

Harvard University

From the Selected Works of Sam Erman

March 12, 2012

**Reconstruction and Empire: Legacies of the U.S.
Civil War and Puerto Rican Struggles for Home
Rule, 1898-1917**

Sam Erman, *Harvard Law School*



Available at: https://works.bepress.com/sam_erman/1/

Reconstruction and Empire: Legacies of the U.S. Civil War and
Puerto Rican Struggles for Home Rule, 1898-1917

Sam Erman

TABLE OF CONTENTS

I. "THAT PORTO RICO BE A BROTHER IN THE FAMILY AND NOT A SLAVE," 1897-1900	8
II. "WE STUDY HISTORY AND SEE . . . THE SCANDALS OF THE SOUTH REPEATED," 1900-1908	21
III. "WE HAVE HAD . . . WHAT I TERM A 'CARPETBAG GOVERNMENT,'" 1909-1912.....	31
IV. "THE SAME SAD REASON OF WAR AND CONQUEST WHICH LET LOOSE OVER THE SOUTH," 1913-1917	35
V. CONCLUSION.....	45
APPENDIX: LIST OF ABBREVIATIONS.....	51

Reconstruction and Empire: Legacies of the U.S. Civil War and Puerto Rican Struggles for Home Rule, 1898-1917

Sam Erman*

The Civil War and U.S. Empire transformed U.S. relationships among race, law, and constitutionalism in the late-19th and early-20th centuries. Traditional accounts portray these events as iterative, with Republicans and the Supreme Court abandoning ideals of Reconstruction just in time for the United States – through annexation from Spain of Puerto Rico, Guam, and the Philippines – to take a deliberate imperial turn in 1898-1899. That account is wrong. As recent scholarship has anticipated, debates over meanings of the Civil War, the early postbellum period, and the Reconstruction Amendments to the Constitution raged on into the 20th century. Puerto Rican leaders perceived the dynamic. Across 1898-1917, they sought traction with U.S. officials by asserting that political and constitutional issues arising from U.S. empire were best understood with reference to the Civil War and its aftermath. Close study of their efforts illuminates that legal legacies of Reconstruction, which initially formed potential limits on colonial governance, were eventually dismantled by the judges and elected officials who oversaw U.S. empire. In particular, before annexation of Puerto Rico – but not two decades later – it was reasonable to argue that the Constitution as modified by the 14th and 15th Amendments made all non-tribal U.S. peoples into (1) U.S. citizens with substantive privileges and immunities that included access to the franchise on the same terms as whites and (2) citizens of a state or of a territory on the road to statehood. In line with that shift, numerous prominent U.S. jurists in 1898 and not in 1917 asserted that annexation automatically brought U.S. citizenship, eventual statehood, and full constitutional protections all in a bundle. Hoping to benefit from the shift away from the ideals of Reconstruction, leading Puerto Rican politicians came to embrace white-supremacist mischaracterizations of that history as a tragic instance of northern tyranny. Asserting that those ostensible postbellum errors were being reprised in Puerto Rico, these island leaders argued – with mixed results – that Puerto Rico too required “Redemption” into home rule.

Empire was Reconstruction. So insisted Puerto Rican political leaders during the first two decades of the 20th century. Until the

* Sam Erman is Raoul Berger-Mark DeWolfe Howe Legal History Fellow at Harvard Law School. He clerked for U.S. Supreme Court Justices John Paul Stevens and Anthony Kennedy (2010-2011) and for U.S. Court of Appeals Judge for the D.C. Circuit Merrick Garland (2009-2010). He holds a J.D. (2007) and Ph.D. in American Culture (2010) from the University of Michigan. Particular thanks are due Pamela Brandwein, Christina Burnett, Dan Ernst, Eileen Findlay, Sarah Barringer Gordon, Sophia Lee, Sanford Levinson, Serena Mayeri, Rachel St. John, Jed Shugerman, Barbara Welke, and especially Martha Jones. Archival abbreviations appear in the Appendix.

U.S. Congress extended Puerto Ricans U.S. citizenship and a modicum of self-government in 1917, Luis Muñoz Rivera and other members of the dominant Puerto Rican political coalition told themselves, their constituents, and U.S. officials that U.S. colonial rule on their island replicated Reconstruction-era events in the United States.

