiming that “[m]y personal interests have been harmed” by the delay concerning the passport application, Degetau cast himself as a party seeking a concrete remedy and his request as a legal matter ripe for resolution. The Foraker Act, *Insular Cases*, Treaty of Paris, and U.S. military rule, Degetau elaborated, all indicated that Puerto Ricans had a legal right to U.S. citizenship. The Treaty of Paris, he wrote, considered Puerto Ricans born in Spain who did not preserve their Spanish nationality “as having accepted the nationality of the territory in which they resided.” That territory, Degetau read the *Insular Cases* to hold, was “a territory of the United States,” making those former Spaniards U.S. citizens. By then using the term “*all the inhabitants*” in describing the status of Puerto Ricans in the Foraker Act, Degetau continued, Congress gave island-born Puerto Ricans the same U.S. citizenship as continental-Spanish-born ones.¹²⁷

americanos, aunque creen que no se les ha hecho justicia, pero confían”; “para hablarle de la ley del Civil Service y de la ciudadanía”; “Comr del Civil Service”; “Conseguida quota los puertorriqueños [sic]”); 25 Nov. 1901 (quote 7 (“Conferencia con el Sec de Estado acerca de la ciudadanía”), CIHCAM 11/L4.

¹²⁷ “Federico Degetau Gonzalez” (giving source of quotations as Degetau to Roosevelt, 7 Dec. 1901 (“nos considera como ciudadanos americanos”; “parecen existir dudas”; “la perturbación política y moral, y los daños materiales”; “Mis intereses personales han sido perjudicados”; “habían aceptado la nacionalidad del territorio en que residían”; “un territorio de los Estados Unidos”; “*todos los habitantes*”)). In stating that the Civil Service treated Puerto Ricans as U.S. citizens Degetau appears to have mistaken the opinion of one commissioner as that of the entire commission. Geo. Leadley to Federico Degetau, 29 Mar. 1904,

Degetau had an additional argument in case of need: the Foraker Act created the political body “the people of Porto Rico” out of mainlanders and Puerto Ricans residing on the island. Presuming that a “political body cannot be constituted with American citizens and other members of distinct nationality or distinct citizenship,” Degetau again concluded that all Puerto Ricans were U.S. citizens. He saw a presumption of the same result in the Foraker Act rule that all Puerto Rican government employees “swear to maintain the Constitution of the United States.” As he argued elsewhere, such oaths were akin to mutually enforceable promises, the taker, agreeing to “maintain the Constitution of the United States against all enemies, national or foreign, thus solemnly contracting duties and acquiring rights of other citizens.” Finally, he reminded Roosevelt that General Guy Henry had in 1898 promised islanders “protection as citizens of the American Union.” To deny them that status would make them “feel deceived” for having extended “a warm welcome to the American Soldiers.”¹²⁸

Roosevelt and U.S. officials chose to moot, not answer, Degetau’s petitions. After Degetau sent his letter, the *Washington Post* reported civil-service plans to establish examination boards in three Puerto Rican cities. On December 27, 1901, the Secretary of State wrote Degetau that Puerto Ricans abroad would receive “the same protection of person and property as is accorded to the native-born citizens of the United States.” Days

CIHCAM 4/IX/26.

¹²⁸ [Draft?, Copy?], [Federico Degetau?], “Conferencia de Degetau,” n.d., 3 available at CIHCAM 18/L2/57 (summarizing Federico Degetau, *El Status Político de Puerto-Rico y de sus habitantes ante los departamentos legislativo, ejecutivo, y judicial de los Estados Unidos*, address before the Ateneo, n.d.) (quotes 3-4 (“prestando el juramento de mantener la Constituci[ó]n de los Estados Unidos contra todos los enemigos nacionales ó extran[j]eros, contrayendo por este medio solemne los deberes y adquiriendo los derechos que los dem[á]s ciudadanos”)) (giving the source of the quotation or paraphrase as “el Artículo II del Protocolo de Washington de Agosto del 98” (“Protocol of August 98, article 2”)); “Federico Degetau Gonzalez” (other quotes (“el pueblo de Puerto Rico”; “una entidad o cuerpo político no puede constituirse con ciudadanos americanos y otros miembros de distinta nacionalidad o distinta ciudadanía”; “protección como ciudadanos de la Unión Americana”; “se sentirán decepcionados”; “una cordial bienvenida a los soldados americanos”)) (quoting Degetau to Roosevelt, 7 Dec. 1901).

later, the Secretary, eventually with Roosevelt's support, asked the House Committee on Foreign Affairs for legislation letting the State Department grant passports to U.S. insular residents regardless of U.S. citizenship. The Committee soon reported a bill that would make passports available to "those owing allegiance, whether citizens or not, to the United States." After meeting with the chair of the committee, Degetau turned to Jean des Garennes, U.S.-citizen counsel for the French Embassy, to put into writing objections to a legislative mooting of his request for a U.S.-citizen passport. The efforts failed, and the bill became law. When Roosevelt issued executive guidelines for the issuances of passports to any "resident of an insular possession of the United States who owes allegiance to the United States," he did not state whether Puerto Ricans were U.S. citizens. He and other officials avoided that issue because it was hard. Many believed that successful U.S. imperialism precluded recognition of newly acquired peoples as U.S. citizens. Yet, many also understood the Civil War and Reconstruction Amendments to make the peoples of the United States into citizens of the United States. Few relished a choice between constitutional violations and dooming U.S. imperial governance.¹²⁹

Though Congress was willing to moot his passport claim, Degetau noted in late 1901 that otherwise "congressmen don't plan to turn to Puerto Rican matters." Deciding to "make his case in other circles," Degetau attended the annual conference of the

¹²⁹ "A Letter from Mr. Degetau," *Puerto Rico Herald*, 11 Jan. 1902, 4 (quote 1); "Civil Service in Porto Rico," *Washington Post*, 10 Feb. 1902, 4; H.R. 8129, 57th Cong., 1st sess., Report no. 559, 18 Feb. 1902, available at CIHCAM 3/V/20 (quote 2); Theodore Roosevelt, *Rules Governing the Granting and Issuing of Passports in the Insular Possessions of the United States* (19 Jul. 1902), available at MD NARA 350/5B/837/19929 (quote 3); [Degetau], *Diary*, 25 Nov. 1901, Feb. 1902, CIHCAM 11/L4; "Washington Attorney Honored," *Washington Post*, 16 Apr. 1899, 5; "Funeral of F. R. Coudert," *New York Times*, 23 Dec. 1903, 9; "Jean des Garennes, French Professor, 66," *New York Times*, 9 Jul. 1942, 21; *Statutes at Large* 32 (1902): 386; see also S. 2298, 57th Cong., 1st sess., 7 Jan. 1902, available at CIHCAM 11/L4; *Congressional Record* 35, pt. 5:4992-4995 (2 May 1902) (quoting Secretary of State John Hay as forwarding a draft of the passports bill to the House Committee on Foreign Affairs on January 4, 1902); *Congressional Record* 35, pt. 6:5697-5699 (20 May 1902); *Congressional Record* 35, pt. 7:6588-6589 (11 Jun. 1902).

American Economic Association and delivered a lecture at the Columbian University in late 1901 and early 1902.¹³⁰

Building on his earlier arguments he used such opportunities to stress Puerto Rican civilization and to promote Puerto Rican capacity for self-government. In doing so, he drew on notions of honor among Puerto Rican Liberals that had shifted away from ideals of defending reputations through private violence and toward conceptions of masculinity based on restraint and civility. He thus celebrated Puerto Rican disinterest in bullfighting and Puerto Ricans' ability "to file the claws of the Spanish lion" and thereby avoid the obligation of a revolution that would have transformed "a civilized, organized and relatively rich people [into] a beautiful cemetery." The Treaty of Paris, by distinguishing "'Spaniards born in the Peninsula' and 'natives of the territories,'" he suggested, had given many mainlanders the false "idea that Porto Rico . . . was peopled by 'natives,'" "some race of semi-savage 'Indians.'" Because of mainlanders' expectations, he added, it was "a great surprise" to "the public" that the "Porto Rico Battalion" at President McKinley's 1901 inauguration included not "men of small stature and sallow complexion," but servicemen who displayed "moral conduct," "military bearing," and "dexterity." In fact, he claimed, Puerto Rico less resembled Guam, apparently on "the boundaries of a savage condition," than Cuba, "considered on a level with general civilized countries, and socially speaking, . . . compare[able] with any other people of the South American republics, or of Europe." For similar reasons, he elaborated, Spain had established different government in the Antilles than in the

¹³⁰ [Degetau], Diary, 8 Jan. 1902, CIHCAM 11/L4 ("los congressmen no piensan ocuparse de PR"; "mover la cuestión en otros círculos").

Philippines.¹³¹

During these months, Degetau expanded his social network at White House receptions and congressional hearings; by lobbying administrators; and through meeting and working with mainlanders who shared his commitments to freemasonry, spiritualism, and charitable reform. After making new acquaintances, he cultivated them, often with correspondence, conversation, and gifts. Soon, newspapers wrote that Degetau was a “highly . . . diplomatic” “man of very pleasing address[,] courteous manners,” and “brilliant attainments” who “created a favorable impression in the public life of Washington.” Degetau’s personal notes from mid-November 1901 to mid-February 1902 confirm his reach. He reported often-daily visits to the Capitol and amicable conversations and correspondence with the president, a Supreme Court justice, Congressmen, and heads of numerous agencies. He also had warm, cooperative relationships with high U.S. officials in Puerto Rico.¹³²

But personal popularity did not change the island’s status. In January 1902

¹³¹ [Degetau], Something that the American People Must Know (quotes 1-2); Degetau, *The Political Status of Porto Rico* (quotes 3-5); Degetau, “Porto Ricans as Soldiers and as Legislators” (quotes 6-12); [Federico Degetau], Drafts, The Truth about Porto Rico and Puerto-Rico and Its People, n.d., CIHCAM 18/L2 (quotes 13-14); Hollander, Adams, and Degetau, *Publications*. On associations of bullfighting to barbarism in the Cuban context, see Louis A. Pérez, Jr., “Between Baseball and Bullfighting: The Quest for Nationality in Cuba, 1868-1898,” *Journal of American History* 81 (Sep. 1994): 493-517.

¹³² “A Credit to Porto Rico,” *Washington Times*, 9 Nov. 1901, available at CIHCAM 18/L1 (quotes 1-3); “Hawaii and Porto Rico at Washington,” *The Sunday Pioneer Press*, 10 Feb. 1901, available at CIHCAM 12/L2 (quote 4); [Degetau], Diary, 18 Nov. 1901 to 18 Feb. 1902, CIHCAM 11/L4. On making governmental contacts, see, e.g., Degetau to Rossy, 4 Jan. 1901; [Degetau], Diary, CIHCAM 11/L4. On nongovernmental networks, see, e.g., Geo. Moore to Federico Degetau, Feb. 1903, CIHCAM 3/VII/29; Draft, [Federico Degetau], Toast of Federico Degetau, 32°, on “The Government of the United States” at the Banquet at the Battle House, Mobile, Ala., April 22nd., 1903, CIHCAM 18/L1; Henry Cooper to Federico Degetau, 3 May 1903, CIHCAM 4/II/159; Manuel Rojas to Federico Degetau, 6 Jan. 1903, CIHCAM 3/VII/4; Fred Woodward to F. Degetau, 18 Mar. 1903, CIHCAM 4/I/91; E. Harris to Federico [sic] Degetau, 11 Apr. 1903, CIHCAM 4/II/133; John Leathers to Federico [sic] Degetau, 24 Sep. 1903, CIHCAM 4/V/297. On follow-up, see, e.g., Degetau to Cooper, 15 Jul. 1901; Degetau to Rossy, 4 Jan. 1901; Henry Hoyt to Federico Degetau, 12 Dec. 1903, CIHCAM 4/VII/16; Degetau to Lopez, 31 May 1901; [Representative] J. Goulden to Federico Degetau, 6 Jun. 1904, CIHCAM 5/II/9; [Illegible] Hughes to Federico Degetau, 1 Jun. 1904, CIHCAM 5/II/1; E.D. Crumpacker to Federico Degetau, 15 Dec. 1902, CIHCAM 3/VI/65; J.B. Foraker to Federico Degetau, 22 Dec. 1902, CIHCAM 3/VI/70; Sereno Payne to Federico Degetau, 21 Apr. 1904, CIHCAM 5/I/14; [Degetau], Diary, CIHCAM 11/L4.

Degetau had told Congressman Henry Cooper that absent legislative action, he would bring a judicial test case. Shortly thereafter, Degetau sought to import from Biarritz, France, the paintings of a Puerto Rican artist he knew surnamed Molinas. Doing so raised the issue of whether the works were statutorily exempt from customs duties as “[w]orks of art, the production of *American artists residing temporarily abroad*.” In a letter to the Treasury Department, Degetau argued they were, and on April 28, 1902, the Secretary of the Treasury forwarded Degetau’s letter to the Attorney General for an opinion. On May 13 the Attorney General opined that Puerto Rican artists were also “American artists” within the meaning of the statute, though cautioned that “it is clearly not inconceivable for a man to be an American artist within the meaning of such a statute and yet,” like an “American tribal Indian, or a native Alaskan,” be “not a citizen of the United States.”¹³³

Around the same time, Representative Llewellyn Powers of Maine introduced a bill by Degetau to make Degetau a delegate like other traditional territorial delegates, with a voice but no vote in the U.S. House. The House referred the bill to the Committee on Insular Affairs, where Degetau testified that the bill was a pragmatic, low-stakes way to align the Foraker Act and the *Insular Cases*. Currently, he explained, the Resident Commissioner had some traits of a representative of an island within the U.S. union and some of a representative of a politically distinct body. Because the *Insular Cases* had already decided that Puerto Rico was not politically distinct for purposes of foreign relations, Degetau implied, Congress could eliminate this ambiguity without unsettling existing doctrine. With most congressional statutes now applicable to Puerto Rico, the bill would also facilitate informed decision making by giving Congress ready recourse to

¹³³ 24 Op. Att’y Gen. 41, 40, 42-44 (13 May 1902) (quotes) (italics added in original); “Porto Rican an American Artist,” *Washington Post*, 17 May 1902, 11.

a Puerto Rican delegate. To concerns that Puerto Rican legislation would become a precedent for the Philippines, Degetau stressed that the archipelagos held different peoples facing separate circumstances and conditions. Though aware that Congress was on the cusp of passing an organic act for the Philippines that closely resembled that enacted for Puerto Rico, Degetau stressed differences in how U.S. military authorities had treated the two archipelagos. They had, he claimed, promised Puerto Ricans but not Filipinos U.S. citizenship and required from Puerto Rican but not Filipino officeholders naturalization-like oaths to uphold the U.S. Constitution, give allegiance to the United States, and renounce fidelity to foreign nations. Such acts, he added, were law under the Foraker Act. In any case, Degetau continued, Congress could avoid a precedent by drafting the law to so state.¹³⁴

With political friends supporting his efforts, Degetau initially appeared to make progress. Committee Chair Henry Cooper elicited that Degetau had represented Puerto Rico before the Spanish Cortes, a privilege that Puerto Rico but not the Philippines had enjoyed under Spain. Implying that Puerto Rico and the Arizona Territory differed only in population, not status, Republican committee member John Lacey of Iowa pointed out

¹³⁴ “Bill haciendo delegado al comisionado por Puerto Rico,” *El País*, 2 Jun. 1902, 11-12, available at CIHCAM 18/L1; [Degetau], *Diary*, 10 Dec. 1901, 6 Jan. 1902, Jan. 1902; but cf. *ibid.* 20-21 Dec. 1901 (describing two Congressmen’s positive, if initially ineffective, responses to Degetau’s lobbying); House Committee on Insular Affairs, *Committee Reports, Hearings, and Acts of Congress Corresponding Thereto*, 57th Cong., 1st and 2d sess., 1901-1903 (Washington, D.C.: Government Printing Office, 1903), 34-37; Philippine Organic Act, *Statutes at Large* 32 (1 Jul. 1902): 691. On the shape of the bill, see Draft, “A Bill to amend an Act entitled ‘An Act temporarily to provide revenues and a civil government for Porto Rico, and for other p[ur]poses’”, approved April twelf[t]h, nineteen hundred, and to provide for a delegate to the House of Representatives of the United States from Porto Rico,” 57th Cong., 1st sess., House of Representatives, CIHCAM 11/L14. According to the published report of the hearings that the House Committee on Insular Affairs held on the bill, Degetau authored and Representative Samuel Powers of Maine introduced by request the bill proposing to make the Puerto Rican Resident Commissioner into a delegate. House Committee on Insular Affairs, *Committee Reports, Hearings, and Acts of Congress*, 33, 37. Samuel Powers, however, was the representative from Massachusetts. Llewellyn Powers was the representative from Maine. According to *Congressional Record*, 35, pt. 5:4850 (29 Apr. 1902), it was Representative Powers from Maine who introduced the bill “by request.” See also *Congressional Record* 35 (1902) [P index]:554 (identifying “Powers, Llewellyn” as the author).

that Arizona with “about 105,000 people,” but not Puerto Rico with “near a million people,” enjoyed floor privileges. Contrasting Puerto Rico with neighboring nations that many mainlanders associated with blackness, Lacey also noted that the “minister from Santo Domingo or the Minister from Haiti has the privilege of the floor of the House,” but not Degetau. Governor Hunt similarly described his support for and efforts on behalf of the bill. In mid-May, the Committee on Insular Affairs unanimously recommended Lacey’s bill to the House, and Degetau triumphantly telegrammed Hunt and Rossy, signing off to the latter, “Glory to God above.”¹³⁵

That small victory soon gave way to larger setbacks. In a June 2 letter to the *Detroit Journal*, Degetau declared himself “shocked and mortified” that the anti-imperialist Bishop John Spalding had publicly argued that in “the tropics the race is and, probably always will be, indolent, ignorant, weak and sensual.” Degetau had previously expressed hope that education would eliminate mainlanders’ false criticisms of Puerto Rico. But Spalding made what Degetau termed his lazy, ignorant mistake despite having countervailing data at hand. Degetau implied that Spalding had ignored how “highly cultured” islanders were, how “[our] women are just as pure and our men just as good as those of any race under the sun.” Several weeks later, the U.S. Senate struck language extending Puerto Ricans a congressional voice from a bill that it passed, thus dooming the effort for the term.¹³⁶

¹³⁵ “Floor Privileges to Dagatau,” *Washington Post*, 22 Apr. 1902, 4 (quotes 1-3); Degetau to Rossy, n.d., CIHCAM 6/III/35 (quote 4 (“Gloria á Dios en las alturas”)); “Bill haciendo delegado”; House Committee on Insular Affairs, *Committee Reports, Hearings, and Acts of Congress*, 34-37; Wm. Hunt to Federico Degetau, 19 May 1902, CIHCAM 3/VI/6; Elliott to Degetau, 26 May 1902; [Federico Degetau] to William Hunt, 16 May 1902, CIHCAM 3/VI/5; House Committee on Insular Affairs, *Amending the Act to Temporarily Provide Revenues, Etc., for Porto Rico*, Report no. 2158, 57th Cong., 1st sess. (20 May 1902) (concerning H.R. 14083).

¹³⁶ “Prelate Vexes Porto Ricans,” *Detroit Journal*, 2 Jun. 1902, available at CIHCAM 18/L1 (quotes); “Porto Rican Land Bills Passed Senate,” [News], 26 Jun. 1902, available at CIHCAM 11/L4; Degetau,

By mid 1902 a pattern had emerged. Degetau had access to powerful individuals and myriad outlets through which he could defend his people. On status and mainland perceptions of Puerto Rico and Puerto Ricans, however, he made little progress. These disparate outcomes resulted in part as Degetau failed to convince mainlanders to judge Puerto Rico on its best men, not its average members. Such best men in Puerto Rico, he indicated, were equals of white U.S. leaders and were the ones whose paternal influence shaped and controlled island society as a whole. This argument had been implicit in his Philadelphia *Inquirer* essay. He made it explicitly in a coauthored report on delinquency: “[J]ust as we see fathers, older brothers, and strong and weak relatives in a family, in society and the State we see rich, educated, influential, well-provided-for individuals who provide paternal charity to their uneducated, weak, miserable brothers” Thus, when Degetau helped the less fortunate, he also sought to exemplify the modernity, liberalism, and progressive reforms of better Puerto Rican men that he claimed made islanders worthy of U.S. citizenship. Many mainlanders disagreed, judging Puerto Rican on what they perceived to be representative members, not leading ones. As a result, Degetau’s claim that enlightened native leadership of a racially diverse island population made islanders worthy of U.S. citizenship relied on evidence that led some mainlanders to the contrary conclusion. Degetau’s support of Puerto Rican enrollment into mainland schools for blacks and American Indians sheds light on this dynamic.¹³⁷

After annexation, a mainland degree became a valuable, elusive commodity.

Political Status of Porto Rico, 3-4; cf. J.L. Spalding, *Socialism and Labor and Other Arguments Social, Political, and Patriotic* (Chicago: A.C. McClurg & Co., 1902), 83.

¹³⁷ Federico Degetau y Gonzalez, Origen y desarrollo del movimiento protector de la infancia abandonada y de la juventud delincuente, n.d., CIHCAM 6/II/82 (“come vemos en la familia, que son los padres, los hermanos mayores, los más fuertes, los más débiles, así en la sociedad, el Estado, las clases más cultas, más ricas y más influyentes[?] los que por sus condiciones de vida pueden considerarse come mejor dotados, cuidarán paternalmente de sus hermanos más incultos, más miserables ó mas débiles”).

Puerto Ricans wrote Degetau for help enrolling in mainland schools. Degetau, who encouraged and sometimes facilitated such ambitions, discovered that many mainland schools required a fluency in English and an annual tuition beyond the reach of aspirants. The Tuskegee Institute and Carlisle Indian School were frequently exceptions to this rule.¹³⁸

Tuskegee and Carlisle traced their roots to the Hampton Institute, which Civil War veteran Samuel Armstrong had opened in Virginia in 1868. Seeing similarities between U.S. freedmen and what he perceived to be dark-skinned indigenous Hawaiians, Armstrong sought to uplift former slaves by offering them the vocational and agricultural education that his father had provided in Hawai'i. Booker T. Washington, among the Institute's top pupils, had become principal of the new Tuskegee Institute on Armstrong's recommendation in 1881. Cast in the Hampton model, Tuskegee was a major trainer of black teachers. Richard Pratt, the founder of Carlisle, had come to education after "subduing" American Indians with the army between 1867 and 1875. Seeking to provide native prisoners educational opportunities, he had initially brought his wards to Hampton, but then had decided that because blacks faced more prejudice than American Indians, his students needed a separate school with opportunities to socialize with whites. With a mix of charitable and federal support, Pratt had launched and maintained an English-language vocational school committed to what he termed "acculturation under duress."¹³⁹

¹³⁸ C[illegible] [illegible] de Denton to Federico Degetau, 14 Sep. 1903, CIHCAM 4/V/285; Isabel Gonzalez to Federico Degetau, 10 Apr. 1904, CIHCAM 5/I/5. On Degetau's encouragement of prospective students, see, for example, Luis Gonzalez to Federico Degetau, 5 Feb. 1903, CIHCAM 3/VII/35. On the cost of education, see, for example, Gonzalez to Degetau, 10 Apr. 1904; Booker T. Washington, "Industrial Education for Cuban Negroes," *New York Times*, 16 Aug. 1898. On the need for English, see, for example, A. T. Stuart to Federico Degetau, 10 Feb. 1903, CIHCAM 3/VII/45.

¹³⁹ José-Manuel Navarro, *Creating Tropical Yankees: Social Science Textbooks and U.S. Ideological Control in Puerto Rico, 1898-1908* (New York: Routledge, 2002), 120-121 (quote 1), 115-119; Pablo Navarro-Rivera, "Acculturation under Duress: The Puerto Rican Experience at the Carlisle Indian

Washington and Pratt saw opportunities in U.S. annexation of Puerto Rico and U.S. officials on the island saw opportunities in Washington and Pratt. As early as August 16, 1898, Washington began publishing letters in major U.S. newspapers arguing that blacks in general and the institute in particular were crucial to U.S. success in its new relationships to lands where the “[o]ne-half of the population . . . composed of mulattoes or Negroes” “need . . . the strength that they can get by thorough intellectual, religious and industrial training.” The United States, he wrote, had “one advantage The experience that we have passed through in the Southern States during the last thirty years in the education of my race, whose history and needs are not very different from the history and needs of the Cuban and Porto Ricans” The plan, Washington knew, could beget prestige and funds. It would cost \$150 to cover tuition and expenses, and, as the *Washington Post* wryly noted, “[H]e invites anybody who feels like helping . . . to write him. We suspect that the inclosure of a check in the first letter would do no harm.” By the end of the year, Tuskegee had its first Puerto Rican student.¹⁴⁰

Then in early 1899, John Eaton brought decades of experience in southern, post-emancipation U.S. education to Puerto Rico as its head of education. Formerly associate commissioner of the Freedmen’s Bureau, superintendent of Tennessee public instruction, and U.S. Commissioner of Education, he had substantially influenced education in the U.S. South. He also frequently visited Carlisle, becoming what the school’s newspaper called “one of Carlisle’s staunchest supporters.” Eaton laid groundwork for sending

Industrial School 1898-1918,” *Centro Journal* 18, no. 1 (2006): 222-259 (quote 2); “Civilizing Indian Youth,” *New York Times*, 16 Mar. 1880, 2 (giving an early overview of the school as a federal program); “The Indian at School,” *Washington Post*, 9 Nov. 1884, 3 (describing contributions by “philanthropic ladies”).

¹⁴⁰ Washington, “Industrial Education for Cuban Negroes,” 16 Aug. 1898 (quote 1); Sonia M. Rosa, “The Puerto Ricans at Carlisle Indian School,” *KACIKE: The Journal of Caribbean Amerindian History and Anthropology*, <http://www.kacike.org/SoniaRosa.html> (28 Dec. 2003) (quote 3); “A Word from Booker Washington,” *Washington Post*, 18 Aug. 1898, 6. (quotes 2, 4).

Puerto Ricans to Carlisle. After serious illness cut short his tenure, his successor Martin Brumbaugh expanded his efforts, producing dozens of scholarships for Puerto Ricans seeking to attend Carlisle or a vocational school in the Tuskegee mold.¹⁴¹

In 1901-1902, Brumbaugh pressed both schools on how many students they could accept. U.S. officials in Puerto Rico promoted these schools as part of what they understood to be their civilizing mission on the island. Familiar with the reputations of Tuskegee and Carlisle for uplifting purportedly inferior races, U.S. officials modeled schools reforms on the island after Washington's and Pratt's programs and hoped that returning students from them would become agents of U.S. culture on the island. Soon, somewhat fewer than 20 Puerto Rican students had enrolled at Tuskegee and more than 40 had started at Carlisle.¹⁴²

Degetau embraced the schools that were willing to accept Puerto Rican pupils. In a letter published by *La Correspondencia* in August 1901, Degetau recommended Carlisle as a modern institution, describing the commendable food and grounds and healthy, active, co-educated Puerto Rican students that he encountered there. Students complained of homesickness and manual work, he recounted, but less so after he had spoken with them. Degetau quickly took a role akin to prominent mainland supporters of Carlisle, Tuskegee, and Hampton. In February 1902 he had joined U.S. senators as an invited guest to the Carlisle commencement. Several months later he worked with high

¹⁴¹ Rosa, "Puerto Ricans at Carlisle" *KACIKE: The Journal of Caribbean Amerindian History and Anthropology*, <http://www.kacike.org/SoniaRosa.html> (28 Dec. 2003) (quote); "Cubans in a Southern Negro School," *New York Times*, 2 Dec. 1898, 3; see also Navarro, *Tropical Yankees*; Navarro-Rivera, "Acculturation." Scholars studying Puerto Rican students at Carlisle and Tuskegee have focused on the cultural coercion that these students faced. Navarro, *Tropical Yankees*; Navarro-Rivera, "Acculturation"; Rosa, "Puerto Ricans at Carlisle." I gratefully draw on this work to examine Degetau's responses to that coercion.

¹⁴² Victor S. Clark, "Porto Rico under American School System," *Chicago Daily Tribune*, 13 May 1900, 41; "Porto Rico Nomination," *New York Times*, 5 Jun. 1900, 7; Navarro, *Tropical Yankees*; Navarro-Rivera, "Acculturation"; Rosa, "Puerto Ricans at Carlisle."

U.S. officials to secure federal legislation to increase Puerto Rican enrollment there. Then he made a trip to Tuskegee, visiting with Puerto Rican students and exchanging letters and gifts with Booker T. Washington. A. T. Stuart, the superintendent of schools in Washington, helped him as he tried to place a ward at the Hampton Institute.¹⁴³

Observers often saw these events differently. Degetau's support for Puerto Rican enrollment at Carlisle and Tuskegee created opportunities and pressures for the mainland press and U.S. officials to corroborate portrayals of Puerto Ricans as uncivilized. To establish the usefulness of Tuskegee to U.S. empire and to seek an advantageous position for former U.S. slaves and their descendants in the newly expanded racial hierarchy of the U.S. empire-state, Booker T. Washington had depicted Puerto Ricans as less civilized and less American than mainland blacks, but also capable of fulfilling obligations of citizenship through training at Tuskegee. Washington told the *Los Angeles Times* that one island student "was quite savage when he came," but that after "one of our boys, [a] young American[,] . . . gave him a good thrashing," he "changed his methods." Thus: "I cannot see why they [the Puerto Ricans] should not be educated into being good American citizens." In April and May 1901 the *New York Times*, in articles entitled "Porto Ricans Coming Here to Study" and "Porto Rican Boys to Study at Carlisle," had described two groups of Puerto Ricans—26 in all—arriving to study at Carlisle at state expense. Mainland readers had thus learned that U.S. officials expected islanders and

¹⁴³ "Una visita á Carlisle," *La Correspondencia*, 17 Aug. 1901; R.H. Pratt to Federico Degetau, 8 Aug. 1901, CIHCAM 3/III/52; R.H. Pratt to [Federico Degetau], 19 Jan. 1903, CIHCAM 3/VII/13; "Annual Exercises at Carlisle," *Washington Post*, 3 Feb. 1902, 3; Pratt to Degetau, 20 Dec. 1902; R.H. Pratt to Federico Degetau, 24 Jan. 1903, CIHCAM 3/VII/17; Stuart to Degetau, 10 Feb. 1903; Eugenio Lecompte to Federico Degetau, 13 Feb. 1903, CIHCAM 3/VII/47; Booker T. Washington to Ana Moreno Degetau, 16 May 1903, CIHCAM 4/III/182; Antonio Trujillo to Federico Degetau, 19 May 1903, CIHCAM 4/III/186; Booker T. Washington to Federico Degetau, 28 May 1903, CIHCAM 4/III/198; G.w.a. Johnston to Federico Degetau, 20 May 1903, CIHCAM 4/III/187. Elitism like that Degetau displayed could sometimes help intended beneficiaries, as when years later Carlisle surveyed alumni and responding Puerto Ricans reflected positively on having attended. Navarro-Rivera, "Acculturation."

American Indians to benefit from the same education.¹⁴⁴

Such associations worried parents and students. In 1901, Arturo Schulze thanked Degetau for visiting his daughter, then worried that she might not “fulfill her higher desires” at “the Indian School.” Reflecting on her attendance, Providencia Martínez related that “I talked to my dear papa about the Indian school and the poor father he used to cry Down here we do not know anything about good Indians but of those that you read in books that are regular animals.” Some Puerto Rican students, listed as belonging to the tribe “Porto Rico” on certain forms, crossed off “Indian” and “tribe” on other forms, replacing them with “Puerto Rico” or “Puerto Rican.” José Osuna remembered, “I did not like the place. I never thought it was the school for me. I was not an Indian; I was a Puerto Rican of Spanish descent.” Similarly, Angela Rivera-Tudó later complained that the situation amounted to an unforgivable injustice, abusive treatment by our “masters,” directed to denigrating Puerto Ricans further, by their choosing the only college they had for educating and civilizing the savage Redskin Indians for also educating and “civilizing” the wretched Puerto Ricans.

Such families, instead of attacking racial hierarchy, guarded what they saw as their rightful place in it.¹⁴⁵

The situation also created financial pressures on officials to equate Puerto Ricans and American Indians. Congressional funding for Puerto Ricans at Carlisle required that

¹⁴⁴ “The Negro’s Future,” *Los Angeles Times*, 17 Dec. 1899, 16; “Porto Ricans Coming Here to Study,” *New York Times*, 28 Apr. 1901, 23; “Porto Rican Boys to Study at Carlisle,” *New York Times*, 17 May 1901, 5.

¹⁴⁵ Arturo Schulze to Federico Degetau, 13 Aug. 1901, CIHCAM 3/III/59 (quotes 1-2 (“aprovechase segun son sus mejores deseos”; “Yndian School”)); Navarro-Rivera, “Acculturation” (quotes 3-9) (quoting Juan José Osuna, “An Indian in Spite of Myself,” *Summer School Review* 10, no. 5 (1932)) (translations are Navarro-Rivera’s); Rosa, “Puerto Ricans at Carlisle” (quote 10) (quoting Angela Rivera-Tudó, “The Puerto Rican Indians,” trans. Vilma Irrizary, *La Correspondencia de Puerto Rico*, 3 Jan. 1931, 4).

interested parties like Degetau ally with congressmen committed to Puerto Rican and American Indian affairs by telling them that Puerto Ricans were a good fit at a school devoted to serving U.S. native peoples. Senator Joseph Foraker agreed, and tried to add a funding measure to a bill involving American Indian matters. The measure failed. Other funding did not materialize. Seeking to forestall the extinction of Puerto Rican attendance at Carlisle, Pratt asked Degetau to urge upon the “Indian committee” that “[t]here is some Indian blood among your Porto Ricans and on that ground there is a claim for them.” It was a strange request. Degetau sought not tribal status for Puerto Ricans, but U.S. citizenship, a relationship to the United States that not all American Indians yet enjoyed. Previously, he had dismissed the argument Pratt now proposed, describing a near-total Spanish genocide of indigenous Puerto Ricans that made characterization of Puerto Ricans as akin to American Indians an absurdity. But the request was also timely. Only five Puerto Ricans arrived at Carlisle after 1901, and, as money ran dry, those there left. By contrast, scholarship funds for Puerto Ricans remained available at Tuskegee, and as late as 1915, the *Chicago Defender* reported, Puerto Ricans attended there.¹⁴⁶

By mid 1902, Degetau’s horizons had narrowed. With little to show for his attempts to influence mainland opinion, executive agencies, and political branches, he focused and integrated his efforts. In an English-language book that he envisioned writing to support U.S. citizenship and traditional territorial status, he planned to reprise his Philadelphia *Enquirer* essay, his readings of the *Insular Cases*, and his efforts before U.S. officials, and add analysis of the Foraker Act and Treaty of Paris and comparisons of

¹⁴⁶ R.H. Pratt to Federico Degetau, 15 Mar. 1904, CIHCAM 4/IX/14 (quotes); “Riverside: Filipinos in Indian School,” *Los Angeles Times*, 9 Feb. 1903, 12; Degetau, *Political Status of Porto Rico*; see also Pratt to Degetau, 20 Dec. 1902; Pratt to Degetau, 24 Jan. 1903; Navarro-Rivera, “Acculturation”; Navarro, *Tropical Yankees*, 125 and n. 77; “Tuskegee Institute Opens 35th Session,” *Chicago Defender (Big Weekend Edition)*, 25 Sep. 1915, 4.

peoples in various U.S. territories. Though he ultimately abandoned that project, he continued intertwining historical and legal arguments, now looking for a legal rather than literary vehicle through which to advance them.¹⁴⁷

The Legalization of Labor: Santiago Iglesias and the American Federation of Labor

Although labor-leader Santiago Iglesias had come to the mainland fleeing violence and repression, rather than bearing Federico Degetau's electoral mandate, he shared Degetau's faith in mainland alliances. Seeking to carve out a political space in Puerto Rico for organized labor and aware that his mainland socialist friends had failed to protect him in fall 1900, he wrote to the American Federation of Labor on December 6, 1900. In addressing the craft-union-based organization known for its emphasis on expressive liberties, Iglesias both described "15,000 skilled workmen" in Puerto Rico without indicating that many were not unionized and promoted "freedom of assembly, freedom of the press and free speech." The Federation—always competing with rival labor groups for members—welcomed the overture, authorizing funds to organize island affiliates. Iglesias then met with Federation President Samuel Gompers, who conveyed the Federation's commitment to voluntarism, a philosophy promoting ostensibly private group actions like collective bargaining, boycotts, and demonstrations and disfavoring legislative intrusions into the employment relationship like minimum-wage laws. The "best thing the state can do for Labor," Gompers stated, "is to leave Labor alone." Gompers expressed his support for sending Iglesias to Puerto Rico as a paid organizer.¹⁴⁸

¹⁴⁷ [Degetau], *Something that the American People Must Know*.

¹⁴⁸ *Report of Proceedings of the Twentieth Annual Convention of the American Federation of Labor Held at Louisville, Kentucky, December 6th to 15th Inclusive, 1900* (American Federation of Labor, [1900]), 64-65 (quotes 1-2), 115-119, 202-211; William E. Forbath, *Law and the Shaping of the American Labor*

In April 1901, the dispute between Iglesias's Federación Libre and the Republicanos over worker loyalties and support for U.S. rule reignited. The New York *Sun* reported that a commission from the Republicano-aligned Federación Regional had visited Secretary of Puerto Rico William Hunt to denounce Iglesias as an anti-American, foreign, socialistic agitator. That month, Iglesias took advantage of ambiguities surrounding Puerto Ricans' U.S. citizenship status and eligibility by taking out naturalization papers in Brooklyn. Back in Puerto Rico, Federación Libre members collected 6,000 signatures protesting poverty on the island. On April 16, Iglesias met with President McKinley, eliciting the President's promise to work to improve island conditions. Iglesias then told reporters, "I represent" "actual workingmen," and the "American Federation of Labor has extended its protection to this organization, and recognized me as its duly accredited representative." When Senator Joseph Foraker wrote Degetau about the petition of the Federación Libre, Degetau replied that the Federación Regional was the true representative of workers and dismissed Iglesias as a socialist Spaniard with little connection to organized labor.¹⁴⁹

Gompers subsequently wrote to Iglesias that the Executive Council had appointed

Movement (Cambridge, Mass.: Harvard University Press, 1991), 2 n.3 (quotes 3-4) (quoting Samuel Gompers, "Judicial Vindication of Labor's Claims," *American Federationist* 7 (1901): 284), 1-2 n.3 (providing the text which I paraphrase in describing voluntarism); Samuel Gompers to Santiago Iglesias, 12 Sep. 1901, SGL 46/283; William George Whittaker, "The Santiago Iglesias Case, 1901-1902: Origins of American Trade Union Involvement in Puerto Rico," *The Americas* 24 (Apr. 1968): 380; Gervasio L. García and A.G. Quintero Rivera, *Desafío y solidaridad: breve historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Ediciones Huracán, 1986), 35-41. Juan Ángel Silén puts the April 1901 membership of the Federación Libre at 5,500. *Apuntes para la historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Publicaciones Gaviota, Inc., 1978), 62.

¹⁴⁹ The New Associated Press, "Porto Rico Emigration Nothing Remarkable," *Los Angeles Times*, 16 Apr. 1901, 4 (quotes); [Degetau] to Foraker, 15 May 1901; Santiago Iglesias Pantín, *Luchas emancipadoras (crónicas de Puerto Rico)* vol. 1, 2d ed. (San Juan, P.R.: [Imprenta Venezuela] 1958 [1929]), 214-216; Gonzalo F. Córdova, *Resident Commissioner, Santiago Iglesias and His Times* (Río Piedras, P.R. : Editorial de la Universidad de Puerto Rico, 1993), 101; Whittaker, "The Santiago Iglesias Case," 389 n.52; Foraker to Degetau, 25 Apr. 1901; "Is This True?" *Los Angeles Times*, 10 Apr. 1901, 8; The New Associated Press, "Petition to President," *Los Angeles Times*, 16 Apr. 1901, 4.

him as its sole paid organizer in Puerto Rico. Two weeks later Gompers wrote to the newly named governor, William Hunt, to ask that Iglesias be protected from harassment. Gompers also wrote President Roosevelt that Iglesias required legal guarantees and protections to do his work, and Roosevelt asked Hunt to ensure that Iglesias not be molested.¹⁵⁰

Despite Gompers's efforts, Iglesias confronted a maelstrom of official and extra-legal hostility in Puerto Rico. Problems began when officials arrested him upon arrival, charging him with conspiring to raise the price of labor during August 1900 strikes and with failing to appear for the trial on that charge. Unable to raise bail, Iglesias sent a jailhouse protest to Governor Hunt and cables to the Associated Press and Gompers.¹⁵¹

Seeing both a crisis and an opportunity, Gompers sprang into action. He met with Roosevelt on November 11. As he later recounted to Iglesias, Roosevelt was "greatly astonished" by, "expressed his regret" over, and "order[ed] investigation [into] your case." Prominent mainland media like the Associated Press, and *New York Times* reported events from Gompers's perspective, describing his preemptive efforts to secure protection for Iglesias, his meeting with Roosevelt after the arrest, and Roosevelt's decision to investigate. Then Gompers cabled bail money to a reporter at the bilingual island-based *San Juan News*. In an accompanying letter, he denounced the case against Iglesias as unjust. When Governor Hunt arrived in Washington that month, Gompers also secured a meeting with him and with President Roosevelt. Predicting in late November that persecution could "redound to the success and advantage of our cause," Gompers

¹⁵⁰ Whittaker, "The Santiago Iglesias Case," 380-381; Samuel Gompers to Santiago Iglesias, 1 Oct. 1901, SGL 46/578; "New Governor of Porto Rico," *New York Times*, 31 Aug. 1901, 6; Iglesias, *Luchas emancipadoras*, vol. 1, 216-217.

¹⁵¹ Samuel Gompers to Executive Council, 20 Nov. 1901, SGL 48/260; Iglesias, *Luchas emancipadoras*, vol. 1, 218-219; Whittaker, "The Santiago Iglesias Case," 381-383.

counseled Iglesias to stand trial and “plead justification.”¹⁵²

While out on bail, Iglesias put law itself on trial by seeking official protection from extralegal violence. He accused the Republicano-supported Federación Regional of having shot at Federación Libre offices. The police, he charged, had harassed Federación Libre members rather than arrest shooters. Two attempts on Iglesias’s life and eight armed attacks apparently followed. Iglesias saw these events as a test of whether “the laws and authorities in Puerto Rico are able to correct and punish such criminality” and whether in Puerto Rico “Liberty and Order are protected by the sovereign Constitution.” The priority for island workers under these conditions, Iglesias and a companion told a crowd of 1,500 later that month, was winning a U.S. citizenship accompanied by full constitutional rights.¹⁵³

Initially, Gompers’s and Iglesias’s legal maneuvers failed. Republicano trial judges convicted Iglesias of conspiracy to raise the price of labor, sentenced him to more than three years in prison, and ordered that the Federación Libre—by then a constituent member organization of the American Federation of Labor—be disbanded. The Republicano newspaper *El País* approved, though Republicano leader José Barbosa privately told Degetau that while “it is often said that all individual rights of the U.S. Constitution apply in Puerto Rico, . . . practically that does not happen.” Rather, he wrote,

¹⁵² Whittaker, “The Santiago Iglesias Case,” 384, passim (quotes 1-4); Samuel Gompers to Santiago Iglesias, 20 Nov. 1901, copy available at SGL (quotes 5-8). For articles on related matters where Gompers was a likely source, see, e.g., “Iglesias to Be Free To-Day,” *Washington Post*, 18 Nov. 1901, 2; “Iglesias Still in Jail,” *New York Times*, 20 Nov. 1901, 2.

¹⁵³ “Una carta de Santiago Iglesias,” *La Democracia*, 12 or 13 Dec. 1901 (quotes 1-2 (“las leyes y las autoridades en Puerto Rico son incapaces para corregir y castigar tales criminalidades”; “la Libertad y el Orden están garantidos por la soberana Constitución”)) (quoting Santiago Iglesias to Chas. Hartzell, 11 Dec. 1901); Iglesias, *Luchas emancipadoras*, vol. 1, 220-221, 272-273, 277-278, 282-289; Mariano Negrón Portillo, *Las turbas republicanas 1900-1904* (San Juan: Ediciones Huracán, 1990), 75, 90, 103, 105, 109, 112-117, 125, 135, 156, 209; Ángel Silén, *Apuntes para la historia*, 61; Whittaker, “The Santiago Iglesias Case,” 385, 389 (citing *San Juan News*, 24 Dec. 1901).

“the law of Association imposes restrictions on the right of Association that permit any mayor or police officer to make a joke of the right by declaring any meeting illegal and dissolving it, then making claims before the courts that cause them to sentence participants.” That, he claimed, was what had “just happened to Iglesias.”¹⁵⁴

Iglesias and Gompers sought to portray his conviction as inconsistent with U.S. institutions and legal norms. Because the Federación Libre was “under the Constitution of the American Federation of Labor,” Iglesias contended, the court had effectively outlawed that longstanding mainland organization, which the *San Juan News* described as formed by “hundred of thousands of the best citizens of the Union.” “Governor Hunt is American and will recommend the annulment of the laws” under which he was convicted, he also told the *News*, “because they conflict with methods eminently American.” The annual convention of the American Federation of Labor quickly resolved to use all available means to undo the decision. Gompers argued that the “antiquated Spanish laws” under which Iglesias had been convicted resembled the conspiracy laws against which a not-so-distant generation of mainland laborers had struggled. “In defending the workmen of Porto Rico,” he explained, “we American unionists are but safeguarding and promoting our own vital interests.” The *New York Times* reported that Gompers was “prepared to carry the case to the United States Supreme Court on

¹⁵⁴ José Barbosa to Federico Degetau, 28 Jan. 1902, CIHCAM 3/V/9 (quotes (“se dice con frecuencia que la Constitución de los Estados Unidos rige en Pto Rico en todo aquello que se refiere á los derechos individuales, pero en la práctica no resulta. Ejemplo: el derecho de Asociación está destruida por la ley de Asociación que exi[g]e tanto requisito para poder gozar de ese derecho que cualquier Alcalde ó Policía [sic] puede burlarse de aquellos, declaran ilegal cualquier reunión disolverla y hacen comparecer ante los Tribunales á los Directores y sentenciarla como acaba de hacer con Iglesias.”)); Iglesias, *Luchas emancipadoras*, vol. 1, 227-242, 249-250; Whitaker, “The Santiago Iglesias Case,” 382, 385-386; Alfonso García Martínez, “El proceso judicial de Santiago Iglesias 1901-1902,” *Revista del Colegio de Abogados de Puerto Rico* 40 (Feb. 1979): 125-148; “Una carta de Santiago Iglesias” (quoting Iglesias to Hartzell, 11 Dec. 1901), reprinted in Iglesias, *Luchas emancipadoras*, vol. 1, 221; “Labor Union in Porto Rico,” *New York Times*, 8 Dec. 1901, 3; Juan Carreras, *Santiago Iglesias Pantín: su vida, su obra, su pensamiento (datos biográficos)* (San Juan, P.R.: Editorial Club de la Prensa, 1965), 110-111.

constitutional grounds.”¹⁵⁵

Newspapers quickly became vehicles for and partners in the men’s protests. The New York *Times*, Chicago *Tribune*, Washington *Post*, Los Angeles *Times*, and Associated Press provided ongoing coverage. Quoting and summarizing Iglesias’s statements, they temporarily overlooked fraught mainland relations between organized labor and the courts. Iglesias’s acts were, the New York *Times* claimed, under “modern, that is, American, ideas . . . no offense at all.” The New York *Evening Post* declared, “If we have annexed a lot of barbarous medieval statutes, . . . [they] must be stamped out like yellow fever or any other tropical plague.” Federales, who had long complained of violence by the Federación Regional and persecution by Republicano officials, saw an opportunity. Their organ, *La Democracia*, referred to “our particular friend, the señor, don Santiago Iglesias,” and savaged “republicano judges with their . . . injustices[] and . . . ineptitude.” Earlier that year, Federal leader Luis Muñoz had joined Iglesias in fleeing extralegal violence and official repression in Puerto Rico by going into self-imposed exile in New York. There he had founded the Puerto Rico *Herald* and opened its pages to Iglesias. Now he used it to condemn attacks on the Federación Libre and to advocate freedoms of assembly, press, and speech.¹⁵⁶

¹⁵⁵ Iglesias, *Luchas emancipadoras*, vol. 1, 244-245 (quote 1 (“bajo la Constitución de la American Federation of Labor”)); Whittaker, “The Santiago Iglesias Case,” 387-390 (quotes 2-6) (quoting *San Juan News*, 24 Dec. 1901, 2; Gompers, “Conspiracy to Raise”); “Appeal of Santiago Iglesias,” *New York Times*, 30 Mar. 1902, 10 (quote 7).

¹⁵⁶ “Topics of the Times,” *New York Times*, 17 Apr. 1902, 8 (quote 1); Whittaker, “The Santiago Iglesias Case,” 388 (quote 2) (quoting Samuel Gompers, “The Conspiracy to Raise the Price of Labor,” *American Federationist* 9 (Jan. 1902): 27-28 (quoting the *Post*)); “Santiago Iglesias,” *La Democracia*, 25 Dec. 1901 (quote 3 (“nuestro particular amigo el señor don Santiago Iglesias”)); “La sentencia contra Iglesias,” *La Democracia*, 19 Dec. 1901 (quote 4 (“jueces republicanos con sus . . . injusticias[] y . . . su ineptitud”)); “Porto Rico Labor Laws,” *Chicago Daily Tribune*, 14 Dec. 1901, 12; Iglesias, *Luchas emancipadoras*, vol. 1, 243-244; “An Un-American Law,” *Washington Post*, 7 Jan. 1902, 5; “Labor Agitator Sent to Prison,” *Chicago Tribune*, 13 Dec. 1901, 1; “Jail for Iglesias,” *Washington Post*, 13 Dec. 1901, 1; García and Rivera, *Desafío y solidaridad*; Carreras, *Santiago Iglesias Pantín*, 111; Santiago Iglesias, “Obreros Puerto-Riqueños ¡Unirse!” *Puerto Rico Herald*, 4 Oct. 1901, 10; Santiago Iglesias, “Federación del Trabajo

Facing continuing and mounting pressure from mainland newspapers, President Roosevelt, and Gompers, mainlanders at the head of the Puerto Rican state began to favor applying progressive strands in U.S. labor and constitutional law to Iglesias's case. For once, they sided with the Federación Libre against Republicanos. On January 2, 1902, Governor Hunt declared that "the right to organize to secure better wages by peaceable measures is perfectly lawful" and that potentially contrary laws were "unworthy of an American government and should be abrogated." The U.S. Attorney General, at Roosevelt's urging, separately argued in a communication to his counterpart on the island that Iglesias's conviction violated U.S. constitutional norms. In a letter to the public prosecutor representing the island on appeal, the Puerto Rico Attorney General then cited the "right to assemble," condemned Iglesias's conviction as an "abridgement of personal liberty," and declared that any law that "impairs this right" had "become a nullity with the change of sovereignty." Heeding this advice, the prosecutor told the Puerto Rican Supreme Court at April 9 oral arguments that Iglesias's appeal was well taken. Six days later, the court agreed, reversing the conviction.¹⁵⁷

These events strengthened Iglesias and the Federation and weakened Republicanos and the Federación Regional. In January 1901, the Federación Regional

Americana," *Puerto Rico Herald*, 2 Nov. 1901, 10; "Unionism a Crime in Puerto Rico," *Puerto Rico Herald*, 21 Dec. 1901, 4; "The Discrediting of a Country," *Puerto Rico Herald*, 28 Dec. 1901, 3. Cooperation between Iglesias and Muñoz was visible by April 1901. "Porto Rican Lies Refuted," *Los Angeles Times*, 11 Apr. 1901, 8; "Reply to Gov. Allen," *New York Times*, 11 Apr. 1901, 8; "Porto Rican Conditions," *New York Times*, 25 Apr. 1901, 5.

¹⁵⁷ Whittaker, "The Santiago Iglesias Case," 390-391 (quotes 1-2) (quoting Samuel Gompers, "For Justice Even in Porto Rico," *American Federationist* 9 (Feb. 1902): 75 and citing *San Juan News*, 10 Apr. 1902, 8); "The Porto Rico Labor Case," *New York Times*, 11 Apr. 1902, 3 (quotes 3-6); Iglesias, *Luchas emancipadoras*, vol. 1, 268-269; see also "Gov. Hunt's Message to the Porto Ricans," *New York Times*, 3 Jan. 1902, 2; *Report of Proceedings of the Twenty-Second Annual Convention of the American Federation of Labor Held at New Orleans, Louisiana, November 13 to 22, 1902* (Washington, D.C.: The Law Reporter Company, 1902), 15 (President's Report); García Martínez, "El proceso judicial de Santiago Iglesias," 145. While U.S. labor law and constitutional norms remained contested terrain in 1902, criminal-conspiracy charges like those that Iglesias faced had fallen into relative disuse in mainland courts. Forbath, *Law and Labor*, 61.

had sent a representative to New York in order to discredit Iglesias and ally with the American Federation of Labor. The effort had failed. Then during Iglesias's case Republicanos had appeared to back anti-labor laws while members of the Federación Regional had attacked a champion of workers' liberties. By risking prison and injury and by rallying mainland newspapers, the American Federation of Labor, and President Roosevelt on behalf of organized labor, Iglesias had displayed influence, accrued prestige, and become a top labor leader to workers and officials. His victory also increased workers' confidence in their ability to represent their interests and be heard, as illustrated by the 3,000 Federación Libre members and sympathizers who celebrated Iglesias's victory with a parade and mass meeting. The decision, Iglesias later recalled, "[c]hanged the juridical status of the labor associations." Police and judges continued to target Iglesias and the Federación Libre, but with fewer legal tools. Iglesias's alliance with the Federation also gave him new opportunities to advance his arguments aligning the Federación Libre with U.S. practices and ideas. Thus, at the 1902 convention of the American Federation of Labor, Iglesias cosponsored successful resolutions calling on the Federation to lobby Roosevelt and to demand U.S. citizenship and associated rights for Puerto Ricans. The Federation also gained ground in Puerto Rico as Iglesias increasingly tied his fortunes to it rather than mainland socialists and led an energetic, island-wide organizing campaign.¹⁵⁸

During these months, Iglesias and Degetau displayed the different ends for which

¹⁵⁸ Iglesias, *Luchas emancipadoras*, vol. 1, 268 (quote 1 ("Cambió jurídicamente el status de las asociaciones del trabajo en Puerto Rico")), 269, 299-300, passim; José Maulion to Federico Degetau, 24 Jan. 1902, CIHCAM 3/V/7; José Maulion to Federico Degetau, 30 Jan. 1902, CIHCAM 3/V/10; *Report of Proceedings . . . , 1902*, 15-16, 78-79, 133, 194, 226; Ángel Silén, *Apuntes para la historia*, 61; Whittaker, "The Santiago Iglesias Case," 383-385; 388-389, 392, passim; Santiago Iglesias Pantín, *Luchas Emancipadoras (Crónicas de Puerto Rico) (1910-1917)* vol. 2 (San Juan, P.R.: [Imprenta Venezuela], 1962). The Representative of the Federación Regional received funding from Degetau. Maulion to Degetau, 24 Jan. 1902; Maulion to Degetau, 30 Jan. 1902.

they sought mainland allies. Degetau, who moved in elite, highly educated circles, believed that countries should be judged on their best men. He sought to uplift workers, receiving their votes and speaking for—though rarely answering to—them. By contrast, Iglesias, a lifelong artisan whose associates were laborers, measured national civilization and success by worker wellbeing and rights, and more often he let worker complaints guide him. The men’s reactions to events in Hawai‘i would bring these differences to the fore.

In late 1901, reports of Hawai‘ian planters abusing Puerto Rican workers had returned to the news. The New York *World* had announced that islanders “cannot stand the severe strain put upon them by the Yankee planters” and were arrested “by the police on the charge of vagrancy.” *La Democracia* relayed that one dispute ended as “our poor countrymen hid in the woods where they were persecuted by gunfire and set after with a pack of hunting dogs.” Some Puerto Ricans in Hawai‘i eventually protested en masse, describing the events in a February 17, 1902, letter to the San Juan *News*. The events surrounding the protest formed part of a larger pattern of self-help by and official reaction to Puerto Ricans in Hawai‘i. According to official numbers, 2,930 Puerto Ricans had accepted offers to work on Hawai‘ian plantations. As they grew dissatisfied and left to seek better terms of employment, that number fell to 1,851 in late February 1902. Sugar planters refused to rehire them. Police initially arrested hundreds, primarily on charges of theft, prostitution, and vagrancy. Eventually arrests fell and planters ended their rehiring ban.¹⁵⁹

¹⁵⁹ “Porto-Ricans ‘Vagrant,’” *Puerto Rico Herald*, 12 Oct. 1901, available at CIHCAM 17/III/1 (quotes 1-2) (citing the New York *World*); “De Hawaii a Puerto-Rico,” *La Democracia*, 27 Dec. 1901 (quote 3 (“al huir nuestros pobres paisanos, refugiándose en los bosques, se les persiguió á tiros y se lanzó contra ellos una jauría de perros de caza”)); Iglesias, *Luchas emancipadoras*, vol. 1, 261; Draft, [Federico Degetau] to

Degetau responded to his constituents' concern for their countrymen in Hawai'i by requesting a State Department investigation, but this time expressed skepticism in correspondence that soon became public. Seeing worker-planter relations as largely personal matters to be handled by the state, if at all, in private-law courts, Degetau focused his inquiry on only a portion of laborers' complaints, especially those of false arrests, prosecutions, and convictions. Degetau, who ultimately wished to be treated as the equivalent of Hawai'ian officials and not to have his fate determined by association with Puerto Rican workers, also received and apparently trusted assurances from Hawai'ian officials. They had convinced him with their exculpatory 1901 report and, he argued, had sought to help him pursue U.S. citizenship for Puerto Ricans:

[T]he representative of the Planters' Association of Hawaii . . . told me that he sought to have the emigrants' citizenship rights recognized so that they could vote in Hawaii[,] that he was disposed to prepare an appeal to the Supreme Court in a case upholding a sentence of Hawaiian courts refusing to recognize Puerto Ricans as U.S. citizens, and that . . . he hoped that I would argue the case . . . , understanding that this would guarantee success.¹⁶⁰

Degetau went on to argue that "it doesn't seem likely that were the complaints true, the

Francisco Valls de la Log, 25 Apr. 1902, CIHCAM 3/V/57; Smith to Cooper, 22 May 1902; Cooper to [State Department?], 27 May 1902; L.A. Andrews to A. M. Brown, 27 Jun. 1902, CIHCAM 3/VI/48; A.M. Brown to S.B. Dole, 10 Jul. 1902, CIHCAM 3/VI/48; Sanford Dole to Secretary of the Interior, 4 Sep. 1902, CIHCAM 3/VI/48.

¹⁶⁰ [Degetau] to Valls de la Log, 25 Apr. 1902 ("el Sr. Representante de la asociación de plantadores de aquellas Islas, . . . me manifestó su interés porque los emigrantes tuvieran sus derechos de ciudadanos reconocidos, para que pudieran ejercer el derecho electoral en el Hawaii[,] que estaba dispuesto á preparar un recurso ante el Tribunal Supremo en el caso de que se confirmase una sentencia de los tribunales de aquellas Islas negandose [sic] á reconocer la ciudadanía americana de los puertorriqueños [sic] y que . . . deseaba que yo fuese quien arguyese el caso . . . , por entender él que esta era una garantía de éxito."); "Well Treated."

planters would manifest such interest in investing Puerto Ricans with constitutional guarantees and in providing them the vote.” In a separate meeting, Governor Sanford Dole told Degetau that many of the claims involving abuse of the criminal law were false. Degetau was predisposed to credit statements from a fellow member of a propertied, political class, and though working conditions on Hawai‘ian plantations were generally awful, Degetau concluded “that that letter to the press [by the emigrants] involved some evident exaggerations.”¹⁶¹

Iglesias took the opposite tack, cosponsoring a resolution to seek federal action to repatriate Puerto Rican emigrants in Hawai‘i and prosecute their abusers. The convention of the American Federation of Labor ordered an investigation of the charge that Hawai‘ian planters and officials had deceptively lured Puerto Ricans there, “maltreated, whipped, and treated [them] like criminals,” and met their protests and reclamations by having them “robbed, shot and taken to jail.” The Federation commission that visited the island deemed official conduct there unsatisfactory.¹⁶²

Drawing on paternal and patriotic concepts, some Puerto Ricans in Hawai‘i petitioned Degetau to let us keep “the idea that we will manage to return to the homeland six or seven thousand of her sons and daughters” from a Hawai‘ian life that they compared to slavery and racial degradation. They asked for help both as heads of households, swearing truthfulness “in the name of our families,” our “wives, sisters, and

¹⁶¹ [Degetau] to Valls de la Log, 25 Apr. 1902 (“no parece verosimil [sic] que si los hechos denunciados fueran exactos, los plantadores se manifestaran tan interesados en investir [sic] con las garantias [sic] constitucionales y de proveer del voto á [ellos]”; “que en esa comunicaci3n dirigida á la prensa se incurre por los firmantes en notorias exageraciones”); “Desde Washington,” *La Correspondencia*, n.d., available at CIHCAM 18/L1; [Degetau], Diary, 23 Apr. 1902, CIHCAM 11/L4; John Hay to Federico Degetau, 12 May 1902, CIHCAM 3/VI/4; “Well Treated”; Stanley L. Engerman, “Contract Labor, Sugar, and Technology in the Nineteenth Century,” *Journal of Economic History* 43 (Sep. 1983): 635-659.

¹⁶² *Report of Proceedings . . . , 1902*, 88 (Resolution No. 82) (quotes 1-2), 155; Iglesias, *Luchas emancipadoras*, vol. 1, 261.

daughters,” and as dependents within a patriotic family, writing that “Puerto Rico is humanitarian and patriotic, so feels sorry for its sons and daughters just as a [loving?] mother would for the son she adores.” They needed help, they related, because mainlanders in Hawai‘i extended little “consideration [to] those not of the Saxon race.” They did not here argue against racism, but rather, like Degetau, objected to being treated like races that they believed were degraded. Claiming that planters were accustomed to Asian laborers, the writers asserted that Puerto Ricans did not share the “dishonor of this people” and so should not receive the same wages or “law that they apply to the Asian.” Planters and authorities were, “as in the times of the slaves and masters of plantations, denying the right of movement” as well as the right to withhold labor. To enforce such oppression, the emigrants asserted, employers arrived at workers’ doors with whips. They added that police arrested any Puerto Rican walking between plantations on the theory that “the emigrant who walks abroad has no family and robs to eat.” As a paternal, patriotic leader, “the person who represents the island of Puerto Rico in Washington,” Degetau should have valued “the honorable and sincere word that a dozen honorable workers offered under sacred oath” rather than “explicit assurances of the Governor of Hawaii.” Instead, they implied, he had dishonored working Puerto Ricans, trusted elite Hawai‘ian exploiters, and failed to live up to his paternal, patriotic obligations. In short, a Puerto Rico defined, judged, and led by the best men had failed them.¹⁶³

¹⁶³ Manuel Rojas et al. to Degetau, 24 Jun. 1903, CIHCAM 4/VII/51 (“la idea que salvará volviendo á [la?/dar?/dan?] patria a seis ó siete millares de sus hijos”; “el nombre de nuestras familiares”; “esposas ó hermanas ó hijas”; “Pto Rico es humanitario, es [patriota?], siente por sus hijos como una [amanbsonia?] madre por su hijo adorado”; “consideración a otra individualidad que no se llama hija de la raza sajona”; “El caracter [sic] poco digno de esta gente”; “no podía acordar que por ningun [sic] medio se les aplicase la misma Ley que al asiático”; “[suena?] a tiempo para el esclavo y los dueños de plantaciones niegan el derecho de traslado”; “el emigrado que anda errante no tiene familia y roba para comer”; “la persona del representante de la Ysla [sic] de Puerto Rico en Washington”; “la frace [sic] honrada y sincera que bajo un juramento sagrado profieren una docena de trabajadores honrados”; “Las explicitas manifestaciones del

Reconstruction Redux: Luis Muñoz Rivera and the Opposition Seek Mainland

Allies

While Luis Muñoz Rivera and Iglesias had begun to form an alliance after both had arrived in New York fleeing violence in Puerto Rico, in some ways it was Iglesias and Degetau who were most similar. Unlike these men, Muñoz took a more oppositional stand to U.S. rule. He did not align the Federales he led with a major non-governmental organization like the American Federation of Labor as had Iglesias or celebrate recent actions of the U.S. state as had Degetau. Instead, he founded the Puerto Rico *Herald* in 1901 in New York City. A bilingual Spanish-English newspaper distributed by mail, the *Herald* aspired to reach journalists, clubs, hotels, congressmen, important public figures, and interested readers “in Porto Rico, Cuba, South America and the United States.”

Advertisers, anticipating a more modest reach, primarily targeted Puerto Ricans on the island and in New York with Spanish ads for room, board, luxury goods, transportation, communications, and professional services. Like *La Democracia*, the organ of Federales

Gobernador del Hawaii”); see also Carmelo Montalvo to [Federico Degetau], [Jun. 1903?], CIHCAM 4/III/233. For a letter from a Puerto Rican in Mexico who believed that Degetau should act as a kind of consul for islanders abroad, see [Loren?] [Proscini?] to Federico Degetau, 6 Feb. 1902, CIHCAM 3/V/15; Sotero Rosario to Federico Degetau, 28 Mar. 1902, CIHCAM 3/V/39. On cultural formation, conceptualization of the homeland, and claims making among immigrants who engage in unidirectional or circular migrations, see, e.g., George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1993); Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans* (New Haven, Conn.: Yale University Press, 2003); Marc C. McLeod, “Undesirable Aliens: Race, Ethnicity, and Nationalism in the Comparison of Haitian and British West Indian Immigrant Workers in Cuba, 1912-1939,” *Journal of Social History* 31 (spring 1998): 599-623; Barry Carr, “Identity, Class, and Nation: Black Immigrant Workers, Cuban Communists, and the Sugar Insurgency, 1915-1934,” *Hispanic American Historical Review* 78 (Feb. 1998): 83-116; Winston James, *Holding Aloft the Banner of Ethiopia: Caribbean Radicalism in Early Twentieth-Century America* (New York: Verso, 1998); Irma Watkins-Owens, *Blood Relations: Caribbean Immigrants and the Harlem Community, 1900-1930* (Bloomington: Indiana University Press, 1996); Silvio Torres-Saillant, “The Tribulations of Blackness: Stages in Dominican Racial Identity,” *Callaloo* 23 (summer 2000): 1086-1111; Nina Glick Schiller and Georges Eugene Fouron, *Georges Woke up Laughing: Long-Distance Nationalism and the Search for Home* (Durham, N.C.: Duke University Press, 2001).

on the island that Muñoz had founded a decade and a half earlier, the *Herald* did not become self-supporting as it protested perceived abuses by Republicanos and their U.S.-official supporters. In 1901-1902, the newspaper tried to delegitimize the U.S.-Republicano coalition before island voters and mainlanders and to shame U.S. officials into abandoning it. During that time Federales and Republicanos engaged in pitched battles; the Federación Libre and Federales complained of extralegal, pro-Republicano violence; and Federales and U.S. officials identified voter fraud in favor of Republicanos. Federales did not boycott the vote as in 1900, but did again charge in the press that U.S. officials incited and condoned electoral violence. Comparing conditions in the island with conditions that white mainlanders had come to associate with Reconstruction became a key strategy.¹⁶⁴

Three days before the November 1 election of 1902, the newspaper announced that a new Reconstruction was underway in Puerto Rico: “[W]e study history and see . . . the scandals of the south repeated. . . . The similarity between the *carpet-baggers* of the south and the *carpet-baggers* of Puerto Rico is likewise a point worthy of notice. . . . The south peacefully overcame its wretched exploiters. Puerto Rico will also overcome hers.” It was a metaphor calculated to resonate with island and mainland audiences. To Puerto Rican readers, the reference to officials from the metropole tyrannizing locals was likely to recall Liberals’ resentment at the outsized role continental Spaniards had once played

¹⁶⁴ *Puerto Rico Herald*, 27 Aug. 1901, 2 (quote); Negrón Portillo, *Las turbas republicanas*, 144-149, 151-153, 193; “Porto Rican Editor Coming Here,” *New York Times*, 21 Mar. 1901, 1; *Puerto Rico Herald*, 7 Sep. 1901; “Al público y á las agencias de ‘The Puerto Rico Herald,’” *Puerto Rico Herald*, 3 Aug. 1901, 13; B. Diaz to Federico Degetau, 6 Oct. 1903, CIHCAM 4/V/312; Federico Ribes Tovar, *100 biografias de Puertorriqueños ilustres* (New York: Plus Ultra Educational Publishers, Inc., 1973), 206; “Sobre ‘The Puerto Rico Herald,’” *La Democracia*, 26 Jul. 1904. To determine the content of advertisements in 1901 I looked at all the ads on 15 pages chosen from 11 issues between August 27, 1901 and December 28, 1901. These pages included 99 ads from 48 advertisers. Eight advertisers primarily used English in 18 of these ads. For the 1904 period I examined the 83 ads of 61 advertisers that appeared in the January 2 and June 25 issues. Only 7 of the 83 ads used solely English.

in the Puerto Rican state. It thus aimed to align all Puerto Ricans—regardless of race—against U.S. officials. For mainland readers, by contrast, the comparison was most likely to trigger memories of Reconstruction, not Spanish rule, and thus have racial overtones. In this reading, Federales cast themselves as Reconstruction-era white-supremacist Democrats in the U.S. South. U.S. officials on the island played carpet-bagging northern Republicans. Perpetrators of extralegal, pro-Republicano violence—already characterized by Federales as lower-class riffraff perverting island democracy—stood in for what had in white mainlander popular imagination come to be remembered as the violence and perversion of U.S. freedmen and their role in Reconstruction-era politics. The island government, comprised by Republicanos and republican appointees, represented the black Republican misrule that had supposedly pervaded Reconstruction.¹⁶⁵

The approach had several benefits. At a time when the white U.S. mainstream celebrated so-called southern “Redeemers,” Federales could cast their electoral failures in romantic terms with reference to that “history.” They argued that intrusive federal rule temporarily subjected them, just as it had southern U.S. whites during Reconstruction, to a misrule that they had to suffer, resist, and overcome. This “Redemption” story—ostensibly vilifying electoral winners in an illegitimate system—cast Federales as a legitimate, temporarily displaced political class. Quoting Paul de Roussier’s *La Vie Americaine*, the *Herald* characterized Reconstruction as a time when northerners came to the U.S. South to “oppress[] it” and “exploit the resentment of the former slaves against their former masters” “WHICH THEY [northern carpet-baggers] HAD KEPT ALIVE AND STIRRED UP THEMSELVES.” Without such outside agitation, the newspaper implied,

¹⁶⁵ “American Politicians,” *Puerto Rico Herald*, 1 Nov. 1902, 243; see also “The Porto Rican Elections,” *New York Times*, 6 Nov. 1902, 8.

Republicanos could not win or hold power.¹⁶⁶

The analogy also answered mainland deprecations of Puerto Ricans without denying Puerto Rican racial diversity or explicitly deprecating islanders of color. A September 6, 1902, response in the *Herald* by four San Juan students to charges published in the Boston *Globe* by Peter MacQueen, a San Juan resident and veteran of the U.S. invasion of Puerto Rico, illustrated the difficulty. To MacQueen's claim that "Puerto Ricans . . . are so mixed of race—negro, Indian, Spaniard, European—that all the evil of the races have come to a focus in them," the students countered:

The majority of the Puerto Ricans come from Spanish families and through their veins runs as pure blood as that which runs through the veins of the inhabitants of the United States, France, Italy, Russia, Germany or England. There are negroes, indeed, and there has never been a case in which one of them has been united in marriage to a white, reason by which it has been impossible to find such a mixture of races.¹⁶⁷

These were not sentiments calculated to endear Puerto Ricans of color to the *Herald*. Moreover, many mainland commentators and officials neither viewed Spaniards, Italians, and Russians as equals of U.S. and English peoples nor would credit claims of universal Puerto Rican racial purity over U.S. census statistics describing a 32% "mestizo" or "mulatto" island population. References to Reconstruction were less likely to alienate island voters of color. And because members of the U.S. media and state often remembered Reconstruction as a regrettable departure from white rule, it provided them a framework through which they might see Federales sympathetically, as oppressed whites

¹⁶⁶ "American Politicians."

¹⁶⁷ Peter MacQueen, "Puerto Rico Has Improved," *Puerto Rico Herald*, 6 Sep. 1902, 117; Juan Benst Valdés et al., "Puerto Ricans Answer," *Puerto Rico Herald*, 6 Sep. 1902, 117.

ready to govern a local population of color.¹⁶⁸

But to emerge from “appalling tyranny” within the Reconstruction metaphor, Puerto Rico needed a new federal policy, a difficult predicate to secure. “Washington will flow down a thundering torrent of justice,” the *Herald* envisioned, “sweeping away” U.S. officials on the island. Though Reconstruction had taken years to end, Federales portrayed high administrators as immediate potential allies against bad local officials. Quoting Roussier, they claimed, “On the chairs of the Supreme Court, in the Senate, among the judges, there are no doubt men deserving of high esteem.” But high officials were unlikely to join Federales in opposition to local officials. They appointed, oversaw, and enacted the laws guiding U.S. officials on the island. Officials in Puerto Rico pursued superiors’ policies. As Muñoz had seen in past fights, superiors were loath to reverse subordinates.¹⁶⁹

Republicanos faced problems of their own. In 1902, having promised voters that cooperation with U.S. officials would bring good local legislation and incremental advancement toward Puerto Rican statehood, Republicanos faced attacks by Federales for their recent lack of progress. Having built relationships with and portrayed themselves as akin to mainland Republicans for some time, Republicanos had moved to advance their program in May 1902 by officially making membership in the national party a goal.

¹⁶⁸ Charles H. Allen, *First Annual Report of Charles H. Allen, Governor of Porto Rico, Covering the Period from May 1, 1900, to May 1, 1901* (Washington, D.C.: Government Printing Office, 1901), 33 (quote 1) (citing the census of 1899-1900); War Department, *Report on the Census of Porto Rico, 1899* (Washington, D.C.: Government Printing Office, 1900), 85 (quote 2); “The Porto Rican Elections”; David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001); C. Vann Woodward, *The Strange Career of Jim Crow*, commemorative ed. (New York: Oxford University Press, 2002), 75; see also, e.g., Mae M. Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” *Journal of American History* 86 (Feb. 2001); Mark S. Weiner, “Teutonic Constitutionalism: The Role of Ethno-Juridical Discourse in the Spanish-American War,” in *Foreign in a Domestic Sense*, ed. Burnett and Marshall.

¹⁶⁹ “American Politicians.” Other articles from the period similarly anticipate intervention from Washington. See, e.g., “A Complete Farce,” *Puerto Rico Herald*, 8 Nov. 1902, 257.

Degetau had publicly dissented, contending that islanders denied U.S. civil and political membership and U.S. citizenship had no place in U.S. national parties. But, he also told a Republicano, his

word of honor to the U.S. Congress and sense of duty to our *patria* and party, compels me again to solicit from my colleagues the honor of being their candidate and from the electorate the honor of being reelected to continue the work I have undertaken in favor of [both] our American citizenship [and] the admission of Puerto Rico into the Union as an organized Territory to become in the not-distant future a state.

Despite their differences, Republicanos nominated Degetau for reelection.¹⁷⁰

Though Federales won no “torrent of justice,” they were able to make U.S. intransigence on status issues into a campaign issue. After also building an alliance with the Federación Libre, they gained a substantial minority of seats in the House of Delegates in the November 1902 elections. Republicanos maintained a reduced majority in the House, and Degetau won a second term as Resident Commissioner.¹⁷¹

As Degetau contemplated a second term as Resident Commissioner, he elected to pursue a more legal strategy than did his political opponents and allies, one that would

¹⁷⁰ Draft, [Federico Degetau] to Pedro Besosa, 6 Sep. 1902, CIHCAM 3/VI/49 (quote (“considero un compromiso de honor para con el Congreso de los Estados Unidos y una razón de deber para con nuestra patria y nuestro partido, me obligan á solicitar de nuevo de mis correligionarios el honor de ser su candidato, y del cuerpo electoral el de ser reelegido para continuar la labor emprendida [sic] en favor de nuestra ciudadanía americana; de la admisión de Puerto-Rico en la Unión como un Territorio organizado para ser en día [sic] no lejano uno de tantos Estados”)); *Informe de los delegados del Partido Republicano de Puerto Rico ante la Convención Nacional Republicana celebrada en Chicago, en 21 de junio de 1904* ([San Juan?], P.R.: Tipografía “El País,” 1904), available at CIHCAM 6/L8, 5-6; Copy, [Federico Degetau] to Teodoro Moscoso, 2 Oct. 1903, CIHCAM 4/V/309; Ramón Lebrón to Federico Degetau, 10 Oct. 1902, CIHCAM 3/VI/57. For media campaigns by Federales against Republicanos, see *La Democracia* and the *Puerto Rico Herald*.

¹⁷¹ García and Rivera, *Desafío y solidaridad*; Bayrón Toro, *Elecciones y partidos políticos*, 119-121; see also Carreras, *Santiago Iglesias Pantín*, 111; Iglesias, *Luchas emancipadoras*, vol. 2, 241.

soon come to center on the Supreme Court case of *Gonzales v. Williams* (1904). Throughout his first term he had sought a dispute in which he could intervene that to be settled would require a federal entity both to hear his claims to U.S. citizenship and territorial status and to clarify the status of islanders or their island. An opportunity had arisen on August 2, 1902, when the Treasury Department had issued a circular prescribing that Puerto Ricans be treated as aliens for immigration purposes. After learning of the policy, Degetau had considered seeking to be denied the right to enter New York under it, hoping thereby to frame a dispute as to whether Puerto Ricans were U.S. citizens or aliens. His friend Manuel Rossy, however, had reminded him that his position all but guaranteed his entry, alien or no. Instead, he had protested to the Secretary of the Treasury on October 5 in legalistic terms. Describing the Treaty of Paris, Foraker Act, and *Insular Cases* as together naturalizing islanders, Degetau had asked for a ruling. On October 15, Treasury had declined to address Degetau's arguments, noting a recent decision of the Circuit Court of the United States for the Southern District of New York, *Gonzales v. Williams* (1902), which had held Puerto Ricans to be aliens before upholding the immigration guidelines against which Degetau protested. No appeal had been taken, but time remained to file. With nearly two years until fellow Republicanos or Federales could challenge his action and seek to replace him in office, it appeared that Degetau had found a vehicle with which to test his strategy for clarifying the status of himself and his countrymen. His political rivals, he knew, would be ready to act if the effort failed.¹⁷²

¹⁷² Copy, Federico Degetau to Secretary of Treasury, 5 Oct. 1902, CIHCAM 3/VI/56 (quoting Circular of 2 Aug. 1902); Manuel Rossy to Federico Degetau, 26 Jan. 1904, CIHCAM 4/VIII/14; Amicus Curiae Brief, no. 225, *Gonzalez v. Williams*, 192 U.S. 1 (1904), 2; Transcript of Record, *Gonzales*, 9. On law and people's relationships to it as too variegated to render bottom-line analyses of its utility for social change

practicable, see John Fabian Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge, Mass.: Harvard University Press, 2004), 1-22. On the capacity of law to divide movements seeking common ends, see Joan G. Zimmerman, "The Jurisprudence of Equality: The Women's Minimum Wage, the First Equal Rights Amendment, and *Adkins v. Children's Hospital*, 1905-1923," *Journal of American History* (Jun. 1991): 188-225.

CHAPTER 4

“AMERICAN ALIEN”: ISABEL GONZALEZ AND THE SUPREME COURT, 1902-1905

Federico Degetau’s second term as Resident Commissioner marked the culmination and eclipse of his strategy as the elected representative of the Puerto Rican people of using legal claims to U.S. citizenship to seek improvements in his constituents’ relationship to the United States. After pushing numerous U.S. officials to define Puerto Ricans as U.S. citizens, Degetau finally found a test case when U.S. immigration officials excluded Isabel Gonzalez from the mainland as an undesirable alien. Little about Gonzalez indicated that she would soon force the U.S. Supreme Court into a choice between undermining U.S. imperialism, repeating the mistakes of *Dred Scott*, or dodging the politically controversial constitutional issue of Puerto Rican citizenship status. Not yet twenty-one in 1902, Isabel Gonzalez had sought to mitigate financial hardship at home by migrating from San Juan to New York. But because Puerto Ricans held uncertain residence rights on the mainland, she first confronted immigration inspectors who refused to permit her to land in New York. With the help of her uncle, the former Antillean revolutionary Domingo Collazo, she challenged that decision in federal court, launching what the *New York Times* would describe as a “Porto Rican test case” on “the status of the citizens of Porto Rico.”

Both Frederic Coudert, a lead attorney in the 1901 *Insular Cases*, and Puerto Rican Resident Commissioner Federico Degetau saw Gonzalez's dispute as a legal opportunity. Coudert hoped to convince the Court to integrate the narrow, vague, and fractured Insular decisions with which it had met his 1901 arguments into a new, more robust doctrinal approach to Puerto Rican status. Degetau still maintained that Puerto Ricans were U.S. citizens who, once recognized as such, would have confirmation that their island was on the road to statehood. Having failed to win this recognition from agencies, Congress, the President, or the press, Degetau aimed to present a judicial action squarely raising the issue of U.S. citizenship and thereby forcing the court to clarify Puerto Ricans' status.

Island politicians remained skeptical of the Coudert-Degetau gambit. Federales—advocates of political confrontation—disparaged faith in U.S. institutions. Republicano leaders had also begun to doubt U.S. intentions, and soon quarreled over whether they should oppose or join the U.S. Republican Party.¹⁷³

Origins of a Test Case, 1902-1903.

The year 1902 started badly for Isabel Gonzalez, who became pregnant for the second time shortly before her fiancé and brother left to find factory jobs in the Linoleumville neighborhood of Staten Island. Though her brother Luis Gonzalez sent money back to his mother and sisters in San Juan, Isabel Gonzalez left for New York in mid-1902 with plans to marry her fiancé, secure educational opportunities for a younger sister, and perhaps find factory work herself. Steaming away from San Juan, Isabel

¹⁷³ "Porto Rican Test Case," *New York Times*, 3 Nov. 1903, 6. I thank Christina Burnett and Veta Schlimgen for sharing helpful research in progress.

Gonzalez had reason to hope that she would be among the many Puerto Ricans who, as Degetau had noted, had “frequently disembarked unmolested in New York.” Although U.S. officials had carefully avoided granting citizenship to Puerto Ricans, neither had immigration agents treated them uniformly as aliens. This changed while Gonzalez was en route to New York. Altering its policy toward Puerto Ricans, the Treasury Department instructed immigration officials that Puerto Ricans were henceforth “subject to the same examinations as are enforced against people from countries over which the United States claims no right of sovereignty.” Following the new rules, port officials transferred Gonzalez to Ellis Island.¹⁷⁴

At Ellis Island, Gonzalez confronted a powerful arm of the U.S. administrative state. Exercising both prosecutorial and judicial functions, and insulated from most formal judicial review, hundreds of immigration inspectors determined the residence rights of as many as 5,000 immigrants a day. Their line inspections were standardized, high-volume, and summary. They sent ambiguous cases before Boards of Special Inquiry that could end their non-public hearings in minutes and deny immigrants rights to an attorney or to see or rebut evidence. Several months earlier Wall Street lawyer William Williams had become the new Commissioner of Immigration at Ellis Island. Promoting cleanliness, politeness, and strict, efficient enforcement of immigration laws, he doubled his exclusion rate in his first year by aggressively construing the statutory bar on aliens “likely to become a public charge.” As a practical guideline, he directed inspectors to

¹⁷⁴ Federico Degetau to Secretary of Treasury, 5 Oct. 1902, CIHCAM 3/VI/56 (quote 1); Circular No. 97, 2 Aug. 1902, in *Circular Instructions of the Treasury Department Relating to the Tariff, Navigation, and Other Laws for the Year Ended December 31, 1902* (Washington, D.C.: Government Printing Office, 1903) (quote 2); Domingo Collazo to Federico Degetau, 27 Aug. 1903, CIHCAM 18/L1; Transcript of Record, No. 225, *Gonzales v. Williams*, 192 U.S. 1 (1904), 3-6, available at CIHCAM 6/VI/32; Luis Gonzalez to Federico Degetau, 5 Feb. 1903, CIHCAM 3/VII/35; Isabel Gonzales to Federico Degetau, 10 Apr. 1904, CIHCAM 5/I/5; “Porto Ricans Not Aliens,” *New York Times*, 5 Jan. 1904, 8; “Porto Rican Test Case.”

treat aliens as suspect if they traveled with less than ten dollars. Inspectors often attached the label of “public charge” to unmarried mothers and their children, while Ellis Island policy dictated that “unmarried pregnant women were always detained for further investigation” and single women were only released if family members came to claim them. Here, Williams and his subordinates prefigured the welfare laws that other reformers would soon institute. Those laws, like Ellis Island guidelines, conceptualized women and children as dependents (though in fact many worked). In both cases, the state distributed and denied benefits to women and their children based on criteria that had more to do with middle-class respectability than with the realities that most working women and their children faced.¹⁷⁵

Isabel Gonzalez carried \$11 in cash, apparently left her two-year old daughter Dolores Gonzalez in the care of her mother in San Juan, and telegraphed ahead to her family to pick her up. She was not, however, able to pass smoothly through the administrative process. Officials discovered her pregnancy during her early-August 1902 line inspection. Consequently, a Board of Special Inquiry opened a file on Gonzalez, one

¹⁷⁵ Immigration Act of 1891, *Statutes at Large* 26 (3 Mar. 1891): 1084 (sec. 1); Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995), 147, 141-148, 154, 184, 196-197, passim; Louis Anthes, “The Island of Duty: The Practice of Immigration Law on Ellis Island,” *New York University Review of Law and Social Change* 24 (1998): 565-566, 581-582, 587-589, passim; Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982); Erika Lee, *At America’s Gates: Chinese Immigration During the Exclusion Era, 1882-1943* (Chapel Hill: University of North Carolina Press, 2003); Secretary to the President to William Williams, 1 Apr. 1902, Box 1, WWP, NYPL; Linda Gordon, “Social Insurance and Public Assistance: The Influence of Gender in Welfare Thought in the United States, 1890-1935,” *American Historical Review* 97 (Feb. 1992): 19-54; Joanne L. Goodwin, “‘Employable Mothers’ and ‘Suitable Work’: A Re-Evaluation of Welfare and Wage-Earning for Women in the Twentieth-Century United States,” *Journal of Social History* 29 (winter 1995): 253-274. Kunal M. Parker explores the relationship between migration, dependence, and status in the context of state law in antebellum Massachusetts in “State, Citizenship, and Territory: The Legal Construction of Immigrants in Antebellum Massachusetts,” *Law and History Review* 19 (autumn 2001): 583-643.

that would grow and circulate as her case progressed.¹⁷⁶

The next day, Gonzalez's uncle, Domingo Collazo, and her brother, Luis Gonzalez, joined her at a hearing turning on whether she was "going to persons *able, willing and legally bound* to support" her and not entering for immoral purposes. Here the administrative inquiry reflected both a movement for racial exclusion and ideas about moral behavior of and proper relations between female and male family members. Inspectors weighed proof of legitimate family relations through presumptions that certain kinds of women were inadequate mothers and certain kinds of men were insufficient fathers and husbands. In a speech to Princeton's senior class somewhat later, Commissioner Williams explained his strict policies in terms of the "radical sociological, industrial, racial and intellectual distinctions" separating northwestern and southeastern Europeans: "It will be a very easy matter to fill up this country rapidly with immigrants upon whom responsibility for the proper bringing up of their offspring sits lightly, but it cannot be claimed that this will enure to the benefit of the American people."¹⁷⁷

The hearings raised matters that many people in Puerto Rico and on the mainland associated with dishonor, lower-class status, and racial inferiority: lack of membership in an economically self-sufficient man's home, absence of sexual propriety, and classification as pregnant and abandoned. Collazo and Luis Gonzalez sought to portray Isabel Gonzalez as an upstanding, dependent woman in an honorable man's household.

¹⁷⁶ Transcript of Record, *Gonzales*, 4-5, passim; Manifest for the S.S. Ponce, Arrival at Port of New York, 18 May 1903, 78, EIA. A final version reached the Supreme Court and appeared in the *Gonzales* opinion, informing much scholarship on the case. See, e.g., Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, D.C.: American Psychological Association, 2001), 3, 6.

¹⁷⁷ Salyer, *Laws Harsh as Tigers*, 147 (quote 1 (providing italics)); William Williams, Outline of Address Delivered to the Senior Class of Princeton in November, 1904, Box 6, Folder 4, WWP, NYPL (other quotes); John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New Brunswick, N.J.: Rutgers University Press, 1955); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass.: Harvard University Press, 1999).

Isabel Gonzalez explained her first child through widowhood. For the second pregnancy, Collazo converted a missing fiancé into a husband whom he had seen “[a]bout two weeks ago,” but who “could not come today” because “he is working.” Collazo hedged his bets, however, offering to assume the role of patriarch. He earned “\$25 a week” as “a printer” and was “willing to take [Isabel Gonzalez] and provide for her.” Inspectors were wary. They sent Collazo and Luis Gonzalez home, urging them to produce the husband: “his wife is here and he should come for her.” Two days later, still with no help from the father of Gonzalez’s expected child, Collazo’s wife, Herminia Dávila, tried again.

Q. What does your husband do?

A. He is a t[y]pographer and I do embroidery work; I also give lessons in embroidery work.

Q. What is your husband’s business worth?

A. \$25 a week.

Q. Does your husband know that you came here in the interest of your niece?

A. Yes, sir.

Q. Can you satisfy this board that, in case this woman is released, you will stand by her and see that she does not get into trouble?

A. Yes, sir, that goes without saying.

Q. Your husband will aid you in assisting the woman?

A. Yes, sir.

While inspectors solicited Dávila’s claims to moral supervision, they concentrated on her husband’s income and authority, questioned her for coming to testify unaccompanied by her husband, and failed to record her name. They also refused to reconsider their demand

to see Gonzalez's husband.¹⁷⁸

When Isabel Gonzalez's brother, Luis Gonzalez, testified, he tried a new tack, portraying Isabel Gonzalez as a victim of *raption*, or seduction, but assuring the inspectors that her family had taken the necessary steps to restore her honor. Thus, though Isabel Gonzalez's lover had not married her and did not intend to, Luis Gonzalez could explain:

I have been to the church and have made arrangements and as soon as I have my sister with me, we are going there and are going to have them married. I have also gone to the authorities and told them and everything is waiting for the release of my sister My aunt . . . has made arrangements and is sure of making a reconciliation . . . and will have them married.

Although Luis Gonzalez apparently believed that this would mollify inspectors' concerns about Isabel Gonzalez's family's capacity to care for her, inspectors were indignant: "An arrangement then has been made by which a marriage is to take place without the husband's consent?" Luis Gonzalez affirmed that this was the case. The Board excluded Isabel Gonzalez from entry.¹⁷⁹

With Isabel Gonzalez in detention on Ellis Island, the case now shifted onto explicitly judicial terrain. On August 18, 1902, Collazo swore out a habeas corpus petition for Gonzalez. At about the same time, "She told her story to a friend, who in turn

¹⁷⁸ Transcript of Record, *Gonzales*, 4-6, passim. On honor in Puerto Rico, including its relations to class, race, gender, and periodicals, see Eileen J. Suárez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920* (Durham, N.C.: Duke University Press, 1999), 4, 7, 20, 25-26, 32, 34-35, 40-46, 56, 85-86, 94-95, passim. I have previously identified Domingo Collazo's wife as Hermina Collazo. Sam Erman, "Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1895 to 1905," *Journal of American Ethnic History* 27 (summer 2008): 13. Evidence I have found in the interim suggests that she went by Herminia Dávila. Manifest for the S.S. Ponce, 18 May 1903, 78.

¹⁷⁹ Transcript of Record, *Gonzales*, 5-6. Findlay, *Imposing Decency*, 40-46; Eileen J. Findlay, "Courtroom Tales of Sex and Honor: *Raption* and Rape in Late Nineteenth-Century Puerto Rico," in Sueann Caulfield, Sarah C. Chambers, and Lara Putnam, eds., *Honor, Status and Law in Modern Latin America* (Durham, N.C.: Duke University Press, 2005), 205, passim.

told it to [lawyer] Orrel A. Parker.” On August 19, Parker’s partner, Charles E. Le Barbier, filed Collazo’s petition with the U.S. Circuit Court for the Southern District of New York, which promptly paroled Gonzalez pending its decision. Seeing at stake in the case “the very difficult question of Constitutional law whether or not a Porto Rican was a citizen of the United States,” Commissioner of Immigration William Williams hired a private lawyer who, he later wrote, performed “exceedingly well.” On October 7, the Court announced its decision. Narrowing the issue to “whether or not petitioner is an alien,” it stated that she was an alien and upheld her exclusion. Though a loss for Gonzalez and her allies, the decision also gave them a chance to press courts to decide: as a native of an unincorporated territory, was she an alien or a national, a subject or a citizen? With Gonzalez now back in detention, Collazo found a way to present an “express solicitation” to Frederic Coudert, the lawyer known for his arguments in *DeLima v. Bidwell* and *Downes v. Bidwell* (1901) concerning the territorial status of Puerto Rico. Coudert soon filed an appeal with the U.S. Supreme Court. Pending a decision in that new action, the Circuit Court again paroled Gonzalez. Now the question was no longer whether immigration inspectors, following the guidelines designed by Commissioner Williams, deemed Isabel Gonzalez and her family desirable. Desirable or not, the case would determine whether she was a foreigner. It could also, Coudert wrote, “settle the status of all the native islanders,” including Filipinos, “who were in existence at the time the Spanish possessions were annexed by the United States.”¹⁸⁰

¹⁸⁰ “Porto Ricans Not Aliens” (quote 1); William Williams to Henry Burnett, 26 Aug. 1903, DC NARA 85/151/4~340/394/19045 (quote 2); William Williams to William Anderson, 2 Sep. 1903, DC NARA 85/151/5~340/97/19045 (quote 3); Transcript of Record, *Gonzales*, 7 (quote 4), 1-2, 8-14, passim; Domingo Collazo to José Pérez Losada, 19 Dec. 1928, in “Debemos los puertorriqueños tener un poco de mas cuidado con la verdad histórica de nuestras cosas regionales—dice Domingo Collazo,” *El Imparcial*, 24 Dec. 1928, available at CIHCAM 18/L1 (quote 5 (“expresa solicitud”)); Appellant’s Brief, *Gonzales*, 3 (quotes 6-7); William Williams to Commissioner General of Immigration, 24 Aug. 1903, DC NARA

Consistent with his emerging persona as a public intellectual on matters of international law, Coudert described and proposed to solve the issues in Gonzalez's appeal in a January 1903 *Columbia Law Review* article. He depicted the imposition of alien status on Puerto Ricans as the equivalent of a husband denying his obligations to and over his wife. "The new master, viz, the United States," he wrote, ideally "takes her allegiance with a burden, and having deprived her of all claim on the old master, has taken his place." U.S. failure to do so put Puerto Ricans like Gonzalez in an untenable position. "What 'commodum' or advantage does the Señorita reap from her situation," he asked, before later casting "Miss Gonzalez[, as]...an undefined waif, on the sea of political certainty." He continued, "[w]hat nation in the wide world will raise, nay, will be permitted by us to raise a finger or even a voice in behalf of this woman if she is injured," then added that "she *belongs* to the United States, and may look to it for protection." Moreover, the United States failed to exercise a masterly discipline that was the common obligation of husbands. As he wrote, "if she could commit . . . that crime [of treason], would she go unwhipped of justice because she had not been naturalized a

85/151/4~340/268/19045; D. Collazo, "Desde Nueva York," *La Correspondencia de Puerto Rico*, 19 Dec. 1903, 1; Petition of Federico Degetau, Resident Commissioner from Porto Rico, *Gonzales*; Brief Filed by Leave of the Court by Federico Degetau, Resident Commissioner from Porto Rico, as Amicus Curiae, *Gonzales*; Frederic Coudert to Federico Degetau, 20 Apr. 1903, CIHCAM 4/II/144. In subsequent years some legal scholars included *Gonzales* among the *Insular Cases*. E.g., Pedro Capó Rodríguez, "The Relations between the United States and Porto Rico," *American Journal of International Law* 13 (1919): 483-525; Quincy Wright, "Treaties and the Constitutional Separation of Powers in the United States," *American Journal of International Law* 12 (1918): 64-95. Many modern scholars would agree that it belongs there. Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence: University Press of Kansas, 2006); Rivera Ramos, *Legal Construction of Identity*; Christina Duffy Burnett, "A Note on the *Insular Cases*," in Burnett and Marshall, eds., *Foreign in a Domestic Sense*, 389-392. On women, dependency, and U.S. citizenship, see, e.g., Adam Winkler, "A Revolution Too Soon: Woman Suffragists and the 'Living Constitution,'" *New York University Law Review* 76 (Nov. 2001): 1456-1526; Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill & Wang, 1998); Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, Mass.: Harvard University Press, 2000); Nancy F. Cott, "Marriage and Women's Citizenship in the United States, 1830-1934," *American Historical Review* 103 (Dec. 1998): 1440-1474; Linda K. Kerber, "Toward a History of Statelessness in America," *American Quarterly* 57 (2005): 728-749; Martha S. Jones, *All Bound Up Together: The Woman Question in African-American Public Culture, 1830-1900* (Chapel Hill: University of North Carolina Press, 2007).

citizen of the United States?”¹⁸¹

Fortunately, Coudert argued, the problem was easy to solve. Article IX of the Treaty of Paris held that the “political status of [Puerto Ricans] shall be determined by Congress.” The treaty, he contended, was thus written to avoid naturalizing the Puerto Ricans who nonetheless necessarily ceased to be aliens upon annexation. Declining to join the Attorney General in calling Puerto Ricans “American subjects,” a term “alien to our trend of political thought,” Coudert proposed a term that he cast as unburdened by monarchical implications but otherwise synonymous with subject: “national.” “National” and alien were complements, he wrote, mutually exclusive yet “together . . . universally inclusive.” Citizenship was narrower: all “citizens must be nationals,” he explained, “but all nationals may not be citizens.”¹⁸²

The argument was a departure from that which he had presented the Supreme Court during the *Insular Cases*. Then he had claimed that while Filipinos could be nationals akin to American Indians, Puerto Ricans were similar neither to Indians nor to antebellum free blacks and thus bore no relation to the two categories of people who had been neither citizens nor aliens under prior U.S. law. Coudert still acknowledged the similarity between the status Puerto Ricans would hold if they were to become U.S. non-citizen nationals and that upon which *Scott v. Sandford* (1857) depended. As he wrote, “Dred Scott was not an alien; he was a national, but he was not, under the famous

¹⁸¹ Frederic R. Coudert, Jr., “Our New Peoples: Citizens, Subjects, Nationals or Aliens,” *Columbia Law Review* 3 (Jan. 1903): 22-23 (quotes 1-3, 5, 7), 17, passim; Appellant’s Brief, *Gonzales*, 12 (quotes 4, 6). E.g., Veta Schlimgen, “Intermediate Citizens: ‘American Nationals,’ Filipino Americans, and U.S. Imperialism” and Christina Duffy Burnett, “Citizenship in the Time of Empire: The Noncitizen National in Constitutional and International Law” (both presented at the Organization of American Historians Annual Meeting, Seattle, Wash., 27-28 Mar. 1909). Astrid Cubano-Iguina has observed how gendered concepts and legal categories that have different implications for men and women developed in tandem in late-19th-century Puerto Rico. “Legal Constructions of Gender and Violence against Women in Puerto Rico under Spanish Rule, 1860-1895,” *Law and History Review* 22 (2004): 531-564.