On Muñoz Rivera and his co-partisans' view: Both early-20th-century Puerto Rico and the Reconstruction-era U.S. South suffered northern U.S. invasions and occupations during wartime. Puerto Rican woes came during and after the war between Spain and the United States in Puerto Rico, Cuba, and the Philippines that included the U.S. invasion and annexation of Puerto Rico in 1898-1899. Southern ones coincided with the War between the States and its aftermath. Both regions contained substantial populations with African ancestry and an elite, whiter political class prepared to rule over them. Both had suffered tyrannical, illegitimate, and at-times-violent misrule by northern carpetbag governments collaborating with locals of color and other unprincipled residents. And both were destined to achieve redemption through the efforts of mainland Democrats and better, whiter local leaders.

Other prominent Puerto Ricans deployed different analogies between the circumstances of islanders and those of mid-19th-century mainlanders. Federico Degetau y González – a powerful political opponent of Muñoz Rivera's party – and Santiago Iglesias – a top leader of Puerto Rican organized labor – eschewed Reconstruction talk to emphasize slavery and its obliteration. Early in U.S. rule, Degetau portrayed leading men in Puerto Rico and the United States as racial equals who shared histories of struggle for liberal-democratic ideals, most notably emancipation. A decade later, Iglesias argued that – like a prior generation of white U.S. and European workers – island laborers toiled under slave-like conditions as they struggled for an emancipation that had yet to arrive.

By deploying portrayals of the U.S. Civil War and its aftermath, Puerto Rican leaders variously sought self-government, full membership within the U.S. empire-state, and federal protections for

workers. Examining their efforts illuminates relationships of U.S. empire to portrayals and legal legacies of the U.S. Civil War, to mainland and island constitutionalism, and to debates in Puerto Rico and the United States around comparative racial capacity.

Muñoz River, Degetau, and to a lesser degree Iglesias shared many white mainlanders' faith in racial hierarchy. Through their historical analogies, the men sought for Puerto Ricans like themselves a place within U.S. racial hierarchies consonant with island racial norms. In pre-annexation Puerto Rico, men of Spanish descent had occupied top rungs in the social order, albeit somewhat lower ones if they were Puerto Rican natives rather than *peninsulares* born on the Iberian Peninsula.¹ Afterward, mainland U.S. public opinion often deprecated all Puerto Ricans as racially mixed regardless of the self-proclaimed status of men like Muñoz Rivera as "sons of Spain."² To the extent that the U.S. public recognized leading Puerto Rican men as essentially Spanish, it still often perceived them as a darker shade of pale than its increasingly Anglo-Saxon measure of whiteness.³ Island laborers might not receive even that consolation.⁴ By relating their experience to slavery, emancipation, and its aftermath, the island leaders examined here drew on conceptions of race with currency in Puerto Rico to contest mainlanders' racial deprecations and to claim the privileges, protections, and forms of belonging of mainland whites.⁵

U.S. annexation brought Puerto Rico into an empire-state still struggling with the legal legacy of its Civil War. For nearly three decades following ratification of the Reconstruction Amendments,

¹ EILEEN J. SUÁREZ FINDLAY, *IMPOSING DECENCY* 56-58, 20-24 (1999); Christina Duffy Burnett, "They say I am not an American . . .": *The Noncitizen National and the Law of American Empire*, 48 VA. J. INT'L L. 659, 684 (2008).

² SUÁREZ FINDLAY, *supra* note 1, at 57, 20-24, 56, 58; BARBARY Y. WELKE, *LAW AND THE BORDERS OF BELONGING IN THE LONG NINETEENTH CENTURY UNITED STATES* 3-6, 38-39 (2010).

³ JOHN HIGHAM, *STRANGERS IN THE LAND* (1955); MATTHEW FRYE JACOBSON, *WHITENESS OF A DIFFERENT COLOR* 39-90 (1998); Mae M. Ngai, *The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924*, 86 J. AM. HIST. 67 (2001); William Williams, *Outline of Address Delivered to the Senior Class of Princeton in November, 1904*, Box 6, Folder 4, WWP, NYPL.

⁴ Although a – perhaps the – leading voice of early-20th-century Puerto Rican organized labor, Iglesias did not represent all labor activists' views. On criticism of whiteness, see, for example, SUÁREZ FINDLAY, *supra* note 1, at 141-43.