¹⁸² Coudert, “Our New Peoples,” 32 (quotes 1-2), 17 (quotes 3-6), 19, 25, 29.

decision, a citizen.” But Degetau no longer saw that similarity as dispositive. Instead, he reassured readers that his proposal would not reprise that infamous case because other nations in the interim had taken similar steps without betraying their national principles, ratifying slavery, or descending into civil war. They “have for years past had the same problem before them as we have now,” he related, “and have solved it in line with the theory herein set forth.”¹⁸³

Soon thereafter, Federico Degetau won permission to enter Gonzalez’s case as *amicus curiæ*. By this time he had failed to clarify the citizenship status of Puerto Ricans before political, administrative, public, and media audiences and in two attempted Supreme Court tests cases concerning his admission to the Supreme Court bar and his application for a passport as a U.S. citizen. Nonetheless, Degetau apparently still believed, as he had written in 1901, that “the profound respect that this *pueblo* has for its judicial institutions” meant that a decision of the Supreme Court could change the situation in Washington. As the case progressed, he agreed to provide the New York *Independent* an article in favor of U.S. statehood for Puerto Rico that would run after the Supreme Court ruled.¹⁸⁴

At the same time, and as he had during his first term, Degetau sought both to exemplify the fitness of Puerto Ricans for citizenship and to document instances where

¹⁸³ Ibid. 29 (quotes), 17, 19, 25, 32. Coudert’s argument was unfamiliar and unsettling to many. When he told Commissioner of Immigration William Williams, “Should you win the case . . . you will then be able to keep out Americans from the country,” Williams failed to grasp Coudert’s premise and contested his conclusion: “Assuming that you use the term Americans as synonymous with U. S. citizens, then before the Government can win the case the court must have decided that Porto Ricans are not U. S. citizens . . . Am I not right?” William Williams to Frederick Coudert, 16 Dec. 1903, DC NARA 85/151/12~340/4/19045 (quoting Frederic Coudert to William Williams, 15 Dec. 1903).

¹⁸⁴ Draft, [Federico Degetau] to Manuel Rossy, 20 Feb. 1901, CIHCAM 2/VII/47 (“el respeto profundo que este pueblo tiene por sus instituciones judiciales”); Petition of Federico Degetau, *Gonzales*; Hamilton Holt to Federico Degetau, 5 Nov. 1903, CIHCAM 4/VI/342; Hamilton Holt to Federico Degetau, 12 Nov. 1903, CIHCAM 4/VI/354; Hamilton Holt to Federico Degetau, 19 Nov. 1903, CIHCAM 4/VI/364; [Hamilton Holt] to Federico Degetau, 27 Nov. 1903, CIHCAM 4/VI/379.

an arm of the U.S. state acted as if Puerto Ricans were or should be U.S. citizens—even if they had done so inadvertently. He thus had the Secretary of the Puerto Rican Supreme Court certify that U.S. military authorities had administered to him an oath to meet citizenship-like obligations of national defense and to renounce, as during naturalization, all foreign allegiances. He then secured a report of the House Committee on Insular Affairs recommending that Puerto Rico enjoy the right to send a delegate to Congress like those from traditional U.S. territories.¹⁸⁵

Degetau's efforts often faltered in the face of federal indecision. When Degetau inquired about census officials classifying Puerto Ricans as "U.S." in the citizenship column of the 1899 census, he learned that their instructions included those "desir[ing] to be American subjects" under that head. Degetau also observed that the Foraker Act ordered the Commissioner of Navigation, to undertake, in his words, "the *nationalization* of all vessels owned by the inhabitants of Porto Rico," while a second statute required U.S. vessels to be "wholly owned by citizens . . . of the United States." Upon inquiry, Degetau discovered that the Bureau of Navigation had not reconciled the statutes, instead variously classifying owners of Puerto Rican boats as U.S. or Puerto Rican citizens, inhabitants of Puerto Rico, or citizens of San Juan.¹⁸⁶

¹⁸⁵ Amicus Brief, *Gonzales*, 25-26; Copy, [Federico Degetau] to Teodoro Moscoso, 2 Oct. 1903, CIHCAM 4/V/309; "El Sr. Degetau: su conferencia de anoche," newspaper unknown, 5 Aug. 1903, available at CIHCAM 18/L1; H.R. 3540 [Report No. 8], 58th Cong., 2d sess., 14 Dec. 1903, available at CIHCAM 4/VI/358; Chapter 3 above, notes 116-118 and accompanying text (concerning *Downes v. Bidwell*, 182 U.S. 244, 287 (1901) (White, J., concurring)).

¹⁸⁶ Translation of Extract from "Special Instruction for the Enumerators of Department Number 2," n.d., CIHCAM 2/IV/15 (quotes 1-2); Amicus Brief, *Gonzales*, 38 (quotes 3-4) (respectively identifying sources of quotations as "Section 9 of the Foraker Act" and "Sec. 4131 of the Revised Statutes of the United States") (alteration in original); Draft, Federico Degetau to Clarence Edwards, 20 Jun. 1903, CIHCAM 4/III/222; Charles Magoon to Federico Degetau, 8 Jul. 1903, CIHCAM 4/IV/239; Edgard Mc[¿?] to Federico Degetau, 27 Jun. 1903, CIHCAM 4/III/230; E. Cha[¿?] to Federico Degetau, 15 Jun. 1903, CIHCAM 4/III/217. Not every claim by a Puerto Rican involving questions of status advanced Degetau's cause. For J. O. Abril's and his family's unsuccessful claim that they should not have to pay U.S. customs duties because they were not U.S. citizens, see Christina Duffy Burnett, "'They say I am not an American .

In some cases Degetau encountered U.S. officials who delayed deciding Puerto Rican status matters pending the further judicial guidance that they now anticipated. The Department of Commerce and Labor embraced this strategy after February 1903 federal legislation transferred the Bureau of Immigration to it from Treasury. Throughout 1903, Commissioner of Immigration William Williams used his victory over Isabel Gonzalez in the U.S. Circuit Court to treat Puerto Ricans arriving at Ellis Island as aliens for immigration purposes. He told one superior that even though a billing error made it likely that he would pay the \$250 fee of the lawyer at the Circuit Court out of pocket, “[s]uch loss will be very slight in comparison with the satisfaction of having secured a favorable decision for the Government in the Gonzalez case.” A few weeks after he wrote that letter, his policy caught fifty-year-old María Coy in its web. At Ellis Island, Coy’s lawyer recounted, inspectors deemed Coy “an invalid” of “extreme age” “unable to care for herself.” Her daughter, they concluded, despite her decade of experience making ends meet in New York, was an unreliable guarantor who “has to rely on her own daily labor for her support.” Rosendo Rodríguez, an acquaintance of Coy or her daughter and a co-founder of the Las Dos Antillas revolutionary club of which Collazo had been a member in the 1890s, had also “promised to take [Coy] in.” Inspectors nonetheless deemed Coy a likely public charge.¹⁸⁷

Coy’s daughter subsequently hired a lawyer to appeal the decision, but lost.

. . . : The Noncitizen National and the Law of American Empire,” *Virginia Journal of International Law* 48 (2008): 691-692; see also C. H. Kean to Melchior, Armstrong & Dessau, 10 Nov. 1903, CIHCAM 4/VI/351; C [Illegible] to Frederico Degetau, 11 Nov. 1903, CIHCAM 4/VI/352.

¹⁸⁷ Williams to Commissioner General of Immigration, 24 Aug. 1903 (quote 1); O.B. Thomas to Angel Reys, 10 Sep. 1903, CIHCAM 4/V/282 (quotes 2-5); Rosendo Rodríguez to Frederico Degetau, 11 Sep. 1903, CIHCAM 4/V/286 (quote 6 (At Ellis Island, Coy’s daughter “presento [sic] una targeta [sic] mia [sic] donde la garantizaba se agarraron”)); An Act to Establish the Department of Commerce and Labor, *Statutes at Large* 32 (12 Feb. 1903): 825-830; Elinor des Verney Sinnette, *Arturo Schomburg: Black Bibliophile and Collector: A Biography* (Detroit, Mich.: Wayne State University Press, 1989), 21;

Rodríguez then approached Degetau, addressing Degetau less as the representative of residents of the territory of Puerto Rico than as someone akin to a consul who represented all Puerto Ricans regardless of whether they lived in Puerto Rico or on the mainland. Degetau won Coy a rehearing, after which she gained entry to New York. He also used her case as a basis to claim U.S. citizenship, writing the Secretary of Commerce and Labor “protesting against the application of the restrictions of the immigration laws to the natives and residents of Porto Rico.” The Department declined to comment, electing instead to wait “until a decision has been rendered by the Supreme Court.”¹⁸⁸

In early 1903, Manuel Rossy, the Republican Speaker of the Island House of Delegates, derided Degetau’s judicial strategy as blind to political realities. Separation of powers, he argued, was more theory than practice. Observing that congressional support for presidential expansionism showed “that legislative action is not as free from executive influence as one would guess from reading books,” he indicated that courts were unlikely to alter Puerto Rican status absent strong legislative guidance. “We here do not share

¹⁸⁸ [Illegible] to Federico Degetau, 14 Dec. 1903, CIHCAM 4/VII/23 (quotes); Thomas to Reys, 10 Sep. 1903; Rodríguez to Degetau, 11 Sep. 1903 (“No teniendo los Puertorriqueños [sic] residentes en esta representacion [sic] alguna me creo en deber de hacer llegar las quejas á Ud.”; “Because the Puerto Ricans here do not have local representation, I thought I should direct my complaints to you.”); Rosendo Rodríguez to Federico Degetau, 20 Sep. 1903, CIHCAM 4/V/292; Rosendo Rodríguez to Federico Degetau, 25 Sep. 1903, CIHCAM 4/V/299; William Williams to Chief of Deportation Division, 15 Sep. 1903, DC NARA 85/151/5~340/795/19701; Copy, Degetau to R. Rodríguez, 15 Sep. 1903, CIHCAM 4/V/308; Rosendo Rodríguez to Federico Degetau, 16 Sep. 1903, CIHCAM 4/V/289; F. H. Hitchcock to Federico Degetau, 18 Sep. 1903, CIHCAM 4/V/291. On the advantages of access to a consul or the disadvantages of its lack, see Caryn Cossé Bell, *Revolution, Romanticism, and the Afro-Creole Protest Tradition in Louisiana 1718-1868* (Baton Rouge: Louisiana State University Press, 1997); Marc C. McLeod, “Undesirable Aliens: Race, Ethnicity, and Nationalism in the Comparison of Haitian and British West Indian Immigrant Workers in Cuba, 1912-1939,” *Journal of Social History* 31 (spring 1998): 599-623; Barry Carr, “Identity, Class, and Nation: Black Immigrant Workers, Cuban Communism, and the Sugar Insurgency, 1915-1934,” *Hispanic American Historical Review* 78 (Feb. 1998): 83-116; Winston James, *Holding Aloft the Banner of Ethiopia: Caribbean Radicalism in Early Twentieth-Century America* (New York: Verso, 1998); Irma Watkins-Owens, *Blood Relations: Caribbean Immigrants and the Harlem Community, 1900-1930* (Bloomington: Indiana University Press, 1996); Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans* (New Haven, Conn.: Yale University Press, 2003); Mary Niall Mitchell, “‘A Good and Delicious Country’: Free Children of Color and How They Learned to Imagine the Atlantic World in Nineteenth-Century Louisiana,” *History of Education Quarterly* 4 (summer 2000): 123-144.

your view that” “conced[ing] the Commissioner of Puerto Rico a seat and voice like delegates to other territories . . . would mean recognition of Puerto Rico as an organized territory,” Rossy wrote, “just as your admission to the Supreme Court bar did not bring us citizenship.” Even U.S. citizenship, Rossy claimed, “your opinion notwithstanding, will have to be via legislation.”¹⁸⁹

This intra-party dispute intensified as Republicanos moved closer to a merger with U.S. Republicans. As Rossy told Degetau, Republicanos planned to attend the Republican National Convention, where they hoped to be recognized as delegates. Such alliances with political parties in the metropole had long been a part of island politics, including among Republicanos’ Autonomista predecessors. They had always involved a balance of principles and expediency that sometimes included partnerships with parties willing to support Puerto Rican politicians’ immediate demands for official posts or new freedoms but not their longer-term goals. Luis Muñoz Rivera’s agreement in the 1890s with a monarchical Spanish party, for example, had divided Puerto Rican Autonomistas over the relative values of potential autonomy and fidelity to liberal-republican principles. Degetau had dissented then, and he dissented from Republicanos’ plans now too. He had entered post-invasion politics on the understanding “that Puerto Rico would be a state of the union like the others,” he stated. “[I]f the politics of the Republican Party” is “to keep us indefinitely as a dependency” and so “impedes making an explicit declaration” that Puerto Rico is “an organized territory with the intention of recognizing

¹⁸⁹ Manuel Rossy to Federico Degetau, 12 May 1903, CIHCAM 4/II/176 (“no es tan libre la accion [sic] legislativa del influjo de la accion [sic] ejecutiva como nos habiamos [sic] frugado leyendo lo que dicen los libros”; “no participamos aquí de su opinion [sic] de que”; “concederle asiento y voz al Comisionado de Puerto Rico equiparandolo [sic] á los delegados de los Territorios . . . implicaria [sic] el reconocimiento de un principio de Territorio organizado”; “como nada influyó su admision [sic] como Abogado ante el Tribunal Supremo, en lo referente á la ciudadanía [sic]”; “a pesar de su opinion [sic], será mediante una ley”); see also Herminio Diaz to Federico Degetau, 5 Jan. 1904, CIHCAM 4/VIII/3.

us as a state in a reasonable time,” Degetau wrote, “I will not enter” that party. The question, he predicted, could hinge on whether “the Supreme Court declares us American citizens.”¹⁹⁰

Isabel Gonzalez and her family pursued her appeal under different circumstances and for different reasons than did Coudert and Degetau. Luis Gonzalez sought reunification of his family. On February 5, 1903, he wrote to Degetau from San Juan not as the brother of the litigant in the case in which Degetau would soon submit a brief but as a potential beneficiary of charitable paternalism. He reminded Degetau of “the offer you made me to wish to be able to help me study something” when he had been “the young man from the laundry in San Juan who regularly washed your shirts.” But “as a poor man with obligations to my mother and two little sisters, I have not been able to devote myself to studies,” he explained, and instead “I decided to come to this country where my work” “in a rubber factory” “lets me live and help my mother.” Now, he wrote, his mother was “unwell.” Hoping to return and “live in reduced circumstances with what I can earn,” he concluded, “I seek your good heart to help me . . . remain more time in San Juan.”¹⁹¹

¹⁹⁰ Degetau to Moscoso, 2 Oct. 1903 (quotes (“que Puerto-Rico seria [sic] un Estado de la Unión como los demás”; “compromiso fundaméntal [sic] que los republicanos puertorriqueños [sic] tenemos contraído [sic]”; “si la política [sic] del partido republicano de aquí le impide hacer esa declaración explícita [sic] porque quieran mantenernos como una dependencia indefinidamente, por mi parte no ingresaré en él”; “un Territorio organizado con el compromiso de reconocernos como Estado en un termino razonable de tiempo”; “el Tribunal [sic] Supremo nos declara ciudadanos americanos”)); *Informe de los delegados del Partido Republicano de Puerto Rico ante la Convención Nacional Republicana celebrada en Chicago, en 21 de junio de 1904* ([San Juan?], P.R.: Tipografía “El País,” 1904), 4-12, available at CIHCAM 6/L8; Manuel Rosy to Federico Degetau, 2 Dec. 1903, CIHCAM 4/VII/3; title unknown, *Evening Star*, 11 Dec. 1903, available at CIHCAM 18/L1; José de [??]man [Semilez?] to Federico Degetau, 7 Jan. 190[4], CIHCAM 3/V/4; “Recognition of Porto Rico,” *Washington Post*, 12 Dec. 1903, 3; “Chicago Secures Big Convention,” *Chicago Daily*, 13 Dec. 1903, 1.

¹⁹¹ Gonzalez to Degetau, 5 Feb. 1903 (“el ofresimiento [sic] que Ud. me hizo para si queria [sic] estudiar alludarme [sic] en algo”; “el joven del tren de lavado de San Juan que acostumbraba a lavarle sus camisas”; “yo como soy pobre y tengo la obligacion [sic] de mi madre y dos hermanitas no he podido dedicarme al estudio”; “me resolví [sic] venirme a este país [sic] adonde con mi trabajo vivo aquí [sic] y alludo [sic] a mi

Three months later Luis Gonzalez instead brought his family to New York, buying tickets for Isabel Gonzalez's mother, younger sisters, and daughter aboard the S.S. Ponce that departed San Juan on May 12. Aware that Ellis Island officials sometimes excluded unmarried immigrant mothers and their children, Isabel Gonzalez's mother listed herself as married on the ship's manifest and claimed Isabel Gonzalez's daughter as her own. On May 18 Ellis Island officials cleared the ostensibly traditional, nuclear family members for entry and released them into the care of Luis Gonzalez and his mother's sister, Herminia Dávila.¹⁹²

Isabel Gonzalez herself seems to have wanted both to secure her own position and to clarify and thus improve the status of all Puerto Ricans. Though her voice is absent from the administrative and trial records, she apparently assented to the shift from an argument designed to redeem her individual honor and secure her entry to New York to one intended to secure citizenship for all Puerto Ricans. While she was out on bond, the *New York Times* later reported, "the young man, who she came here to find, turned up," the two wed, and she became "a citizen of this country through marriage," thus acquiring a right to remain on the mainland. Rather than end her appeal on these grounds, however, she hid her marriage, delaying individual redemption in order to press her claim that all Puerto Ricans were U.S. citizens.¹⁹³

As a result of her discretion about the wedding, the official record came to portray

madre"; "estoy trabajando en una fabrica de Hule"; "encontradose [sic] ella en muy mala posicion [sic] en San Juan deseo traermela [sic] a esta pues con lo que yo gano podemos vivir aunque sea un poco reducido, y para esto deseo de su buen corazon [sic] me allude [sic] . . . permanezca mas [sic] tiempo en San Juan").

¹⁹² Manifest for the S.S. Ponce, 18 May 1903, 78, EIA.

¹⁹³ "Porto Ricans Not Aliens" (quotes). This article merits additional study. Most Puerto Ricans in 1903 could not naturalize as U.S. citizens, and few Puerto Ricans held U.S. citizenship at the time. Further research may reveal whether Gonzalez's fiancé was among that minority or whether the *Times* misreported the story. Had Gonzalez's lawyers known of Gonzalez's marriage mooted her case, deceived the Court by not mentioning it, then revealed the deception immediately after the decision, they would have risked judicial ire. Subsequent investigation may cast greater light on their motives and activities.

her as did immigration inspectors: dependent, silent, and an object of state policy. There is an irony here. Gonzalez made huge efforts to put claims to dignity and belonging before decision makers who worked for the U.S. state, a leading producer and custodian of archival materials. Because her efforts succeeded, the U.S. Supreme Court would read and repeat the “legal story” that immigration inspectors had crafted out of the testimonies witnesses had generated to sway them. Historians have only begun to correct this depiction of Gonzalez as a passive victim of governmental machinations. Yet she pressed and, as we will see, articulated claims to citizenship.¹⁹⁴

While Gonzalez intentionally preserved ambiguity concerning the citizenship status she could claim through marriage, Degetau sought to ensure that the citizenship status she claimed as a Puerto Rican could not be questioned. The Foraker Act, he knew, made “citizens of Porto Rico” of those “continuing to reside” on the island on April 11, 1899. The U.S. Attorney General, responding to a claim that Degetau had helped engineer, had construed that provision also to include Puerto Ricans “residing temporarily abroad.” But which absences qualified as temporary remained a matter of some debate. Moving to preclude any challenge along these lines, Degetau met with Collazo in mid-1903 on the pier of the New York and Porto Rico Steamship Company and asked him to confirm that Gonzalez had been present in Puerto Rico in 1899.¹⁹⁵

¹⁹⁴ Barbara Young Welke, *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1865-1920* (Cambridge, Eng.: Cambridge University Press, 2001), 234-245 (quote 2); *Gonzales*, 192 U.S. 1, 7 (1904); Burnett, “They say I am not an American”; cf. Rivera Ramos, *Legal Construction of Identity*. I thank Monica Kim for suggesting this line of analysis.

¹⁹⁵ Foraker Act, *Statutes at Large* 31 (12 Apr. 1900): 79 (sec. 7) (quotes 1-2); 24 Op. Att’y Gen. 40-45 (13 May 1902) (quote 3); Collazo to Degetau, 27 Aug. 1903. The question of the temporariness of an absence became dispositive in the case of Lorenzo Mercado, an islander who had relocated to Venezuela and headed a revolutionary group there. During the U.S. war with Spain, Mercado had offered his services to the U.S. military. After the war, initially still in Venezuela and then briefly also in Puerto Rico, he had taken steps to preserve and document his Puerto Rican status. Nonetheless, in July 1903 he and U.S. authorities were still disputing the matter. AG/OG/CG/179/11510 justicia—ciudadanía diciembre 1901

There is little evidence concerning how Collazo spent the years immediately following the U.S. invasion of Puerto Rico, but Degetau's question and Gonzalez's case provided him opportunities to engage questions of Puerto Rican status in new ways. Moving beyond the tight-knit world of revolutionary Antillean artisans with whom he had formed political clubs and published newspapers in the 1890s, Collazo began to build ties to island political leaders and seize a voice in matters of island-mainland relations. On May 25, 1903, he sought favor with Luis Muñoz Rivera, the leader of the Puerto Rican opposition party, by positively reviewing his new book of poetry, *Tropicales*. Writing to Degetau on August 27 that the 1899 census showed Isabel Gonzalez to be a San Juan resident, Collazo also sent Degetau his Muñoz review, describing it as part "of a series that I propose to publish and that will take a political character."

The new acquaintanceship took hold. Degetau sent Collazo his book, *Cuentos para el viaje*, which Collazo praised. Soon, they had friends in common. Collazo addressed Degetau familiarly and even let his name be used by an acquaintance seeking a job from Degetau. Collazo also made a "constant friend" of the director of the island newspaper, *La Correspondencia*, which in late 1903 published his letter describing his niece's case as a matter of democratic norms and the differences between presumably Latin or Spanish Puerto Ricans and native Pacific islanders. U.S. "possession of 'dependencies'" and colonial governance of them, Collazo told islanders, had produced an "oligarchy in Puerto Rico" that was inconsistent with the "institutions" and "democratic . . . spirit" of the United States. Embracing the validity of racial hierarchies and seeking an advantageous place for Puerto Ricans within them, Collazo described the Court as deciding whether to treat Puerto Ricans like Filipinos or indigenous Hawai'ians.

Lorenzo Mercado.

If the Supreme Court denied U.S. citizenship to Puerto Ricans, he explained, Puerto Ricans could also, like Filipinos, be “denied to the right to trial by jury,” as well as other rights. Though he had told Degetau that the Court would “say that we are not Americans,” he wrote in *La Correspondencia* that he “cherish[ed] hope.” “[T]wo of the judges who supported” the prior anti-Puerto Rico verdict, he explained, “have descended to the tomb: and it remains to be seen if their successors, Judges [Oliver Wendell] Holmes and [William] Day, agree in the opinion of the narrow majority.”¹⁹⁶

Throughout 1903 Puerto Ricans thus lived in institutional limbo, uncertain whether they possessed U.S. citizenship or remained alien to their new sovereign. Gonzalez consequently hung suspended between colony and metropole, alien and national, and citizen and subject. As she, her family and attorneys, and U.S. officials all understood, the attributes and distribution of U.S. citizenship remained unsettled long after *Dred Scott* (1857) and its 1868 reversal by the 14th Amendment.¹⁹⁷

***Gonzales v. Williams* (1904)**

The U.S. Supreme Court received the briefs in *Gonzales v. Williams* in late 1903. U.S. Solicitor General Henry Hoyt’s filing on behalf of the United States focused on the peculiar purposes of U.S. immigration laws. Reviewing bars to entry by Chinese,

¹⁹⁶ Degetau to Collazo, 27 Aug. 1903 (quote 1 (“de una serie que me propongo publicar, y que tomarán carácter político”)); Collazo, “Desde Nueva York” (quotes 2-7, 9-11 (“amigo consecuente”; “posesión de <dependencias>”; “oligarquía puertorriqueña”; “instituciones”; “espíritu . . . democrático”; “se les niega el juicio por jurado”; “podemos acariciar la esperanza de que dos de los jueces que apoyaron tan extraño veredicto en las cuestiones aduaneras, han bajado á la tumba; y queda por ver, si sus sucesores, los jueces Holmes y Day, abundan en la opinión la escasa mayoría”)); D. Collazo to Federico Degetau, 21 Nov. [1903], CIHCAM 6/1/42 (quote 8 (“nos dirá *once again* la Corte Suprema que no somos americanos”)); [Matter?] to Federico Degetau, 21 Oct. 1903, CIHCAM 4/V/327; B. Díaz to Federico Degetau, 6 Oct. 1903, CIHCAM 4/V/312; D. Collazo, “Cosas Literarias de Puerto Rico: ‘Tropicales,’” newspaper unknown, n.d., available at CIHCAM 18/L1.

¹⁹⁷ *Scott v. Sandford*, 60 U.S. 393 (1857).

prostitutes, “idiots,” “insane persons,” “paupers,” certain diseased persons, and anarchists, among others, he highlighted Congress’s desire to protect the mainland from harmful immigration. Hoyt then described how Puerto Rico and the Philippines were remote in time, space, and culture and suffered (in his eyes) problems of climate, overcrowding, primitive hygiene, low standards of living and moral conduct, and the extreme and willing indigency that characterized the tropics. Until Congress crafted exceptions to the immigration laws, Hoyt concluded, the Supreme Court ought to respect congressional intent to protect the mainland from “these very evils at which the law was aimed.”¹⁹⁸

On November 30, 1903, Frederic R. Coudert, Jr., opposed the government with his brief on behalf of Isabel Gonzalez. He argued: 1) The Treaty of Paris transferred sovereignty over, and hence the allegiance of, Puerto Rico from Spain to the United States; and 2) Under English and U.S. law, such transfers effected transfers of subjection or nationality. If accepted, these two points were sufficient to win Gonzalez entry to the mainland; existing immigration laws only excluded aliens. This was the clear but minimalist argument that Coudert had made in his earlier law review article. But both Collazo in his letter to *La Correspondencia* and Gonzalez through her choices sought citizenship as well as non-alienage. In line with these goals, Coudert now contradicted his article to return to a version of the claim he had earlier presented the Court—that finding Puerto Ricans to be neither aliens nor U.S. citizens would be tantamount to reprising *Dred Scott*. He thus argued: 3) U.S. law appropriately deemed all U.S. subjects or nationals also to be U.S. citizens. Moreover, he assured the Court, recognizing Puerto Ricans as U.S. citizens would not hamper U.S. imperial designs. U.S. women and people

¹⁹⁸ Brief for the United States, *Gonzales*, 55-60.

of color, he explained, possessed a U.S. citizenship similar to the status that other empires bestowed upon their subordinated peoples.

Coudert discussed the status of Puerto Ricans in the United States by comparing the United States to France and England and Puerto Ricans to Europe's colonial subjects, free U.S. blacks, American Indians, women, and children. Significantly, he did not cast Puerto Ricans as white men who deserved full membership in the U.S. political community. Instead, he construed U.S. citizenship narrowly. By extending that status to its newly acquired peoples, he argued, the United States would both continue the practice that it followed in states and incorporated territories and follow the example of other imperial powers that had found it convenient and natural to grant women and minorities narrow forms of membership.

Turning to case law, Coudert portrayed a U.S. citizenship which generally accompanied U.S. nationality and that, similar to nationality in other empires, was widespread and minimal in its content. He chose cases in which the Court affirmed that men and women born within U.S. jurisdictions were U.S. citizens whatever their sex, race, or ethnicity. In the same cases, the Court had eviscerated those aspects of the 14th Amendment that implied a substantial array of rights entailed by U.S. citizenship. The *Slaughter-House Cases* (1873) virtually nullified the Privileges and Immunities Clause. *Minor v. Happersett* (1875), a case about women's suffrage, eliminated voting as a potential federal-citizenship right. Striking a federal anti-race-discrimination law, the Court forbade Congress to regulate private action under the 14th Amendment in the *Civil Rights Cases* (1883). *Wong Wing v. United States* (1896) confirmed that the U.S. Constitution guaranteed some individual rights for all people, but offered few protections

specifically to U.S. citizens. Coudert did not have to add that in *Plessy v. Ferguson* (1896) and *Giles v. Harris* (1903) the Court had blocked the invocation of the 14th Amendment as a tool against what litigants had respectively portrayed as “caste” distinctions and intentional black disfranchisement. By late 1903, the U.S. Constitution, as interpreted by the Court, both distributed U.S. citizenship widely and attached slim protections to federal status. U.S. citizens had to look to their states for the balance of their rights. When U.S. women and people of color complained that their states denied them such rights, the Court declared itself impotent.¹⁹⁹

The problem that the Gonzalez case raised, Coudert contended, was how to adapt the postbellum jurisprudence of U.S. citizenship—itsself adapted to the challenges of “expansion and assimilation” posed by recent acquisitions—to a new problem: U.S. “imperialism, i.e., the domination over men of one order or kind of civilization, by men of a different and higher civilization.” To make this distinction between earlier expansion and the new imperialism, Coudert relied upon myths of a vacant West and Southwest. Prior territories, he claimed, had only contained American Indians who did “not long survive contact with civilization” and an “insignificant...number” of people “largely of Caucasian race and civilization” whom the U.S. nation had integrated. Puerto Rico, by contrast, had a large, stable population. If previously migration to the frontier had “soon made the new lands thoroughly American,” neither “extermination” nor “assimilation” would solve “the problem of to-day.”²⁰⁰

¹⁹⁹ Appellant’s Brief, *Gonzales*, 18-28; Slaughter-House Cases, 83 U.S. 36 (1873); *Minor v. Happersett*, 88 U.S. 162 (1875); The Civil Rights Cases, 109 U.S. 3 (1883); *Wong Wing v. United States*, 163 U.S. 228 (1896); *United States v. Wong Kim Ark*, 169 U.S. 649 (1898); *Plessy v. Ferguson*, 163 U.S. 537 (1896); *Giles v. Harris*, 189 U.S. 475 (1903); Rebecca J. Scott, “Public Rights, Social Equality, and the Conceptual Roots of the *Plessy* Challenge,” *Michigan Law Review* 106 (Mar. 2008): 777-804; Richard H. Pildes, “Democracy, Anti-Democracy, and the Canon,” *Constitutional Commentary* 17 (summer 2000): 295-319.

²⁰⁰ Appellant’s Brief, *Gonzales*, 32, 3-4.

Coudert rejected placing Puerto Ricans in the “seemingly paradoxical legal category of ‘American Aliens.’” He explained that doing so would make outsiders of residents of domestic territory. Under British common law that U.S. courts had long respected, he argued, transfers of legal allegiance like that effected by the Treaty of Paris automatically also transferred subjection. Moreover, because Puerto Rico was part of the United States under international law, holding against Gonzalez “would declare the law of the United States, as expounded by its highest tribunal, to be that there exists under the jurisdiction of the United States a large class of persons who are strangers and aliens here and in every other nation of the globe.”²⁰¹

So what to do with a people the nation would not assimilate, exterminate, or exclude? The Court, he suggested, could synthesize U.S. jurisprudence on citizens of color with sister empires’ treatments of colonized peoples. Doctrines limiting the claims of U.S. blacks, American Indians, and women, among others, could serve as a model for the legal status of residents of the newly acquired territories: grant citizenship, but withhold rights.²⁰²

In its citizenship jurisprudence, Coudert contended, the Court had inadvertently paralleled the practices of other empire-states, notably France. France’s approach to status helped Coudert delineate what he took to be the central confusion in the case: a failure to distinguish tiers of citizenship and subjection. In France, “the holder of political rights or privileges in a State” was an “active citizen[],” the status to which the word “citizen” referred in normal U.S. discourse. By contrast, U.S. law recognized as U.S.

²⁰¹ Ibid. 4-5, 3, 6-7, 13-21, 28, 32.

²⁰² Ibid. 12, 15, 10, 13-27, 36-39. On judicial paternalism, see Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1985). *Rapto* was not part of U.S. law, but U.S. justices had come of age in a legal culture that enforced a civil action for breach of contract to marry. Ibid.

citizens nearly all U.S. nationals regardless of political rights: women, children, and blacks. Coudert explained that France had also always recognized the French nationality of its subordinate peoples, be they minors, married women, “Cochin” Chinese, “Taïti[ans],” or Algerians. It had then divided these peoples into two groups. People “such as minors, women and incompetents” were “passive citizens,” a status identical with “subjection at common law” and carrying “full civil but no political rights.” “[U]ncivilized or semicivilized tribes or people who become wholly subject to [French] jurisdiction” were called “subjects” and enjoyed neither French political nor civil rights; in matters of private law they were “left under their own rules and customs.” Thus, though French citizens and subjects in Coudert’s rendering differed in the types of private-law rights they enjoyed—the civil rights of the French nation or the traditional private-law rights of their locale—all French nationals enjoyed some form of private-law protection. U.S. citizenship, much less U.S. nationality, did not guarantee its holders such private-law protections. Access to federal courts aside, the U.S. Supreme Court had held that most rights deemed civil and popularly thought to attach to citizenship came through state law and state citizenship and could only be vindicated at the state level. Thus, the Court had three options: declare Puerto Ricans to be aliens, recognize an intermediate status between alien and citizen, or follow a model even more flexible than those of other great powers and grant Puerto Ricans a rights-poor U.S. citizenship.²⁰³

Coudert argued that the Court had to choose between deeming Gonzalez a mere U.S. subject or judging her to be a U.S. citizen, but assured the justices that neither option would guarantee her full political or civil rights. *Dred Scott v. Sanford* (1857), he

²⁰³ Appellant’s Brief, *Gonzales*, 6, 35-36, 33-34, 1-7, 22-24, 27-28, 37; see also Argument of Coudert, *Gonzales*, 51-53, 62-65. Coudert did not suggest classifying Puerto Ricans as active citizens.

reminded them, had held that free blacks were not U.S. citizens, and yet were also “not aliens but American nationals or subjects because their allegiance, complete and absolute was owing to the United States.” *Elk v. Wilkins* (1884) had been to the same effect for American Indians who took up residence among white U.S. citizens. In both cases, U.S. history and democracy had repudiated the Court: the Civil War and the 14th Amendment undid *Dred Scott*, and the congressional Dawes Act (1887) reversed *Elk*. To create anew “a situation in which citizenship and subjection were not identical,” Coudert argued, would betray “the spirit of our Constitution[] and the jurisprudence of this Court” and depend upon “the two precedents in history of which we are least proud.” Luckily, he reasoned, there was no need to make subjects anew. There already was a status in U.S. law that the Court had adapted to the needs of U.S. imperialism: U.S. citizenship. Because the Court had already drained much of the content from U.S. citizenship, the justices did not have to deny it to Puerto Ricans. They could thus facilitate the project of imperialism while avoiding historical censure for repeating *Dred Scott*.²⁰⁴

In his amicus brief to the U.S. Supreme Court, Federico Degetau took a dramatically different approach from that of Coudert. Degetau, a former Spanish citizen, associated his island with markings of male honor like economic self-sufficiency, martial experience, and exercise of political and civil rights. Reinterpreting rather than rejecting colonial and expansionist precedents, he drew imperial and cross-cultural comparisons. He did not seek “passive” U.S. citizenship akin to that enjoyed by women and people of color, nor did he seek to gain active citizenship for other colonized and marginalized people. Instead, he claimed—for Puerto Ricans like himself—a robust U.S. citizenship

²⁰⁴ Appellant’s Brief, *Gonzales*, 6, 38-39, 25, 28-32; *Scott v. Sanford*, 60 U.S. 393 (1857); *Elk v. Wilkins*, 112 U.S. 94 (1884); The Dawes Act, *Statutes at Large* 24 (8 Feb. 1887): 388; Patrick Weil, *How to be French: Nationality in the Making*, trans. Catherine Porter (Durham, N.C.: Duke University Press, 2008).

associated with white men, civilization, economic, legal, and political opportunities, and military and tax obligations.²⁰⁵

A key to this argument was the contention that Puerto Ricans were not “natives” in the colonial sense. The Treaty of Paris might vest Congress with discretion to determine the citizenship status of “native inhabitants” of Spain’s former possessions, he admitted. But he argued that these encompassed “the uncivilized tribes of the Philippine Islands” and not “Spanish citizens born in Porto Rico.” Just as some Cuban representatives had done during their constitutional convention the year before, Degetau portrayed liberties that existed under Spanish rule as both indicative of islanders’ capacity and as a baseline below which no new government should fall. Puerto Ricans, he contended, had enjoyed such rights as representation in the national legislature, national citizenship accompanied by constitutional protections, “the same honors and prerogatives as the native-born in Castille,” and broad autonomy. Even after U.S. annexation of Puerto Rico, Spain let returning Puerto Ricans be Spanish military officers, embassy officials, and Senators.²⁰⁶

This attempt to conflate the status of those Puerto Ricans born in continental Spain with those born on the island tracked a goal that predominantly island-born Autonomistas had long pursued but not achieved during Spanish rule. The distinction between the two groups had persisted throughout negotiations over the Treaty of Paris. Though Degetau, then too an elected Puerto Rican representative, had sought to be heard,

²⁰⁵ See sources cited above note 178. On manhood, mastery, honor, and U.S. citizenship rights, see Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920* (Chapel Hill: University of North Carolina Press, 1996); Laura F. Edwards, *Gendered Strife & Confusion: The Political Culture of Reconstruction* (Urbana: University of Illinois Press, 1997).

²⁰⁶ Amicus Brief, *Gonzales*, 30 (quotes 1-2), 18 (citing as the source of the quotation “Zamora y Coronado, ‘Legislación Ultramarina,’ Tomo I, p. 255-257”), 19-22, 27-29, 36; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, Mass.: Harvard University Press, 2005), 205-206.

Spain had negotiated unilaterally with the United States. Neither treating party had recognized rights of Puerto Ricans to participate. The resultant agreement reproduced the birthplace distinction, giving colonists born in continental Spain but not those born in the colonies the option to retain their Spanish nationality. By ignoring this history in construing the Treaty, Degetau aimed to position Puerto Rico favorably within the broader context of historical U.S. expansion. Claiming that Puerto Ricans differed from Filipino “tribes,” “Mongolians,” and the “uncivilized native tribes [of] Alaska,” he indicated that Puerto Ricans resembled the French and Mexicans who had been incorporated into U.S. citizenship in earlier U.S. cessions. He did not, of course, mention his efforts to enroll and support Puerto Rican students at such schools serving American Indians and U.S. blacks as Carlisle and Tuskegee.²⁰⁷

The United States, Degetau admonished, was tardy in extending appropriate treatment to his traditionally rights-bearing, self-governing people. Though Puerto Ricans shared with American Indians simultaneous struggles to define the status of their people and their land and imperfect accesses to dual status as U.S. citizens and distinct peoples, Degetau stressed differences in how the United States approached the two groups. Under U.S. naturalization laws, which required that applicants renounce allegiance to a foreign sovereign, Puerto Ricans could not become U.S. citizens. But tribal American Indians could renounce tribal allegiances and become U.S. citizens. Because Congress had not organized Puerto Rico “with the separate national character accorded to some Indian Tribes,” he explained, the United States provided less access to U.S. citizenship to Puerto Ricans than to American Indians. Moreover, on the mainland the U.S. Civil Service

²⁰⁷ Amicus Brief, *Gonzales*, 28 (citing as the source of the quotation “Foreign Relations of the United States, 1898. Correspondence with the United States Peace Commissioners, p. 961”).

Commission and West Point equivocated over participation by Puerto Ricans, and Puerto Rican voting rights varied by jurisdiction. But it was not too late. He noted that the United States had made advances toward treating Puerto Ricans—especially Puerto Rican men—like U.S. citizens. They paid U.S. taxes, swore allegiance to the U.S. Constitution and laws, elected a non-voting delegate to the House of Representatives, and were Americans and citizens of a U.S. territory. Now, the Court could redeem U.S. democratic traditions.²⁰⁸

Degetau also sought to distinguish the active Puerto Rican citizenry from Cubans and Filipinos by describing the differences between what “was asked by the American Government of the inhabitants” of each locale. Using language that could have described a marriage contract, he recounted that President William McKinley had instructed the Secretary of War in 1898 that Cubans were to grant their “honest submission” to receive from the United States “support and protection.” Under a different presidential instruction, he continued, Filipinos swore to “recognize and accept the supreme authority of the United States.” Here, the relationship that he described sounded like that of child to parent. By contrast, he claimed, Puerto Ricans had become U.S. citizens as a result of

²⁰⁸ Ibid. 33-34, 21-22, 32, 36. José Triás Monge clarifies that Puerto Rican rights under Spanish rule varied throughout the 1800s; just before U.S. annexation, Puerto Rico had little guarantee that the autonomy Spain had just accorded it would be permanent. *Historia constitucional de Puerto Rico*, vol. 1 (San Juan, P.R.: Editorial Universitaria, 1980), 133-134, passim. On American Indians’ struggles with status and related issues, see Andrew Denson, *Demanding the Cherokee Nation: Indian Autonomy and American Culture 1830-1900* (Lincoln: University of Nebraska Press, 2004); Duane Champagne, *Social Order and Political Change: Constitutional Governments among the Cherokee, the Choctaw, the Chickasaw, and the Creek* (Stanford, Calif.: Stanford University Press, 1992); Michael D. Green, *The Politics of Indian Removal: Creek Government and Society in Crisis* (Lincoln: University of Nebraska Press, 1982); Donald A. Grindle, Jr. and Quintard Taylor, “Red vs Black: Conflict and Accommodation in the Post Civil War Indian Territory, 1865-1907,” *American Indian Quarterly* 8 (summer 1984): 211-229; E. Stanley Godbold, Jr. and Mattie U. Russell, *Confederate Colonel and Cherokee Chief: The Life of William Holland Thomas* (Knoxville: University of Tennessee Press, 1990); John R. Finger, *The Eastern Band of Cherokees 1819-1900* (Knoxville: University of Tennessee Press, 1984); Mary Young, “The Exercise of Sovereignty in Cherokee Georgia,” *Journal of the Early Republic* 10 (spring 1990): 43-63; William G. McLoughlin, *After the Trail of Tears: The Cherokees’ Struggle for Sovereignty, 1839-1880* (Chapel Hill: University of North Carolina Press, 1993).

military orders ratified by Congress. In line with military rules, 1,100 prospective Puerto Rican officeholders (including Degetau) had renounced their allegiance to Spain and agreed to “support and defend the Constitution of the United States against all enemies home or foreign.” This, Degetau claimed, effected “a plain renunciation of all foreign allegiance and an explicit acceptance of the duties of citizenship.” The oath invoked male realms of political rights and participation by speaking of defending the nation from foreign enemies, occupying political office, and upholding the U.S. Constitution. Taken together, Degetau’s comparisons implied that Cuba agreed to receive protection from the United States like a wife; the Philippines accepted the authority of the United States like a child; Puerto Rico swore allegiance to and took up the defense of the United States, like a man.²⁰⁹

Degetau portrayed a population actively and naturally blending into the United States against which barriers to citizenship seemed out of place. Under the Foraker Act, he related, mainlanders resident in Puerto Rico, along with all Puerto Ricans, constituted a single body politic—the people of Puerto Rico. Since mainlanders retained their U.S. citizenship while becoming Puerto Rican, which he treated as equivalent to becoming a citizen of Puerto Rico, Puerto Rican citizenship could not be an alternative to U.S. citizenship. Thus, Degetau argued, Puerto Rican citizenship was territorial citizenship, coexisting with the U.S. citizenship that the 14th Amendment guaranteed to all those born within the U.S. nation. Focusing on fields dominated by men, Degetau also illustrated how Puerto Ricans needed U.S. citizenship to exercise autonomy and control within business and law. Without U.S. citizenship, U.S. policy nationalizing Puerto Rican

²⁰⁹ Amicus Brief, *Gonzales*, 25-26 (quoting Degetau’s own certificate); Foraker Act, *Statutes at Large* 31 (12 Apr. 1900): 77.

vessels would cripple the industry—another law required such vessels to be owned and commanded by U.S. citizens. Non-citizens could not be bank directors or prosecute actions in the Court of Claims. Although the Foraker Act indicated that Puerto Rico ought to benefit from most U.S. laws, many statutes applied only to U.S. citizens. Degetau’s arguments implicitly asked the court to consider him, an accomplished civil servant, rather than Gonzalez, an unmarried mother, as the model for Puerto Rican citizenship. He closed on a personal note, which reprised one his earlier gambits in pursuit of U.S. citizenship. “If I were an alien, I could not have attained the highest honor in my professional career, that of taking, as a member of the bar of this Honorable Court, the oath to maintain the Constitution of the United States, this oath being incompatible with allegiance to any other power.”²¹⁰

By the time the Court held oral arguments on December 4, 1903, the issue had shifted from whether Puerto Ricans were aliens to what non-alien status they held. According to one observer, Solicitor General Henry Hoyt argued that Degetau had only “been admitted by the courtesy of the” Court to its bar. Chief Justice Melville Fuller disagreed. “[T]he Commissioner,” the observer recalled him saying, “was there by right.” When Hoyt then “confessed that it was not possible to establish [a] line of distinction” between Degetau’s and Gonzalez’s status, the observer continued, Hoyt all but conceded.²¹¹

Degetau’s well-honed performance as a cultured, white Puerto Rican gentleman

²¹⁰ Amicus Brief, *Gonzales*, 43, 6-7, 12-14 (noting that if Puerto Rican citizenship were held to be exclusive of U.S. citizenship, Puerto Ricans would be foreign citizens from whom the United States could not demand allegiance under international law), 37-42.

²¹¹ Letter to Editor, Pedro García Olivieri, “Puerto Rico en la Corte Suprema Nacional,” *Puerto Rico Herald*, 12 Dec. 1903, 1127 (“admitido por cortesía del”; “el Comisionado estaba allí por su derecho”; “confesó que no le era posible establecer esa línea de distinción”). Hoyt’s initial argument was that which Degetau’s co-partisan Manuel Rossy had earlier made.

was thus largely successful. The justices were willing to consider that someone like Degetau could be a U.S. citizen, or something similar. Yet they also knew that more than Degetau's individual status was at stake. As all parties in the case appeared to agree, Puerto Ricans and most likely Filipinos held a common status under U.S. law. If Degetau were a U.S. citizen, then Gonzalez and likely very many Filipinos were U.S. citizens too.

Coudert, in his oral arguments, faced resistance concerning his portrayals of the statuses other than alienage that the Court could accord Puerto Ricans. A key source of that resistance was a justice who had not taken part in the 1901 *Insular Cases*, the Court's most junior member, William Day, who had accrued his experience with U.S. empire and law as Secretary of State in the late 1890s and as lead U.S. negotiator for the Treaty of Paris. His objection came when Coudert described a choice between reprising *Dred Scott* by creating U.S. subjects and extending Puerto Ricans a U.S. citizenship with minimal content:

Mr. Coudert: ...there have been two instances...in which subjection or nationality and citizenship were not determined by the same tests....

Justice Day: Would not 'allegiance' be a better word than 'subjection' there?

Mr. Coudert: Well, I use the word 'subjection' because it is the common-law term....

Justice Day: You will probably not find that term in any American discussion of the relations between the people of either the United States or its territories.

Mr. Coudert: [T]he Attorney-General at this bar stated that...these persons were American subjects;...perhaps it would be more proper to have called them liegemen....

Justice Day: I prefer that term to the other.²¹²

Rather than affirm Puerto Rican alienage or grant Puerto Ricans broad U.S. citizenship rights, Day proposed a term intermediate to “alien” and “citizen”—“liegemen”—that did not carry what Coudert had portrayed as the monarchical implications of “subject” and its associations with *Dred Scott*. Day apparently wanted to decline Coudert’s proposal that the Court recognize a relatively modest version of U.S. citizenship and thereby avoid creating U.S. subjects or new rights for Puerto Ricans. Though Day was reluctant to acknowledge explicitly that the Court had drained much meaning from U.S. citizenship, that did not mean he had qualms about U.S. treatment of women, people of color, or colonized peoples. In *Downes*, for instance, Justice White had depicted U.S. citizenship as a status rich in rights without addressing the ways that unequal U.S. treatment of women and people of color appeared to belie that claim. Coudert forged ahead. Functionally, he reiterated, it did not matter whether Puerto Ricans were “liegemen, nationals or subjects, all of which terms are absolutely identical as far as the law is concerned.” The Court, he insisted, had to choose: reintroduce “subjects” into U.S. law or extend Puerto Ricans U.S. citizenship.²¹³

On January 4, 1904, Chief Justice Fuller announced the unanimous holding of the Court: “[W]e...cannot concede...that the word ‘alien,’ as used in the [immigration] act of 1891, embraces the citizens of Porto Rico.” Reviewing U.S. law he explained that the United States had made “[t]he nationality of the island...American” and integrated Puerto

²¹² Argument of Coudert, *Gonzales*, 49-56, passim; Sparrow, *The Insular Cases*, 147. My analysis here benefits from Christina Duffy Burnett, “Empire and the Transformation of Citizenship,” in Alfred W. McCoy and Francisco A. Scarano, eds., *Colonial Crucible: Empire in the Making of the Modern American State* (Madison: Wisconsin University Press, 2009), which emphasizes the Court’s apparent acceptance of the idea of U.S. non-citizen nationals.

²¹³ Argument of Coudert, *Gonzales*, 49-56, passim.

Rico into the United States. In Puerto Rico, the United States had created a civil government with heads named by the U.S. President; implemented congressional oversight; established a U.S. district court; run judicial process in the name of the U.S. President; nationalized Puerto Rican vessels; and put most U.S. statutes into force. This was a modest victory for Puerto Ricans. It struck down the Treasury guideline under which Gonzalez had been held. It did not, however, address congressional power to regulate the movement of Puerto Ricans from the island to the mainland. As to whether Puerto Ricans were U.S. citizens, nationals, subjects, or liegemen, Fuller wrote: “We are not required to discuss...the contention of Gonzales’s counsel that the cession of Porto Rico accomplished the naturalization of its people; or that of Commissioner Degetau, in his excellent argument.” This strategic silence solved Justice Day’s dilemma and united the Court. While refraining from interfering with congressional and administrative control of new territorial acquisitions, justices also declined the choice between either reprising *Dred Scott* by reintroducing “subjects” into U.S. law or acknowledging that U.S. citizenship now carried very few rights. The decision avoided openly contradicting the widely held belief that U.S. citizenship and U.S. nationality were coextensive, but left Congress and administrators room for maneuver in the control of new territorial acquisitions. As in *Downes v. Bidwell*, vagueness proved valuable as the Court sought to accommodate U.S. empire and constitutional democracy.²¹⁴

“[N]either Americans nor foreigners”: Law and Politics after *Gonzales*, 1904-1905

Like the Treaty of Paris, the Foraker Act, and the *Insular Cases* before it, *Gonzales v. Williams* (1904) altered the legal, social, and political landscape for Puerto

²¹⁴ *Gonzales*, 192 U.S. at 12, 10, 12, 8-11, passim (1904).

Ricans. Isabel Gonzalez and Domingo Collazo struggled, in its wake, with the damage it had done to their honor through its failure to recognize Puerto Ricans as U.S. citizens. Federico Degetau faced a choice: construe the ruling as the result of his failure to frame a sufficiently focused test case or concede that courts were not the best institution from which to win U.S. citizenship for Puerto Ricans. Island politicians who had already concluded the latter had another decision to make: would cooperation or confrontation bring more liberal U.S. policies in Puerto Rico?

Aware that the events of *Gonzales v. Williams* (1904) had denied that Gonzalez was a dependant woman—either as a wife or as a relative to be taken in by Collazo as an independent man—she and Collazo tried to undo and rework the dishonorable reversals that U.S. officials had imposed on them. Newspaper reports described Gonzalez as one who “had come here in search of a man who had promised to marry her and had failed to keep his promise.” Collazo recalled that immigration inspectors had presumed he would not fulfill his patriarchal and honorable obligations of support of dependent, female relations. “Isabella Gonzalez, a niece of my wife,” he wrote, “was forbidden to land,” by inspectors, “the reason alleged being that she was . . . liable to become a public charge.” Both sought to set the record straight. On the day of the Court’s ruling, one of Gonzalez’s lawyers, Orrel Parker, told the *New York Times* of her matrimony and consequent change in status. Her honor, it was thus revealed, had been restored. Rebutting inspectors’ conclusions in a letter to the *New York Times*, Collazo identified his niece as the presumptively married “Mrs. Gonzalez” and explained that the inspectors’ decision came “notwithstanding my guaranteed assurances of her support as a member of my family.” But Gonzalez also sought to benefit from a self-portrayal similar to the one U.S. officials

had imposed on her. Signing a letter to Degetau with her maiden name and mentioning her “mother” but no father, she asked Degetau to become the symbolic head of her needy, presumably female household. Any money he offered, she indicated, would go to female education, a “charitable errand” that was a longstanding cause of his. “One reason I came to the United States,” she wrote, “was for the education of a little sister who I today have by my side and who I would like to place in one of these colleges of poor students in which many of our countrymen are placed.” Gonzalez deployed a complicated mix of concepts of independence and dependence. Seeking male protection, she sought to win her sister an education that would promote her economic independence. Gonzalez’s dependence upon Degetau, in turn, implicitly rested on an absence of husbands and fathers.²¹⁵

For Republicanos like Manuel Rossy, *Gonzales* was primarily evidence that Degetau’s judicial strategy had been misguided. It “did not interest opinion,” he related, “because everyone expected what occurred.” “If the Supreme Court could make U.S. citizens of the inhabitants of a country based just on . . . annexation,” Rossy reasoned, the United States “would have to concede citizenship to whatever upstart or enemy that it happened to annex.” This, he claimed, would mean that the United States “would not form a true nation, because germs destructive of its sovereignty would arise within in.” Instead, he claimed, citizenship would only come by federal statute. Some prominent Republican lawmakers already supported such a measure, and the Republican caucus in

²¹⁵ “Porto Ricans Not Aliens” (quote 1); Letter to Editor, D. Collazo, “Nationality of Porto Ricans,” *New York Times*, 13 Sep. 1904, 8 (quotes 2-6); Gonzales to Degetau, 10 Apr. 1904 (other quotes (“madre”; “obra de caridad”; “Una de las cosas por que vine yo á los Estados Unidos fue por la educación de una hermanita que hoy tengo á mi lado, y que desearía poner en uno de esos Colegios de pobres en los que están poniendo muchos de nuestros paisanos”). I thank Christina Burnett, for alerting me to Collazo’s letter. See Burnett, ““They say I am not an American,”” 660, 670, 710.

Washington had made Degetau a member. If pursued, Rossy implied, an alliance with Republicans would help Republicanos make progress toward U.S. citizenship and potentially even eventual U.S. statehood. Thus, he reported, he and other Republicanos had formalized plans to select and send delegates to the 1904 Republican National Convention.²¹⁶

Degetau was not deterred. True, he had to delay his article on Puerto Rican statehood for the *Independent*. But as an opposition newspaper reported, he embraced the *Gonzales* decision, viewing it as “a stepping stone to a more decided recognition of the rights of Puerto Ricans in the United States.” On January 9 Degetau launched a new action, writing the Board of Election Commissioners in Chicago about the voting rights of Puerto Ricans. Five days later an attorney for the board, William Wheelock, told Degetau that “a couple of Porto Ricans applied to be registered as voters” recently. They had claimed that U.S. annexation of Puerto Rico made them U.S. citizens eligible to vote in Chicago. Based upon the lower-court decision in *Gonzales v. Williams*, “I held that they were not voters,” Wheelock explained. Sending Wheelock his Amicus Brief in *Gonzales* and that decision, Degetau asked him to reconsider.²¹⁷

While awaiting Wheelock’s reply, Degetau won floor privileges, though still no vote, in the House of Representatives. Because the Senate refused to act, he also

²¹⁶ Manuel Rossy to Federico Degetau, 26 Jan. 1904, CIHCAM 4/VIII/14 (“no interesó á la opinión”; “así la esperaban todos”; “Si el Tribunal Supremo pudiera declarar ciudadanos americanos á los habitantes de un país [sic] por el mero hecho de la . . . anexión”; “tendrian [sic] que conceder la ciudadanía [sic] [a] cualquier advenedizo ó enemigo que por azares de la vida hubiese necesidad de anexar ó conquistar”; “no formarian [sic] una verdadera nación, porque llevarian [sic] dentro de sí los gérmenes destructores de su propia soberania [sic]”); *Informe de los delegados del Partido Republicano*; [Federico Degetau] to Joseph Babcock, 30 May 1904, CIHCAM 5/I/35. For examples of Puerto Rican media coverage of *Gonzales*, see “Puerto Ricans Admitted,” *Puerto Rico Herald*, 9 Jan. 1904, 1188; “Puerto Rico ante la Corte Suprema,” *Puerto Rico Herald*, 9 Jan. 1904, 1191; “Porto Ricans Not Aliens,” *San Juan News*, 6 Jan. 1904, 1.

²¹⁷ “Puerto Ricans Admitted” (quote 1); W. Wheelock to Federico Degetau, 14 Jan. 1904, CIHCAM 4/VIII/11 (quotes 2-3); Hamilton Holt to Federico Degetau, 25 Feb. 1904, CIHCAM 4/VIII/40; W. W. Wheelock to Federico Degetau, 23 Feb. 1904, CIHCAM 4/VIII/39.

remained a Resident Commissioner. There was, in his words, a new “peculiar indefiniteness of the status” he thus held, “in the language of the law, only a ‘Resident Commissioner’” yet ““with functions similar to those of a Delegate.” Using his new powers to seek clarification of the status of all Puerto Ricans, he introduced a bill asking Congress to “expressly declare” islanders “to be citizens of the United States.”²¹⁸

Two weeks later, a new test case on the citizenship status of Puerto Ricans took shape when Juan Rodríguez, a nineteen-year-old native of Puerto Rico, requested that the Board of Labor Employment at the United States Navy Yard register him as a candidate for possible employment. Because navy-yard rules stated that “[n]o applicant will be registered unless he furnished satisfactory evidence that he is a citizen of the United States,” his application appeared to raise the question that the *Gonzales* Court had avoided. Some months earlier, President Roosevelt had tried to avoid such problems by declaring that applicants “who show[] birth or naturalization in Porto Rico will not be required to show further evidence of citizenship.” Yet, as government lawyers would soon argue, Roosevelt’s rule could be read to encompass only a subset of federal jobs and not that for which Rodríguez had applied. The matter reached the Assistant Secretary of the Navy, who concluded “that as Mr. Rodríguez is not a citizen of the United States he is not eligible for registration.” Two days later the Board denied Rodríguez’s application.²¹⁹

²¹⁸ Federico Degetau, *The Constitution and the Flag in Porto Rico: Why the Porto Ricans Are Proud of Their Regiment: Speech of Hon. Federico Degetau of Porto Rico in the House of Representatives, Thursday, January 19, 1905* (Washington, D.C.: [Government Printing Office?], 1905), available at CIHCAM 6/L10 (quotes 1-2); [Degetau] to Babcock, 30 May 1904 (quote 3); H.R. 11592, 58th Cong., 2d sess., 2 Feb. 1904, available at CIHCAM 4/VIII/19 (quotes 4-5); “Delegate from Porto Rico,” *New York Times*, 3 Feb. 1904, 6.

²¹⁹ W. H. Moody, Navy Yard Order No. 26—Revised: Employment of Labor at Navy Yards, 7 Jul. 1902, available at CIHCAM 3/VI/33 (quote 1); Brief for Appellant, No. 1504—No. 8 Special Calendar, *Rodriguez v. Bowyer*, 25 App. D.C. 121 (1905), CIHCAM 6/VI/33 (quote 2) (citing as the source of the quotation “Rule V of said present [Civil Service] rules of March 20, 1903” in “Twentieth Report, Civil Service Commission, page 48”); Brief for Appellees, *Rodriguez*, CIHCAM 6/VI/34, 11-13; Transcript of

On February 23, Wheelock wrote Degetau that upon reconsideration he had affirmed his judgment that Puerto Ricans were not U.S. citizens eligible to vote in Chicago. He dismissed *Gonzales* as having “carefully avoid[ed]” “[t]he question of citizenship.” Annexation could not naturalize islanders, he wrote, because *Downes v. Bidwell* (1901) held “that power to acquire territory by treaty implies . . . power . . . to prescribe . . . what [its inhabitants’] status shall be.” As then-Secretary of War Elihu Root had appeared to do during U.S. military governance of Puerto Rico, Wheelock defined Puerto Rico as outside the United States, hence unaffected by 14th Amendment insistence on U.S. citizenship for “all persons born or naturalized” there. And like Frederic Coudert in 1903, he read the Treaty of Paris to reserve determination of the political status of islanders to Congress. Treating U.S. citizenship for Filipinos as *reductio ad absurdum* and arguing that Filipinos and Puerto Ricans likely held the same status under their respective organic acts, Wheelock concluded that neither act naturalized. To what he described as Degetau’s claim that Puerto Ricans “are citizens of the United States” because they “had a right to vote for you” as “Resident Commissioner . . . to Washington,” he replied that citizenship was not always a prerequisite to voting and that Chicago repeatedly denied the franchise to people accustomed to voting elsewhere. When Degetau then sought the identities of the rejected Puerto Rican applicants who now appeared to be potential test-case litigants, Wheelock informed him that “as is the rule in such cases [of refused registrations] neither their names nor address were kept.”²²⁰

Rodríguez’s rejected application for navy-yard employment thus became Degetau’s most promising test case, and he reunited with Jean des Garennes, the U.S.-

Record, *Rodriguez*, 5-6 (quote 3), 3; Draft Petition for Mandamus, *Rodriguez*, n.d., CIHCAM 6/III/56.
²²⁰ W.W. Wheelock to Federico Degetau, 26 Feb. 1904, CIHCAM 4/VIII/41 (last quote); Wheelock to Degetau, 23 Feb. 1904 (other quotes).

citizen counsel for the French Embassy, to take it. Degetau and des Garennes had earlier collaborated during Degetau's passport challenge, at which time Degetau had described to President Roosevelt a civil-service decision that classified Puerto Ricans as U.S. citizens. When Degetau got in touch with George Leadley, lately Chief of the Civil Service Record Division, for confirmation, however, he learned that only one civil-service commissioner had "prepared an opinion to the effect that the natives of Porto Rico were citizens of the United States, in the International sense." "[T]he other two Commissioners [had] dissented," Leadley reported on March 29, and "[t]he opinion was never published." Soon thereafter, Degetau and des Garennes filed their Petition for Mandamus asking the Supreme Court of the District of Columbia to compel the navy-yard board to register Rodríguez.²²¹

As Rodríguez's case kept Degetau in Washington through April and May and into June, Republicanos in Puerto Rico prepared for the November election and moved ever closer to a merger with U.S. Republicans. On April 25, leaders met in Ponce to elect delegates for the Republican National Convention. An attendee told Degetau that R. H. Todd, the Mayor of San Juan, aspired to be Resident Commissioner, as did Mateo Fajardo, the Mayor of Mayagüez who had joined Domingo Collazo on the Puerto Rican Commission during the U.S. invasion and now advocated Republicano integration with U.S. Republicans. But opinion in Ponce, the attendee reassured Degetau, held that neither could do the job as well as Degetau. On May 30, Degetau wrote Representative Joseph Babcock of Wisconsin to decline membership in a committee of the Republican Caucus. "I did not deem it entirely consistent . . . to take a side in the internal differences of our

²²¹ Geo. Leadley to Federico Degetau, 29 Mar. 1904, CIHCAM 4/IX/26 (quotes); Geo. Leadley to Bonifacio Sánchez, 7 Apr. 1903, CIHCAM 4/II/124; Draft Petition for Mandamus, *Rodriguez*; Transcript of Record, *Rodriguez*, 1-2.

national political parties” he explained, “so long as I was not recognized as a citizen of the United States, and was called ‘Resident Commissioner.’” A week and a half later Degetau, des Garennes, and Navy Yard officials stipulated that Rodríguez was a citizen of Puerto Rico, leaving it to the judge to decide whether such citizens were qualified for registration. As Degetau left for Puerto Rico, Republicano delegates arrived at the Republican National Convention. They secured two votes there, the same as Hawai‘i and the Philippines, and on June 21 proposed—but did not win—a platform plank favoring U.S. citizenship and territorial government for the island.²²²

After reaching San Juan on June 24, Degetau campaigned on his judicial strategy. Opposition newspaper *La Democracia* predicted that his July 9 speech in San Juan on the “political status of the island and its inhabitants before the legislative, executive, and judicial departments of the United States” “will be less a lecture than a political document.” Two and a half weeks later, it described Degetau’s well-attended Ponce talk on “the *status* of Puerto Rico,” in which he argued “that the Supreme Court in Washington had to determine it.” Like many Republicanos, *La Democracia* disagreed: “Few share this opinion” of Degetau’s, it reported, for many “express the view that it is the National Congress that can and should take action concerning American citizenship.”²²³

²²² Degetau to Babcock, 30 May 1904 (quotes); Draft, [Federico Degetau] to Mr. Henry, [Jun. 1904], CIHCAM 5/II/8; Transcript of Record, *Rodriguez*, 3-8; Jean des Garennes to Federico Degetau, 2 Jun. 1904, CIHCAM 5/II/2; [Illegible] to Federico Degetau, 7 May 1904, CIHCAM 5/II/25; “Scandal at Mayaguez,” *Washington Post*, 19 Apr 1903, 1; “Plans a Surprise in Porto Rico,” *Chicago Daily*, 25 Jul. 1898, 1; *Informe de los delegados del Partido Republicano*, 19-21, “D. Federico Degetau y González,” *La Democracia*, 24 Jun. 1904, 2; Republican Party Platform of 1904, 21 Jun. 1904, in John Woolley and Gerhard Peters, “Political Party Platforms: Parties Receiving Electoral Votes: 1840-2008,” The American Presidency Project (2009), at <http://www.presidency.ucsb.edu/ws/index.php?pid=29631>.

²²³ “Conferencia del Sr. Degetau,” 8 Jul. 1904, 1 (quotes 1-2 (“Status político de la isla y sus habitantes ante los departamentos legislativo, ejecutivo y judicial de los Estados Unidos”; “será, más que una conferencia, un documento político”)); “El señor Degetau dio una conferencia en Ponce,” *La Democracia*,

Though *La Democracia* joined Mateo Fajardo, Degetau's opponent for the Republicano nomination for Resident Commissioner, in favoring a political strategy over a judicial one, it rejected Fajardo's plan to influence Congress from within the U.S. Republican Party. Ridiculing Fajardo's praise of U.S. efforts on behalf of island health and prosperity, the newspaper labeled him a "Little Candidate[]" who, it implied, had a misplaced faith in U.S. good intentions. Instead, *La Democracia* advocated a more confrontational approach, frequently looking to the experiences of other groups that struggled for autonomy from intermediate positions in the global order. In some cases this meant Mormons, Cubans, or Boers, all groups that included members who saw their groups as racially superior to at least some other communities and that sought autonomy from a U.S. or British empire-state that perceived them as racial or moral inferiors.²²⁴

But in 1904, with Japanese victories in its war with Russia mounting, it was that island nation that became the newspaper's key referent. As a country that once "did not figure among the civilized nations," *La Democracia* related, "Japan has realized a work that justly astonishes and that is the admiration of all Europe," becoming the first race to

1 Aug. 1904, 2 (quotes 3-5 ("el *status* de Puerto-Rico, manifestando que es la Corte Suprema de Washington la que ha de determinarlo"; "De esta opinión del señor Degetau no son muchos aquí, que opinan que es el Congreso Nacional el que puede y debe tomar acuerdo sobre la ciudadanía americana")). In "Evaluating Legality: Toward a Cultural Approach to the Study of Law and Social Change," Idit Kostiner observes that the activists whom she studied initially saw law as an instrumental means both to achieve particular material ends and to empower marginalized people. *Law & Society Review* 37 (Jun. 2003): 323-368. Most only attempted to alter societal views more broadly after discovering the limits of the former strategies. Ibid. In following his vision of paternal leadership, by contrast, Degetau focused on instrumentalism and changing the views of the U.S. public but did not seek to empower marginalized people by bringing them to law.

²²⁴ "Candiditos [sic] á Washington," *La Democracia*, 6 Jul. 1904, 1 ("Candiditos [sic]"); Sara Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2002); Cardell K. Jacobson, "Black Mormons in the 1980s: Pioneers in a White Church," *Review of Religious Research* 33 (Dec. 1991): 146-152; Scott, *Degrees of Freedom*; Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868-1898* (Chapel Hill: University of North Carolina Press, 1999); Louis A. Pérez, Jr., *Cuba between Empires 1878-1902* (Pittsburgh, Pa.: University of Pittsburgh Press, 1983); see also, e.g., "La nueva republica Boer," *La Democracia*, 11 Mar. 1904, 3; "Los mormones y el Senado," *La Democracia*, 7 Apr. 1904, 5; "La misma raza," 21 Apr. 1904, 2.

challenge global dominance by whites. Because the “superiority of the white race above the red and black was never doubtful,” the newspaper explained, the Russo-Japanese “conflict of races” involving the “highly civilized” “yellow man” would establish whether, in the words of liberal-Zionist Max Nordau, “our [white] race” is “really supreme” or “we will have to recognize the yellows as our equals and resign ourselves to share the world with them.” As Japan scored major early victories, the newspaper trumpeted that “fear of a final disaster grows daily” among the Russians who once “contemptuously called the [Japanese] monkeys.”²²⁵

Japanese successes were a thrilling, unsettling development for *La Democracia*. Perhaps, the newspaper worried, Puerto Rico resembled Korea. “Japanese generals devastated” that peninsula in the 16th century “as the Spanish did in America,” it wrote. “By its geographic situation, Korea is destined to have an important role in the commerce of Asia,” the newspaper added, echoing an oft-expressed sentiment about the place of Puerto Rico in the Americas. And with a logic many applied to the United States, it wrote that as “an industrial, producer country,” Japan “need[ed] new and large markets” and would not let a “rival seize such an important territory” within its sphere of influence. But Puerto Rico could also hope to become Japan. Tobacco—a leading Puerto Rican

²²⁵ Emilio Sánchez Pastor, “La grandeza de Japan,” *La Democracia*, 25 Feb. 1904, 1 (quotes 1-2 (“no figuraba entre las naciones civilizadas”; “ha realizado el Japón una obra que asombra con justicia y que es la admiración de toda Europa”)); Max Nordau, “Un capítulo de antropología,” *La Democracia*, 27 Dec. 1904, 4 (quotes 3, 5-9 (“superioridad de la raza blanca sobre la roja y la negra, no fué [sic] nunca dudosa”; “hombre amarillo”; “altamente civilizado”; “nuestra raza”; “realmente suprema”; “Tendrá que resignarse á reconocer las pretensiones de igualdad de la raza amarilla y á compartir con ella la posesión del globo”)); “Los blancos contra los amarillos,” *La Democracia*, 27 Jul. 1904, 5 (quote 4 (“conflicto de razas”)); “La guerra entre Rusia y Japon,” *La Democracia*, 18 Mar. 1904, 1 (quotes 10-12 (“crece diariamente el temor de un final desastroso”; “conceptuosamente los calificaban de monos”)); “La guerra entre Rusia y Japon,” *La Democracia*, 5 Mar. 1904, 1; “[main title unknown]: destrucción of Puerto Arturo,” *La Democracia*, 15 Mar. 1904, 2; George L. Mosse, “Max Nordau, Liberalism and the New Jew,” *Journal of Contemporary History* 27 (Oct. 1992): 565-581; P.M. Baldwin, “Liberalism, Nationalism, and Degeneration: The Case of Max Nordau,” *Central European History* 13 (Jun. 1980): 99-120; Meir Ben-Horin, *Max Nordau: Philosopher of Human Solidarity* (New York: Conference on Jewish Social Studies, 1956).

industry—was also a major crop in Japan, the newspaper claimed. Some Puerto Ricans saw their island as having escaped from rule by a decadent Spanish Empire and to rule by a modern, rising, and coercive U.S. power from which they now sought self-government. Japan, the newspaper indicated, was merely one step ahead. “Two centuries of lethargy” there had preceded militarily coerced concessions to western powers, the newspaper related, which had only recently ended with “Restoration of the Mikado Power.” Though Japan outstripped Puerto Rico militarily, the Japanese insisted that they not be measured “as a fighting people only.” Just as many Puerto Ricans envisioned their island making moral and intellectual progress if given the chance, a Japanese official, according to *La Democracia*, claimed, “We aspire to be a nation” “at the head . . . of all manifestations of human knowledge” without “help from any power” beyond “the justice and moral support Japan has the right to demand of the world.” The newspaper did not specify whether the Japanese example gave Puerto Ricans hope as a second non-white people with the potential to be the equals of European peoples or because as a white people the success of non-white Japanese was a fortiori proof that Puerto Ricans could similarly thrive.²²⁶

For Republicanos unhappy with their lack of power in their party and opposed to integration with U.S. Republicans, the Federales’ celebration of confrontation could be appealing. Memories among island-born politicians of resentment over prior Spanish

²²⁶ [Main title unknown]: Corea y la guerra Ruso-Japonesa,” *La Democracia*, 16 Apr. 1904, 1 (quotes 1-6 (“Los generales japoneses devastaron”; “lo mismo que habían hecho . . . los españoles en América”; “Por su situación geográfica, Corea está destinada á representar un papel importante en el comercio de Asia”; “país industrial y productor”; “necesita nuevos y grandes mercados”; “no está dispuesto á dejar que su rival se apodere de territorio tan codiciado”)); “Resume de la historia del Japón,” *La Democracia*, 22 Apr. 1904, 1 (quotes 7-8 (“Dos siglos de letargo”; “Restauración del poder del Mikado”)); “Poder y propósitos del Japón,” *La Democracia*, 20 Jul. 1904, 4 (quotes 9-13 (“como pueblo de combatientes solamente”; “Aspiramos á ser una Nación”; “á la cabeza . . . de todas las manifestaciones del saber humano”; “el auxilio de ninguna potencia, sino sólo la justicia y el apoyo moral que el Japón tiene derecho a demandar del mundo”)); “El tabaco en Japón,” *La Democracia*, 16 Apr. 1904, 2.

unwillingness to make government posts on the island available to Puerto Ricans remained fresh. Thus, Republicanos frustrated that their support of U.S. rule had not brought them good or better government posts were particularly susceptible to proposals to take harder lines with U.S. officials. To recruit such rivals, Luis Muñoz and other Federales had dissolved their party in early 1904 and formed a new Partido Unionista. Aspiring to represent all islanders favoring greater home rule, Unionistas declared themselves equally in favor of Puerto Rican statehood, autonomy, and, in a likely first for a major island party, independence. Critiquing Republican faith in an alliance with U.S. Republicans, *La Democracia* reported that the U.S. “republican administration” acted “disgracefully,” making it “perhaps . . . necessary that the Democrats come to do us justice.” The strategy worked. On July 31, *La Democracia* reported, a “[L]ARGE ASSEMBLY” of “REPUBLICANOS . . . RAISED . . . THE FLAG OF THE <UNIÓN OF PUERTO RICO>” in Ponce. More Republican defections followed. Unionistas also sought a boost from the growing organized-labor movement. In 1900, Santiago Iglesias’s *Federación Libre* had encompassed craft unions representing several thousand artisans in a handful of urban centers but few of the hundreds of thousands of agricultural workers who formed the bulk of island labor. Four years later, the *Federación* was building on enthusiasm generated by the visit of American Federation of Labor President Samuel Gompers to launch a campaign to organize rural workers. Exploiting Iglesias’s longstanding feud with Republicanos and prior working relationship with Muñoz in New York, Unionistas won his support—he began writing a regular column in *La Democracia*—and that of many of his followers.²²⁷

²²⁷ “Puerto Rico ante la Corte Suprema” (quotes 1-3 (“la administración actual republicana”; “Por desgracia”; “acaso se necesite que vengan los demócratas á hacernos justicia”)); “Ponce viene á ‘LA

Unionista gains among Republicanos and organized laborers left Degetau in a weakened party with fewer members sympathetic to his opposition to a Republicano-Republican alliance. When he nonetheless continued to seek re-nomination, *La Democracia* republished his campaign jeremiads against other Republicanos. In one, Degetau claimed that the Republican National Convention “put Puerto Rico . . . on the colonial basis” by giving Puerto Rico two votes like Hawai‘i and the Philippines rather than six votes like other U.S. territories. Even “Indian Territory,” Degetau asserted, which lacked the public schools, bridges, asylums, prisons, local courts, and half the inhabitants—“including . . . Indians”—of Puerto Rico, received six votes. By nonetheless seeking to join the Republican Party, Degetau argued, Republicanos like his rival Mateo Fajardo acted in ways “diametrically opposed to the principles to which we Puerto Rican Republicanos have sworn loyalty.” U.S. Republicans also pursued national policies “contrary” to “our Puerto Rican program,” he charged, by declaring in their platform, in implicit support of a “continuation of the present state of economic and political affairs,” that “[w]e have organized the government of Porto Rico, and its people now enjoy peace, freedom, order, and prosperity.” Republicanos like Fajardo condoned such

UNIÓN,”” *La Democracia*, 1 Aug. 1904, 1 (quotes 4-5 (““GRAN ASAMBLEA”; “REPUBLICANOS . . . LEVANTARON . . . LA BANDERA DE LA <UNIÓN DE PUERTO RICO>”)); “Asamblea para constituir la Unión de Puerto Rico,” *Puerto Rico Herald*, 5 Mar. 1904, 1317; “De cómo puede hacerse la unión,” *Puerto Rico Herald*, 9 Jan. 1904, 1191; “Candidato a Washington,” *La Democracia*, 25 Jun. 1904, 1; “La disciplina del Partido Republicano,” *La Democracia*, 13 Jul. 1904, 1; Miles Galvin, “The Early Development of the Organized Labor Movement in Puerto Rico,” *Latin American Perspectives* 3 (summer 1976): 24; Juan Carreras, *Santiago Iglesias Pantín: su vida, su obra, su pensamiento (datos biográficos)* (San Juan, P.R.: Editorial Club de la Prensa, 1965), 120-126; Carlos Sanabria, “Samuel Gompers and the American Federation of Labor in Puerto Rico,” *Centro Journal* 17 (spring 2005): 149-152; Juan Ángel Silén, *Apuntes para la historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Publicaciones Gaviota, Inc., 1978), 64-65; “Republicanos que ingresan en ‘la unión,’” *La Democracia*, 24 Aug. 1904, 6; Gonzalo F. Córdova, *Resident Commissioner Santiago Iglesias and His Times* (Río Piedras: Editorial de la Universidad de Puerto Rico, 1993), 102-103; Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932* (Boulder, Colo.: Westview Press, 1999), 184; Santiago Iglesias Pantín, *Luchas emancipadoras (crónicas de Puerto Rico)* vol. 1, 2d ed. (San Juan, P.R.: [Imprenta Venezuela] 1958 [1929]), 309-311; Gervasio L. García and A.G. Quintero Rivera, *Desafío y solidaridad: breve historia del movimiento obrero puertorriqueño*, 3d ed. (Río Piedras, P.R.: Ediciones Huracán, 1991 [1982]).

oppression, Degetau implied, by declaring “that ‘before governing ourselves we should prove that we know how to do it.’” The choice for Republicanos in nominating a Resident Commissioner, he concluded, was between himself “fighting for our citizenship” and Fajardo’s cynical embrace of U.S. Republican colonialism. Several weeks later, Republicanos elected Fajardo.²²⁸

Back in New York in the summer and fall of 1904, Domingo Collazo used his connection to *Gonzales v. Williams* (1904) to propel himself into the pages of the New York *Times*, writing letters about the relationship between Puerto Rican status and mainland electoral politics. Contending that Puerto Ricans should be U.S. citizens and that Puerto Rico should be a traditional territory, he argued that a Democratic electoral victory was the best means to those ends. *Gonzales v. Williams* (1904) left islanders like amnesiacs “who have forgotten who they are,” he wrote, “[b]ecause, if they ceased to be Spanish citizens and have not been American[] citizens, what in the name of heaven have they been?” He told mainlanders that the ambiguity, was “arbitrary and flagrantly unjust” because “a Jamaican negro or an Italian from Calabria could reach the category of American citizens by means of naturalization” while Puerto Ricans who owe “actual allegiance to the very same flag” cannot. A new test case was not the answer, he added, for “unless . . . something extraordinary and unfor[]seen happens to enable the highest tribunal to settle the question,” the Supreme Court would let Puerto Rican citizenship

²²⁸ “Habla Degetau,” *La Democracia*, 24 Aug. 1904, 5 (quotes 1-4 (“colocó á Puerto Rico, Hawaii y las Filipinas on the colonial basis”; “Territorio indio”; “incluyendo . . . indios”; “diametralmente opuesto á los principios á que hemos jurado lealtad los Republicanos puertorriqueños”)); “Párrafos del Manifiesto del señor Degetau,” *La Democracia*, 2 Sep. 1904, 4 (quotes 5-10 (“contrario”; “nuestro programa puertorriqueño”; “Hemos organizado el gobierno de Puerto-Rico y sus habitantes ahora gozan de paz, libertad, orden y prosperidad”; “que ‘antes de gobernarnos debemos probar que sabemos hacerlo’”; “luchando por nuestra ciudadanía”)) (respectively citing as the source of the quotations the platform of the National Republican Party and Mateo Fajardo); “Candidatura republicana,” *La Democracia*, 19 Sep. 1904, 1; A. Navarrete to Federico Degetau, 30 Sep. 1904, CIHCAM 5/II/17; “Porto Rico Nominations,” *Washington Post*, 11 Oct. 1904, 4.

status “continue[] to be in suspense.”²²⁹

Instead, Collazo suggested changing the status of Puerto Rico from one the courts had approved to one that faced legal objections. Currently, he wrote, Puerto Ricans were “legally ‘ruled’ as ‘colonies,’” which “invert[ed] the spirit of the American Constitution and inject[ed], by so doing, into the veins of the Republic the venom of autocratic laws.” Those with “inalienable American citizenship” lost rights in Puerto Rico, and U.S. national security suffered as “indignant natives” “deprived of . . . self-government” became a potential “source of vulnerability and weakness.” Collazo added that “Republican carpetbaggers” and their co-partisans claimed that were Puerto Rico to become an “integral part[] of the Union,” it would become constitutionally obliged to pay a proportional share of U.S. federal expenses that it could ill afford. But Collazo also believed that Congress could “waive [Puerto Rico] from the[se] duties.” Given that the United States had “imposed on Puerto Rico an exotic government . . . departing from the Constitution,” he wrote, it could also take the necessary steps “to bring the island a territorial government in consonance with the Constitution.” Like Unionistas and some Antillean revolutionaries in 1896, Collazo thus supported William Jennings Bryan as the Democratic candidate for President, predicting that Democratic victories would bring a law recognizing that Puerto Ricans have been U.S. citizens “since Jan. 1, 1899.”²³⁰

²²⁹ Collazo, “Nationality of Porto Ricans” (quotes 1-2, 6-7); Letter to Editor, D. Collazo, “Status of Island Colonies,” *New York Times*, 12 Aug. 1904, 6 (quotes 3-5); Letter to Editor, D. Collazo, “The Plight of Porto Rico,” *New York Times*, 24 Oct. 1904, 8. On support for Bryan among Antillean revolutionaries in 1896, see Bernardo Vega, *Memoirs of Bernardo Vega: A Contribution to the History of the Puerto Rican Community in New York*, ed. César Andreu Iglesias, trans. Juan Flores (New York: Monthly Review Press: 1984 [1977]), 72-73. A search for earlier published letters by Collazo on the Proquest *New York Times* database produced no hits.

²³⁰ Collazo, “Nationality of Porto Ricans” (quote 12); Collazo, “Status of Island Colonies” (quotes 1-9); D. Collazo, “Metropolitanas,” *La Democracia*, 17 Aug. 1908, 2 (quotes 10-11 (“imponerle á Puerto Rico un gobierno exótico . . . saliéndose de la Constitución”; “llevar á la isla un gobierno territorial en consonancia con ella”)); Collazo, “The Plight of Porto Rico.”

On November 8, Collazo's and Degetau's aspirations failed to materialize. Republican Theodore Roosevelt won reelection as U.S. President, Unionista Tulio Larrinaga became Resident Commissioner-elect, and Unionistas captured the House of Delegates.²³¹

Though their case had ended and Degetau's term would soon expire, he and Isabel Gonzalez continued their activism around U.S. citizenship in December 1904 and early 1905. On December 12, the Supreme Court of the District of Columbia denied the demand of Degetau's client, Juan Rodríguez, to be registered by the navy-yard board. Degetau, his co-counsel Jean des Garennes, and Rodríguez appealed.²³²

A month later Degetau appeared as a lame-duck Resident Commissioner on the floor of the House of Representatives, drawing on concepts of honor and natural law to advocate U.S. citizenship for Puerto Ricans. As "loyal[] Americans," he contended, Puerto Ricans "have won our American citizenship." By declining to resist invasion in implicit exchange for the "long-loved American institutions" and by offering service and loyalty after being promised U.S. citizenship, Degetau argued, islanders had "lawfully contracted" a "permanent tie" to the United States. Though "Porto Rican officers" also sympathized with the U.S. cause, he added, they had "heard the voice of their military honor" and "remained loyal to the flag that they had sworn to support." Drawing on his earlier writings, Degetau asserted that island soldiers served a U.S. master equally well, a source of pride for Puerto Ricans "because we understand that we are American citizens." But it would not be a source of "patriotic pride" "[i]f we were placed in an inferior civic condition" he related. Islanders valued "the sacred[] . . . civic duty . . . of maintaining and

²³¹ Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico (1809-1976)* (Mayagüez, P.R.: Editorial Isla, Inc., 1977), 125-126.

²³² "El señor Degetau," *La Democracia*, 29 Nov. 1904, 2; Transcript of Record, *Rodriguez*, 8-10.

defending, with the other American citizens, the same ideal of justice articulated in the Constitution.”²³³

Degetau joined des Garennes to submit a mid-February 1905 brief in Rodríguez’s case, reprising Coudert’s earlier arguments on the approach of courts to U.S. citizenship for Puerto Ricans. In *Gonzales*, Degetau had largely presumed that Puerto Ricans were either aliens or citizens. In this view, in his and des Garennes’s words, *Gonzales* decided “the negative aspect of the question of citizenship, to-wit, that of ‘alienage,’” in Degetau’s favor. But, the men now implicitly acknowledged, the Court could still accept Coudert’s 1903 argument that Puerto Ricans were U.S. non-citizen nationals. In response they reminded the court that Congress had made most federal statutes applicable in Puerto Rico. Those statutes, they contended, included ones referring to U.S. citizens. In *Gonzales*, Degetau had inferred from this decision that Congress believed Puerto Ricans were not aliens. Now, he and des Garennes argued that because the statutes referred to U.S. citizens and “not . . . ‘nationals,’” the decision to apply them in Puerto Rico indicated a congressional belief that Puerto Ricans were not only U.S. nationals but also U.S. citizens. Noting that the Supreme Court had “declared that Porto Rico is a territory of the United States,” the men argued that Puerto Ricans were also U.S. citizens under a federal statute declaring “[a]ll persons born in the United States [with irrelevant exceptions] . . . to be citizens of the United States.”²³⁴

Reading the Foraker Act to naturalize Puerto Ricans as well, Degetau and des

²³³ Degetau, *The Constitution and the Flag in Porto Rico*. For Degetau’s earlier references to U.S. promises of U.S. citizenship, see Chapter 2 above, notes 27, 48, 70, 75-78, Chapter 3 above, notes 128, 134 and accompanying text.

²³⁴ Brief for Appellant, *Rodriguez*, CIHCAM 6/VI/33 (quotes) (citing as the source of the quotation “Section 1992 of the Revised Statutes of the United States”); “The Legal Record,” *Washington Post*, 8 Feb. 1905, 9; “Porto Rican Eligible,” *Washington Post*, 8 Mar. 1905, 6.

Garences reprised took a Coudert-like turn to international law, positioning that jurisprudence and not the *Insular Cases* as an interpretive guide. They cited international-law commentator Robert Phillimore and Supreme Court Justice and prominent constitutional-law commentator Thomas Cooley for the proposition that U.S. acquisition and incorporation of foreign territory transformed the people of such territory into U.S. citizens. They then indicated that the necessary incorporation was not that which Justice Edward White had found lacking in *Downes v. Bidwell* (1901). Rather they quoted an earlier High Court definition: ““To *incorporate* means to form into a legal . . . *body politic*.”” Because the Foraker Act dictated ““that the citizens of Porto Rico [and others] shall constitute a *body politic*”” shown to be within the United States by the federal requirement that its officers swear ““to support the Constitution of the United States,”” they reasoned, the Act made U.S. citizens of Puerto Ricans.²³⁵

Despite Degetau’s portrayals in *Gonzales* of Puerto Ricans as independent, militarily and legislatively experienced male citizens, he and des Garences now deployed Coudert’s depiction of U.S. citizenship as widely distributed and relatively modest in its implications. Similar to Degetau’s 1899-1900 arguments, the men contended that the ““middle ground”” of being a ““national[.]”” but not a citizen ““does not exist”” under the U.S. ““constitutional organization.”” Unlike France or Spain, they wrote, “[o]ur constitution is not based on the principle of the sovereignty *of the nation*,” for it is ““[w]e the people”” who ““ordain and establish it.”” But universal citizenship did not mean universal rights, Degetau and des Garences assured the Court, citing the ““minors and married women”” who were citizens in the United States if not in France while insisting

²³⁵ Brief for Appellant, *Rodriguez* (quotes) (citing as the source of the quotation “*Copeland v. Memphis A. R. co.*, 3 Woods, U.S., 651”) (quoting Foraker Act, *Statutes at Large* 31 (12 Apr. 1900): 79 (secs. 7, 16)) (italics altered in original); see above note 180.

“that political privileges are not essential to citizenship.”²³⁶

Degetau’s final status claims as Resident Commissioner proved unavailing. On March 4 Congress adjourned the 1903-1905 term, ending Degetau’s tenure as Resident Commissioner without making him a Delegate or Puerto Ricans U.S. citizens. Three days later the Court of Appeals for the District of Columbia lifted a page from *Gonzales* and ruled for Rodríguez on non-citizenship grounds. President Roosevelt’s instructions that those demonstrating Puerto Rican citizenship “will not be required to show further evidence of citizenship,” it held, applied.²³⁷

Though she was still married and thus still a dependent, Isabel Gonzales, whose voice had been noticeably absent during the hearings and trials that had brought her and Degetau to the U.S. Supreme Court, now seized a public voice. Beginning in April 1905, she wrote to the *New York Times* that she did not view the Supreme Court ruling in her favor as a victory. “Gen. Miles went to Porto Rico to save us, and proclaimed to the wide winds his ‘liberating’ speech,” she wrote, but instead of U.S. citizenship Puerto Ricans got “the actual incongruous status—‘neither Americans nor foreigners,’ as it was vouchsafed by the United States Supreme Court apropos of my detention at Ellis Island for the crime of being an ‘alien.’” The romance between the United States and Puerto Rico in her tale implicitly ended in a *rapto*—a breach of promise—like that her brother had described to immigration officials in 1902. Having deceived Puerto Ricans out of one honorable status—Spanish citizenship—the United States was obliged to extend Puerto

²³⁶ Brief for Appellant, *Rodriguez* (citing as the source of quotes 2, 8 “Monsieur de Cogordan, in his book on French Nationality”) (citing as the source of quotes 6-7 Preamble, U.S. Const.).

²³⁷ “Porto Rican Eligible” (citing as the source of the quotation “Rule 5” “of the civil service” “commission”); “Congress at an End,” *Washington Post*, 5 Mar. 1905, 6; *Congressional Record* 38 (1904) [House Bills]:307; *Congressional Record* 39 (1904-1905) [House Bills]:87. On Degetau’s non-involvement in partisan politics see, e.g., “General Comment,” *The Porto Rico Review*, 22 Aug. 1908, 1, available at CIHCAM 8/L1.

Ricans a new honorable status—U.S. citizenship. But instead of meeting its obligation to Puerto Rico, the United States made the plight of the victim, Puerto Rico, into what Gonzalez now termed her “crime.” The island’s predicament became the basis of investigations into Gonzalez’s honor. In using this romantic metaphor to protest U.S. policies in Puerto Rico, Gonzalez did not seek a passive citizenship like that which Coudert described. Instead, she sought restoration of the “liberties and franchises” that constituted the active, male citizenship advocated by Degetau in her case. Her implicit claim: harmed like a woman, Puerto Rico ought to be recompensed like a man.²³⁸

In its decision in the case of *Gonzales v. Williams* on January 4, 1904, the Supreme Court “decided,” Domingo Collazo complained, “that it had not decided anything.” Ruling that Puerto Ricans were not aliens for purposes of the immigration law at issue, the justices explicitly declined to clarify whether Puerto Ricans were U.S. citizens. That narrow ruling let the Court avoid a hard choice: undercut U.S. imperial rule by equalizing the rights of peoples in new territories or reject what some saw as 14th Amendment insistence that all people born within U.S. jurisdiction and territorial sovereignty be U.S. citizens. Judicial vagueness, it appeared, would remain the doctrinal basis of choice for U.S. empire.²³⁹

The outcome in *Gonzales* helped shift Puerto Rican politics away from Degetau’s heretofore popular approach to status matters. Island leaders in 1904 increasingly saw

²³⁸ Isabel Gonzales [sic], “What Porto Rico Demands,” *New York Times*, 20 Dec. 1905, 10; Isabel Gonzalez, “Sauce for Goose and Gander,” *New York Times*, 5 Aug. 1905, 6. Like Coudert, Gonzalez drew lessons from other colonial experiences, and like Degetau she complained that the United States treated civilized Puerto Ricans with less dignity than other empires treated their natives. Isabel Gonzalez, “Where England Shows Tact,” *New York Times*, 3 Sep. 1905, 6.

²³⁹ Collazo, “Nationality of Porto Ricans.”

legislation and not judicial rulings as the most promising means to liberalization of U.S. rule in Puerto Rico. When Republicanos split over whether to pursue such legislation from within or outside the U.S. Republican Party, Federales, with their commitment to more confrontational approaches, saw an opening. Reorganizing as the Partido Unionista, they recruited organized workers and dissatisfied Republicanos under an inclusive platform seeking self-government through statehood, autonomy, or, in a likely first for a major island party, independence. The effort produced a Unionista coalition that would dominate island politics for two decades.

Unionista electoral victories brought the end of Degetau's six-year-long, increasingly judicially oriented campaign to accrue and deploy expertise on U.S. law and institutions in pursuit of winning for Puerto Ricans the full benefits of membership in the U.S. Union as U.S. citizens, perhaps soon to be citizens of the U.S. state of Puerto Rico. By most measures the campaign failed. The United States had consolidated a colonial regime in Puerto Rico on Degetau's watch. Neither Congress nor courts had recognized Puerto Ricans as U.S. citizens. And statehood seemed less likely in 1905 than it had in 1899. Yet, with Unionistas now in power and Degetau out of office, partly as a result of the strategies that he had pursued, Puerto Rico found itself lacking its most fervent advocate both of U.S. citizenship for Puerto Ricans and of legal action as a means to advance their ends.

Untethered from litigation and speaking in her own voice, Gonzalez wrote in 1905 that the evasion by the Court in her case marked Puerto Ricans as inferior to "full-fledged American citizens" and showed General Miles's pledges on behalf of the United States to be "nothing but bitter mockery and waste paper." Though she would reemerge

as a commentator on U.S.-Puerto Rican relations years later, it was her uncle, Domingo Collazo, whose activities soon after the *Gonzales* decision prefigured a growing role in the politics of Puerto Rican status. Having advocated Democratic partisan politics rather than test cases as the surest route forward for his island, Collazo, like the Unionistas, faced the challenge of articulating and pursuing a program to achieve their ends in the face of ongoing U.S. Republican popularity and power.²⁴⁰

²⁴⁰ Gonzalez, "Sauce for Goose and Gander"; Gonzales [sic], "What Porto Rico Demands."

CHAPTER 5

“THE FORGOTTEN ISLAND,” 1905-1909

Although they had asked the Supreme Court not to recognize Puerto Ricans as U.S. citizens in *Gonzales v. Williams* (1904), the Republican administration and its allies in later years warmed to the idea. They came to agree with the lawyers they had earlier opposed: recognition of Puerto Ricans as U.S. citizens would neither bring islanders rights nor hamper U.S. policy in the Philippines. Secretary of Puerto Rico Regis Post declared that U.S. citizenship would be a “perfectly empty gift.” It would neither threaten “any of our control” nor extend new rights to islanders, but would placate Puerto Ricans who “consider [non-citizenship] rather a slur on their honor.” Governor Winthrop and President Roosevelt backed the policy, as did the Senate Committee on Pacific Islands and Porto Rico. That committee contended that in 1900 U.S. citizenship for Puerto Ricans could have set a precedent that could “prove prejudicial to our interests in connection with legislation for the Philippines.” But with legislation having now been enacted for both archipelagos and the Supreme Court having offered guidance in the *Insular Cases*, the committee stated that “most of the questions which then gave rise to apprehension have [now] been solved.”²⁴¹

²⁴¹ “Inhabitants of Porto Rico to Be Citizens of the United States,” Senate Report No. 2746, in *Senate Reports (Public)*, 59th Cong., 1st sess., 4 Dec. 1905-30 Jun. 1906, vol. 2 (Washington, D.C.: Government

Puerto Rican labor leader Santiago Iglesias and American Federation of Labor President Samuel Gompers sought to maneuver this apparent momentum toward citizenship into protection of the rights of Puerto Ricans. The men deemphasized Gompers's failures to secure recognition of all the rights that he sought for mainland workers. They also made little mention of Gompers's especially modest efforts and progress on behalf of agricultural laborers who, like many in Puerto Rico, were people of color or Spanish speaking. Instead, the men depicted a national consensus in favor of extensive rights for U.S. worker-citizens. At the same time, Iglesias sought to draw on and extend recent political and organizational gains while improving working conditions for potential and existing constituents.²⁴²

Having established themselves as the dominant Puerto Rican electoral force, Muñoz and other Unionistas sought to translate their more confrontational approach to U.S.-Puerto Rican relations into steps toward fulfilling their campaign promises to win greater Puerto Rican self-government. Some advocated disrupting island governance to protest for greater home rule. Domingo Collazo, who had recently analyzed his niece's Supreme Court case in mainland and island newspapers, proposed another approach. Despite being an ex-revolutionary typographer from a plebeian family who had no appreciable base of support on the island, Collazo offered himself as a liaison between Unionistas and the U.S. Democratic Party. This strange alliance, he argued, would help secure Puerto Rico incorporation into the United States and with the incorporation, self-

Printing Office, 1906), see Letter of Secretary Post, 7 Jul. 1905 (quotes 1-3); text of the report (quotes 4-5); Statement of Governor Winthrop, 15 Jan. 1906; Theodore Roosevelt to J.B. Foraker, 25 Mar. 1906.

²⁴² On the success of some and failures of other claims by the American Federation of Labor on the mainland, see William E. Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, Mass.: Harvard University Press, 1991). For an early work on Samuel Gompers and black workers, see Bernard Mandel, "Samuel Gompers and the Negro Workers, 1886-1914," *Journal of Negro History* 40 (Jan. 1955): 34-60. On the Federation and workers of Mexican heritage, see, e.g., Emilio Zamora, *The World of the Mexican Worker in Texas* (College Station: Texas A&M University Press, 1993).

government. But the alliance foundered on one central mismatch; though some U.S. Democrats expressed willingness to distinguish Puerto Ricans from the Filipinos whom they presumed to be truly degraded, many Democratic Party politicians objected to Republican imperialism based upon beliefs that many overseas peoples were their racial inferiors. But even though some U.S. Democrats expressed willingness to distinguish Puerto Ricans from the Filipinos whom they presumed to be truly degraded, it would be difficult to ally with politicians whose objections to Republican imperialism were rooted in beliefs that many overseas peoples were their racial inferiors.