⁵ WELKE, *supra* note 2, at 3-6, 38-39, *passim*.

formal U.S. territorial expansion had stopped.⁶ As a result, the status of newly annexed people under those constitutional provisions remained an open and untested question. It was possible to argue in 1898 that the 14th and 15th Amendments and the Constitution that they modified made all non-tribal U.S. peoples – including those of color – into both U.S. citizens with substantive privileges and immunities that included access to the franchise on the same terms as whites and citizens of a state or of a territory on the road to statehood.⁷ In their opinions, Supreme Court justices treated citizenship ambivalently, variously celebrating its significance,⁸ reaffirming its broad distribution within the states of the Union,⁹ and construing it to provide few judiciable rights.¹⁰ U.S. jurists also disagreed over the relationship of legal legacies of the Civil War to U.S. empire. Some asserted that following annexation Puerto Ricans would secure U.S. citizenship, eventual statehood, and full constitutional protections all in a bundle.¹¹ Others claimed that these

⁶ See *Downes v. Bidwell*, 182 U.S. 244, 304-05, 319-37 (1901) (White, J., concurring). On continuing displacement in these years of American Indians within formal U.S. borders, see, for example, FRANCIS PAUL PRUCHA, *THE GREAT FATHER* 479-758 (1984).

⁷ The relationship of the *Dred Scott* case, *Scott v. Sandford*, 60 U.S. 393 (1857), to the 14th and 15th Amendments provided one basis for such arguments. *Scott* declared that the United States could not maintain perpetual colonies and held blacks not to be state citizens for constitutional purposes. 60 U.S., at 426-27, 446. Equating state and U.S. citizenship at the Founding, Chief Justice Roger Taney rested the citizenship holding in part on the claim that widespread, Founding-era denials to free blacks of civil and political rights reflected the Founders' belief that free blacks were not state citizens and so would not become U.S. citizens. *Id.*, at 403-16. Following the Civil War, the 14th Amendment (1868) reversed the *Scott* citizenship holding by making all non-tribal people born or naturalized in the United States into U.S. citizens with concomitant "privileges" and "immunities." Two years later, the 15th Amendment barred racial lines in voting. One could read these three authorities together as prescribing that all non-tribal U.S. peoples were U.S. citizens who resided in states or future states and possessed a U.S. citizenship rich in rights that included access to the franchise on the same terms as whites. On these dynamics and the text accompanying this footnote, see DAVID W. BLIGHT, *RACE AND REUNION* 92, 102, 122, 131, 138, 170, 217, 303-04 (2001); MARK ELLIOTT, *COLOR-BLIND JUSTICE* 165-316 (2006).

⁸ This dynamic continued after 1898. See, e.g., *Downes*, 182 U.S., at 287 (White, J., concurring).

⁹ See, e.g., *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

¹⁰ See, e.g., *Slaughter-House Cases*, 83 U.S. 36 (1873).

¹¹ See, e.g., James Bradley Thayer, *Our New Possessions*, 12 HARV. L. REV. 464 (1899) (arguing that annexation does not automatically bring U.S. citizenship or eventual statehood,

three legal changes would reach Puerto Ricans not at all.¹²

As Puerto Rican leaders framed and U.S. officials answered claims concerning U.S. empire and legacies of the Civil War and its aftermath, they also sought, respectively, to shape island and mainland constitutionalism. Within Puerto Rico, U.S. annexation meant a new island constitutional structure with myriad implications for Puerto Rican rights, status, and self-government. With it unclear whether that structure would eventually be that of state of the Union, U.S. territory, or independent nation, Puerto Rican leaders framed claims with an eye to shaping the eventual status of their homeland and that of its populace. By contrast, mainland officials focused on what types of imperial governance the postbellum U.S. Constitution permitted and on how U.S. imperial policies might alter the postbellum U.S. constitutional order.

In Reconstruction analogies, Muñoz Rivera and his colleagues found a promising – albeit ultimately problematic – way to align their and mainland officials’ constitutionalist concerns. In doing so, these island leaders eschewed total resistance to U.S. imperialism in favor of the potential gains to be won working within the new regime. The approach built on Democrats’ today-long-since-discredited critique of Reconstruction as causing interrelated problems: tyrannical federal governance and tyrannization of southern whites.¹³ By equating empire with Reconstruction, Puerto Rican political leaders hoped to convince Democrats – and increasing numbers of white Republicans – that U.S. imperial policies threatened both U.S. and Puerto Rican liberty in ways amenable to mutual solution. Yet peril lurked amidst the promise of this strategy, for many Democrats and some Republicans opposed the U.S. imperial expansions of 1898 as much on racial grounds as

or impose substantial constitutional restraints on U.S. rule); John Kimberly Beach, *Constitutional Expansion*, 8 YALE L.J. 229 (1898-1899) (similar).

¹² See, e.g., Carman F. Randolph, *Constitutional Aspects of Annexation*, 12 HARV. L. REV. 291 (1898) (contending that annexation should bring eventual statehood, constitutional protections, and U.S. citizenship at least for those born thereafter); Simeon E. Baldwin, *The Constitutional Questions Incident to the Acquisition and Government by the United States of Island Territory*, 12 HARV. L. REV. 393 (1898-1899) (similar).