Labor Rising? 1905-1906

After years as a politically isolated, urban craft union, Santiago Iglesias's Federación Libre entered 1905 seeking to extend fresh gains: new agricultural unions, membership in a legislative majority, and a recent law mandating an eight-hour workday for government employees. Aware that the American Federation of Labor claimed a constitutional right to strike on the mainland, Iglesias and his colleagues gained Federation support for their claim to a U.S. citizenship carrying "the same rights and privileges possessed by the people of all other States." In fact, Iglesias was overreaching here: he implied that U.S. citizenship would bring island workers new, valuable rights, but U.S. courts did not in fact recognize mainland workers' asserted general right to strike. What citizenship promised islanders was the right to make claims to rights similar to the claims that mainland laborers made.²⁴³

²⁴³ *Report of Proceedings of the Twenty-Fourth Annual Convention of the American Federation of Labor Held at San Francisco, California, November 14 to 26 Inclusive, 1904* (Washington, D.C.: The Law Reporter Printing Company, 1904) [hereinafter *1904 Federation Report*], 174 (Resolution No. 116) (quote), 135; Santiago Iglesias, Report on San Juan, P.R., in *American Federationist*, "What Our

Iglesias also secured Federation support for his demand for greater powers for elected island legislators. In 1905, labor conditions were favorable for agricultural labor activism in the heavily sugar-producing regions of southern Puerto Rico. Sugar prices were up and island production of sugar was twice what it had been five years before. The field worker were a dense and mobile population. They could migrate between plantations depending upon labor conditions; they were accustomed to and in a position to negotiate in term of wages; and they had access to the ports and cities where ideas circulated, people gathered, and island unions had traditionally formed. Density also created a key condition for solidarity and for a mass movement that could withstand at least some repression. For Iglesias, nearby Ponce meant that he had close at hand a branch of his labor organization, a means of communication, and access to state officials. Thus, in early March, Iglesias joined Ponce-area union representatives to petition sugar planters for higher wages, nine-hour workdays, and an end to child labor. Most employers in the area ignored the demands of Iglesias and his allies. Soon, Iglesias counted approximately 14,000 workers on strike. Within days, Iglesias told the American Federation of Labor, insular police commanded by their gubernatorially appointed Chief were threatening, arresting, beating, shooting, and barring and disbanding meetings by “peaceful” strikers.²⁴⁴

Organizers Are Doing” (Apr. 1905): 231-232; An Act to Establish the Duration of the Official Working Day, and for Other Purposes (10 Mar. 1904), in *The Acts and Resolutions of the Second Session of the Second Legislative Assembly of Porto Rico and the Code of Civil Procedure of Porto Rico* (San Juan, P.R.: 1904), 81-82; Forbath, *Law and Labor*, 64-65, 84, 128-158, passim; Samuel Gompers, “Justice Brewer on Strikes and Lawlessness,” *American Federationist* (Apr. 1901): 121-123; “Compulsory Arbitration Advocates—Their Fallacies Exposed,” *American Federationist* (May 1901): 160-163 (insisting “upon the legal, LAWFUL RIGHT TO STRIKE”).

²⁴⁴ Letter to Editor, Santiago Iglesias, “Strike of Agricultural Laborers in Porto Rico,” *American Federationist* (Jun. 1905): 380-381 (quote); 1904 *Federation Report*, 135, 129 (Resolution No. 82); Iglesias, Report on San Juan; Santiago Iglesias Pantín, *Luchas emancipadoras (crónicas de Puerto Rico)* vol. 1, 2d ed. (San Juan, P.R.: [Imprenta Venezuela] 1958 [1929]), 338-339, 344-345; Miles Galvin, “The

For Federation President Samuel Gompers, the campaign to defend and protect strikers also offered a chance to advise Iglesias on pursuing and documenting complaints. On May 5, Gompers wrote Iglesias that he had told Puerto Rico Governor Beekman Winthrop about written charges of “criminal and brutal assault” by “insular police . . . violating [strikers’] right of free assemblage and free speech.” Over the next week, he informed Iglesias, he also complained to the Associated Press of anti-labor bias in its Puerto Rico coverage and published a response to one instance of such coverage in the *Washington Star*. Asking Iglesias for further evidence, including statements from others, Gompers stressed that he would “count upon the absolute reliability of any statements which you and others may make.” On May 15, Iglesias cabled Gompers that their effort “ends satisfactorily.” Most workers, he wrote, secured a 30% wage increase; six new unions had been formed.²⁴⁵

Early Development of the Organized Labor Movement in Puerto Rico,” *Latin American Perspectives* 3 (summer 1976): 24; Report of the Governor of Porto Rico, in *War Department Annual Reports, 1909*, vol. 9 (Washington, D.C.: Government Printing Office, 1909), 20-22; “Shanton Back after Quieting Porto Rico,” *New York Times*, 20 Nov. 1912, 8; H.B. 8: An Act to Create and Provide for an Insular Police of Porto Rico (31 Jan. 1901), *The Acts and Resolves of the First Legislative Assembly of Porto Rico* (San Juan, P.R.: 1901), 106-112; *Annual Report of the Governor of Porto Rico for the Fiscal Year Ending June 30[,] 1907* (Washington, D.C.: Government Printing Office, 1907), 17; *Second Annual Report of the Governor of Porto Rico, Covering the Period from May 1, 1901, to July 1, 1902* (Washington, D.C.: Government Printing Office, 1902), 19; Sydney W. Mintz, “The Culture History of a Puerto Rican Sugar Cane Plantation: 1876-1949,” *Hispanic American Historical Review* 33 (May 1953): 224-251; Henry K. Carroll, *Report on the Industrial and Commercial Condition of Porto Rico*, 2d ed. (San Juan, P.R.: Ediciones Puerto, 2005 [1899]), 45, 111, 117-119, 184-195; Juan Ángel Silén, *Apuntes para la historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Publicaciones Gaviota, Inc., 1978), 62; Gervasio L. García and A.G. Quintero Rivera, *Desafío y solidaridad: breve historia del movimiento obrero puertorriqueño* (San Juan, P.R.: Ediciones Huracán, 1986), 46-47; A. G. Quintero Rivera, *Conflictos de clase y política en Puerto Rico*, 5th ed. (Río Piedras, P.R.: Ediciones Huracán, 1986 [1977]), 113-127; Ángel G. Quintero Rivera, *Patricios y plebeyos: burgueses, hacendados, artesanos y obreros* (Río Piedras, P.R.: Ediciones Huracán, 1988), 132; Cesar J. Ayala and Laird W. Bergad, “Rural Puerto Rico in the Early Twentieth Century Reconsidered: Land and Society, 1899-1915,” *Latin American Research Review* 37 (2002): 78, *passim*; *Third Annual Report of the Governor of Porto Rico, Covering the Period from July 1, 1902, to June 30, 1903* (Washington, D.C.: Government Printing Office, 1903), 57.

²⁴⁵ Samuel Gompers to Beekman Winthrop, 5 May 1905, SGL 100/363 (quotes 1-2); Samuel Gompers to Santiago Iglesias, 8 May 1905, SGL 100/403 (quote 3); Excerpt, Cable, Iglesias to Gompers, 15 May 1905, accompanying Iglesias, “Strike of Agricultural Laborers in Porto Rico” (quote 4); Samuel Gompers to Santiago Iglesias, 5 May 1906, SGL 100/366; Samuel Gompers to Santiago Iglesias, 8 May 1905, SGL 100/405; Samuel Gompers to Santiago Iglesias, 12 May 1905, SGL 100/621; Cable, Gompers to Iglesias, 6

In early 1906, as Iglesias had requested, Gompers lobbied in Washington for U.S. citizenship for Puerto Ricans. Both political parties in Puerto Rico supported the measure as did the Executive Council, the presidentially appointed upper legislative chamber in Puerto Rico. On January 4, 1906, Republican Senator Joseph Foraker of Ohio introduced a bill to naturalize the islanders en masse. Seeking to use U.S. foreign policy to nudge Congress into actions, President Roosevelt appointed Resident Commissioner Tulio Larrinaga to be a delegate to the Pan-American Congress, and then asked Foraker on March 25, 1906, that “the citizenship bill . . . pass . . . prior to [Larrinaga’s] going there.” In early April, Chairman of the House Committee on Insular Affairs Henry Cooper introduced a citizenship bill. By mid-May committees in both chambers had recommended passage.²⁴⁶

As U.S. lawmakers contemplated U.S. citizenship for Puerto Ricans, Iglesias and his colleagues assisted striking sugar workers in the northern Puerto Rican municipality of Arecibo. Though sugar prices fell that year, production increased by more than half. The Arecibo area matched the area around Ponce: high sugar production, a dense population of mobile workers, and home to an urban center of island officials, communications technologies, and several Federación Libre unions. Gompers also lent support, commending strikers, authorizing disbursement of strike-benefit funds, and

May 1905, SGL 100/392; Iglesias, “Strike of Agricultural Laborers”; see also Iglesias, Report on San Juan.²⁴⁶ Roosevelt to Foraker, 25 Mar. 1906 (quote); “Inhabitants of Porto Rico”; Hearing before the Committee on Pacific Islands and Porto Rico, United States Senate, 6 Feb. 1906, CDOSIP/MC/1 (testimony of R. H. Todd); Iglesias, *Luchas emancipadoras*, 395-398; *Congressional Record* 40, pt. 1:682 (4 Jan. 1906); A bill to provide that the inhabitants of Porto Rico shall be citizens of the United States, in “Inhabitants of Porto Rico,” 1; Samuel Gompers to Santiago Iglesias, 23 Jan. 1906, SGL 107/357; Joint Resolution by the Legislative Assembly of Porto Rico, in “Inhabitants of Porto Rico,” 5; A bill providing that the inhabitants of Porto Rico shall be citizens of the United States, H.R. 17661, Report No. 4215, 59th Cong., 1st Sess., CDOSIP/MC/1; House of Representatives, Report No. 4215, 59th Cong., 1st Sess., 16 May 1906, CDOSIP/MC/1; see also Henry Cooper to Samuel Gompers, 22 Feb. 1906, SGL 108/730; Samuel Gompers to Santiago Iglesias, 2 Mar. 1906, available at SGL 108.

lobbying high officials in Puerto Rico on their behalf. When dozens of insular police arrived in Arecibo in May 1906, arrests, convictions, and shootings of strikers followed, resulting in one death. Gompers declared himself “shocked” by the “brutal manner” of the police that Iglesias described and convinced the *Washington Star* to publish copies of Iglesias’s complaints. On May 28 he presented the complaints to Roosevelt, who solicited a report from Governor Winthrop. Winthrop flatly denied the charges as “a series of falsities from beginning to end,” insisting that the “administration has not taken sides,” police were “impartial,” and “courts are honorable and just.” Gompers then told Iglesias that though “[I] am not now doubting your trustworthiness,” you must “make full and complete answer” “before further action can be taken.” In the meantime, Gompers later recalled, he heard from Iglesias that “the men had no guarantees of the right of meeting, etc.,” and so the strike collapsed.²⁴⁷

Iglesias responded by instigating new fights. Having clashed with police, prosecutors, judges, and the governor during strikes, Iglesias next addressed these men’s superiors in Washington. Building on a petition by 5,000 American Federation of Labor

²⁴⁷ Samuel Gompers to Santiago Iglesias, 1 Jun. 1906, SGL 112/113 (quotes 1-2); [Beekman Winthrop] to [Mr. President], 12 Jun. 1906, in “El Presidente y la Huelga de Arecibo,” *Unión Obrera*, 29, 31 Aug. 1906 (quotes 3-6 (“una serie de falsedades desde el principio hasta el fin”; “La administración no se ha puesto de una parte ni de la otra”; “imparcial”; “las Cortes son honradas y justas”)); Samuel Gompers to Santiago Iglesias, 22 Jun. 1906, SGL 112/881 (quotes 7-8); Samuel Gompers to Santiago Iglesias, 13 Jul. 1906, SGL 113/529 (quote 9); Samuel Gompers to Santiago Iglesias, 22 Jun. 1906, SGL 112/879 (quote 10); Copy, Samuel Gompers to Santiago Iglesias, 25 May 1906, CDOSIP/MC/1; Samuel Gompers to Santiago Iglesias, 29 Dec. 1905, SGL 106/616; Copy, Samuel Gompers to Santiago Iglesias, 16 Jun. 1906, CDOSIP/MC/1; Carlos Sanabria, “Samuel Gompers and the American Federation of Labor in Puerto Rico,” *Centro Journal* 17 (spring 2005): 154-156; [author, title unknown], *Boletín Mercantil*, issues from May and June, 1906, CDOSIP/MC/1 (see especially 11 Jun. 1906); Ángel Silén, *Apuntes para la historia*, 62, 65, 67-68; Copy, Wm. Lobe to Samuel Gompers, 19 Jun. 1906, SGL 112/884; *Annual Report . . . June 30[.] 1907*, 17; Carroll, *Report of Porto Rico*, 111, 117-119, 184-195, 728-733; García and Quintero Rivera, *Desafío y solidaridad*, 46-47; Quintero Rivera, *Patricios y plebeyos*, 132, 144; Quintero Rivera, *Conflictos de clase*, 113-127; Mintz, “Culture History”; Ayala and Bergad, “Rural Puerto Rico,” 81, passim. On how conflicts produce disputes over underlying events that illuminate dynamics of claims making, see Aims McGuinness, *Path of Empire: Panama and the California Gold Rush* (Ithaca, NY: Cornell University Press, 2008), 131-132.

members attacking Governor Winthrop's administration and asking Roosevelt to intervene, Iglesias maneuvered to transform mass labor activism into political power. The Federation, struggling to respond to advocacy by the Republican-affiliated National Association of Manufacturers in favor of open shops, had recently liberalized its policy of partisan neutrality to let its organizations side more effectively with Democrats. On August 21, citing this policy shift, Iglesias and his colleagues in the Federación Libre resolved both to register the organization with the Puerto Rican state as a political body and to "lend its support without distinction of political party to all candidates recognized as friends of the workers." With Federación delegates forming a minority of the Unionista majority in the House, this new stand was a way to use organizational strength to exert pressure on Unionistas who had previously opposed principal Federación legislative goals. But it also risked provoking reaction. Labor newspaper *Unión Obrera* supported the strategy by depicting a struggle between the freedom labor leaders sought and a slavery in which other Unionistas acquiesced. Claiming the mantle of male honor, it explained: "Unionistas are on their back seeking favors from the boss who whips them" while labor leaders "seek citizenship standing upright." The Federación also proposed seven labor leaders, including Iglesias, to be among thirty-five Unionista candidates for the House of Delegates in 1906. Unionistas balked, accepting less than half the proposed candidacies. Relations deteriorated. *Unión Obrera* relayed Unionista complaints that labor leaders sullied the reputation of the party with U.S. authorities, and Iglesias soon found himself in a third-party campaign. Aware that Unionistas could buy votes and that most laborers had not yet joined the island labor movement, the newspaper argued that "money" and "the ignorance of the *pueblo*" made "the fight . . . extremely unequal."

Nonetheless, *Unión Obrera* insisted, Unionistas had snubbed “honored and free citizen[]” workers, and so labor leaders would “honorably meet the mission imposed upon them” and serve “the larger plan of unionism” by standing for office.²⁴⁸

Beginning on August 29, Iglesias transformed his dispute with Governor Winthrop over official wrongdoing during the Arecibo sugar strikes into a campaign issue in which Federación leaders appeared to be martyrs for workers’ causes. In more than a dozen articles, Iglesias published correspondence between Gompers, the White House, and Winthrop. Following Gompers’s earlier advice, he also included telegrams and sworn complaints of official wrongdoing in Arecibo from both victims and witnesses. The articles made specific charges, provided places and dates, and named victims and malefactors. Taken together, they described police insulting, threatening, and attacking strikers; abusing women and children; disrupting meetings; and falsely arresting workers. At least one court, complainants added, denied strikers meaningful representation and browbeat their witnesses. Though enemies of labor “[o]rder that we be insulted and killed,” *Unión Obrera* told voters, “no one frightens us.” On October 27 the

²⁴⁸ “Consejo Ejecutivo,” *Unión Obrera*, 21 Aug. 1906, 2 (quote 1 (“prestará su apoyo sin distinción de partidos políticos, a todo candidato reconocido como amigos de los trabajadores”)); “En campaña,” *Unión Obrera*, 31 Aug. 1906, 2 (quotes 2-3 (“Unionistas están boca-abajo pidiendo favores al amo que los flagela”; “queremos la ciudadanía de pié y nunca de rodillas”)); “En campaña,” *Unión Obrera*, 15 Sep. 1906, 2 (quotes 4-7, 9 (“la lucha es en extremo desigual”; “dinero”; “la ignorancia del pueblo”; “la plana mayor del unionismo”; “ciudadanos honrados y libres”)); “En campaña,” *Unión Obrera*, 2 Oct. 1906, 2 (quote 8 (“cumplir con honor la misión que se ha impuesto”)); “Appel de los trabajadores puertorriqueños,” [*Unión Obrera*], 30 Aug. 1906, CDOSIP/MC/1; José del Carmen, “En campaña,” *Unión Obrera*, 6 Sep. 1906, 2; Ángel Silén, *Apuntes para la historia*, 65-67; Torres de Solon, “Crónica de la semana,” *Unión Obrera*, 5 Sep. 1906, 2; García and Quintero Rivera, *Desafío y solidaridad*, 52-56; Gonzalo F. Córdova, *Resident Commissioner Santiago Iglesias and His Times* (Río Piedras: Editorial de la Universidad de Puerto Rico, 1993), 105-109; “Labor to Be Factor,” *Washington Post*, 16 Apr. 1906, 4; “Labor Submits Its Grievances,” *Washington Post*, 22 Mar. 1906, 1; Julie Greene, *Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881-1917* (New York: Cambridge University Press, 1998). On a characterization of the new Federation policy by the Federación, see “Consejo Ejecutivo.”

series concluded by calling on President Roosevelt to intervene.²⁴⁹

On November 6, 1906, Unionistas dominated the island election, retaining the Resident Commissionership and sweeping the House of Delegates, including Luis Muñoz Rivera's election to that House. Federación candidates secured just 1,345 votes. Despite the failures of the strikes and campaigns of 1906, Iglesias's initial actions suggested continuing faith in electoral politics, U.S. citizenship, and labor activism. Gompers told the Federation in November that he had submitted to Roosevelt evidence that Iglesias had sent him "controverting each point [by Governor Winthrop] and re-asserting in detail every charge . . . , all of which was formally sworn to." Later that month, Iglesias and his Federación reaffirmed their advocacy of self-government and U.S. citizenship for Puerto Ricans. But the Federación was in decline. Union membership soon fell, agricultural strikes ceased, and Federación electoral weakness persisted. Though Iglesias had found stronger allies and made more effective claims in 1905-1906 than he had previously, the combination was still not yet potent enough to sustain his labor activism. Pending a new strategy involving additional allies and better claims, the labor movement languished.²⁵⁰

²⁴⁹ "En campaña," 2 Oct. 1906, 2 (quotes ("Manden a insultar a asesinar que nada nos arredra")); "El Presidente y la huelga de Arecibo"; "Santiago Iglesias y el Gobierno," [*Unión Obrera*], 7-8, 10-11, 20, 22, 24, [2?]5, [2?]6 Sep., 4, 8, 9-12, 19, 27 Oct. 1906, available at CDOSIP/MC/1. Susan S. Silbey observes that although state power is exercised under color of law in innumerable situations, those exercises are most likely to become the bases of formal legal change and subject to public scrutiny when they are made the subject of a formal, public, legalistic proceeding such as a trial. "After Legal Consciousness," *Annual Review of Law and Society* 1 (Dec. 2005): 330-333.

²⁵⁰ *Report of Proceedings of the Twenty-Sixth Annual Convention of the American Federation of Labor Held at Minneapolis, Minnesota, November 12 to 24 Inclusive, 1906* (Washington, D.C.: The Graphic Arts Printing Company, 1906) 16 (Report of the President) (quote), 92 (Resolution No. 15), 205-206; Bayron Toro, *Elecciones y partidos de Puerto Rico (1809-1876)* (Mayagüez, P.R.: Editorial Isla, Inc., 1977), 128-129; Córdova, *Resident Commissioner*, 109-110; Federación Libre to Theodore Roosevelt, 21 Nov. 1906, CDOSIP/MC/1; Ángel Silén, *Apuntes para la historia*, 68-70; Samuel Gompers to Santiago Iglesias, 11 Jul. 1907, SGL 125/1027; Galvin, "Early Development," 25; García and Quintero Rivera, *Desafío y solidaridad*, 47, 60.

Domingo Collazo: Journalist, Politician, Unionista, and Democrat, 1906-1908

The Unionista party also languished in late 1906. Two years after first winning island elections, they had made little progress toward the self-government they sought. For Domingo Collazo, who had commented on Puerto Rican status and U.S. electoral politics in the *New York Times* following his niece's Supreme Court appeal, Unionistas' difficulties were an opportunity. Drawing on his knowledge of U.S. electoral politics and his years of experience seeking to liberalize the relationship of Puerto Rico to its metropole, Collazo both developed a synthesis of Democratic and Unionista policies and built a reputation among Puerto Ricans as a New York-based journalist and politician who pursued this partisan agenda.

Collazo announced his fidelity to Unionista aims in December 1906, telling the *New York Times* that the "total electoral success . . . of the home rule party" reflected the "unyielding desire" for self-government among Puerto Ricans. Next, in articles published by the main Unionista newspaper in Puerto Rico, *La Democracia*, Collazo supported and amplified arguments of party leaders on the mainland. On January 4, 1907, after the *Evening Post* ran a letter accusing Unionista Resident Commissioner Tulio Larrinaga of dereliction of duty, Collazo repeated Larrinaga's claim that Puerto Ricans suffered from structural inequality; Larrinaga was not indifferent to his countrymen, the men indicated, but rather had to do his best despite representing a million Puerto Ricans on less funding than other representatives had for 200,000-odd constituents.²⁵¹

Later that month Mariano Abril, a leading figure at *La Democracia* then sojourning in New York, wrote articles on Japan and honor. In one he reported that

²⁵¹ Letter to Editor, D. Collazo, "Porto Rico's Plight," *New York Times*, 2 Dec. 1906, 6 (quotes); D. Collazo, "Desde Nueva York," *La Democracia*, 4 Jan. 1907, 2 (including Letter of T. Larrinaga to the Director of *The Evening Post*, 23 Dec. 1906).

pressure from California unions opposed to Japanese labor immigration had led California to place Japanese children in black and Chinese segregated schools. Japanese officials resented the policy and, fresh from their victory against Russia, responded with implicit, credible military and economic threats.²⁵²

In a second article, Abril turned to the trial of a millionaire who had supposedly committed a lethal crime of passion. Other newspapers, Abril relayed, contended that a Spanish “jury would absolve” the defendant if given the chance. Abril commented that “[i]n the Latin *pueblos*, above all, the offense to honor or the betrayals of love, are washed with blood.”²⁵³

Collazo revisited and intertwined these themes in late February. The Japanese, he wrote, believed in their “social equality.” Aware that “only the Blacks and Chinese sit in separate schools,” they sought “the same advantages of public instruction that are granted others from foreign countries,” including “Italians, Germans and Jews.” Having “[p]roved that equality by defeating Russia,” Collazo elaborated, the Japanese “prefer to go to war” rather than suffer unequal treatment. Collazo anticipated that Japan and unions would both accept extension of Chinese Exclusion laws to Japanese immigrants in lieu of segregation. But he knew from experience the coercive and dishonoring potential of immigration laws and warned that the Japanese might eventually balk at “jump[ing] *from*

²⁵² Mariano Abril, “Desde Hudson,” *La Democracia*, 21 Jan. 1907, 2; Alberto Arroyo Gómez, *Bibliografía puertorriqueña: narrativa* (San Juan, P.R.: Ediciones Amano, 2004 [1998]), 10, available at www.scribd.com; Daniels Roger, *The Politics of Prejudice: The Anti-Japanese Movement in California and the Struggle for Japanese Exclusion*, reprint (Berkeley: University of California Press, 1977 [1962]); Kiyō Sue Inui, “The Gentlemen’s Agreement: How It Has Functioned,” *Annals of the American Academy of Political and Social Science* 122 (Nov. 1925): 188-198; Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill: University of North Carolina Press, 2006), 349-350.

²⁵³ Mariano Abril, “Correspondencia de Nueva York,” *La Democracia*, 9 Feb. 1907, 2 (“el jurado lo absolvería”; “En los pueblos latinos, sobre todo, las ofensas á la honra ó las traiciones del amor, son lavadas con sangre”).

the frying pan into the fire” of receiving “the same meanness at U.S. ports that they give the Chinese.”²⁵⁴

Unlike Japan, however, Puerto Rico had no navy or trade agreement to strengthen its negotiating position with the United States. It also lacked the voting representative in the U.S. Congress that most domestic U.S. populations enjoyed. When it failed to win U.S. citizenship during the 1905-1907 term, it consequently had little recourse. Collazo’s next columns sought to explain why the bill failed or, as he put it, why islanders’ “honored service” encountered an “ungrateful” “master.” The reason, he wrote, lay with Republican Speaker of the House Joseph Cannon of Illinois. Cannon saw Puerto Ricans as racial inferiors, “too ignorant to be American citizens and to govern themselves” and not “honorable enough for the American citizenship.” He used and would use his power, Collazo wrote, paraphrasing Cannon, to block islanders’ “equitable participation on the public matters of our *patria* until you have stayed out from under the burning tropical sun of the tropics and gotten the whiteness essential to enjoying our citizenship.”²⁵⁵

Over the next two years, now as a regular commentator in *La Democracia*,

²⁵⁴ D. Collazo, “Desde Nueva-York,” *La Democracia*, 25 Feb. 1907, 2 (“igualdad social”; “solamente á los negros y á los chinos los sientan en escuelas separadas”; “las mismas ventajas de instrucción pública que se les otorga á los de los demás países”; “italianos, alemanes y judíos”; “Probaron esa igualdad derrotando á Rusia”; “prefieren ir á la guerra”; “caer *from the frying pan into the fire*”; “mismas bajezas en los puertos de los Estados Unidos que á los serviles chinos”). On legal, state-enforced racial differentiation as “the public expression of a structure of domination,” see Gerald J. Postema, “Introduction: The Sins of Segregation,” *Law and Philosophy* 16 (May 1997): 221-244.

²⁵⁵ D. Collazo, “Carta de New York,” *La Democracia*, 11 Mar. 1907, 2 (quotes 1-3 (“servicio honrado”; “ingrato”; “amo”)); D. Collazo, “Desde New York,” *La Democracia*, 2 Mar. 1907, 2 (quote 4 (“demasiado ignorantes para ser ciudadanos americanos y gobernarse por sí mismos”)); D. Collazo, “Desde Nueva York,” *La Democracia*, 4 Apr. 1907, 2 (quotes 5-6 (“dignos de la ciudadanía Americana”; “participación equitativa en la cosa pública de su patria hasta tanto no hayan conseguido bajo el sol quemante de los trópicos la blancura esencial para el goce de nuestra ciudadanía”)); D. Collazo, “Metropolitanas,” *La Democracia*, 5 Jun. 1908, 2; *Congressional Record* 40, pt. 2:1165 (introduction of H. R. 12076 by Res. Com. Tulio Larrinaga of P.R., 16 Jan. 1906), pt. 4:3499 (introduction of H. R. 16380 by Rep. Joseph Goulden of N.Y., 8 Mar. 1906), pt. 5:4627 (introduction of H. R. 17661 by Rep. Henry Cooper of Wis., 2 Apr. 1906), pt. 6:5602 (report of S. 2620, 20 Apr. 1906), pt. 7:6994 (report of H. R. 17661, 16 May 1906), [Senate Bills]:80 (S. 2620, 1906), [House Bills]:530 (H. R. 12076), 653 (H. R. 16380), 691 (H. R. 17661, 1906); *Congressional Record* 41, pt. 1:172-173 (objection raised when Rep. Cooper seeks consideration of H. R. 17661, 7 Dec. 1906); [House Bills]:123 (H. R. 17661, 1907).

Collazo promoted a Democratic national victory as the surest path forward. Support for mainland Democrats was, he argued, an obligation of citizenship and honor. The party “oppose[d] . . . colonial exploitation,” believing that “[a]ll men under the American flag have title to the protection of the institutions that the flag symbolizes.” It favored independence for the Philippines and perceived Puerto Rico to be “a more assimilable country . . . than that little pile of volcanic islands,” the “organized territory” of Hawai‘i. Hence, he claimed, Democrats sought the “political rights and privileges” of “the territorial form of government,” including U.S. citizenship and “an autonomist regime.” Collazo did not have to remind readers that William Jennings Bryan, soon to be the Democratic nominee for President, had long argued that the difference between traditional territorial governance and the Republican method was that between democracy and monarchy. Instead, he asserted that “citizens are justly desirous of the triumph of the Democratic Party,” “it being the duty of all <citizens of Puerto Rico> to defend the personality and honor of their country.”²⁵⁶

In promoting Democrats, Collazo stressed the importance of federal leaders who would mitigate or eliminate the ill-defined, subordinating, interrelated status of Puerto Ricans and of Puerto Rico. Aware that Republican lawyers and judges labeled islanders “American” non-alien subjects, Collazo blamed the uncertain citizenship status of Puerto Ricans on Republican “bloodhounds of imperialism” who killed naturalization bills. This intransigence, he wrote, was like that of Spanish General Weyler in Cuba, which had

²⁵⁶ D. Collazo, “Give the Devil His Due,” *La Democracia*, 2 May 1908, 1 (quotes 1-2, 8-9 (“oponemos . . . explotación colonial”; Todos los hombres bajo la bandera Americana tienen título a la protección de las instituciones que simboliza esa bandera”; “ciudadanos están en lo justo deseándole el triunfo al partido Demócrata”; “siendo el deber de todo <ciudadano de Puerto Rico> defender la personalidad y la honra de su país”)); Collazo, “Metropolitanas,” 1 Aug. 1908 (quotes 3-4 (“como más asimilable país . . . que ese montoncito de islas volcánicas”; “territorio organizado”)); D. Collazo, “Metropolitanas,” *La Democracia*, 27 Jul. 1908, 2 (quotes 5-7 (“derechos y privilegios políticos”; “la forma territorial de gobierno”; “un régimen autonómico”)); Chapter 3 above, note 88 and accompanying text.

“worked more in favor of the independence of Cuba than” his former colleague and leader, “the Liberator of Cuba,” José Martí. By contrast, Collazo promised, Democrats stood ready to recognize Puerto Ricans as U.S. citizens.²⁵⁷

Even more important than U.S. citizenship, Collazo contended, was the status of Puerto Rico as a place. Because Puerto Rico would not be “an *integral part* of the United States” under the *Insular Cases* until it was incorporated by Congress, Collazo claimed, U.S. citizenship was, “like the pieces of glass that served in the 16th century to deceive the innocence of the Indians,” a pretty, empty gift that would not take “Puerto Ricans from their current condition of colonial servitude and raise them to the level of full citizenship that is enjoyed in the Territories.” What islanders lacked was self-government and a respectable relationship to the United States and other nations. Elected Puerto Ricans, suffering “an exotic government [that] depart[ed] from the Constitution,” could not legislate, he contended, because presidential appointees on the Executive Council vetoed all their bills. The “international status” of Puerto Rico reduced it to a “country without a name in the international world.” “[D]egraded to the category of <possession>, which is to say, fief,” he added, the “‘forgotten’ island” found reform to be a “Sisyph[ean]” endeavor as “tourists, ex-professors, and ex-‘carpetbaggers’” circulated “erroneous impressions” that created “unjust . . . public sentiment” which islanders were powerless to dispel.²⁵⁸

²⁵⁷ D. Collazo, “Metropolitanas,” *La Democracia*, 18 Jun. 1909, 1 (quotes 1-2 (“sabuesos de limperialismo”; “trabajó más en pró de la independencia de Cuba que Martí”)); D. Collazo, “Metropolitanas,” *La Democracia*, 12 Feb. 1909, 2 (quote 3 (“el Libertador de Cuba”)); Collazo, “Give the Devil His Due”; see also “Collazo en Denver,” *La Democracia*, 25 Jul. 1908, 3 (taken from the *Denver Republican* of 10 Jul. 1908); Collazo, “Porto Rico’s Plight”; D. Collazo, “Metropolitanas,” *La Democracia*, 1 Aug. 1908, 2.

²⁵⁸ D. Collazo, “Metropolitanas,” *La Democracia*, 4 Sep. 1908, 2 (quotes 1, 3 (“*parte integrante* de Estados Unidos”; “puertorriqueños de su actual condición de servidumbre colonial y levantarlos al nivel de la ciudadanía plena que en los Territorios se goza”)) (quoting *Downes v. Bidwell* (1901) (White, J., conc.)); “Collazo en Denver” (quote 2 (“como los pedazos de vidrio que sirvieron en el siglo XVI para

Turning to Cuba as an inspirational and cautionary tale, Collazo argued that under current conditions independence would threaten the home rule for Puerto Rico that incorporation of the island into the United States would guarantee. Martí, he wrote, had argued that a “government” and its “methods and institutions” “must be born of its country.” While Cuba had achieved such government with its “Republic,” Puerto Rico, to his mind, remained a “<colony> . . . , without name and humiliated before the world.” Collazo did not, however, advocate Puerto Rican independence, stating that “[o]ur aspiration to [that status] is today merely conditional, and only sought when we see our hopes defrauded and it becomes the only road open.” Martí, he reminded readers, had warned that strong economic ties between a weak and strong country threatened the independence of the former, a situation Cuba now faced. Hawai‘i had avoided this problem by becoming an incorporated territory with, in Collazo’s words, “the American citizenship [and] a decent and logical position within the federal evolution of these sovereign States.”²⁵⁹

In 1908 Collazo became active in the Democratic presidential campaign, using it as an opportunity to push for a new U.S. policy in Puerto Rico, expand his social-political

engañar la inocencia de los indios”)); D. Collazo, “Metropolitanas,” *La Democracia*, 17 Aug. 1908, 2 (quote 4 (“un gobierno exótico sentaron un precedente saliéndose de la Constitución”)); Collazo, “Porto Rico’s Plight” (quotes 5-6); D. Collazo, “Un anónimo y la dignidad humana,” *La Democracia*, 20 Jan. 1908, 2 (quote 7 (“degrade á la categoría de <posesión>, es decir, feudo”)); Collazo, “Metropolitanas,” 5 Jun. 1908 (quote 8 (“isla ‘olvidada’”)); D. Collazo, “Desde Nueva York,” *La Democracia*, 23 Mar. 1907, 2 (quote 9 (“Sísifo”)); D. Collazo, “Metropolitanas,” *La Democracia*, 27 Feb. 1909, 1 (quotes 10-12 (“touristas [sic], ex-profesores y ex-‘carpetbaggers’”; “erróneas impresiones”; “sentimiento público . . . injusto”)); Collazo, “Metropolitanas,” 1 Aug. 1908; D. Collazo, “Castigando a Puerto Rico,” *La Democracia*, 7 Jun. 1909, 2.

²⁵⁹ Collazo, “Metropolitanas,” 12 Feb. 1909 (quotes 1-3, 7 (“gobierno”; “métodos é instituciones”; “ha de nacer del país”; “la ciudadanía americana [y] un puesto decente y lógico dentro de la evolución federal de estos soberanos Estados”)); Collazo, “Metropolitanas,” 27 Feb. 1909 (quote 4 (“Republica”)); Collazo, “Metropolitanas,” 17 Aug. 1908 (quote 5 (“<colonia> . . . , sin nombre y humillada ante el mundo”)); Collazo, “Castigando a Puerto Rico” (quote 6 (“Nuestra aspiración á la independencia es por hoy meramente condicional, y sólo la pediremos cuando veamos defraudadas nuestras esperanzas y llegue á ser ella el único camino abierto”)); D. Collazo, “Metropolitanas,” 20 Aug. 1909, 2.

network, and build his reputation as a politician. Marveling at the public affection President Theodore Roosevelt generated as “the most effective self-promoting *press agent* of his time,” Collazo pursued a similar strategy, reporting on and securing media coverage of his activities and accomplishments. In 1908, Collazo was writing for several Latin American newspapers and editing the Spanish-language *La Semana* in New York. Collazo attended the Republican National Convention as a correspondent. In Early July, he lobbied party leaders as a delegate to the Democratic National Convention. Acting as translator and occasional commentator for a *New York Times* reporter, Collazo shaped and encouraged press coverage of a Puerto Rican club where he served as Secretary. The club’s members included naturalized U.S. citizens in New York like Collazo and wealthy islanders visiting the city. They socialized, promised to fundraise for Democratic presidential candidate William J. Bryan, and proposed to organize an estimated 10,000 eligible islanders to vote on his behalf. In August, Collazo reported, Bryan warmly received him in Fairview, Nebraska, as a member of the committee notifying Bryan of his nomination. Two months later, Collazo placed himself in famous company by writing of his encounters with men like the hero and martyr of the Cuban Revolution José Martí, Unionista party head Luis Muñoz Rivera, Nicaraguan poet, journalist, and politician Rubén Darío, and Republican Senator Chauncey Depew of New York.²⁶⁰

Collazo also attacked Republicans. Echoing caricatures of U.S. Reconstruction,

²⁶⁰ D. Collazo, “Metropolitanas,” *La Democracia*, 31 May 1909, 2 (“el más eficaz *press agent* de sí mismo que han conocido los tiempos”); Collazo, “Metropolitanas,” 1 Aug. 1908; D. Collazo, “Metropolitanas,” *La Democracia*, 27 Sep. 1909, 2; D. Collazo, “Correspondencia de New York,” *La Democracia*, 26 Jun. 1908; “Will Ask Bryan to Quit,” *New York Times*, 2 Jul. 1908, 2; Letter to Editor, D. Collazo, “Porto Rico’s Three Delegates,” *New York Times*, 2 Jul. 1908, 8; “Porto Rican Vote Pledged to Bryan,” *New York Times*, 1 Aug. 1908, 2; D. Collazo, “Metropolitanas,” *La Democracia*, 29 Aug. 1908, 2; D. Collazo, “Metropolitanas,” *La Democracia*, 17 Oct. 1908, 2; “Trocando los frenos,” *El Águila*, 31 Mar. 1908, available at CIHCAM 8/L1. On immigrant enclaves and the homeland as mutually constitutive spaces that together formed an imagined transnational space, see Jesse Hoffnung-Garskof, *A Tale of Two Cities: Santo Domingo, New York, and a Changing World since 1950* (Princeton, N.J.: Princeton University Press, 2008).

Collazo argued that “Porto Ric[an] national interests cannot be . . . safe in the hands of professional carpet-baggers” who seek to impress superiors in Washington rather than govern for the benefit of the island. Doubting that Republicans would alter the system, he later claimed that former military-governor of the Philippines William Taft, after becoming President, “captured the nostalgia of the *carpetbaggers*” by fondly remembering his prior post at the head of the U.S. government in the Philippines. Echoing the New York *Sun*, Collazo explained that Taft realized “it is not the same to be President,” “servant of a people,” “as to be boss and lord of colonies.”²⁶¹

Collazo also attacked Republican imperialism as disregarding rule of law, resembling the fall of the Roman Republic, and reprising Napoleon’s rise. After criticizing the White House for “carry[ing] to the nation what was permitted in colonies,” Collazo recounted a *Sun* article about a U.S. traveler who complained of the President’s “despotic conduct” and “monarchical tones.” Collazo charged that Republicans contributed to the problem by attacking the Supreme Court, which was sometimes at odds with Roosevelt, as an “absolute monarchy.” Echoing the *Sun*’s traveler, he added that just as hero worship “facilitated Caesar’s overthrow of the Republic” and “Napoleon’s ascension” resulted when “the democracy abdicated its power . . . in obeisance to a national hero,” so too “the virility, the civil sufficiency of the North American citizen has been lost.” “The condition of vassalage,” Collazo concluded, “is being learned rapidly

²⁶¹ Letter to Editor, D. Collazo, “Porto Rico and ‘Overaspiring’ Officials,” *New York Times*, 1 Oct. 1907, 10 (quote 1); D. Collazo, “Metropolitanas,” *La Democracia*, 23 Oct. 1909, 1 (quotes 2-5 (“condensó admirablemente la nostalgia del *carpet baggers*”; “no es lo mismo ser Presidente”; “servidor de un pueblo”; “amo y señor de colonos”)) (citing as the source of the quotation the New York *Sun*); Collazo, “Metropolitanas,” 1 Aug. 1908; D. Collazo, “Metropolitanas,” *La Democracia*, 13 Nov. 1908, 2; David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001).

here.”²⁶²

Republican imperialism, Collazo complained, also cost Puerto Rico benefits of access to U.S. markets. In a paraphrase of William Jennings Bryan, he wrote:

With Central America largely under the republican protectorate of Mr. Roosevelt, Taft and Root; Haiti, soon to have [illegible?] fiscal links; the Philippines, a permanent American possession under its current government; Cuba, stumbling drunkenly while its its supposed caretakers in Washington fatally wound its independence; Santo Domingo, stripped of international life and relegated to the schoolhouse bench by the hall monitor; and inevitable further expansions by the republican administration into the Caribbean and the continent, which will undoubtedly culminate in a *zollverein* customs union, Puerto Rico has more reason than ever before to see a threat to its wealth.²⁶³

Here, presuming readers’ familiarity with them, Collazo condensed a decade of U.S.

foreign relations in the Caribbean and with the Philippines into a paragraph. In Central

America, these included: U.S. securing of Panama Canal rights following U.S.

²⁶² D. Collazo, “Metropolitanas,” *La Democracia*, 1 Feb. 1909, 2 (quote 1 (“llevarían á la nación lo permitido en colonias”)); D. Collazo, “Metropolitanas,” *La Democracia*, 13 Apr. 1909, 2 (quotes 2-3, 5-10 (“conducta despótica”; “tonos monárquicos”; “colocó á César en posición de derrocar la República”; “el ascenso de Napoleón”; “la democracia abdicó su poder . . . en obsequio de un héroe nacional”; “Se ha perdido ya la virilidad, la suficiencia cívica del ciudadano norteamericano”; “La condición de vasallo se va aprendiendo rápidamente aquí”)); D. Collazo, “Metropolitanas,” *La Democracia*, 18 Jun. 1908, 1 (quote 4 (“monarquía absoluta”)); D. Collazo, “Metropolitanas,” *La Democracia*, 10 Oct. 1908, 2; D. Collazo, “Metropolitanas,” *La Democracia*, 2 Nov. 1908, 2; Collazo, “Metropolitanas,” 13 Nov. 1908.

²⁶³ Collazo, “Metropolitanas,” 29 Aug. 1908 (“Con Centro América virtual, casi efectivamente, bajo el protectorado republicano de Messrs. Roosevelt, Taft y Root; Haití, donde se preparan en estos momentos lazos de futuros mento[?]ados fiscales; las Filipinas, posesión permanentemente Americana bajo el actual gobierno; Cuba, dando traspies intoxicada con su independencia herida de muerte por sus pseudo queredores de Washington; Santo Domingo, sentada ya, sin vida internacional, en los bancos de este plantel preceptor; y las futuras é inevitables adiciones bajo la administración republicana en el Caribe ye en el continente, que indudablemente terminarán en un *Zollverein* aduanero, Puerto Rico verá su riqueza amenazada con más razones que nunca”) (citing as the source of the quotation a communication from William Jennings Bryan).

involvement in Panamanian independence; Roosevelt's big-stick policy in Central America; and Secretary of State Elihu Root's attempts to build good will throughout the Americas. Collazo referenced U.S. operation of the Dominican customs house since 1905 and U.S. machinations to eclipse Germany in Haiti. Collazo similarly assumed readers' knowledge of U.S. colonial governance in the Philippines and of a U.S. domination of Cuba that included a now-two-year-old reoccupation. These and similar activities had brought enormous capacity in sugar—a leading Puerto Rican industry—within U.S. control. By suggesting that Republicans intended to bring these regions within U.S. tariff walls, Collazo associated Republican victory with Puerto Rican economic distress.²⁶⁴

Though Collazo's candidate did not win—on November 3, Republican William Howard Taft became president-elect—Collazo's campaign work and analyses of mainland politics and Puerto Rican status made him into a public commentator on and active participant in U.S.-Puerto Rican politics. In subsequent weeks Collazo served as a Puerto Rican commissioner lobbying Congress on coffee tariffs and elicited from Bryan an attentive explication of his attitude and intentions toward Puerto Rico during and after the presidential campaign. But with the next opportunity to unseat the Republican President four years hence, Collazo—and his Unionista colleagues—still lacked a

²⁶⁴ César J. Ayala, *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean, 1898-1934* (Chapel Hill: University of North Carolina Press, 1999). See the following for examples of U.S. involvements with Panama, John Lindsay-Poland, *Emperors in the Jungle: The Secret History of the United States in Panama* (Durham, N.C.: Duke University Press, 2003), the Dominican Republic, Cyrus Veaser, *A World Safe for Capitalism: Dollar Diplomacy and America's Rise to Global Power* (New York: Columbia University Press, 2002), and Haiti, Mary A. Renda, *Taking Haiti: Military Occupation and the Culture of U.S. Imperialism, 1915-1940* (Chapel Hill: University of North Carolina Press, 2001), 30. On U.S. sovereignty in the Philippines, see, e.g., Kramer, *The Blood of Government*. On Cuba under the Platt Amendment, see, e.g., Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, Mass.: Harvard University Press, 2005), 216-232; Louis A. Pérez, Jr., *Cuba: Between Reform and Revolution*, 3d ed. (New York: Oxford University Press, 2006 [1988]), 169.

strategy with which to advance their political agenda.²⁶⁵

The Budget Crisis of 1909

More than four years after taking the island House of Delegates and the Resident Commissionership, Unionistas sought new ways to win the self-government that had so far eluded them. Denigrating cooperation with U.S. officials as ineffective, many Unionista leaders advocated even greater confrontation as a means to bring attention and sympathy to their island. Doing so was likely to stir up and reshape longstanding debates in Washington evaluating U.S.-Puerto Rican relations in light of U.S. ideals and history and the experiences of other empires and subordinate peoples. To try and control the direction that those debates would take, Collazo joined with some Democrats in equating Republican-run Puerto Rico with the Reconstruction-era U.S. South. Nearly all elected Republicans declined to defend a Reconstruction policy that most U.S. whites remembered as having failed. They instead cast Puerto Ricans as racial inferiors in particular need of tutelage. That negative characterization of newly acquired peoples bolstered Democrats who had opposed U.S. expansion in 1898, but put Collazo in a bind. While most Democrats and increasing numbers of Republicans agreed that participation by blacks in politics had been a key mistake of Reconstruction, disfranchisement of Puerto Ricans of color was a non-starter for Unionistas' many non-white constituents. Reconciling this tension was the key challenge for Collazo in making the Reconstruction metaphor effective as a basis for claims by Puerto Ricans to home rule, U.S. citizenship, and full membership in the U.S. polity.

²⁶⁵ Collazo, "Metropolitanas," 1 Feb. 1909; D. Collazo, "Metropolitanas," 2 Nov. 1909, 2; D. Collazo, "Metropolitanas," *La Democracia*, 15 Jan. 1909, 2.

Unionista leaders' dissatisfaction did not primarily arise from the non-recognition of Puerto Ricans as U.S. citizens about which Collazo again complained in early 1909. As Resident Commissioner Tulio Larrinaga charged in a congressional address and before paternalistic, reformist, and influential Friends of the Indian and Other Dependent Peoples that U.S. rule in Puerto Rico undid "forty years [of] struggling with the Spanish Government to obtain our rights." Those lost rights, the Unionista newspaper *La Democracia* elaborated, included not only national citizenship, but also many political and civil rights and greater self-government. Now, Unionista Executive Council member Martin Travieso told the Friends, Puerto Ricans sought "no less than that which has been done for the Indian tribes": "the opportunity of governing itself."²⁶⁶

Mainlanders refused this demand, Larrinaga contended, by casting Puerto Ricans "as an inferior people"—lazy and in offices for personal gain. But really, he continued, island laborers had long worked twelve-hour days while Puerto Rican legislators had paid to travel to the Spanish Cortes where they had freed their slaves. The "persistent desire to represent" islanders "as unworthy," he concluded, was an attempt by "the greatest champion of human rights and liberty on the face of the earth" "to cover" its "injustice" and "moral wrong" in failing to extend islanders "a government more in accordance with the principles of the American democracy."²⁶⁷

U.S. citizenship was beside the point. Agustin Navarrete, a Cuban-born journalist

²⁶⁶ *Congressional Record* 43, pt. 2:1059-1060 (18 Jan. 1909) (quote 1); "Travieso en Mohon Lake," *La Democracia*, 26 Oct. 1908, 1 (quotes 6-7 ("no menos de lo que habeis hecho por las triibus indias"; "la oportunidad de gobernarse por ellos mismos")); "Estatus del país," *La Democracia*, 18 Mar. 1909, 1; Lucy Maddox, *Native American Intellectuals, Race, and Reform* (Ithaca, N.Y.: Cornell University Press, 2005).

²⁶⁷ *Congressional Record* 43, pt. 2:1059-1060 (18 Jan. 1909) (quotes 4, 8); Tulio Larrinaga, "Porto Rico's Attitude Toward the United States," Address before the Lake Mohonk Conference, Lake Mohonk, N.Y., 25 Oct. 1907, in *Proceedings of the Twenty-Fifth Annual Meeting of the Lake Mohonk Conference of Friends of the Indian and Other Dependent Peoples 1907* (Lake Mohonk Conference, 1907), 159-164 (quotes 1-3, 5-7), passim.

with roots in the Puerto Rican autonomist movement of the 1880s and 1890s, told readers of *La Democracia* that U.S. citizenship status promised islanders few new political rights. Drawing on the legacy of the Civil War, he added that because Puerto Rico would only enter “the federal pact that fixes the indissolubility of the link that exists between all the States” if it “c[a]me to form a State of the Union,” U.S. citizenship would not preclude Puerto Rican autonomy or independence.²⁶⁸

In the first half of January 1909 Unionista in the House of Delegates moved to protest “the tyrannical yoke imposed on Porto Rico” under the Foraker Act by displaying their “irrevocable independence” “at all costs” “within legal means.” While following its standard practice of waiting to act on the appropriations bill until all other bills had passed or failed, the House of Delegates passed several bills to rebalance governance by increasing Unionista influence at the expense of mainlander influence. One bill proposed to create an industrial school outside the Puerto Rican Department of Education, and hence outside the control of the Department’s chief, mainlander Edward Dexter of Illinois. One would alter selection of judges to the advantage of Unionistas. And one would cripple the U.S. District Court for Puerto Rico. These bills, though passed by the House, were not enacted, as the presidentially appointed upper legislative chamber, the Executive Council, then vitiated or rejected the House proposals as illegal, anti-American, or corrupt. The House responded by stonewalling on the island budget. The chambers adjourned on March 16, 1909. With no funds authorized for the year ahead, each chamber sent a commission to Washington to influence the federal response to the crisis they had produced.²⁶⁹

²⁶⁸ Augustin Navarrete, “La ciudadanía y el status,” *La Democracia*, 6 Aug. 1908, 2.

²⁶⁹ Chauncey M. Depew, “Porto Rico: Speech on the Effort of the Porto Rican House of Delegates to

Acknowledging that their intransigence might produce short-term setbacks, Unionistas framed the crisis as an opportunity to vindicate Puerto Rican honor and pursue long-term change. The commissioners whom Unionistas sent to Washington from among their number in the House of Delegates, *La Democracia* reported, addressed a “hostile” “country” in the U.S. capitol that doubted Puerto Rican “capacity.” The commissioners thus did not seek “immediate reforms,” but “to fulfill a duty.” With acts of the Executive Council having “dishonored the United States” and having been “incompatible with Puerto Rican honor,” the newspaper wrote, commissioners would help “Puerto Rico save its dignity and rights” and “the prestige” and “honor of the House.”²⁷⁰

Beginning on March 24, in memos and meetings, commissioners from the House made their case before President Taft, Secretary of Interior Richard Ballinger, federal lawmakers, and mainland media. For years, commissioners told Taft and Ballinger, the appointed Council members ignored the elected House, thereby “creating a profound feeling of resentment.” Initially the House had deferred, but a decade into U.S. rule, Larrinaga later explained, the island public had grown discontented with

Coerce Congress by Refusing to Pass Appropriation Bills, July 9, 1909,” *Orations, Addresses and Speeches of Chauncey M. Depew*, vol. 7 (New York: Privately Printed, 1910) (quotes 1-4) (quoting the initial position to which the Unionista caucus assented and the provision subsequently adopted by the Unionista caucus); “Comisión de la cámara en Washington,” *La Democracia*, 2 Apr. 1909, 1; Brief, Luis Muñoz Rivera, Cay. Coll Cuchi, and Eugenio Benitez Cantaños, 29 Mar. 1909, reprinted in *Congressional Record* 44, pt. 4:4337-4347 (9 Jul. 1909); *Congressional Record* 44 pt. 3:2340-2346 (24 May 1909); Regis Post to Secretary of the Interior, 17 Mar. 1909, in Senate Report No. 10, in *Senate Reports (Public)* vol. 1, 61st Cong., 1st sess, 1909-1910 (Washington, D.C.: Government Printing Office, 1910); W. F. Willoughby, Henry Hoyt, and George Ward to Secretary of the Interior, 29 Mar. 1909, in Senate Report No. 10; Wm. Taft to Senate and House of Representatives, 10 May 1909, in Senate Report No. 10; “Contra su patria,” *La Democracia*, 18 Mar. 1909, 2; “El Congreso resolverá,” *La Democracia*, 18 Mar. 1909, 3; “Las entrevistas,” *La Democracia*, 24 Mar. 1909, 1.

²⁷⁰ “Hacia la metrópoli,” *La Democracia*, 18 Mar. 1909, 2 (quotes 1-3 (“hostil”; “país”; “capacidad”)); “Regreso de la comisión,” *La Democracia*, 5 May 1909, 1 (quotes 4, 9 (“reformas inmediatas”; “los prestigios”)); “La comisión de la cámara,” *La Democracia*, 6 May 1909, 1 (quotes 5-7 (“iban al cumplimiento de un deber”; “deshonran á los Estados Unidos”; “incompatibles con el honor puertorriqueño”)); “El mensaje del President,” *La Democracia*, 13 May 1909, 1 (quote 8 (“Puerto Rico salve su dignidad y su derecho”)) (quoting the commission); “Noticias de Washington,” *La Democracia*, 3 Apr. 1909, 1 (quote 10 (“honor de la Cámara”)) (quoting José de Diego); “La comisión de la Cámara,” *La Democracia*, 22 Apr. 1909, 1; “Desde Washington,” *La Democracia*, 4 Jun. 1909, 1.

accommodations that produced no progress toward self-government. Unionistas, the House Commission explained, thus had “no other means of defense than the justice of their cause, nor other protection than their own rights.” Executive Council members countered that the crisis showed the House lacked the political maturity to draft meritorious bills and reach reasonable compromises. At the same time, House members met regularly with media in Washington and New York, hoping to sway public opinion. During these efforts the commission chose Domingo Collazo as its secretary and interpreter. He particularly helped Unionista party head and commission member Luis Muñoz Rivera, who then lacked fluency in English, during his travels to New York to try to improve press coverage of the Commission.²⁷¹

Reaction was swift. *La Democracia* reprinted and summarized dozens of press clippings on opposing sides and from across the United States. Contending that appropriations were a lower, different class of problem than self-government and so an inappropriate means with which to seek it, Secretary Ballinger condemned the House of Delegates in his March 30 report to Taft. After the House Commission returned to Puerto Rico, President Taft told Congress in a May 10 message that since 1898 “Porto Rico has

²⁷¹ House Commission members also made their case to leading Congressmen on Puerto Rican affairs, the Senate Committee on Pacific Islands and Porto Rico, and in a published pamphlet that they circulated to U.S. lawmakers. Brief, Muñoz Rivera, Coll Cuchi, and Benítez Cantañón (quotes); Ward, Willoughby, and Hoyt to Secretary of the Interior, 29 Mar. 1909; “Porto Ricans Blame the War,” *Chicago Daily Tribune*, 25 Mar. 1909, 5; “Comisión de la Cámara en Washington,” *La Democracia*, 3 Apr. 1909, 3 (summarizing a *Washington Post* article of 26 Mar. 1909); “Ante el presidente,” *La Democracia*, 26 Mar. 1909, 1; “Los del consejo,” *La Democracia*, 26 Mar. 1909, 1; Taft to Senate and House of Representatives, 10 May 1909; Eugenio Benítez and Muñoz Rivera to Secretary of Interior, 31 Mar. 1909, in Senate Report No. 10; “Nuestra comisión,” *La Democracia*, 29 Mar. 1909, 1; “Deny Statement of Council,” *Washington Post*, 30 Mar. 1909, 3; “La comisión de la Cámara,” *La Democracia*, 8 Apr. 1909, 1; “Ultima hora,” *La Democracia*, 31 Mar. 1909, 1; “El memorandum,” *La Democracia*, 1 Apr. 1909, 1; *Congressional Record* 44, pt. 3:2340-2346 (24 May 1909); *Congressional Record* 44, pt. 3:2459-2476 (27 May 1909); “Comisión de la cámara en Washington,” 2 Apr. 1909; “Las interviews,” *La Democracia*, 24 Mar. 1909, 1; “La comisión de la cámara,” 22 Apr. 1909; “La comisión de la Cámara,” *La Democracia*, 16 Apr. 1909, 1; “Ante el Congreso,” *La Democracia*, 21 Apr. 1909, 1; “La comisión,” *La Democracia*, 23 Mar. 1909, 1; “En la labor,” *La Democracia*, 25 Mar. 1909, 1. Muñoz’s lack of fluency is implicitly noted in Memorandum for the Secretary of War. (Diary), May 4, 1912, CDOSIP/MC/2.

been the favored daughter of the United States,” receiving U.S. largesse while accruing the “education” to prepare it to “safely . . . exercise the full power of self-government.” With the crisis, he wrote, island delegates showed a “willingness . . . to subvert the government,” demonstrating that “its members are not sufficiently alive to their oath-taken responsibility, for the maintenance of the government.” Concluding that “we have gone somewhat too fast in the extension of political power to them,” he advocated a law that would, as currently done in Hawai‘i and the Philippines, leave a prior Puerto Rican budget in place until a subsequent one replaced it.

After this indictment from the presidential bully pulpit, Collazo observed that most mainland newspapers sided with Taft against elected islanders. On May 11, an administration ally on this issue, Republican Senator Chauncey Depew of New York, introduced the bill that Taft had suggested. A second provision, which Depew told his colleagues “the President considers very essential,” would instruct all island authorities to report to the agency that had overseen administration of Puerto Rico immediately prior to institution of civil governance there: the Bureau of Insular Affairs within the War Department. A sponsor of the House version of this bill described this provision as placing “all matters pertaining to the government of Porto Rico in the jurisdiction of” a single bureau. By demanding greater self-government, it appeared, Puerto Rico had convinced many in Washington that they were not prepared to exercise it.²⁷²

As legislative debates over Taft’s proposals began in summer 1909, Congressmen

²⁷² Taft to Senate and House of Representatives, 10 May 1909 (quotes 1-6); R. A. Ballinger to the President, 30 Mar. 1909, in Senate Report No. 10; Depew, “Porto Rico” (quote 7); *Congressional Record* 44, pt. 3:2340 (24 May 1909) (Rep. Sereno Payne of N.Y.) (quote 8), pt. 2:1898 (11 May 1909); “Desde Washington,” 4 Jun. 1909; “La comisión de la cámara,” 22 Apr. 1909; Muñoz Rivera and Coll Cuchi, “Regreso de la comisión”; D. Collazo, “Metropolitanas,” *La Democracia*, 21 May 1909, 2; “La cuestión de Puerto-Rico,” *La Democracia*, [24?] May 1909, 2 (citing *New York Sun* of 11 [May] 1909). For examples of *La Democracia* reporting on mainland coverage of the House Commission, see “Comisión de la camara en Washington,” 2 Apr. 1909; “La prensa Americana,” *La Democracia*, 13 Apr. 1909, 3.

resurrected and reformulated old comparisons of U.S. policy in Puerto Rico to Reconstruction, practices of fellow empires, and to U.S. treatment of other subordinated groups. Some legislators focused on the purported Puerto Rican incapacity for self-rule, chastising Unionistas as patronage politicians who had asked the Executive Council to buy their votes and were not ready for statehood or Canadian-style autonomy. Republican Senator Elihu Root of New York, who had shaped U.S. insular policy as Secretary of War in 1899-1904, compared Unionista intransigence in budget negotiations to their 1900 decision to boycott island elections. Drawing on a Black Legend of Spanish rule, Root told colleagues, “One of the serious evils of Spanish American government has long been that when one party finds itself unable to accomplish what it desires it seeks to coerce the home government by refusing to go on with the operation of government.” Puerto Ricans, who had not outgrown that “childish” tactic, he elaborated, were “not yet capable of self-government” and in need of “a long course of education.” Democratic Representative James Slayden of Texas doubted the efficacy of even long education. Referring fellow representatives to the British experience in Africa and the West Indies, he argued, “We are mainly Anglo-Saxons,” “[t]hey are largely mongrel[s],” and “history tells us that distinct, radically different races have rarely if ever dwelt together in political harmony.”²⁷³

Other legislators stressed self-government and citizenship. Democratic Representative Finis Garrett of Tennessee argued, for instance, that even if “Puerto Rico never will, so long as the Spanish blood preponderates there, govern itself like we govern

²⁷³ *Congressional Record* 44, pt. 4:4337-4347 (9 Jul. 1909) (remarks of Sen. Elihu Root of N.Y.) (quotes 1-4), pt. 3:2927-2928 (7 Jun. 1909) (quotes 5-7), 2459-2476 (27 May 1909); Depew, “Porto Rico.” In 1900, Muñoz’s Federales had boycotted the polls. In 1904 the Federales had reconstituted themselves into the Partido Unionista. See Chapters 1 and 3 above.

ourselves,” islanders deserved the chance that “[e]very tribe in Africa” has to “govern[] itself in some way.” Representative Henry Cooper, a longtime advocate of liberalizing U.S. rule in Puerto Rico, categorized Puerto Ricans as superior to Filipinos, comparing them to such undoubted citizens as children, women, and Hawai‘ians. Arguing that Puerto Ricans resembled children, he thus implied, merely strengthened Puerto Rican claims to U.S. citizenship. Democratic Senator Hernando Money of Mississippi accused Senator Root of having “forgotten a little of his English history.” “Every solitary accession of British liberty,” he asserted, “has come from the power of the Commons and the people over the purse” that Unionistas had exercised. Commissioner Larrinaga implied that he agreed that Puerto Ricans resembled U.S. white, male citizens fighting for democracy and liberty when he told the House that Unionista delegates were property-holding professionals with mainland and continental degrees whose predecessors under Spain had secured emancipation and a republican form of government.²⁷⁴

U.S. lawmakers also debated whether U.S. rule in Puerto Rico represented a return to what many remembered as intrusive, Reconstruction-era Republican misrule in the U.S. South. As Democratic Representative Thomas Martin of Virginia explained:

[W]e have had an experience in this country with what I term a ‘carpetbag government,’ and that is a government made up of men from some other section of the country, or some other country, over whose selection the people governed have no voice, a government imposed not by consent, but by superior power upon them; and no right-minded man would want to return to that condition in this country.

²⁷⁴ *Congressional Record* 44, pt. 3:2465 (quotes 1-3) (27 May 1909) (remarks of Rep. Finis Garrett of Tenn.), 2927-2928 (7 Jun. 1909), 2340-2346 (24 May 1909), pt. 4:4337-4347 (9 Jul. 1909) (remarks of Sen. Hernando Money of Miss.) (quotes 4-6).

The United States, he charged, had instituted “another specie of the same genus in Porto Rico.” Republican Representative Marlin Olmsted of Pennsylvania answered such charges not by defending Reconstruction, but by denying its equivalence to U.S. rule in Puerto Rico. Only a few mainlanders held high posts in the Puerto Rican state, he claimed, and all were disinterested and “never before . . . accused of bad acts.”²⁷⁵

Though the analogy to Reconstruction had drawbacks for islanders, Collazo embraced them during the crisis. In his columns, he argued that Puerto Ricans should join post-Reconstruction U.S. southerners in enjoying home rule, U.S. citizenship, and full membership in the U.S. polity. Taft’s bill temporarily stalled in the House, he argued, because southern Democrats objected to “government by *carpet-baggers*.” Here he depicted a Democratic willingness to extend disgust for Reconstruction to any Republican intrusion into local rule. But when he added that U.S. officials in Puerto Rico were “*carpet-baggers*” who, as had occurred during the American Indian genocide, would “sweep [Puerto Ricans] off their homeland,” he overreached. Democratic opposition to Reconstruction was rooted as much in white supremacy as in federalism, and many Democrats joined Representative Slayden in seeing Puerto Ricans as racially inferior “mongrels.” Such politicians were unlikely to accept Collazo’s comparison of Puerto Ricans to both American Indians and Reconstruction-era southern whites, with its implication that the confederacy, islanders, and native peoples shared morally equivalent hardships. When Senator Root turned the debate from Republican misrule to Puerto Rican capacity by arguing that islanders needed a long education before enjoying self-government, Collazo appeared to recognize the futility of telling Democrats that Puerto

²⁷⁵ *Congressional Record* 44, pt. 3:2459-2476 (27 May 1909) (quotes 1-2), 2927-2928 (7 Jun. 1909) (quote 3).

Ricans were as politically capable as Reconstruction-era southern whites. Instead he launched ad hominem attacks, claiming that Root took orders from Tammany Hall and the trusts.²⁷⁶

Nonetheless, Collazo and other Unionistas condemned what they portrayed as a vicious, counterproductive U.S. racism that operated extra-legally, was alien to Puerto Rico and its heritage, and impeded their aspirations for home rule. *La Democracia* thus reported on savage U.S. lynchings, Ida Wells Barnett's campaign against lynching, and blacks' efforts to organize for civil rights. The newspaper also republished a piece arguing that while "there is no question of 'color'" in Latin America, "[i]n no other nation is the color prejudice as deeply entrenched as in the United States." Collazo recounted how upon appointing a black commissioner to Liberia, Taft got caught between "offend[ing] the negros" and disregarding white commissioners' objections to traveling on an equal footing with their black colleague. Collazo argued that Taft's solution of providing separate naval cruiser for each commissioner was expensive and endangered the mission. In attacking white commissioners' "imbecile preoccupations," Collazo voiced an anti-racist vision similar to that of the Cuban revolutionary he had once followed, José Martí. Similarly, when Puerto Ricans faced racially charged criticisms in Hawai'i, Collazo shot back that "[t]he humanity is equal in all parts." Collazo's Reconstruction metaphors, however, implicitly argued not that all races were

²⁷⁶ Collazo, "Metropolitanas," 12 Jun. 1909, 2 ("gobierno de *carpet-baggers*"; "*carpet-baggers*"; "lo barran del suelo patrio") (citing as the source of the quotation Rep. Robert Macon of Ark.); D. Collazo, "Metropolitanas," *La Democracia*, 27 Jul. 1909, 1. On the related phenomenon of changes in conceptions of the nation and citizenship among residents of sending countries where departing migrants engage in circular migrations, see Carlos Pabón, *Nación postmortem: ensayos sobre los tiempos de insoportable ambigüedad* (San Juan, P.R.: Ediciones Callejón, 2002); Jorge Duany, *The Puerto Rican Nation on the Move: Identities on the Island & in the United States* (Chapel Hill: University of North Carolina Press, 2002); Louis A. Pérez, Jr., *On Becoming Cuban: Identity, Nationality and Culture* (Chapel Hill: University of North Carolina Press, 1999).

equal but that most Puerto Ricans were white and that white Puerto Ricans could be trusted to control island affairs. Similarly, *La Democracia* reprinted an article in July that argued that mainlanders mischaracterized some Puerto Ricans as non-white and misperceived other Puerto Ricans who were not white as threats to and thus implicitly consequential in governance of the island. “If there were not people of African blood in Puerto Rico or there were few,” the piece concluded, “we would have had enough white people to organize a state before now.”²⁷⁷

To reconcile his professed racial egalitarianism with his embrace of Democratic criticism of Reconstruction, Collazo portrayed Democrats and not Republicans as partisans of blacks, Ulysses S. Grant, and the Civil War. Blacks might vote Democratic, Collazo thus wrote, because in 1906 Roosevelt and Taft had summarily dismissed 167 black soldiers unjustly accused of rioting in Brownsville, Texas. Taft had also defiled Grant’s name by mentioning his alcoholism on Decoration Day, Collazo charged. “[I]t was enough,” he explained, “to have mentioned that the general, with his triumph over the South, broke the chains of the slave and consolidated the Union of his *patria*.” On Lincoln’s birthday, Collazo lauded “celebrations in honor of . . . that martyred President,” then insisted that the solidly Democratic “South . . . does not contest the halo of the savior of the Union.” Collazo’s improbable claims notwithstanding, most Democrats remained committed to white supremacy. Thus, though Republican rule in Puerto Rico

²⁷⁷ “El problema del color,” *La Democracia*, 23 Jul. 1909, 3 (quotes 1-2, 6-7 (“no hay la cuestión de ‘el color’”; “En ningún otro pueblo está tan arraigado el prejuicio del color como en los Estados Unidos”; “Si no hubiese personas de sangre africana en Puerto Rico ó fueran éstas muy pocas habríamos tenido bastante gente Blanca para organizar un estado antes de ahora”)) (citing as the source of the quotation “John A. MacDonal” in the “*Heraldo Español*”); D. Collazo, “Metropolitanas,” *La Democracia*, 1 May 1909, 2 (quotes 3-4 (“ofender á los negros”; preocupados imbéciles”)) (quoting “Topics of the Times,” *New York Times*, 19 Apr. 1909, 8); D. Collazo, “Metropolitanas,” *La Democracia*, 24 Apr. 1909, 2 (quote 5 (“La humanidad es igual en todas partes”)); Collazo, “Metropolitanas,” 12 Feb. 1909; “11 negros linchados,” *La Democracia*, 23 Jun. 1908, 1; “Un negro linchado,” *La Democracia*, 22 Feb. 1909, 1; “Victimas de lynch,” *La Democracia*, 16 Jun. 1909, 2; “Piden justicia,” *La Democracia*, 14 Jun. 1909, 1.

did deprive islanders of self-government, any analogy between it and Republican-led Reconstruction remained vulnerable to the argument that Puerto Ricans were less capable of self-government than former Confederates had been.²⁷⁸

On July 15 the U.S. political branches overcame Democratic objections to a supposed Reconstruction in Puerto Rico and enacted Taft's proposals stripping the House of Delegates of its budget veto and placing the island under the jurisdiction of the Bureau of Insular Affairs within the War Department. Despite this apparent defeat, Unionista leaders reported in late July and early August that they had won important congressional allies during the fight. Collazo quickly pointed out that U.S. colonial rule in Puerto Rico had begun to hamper U.S. foreign policy throughout Latin America. Rather than the "envy of Latin America" that McKinley had predicted, the island had become a "horrendous scarecrow for the Hispanic *pueblos*." Now, Collazo continued, even Taft joined Unionistas in favoring reform of the Foraker Act, with the President asking the Secretary of War to report on the matter.²⁷⁹

Before Congress turned its attention to potentially far-reaching reforms in Puerto Rico, Republican Senator Marlin Olmsted asked Puerto Rico Governor Regis Post to survey the opinions of leading men in Puerto Rico on such matters. The suggestion set in

²⁷⁸ D. Collazo, "Metropolitanas," *La Democracia*, 13 Jun. 1908, 2 (quotes 1-2 ("bastaba haber mencionado que el general, con su triunfo sobre el Sud, rompió las cadenas del esclavo y consolidó la Unión de su patria")); D. Collazo, "Metropolitanas," *La Democracia*, 20 Feb. 1909, 2 (quotes 3-4 ("celebraciones en honor de . . . aquel Presidente mártir"; "Sur . . . ya no le regatea el halo de Salvador de la Unión")); John D. Weaver, *The Brownsville Raid* (College Station: Texas A&M University Press, 1992 [1970]); "Troops Not Spared," *Washington Post*, 22 Nov. 1906, 1.

²⁷⁹ D. Collazo, "Metropolitanas," *La Democracia*, 29 Jul. 1909, 1 ("la envidia de la América Latina"; "horrendo espantajo" para los pueblos hispanos") (quoting or paraphrasing President William McKinley); *Congressional Record* 44, [House Bills]:315 (1909); "A manera de epílogo," *La Democracia*, 2 Aug. 1909, 1; Collazo, "Metropolitanas," 27 Sep. 1909; Domingo Collazo, "Metropolitanas," 3 Dec. 1909, 1; Domingo Collazo, "Metropolitanas," 9 Dec. 1909, 1; Post to Secretary of the Interior, 17 Mar. 1909).

motion events revealing that divisions on the island had come to co-exist with near-consensus as to the desirability of U.S. citizenship for Puerto Ricans. On August 31, 1909, Post distributed dozens of surveys that began by asking respondents to comment on proposals to extend U.S. citizenship to Puerto Ricans through collective or individual naturalizations. Unionista leaders responded with apprehension. By soliciting opinions directly from people he chose, they worried, Post could be aiming to sideline the Unionista Party or to build a record that could cause Congress to treat Puerto Rico ungenerously. The Unionista newspaper *La Democracia* thus attacked the questionnaire as harmful to Puerto Rico while offering guidance to those Unionistas who chose to respond. In addition to asking party members not to contravene Unionista principles, the newspaper reminded readers that it was Unionista policy to seek complementary status for Puerto Rican people and Puerto Rican lands: Were the island destined to be an independent country, Puerto Rican citizenship would be appropriate; if statehood was in its future, U.S. citizenship was best. But with that decision pending, the party's leadership contended, "We are not in a position to settle on a citizenship."²⁸⁰

Despite Unionista leaders' objections to the survey, over one hundred fifty people responded. Nearly half were Unionistas. The results suggested consensus among mainlanders in positions of power on the island and Puerto Rican politicians and labor leaders that islanders should have some form of access to U.S. citizenship. Abraham Peña, a longtime colleague of Santiago Iglesias in the island labor movement, advocated

²⁸⁰ I thank Tomás Pérez Varela for sharing work in progress with me. See, e.g., Tomás Pérez Varela, "Conversación en torno a la ciudadanía: los cuestionarios de 1909," (MA thesis, Universidad de Puerto Rico, Recinto de Río Piedras, 2007). See also "Comentarios," *La Democracia*, 10 Sep. 1909, 1 ("no estamos en condiciones de fijar una ciudadanía"); MD NARA 350/[80/8G?]/1; "El interrogatorio," *La Democracia*, 7 Sep. 1909, 1; "Las reservas," *La Democracia*, 8 Sep. 1909, 1; "Union [sic] de Puerto-Rico," *La Democracia*, 9 Sep. 1909, 1; Cay. Colly Cuchi, "Torpeza contra justicia," *La Democracia*, 13, 15 Sep. 1909, 1.

collective naturalization and not individual naturalization, claiming “that we should not beg for an American citizenship to which we have a right.” Most respondees from the major island political parties and the Puerto Rican organized-labor movement agreed. B. S. Rodey, a mainlander and judge in the U.S. District Court for Puerto Rico, publicly described his efforts to win Puerto Ricans collective naturalization, though he also announced that he would prefer individual naturalization to no naturalization. Some other mainlanders favored individual naturalization to the exclusion of a collective grant of U.S. citizenship to Puerto Ricans. Despite these areas of agreement, however, leaders on the island appeared unlikely to put aside their recent battles over the budget to present a unified front in favor of some form of U.S. citizenship for Puerto Ricans. Then in early September 1909 Governor Post resigned.²⁸¹

²⁸¹ Survey of Abraham Peña, MD NARA 350/[80/8G?]/1 (“entiendo que la ciudadanía americana no debemos implorarla, si es que tenemos derecho á ella”); Pérez Varela, “Conversación, 14, 25, 30-31; Survey of B. S. Rodey, MD NARA 350/[80/8G?]/1.

CHAPTER 6

A “PECULIARLY GOVERNED” ISLAND: THE TWILIGHT OF U.S. CITIZENSHIP IN PUERTO RICO, 1909-1917

Santiago Iglesias was not displeased that the United States had condemned the protest for self-government by members of the Unionista majority party in Puerto Rico by weakening the sole elected legislative body on the island—the House of Delegates—and placing the island under the administration of the Bureau of Insular Affairs in the War Department. In fact, the Puerto Rican labor leader welcomed U.S. administrative rule. Enjoying little support in the House of Delegates, Iglesias hoped to ally with the new presidentially appointed governor and War Department masters of Puerto Rico. These men were potentially important friends. Between them, they led one of the most administratively powerful arms of the heterogeneous U.S. state, and as to matters involving Puerto Rico they largely set executive policy, shaped federal and Puerto Rican legislative agendas, and enjoyed the ear of the president. In communications to the American Federation of Labor, its president Samuel Gompers, and President William Taft that newspapers covered, he indicated to U.S. and Puerto Rican officials, workers, and voters that Puerto Rican organized labor was a natural ally of the U.S. administrative state. Iglesias’s labor organization, the Federación de Trabajadores Libres, and U.S.

administrators responsible for Puerto Rico, he argued, shared an enemy—Unionistas who pursued “Anti-American politics” and acted to the “injury of the labor interests”—and a recognition that islanders needed administration like “progressive education” and “the intervention . . . of GOVERNMENTAL AUTHORITY.” Favoring expansive federal power in Puerto Rico over greater home rule was an anti-democratic proposition on an island where residents did not cast votes for Congress or President. Nonetheless, Iglesias admitted that “the Government of Porto Rico is not a democratic one” while claiming that it nonetheless made “the island progress with intensity.” Characterizing self-government as a chance for Unionistas to exploit the “fatal ignorance” of under-educated Puerto Ricans and thus “bring slavery, ignorance and disgrace for 90 percent of the population,” Iglesias instead proposed another agency, a Department of Agriculture, Commerce and Labor.²⁸²

Iglesias took a roseate view of dependence, evincing little public concern that administration officials would abuse their authority. Yet, during these years, U.S. officials routinely coerced peoples throughout the U.S. empire-state. U.S. courts upheld maximum-hours laws for women and children as non-violative of liberty of contract by explaining that such dependent citizens—marked as inferior to adult men—could not represent their own interests. Widespread black disfranchisement rested on purported black failures to vote responsibly. And mainland commentators promoted U.S. colonial rule in Puerto Rico by depicting the island as a victim of Spanish colonialism, as unable to match Anglo-Saxon capacity for self-government, and as a permanent child subject to

²⁸² Copy, Santiago Iglesias and Abraham Peña to William Taft, 27 Nov. 1909, CDO:1 (quotes 1, 3-4, 8); *Report of Proceedings of the Twenty-Ninth Annual Convention of the American Federation of Labor Held at Toronto, Ontario, November 8 to 20, Inclusive, 1909* (Washington, D.C.: The Law Reporter Printing Company, 1909) [hereinafter *1909 Federation Report*] 40-42 (quotes 2, 5-7) (Iglesias Report), 217 (Resolution No. 87), 217-218 (Speech of Santiago Iglesias [hereinafter Iglesias Speech]).

a paternalistic U.S. tutelage suffused with discipline. Nonetheless, Iglesias imagined U.S. administrators governing island workers as good parents nurtured maturing children. Conceptualizing U.S. citizenship in terms of honorable exchanges of mutual obligations, Iglesias depicted Puerto Rican workers earning a status that would guarantee their transformation from administrative wards into autonomous political agents like adult, white, U.S. men. As he wrote, islanders tendered the United States allegiance by remaining “under the flag of the United States for ten years,” tolerating foreign investment, and respecting U.S. laws and officials. Implying that they thus merited U.S. citizenship, he contended that U.S. refusal “to recognize to the people of Porto Rico . . . the absolute right to be American citizens” let Unionistas cast U.S. officials as placing Puerto Ricans in the “shameful position” of “inferior human beings.” By contrast, he stressed, the Federación Libre “defend[ed] . . . the American public education and liberties” that Iglesias claimed dependent citizenship would bring. Those liberties, Iglesias vaguely indicated, encompassed some mix of rights to be free from active state coercions and to enjoy better economic outcomes. Thus, he explained, without U.S. citizenship “peaceful strike[rs]” were “subject[] to untold persecutions and shameful treatment at the hands of officials”; workers related to “sugar corporations” like so “many thousands of serfs” in Europe and faced “the same calamities, intermissions, and crises suffered by [the] American labor movement about forty years ago.” But with U.S. administrative help and U.S. citizenship, he argued, island laborers would “mathematically repeat[]” the “history” of implicitly white U.S. and European laborers and escape these conditions.²⁸³

²⁸³ *1909 Federation Report*, 217-218 (quote 1) (Iglesias Speech), 217 (quotes 2-4) (Resolution No. 87), 40-42 (quotes 5, 10-12) (Report of President (quoting report of Iglesias)), 203-204 (quotes 6-7) (Resolution

By the end of 1909 the political backlash in Washington against Unionistas' protest earlier that year had subsided, creating favorable conditions for those seeking liberalization of the Foraker Act. After Santiago Iglesias led an island labor delegation to petition President Taft for U.S. citizenship for Puerto Ricans on November 27, Taft asked the Treasury and War Departments to investigate, evaluate, and recommend reforms to the laws for Puerto Rico. On December 21, 1909, Bureau of Insular Affairs law officer Paul Charlton wrote a memorandum contending that U.S. citizenship could be safely extended to Puerto Ricans. The "only rights which a citizen . . . acquires by reason of his federal citizenship," he wrote, "are: (1) The protection of the United States . . . by a passport . . . ; and (2) Access to the federal Courts[, b]oth . . . rights . . . uniformly possessed by citizens of Porto Rico" already. Describing Puerto Rican political leaders as both beholden to "party bosses" and desirous of collective U.S. citizenship and an elected island senate, Secretary of War Jacob Dickinson then in January 1910 recommended to Taft a balance between islanders' desire and purported incapacity for democratic institutions. He proposed a senate of eight appointed and five elected senators;

No. 136); Iglesias and Peña to Taft, 27 Nov. 1909 (quotes 8-9); William E. Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, Mass.: Harvard University Press, 1991), 52-53; Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico* (Berkeley: University of California Press, 2002), 2; John J. Johnson, *Latin America in Caricature* (Austin: University of Texas Press, 1980); Eileen Suarez Findlay, "Love in the Tropics: Marriage, Divorce, and the Construction of Benevolent Colonialism in Puerto Rico," in Gilbert M. Joseph, Catherine C. LeGrand, and Ricardo D. Salvatore eds., *Close Encounters of Empire: Writing the Cultural History of U.S.-Latin American Relations* (London: Duke University Press, 1998). On memories of Reconstruction and belief in Anglo-Saxon superiority, see, e.g., David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001); Mark S. Weiner, "Teutonic Constitutionalism: The Role of Ethno-Juridical Discourse in the Spanish-American War" in Christina Duffy Burnett and Burke Marshall, eds., *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Durham, N.C.: Duke University Press, 2001); Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, Mass.: Harvard University Press, 2005) 159-166; Richard H. Pildes, "Democracy, Anti-Democracy, and the Canon," *Constitutional Commentary* 17 (2000) 295-319. Dissenting voices always existed, especially in the black community, most notably in this context that of W. E. B. Du Bois. *Black Reconstruction in America* (New York: Atheneum, 1992 [1935]). Hartog discusses the relationship between claims to rights and claims predicated upon dependence in "Constitution of Aspiration." 1016-1020.

streamlined, individual naturalization; disfranchisement of non-U.S.-citizens and those who did not meet a literacy, property, or taxpaying requirement; and creation of Iglesias's proposed Department of Agriculture, Commerce, and Labor.²⁸⁴

In the weeks that followed, new Governor of Puerto Rico George Colton wrote Dickinson and his subordinates that politics in Puerto Rico resembled those of post-emancipation societies, urban political machines, and lands populated by people of color at the periphery of the U.S. empire-state. In the 1880s, Colton had ranched in New Mexico, a territory with both a large Spanish-speaking community of Mexican descent and ongoing conflicts between American Indians and the U.S. military. Later, he had joined the 1898 U.S. invasion of the Philippines as a Lieutenant Colonel in the First Nebraska Volunteers before organizing the Manila customs service and the customs receivership in the Dominican Republic. Drawing on this “personal experience dealing with similar people elsewhere,” he told Dickinson that “rules of action that might be appropriate in an Anglo-Saxon country would not always be expedient if adopted among a people of Spanish education and customs.” Rather, like Iglesias, he claimed that most Puerto Ricans' interests would be served by the combination of an administrative state that checked elected elites and “education and property” voting qualifications. “[T]he principal trouble in Porto Rico,” he wrote, was that the “political machine” behind Unionista leader Luis Muñoz's “intolerant bossism” won “the sympathy of the ignorant classes.” This, he contended, was the “condition [that] existed in our Southern States

²⁸⁴ Paul Charlton to Secretary of War, 21 Dec. 1909, MD NARA 350/5B/180G/1286-11; *Hearings Upon the Bill Proposing to Amend the Present Organic Law of Porto Rico*, Committee on Insular Affairs, House of Representatives, 61st Cong., 2d sess. (Washington, D.C.: Government Printing Office, 1910), 1-47, 242, available at MD NARA 350/5A/339/3377-28 [hereinafter *1910 Hearings*]; Extract from Cablegram, Copy, Colton to Secretary, March 2[5?], 1910, CDO:1; “Gov. Post Resigns to Taft,” *New York Times*, 8 Sep. 1909, 7; “May Gain Citizenship,” *Washington Post*, 22 Dec. 1909, 5; “Conditions in Porto Rico,” *Chicago Daily Tribune*, 1 Dec. 1909, 8.

during the days of ‘reconstruction,’” where “those qualified to participate in self government” were “prevented from having any voice.” Drawing on the specter of Haiti and describing Puerto Ricans in animalistic terms, Colton argued that the danger was that an “ignorant class” who “followed their leaders blindly, with little more than an instinct,” “like sheep,” would let politicians “by their wild actions . . . make a veritable Haiti of the country.” Thus, despite their differences, Colton and Iglesias agreed “that labor will receive no consideration whatever from the Cacique system in vogue.”²⁸⁵

In February 1910 the U.S. House of Representatives Committee on Insular Affairs opened hearings on Dickinson’s proposed bill. Puerto Rican witnesses and U.S. Congressmen tangled over the relationship of U.S. citizenship to honor, race, rights, and the status of Puerto Rico as a place. Unionistas Luis Muñoz and Cayetano Coll y Cuchi asked the committee for collective naturalization and an elected senate and denounced provisions requiring that islanders naturalize in order to vote or hold office. Explaining that Puerto Ricans had enjoyed national citizenship under Spain, they contended that while U.S. citizenship was a “great honor” it was also a “right” that “the dignity of the people should not be begging for.” After prior annexations, they testified, the United States had collectively naturalized new residents or placed the matter in the hands of their territorial legislatures, and “no matter how good or high the civilization of Mexico, Louisiana, and Florida were when they were ceded, they could not have equaled the

²⁸⁵ Cablegram, Colton to Dickinson, 3 Mar. 1910, MD NARA 350/5A/341/3377-53 (quotes 1-2); Cablegram, Colton to Edwards, 1 Mar. 1910, MD NARA 350/5A/341/3377-49 (quotes 4, 6, 9); Colton to Edwards, 23 Feb. 1910, MD NARA 350/ 5A/341/3377-46 (quotes 7, 11); Colton to Edwards, 2 Mar. 1910, MD NARA 350/5A/341/3377-57 (quotes 3, 5, 8, 10, 12); Cablegram, Colton to Dickinson, 23 Feb. 1910, MD NARA 350/5A/341/3377-40 (quotes 15-16); “George R. Colton Dead.: Ex-Gov. of Porto Rico, who Drafted New Tariff for Philippines,” *New York Times*, 8 Apr. 1916; Colton to Dickinson, 19 Jan. 1910, MD NARA 350/5A/339/3377-20. On American Indians and Mexican-Americans, see, e.g., John Nieto-Phillips, “Citizenship and Empire: Race, Language, and Self-Government in New Mexico and Puerto Rico, 1898-1917,” *Journal of the Center for Puerto Rican Studies* 11 (fall 1999): 51-74.

present civilization of Porto Rico.” Yet Dickinson’s plan treated each islander like a “foreigner or alien” and, by imposing a citizenship requirement for office holding that American Indians did not face, placed Puerto Ricans “in the federal laws below the Indians.” The resultant citizenship, Muñoz later explained, would be the “humiliating” result of a “despotic,” not “honorable” process. Moreover, Coll y Cuchi explained, failing to recognize Puerto Ricans collectively as U.S. citizens let islanders “think[] that Porto Rico may [be] turned into a republic.”²⁸⁶

Muñoz’s and Coll y Cuchi’s claims provoked Republican Representative Albert Douglas of Ohio, who drew the men into a discussion of the value of U.S. citizenship:

Mr. Douglas. Is it not true that if the people of Porto Rico had the opportunity voluntarily to become citizens of the United States and refused the privilege that they ought to be willing to relinquish the small right of holding office in Porto Rico?

Mr. [Muñoz]. That would be all right if American citizenship in Porto Rico would mean what it means here in the United States.

Mr. Douglas. It does. It would not give you the right to vote in New York City, but I can not do that.

Mr. Cuchi. I would not be able to vote for President or to send a man to Congress.

Mr. Douglas. You could not do that if you lived in Washington.

Mr. Cuchi. Washington is peculiarly governed.

²⁸⁶ *1910 Hearings*, 128-129 (quotes 4-6), 131 (quote 1), 145 (quotes 2-3), 141 (quote 7), 140 (quote 10); *A Civil Government for Porto Rico: Hearings Before the Committee on Insular Affairs, House of Representatives, 63d Cong., 2d sess., on H. R. 13818, A Bill to Provide a Civil Government for Porto Rico, and for Other Purposes* (Washington, D.C.: Government Printing Office, 1914), 66-67 [hereinafter *1914 House Hearings*], available at MD NARA 350/5A/340/3377-157 (quotes 8-9).

Mr. Douglas. So is Porto Rico—very peculiar.

The exchange was a microcosm of a dozen years of conflicting Puerto Rican and U.S. claims around U.S. citizenship. After Douglas described U.S. citizenship in aspirational terms as a “privilege” on which political rights ought to hinge, Muñoz reminded him that the status would not fulfill Puerto Rican hopes for equal rights. Switching to a more technical register, Douglas then sought to disassociate federal citizenship from state political rights. At this point, Coll y Cuchi interjected to remind him that federal law and not state law denied Puerto Ricans a voice in U.S. governance. That, both men agreed, linked the status of Puerto Ricans to the equally knotty tangle of the status of Puerto Rico as a place.²⁸⁷

Beginning in April 1910, Governor Colton encouraged Congress to act by rallying islanders and their administrators around a consensus set of proposed reforms. Writing Secretary Dickinson that former Democratic presidential candidate William Jennings Bryan had been warmly received by Unionistas during his ongoing tour of Puerto Rico, Colton proposed asking Bryan to help him broker a compromise between the administration, Iglesias’s Federación, and Unionistas. Negotiations and cables followed, until all sides supported: collective naturalization; disfranchisement; a department of agriculture, commerce, and labor; an elected senate; and an absolute gubernatorial veto. Now, rather than solicit a congressional enactment opposed by elected representatives of its purported beneficiaries, Dickinson and Colton lobbied Congress for the new bill jointly with Iglesias, Unionistas, and American Federation of Labor President Samuel Gompers. In June 1910, the U.S. House of Representatives passed a somewhat different

²⁸⁷ *1910 Hearings*, 146.

bill, proposing to make all Puerto Ricans U.S. citizens but not immediately extending them an elective senate.²⁸⁸

Opposition in the Senate remained. For example, Republican Senator Elihu Root of New York, the architect when Secretary of War of the initial U.S. policy in Puerto Rico, opposed U.S. citizenship for Puerto Ricans. As he told a confidant, “If we give citizenship to the Porto Ricans the next step inevitably would be a demand for statehood with the same kind of pressure which New Mexico and Arizona are now exerting.” Instead he proposed eventually making “our relations to her approximate our relations to Cuba, with a protectorate [like] that which we virtually have over Cuba.” Gridlock ensued. The Senate did not act. The bill died.²⁸⁹

Iglesias made gains while attempting to ally with U.S. administrators. Dickinson’s draft legislation had sided with Iglesias against the island’s political class by putting little new power into elected Puerto Ricans’ hands, disfranchising many, and creating federally controlled administrative posts. Puerto Rican politicians had then focused their ire on the provision most contrary to Iglesias’s vision: individual naturalization. Colton’s compromise had placed island politicians and U.S. administrators behind collective naturalization, disfranchisement, and a department of agriculture, commerce, and labor. Though Iglesias had conceded his opposition to an elected senate, he had won support for a proposed absolute gubernatorial veto that would deprive elected Puerto Ricans of power

²⁸⁸ “Taft’s Message Urges Reforms,” *Chicago Daily Tribune*, 7 Dec. 1910, A15; “For Elective Citizenship,” *Washington Post*, 4 May 1910, 5; “Porto Ricans in City,” *Washington Post*, 27 Apr. 1910, 4; José A. Cabranes, “Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans,” *University of Pennsylvania Law Review* 127 (1978): 457; Colton to Secretary, 2[5?] Mar. 1910; Cablegram, Colton to Dickinson, 15 Apr. 1910, MD NARA 350/5A/341/3377-82; Colton to Taft, 20 Apr. 1910, MD NARA 350/5A/341/3377-85; Colton to Dickinson, 1[?] Apr. 1910, MD NARA 350/5A/341/3377-84; Copy, Santiago Iglesias, [Title unknown], *Unión Obrera*, 29 Apr. 1910, CDO:1; Memorandum of [George Colton], [Apr. or May 1910], MD NARA 350/5A/341/3377-86.

²⁸⁹ Philip C. Jessup, *Elihu Root*, vol. 1 (New York: Dodd, Mead & Company, 1938), 378-379 (quotes); Cabranes, “Citizenship and the American Empire,” 457.

to enact laws without the support of U.S. officials. That year Colton also advocated an Employers' Liability law and made a supportive Labor Day proclamation. Iglesias recognized these advances, and in late 1910 sent Gompers positive reports about Colton. Weeks later Gompers deemed Colton "the first American official in Porto Rico who has ever taken up the labor problem intelligently and sympathetically."²⁹⁰

During congressional consideration and non-enactment of Puerto Rico legislation in 1910 differences had become visible between and among island leaders and federal officials concerning the desirability of self-government, sovereignty, and U.S. citizenship for Puerto Ricans. Unionistas favored immediate home rule in Puerto Rico unencumbered by federal oversight. Iglesias, his Federación Libre, Governor Colton, War Department officials, and Senator Root advocated ongoing federal control. Root proposed to control Puerto Rico as a separate, dependent nation, like Cuba. Iglesias, Colton, and War preferred continuing U.S. administration. Iglesias envisioned protected workers becoming educated, autonomous political agents, while Colton and War officials sought to build island support for a modified colonial regime. Unionistas, who differed among themselves concerning the desirability of Puerto Rican sovereignty, asked in their platform that Puerto Rico be an independent nation, an autonomous territory, or a state. For all parties, U.S. citizenship was a language with which they built alliances, vilified adversaries, and pursued legislative and administrative priorities.²⁹¹

²⁹⁰ *Report of Proceedings of the Thirtieth Annual Convention of the American Federation of Labor Held at St. Louis, Missouri, November 14 to 26, Inclusive, 1910* (Washington, D.C.: The Law Reporter Printing Company, 1910), 19-20 (report of Gompers); "Pto Rico: report del presidente de la American Federation of Labor ante la convención de San Luis. noviembre 14 de 1910," *Unión Obrera*, 13 Dec. 1910, 1; Cabranes, "Citizenship and the American Empire," 453-459; Samuel Gompers to Santiago Iglesias, 30 Aug. 1910, SGL 159/1029; Samuel Gompers to Santiago Iglesias, 7 Sep. 1910, SGL 160/208; Samuel Gompers to Santiago Iglesias, 7 Oct. 1910, SGL 161/291.

²⁹¹ Gonzalo Córdova, *Resident Commissioner, Santiago Iglesias and His Times* (Río Piedras: Editorial de la Universidad de Puerto Rico, 1993), 117-121; Chapter 4 above, notes 227 (discussing Unionista aspirations

Iglesias and Colton formed a public partnership to seek collective naturalization of Puerto Ricans in late 1911, after Iglesias wrote Colton soliciting his support for the measure. In an October 30 reply that Iglesias circulated widely, Colton declared himself “unreservedly in favor of” the proposal, which he depicted as popular with islanders. Having privately criticized Unionistas as “machine” politicians, Colton now marginalized them, aligning himself and not them with Puerto Rican opinion by offering his “full cooperation” to a Federación Libre that he claimed “represent[ed] . . . the largest class of people in the Island.” He promoted this stand in ways both consistent with his advocacy of continued administrative rule in Puerto Rico and responsive to some mainlanders’ worries that islanders were racially or politically unfit for U.S. citizenship. Making no mention of U.S. citizenship bringing Puerto Ricans rights or eventual statehood, Colton compared islanders to women, children, and immigrants—all peoples who were or were becoming U.S. citizens and either did not exercise or were thought by many mainlanders incapable of competently exercising full political rights. Islanders did not share mainlanders’ “rugged temperament,” he wrote, but were “sympathetic, lovable and loyal,” adding “a note of commingled sweetness, patience, and idealism.” Moreover, he added, “many thousands of foreigners, with to say the least no better qualifications than [Puerto Ricans], have immigrated to the United States and individually become citizens.” Drawing on popular reverence for U.S. citizenship and its potentially narrow legal compass, Colton advocated collective naturalization of Puerto Ricans in terms that presupposed permanent U.S. rule of their island. They were “a part of us and our country,” he explained, “entitled . . . to all of the benefits of our institutions sentimental and otherwise.” Conversely, Colton implied, withholding U.S. citizenship symbolically

for an island government like that of Cuba, Canada, or U.S. states).

marked Puerto Ricans as inferior outsiders, an indignity they felt keenly.²⁹²

Six weeks later Senator Root wrote the newly appointed Secretary of War, Henry Stimson, to counsel him not to join Governor Colton in publicly advocating U.S. citizenship for Puerto Ricans. Presuming that Stimson opposed statehood or substantial rights for Puerto Ricans, Root argued that naturalization would breed discontent and damage U.S. citizenship. Root depicted citizenship without self-rule as a greater indignity than the current ambiguous Puerto Rican status, predicting that naturalized islanders would “resent having the other citizens of the United States take part in governing them while they are refused the right to take part in governing any part of the rest of the country” and so would “demand all the rights of citizens.” Ignoring that many women, racial minorities, and lower-class whites could not vote on the mainland, he argued that making Puerto Ricans into U.S. citizens having “nothing to do with the government” of the United States would be “a revolution in . . . American citizenship” likely to “make serious trouble.” Instead, Root proposed resurrecting his policy as Secretary of War toward Cuba. “[T]he relations of [Puerto Rico] to the United States should be approximated as rapidly as is possible to a protectorate,” he wrote, thus freeing the United States from the difficulties of possessing and governing the island. Under the Monroe Doctrine and through threats of invasion and receivership, he explained, the

²⁹² Geo. Colton to Santiago Iglesias, 30 Oct. 1911, DC NARA 46/91/Sen 62A-F17/Citizenship Granting of to Porto Ricans; *Report of Proceedings of the Thirty-First Annual Convention of the American Federation of Labor Held at Atlanta, Georgia, November 13 to 25, Inclusive, 1911* (Washington, D.C.: The Law Reporter Printing Company, 1911) [hereinafter *1911 Federation Report*] 300 (Resolution No. 39); Cablegram, Colton to Secretary of War, 5 Dec. 1911, MD NARA 350/5B/311/12886-26; George Colton to Clarence Edwards, 8 Dec. 1911, MD NARA 350/5B/311/12886-29; see also Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (Chicago: University of Chicago Press, 1996); Glenda Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy* (Chapel Hill: University of North Carolina Press, 1996); Johnson, *Latin America in Caricature*; José-Manuel Navarro, *Creating Tropical Yankees: Social Science Textbooks and U.S. Ideological Control in Puerto Rico, 1898-1908* (New York: Routledge, 2002).

United States could exclude other powers from the island and control its governance.²⁹³

Stimson declined Root's advice, and in his 1911 annual report publicly advocated continued U.S. administrative rule in Puerto Rico and collective naturalization of Puerto Ricans. Seeking federal legislation, he made what he termed sentimental and practical cases for U.S. citizenship. As a "sentimental" matter, he wrote, "continued refusal to grant [U.S. citizenship to Puerto Ricans] will gravely wound the[ir] sensibilities"; on the "practical" side, the Puerto Rican abroad was a "man without a country." This latter claim was a questionable one. While overseas, Puerto Ricans already enjoyed benefits of U.S. citizenship: U.S. passports, consular protections, and passage through U.S. immigration and customs as "American[s]." Juridically, they differed little from those who were unambiguously U.S. citizens. Instead, the reference seems to have been to Edward Hale's 1868 pro-expansion story of the same name. That story opens with a judge sentencing a man raised on the borderlands of U.S. expansion never again to hear about or see the United States. Subsequently confined to U.S. naval vessels, the man becomes "nervous, tired," and "heart-wounded" over his loss of nation. Though many sailors sympathize with his plight, bureaucratic indifference prevents his pardon. Puerto Rico faced a similar plight. An expansionist, nationalist United States caused substantial psychological harm to recently acquired peoples resident in territories "belonging" to the United States, then thoughtlessly used law to deprive those people of the right to act, be recognized, and see themselves as full members of the nation. Stimson indicated that Puerto Ricans, like Hale's protagonist, had "earned" membership in the U.S. nation through "sustained loyalty." But by distinguishing Hale's "practical" story from

²⁹³ Root to Stimson, 7 Dec. 1911, MD NARA 350/5B/180G/1286-36.5; see also Cyrus Veese, *A World Safe for Capitalism: Dollar Diplomacy and America's Rise to Global Power* (New York: Columbia University Press, 2002), 98-154; Scott, *Degrees of Freedom*, 200-269.

islanders' desire for U.S. citizenship, Stimson implicitly feminized and racialized islanders, rendering them dissimilar from Hale's white, male, mainland protagonist and disassociating them from the traits of capacity, action, and accomplishment associated with the word "practical." Making their concerns "sentimental," a term frequently placed in opposition to reason and a literary genre associated with women, reinforced the impression.²⁹⁴

During their joint pursuit of U.S. citizenship, Iglesias, Governor Colton, and Secretary Stimson regarded each other well, made political gains, and maintained relative industrial peace. By the end of 1911, Iglesias publicly praised Stimson's and Colton's statements favoring U.S. citizenship, and Colton told War that Iglesias was an important ally who, "with some difficulty, kept the members of [the Federación] friendly to the American Government by holding out to them the hope that citizenship could come." In these years, Iglesias focused resources on Washington, soliciting, publicizing, and praising statements from the president and congressmen supporting U.S. citizenship for Puerto Ricans and overseeing a lobbying effort in which dozens of island unions petitioned Congress for "a bill, declaring, THAT ALL CITIZENS OF PORTO RICO SHALL BE CITIZENS OF THE UNITED STATES." "[W]e have," Iglesias told the Federation, bent "our efforts most assiduously to the conquest and consolidation of the civil rights and political guarantees of the people of Porto Rico rather than to struggling

²⁹⁴ Excerpt from War Department, *Annual Report, 1911*, CDO:2; Gonzales v. Williams, 192 U.S. 1, 13, 15 (1904) (quoting Immigration Act of 1891, *Statutes at Large* 26 (3 Mar. 1891): 1084); Opinion of the Attorney General, 24 Op. Atty. Gen. 40 (13 May 1902); Baldwin Project transcription of Edward Everett Hale, *The Man Without a Country* (New York: The Platt & Peck Co., 1910 [1863]), 46, passim, available at <http://www.mainlesson.com/display.php?author=hale&book=country&story=without> (2000-2008); Brooke Thomas, "'The Man without a Country': The Patriotic Citizen, Lincoln, and Civil Liberties," in *Civic Myths: A Law-and-Literature Approach to Citizenship* (Chapel Hill: University of North Carolina Press, 2007), 55-101; Downes v. Bidwell, 182 U.S. 244, 287 (1901); [Stimson] to Samuel Gompers, 19 Dec. 1911, MD NARA 350/5B/180G/1286-31; *OED Online* (Oxford University Press, 2008), <http://oed.com>; Paul Charlton to Secretary of War, 21 Dec. 1909, MD NARA 350/5A/180G/File 1286-11.

in the industrial and economic field.”²⁹⁵

In fall 1912, Iglesias and his followers sought to transform their administrative alliance into electoral power by running labor candidates and attacking Unionista policies and leaders. To that end they produced two documents addressed to island workers and turned out one of them in an English edition, thereby also speaking to U.S. officials and other mainlanders. The choice that faced readers, the authors wrote, was between U.S. “good government” and a Unionista rule akin to racial slavery. Many Unionistas, they noted, had served in the Autonomous Cabinet of 1898, which Iglesias and his followers portrayed as a “tyrannical, . . . monarchical colonial government.” Before the U.S. invasion, they wrote, workers had been “submissive slaves,” “the proposed granting of ‘universal suffrage’” to whom some current Unionistas had opposed as likely to “hurt . . . whites” and “cause racial struggles.” Relief had only come with U.S. forces, and still Unionistas oppressed workers through local office holding, thereby controlling “at will the police, the judiciary and public offices.”²⁹⁶

Despite the good intentions and veto power of the governor and the mainlander-dominated Executive Council, the authors argued, control of the House of Delegates by

²⁹⁵ Colton to Edwards, 15 Nov. 1911, MD NARA 350/5B/180G/1286-27 (quote 1); DC NARA 233/626/HR 62A-H13.1 (quote 2); *Report of Proceedings of the Thirty-Third Annual Convention of the American Federation of Labor Held at Seattle, Washington, Nov. 10 to 22, Inclusive, 1913* (Washington, D.C.: The Law Reporter Printing Company, 1913) [hereinafter *1913 Federation Report*], 122-124 (quote 3) (Report of Santiago Iglesias in appendix to Report of President); *1911 Federation Report*, 300 (Resolution No. 39); Santiago Iglesias, “La Federación Libre y el Secretario de la Guerra,” *Unión Obrera*, 26 Dec. 1911, 1; *Report of Proceedings of the Thirty-Second Annual Convention of the American Federation of Labor Held at Rochester, New York, November 11 to 23, Inclusive, 1912* (Washington, D.C.: The Law Reporter Printing Company, 1912), 17 (President Gompers’s Report); *A People Without a Country* (Washington, D.C.: American Federation of Labor, 1912) available at CDO:2; W. H. Taft to Mr. Iglesias, 15 Apr. 1912, CDO:2; DC NARA 46/91/Sen 62A-F17/Citizenship Granting of to Porto Ricans. It was Gompers’s normal practice to draw on a report submitted by Iglesias in preparing the parts of his annual reports to the Federation that concerned Puerto Rico. See correspondence with Iglesias in SGL.

²⁹⁶ Santiago Iglesias, *The People and Their Civil and Political Rights – Period of Autonomous Government. Electoral Campaign, 1912*, CDO:2; *La Unión Obrera Central, Los Obreros Contra Herminio Díaz Navarro*, San Juan, P.R., 2 Sep. 1912, CDO:2. Córdova, *Resident Commissioner*, 118.

Unionistas also posed a threat to island workers. Writing against a legal-cultural dynamic and history familiar to island workers, they cited laws of legitimacy, seduction, and marriage to make their case.

In Puerto Rico, legitimacy laws exemplified how hierarchies of class and race interwove with state power and social expectations to dishonor and economically disadvantage laborers. Lower-class Puerto Ricans regularly formed consensual unions rather than marrying. The practice dated to Spanish rule when complaints about religious fees for weddings were common, divorce was essentially impossible, and the church was largely absent. It had persisted after U.S. reforms had eased access to civil ceremonies and divorce. As elsewhere, many Puerto Ricans recognized a sexual double standard around honor. For women, honor meant sexual propriety. Men, by contrast, both recognized a duty to control female relations' sexual practices and saw pursuit of nonmarital sexual relationships as a prerogative and affirmation of manhood. Elite men sometimes reconciled these norms by pursuing extramarital sexual relations with lower-class women. The practice infuriated many working-class men and produced out-of-wedlock births. Spanish laws had generally marked these disproportionately working-class, out-of-wedlock children as either natural or illegitimate, statuses that had reduced those children's inheritance rights.²⁹⁷

²⁹⁷ Division of Customs and Insular Affairs, War Department trans., *Translation of the Civil Code in Force in Cuba, Porto Rico, and the Philippines* (Washington, D.C.: Government Printing Office, 1899), 21-28, 106-144, available at MD NARA 350/5A/31/246:1; Eileen J. Suárez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870-1920* (Durham, N.C.: Duke University Press, 1999); Sueann Caulfield, Sarah C. Chambers, and Lara Putnam eds., *Honor, Status and Law in Modern Latin America* (Durham, N.C.: Duke University Press, 2005) (especially Lara Putnam, Sarah C. Chambers, and Sueann Caulfield, "Introduction: Transformation in Honor, Status, and Law over the Long Nineteenth Century," 1-26); Sueann Caulfield, *In Defense of Honor: Sexual Morality, Modernity, and Nation in Early-Twentieth-Century Brazil* (Durham, N.C.: Duke University Press, 2000); Henry K. Carroll, *Report of Porto Rico* (Washington, D.C.: Government Printing Office, 1899), 35-36, 690-712; Briggs, *Reproducing*

Iglesias and his followers criticized what they termed “monarchical . . . privileges for the upper classes” as inconsistent with “[c]ivil equality and the equality of women to men.” They were partly counter-balanced, they claimed, by the Spanish law of seduction, under which “fathers who suffered the disgrace” of “villains” seducing their daughters could ensure that each “seducer” would either “immediately repair the offense” through marriage or suffer “punishment.” Either case, the authors wrote, “vindicat[ed] the purity and honor of Puerto Rican maidens and . . . punish[ed] debasers of the honor of the daughters of the country.”²⁹⁸

According to Iglesias and the Federación, in years past it had been U.S. officials who had defended and Unionistas who had opposed the civil equality and honor of Puerto Rican workers. In 1902, a coalition between U.S. officials and Republicanos had legitimized consensual unions and offspring therefrom. Another law had given acknowledged natural children equal inheritance rights. After Unionistas took over the House of Delegates, they “overthr[ew]” these “American institutions” and “effectively annulled” the Spanish law of seduction, making it “nearly impossible to punish villains who outwit and dishonor the daughters of the country.” While castigating Unionistas, the argument did not implicate U.S. officials. Though U.S. judges had once liberally recognized consensual unions as common-law, or natural, marriages, the practice had

Empire, 57, passim; Samuel Silva Gotay, *Catolicismo y política en Puerto Rico: bajo España y Estados Unidos: siglos XIX y XX* (San Juan: La Editorial Universidad de Puerto Rico, 2005), 74, 256-261.

²⁹⁸ Iglesias, *People and Their Civil and Political Rights* (quotes 1-2, 4); Unión Obrera Central, *Los Obreros Contra Herminio Díaz Navarro* (quotes 3, 5-8 (excerpted from: “Herminio Díaz Navarro es responsable prácticamente, de haber anulado la efectividad del Art. Del Código Penal, que garantizaba completamente la reivindicación de la pureza y el honor de las doncellas puertorriqueñas y aseguraba la persecución y castigo de los seductores y envilecedores de la honra de las hijas del pueblo”; “Los padres de familia que tenían la desgracia de que sus inocentes hijas cayeran rendidas por amor, en los brazos de un malvado, el Código Penal contenía un artículo que protegía a estos padres a hijas, y no había seductor que pudiera escapar del castigo merecido, si no reparaba inmediatamente la ofensa”; “He[r]minio Díaz Navarro logró en la Cámara Legislativa, enmendar el artículo del Código Penal, en tal forma, que hoy es casi imposible castigar a los malvados que se burlan y deshonoran a las hijas del pueblo.”)).

entered decline in the late-19th century. Iglesias and his followers argued that these limits were the rare U.S. innovations that proved poor fits for the island; years after implementing liberal U.S. marriage and divorce laws more than a third of island births remained out of wedlock.²⁹⁹

Though Iglesias and his colleague drew few adherents in the 1912 electoral campaign, they provoked substantial Unionista ire. Prior to the election, Unionistas had come to see separatism as their best route to greater self-government. Contending that Congress would never make Puerto Rico a state, they had removed statehood from among the alternatives that they sought in their party platform. And long hopeful that Democrats favored extending greater autonomy to the island, they had also announced that were Democrats to win the national elections in 1912 and not extend Puerto Rico home rule, Unionistas would abandon that goal, leaving independence as the only status they sought for their island. Iglesias and his colleagues, with their insistence that island masses would benefit from continued U.S. administration, thus opposed Unionistas on their marquee issue: status. In January 1913, soon after the new House of Delegates convened, José de Diego, its speaker and a leading Unionista *independista*, attacked Iglesias for effective and purportedly unpatriotic lobbying in Washington. Iglesias and his colleagues, De Diego charged, “machinate in Washington, in the Department of War,

²⁹⁹ Iglesias, *People and Their Civil and Political Rights* (quotes 1-2); Unión Obrera Central, *Los Obreros Contra Herminio Díaz Navarro* (quotes 3-4); Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1985). For the Spanish originals of the latter quotations, see note 298 above. On the rise and fall of the Republicano party in Puerto Rico, see chapters 1-3 above. On honor in the U.S. context, see Ariela Gross, *Double Character: Slavery and Mastery in the Antebellum Courtroom* (Princeton, N.J.: Princeton University Press, 2000), 47 (describing cultures of honor as varying by time and place); Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South*, 25th anniversary ed. (New York: Oxford University Press, 2007 [1982]); J. Mills Thornton III, Review, *American Historical Review* 88 (Jun. 1983): 753-754; Julia Simon-Kerr, “Unchaste and Incredible: The Use of Gendered Conceptions of Honor in Impeachment,” *Yale Law Journal* 117 (2008): 1854-1898 (examining uses of the word “honor” in pre-1900 U.S. legal contexts).

before congressional committees,” accusing islanders “of immorality and despotism” to deny “the undeniable capacity and the indestructible right of the Puerto Ricans to rule their own destinies.” When it later summarized the speech, Unionista newspaper *La Democracia* further attacked Iglesias. Using Iglesias’s birth on the Iberian peninsula to impugn his loyalty, the paper described Iglesias’s advocacy of U.S. citizenship for Puerto Ricans as solicitation “by a Spaniard disloyal to his own citizenship, [of] the American citizenship for the Puerto Ricans.” Ignoring the difficulties of organizing the island’s more than half a million, overwhelmingly rural laborers, de Diego added in his speech that Federación Libre members numbered a mere handful of thousand artisans because “patriotic . . . Puerto Rican workers. . . will never join . . . those who . . . persecuted the dignity and the liberty of our fatherland.”³⁰⁰

Federación Libre members responded by publishing the pamphlet *The Tyranny of the House of Delegates of Porto Rico* and distributing it among U.S. and Puerto Rican laborers and politicians. In it they countered De Diego’s appeal to Puerto Rican patriotism with a vision, Atlantic in scope, of emancipated citizens toppling monarchical slaveholders. While serving in the Autonomous Cabinet under Spain in 1898, the Federación related, many current Unionistas had, like “aristocrats” “in the majority of Latin American Republics,” tried to set up an “oligarchy.” They had been “feudal

³⁰⁰ “Gran oración parlamentaria,” *La Democracia*, 12 Feb. 1913, 1 (quotes 1-3, 5 (“maquinan en Washington, en el Departamento de la Guerra, ante las Comisiones del Congreso”; “inmoralidad y despotismo”; “la innegable capacidad y el indiscutible derecho de los puertorriqueños a regir sus propios destinos”; “los obreros puertorriqueños . . . patriotas, no . . . ingresarán jamás . . . los que . . . persiguen la dignidad y la libertad de nuestra patria”)); “Cuestiones obreras,” *La Democracia*, 4 Feb. 1913, 1 (quote 4 (“por un español infiel a su propia ciudadanía, la ciudadanía americana para los puertorriqueños”)); Córdova, *Resident Commissioner*, 117-119; *1914 House Hearings*, 5, 33, 62, 66-67; Cabranes, “Citizenship and the American Empire,” 464; *Civil Government for Porto Rico: Hearings before the Committee on Pacific Islands and Porto Rico United States Senate, 63d Cong., 2d sess., on S. 4604 a Bill to Provide a Civil Government for Porto Rico, and for Other Purposes* (Washington, D.C.: Government Printing Office, 1914), 4, 8-9, 16, 19, 36, 50-55 [hereinafter *1914 Senate Hearings*], available at MD NARA 350/5B/488/3377-216.

patriarchs,” the organization elaborated, each with a “lordly dominion” like that that “the memorable French Revolution swept away.” After U.S. military governors freed labor leaders, declared a free press, encouraged criticism of officials, and protected worker meetings, the Federación wrote, Unionistas still saw workers as “the pariahs and disfranchised in Europe, and the slave in America,” “declar[ing] from the very midst of the House of Delegates that” the “organized masses” “should be suppressed.” Unionistas aimed to “strangle . . . blessed [U.S.] freedom,” they continued, so that the “modern Puerto Rican slaveholder . . . [could] walk tranquilly through these towns, his seigniorial domain, while the freeman, the civilian, the energetic defender of the rights of his fellow citizens, has to leave.” But, the Federación argued, Unionistas would fail. Effacing the distinction between U.S. citizenship, which Iglesias still sought—and citizenship of Puerto Rico—which Puerto Ricans already enjoyed, the Federación claimed that citizenship gave Puerto Rican workers “personality,” “elevate[d] and dignif[ied] them, and made them “respectable.” Iglesias and his Federación no longer cast workers as mere wards dependent on U.S. protection. They had become, in the words of the Federación, “free citizens, absolute masters of [their] acts and convictions,” and “energetic defender[s] of the rights of [their] fellow citizens.”³⁰¹

The pressure that Iglesias and his colleagues applied to Unionistas had its intended effect. Already in 1912, Iglesias had secured a Bureau of Labor for the island. In 1913, Iglesias told island and mainland workers that “representative members of the insular political parties and legislators came to realize that it was no longer possible to ignore the just demands of organized labor.” He detailed a raft of legislation supported by

³⁰¹ Free Federation of Laborers of Porto Rico, *The Tyranny of the House of Delegates of Porto Rico* (1913), CDO:2.

the Federación that delegates had introduced and stated that six hundred new schools opened their doors to 30,000 children that year.³⁰²

Citizenship Reborn: From Protection to Claims Making, 1913-17

The U.S. political landscape shifted on March 4, 1913, when for only the second time since the Civil War an elected Democrat became U.S. President. The American Federation of Labor welcomed Woodrow Wilson's new administration, and quickly won from it key clauses in the Clayton Act, including one that declared that "the labor of a human being is not a commodity" and a second that the Federation hoped would curb anti-labor injunctions by recalcitrant mainland judges. For Iglesias, these legislative victories mattered less than Wilson's appointment of Arthur Yager as Governor of Puerto Rico and Lindley Garrison as Secretary of War, for in Puerto Rico it was administrators more than judges and legislatures who exercised autonomy, capacity, and authority. Iglesias, who now had to build new relationships with new leaders, faced potential losses of influence and friends in Washington following the change in administration. Unionistas, by contrast, welcomed and sought to exploit Democratic ascendance, which they had long predicted would bring greater self-government to their island. As in years past, administrators and congressmen also tried to formulate new policy for Puerto Rico. Puerto Ricans and U.S. officials often claimed that a U.S. citizenship that had come unmoored from rights and democracy mattered most as an omen of the ultimate status of the island, though few agreed as to what exact status it portended. Island representatives thus faced the challenge of formulating positions on a U.S. citizenship with a meaning

³⁰² *1913 Federation Report*, 123-124 (Report of Iglesias in appendix to Report of President); Córdova, *Resident Commissioner*, 115-116.

that depended on what U.S. congressmen intended by proposing to extend it.³⁰³

In 1914, the legislative fate of Puerto Rico in the House of Representatives lay in the hands of the Committee on Insular Affairs, especially those of its recently elevated chair, William Jones of Virginia. A veteran of the Confederate Army, Jones joined many congressional Democrats in interweaving romanticization of actions by U.S. southern whites during and after the Civil War with fierce criticism of what he called “the imperialistic and commercial policy of the Republican party.” In a 1900 floor speech, he had both savaged the Foraker Bill for withholding U.S. citizenship from a people “seven-tenths of [whom] belong to the Caucasian race” and argued that “no such dangerous and absolute power as this [proposed in the Foraker Bill] was ever before lodged in an irresponsible carpetbag government.” By 1914, the gap between Democrats and Republicans on Puerto Rican policy had narrowed, with many members in each camp agreeing that Puerto Rico would remain permanently part of the United States and should have a more liberal government. On February 24, 1914, consistent with this shift, Jones introduced a bill similar to the compromise that Puerto Rico Governor George Colton, a Taft appointee, had advanced in 1910. In it he proposed to naturalize Puerto Ricans collectively as U.S. citizens, create an almost wholly elected island senate, give the governor an absolute veto, establish a Puerto Rican Department of Agriculture and Labor, and impose literacy and property requirements on new voters. Later that month Jones’s Committee opened hearings. As in 1910, naturalization was a flashpoint. Arguments of witnesses and congressmen revealed that a decade and a half of judicial and political evasion concerning U.S. citizenship had simultaneously drained its content, generated confusion over its meaning, and failed to reduce interest in whether and how it should be

³⁰³ Clayton Act, *Statutes at Large* 38 (15 Oct. 1914): 730; Forbath, *Law and Labor*, 156-157.

distributed.³⁰⁴

Appearing before the Committee on Insular Affairs and before a Senate Committee hearing testimony on a similar bill on February 25-26, Governor Arthur Yager promoted U.S. citizenship as key to a permanent U.S. rule in Puerto Rico that would demonstrate U.S. good intentions to Latin America. Puerto Rico was “the only Latin-American country over which the United States has had an entire control for any considerable length of time,” Yager contended, so success there would “greatly improve the relations of the United States to the whole of Latin America.” He disfavored modeling U.S. rule on Latin American republics—“[N]o Latin-American people . . . seems satisfied with their government”—or what he portrayed as oppressive Spanish colonialism. Instead he favored British colonial models, which, he claimed, “governed many peoples successfully” “to the satisfaction of the people governed.” To that end he advanced a proposal backed by Secretary of War Lindley Garrison that Yager predicted would be popular among Puerto Ricans: streamlined, individual naturalizations. This voluntary approach, he argued, would foreclose independence and thereby end the impression among some Puerto Ricans “that the United States has not determined the future political status of the Porto Ricans.” Yet because it was not a collective naturalization it would not determine “whether [Puerto Rico] should ever become a State

³⁰⁴ *Congressional Record* 33 (1900) [app.]:232-235 (11 Apr. 1900, remarks of Rep. William Jones of Va.) (quotes); *1914 House Hearings*; *William Atkinson Jones (Late a Representative from Virginia) Memorial Addresses Delivered in the House of Representatives of the United States*, 65th Cong. (Washington, D.C.: [Government Printing Office], 1919), 14 (address of Rep. Andrew Montague of Va.); *Congressional Record* 51 (1914) pt. 4:3874 (24 Feb. 1914); “El Bill de Pto-Rico,” *La Democracia*, 26 Feb. 1914; “El Bill de Pto-Rico,” *La Democracia*, 27 Feb. 1914, 1; “El Bill de Puerto Rico,” *La Democracia*, 7-10 Mar. 1914, 1. On ongoing judicial failure to clarify the U.S. citizenship status of Puerto Ricans, see, e.g., *1914 House Hearings*, 61; *1914 Senate Hearings*, 7. Jones gained his chairmanship following Democratic gains in the House in 1910.

or remain as a somewhat autonomous country.”³⁰⁵

Unionista leader Luis Muñoz, now also Resident Commissioner, opposed collective naturalization as well. He and his party characterized the policy as bringing Puerto Ricans no new rights, guaranteeing no eventual statehood for Puerto Rico, precluding Unionista aspirations for independence, and thus subjecting islanders to permanent colonial rule. The year before, in a unanimous memorial, the House of Delegates had told Congress that U.S. citizenship promised Puerto Ricans few rights at home or abroad. Muñoz now added that proponents of U.S. citizenship like former President Taft, former Secretary of War Henry Stimson, and Senator Miles Poindexter had “state[d] clearly that American citizenship for Porto Ricans does not suggest the most remote intention on the part of the United States to ever grant statehood to my people.” Agreeing with Yager that U.S. citizenship would foreclose Puerto Rican independence, Muñoz argued that collective naturalization would make islanders “citizens of an inferior class” and Puerto Rico “perpetually a colony, a dependency.” Yager elaborated the argument for the committee. Were U.S. citizenship not to preclude it, Unionistas anticipated “that Congress will inevitably be forced by its own Constitution and its own ideas to grant them some sort of independence.”³⁰⁶

Congressmen perceived the feedback loop—witnesses based recommendations to Congress on perceptions of likely congressional actions—and tried to break it:

The Chairman. Well, if the Congress decides upon statehood, there would be no reason, would there, why we should not make the Porto Ricans

³⁰⁵ *1914 House Hearings*, 7-8 (quote 6), 26-27 (quotes 3-5), 5, 13-16; *1914 Senate Hearings*, 5 (quotes 1-2), 4.

³⁰⁶ *1914 House Hearings*, 9 (last quote), 53-54 (other quotes), 5, 33, 62, 66-67; *1914 Senate Hearings*, 4, 8-9, 16, 19, 36, 50-55; Cabranes, “Citizenship and the American Empire,” 464; Córdova, *Resident Commissioner*, 117; see also Taft to Iglesias, 15 Apr. 1912, published in *A People Without a Country*.

citizens of the United States now? . . .

Mr. [Muñoz]. [agrees]

The Chairman. [T]here is no sentiment in the United States in favor of granting independence to the Porto Ricans?

. . .

Mr. [Muñoz]. There is no sentiment in favor of statehood for Porto Rico.

The opinion is not definitely formed about the question. . . .

. . .

Mr. Brumbaugh. [W]ould you prefer, statehood [or] independence[?]

Mr. [Muñoz]. As a political body, we look toward national independence.

. . .

Mr. Call[a]way. We had national independence in Texas, but we thought it was better [to] become one of the States . . . [though] this Government will not grant statehood to Porto Rico within the next 100 years

Mr. Towner. [I]t is my judgment that . . . it will be granted statehood

Mr. [Muñoz]. [I]f you tender statehood now, I, . . . accept statehood.³⁰⁷

The exchange reveals contingency on both sides. Representatives' disagreement about the likelihood of Puerto Rico becoming a state caught Muñoz between the possibility that Unionistas were wrong to consider statehood unachievable and the likelihood that embracing potential statehood would merely legitimize U.S. colonialism. He hedged, reiterating a platform ratified prior to this discussion, accepting immediate statehood, and withholding comment on eventual statehood.

³⁰⁷ *1914 House Hearings*, 56-60; Memorandum for the Secretary of War. (Diary), 4 May 1912, CDO:2.

For U.S. officials, the question of the relationship between the status of people and the status of place was hard to resolve in part because it involved the legacy of the Civil War. In *Scott v. Sandford* (1857), the Supreme Court had rejected a claim to freedom by the enslaved Dred Scott on two grounds. First, the Court had held that it had no jurisdiction to hear the claim because Scott was not a U.S. citizen. Chief Justice Roger Taney had reasoned that U.S. citizenship was a status rich in rights. Positing an early U.S. Republic in which blacks did not vote or exercise other rights that he associated with citizenship, Taney had concluded that the Constitution presumed that free blacks were not U.S. citizens. Second, the Court struck a federal bar on some territorial slavery, thereby nullifying Scott's claim that he was free because he had resided in a free territory. Taney had explained that Congress had no power to hold U.S. territories as perpetual colonies, then determined that the Constitution barred Congress from certain interferences with property rights, including rights over slaves, in U.S. territories. When the Civil War and 14th Amendment affirmed the principle of non-secession and partly overturned *Dred Scott* by declaring that "[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States," it had become possible to argue that all peoples in places that the United States annexed would become immediate U.S. citizens in eventual U.S. states. Some Democrats opposed to prior Republican imperial policies embraced this tradition, as when Representative Jacob Baker of New Jersey opined: "By the Constitution of the United States everybody under the flag is a citizen of the Republic," and "the Government should recognize and establish State government" in every "qualified" "territory."³⁰⁸

³⁰⁸ Am. XIV, sec. 1, U.S. Const. (quote 1); *1914 House Hearings*, 71 (quotes 2-5), 49-60; *Scott v. Sandford*, 60 U.S. 393 (1857).

But with Democrats now administering colonial Puerto Rico and *Downes v. Bidwell* (1901) and *Gonzales v. Williams* (1904) having weakened claims like Baker's, others in the party took more flexible lines. Secretary Garrison, for example, described Puerto Ricans as U.S. "denizens," "people not citizens of the United States." For many Republicans, whose party had led both the fight to preserve the Union and the effort to annex Puerto Rico permanently to the United States, the Civil War taught a different lesson. Thus Representative Horace Towner of Iowa contended, "we have never allowed any part of our territory to get away from us, and the probabilities are that we never will."³⁰⁹

On March 11, new Bureau of Insular Affairs law officer Felix Frankfurter aimed to clarify matters with a legal memo to Congress reviewing recent federal decisions and laws involving status of people and places. In *Neely v. Henkel* (1901), the Court let the United States hold Cuba in temporary trust. *Hawaii v. Mankichi* (1903) allowed Congress to create what "was practically a territorial form of government, and yet not incorporat[e] systems of procedure deemed fundamental by our Bill of Rights." A "unique form of executive government" in the Panama Canal Zone survived review in *Wilson v. Shaw* (1906), while *Dorr v. United States* (1904) and *United States v. Heinszen* (1907) affirmed delegation of Filipino legislative functions to agencies. Recent statutes had created a customs receivership in the Dominican Republic and given the United States influence over debt policy and a limited right of military intervention in Cuba. These precedents, Frankfurter argued, established that U.S. relations with dependent locales were "matters solely for congressional competence," so Congress could "grant citizenship without

³⁰⁹ 1914 House Hearings, 34-35 (quotes 1-2), 57 (quote 3), 49-60.

incorporation.”³¹⁰

On April 14, Santiago Iglesias wrote Samuel Gompers to offer to “go to Washington myself . . . to present a statement” in support of collective naturalization. Drawing an analogy between Puerto Rico and U.S. states with sizeable populations of American Indians and Mexican-Americans, Iglesias recalled that U.S. citizens in “New Mexico, Arizona, Oklahoma . . . wait[ed] . . . generations before they were taken in as States.” The question of the status of Puerto Rico as a place, he wrote, was “very premature.” He worried, though, that Unionistas would win individualized naturalization, exploit “the great ignorance of countrymen” into “not adopting” it, and thereby advance their “secret . . . policy of” achieving an “independence” like that in “Santo Domingo or Venezuela” in which local elites could tyrannize workers without fear of U.S. limitations. Instead, the *Washington Star* soon reported, Unionista objections to “legislation for the island . . . to a very large measure caused Congress to delay any definite action.” So, as it had for a dozen years, Congress passed no bill.³¹¹

While Congress held hearings in 1914, strikes broke out in Puerto Rico that lasted four months and involved more than half of all workers employed in the manufacture of tobacco. As during prior strikes, police, mayors, and judges tied to Unionistas and subject

³¹⁰ *1914 Senate Hearings*, 20-22; cf. *Neely v. Henkel*, 180 U.S. 109 (1901) (upholding an extradition from the United States to Cuba and concluding that though Cuba remained “foreign” to the United States, the United States was not obliged to recognize any particular government there during U.S. occupation); *Hawaii v. Mankichi*, 190 U.S. 197 (1903) (upholding the felony conviction of a Hawai‘ian by a majority of a non-unanimous jury); *Wilson v. Shaw*, 204 U.S. 24 (1906); *Dorr v. United States*, 195 U.S. 138 (1904); *United States v. Heinszen*, 206 U.S. 370 (1907)

³¹¹ Santiago Iglesias to Samuel Gompers, 20 Apr. 1914, CDO:2 (quotes 1-8); “Porto Ricans Hope for U.S. Citizenship,” *Washington Star*, 9 Jan. 1916, available at MD NARA 350/5B/492/3377A-4 (quote 9); Cabranes, “Citizenship and the American Empire,” 470-471; see also Santiago Iglesias to Arthur Yager, 31 Jan. 1914, CDO:2; *Report of Proceedings of the Thirty-Fourth Annual Convention of the American Federation of Labor Held at Philadelphia, Pennsylvania, November 9 to 21, Inclusive, 1914* (Washington, D.C.: The Law Reporter Printing Company, 1914) [hereinafter *1914 Federation Report*], 89 (Gompers report), 197 (Iglesias report); H. R. Report 750, 61st Cong., 2d Sess., 15 Mar. 1910 (minority report), available at CDO:1.

to oversight by presidential appointees in the island government barred labor demonstrations, disbanded Federación Libre meetings, and attacked and imprisoned strikers. When the governor and his cabinet did not rein in these local officials, Iglesias adapted his claims for protection to adversaries beyond the House of Delegates and to conflicts involving more than island legislation and electoral campaigns.³¹²

Unlike in 1912, when Iglesias enjoyed longstanding alliances with the Governor of Puerto Rico and the Secretary of War, he now had to build relationships with new appointees to these posts while seeking their support for laborers engaged in industrial conflicts. And unlike in 1909-1910, when Iglesias had first jointly pursued U.S. citizenship with then-Governor George Colton and Colton's War Department allies, Iglesias now seemed unlikely to convince Governor Arthur Yager or his colleague Secretary of War Lindley Garrison to share either his position on U.S. citizenship or his main enemies. Before and during congressional hearings on Puerto Rico bills in 1914, Yager and Garrison had actively opposed Iglesias on collective U.S. citizenship. The employers and the investors from whom Iglesias's Federación sought concessions also differed from the House of Delegates against whom Iglesias and previous U.S. officials had aligned. Governors and secretaries of war measured progress on the island by gross economic output, which they associated with mainland investment. Employers and property owners in Puerto Rico—especially those from the mainland—resembled high-ranking federal officials in being well connected on the mainland and familiar with how

³¹² *1914 Federation Report*, 193-195, 198 (Iglesias report); Gervasio L. García and A.G. Quintero Rivera, *Desafío y solidaridad: breve historia del movimiento obreros puertorriqueño* (Río Piedras, P.R.: Ediciones Huracán, 1991 [1987]), 60; José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Conn.: Yale University Press, 1997), 54; Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898-1932* (Boulder, Colo.: Westwood Press, 1999), 155-159; Chapter 4 above.

to advance their agendas within existing rules and norms. Police, mayors, and judges were similarly unlikely targets of U.S. ire. Police were executive-branch employees, hired by a governor-appointed commission and answering to a chief who reported directly to the governor. Mayors and local judges in Puerto were elected at the municipal level, hence technically independent from U.S. officials. Yet, the governor and attorney general had broad powers of oversight and removal over them. Abuse by police, judges, or mayors would mean active wrongdoing or failures to supervise on the part of U.S. officials.³¹³

In protesting official repression Iglesias drew on lessons learned during prior strikes, especially those in the years just before 1907. Then, Federación leaders had observed U.S. officials offer blanket denials to complaints of official misconduct, a strategy that strikers had facilitated by failing to create a formal, detailed, investigable record. In 1914 Iglesias made specific charges in more than thirty telegrams, judicial filings, and “complaints and protests in the form of filed statements duly sworn to.” Yager responded hostilely, describing Iglesias to the Bureau of Insular Affairs as a troublemaker and ordering an investigation that concluded that all actions taken by accused officials had been justified. Iglesias, for his part, told the Bureau and the American Federation of Labor that Yager was anti-labor and that because he condoned state actors’ well-documented “transgressions of the law,” “the rigor of the law was not

³¹³ Yager to Iglesias, 19 Apr. 1915, in *Final Report and Testimony Submitted to Congress by the Commission on Industrial Relations* (Washington, D.C.: Government Printing Office, 1916), 11196-11197 [hereinafter *Final Report on Industrial Relations*]; Report of the Governor of Porto Rico Covering the Strike of Agricultural Laborers on Sugar Plantation in Porto Rico, 19 Apr. 1915, in *Final Report on Industrial Relations*, 11150-11153; Arthur Yager to Santiago Iglesias, 5 Oct. 1914, CDO:2; Cabán, *Constructing a Colonial People*, 156; Trías Monge, *Trials*, 54; César J. Ayala, *American Sugar Kingdom: The Plantation Economy of the Spanish Caribbean, 1898-1934* (Chapel Hill: University of North Carolina Press, 1999).

applied.”³¹⁴

Unable to resolve their differences with Yager, Iglesias and the Federación sought to turn distant arms of the state against him and his associates through legal arguments in legal domains. Given “enormous” “gubernatorial and judicial corruption,” Iglesias told Gompers, “the only recourse that we have is to be constantly vigilant, to advise our lawyers, taking all the records and collecting all the proofs until seeing if in the end we can find some court where . . . justice for the workers in their fights will be recognized.” By courts, Iglesias appeared to mean official bodies providing procedural guarantees. He told Yager that he would accept an adjudicative entity that furnished witnesses opportunities to testify; provided a neutral forum in which to press constitutional and other legal claims; empowered parties to cause testimonial and other proofs to be produced; created a record; and made recommendations. Unlike the “terrorizing,” “almost inquisitorial” investigations Yager conducted in response to complaints, Iglesias claimed, his imagined adjudicator would be neither private nor staffed by individuals biased in favor of the accused.³¹⁵

In an October 5 letter to Iglesias, Yager also put a legal frame on their disputes. The government, he wrote, had a duty to enforce laws equally and presume the regularity of judicial activities. The Federación was in a weak position to claim protection from the

³¹⁴ *1914 Federation Report*, 198 (Iglesias report) (quotes); Arthur Yager to Frank McIntyre, 27 Mar. 1914, CDO:2; R. Simon Pacheco to [Santiago Iglesias], n.d., CDO:2; Santiago Iglesias to Frank McIntyre, 20 May 1914, CDO:2. Iglesias here resembles the subjects of Merry’s field studies in having learned that law is an imperfect tool with which to vindicate rights while simultaneously becoming more sophisticated about how to use it to create opportunities. *Getting Justice*, 135-145.

³¹⁵ [Santiago Iglesias] to Samuel Gompers, [Apr. or May 1915], CDO:2 (quotes 1-3); Iglesias to Yager, 24 Apr. 1915, in *Final Report on Industrial Relations*, 11197-11198 (quotes 4-5). On seeking to turn one arm of the state against another while in a position of relative electoral weakness see, e.g., Francesca Polletta, “The Structural Context of Novel Rights Claims: Southern Civil Rights Organizing, 1961-1966,” *Law & Society Review* 34 (2000): 367-406. On perpetuating inequality and subordination through legal processes that offer procedural but not substantive fairness, see Rebecca L Sandefur, “Access to Civil Justice and Race, Class, and Gender Inequality,” *Annual Review of Sociology* 34 (2008) 16.1 to 16.20.

state, he added, because judges had criminally convicted its members. Instead, Yager directed Iglesias to First Amendment claims, recognizing that “the foundation of a democracy rests on freedom of speech” and promising to protect it. That freedom, however, had a narrow, predominantly political compass for Yager: “the right of citizens to liberally discuss and criticize the form in which government functionaries carry out their official duties.” It ended where governmental obligations to preserve order and protect property began.³¹⁶

The men’s rival legal strategies came to a head after non-unionized laborers in Bayamón left the sugar fields and demanded higher wages in January 1915. Strikes quickly spread throughout the island, drawing in more than 20,000 workers before they ended in late February and March 1915. Workers sought a share of the profits that materialized as World War I shortages drove up sugar prices. Stepping forward to provide advice and encouragement, Federación leaders also seized the opportunity to found a Socialist Party to participate in island politics and to try and organize sugar laborers permanently.³¹⁷

As promised, Yager acted to protect worker speech rights, though in ways that tended to defeat the strike. He instructed police to allow “peaceful and orderly” meetings “so long as the speakers” orate “within the limits of the law,” but to bar “[n]oisy and threatening parades of large bodies of workmen.” These ostensibly neutral rules worked to the detriment of strikers, who sought to alter economic relations, a disruptive endeavor.

³¹⁶ Yager to Iglesias, 5 Oct. 1914.

³¹⁷ Report of the Governor, in *Final Report on Industrial Relations*, 11150-11153; *Report of Proceedings of the Thirty-Fifth Annual Convention of the American Federation of Labor Held at San Francisco, California, November 8 to 22, Inclusive, 1915* (Washington, D.C.: The Law Reporter Printing Company, 1915), 181-185 (Iglesias report); Iglesias to Gompers, 22 Feb. 1915, in *Final Report on Industrial Relations*, 11165-11168; García and Quintero, *Desafío y solidaridad*, 60-64; Ayala, *American Sugar Kingdom*, 216.

Unlike large employers, they had little property for the police to protect. And while Yager recognized people's property interest in their labor, he understood it to be individual. Each laborer, Yager claimed, could work or not work as he saw fit. The role of the police was not to protect the emotional appeals, peer pressure, and consciousness-raising discussions that might lead workers to take unified action, but to insulate workers who chose to work from those who did not. In a subsequent letter to President Wilson, Governor Yager acknowledged ordering the "[t]he police . . . to preserve order and protect property," but insisted that although this policy brought the strike to a prompt end, "No constitutional or legal rights of laborers or of others have been contravened."³¹⁸

In the meantime, Iglesias pursued a two-pronged strategy: create a record, then go to court. He had few alternatives. Unarmed, miserably poor, unaccustomed to demonstrating or organizing, and opposed by local industry and government officials, striking agricultural workers had little hope of meeting quasi- or extra-legal coercion and violence with successful arguments or in kind. So as anti-labor violence mounted, Iglesias requested that the Commission on Industrial Relations—a congressionally created body charged with examining U.S. labor conditions, relations, and disputes—investigate. A month later the Federación instructed Iglesias also to ask Yager to create an independent, neutral commission to investigate events of the strike. Next Iglesias solicited American Federation of Labor support for securing a congressional investigation

³¹⁸ Arthur Yager to Chief of Insular Police, 25 Feb. 1914, in *Final Report on Industrial Relations*, 11154 (quotes 1-4); Report of the Governor in, *Final Report on Industrial Relations*, 11151 (quotes 5-6); Arthur Yager to Fiscals, Alcaldes, and District Chiefs of Police of Porto Rico, 20 Feb. 1914, in *Final Report on Industrial Relations*, 11153-11154; Ayala, *American Sugar Kingdom*, 121-147, 178-182; see also *Lochner v. New York*, 198 U.S. 45 (1905); Forbath, *Law and Labor*, 37-58; Gary D. Rowe, "The Legacy of *Lochner*, *Lochner* Revisionism Revisited," *Law and Social Inquiry* 24 (1999): 221-252; David M. Rabban, *Free Speech in Its Forgotten Years* (Cambridge, Eng.: Cambridge University Press, 1997).

and similar action by President Wilson.³¹⁹

Were Iglesias to win any of the hearings he sought, his success would depend upon having created an extensive, detailed record of purported official abuses from the outset. To that end, telegrams from strikers and their supporters poured in throughout February, creating independently verifiable, written records that particular charges had been made at specific times and places. Strikers supplemented these telegrams with sworn, notarized affidavits in which they detailed which state officials had committed what acts in which times and places. A government official reported getting “dozens of complaints every day,” several from Iglesias. At a hearing in Washington, Iglesias offered to produce “[m]ore than 100 telegrams” and “perhaps . . . nearly 100 affidavits” from a broad swathe of workers and Federación leaders. In one town, Iglesias related, “More than 1,000 country workers . . . filed complaints.”³²⁰

As Iglesias and his colleagues built this record, they joined the American Federation of Labor in articulating broad speech rights. On the mainland, Federation members often criticized judicial injunctions as being illegitimate restrictions on laborers’ First Amendment rights to speak, walk and parade on public highways, peaceably persuade, hold meetings, publish, and picket. Iglesias advanced this more aggressive interpretation by reprinting in his labor newspaper *Unión Obrera* Gompers’s injunction

³¹⁹ Santiago Iglesias et al. to P. Walsh, [17 Feb. 1915], CDO:2; Santiago Iglesias to Samuel Gompers, 5 Jul. 1915, CDO:2; Santiago Iglesias to Arthur Yager, 3 Apr. 1915 in *Final Report on Industrial Relations*, 11194; García and Quintero, *Desafío y solidaridad*; *Final Report on Industrial Relations*, 11094-11103, 11199-11204. On the relationships between legal consciousness, social fields, beliefs about the applicability of law to particular contexts, felt obligations to comply with legal norms or decisions, and calculations about which disputes are worth pursuing, see Erik W. Larson, “Institutionalizing Legal Consciousness: Regulation and the Embedding of Market Participants in the Securities Industry in Ghana and Fiji,” *Law & Society Review* 38 (Dec. 2004): 765, passim.

³²⁰ *Final Report on Industrial Relations*, 11123 (testimony of Travieso) (quote 1), 11043 (testimony of Iglesias) (quotes 2-3), 11046 (testimony of Iglesias), passim; Santiago Iglesias to Samuel Gompers, 27 Feb. 1915, in *Final Report on Industrial Relations*, 11170 (quote 4); E. Marrero to Santiago Iglesias, 1 Apr. 1915, in *Final Report on Industrial Relations*, 11053.

that “the working people of the island” be advised “that every constitutional, statutory and inherent right should be exercised in the effort to associate, assemble, and meet and express their thoughts and views.” Unlike constitutional or statutory rights, inherent rights were not necessarily recognized by courts or present in official texts. Gompers and Iglesias thus appeared to argue, as had many organizers before them, that some rights existed even in the absence of positive state authority.³²¹

As marshaled by Iglesias, the complaints described police using violence and threats against “pacific,” “peaceful,” and “orderly” strikers exercising First Amendment rights. Alberto Fernandez, a theater patron whose movie let out as police broke up a labor meeting, swore before a notary that he

saw a policeman beating a man with a stick [and that] the poor victim begged the policeman to stop beating him (the victim), saying these words, “Don’t hit me more,” and then the policeman shot him, and the poor man said to said policeman, “Please don’t kill me, that I am going out,” and then the policeman shot again the second time, killing him.³²²

³²¹ Forbath, *Law and Labor*, 139-146, passim; Santiago Iglesias to Woodrow Wilson, 14 Jun. 1915, CDO:2; Samuel Gompers to Santiago Iglesias and Prudencia Rivera Martinez, 10 Jun. 1915, in *Unión Obrera*, available at CDO:2; *Final Report on Industrial Relations*, 11029-11224; see also, e.g., Scott, *Degrees of Freedom*, 75-77, 88-89, 91, 269. On understandings of rights that sweep more broadly than existing laws among late-20th-century, working-class disputants in eastern Massachusetts, see Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (Chicago: The University of Chicago Press, 1990); cf. John Phillip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (San Marino, Calif.: The Huntington Library, 1980) (identifying a similar dynamic among travelers along the overland trail in the nineteenth century); Naomi Mezey, “Out of the Ordinary: Law, Power, Culture, and the Commonplace,” *Law and Social Inquiry* 26 (2001): 149-150 (implying that approaches to law like that of Iglesias and Gompers are less common than those in which people engage in legalistic social practices that only subtly, relatively unintentionally, and slowly change legal meanings); Hendrik Hartog, *Man and Wife in America: A History* (Cambridge, Mass.: Harvard University Press, 2000) (similar).

³²² Summary of Affidavit of Eloy Franquis, n.d., *Final Report on Industrial Relations*, 11181 (quote 1); Iglesias to *Federationist*, 2 Mar. 1915, *Final Report on Industrial Relations*, 11164 (quote 2); Excerpt, Telegram, [?] to [Santiago Iglesias], 16 Feb. 1915, *Final Report on Industrial Relations*, 11167 (quote 3); Affidavit of Alberto Fernandez, Mar. 1915, *Final Report on Industrial Relations*, 11188 (quote 4).

Focusing on expressive rights, workers charged that police repeatedly forbade and “disbanded, violently and illegally,” parades, public meetings, small gatherings, and acts of symbolic speech. They pulled speakers off platforms based on what they said, and in one case Chief of Insular Police George R. Shanton and the island District Attorney told volunteer-organizer Esteban Padilla that “meetings in the rural zone were prohibited as well as any manifestations or group of more than ten persons.”³²³

Claims involving U.S. flags made the point particularly strongly. Concerned about striker violence, insular officials treated flagpoles as weapons. Yager told police that “parades of laborers, armed with . . . clubs . . . must be strictly prohibited,” and Esteban Padilla reported Chief of Police Shanton telling him “it was also prohibited to carry flags.” Insular officials thus tried to maintain order and protect workers’ rights by refusing them access to what one labor leader called expression via “symbols, . . . flags of the idea they represented.” The Federación responded by placing U.S. flags into the hands of strikers and then reporting, for instance, how “an American flag was torn from the hands of an aged country striker, and he himself was hit by the policeman’s billy.” This strategy aligned Federación claims to expressive rights with defense and proclamation of general U.S. liberties, while forcing insular officials to choose between commitments to either property and order or to the patriotism that the U.S. flag represented. By electing the former, officers attacked a U.S. symbol and denied strikers rights for which, the Federación purported, the United States stood.³²⁴

³²³ Santiago Iglesias to Samuel Gompers, 27 Feb. 1915, *Final Report on Industrial Relations*, 11168-11170 (summarizing report of P. Rivera Martinez) (quote 1); Testimony of Iglesias, *Final Report on Industrial Relations*, 11066-11067 (quoting Affidavits of Esteban Padilla) (quote 2), 11068, 11171, 11173, 11181-11182, 11188-11190, 11194; see also *Final Report on Industrial Relations*, 11055, 11059, 11064, 11164, 11167-11169, 11181-11183, 11187-11188; Carlos Sanabria, “Samuel Gompers and the American Federation of Labor in Puerto Rico,” *Centro Journal* (spring 2005): 156.

³²⁴ Arthur Yager to Fiscals, Alcaldes, and District Chiefs of Police, 20 Feb. 1915, *Final Report on*

On April 15, after the above record was largely complete, Gompers told Iglesias that he had won him an appearance before the congressional Commission on Industrial Relations. Five days later, Commission Chairman Frank Walsh invited Secretary Lindley Garrison to send representatives to address Iglesias's "General Allegations." The commission apparently envisioned an adjudicative "hearing," later describing the event as a "full and fair presentation" by both sides. On May 26, Iglesias claimed rights and protection, telling the commission that biased officials deprived strikers of liberties and that the U.S. nation had a duty to improve living conditions of island laborers. The presidential appointees serving in Puerto Rico who testified contested the first point and concurred in the second.³²⁵

When the Commission transmitted its final report to Congress on August 23, 1915, testimony and exhibits concerning Puerto Rico filled nearly 200 pages. A plurality of commissioners took positions favorable to the Federación, noting that all witnesses had agreed that island laborers suffered severe deprivations. In language that harkened to Iglesias's 1910-12 demands for protection, the Commission described how a

Industrial Relations, 11153-11154 (quote 1); Affidavit of Esteban Padilla, *Final Report on Industrial Relations*, 11067 (quote 2); Testimony of Santiago Iglesias before the Commission on Industrial Relations, 26 May 1915, in *Final Report on Industrial Relations*, 11052 (quoting Report of Jose de Jesus Tizol, 30 Mar. 1915) (quote 3); Santiago Iglesias to Samuel Gompers, 27 Feb. 1915, *Final Report on Industrial Relations*, 11169 (quote 4). Austin Sarat, who describes how the law backed by state power "catches" people in its rules, also observes that appeals to the higher ideals of those in power can sometimes provides bases for successful claims. "'The Law is All Over': Power, Resistance and the Legal Consciousness of the Welfare Poor," *Yale Journal of Law and the Humanities* 2 (1990): 343-379.

³²⁵ Frank Walsh to Lindley Garrison, 20 Apr. 1915, CDO:2 (quote 1); *Final Report of the Commission on Industrial Relations Including the Report of Basil M. Manly Director of Research and Investigation and the Individual Reports and Statements of the Several Commissioners* (Washington, D.C.: Government Printing Office, 1916), 145 [hereinafter *Manly Report*] (other quotes); Samuel Gompers to Santiago Iglesias, 15 Apr. 1915, CDO:2; Samuel Gompers to John Lennon, 12 Mar. 1915, CDO:2; Samuel Gompers to John Lennon, 17 Mar. 1915, CDO:2; *Final Report on Industrial Relations*, 11029-11224. In "Legal Consciousness: Some Observations," Dave Cowans observes that presenting claims in legal terms often causes those called upon to respond to feel bound by the result. *Modern Law Review* 67 (2004): 939. On the relationship between the use of legalistic institutions and money, information, social networks, faith in the legitimacy and efficacy of those institutions, and the availability of such an institution willing to hear one's claim, see Sandefur, "Access to Civil Justice," 16.14.

“responsibility rests upon the American Nation for the conditions of the people in our colonial possession who occupy the position morally and legally of wards of the Nation.” The Commission also apologized for workers who “may have been guilty of excesses” after having been “provoked by the agents of the employers or by the police.” It found “no excuse,” however, for the actions of “the rural police and local magistrates,” which “violated the personal rights of the strikers” and “treated them . . . with wanton brutality.”³²⁶

Iglesias’s legal-administrative strategy had produced political returns. By appearing before the commission, Iglesias raised his standing among officials and workers in Puerto Rico and on the mainland. The hearing and report increased mainland awareness of Puerto Rican laborers’ poverty under U.S. stewardship. By forcing them to acknowledge, justify, and document their decisions, the hearing made the words and acts of insular officials visible. Doing so showed workers, local officials, and employers that violators of workers’ rights could be investigated and condemned, albeit not yet punished, by a federal entity. Laborers also won standing at the hearings, the official record of which showcased documents authored by island workers and responses of U.S. officials to them. Given the myriad obstacles facing the Federación, these were large gains.³²⁷

³²⁶ *Manly Report*, 145-147; *Final Report on Industrial Relations*, 11029-11224.

³²⁷ Arthur Yager to Joseph Tumulty, 28 Jun. 1915, CDO:2. Polletta describes a similar dynamic involving legalistic claims making during the Civil Rights Movement in “Structural Context,” 385-388. On how Iglesias benefited from and circulated reports of his interactions with government officials, see, for example, Arthur Yager to Joseph Tumulty, 28 Jun. 1915, CDO:2. On how creation and receipt of legal texts can influence people’s sense of themselves and their relationships to law, see Mezey, “Out of the Ordinary,” 159. For more on the symbolic power of securing a gesture from a legal body, see Merry, *Getting Justice*, 86-87. Kostiner provides a framework for categorizing Iglesias’s progress. “Evaluating Legality.” By securing a highly visible, official pronouncement that the United States had failed in its obligations to Puerto Rico, Iglesias made progress toward his “cultural” goal of winning public sympathy. *Ibid.* In using workers’ claims to do so, he also made “political” process toward empowering laborers. *Ibid.*

Santiago Iglesias, U.S. officials, and Unionistas returned their attention to federal legislation for Puerto Rico during the 1915-17 congressional term. Taking what the *Washington Star* called “[t]he most important single step” toward passing a new organic law for Puerto Rico, Unionistas in 1915 moderated their calls for independence, stressing that home rule was their immediate goal. Governor of Puerto Rico Arthur Yager worked concurrently to build political support for a bill like that which had failed in 1914, and by the end of the year had “got it included in the Message of the President to Congress.” In late December Yager traveled to Washington to work with Congressmen to formulate proposed legislation, and on January 25, 1916, Chairman of the House Committee on Insular Affairs William Jones introduced a bill that Yager supported. Its provisions were familiar. It proposed to collectively naturalize all Puerto Ricans who did not take affirmative steps to retain their “present political status” and to create a department of agriculture and labor. In lieu of the absolute gubernatorial veto previously proposed, the governor would get a qualified veto backed up, in cases of legislative override, by an absolute presidential veto. The island legislature was to be wholly elective and literacy and taxpaying requirements would apply to all voters. As in years past, all sides focused on the citizenship provision of the bill and compared U.S.-Puerto Rican relations to events during the U.S. Revolution, Spanish imperialism, and Reconstruction. But, in light of the recent island-wide strikes, shifting understandings of the relationships between the status of people and place in the U.S. constitutional system, and World War I, the parties altered their arguments and in some cases their stands.³²⁸

But in failing to win concrete proscriptions on the state actions to which he objected he made less progress toward that “instrumental” goal. Ibid. (observing that in other circumstances activists have initially focused on instrumental goals and only subsequently turned to cultural ones).

³²⁸ “Porto Ricans Hope for U.S. Citizenship” (quote 1); Beckwith trans., Copy, Interview with the

In January 1916 the Senate Committee on the Philippine Islands and Porto Rico and the House Committee on Insular Affairs opened hearings on similar versions of Jones's bill. In testimony to the committees, Yager supported an elected island legislature to be tempered with what he elsewhere termed "certain reasonable restrictions on the ballot." In a nod to growing separatist sentiment among Puerto Ricans, Yager described them as "a homogenous race, with a civilization running back . . . to the Middle Ages," and with distinct linguistic, literary, intellectual, and religious traditions. "[W]hen we attempt to apply to it an American background," he contended, "we make a mistake." Yager also now sought collective naturalization of Puerto Ricans as a means to shore up U.S. colonial rule. In line with Frankfurter's 1914 memo, Yager depicted a U.S. citizenship that bore no necessary legal relationship to political rights or any particular status of place. It did "not imply suffrage or statehood" and would not block Congress from giving Puerto Rico "independence." But it would, Yager contended, mean "that we have determined practically that the American flag will never be lowered in Porto Rico." Doing so was also good public relations, he argued, because "the masses of the Porto Rican people[] would cheerfully accept citizenship" so long as "some increased participation in their own government" followed. Moreover, he claimed, it was a matter of U.S. principles. Puerto Ricans merited "citizenship as . . . not a privilege, but a right"

Governor, MD NARA 350/5B/492/3377A-7, original printed at *La Democracia*, 5 Feb. 1916 (quote 2); House Committee on Insular Affairs, Civil Government for Porto Rico, Report No. 77, 64th Cong., 1st sess., [n.d.], available at MD NARA 350/5B/489/3377-243 (quote 3); *Congressional Record* 53 (1916) [Bills]:1340; "Sobre el sufragio," *La Democracia*, 29 Jan. 1916, 4; Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, N.J.: Princeton University Press, 2004), 9-25; John Fabian Witt, *Patriots & Cosmopolitans: Hidden Histories of American Law* (Cambridge, Mass.: Harvard University Press, 2007), 155-209; David Kennedy, "International Law and the Nineteenth Century: History of an Illusion," *Quinnipiac Law Review* 17 (1997-1998): 99-138; Francis Anthony Boyle, *Foundations of World Order: The Legalist Approach to International Relations (1898-1922)* (Durham, N.C.: Duke University Press, 1999), 137-139; Córdova, *Resident Commissioner*, 123, 135-136.

both because they “permanently” “owe[d] allegiance . . . and [we]re open to all the pains and penalties imposed for their disobedience” and because “[w]e have no place in our Constitution for subjects.”³²⁹

When Muñoz and his co-partisan Cayetano Coll y Cuchi appeared before Congress on behalf of Unionistas in early 1916, they also supported Jones’s bill as a whole, but asked legislators to remove the disfranchisement clause and not impose collective citizenship without eventual statehood. Explaining that “[we] “have been a colony for 400 years, and we do not want to be a colony,” the men observed that two forms of self-government—“statehood or independence”—“appear[ed] at the present time to be very remote measures.” As a result, they did “not take any systematic stand either against or for American citizenship.” “[I]f we are going to stay forever within the union,” “now is the time to grant American citizenship,” they explained, but if Congress may grant independence, naturalization now could later “confront[Congress] with the very serious problem of unmaking 1,500,000 citizens of the United States.” Moreover, Puerto Ricans, who “have their dignity and self-respect to maintain,” they contended, “will preserve their conception of honor,” and “refuse to accept a citizenship of . . . the second class, which does not permit them to dispose of their own resources . . . nor to send to this Capitol their proportional representation.”³³⁰

Weaving arguments concerning the place of Puerto Rico in the Spanish-speaking Americas with those about U.S. ideals and standing, Muñoz and Coll y Cuchi depicted

³²⁹ Beckwith, “Interview” (quote 1); *A Civil Government for Porto Rico: Hearings before the Committee on Insular Affairs House of Representatives, 64th Cong., 1st sess., on H. R. 8501 A Bill to Provide a Civil Government for Porto Rico, and for Other Purposes* (Washington, D.C.: Government Printing Office, 1916), 3 (quotes 2-4), 7 (quotes 5, 7-9, 11-13), 11 (quotes 6, 10) [hereinafter *1916 House Hearings*], available at MD NARA 350/5B/489/3377-245.

³³⁰ *1916 Senate Hearings*, 55 (quotes 2, 5-7); *1916 House Hearings*, 10 (quotes 1, 3-4); *Congressional Record* 53 (1916) pt. 8:7470 (5 May 1916 remarks of Resident Commissioner Luis Muñoz of P.R.) (quotes 8-10); see also, e.g., “El Bill Jones es superior a la ley Foraker,” *La Democracia*, 11 Feb. 1916, 2.

U.S. denials of autonomy to Puerto Rico as a regrettable re-enactment of Reconstruction. All Spanish colonies in the Americas, they argued, had eventually gained a “free political life.” Most had come to “figure in the family of nations”; Puerto Rico won a “complete form of self-government” from Spain. Asserting that Cuba and the Philippines, to whom the United States had respectively given and promised independence, were “not more civilized or wealthier in proportion to their respective areas” than Puerto Rico, the men reminded Congress of what they called “the democratic principles upon which the Republic of the United States has been founded.” Those principles, they contended, had been reaffirmed in response to World War I, with U.S. leaders “from Washington to Wilson” advocating “the ability of small countries to lead an independent life.” Now the men offered Congress imperial-American exceptionalism, the chance to “stand before humanity as the greatest of the great; that which neither Greece nor Rome nor England ever were, a great creator of new nationalities.” U.S. foreign relations were also at stake, they claimed. U.S. actions in Puerto Rico influenced Caribbean nations’ choices between “the influence of the American Government” and “London, Paris, or Berlin.” Yet self-government had not arrived. As the *Congressional Record* reported, they appealed to Democratic legislators by arguing that this was for “the same sad reason of war and conquest which let loose over the South after the fall of Richmond thousands and thousands of office seekers, hungry for power and authority, and determined to report to their superiors that the rebels of the South were unprepared for self-government. [Laughter.]” The men potentially overreached, however, when they concluded that Puerto Ricans “are the southerners of the twentieth century,” a remark that the *Record* did not record occasioning applause or amusement.³³¹

³³¹ 1916 House Hearings, 93-96 (quotes 1, 3-5, 7), 10 (quote 4), 98-100; *Congressional Record* 53 (1916)

The fragility of the analogy that Unionistas asked Democrats to draw was evident in the remarks of the notoriously white-supremacist Senator from Mississippi, James Vardaman, and Texas representative James Davis. In a floor speech supporting Jones's bill, Vardaman described the "misfortune" of bringing "into the body politic" a people he claimed would "never, no, not in a thousand years, understand the genius of our government." This was especially so, he elaborated, because "I think we have enough of that element in the body politic already to menace the nation with mongrelization." But given that it was likely "the Porto Ricans are going to be held against their will," he explained, he was more concerned about federal tyranny: "I am from the South, where for years we had a carpetbag government, and I know from experience how intensely disagreeable that is." Representative Davis found the competing interpretations harder to reconcile. During committee hearings, he suggested that Puerto Ricans were like "the Tea Party that threw the British tea overboard," denounced by an empire as "an irresponsible rabble," but really "the foundation of the greatest republic on earth." Yager instead compared them to Reconstruction-era blacks, and Davis initially took the hint:

Mr. Davis. . . . We have had that situation with the negroes. I have seen 500 negroes standing in a cabin, all waiting for their sack of flour. . . .

Mr. Yager. Don't you think it was a mistake to give them the ballot?

Mr. Davis. I do.

Mr. Miller. [You have] answered the whole argument [with] that reference to the history of the last 50 years.

pt. 8:7471-7473 (quotes 2, 8-10) (5 May 1916 remarks of Resident Commissioner Luis Muñoz of P.R.); *1916 Senate Hearings*, 58. On independence among former Spanish colonies in the Americas, see J.H. Elliott, *Empires of the Atlantic World: Britain and Spain in America 1492-1830* (New Haven, Conn.: Yale University Press, 2006), 325-404; Louis A. Pérez, Jr., *Cuba: Between Reform and Revolution* (New York: Oxford University Press, 3d ed., 2006 [1988]).

But then during a House floor debate, Davis again reversed course, opposing federal disfranchisement of Puerto Ricans because he saw harm from federal intrusion into local affairs outweighing benefits of disfranchisement:

[Davis]. Every man in Texas has the same right to vote I have.

[Miller of Minnesota]. But do they vote?

[Davis]. Black and white, thank God, if they want to. I have to pay \$1.50 poll tax before I vote, and that goes into the school fund and helps educate the negro children

[Miller]. Does not the gentleman think some such property qualification would be proper for Porto Rico or—

[Davis]. We are acting for ourselves down there in Texas, and these people are not acting for themselves. When they treat themselves that way I have no objection, not a bit of it. [Applause.]”³³²

In communications to the American Federation of Labor, its President Samuel Gompers, Congress, and others, labor leader Santiago Iglesias reconceptualized U.S. citizenship and refused to support a bill that included disfranchisement. Unlike seven years earlier, when Iglesias had advocated U.S. citizenship as a way for dependent workers to secure the protection of an ostensibly benevolent administrative state, organized labor now lacked state support in its efforts to secure higher wages and faced official violence, censorship, and delegitimation. In 1916 Yager told the House

³³² *Congressional Record* 54 (1916) pt. 3:2250 (quotes 1-5) (30 Jan. 1917 remarks of Sen. James Vardaman of Miss.), 4170 (quote 11) (24 Feb. 1917 remarks of Rep. James Davis of Tex.); *1916 Senate Hearings* (quote 6); *1916 House Hearings* (quotes 7-10). On Vardaman, see William F. Holmes, *The White Chief: James Kimble Vardaman* (Baton Rouge: Louisiana State University Press, 1970); Cal M. Logue and Howard Dorgan, *The Oratory of Southern Demagogues* (Baton Rouge: Louisiana State University Press, 1981).

Committee on Insular Affairs that “Federation of Labor . . . leaders . . . seem to be rather neglectful of the real interests of the laborers and inclined to look to their personal interests,” while Iglesias charged that a new set of “conspiracies of the corporation, politicians and local governmental officials” had led to five deaths and violations of expressive rights. Absent the administrative support Iglesias has envisioned, workers had gone on strike, made claims, and joined his organization, the *Federación Libre*, acting less as wards than as self-assertive political agents. In response, Iglesias now sought to win protection for workers in two ways: by winning elections on behalf of candidates for the Socialist Party that he had recently helped form and by turning distant arms of the state against those on the island. The latter required matching a friendly forum to a legible claim, and he identified Congress or a congressionally created island Department of Agriculture and Labor as leading candidates.³³³

U.S. citizenship could advance both aims, and Iglesias evaluated the section of the Jones Bill “granting American citizenship to the Porto Ricans (collectively)” to be its “greatest and most important part.” Most immediately, it would preserve congressional jurisdiction by ensuring continued U.S. sovereignty. As Iglesias had written Gompers in 1914, proponents of independence described U.S. citizenship as “a chain which will tie [Puerto Rico] forever” to the United States, precisely the result that Iglesias sought. Additionally, Iglesias had told the Commission on Industrial Relations, U.S. citizenship

³³³ *Report of Proceedings of the Thirty-Sixth Annual Convention of the American Federation of Labor Held at Baltimore, Maryland, November 13 to 25, Inclusive, 1916* (Washington, D.C.: The Law Reporter Printing Company, 1916) [hereinafter *1916 Federation Report*], 166 (Iglesias report) (quote 2), 171-174 (Iglesias report) (citing the source of quote 1 as “Hearings on H. R. 8501, a bill to provide a civil government for Porto Rico and for other purposes. Pages 14 and 15, January 13 and 15, 1916”); Statement Made by Santiago Iglesias, Delegate of Porto Rico to the Convention of the A. F. of L., President of Free Federation of Working Men of Porto Rico, [November 12,] 1914, CDO:2; Córdova, *Resident Commissioner*, 133-174; cf. Forbath, *Law and Labor*, 7 (describing how on the mainland, organized labor suffered a form of “semioutlawry”).

could mean U.S. membership and U.S. laws, including those federal labor protections that Puerto Ricans did not yet enjoy:

Chairman Walsh. You want the same laws applied to the working people of Porto Rico as apply to the people of the United States?

Mr. Iglesias. Yes, sir. That is the best way to make true American citizens.”³³⁴

U.S. citizenship was also potentially valuable to Iglesias for claims making. Iglesias utilized a similar strategy based on sovereignty, governance, and American exceptionalism. Asserting that “America stands for an ideal,” he complained that “nearly two decades [after] the American flag [was] raised in Porto Rico,” islanders enjoyed only “a few of the outward forms of American rights and liberty.” Perhaps because some congressmen saw the ostensibly minimal content of U.S. citizenship as an argument in favor of extending it to Puerto Ricans, Iglesias generally did not claim that islanders would exercise new rights as U.S. citizens. He made an exception, however, to oppose disfranchisement, which he no longer accepted in exchange for naturalization. “[R]ecommending granting American citizenship disfranchisement,” he thus asserted, “g[ave] no credit to [the] American nation.” Federation President Samuel Gompers provided a model for more expansive claims based on citizenship when, in a letter concerning strikes in Puerto Rico, he complained to President Wilson that “the action of government agents . . . denied the workers the fundamental rights of free citizens”³³⁵

³³⁴ Santiago Iglesias to Samuel Gompers, 20 Apr. 1914, CDO:2 (quote 3); *1916 Federation Report*, 172-173 (Iglesias report) (quotes 1-2, 4); *Final Report on Industrial Relations*, 11091; cf. *ibid.* 11113 (mainlander serving in island government reporting that a federal 1913 worker’s compensation law does not apply to Puerto Rico).

³³⁵ [Santiago Iglesias?] “A Plea for Justice for Porto Rico,” *American Federationist* 23 (Apr. 1916): 263-265, available at CDO:2 (quotes 1-3); Santiago Iglesias to H. B. Wilson, 22 Nov. 1916, CDO:2 (quotes 4-

With Unionistas, Governor Arthur Yager, Representative William Jones, and President Wilson all behind Jones's Bill, and with Iglesias primarily objecting to the disfranchisement clause he had previously accepted, the bill's backers were hopeful. The danger, Yager told Unionista newspaper *La Democracia*, was apathy and delay. Initially the bill made steady progress. Jones's committee unanimously recommended it to the House, which then passed it on May 23, 1916. The Senate Committee on the Pacific Islands and Puerto Rico unanimously recommended an amended version to the Senate, and in September both house jointly called for Puerto Rico to delay its scheduled 1916 elections in anticipation of enactment of its new government. On December 5 President Wilson called on Congress to send him the bill. But then, with the final session of the Congress winding down in February 1917, senators like progressive leading light Robert La Follette of Wisconsin objected to the disfranchisement clause in the bill and prevented a vote. Possible U.S. entry into the Great War made passage more urgent. Though the United States could and would draft non-U.S.-citizen Puerto Ricans for the war effort, newly appointed Secretary of War Newton Baker nonetheless told the bill's main handler in the Senate that "[t]he importance of this bill cannot be overstated. The whole moral dominance of the . . . United States in the American Mediterranean is involved in our treatment of the people of Porto Rico, and these unfortunate delays give . . . illustration for argument as to our neglect of . . . peoples associated with us." Backers of the bill then jettisoned the disfranchisement clause, securing a positive Senate vote on February 20.

5); Samuel Gompers to Woodrow Wilson, 29 Apr. 1916, CDO:2 (quoting Gompers's March 16 letter) (quotes 6-7). On aspirational visions of rights, see Hartog, "Constitution of Aspiration," 1020-1024. Silbey observes that systematically linking the legal consciousnesses of modestly situated individuals to broad patterns of legal change has proven elusive. "After Legal Consciousness." She suggests that the processes by which people's concepts of law and the law itself change in tandem may be more apparent when we look to institutions—presumably including labor organizations like Iglesias's *Federación*—as "middle levels" between individuals and law or the state. *Ibid.*

That change survived the conference between the chambers, with Jones later telling the House, “in my judgment, this bill could not have been passed by this Congress if the House conferees had held out for either a property or an education qualification.” Otherwise the bill remained much as Jones had introduced it. Both houses passed the reconciled bill, and Wilson signed it into law on March 2.³³⁶

³³⁶ Newton Baker to John Shafroth, 16 Feb. 1917, MD NARA RG 350/5B/489/3377-327 (quote 1); *Congressional Record* 54 (1917) pt. 4:4171 (quote 2) (24 Feb. 1917 remarks of Rep. William Jones of Va.); Jones Act, *Statutes at Large* 39 (1917): 951; Cabranes, “Citizenship and American Empire,” 473-492; María Eugenia Estades Font, *La presencia militar de Estados Unidos en Puerto Rico 1898-1918* (Río Piedras, P.R.: Ediciones Huracán, 1999) 202-214; notes 309-310, 329-330 above and accompanying text; Epilogue below, notes 340-341 and accompanying text (discussing the relationship between U.S. citizenship and the draft). The citizenship provision in the Jones Act read, with certain qualifications, that “all citizens of Porto Rico . . . are hereby declared, and shall be deemed and held to be, citizens of the United States: *Provided*, That any person hereinbefore described may retain his present political status by making a declaration, under oath, of his decision to do so within six months.” Jones Act, *Statutes at Large* 39 (1917): 953. On prohibition as a second potential stumbling block for the Jones Act, see Truman R. Clark, “Prohibition in Puerto Rico, 1917-1933,” *Journal of Latin American Studies* 28 (Feb. 1995): 77-97. On La Follette, see Bernard A. Weisberger, *The La Follettes of Wisconsin: Love and Politics in Progressive America* (Madison: University of Wisconsin Press, 1994); Fred Greenbaum, *Robert Marion La Follette* (Boston: Twayne Publishers, 1975); Carl R. Burghardt, *Robert M. La Follette Sr.: The Voice of Conscience* (New York: Greenwood Press, 1992); Robert S. Maxwell, *La Follette and the Rise of the Progressives in Wisconsin* (Madison: State Historical Society of Wisconsin, 1956).

CHAPTER 7

EPILOGUE

By 1917, the constitutional crisis that had been latent since the occupation of Puerto Rico was, if not solved, contained. Two decades earlier, many in the United States had argued that the U.S. occupations and potential annexations of Cuba, Puerto Rico, and the Philippines had brought the nation to a crossroads between adherence to U.S. constitutional norms and emergence as a global imperial power. President William McKinley's allies had battled self-styled Anti-Imperialists over the merits of a U.S. empire and the scope of the U.S. Constitution. In the two decades that followed, however, many U.S. officials sought to reconcile a constitutional tradition of individual rights, self-government, and legal equality to an imperialism that the prominent attorney Frederic Coudert called, "the domination over men of one order or kind of civilization, by men of a different and higher civilization." To do so, they divided big, hard issues into smaller, hopefully more manageable ones. And when some questions remained intractable, they deployed strategic vagueness to delay giving answers.

U.S. constitutional practice and doctrine did not emerge from the endeavor unscathed. Prior to 1898, U.S. citizenship had been intertwined with the legacy of *Dred Scott* (1857) and its subsequent repudiation by the Reconstruction-era Amendments to the

U.S. Constitution. In that case, writing in the shadow of decades of judicial ambiguity concerning the content and distribution of U.S. citizenship, Chief Justice Roger Taney had implied that U.S. citizenship was rich in rights. The Founders could not have intended free blacks to be U.S. citizens, he had argued, because states had long denied them civil and political rights associated with citizenship. Eleven years and a civil war later, the 14th Amendment had made the contrary interpretation explicit, holding that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” Throughout the late 19th century, the U.S. Supreme Court had construed the 14th Amendment to mandate U.S. citizenship for all people subject to U.S. jurisdiction and born in lands under U.S. sovereignty. As to the substance of U.S. citizenship, the Court had spoken with two voices. In a series of cases involving specific rights, it had construed the “privileges or immunities of citizens of the United States” quite narrowly. In *Downes v. Bidwell* (1901), however, justices treated U.S. citizenship as a sufficiently robust status that the threat of its extension to peoples in the newly acquired territories would impede U.S. expansion. U.S. governance of Puerto Rico and the Philippines after 1917 capped the process of constitutional narrowing, pushing back against what remained of unitary and substantive visions of U.S. citizenship, both by thinning out the content of the U.S. citizenship granted to Puerto Ricans, and by denying U.S. citizenship altogether to Filipinos. In cases like *Rabang v. Boyd* (1957), the Supreme Court eventually read the U.S. Constitution to permit the United States to hold millions of Filipinos as U.S. subjects or what Coudert would have called U.S. non-citizen “nationals.” Following Filipino independence, they thus could be and were deemed aliens and deported.³³⁷

³³⁷ Am. 14, sec. 1, U.S. Const. (quotes); *Rabang v. Boyd*, 353 U.S. 427 (1957); cases cited in notes 117,

Gonzales v. Williams (1904) marked a turning point in this narrowing of the potential of the 14th Amendment as a basis for claims involving U.S. citizenship. Before *Gonzales*, and notwithstanding the congressional decision to withhold recognition of Puerto Ricans as U.S. citizens in the Foraker Act (1900), it was plausible to expect that the Supreme Court would continue to find all peoples born in U.S. lands under U.S. sovereignty to be U.S. citizens. While justices had expressed concerns about recognizing recently annexed peoples as U.S. citizens in *Downes v. Bidwell* (1901), those concerns both struck some prominent mainland and island lawyers as answerable and indicated that a Supreme Court decision on Puerto Rican citizenship remained to be made. By contrast, many legal experts read *Gonzales* to implicitly endorse the view that colonized peoples like Puerto Ricans and Filipinos were nationals but not citizens of the United States. After that decision, Resident Commissioner Federico Degetau y González's view

199 above. For studies of the Dred Scott case that characterize citizenship as a legal category, see Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (Oxford, Eng.: Oxford University Press, 1978); Austin Allen, *Origins of the Dred Scott Case: Jacksonian Jurisprudence and the Supreme Court, 1837-1857* (Athens: University of Georgia Press, 2006); see also Sam Erman, "An 'Unintended Consequence': *Dred Scott* Reinterpreted," review of *Origins of the Dred Scott Case*, by Allen, *Michigan Law Review* 106 (2008): 1157-1165; James H. Kettner, *The Development of American Citizenship: 1608-1870* (Chapel Hill: Published for the Institute of Early American History and Culture by The University of North Carolina Press, 1978). Taney had also appeared to presume that U.S. citizenship carried with it substantial rights when he had objected to the possibility that free U.S. blacks would be encompassed by the Privileges and Immunities Clause of Article 4 of the U.S. Constitution:

It cannot be supposed that [the states] intended to secure to [free blacks] rights, and privileges, and rank, in the new political body throughout the Union, which every one of them denied within the limits of its own dominion. More especially, it cannot be believed that the large slaveholding States regarded them as included in the word citizens, or would have consented to a Constitution which might compel them to receive them in that character from another State. For if they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right to enter every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went.

Scott v. Sandford, 60 U.S. 393, 416-417 (1857).

that courts could be convinced to recognize Puerto Ricans—or Filipinos—as U.S. citizens came to appear increasingly quixotic. Secure in the new conventional wisdom that the Supreme Court would not recognize Filipinos as U.S. citizens absent congressional action, federal lawmakers extended Puerto Ricans but not Filipinos U.S. citizenship in the Jones Act (1917).³³⁸

Gonzales is in some ways an unlikely legal landmark, a short opinion and narrow holding that the Supreme Court has cited only occasionally. That the case nonetheless played a key role in the history of U.S. citizenship illuminates how that history sprawled beyond U.S. courtrooms and formal doctrine. It included claims and decisions by federal administrators, elected U.S. officials, and Puerto Rican leaders and litigants, all of whom characteristically drew creatively upon and thereby transformed prevalent ideologies and metaphors concerning race and empire.

Focusing on these dynamics reveals how *Gonzales* emerged out of and then shaped struggles in the United States around citizenship, empire, and the constitution. The case began when Isabel Gonzalez, a Puerto Rican seeking to relocate to New York, asserted that she was a U.S. citizen and thereby challenged immigration officials' authority to deny her entry into the United States. By the time her claim reached the Supreme Court, the top administrator at the Ellis Island immigration station and leading lawyers from the private New York Bar, the federal government, and the Puerto Rican political class had joined the fight. These advocates related the question of Puerto Ricans' citizenship to the status and treatment of men, women, children, colonized and indigenous peoples, and ethnic minorities within the U.S., Spanish, French, and British

³³⁸ In the Philippine Autonomy Act of 1916, the U.S. political branches declined to make residents of the Philippines into U.S. citizens. *Statutes at Large* 39 (1916): 545-546.

empires. In 1904, the Supreme Court resolved Gonzalez's claim, finding Puerto Ricans not to be alien to the United States and declining to clarify their U.S. citizenship status. Partly as a result, a new Puerto Rican political coalition secured durable majority status. It deemphasized test cases and focused instead on confronting federal authorities while seeking liberalization of congressional policy toward Puerto Rico. Within the U.S. state, *Gonzales* marked the transformation of the U.S. citizenship status of Puerto Ricans from a judicial matter to a legislative one. By decoupling Puerto Ricans' fate from that of Filipinos, whom many in the U.S. state perceived to be truly degraded, the decision also altered the relationship of Puerto Ricans' U.S. citizenship status to ideologies of race and empire, to perceived exigencies of imperial governance, and to U.S. constitutional norms.

Though *Gonzales* and other *Insular Cases* accorded U.S. officials enormous discretion in governing U.S. nationals in unincorporated territories like Puerto Rico and the Philippines, it was the Cuban model that came to dominate U.S. foreign policy. Rather than place Cuba within and beyond the U.S. nation, as it had Puerto Rico and the Philippines, the United States eventually came to position its interactions with Cuba in the realm of foreign relations, but foreign relations reflecting "ties of singular intimacy." The United States insisted that it was as a sovereign nation that Cuba had acceded to the Platt Amendment and to the prospect of U.S. intervention. Vis-à-vis the United States, Cubans thus did not have the same access to U.S. courts, officials, or constitutional arguments as Puerto Ricans. Militarily and economically subordinated to the United States, however, Cuba was also not in a position to use its sovereignty to assert itself forcefully in state-to-state dealings with the United States. Through force, threats, economic pressures, political interference, and negotiations, the United States similarly

expanded its sphere of influence in the Americas and elsewhere, ensuring that many neighbors there also became second-class sovereigns.³³⁹

U.S. citizenship after 1917 provided Puerto Ricans no guarantee that the U.S. government would refrain from colonial rule. It turned out not to be a pathway to territorial incorporation, a guarantee of constitutional rights, or a harbinger of self-government. Ubaldino Ramírez Quiñones learned that it was also not a prerequisite to compulsory U.S. military service. In 1917, he awaited receipt in Puerto Rico of a copy of his dentistry diploma. Without it, he could not qualify to participate in World War I as an officer in the U.S. Dental Reserves Corps. Instead, like all “male citizens, or male persons not alien enemies who have declared their intention to become citizens” in the United States, Ramírez could be drafted into the general ranks. Hoping to avoid the draft long enough to receive his diploma, Ramírez declined U.S. citizenship. When his diploma subsequently arrived, military superiors announced that he could not join the Dental Reserve Corps as a non-citizen. The Bureau of Insular Affairs added that he could not rescind his declination of U.S. citizenship.³⁴⁰

Concerned that other islanders might also refuse U.S. citizenship, Governor Arthur Yager asked the War Department to construe the selective-service law to apply equally to Puerto Ricans who became U.S. citizens under the Jones Act and islanders like Ramírez who retained their pre-Jones Act status. Initially, the War Department had contemplated exempting all Puerto Ricans from the draft. But because the army planned

³³⁹ Louis A. Pérez, Jr., *Cuba and the United States: Ties of Singular Intimacy* (Athens: University of Georgia Press, 1997). On the relationship between the United States and Cuba and on U.S. relationships with other places along similar lines, see, e.g., sources cited in Chapter 5 above, note 264; Eileen P. Scully, *Bargaining with the State from Afar: American Citizenship in Treaty Port China 1844-1942* (New York: Columbia University Press, 2001).

³⁴⁰ Act of May 18, 1917, *Statutes at Large* 40 (1917): 78 (quote); Jones Act, *Statutes at Large* 39 (1917): 953, 968; MD NARA 350/5B/1075/26490-42 to -43; José Trias Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Conn.: Yale University Press, 1997), 79.

to shift to a wholly conscripted army, the Chief of the Bureau of Insular Affairs had objected that the plan would lead the island to “lose the great economic advantage which would come to it” “and to the young men in Porto Rico” “by the putting in the military service, for a period, of some thousands of its citizens.” Instead, the Judge Advocate General of the Army had ruled that Puerto Ricans who declined U.S. citizenship would not thereby become exempt from the draft. Soon afterward, Yager reported that only 288 islanders ultimately had turned down U.S. citizenship.³⁴¹

José Balzac, a pro-labor journalist, found embracing U.S. citizenship to be equally unavailing. After Balzac criticized Governor of Puerto Rico Arthur Yager in print as a “diabolical incarnation of despotism” in 1918, the Prosecuting Attorney for the District of Arecibo charged Balzac with libel and the District Court of Arecibo—after denying his request to be tried by a jury—convicted him. Claiming a 6th Amendment right to a jury trial, Balzac appealed to the U.S. Supreme Court. He had reason to be hopeful. In 1901, a plurality of the Court had cited congressional failure to recognize Puerto Ricans explicitly as U.S. citizens as a key consideration when it classified Puerto Rico as an unincorporated territory where residents enjoyed only fundamental constitutional rights. By implication, the recognition of citizenship that had come with the Jones Act should

³⁴¹ Frank McIntyre to Arthur Yager, 2 May 1917, AG/OG/CG/180/Justicia, Ciudadanía, dic. 1917-1918, 1390 (quote); Arthur Yager, Seventeenth Annual Report of the Governor of Porto Rico, in *War Department Annual Reports, 1917*, vol. 3 (Washington, D.C.: Government Printing Office, 1918), 2. In AG/OG/CG/180/Justicia, Ciudadanía, dic. 1917-1918, 1390, see Geo. Shanton to Governor of Porto Rico, 27 Jul. 1917; Cable, Yager to Secwar, 30 Apr. 1917; Arthur Yager to Frank McIntyre, 3 Oct. 1917; Cable, McIntyre to Yager, 18 Oct. 1917. I have not found evidence that the United States recognized Puerto Ricans as U.S. citizens in order to impose draft eligibility upon them. See José A. Cabranes, “Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans,” *University of Pennsylvania Law Review* 127 (1978): 405-406 (noting the limited uses to which the United States put Puerto Rican soldiers). On declining U.S. citizenship, see Jones Act, *Statutes at Large* 39 (1917): 951.

bring full constitutional protections.³⁴²

Instead, recognition of Puerto Ricans as U.S. citizens had not occasioned Puerto Rican incorporation but rather acknowledgement of ongoing island non-incorporation. In a unanimous rejection of Balzac's appeal, the U.S. Supreme Court held that despite being U.S. citizens, residents of Puerto Rico had no constitutional right to trial by jury. Puerto Rico remained unincorporated territory entitled only to "fundamental" constitutional rights, Chief Justice William Taft wrote on behalf of the Court, and those rights did not include trial by jury. Taft thus rejected the claim that congressional extension of U.S. citizenship to Puerto Ricans had occasioned incorporation of Puerto Rico. He acknowledged that prior Court opinions had looked to the citizenship status of territorial residents in determining whether Congress had incorporated their territories. But those cases, he explained, had examined congressional actions that had taken place at a time when "the distinction between acquisition and incorporation was not regarded as important." Now that the *Insular Cases* had changed the constitutional order, he reasoned, only an "express declaration" of incorporation by Congress—and not mere collective naturalization of territorial residents—would suffice to incorporate territory. In reaching its conclusion in this way, the Court for the first time definitively embraced the doctrine of territorial non-incorporation that Justice Edward White had introduced in his plurality opinion in *Downes v. Bidwell* in 1901.³⁴³

³⁴² Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence: University of Kansas Press, 2006), 197 (quote 1), 198-204; Ileana M. Rodríguez-Silva, "A Conspiracy of Silence: Blackness, Class, and National Identities in Post-Emancipation Puerto Rico (1850-1930)," (Ph.D. diss., University of Wisconsin, 2004), 412; *Balzac v. Porto Rico*, 258 U.S. 298 (1922); Transcript of Record, Nos. 178-179, *Balzac*, 1-2.

³⁴³ *Balzac* (quotes); Juan R. Torruella, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal* (Río Piedras: University of Puerto Rico, 1985), 184. Soon thereafter, the Supreme Court of Puerto Rico held that the bar on sex discrimination in voting prescribed by the U.S. Constitution following ratification of the 19th Amendment in 1920 had no application in unincorporated Puerto Rico. Am. 19, U.S.

In the most glaring omission, U.S. citizenship also left residents of Puerto Rico without a vote in the U.S. Congress to whose laws they were subject or for the U.S. President who appointed their governor. Consequently, even as the Jones Act opened positions within the Puerto Rican state to some politically connected men of Puerto Rican heritage, it blocked the kinds of elections that might have given voice to anti-colonial sentiments, and kept the appointment power closely tied to Washington. Domingo Collazo encountered this dynamic when he sought appointment as Treasurer of Puerto Rico in 1917. Drawing on his prior partisan service—which included criticizing Republican imperialism and organizing voters behind Democratic candidates—he won backing for the job from Democratic Senator Kenneth McKellar and Democratic National Committee member Hugh Wallace. His vocal anti-colonial politics, however, were out of step with the U.S. colonial rule in Puerto Rico as Democratic President Woodrow Wilson envisioned it. Unsurprisingly, then, Governor Yager, also a Democrat, did not make Collazo his Treasurer. Afterward, Collazo criticized Yager and sought a more modest post in the island government, an initiative that Yager moved to scuttle.³⁴⁴

Collazo's niece, Isabel Gonzalez, continued to criticize U.S. governance of Puerto Rico, even twenty-three years after participating as a litigant in the citizenship case of *Gonzales v. Williams* (1904). Writing to the *New York Times* in 1927, Gonzalez attacked the system that the Jones Act had wrought. Drawing on progressive tropes, she characterized Puerto Rican politics in terms of apathetic voters electing corrupt

Const.; María de Fátima Barceló Miller, *La lucha del sufragio femenino en Puerto Rico 1896-1935* (Río Piedras and San Juan, P.R.: Ediciones Huracán, Inc. and Centro de Investigaciones Sociales, 1997), 161-162, 225.

³⁴⁴ María Eugenia Estades Font, *La presencia militar de Estados Unidos en Puerto Rico 1898-1918: intereses estratégicos y dominación colonial* (San Juan, P.R.: Ediciones Huracán, 1998), 220-221. On Collazo, see documents collected at MD NARA 350/21/121/Collazo, Domingo (especially documents dated 1916-1920); Jones Act, *Statutes at Large* 39 (1917): 951.

legislators, an ineffective and politically appointed governor, and a lack of expert governance. Though she had worked in a factory at least during her early years in the United States, Gonzalez now aligned herself with landowners and investors. Those “who took the trouble to go to the polls,” she wrote, had elected “politicians intoxicated with their own verbosity” who implemented policies of over-borrowing, over-spending, and over-taxing. Claiming that these politicians’ actions “cannot but lead to final disaster, though to their personal profit,” Gonzalez also criticized presidentially appointed Governor Horace Towner as “either too weak or too condescending with the politicians to tell them that unscientific running of Government undermines credit and frightens capital.” Because Towner “is utterly unable to stem the tide of radicalism which is now holding Porto Rico under its irresponsible sway” and became “anarchy is there which [Towner] cannot control,” she added, “a war of classes” was imminent. Under the existing system, she implied, only presidential intervention would “bring back conditions to their original standing under the flag of the United States.”³⁴⁵

Senator Elihu Root, who had opposed the substantive citizenship for Puerto Ricans that Gonzalez had sought, now joined her in disparaging the results of the Jones Act, which had extended to islanders a formal U.S. citizenship without concomitant self-government. He wrote:

Citizenship in a democracy means something more than a decorative title. It means the right to share in government. What Porto Rico needs and really wants is not to take part in the government of the United States, but to be protected in governing herself. . . . Her people cannot really be

³⁴⁵ Isabel Gonzalez, “Porto Rico’s Plight,” *New York Times*, 21 May 1927, 18 (quotes); Estades Font, *La presencia militar*, 220-221.

citizens of the United States, and, calling them so only delays the real liberty Porto Rico should have.³⁴⁶

Yet in defending a robust vision of citizenship as political participation and of Puerto Ricans as wholly excluded from U.S. governance, Root overstated his case. U.S. citizenship brought voting rights to many otherwise qualified Puerto Ricans resident on the mainland. It also ensured their freedom of movement within U.S. borders. Though *Gonzales v. Williams* (1904) held that U.S. immigration officials could not prevent Puerto Ricans' migration to the mainland by labeling them aliens, it did not address congressional power to exclude people who were neither aliens nor U.S. citizens. In 1934, Congress enacted the Philippine Independence Act, which both promised that archipelago eventual sovereignty and capped immigration from there by "citizens of the Philippine Islands who are not citizens of the United States" at fifty persons per year. As U.S. citizens, Puerto Ricans remained exempt from such immigration rules, and in the years after World War II they migrated by the hundreds of thousands to the U.S. mainland. Today, more than four million U.S. citizens resident on the mainland self-identify as Puerto Rican.³⁴⁷

³⁴⁶ Elihu Root to Mrs. H. Fairfield Osborn, 24 Dec. 1917, in Philip C. Jessup, *Elihu Root*, vol. 2 (New York: Dodd, Mead & Co., 1938), 397.

³⁴⁷ Philippine Independence Act of 1934, *Statutes at Large* 48 (1934): 456, 462 (sec. 6) (quote); Veta Schlimgen, "Intermediate Citizens: 'American Nationals,' Filipino Americans, and U.S. Imperialism" (presented at the Organization of American Historians Annual Meeting, Seattle, Wash., 27-28 Mar. 1909); *Rabang*, 353 U.S. at 432-433 (confirming congressional power to (1) treat non-citizen U.S. national Filipinos like foreigners for immigration purposes prior to Filipino independence; and (2) to deport such Filipinos as aliens subsequent to Filipino independence); *Paul v. Virginia*, 75 U.S. 168, 180 (1869) (explaining that the Privileges and Immunities Clause of Article 4 of the U.S. Constitution guarantees U.S. citizens "the right of free ingress into other States"); César J. Ayala and Rafael Bernabe, *Puerto Rico in the American Century: A History since 1898* (Chapel Hill: University of North Carolina Press, 2007), 179-182, 194-197; U.S. Census Bureau, 2008 American Community Survey 1-Year Estimates, B03001. Hispanic or Latino Origin by Specific Origin - Universe: Total Population, available at <http://factfinder.census.gov>. On identity papers testifying to the U.S. citizenship of Puerto Ricans, see Arcadio Santiago to Commissioner for Porto Rico in Washington, 19 Mar. 1919, AG/OG/CG/180/Justicia, Ciudadanía, 1919-1921, Exp. 1390, and surrounding correspondence; Archives of the Puerto Rican Migration, Identification and

Other legacies of the formalization of colonial disabilities persist. Puerto Rico remains an unincorporated territory with no clear indication of an end in sight to that odd status. The *Insular Cases* are still largely binding precedents, albeit vague and widely criticized ones. More than a century after introducing the principle that only “fundamental” constitutional rights apply to unincorporated U.S. territories, the Court has provided just piecemeal guidance concerning which rights qualify as “fundamental,” and on what grounds. And as in 1898, many in Puerto Rico draw on competing conceptions of citizenship to struggle over the meanings of self-determination. The troubled legacies of 1898, whether in San Juan, Havana, Washington, or Guantánamo, remain with us.³⁴⁸

Documentation Program, Applications for Certificate of Identification, boxes 1-5. On Puerto Rican voting rights in U.S. areas outside of Puerto Rico following passage of the Jones Act, see documents collected at MD NARA 350/5B/1075/26490-35 to -36 and the following from BCSPCEPHC X/21/1: “Porto Ricans Here Not Entitled to Vote in Territory,” *Pacific Commercial Advertiser*, 2 May 1917, 7; “Porto Rican Held American Citizen,” *Pacific Commercial Advertiser*, 23 Oct. 1917, 7.

³⁴⁸ Christina Duffy Burnett, “Untied States: American Expansion and Territorial Deannexation,” *University of Chicago Law Review* 72 (summer 2006): 797-879; Sparrow, *The Insular Cases*, 216, 220-225; Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington D.C.: American Psychological Association, 2001), 13; Raymond Carr, *Puerto Rico: A Colonial Experiment* (New York: New York University Press, 1984); Marco A. Rigau, “El derecho a la ciudadanía y la ciudadanía Americana de los puertorriqueños. *Afroyim v. Rusk*,” *Revista Jurídica de la Universidad de Puerto Rico* 37 (1967): 817-830; Gary Lawson and Robert D. Sloane, “The Constitutionality of Decolonization: Puerto Rico’s Domestic and International Legal Status,” *Boston College Law Review* 50 (Sep. 2009): 1123-1193; John L.A. de Passalacqua, “Voluntary Renunciation of United States Citizenship by Puerto Rican Nationals,” *Revista Jurídica Universidad de Puerto Rico* 66 (1997): 269-304; Sanford Levinson, “Why the Canon Should Be Expanded to Include the *Insular Cases* and the Saga of American Expansionism,” *Constitutional Commentary* 17 (summer 2000): 241-266.

APPENDIX

Recurring Historical Actors

- Charles Allen*: Governor of Puerto Rico (1900-1901).
- José Celso Barbosa*: Leader of the Republicanos.
- Henry Billings Brown*: U.S. Supreme Court Justice (1891-1906).
- William Jennings Bryan*: Democratic candidate for President (1896, 1900, 1908).
- Domingo Collazo*: New York-based Puerto Rican activist. Uncle of Isabel Gonzalez.
- George Colton*: Governor of Puerto Rico (1909-1913).
- Henry Cooper*: Republican Representative from Ohio (1893-1919). Chairman, House Committee on Insular Affairs (1899-1909).
- Frederic Coudert*: Attorney at the Coudert Brothers law firm.
- Herminia Dávila*: Wife of Domingo Collazo. Aunt of Isabel Gonzalez.
- George Davis*: U.S. military governor of Puerto Rico (1899-1900).
- Federico Degetau y González*: U.S. Resident Commissioner from Puerto Rico (1900-1905). Member of the Partido Republicano.
- Chauncey Depew*: Republican Senator from New York (1899-1910).
- Jacob Dickinson*: U.S. Secretary of War (1909-1911).

Clarence Edwards: Chief of the Division of Customs and Insular Affairs (later renamed Division of Insular Affairs and then Bureau of Insular Affairs) in the War Department (1900-1912).

Mateo Fajardo: Republican nominee for Resident Commissioner (1904).

Joseph Foraker: Republican Senator from Ohio (1897-1909).

Jean des Garennes: Acquaintance and co-counsel of Federico Degetau. French Embassy counsel.

Lindley Garrison: Secretary of War (1913-16).

Samuel Gompers: President of the American Federation of Labor.

Isabel Gonzalez: Plaintiff in *Gonzales v. Williams* (1904). Niece of Domingo Collazo.

Luis Gonzalez: Brother of Isabel Gonzalez.

John Griggs: U.S. Attorney General (1898-1901).

Guy Henry: U.S. military governor of Puerto Rico (1898-99).

Henry Hoyt: U.S. Solicitor General (1903-1909).

William Hunt: Secretary of Puerto Rico (1900-1901). Governor of Puerto Rico (1901-1904).

Santiago Iglesias Pantín: Puerto Rican labor leader.

Tulio Larrinaga: U.S. Resident Commissioner from Puerto Rico (1905-1913). Member of the Partido Unionista.

Charles Magoon: Law Officer for the Division of Customs and Insular Affairs (renamed Division of Insular Affairs and then Bureau of Insular Affairs) in the War Department (189[9?]-1904). U.S. Military Governor of Cuba (1906-1909).

José Martí: Leader of Cuban Revolutionary Party (1892-95).

Frank McIntyre: Chief of Bureau of Insular Affairs in the War Department (1912-1929).

Nelson Miles: U.S. general who led the U.S. invasion of Puerto Rico.

Luis Muñoz Rivera: U.S. Resident Commissioner from Puerto Rico (1913-16). Member of House of Delegates (1907-1913). Leader of the Partido Federal (1899-1904) and the Partido Unionista (1904-1916).

Orrel Parker: Lawyer for Isabel Gonzalez.

Regis Post: Secretary of Puerto Rico (1904-1907). Governor of Puerto Rico (1907-1909).

Juan Rodríguez: Litigant in *Rodríguez v. Bowyer* (1905).

Theodore Roosevelt: U.S. President (1901-1909).

Elihu Root: U.S. Secretary of War (1899-1904). U.S. Secretary of State (1905-1909). Republican Senator from New York (1909-1915).

Manuel Rossy: Republican political leader. Speaker of the Puerto Rico House of Delegates (1900-1904).

William Howard Taft: U.S. President (1909-1913).

Edward White: Democratic Senator from Louisiana (1891-94). U.S. Supreme Court Justice (1894-1921). Chief Justice of the U.S. Supreme Court (1910-1921).

William Williams: Commissioner of Immigration at Ellis Island (1902-1905, 1909-1913).

Woodrow Wilson: U.S. President (1913-1921).

Beekman Winthrop: Governor of Puerto Rico (1904-1907).

Arthur Yager: Governor of Puerto Rico (1913-1921).

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Heraldo of Madrid, Spain.

[†] For abbreviations used in footnotes, see Abbreviations above.

El Aguila of P.R.
Boletín Mercantil of P.R.
La Correspondencia of P.R.
La Democracia of P.R.
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Buffalo Courier of N.Y.
Chicago Daily Tribune.
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New York Evening Post.
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New York Herald Tribune.
Detroit Journal of Mich.
Indianapolis Journal of Ind.
North American.

Pacific Commercial Advertiser.

Cleveland Plain Dealer of Ohio.

Washington Post.*

Press of Philadelphia, Pa.

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