¹³ See *infra* notes 21-24 and accompanying text.

constitutional ones.¹⁴ And were mainland officials to reject Puerto Rican leaders' claims to whiteness, they would also likely reject analogies that depended on them.

The strategies of Muñoz Rivera, Degetau, and Iglesias – all keen observers of U.S. law, politics, and opinion – also illuminate how debates over legacies of the Civil War and its aftermath stretched into the early twentieth century and changed shape during those years. Following U.S. annexation of Puerto Rico, some leading islanders who sought full membership in the U.S. republic saw potential in an alliance with Republicans based in part on that party's traditional commitments to freedmen's rights. Other – and often the same Puerto Ricans – expressed optimism that federal courts would construe the Constitution – as amended in 1866-1870 – to prescribe U.S. citizenship, full constitutional rights, and eventual statehood for Puerto Rico and Puerto Ricans. And some islanders found it productive to celebrate emancipation and its aftermath before mainland audiences.

Leaders of the dominant island political coalition pursued a different strategy, mustering to their cause white-supremacist depictions of Reconstruction as a regrettable period of federal intrusion into southern affairs. That choice – pursued across two decades – reflected U.S. realities. Alternative portrayals – already on the decline in 1898 – had largely disappeared from white mainstream U.S. discourse a quarter century later.

White-supremacist depictions of the Civil War and its aftermath were also in modest flux in 1898-1917, as their proponents sought to apply them to novel circumstances arising out of U.S. annexations of Puerto Rico, Guam, the Philippines, and Hawai'i in 1897-1899. As recent work has emphasized, Reconstruction-era political fights stretched into the 1890s, and legal fights over black rights and legacies of the Civil War persisted into the 20th century.¹⁵ In his foundational account of the eventual postbellum reconciliation of northern and southern whites around white-supremacist accounts of

¹⁴ See *infra* note 31.

¹⁵ See PAMELA BRANDWEIN, *RETHINKING THE JUDICIAL SETTLEMENT OF RECONSTRUCTION* 1-7, 10, 18, 182-93, 238 (2011); *RECONSTRUCTIONS* (Thomas J. Brown ed., 2006).

the Civil War and its aftermath, David Blight has observed, “By 1900 the flame of emancipationist memory still burned, but it lit isolated enclaves in a darkening age of racial antagonism.”¹⁶ This article complements that story by specifying how although many Puerto Rican leaders eschewed what Blight terms “emancipationist memory” in its fullest manifestations, they also sometimes found it productive to lay aside fully white-supremacist depictions and instead deploy renderings of the U.S. past that involved emancipationist elements. By tracing uses to which white-supremacists depictions were put after 1898 and the ways that they changed during these years, this account also builds on suggestions by Blight and others that military events in 1898 helped cause and shape the triumph of white-supremacist depictions.¹⁷ Examining the efforts of these leading islanders, we will see, illuminates the chronology of – and reveals relationships between – the U.S. turn toward empire and the long reconstruction of the postbellum United States along white-supremacist lines.

I. “THAT PORTO RICO BE A BROTHER IN THE FAMILY AND NOT A SLAVE,” 1897-1900

With U.S. invasion and annexation of Puerto Rico in 1898-1899, U.S. politics collided with those in Puerto Rico, linking them together and reshaping both. As Puerto Rican political leaders and mainland officials struggled to apply the 14th Amendment to questions of Puerto Rican status, they drew on and reworked popular portrayals of Reconstruction and the Civil War. In Puerto Rico and on the mainland, it soon became apparent, “histories” of those events and the future of the U.S. turn toward empire were fundamentally intertwined.

In the United States, portrayals and legal legacies of the Civil War had long been political and cultural battlegrounds. For those

¹⁶ *Supra* note 7, at 345.

¹⁷ See, e.g., *id.* at 291, 352-56, 472 n.24; REBECCA J. SCOTT, *DEGREES OF FREEDOM* 154-188 (2005); C. VANN WOODWARD, *ORIGINS OF THE NEW SOUTH, 1877-1913*, at 324-25 (rev. ed., 1999); Sanford Levinson, *Why the Canon Should be Expanded to Include the Insular Cases and the Saga of American Expansionism*, 17 *CONST. COMM.* 241, 257-259 (2000).

who took an emancipationist view – most often U.S. blacks and, decreasingly, white Republicans – the Civil War stood for obliteration of slavery and its incidents through struggles for freedom and racial equality.¹⁸ On this understanding, Reconstruction and contemporary constitutional amendments were war aims by other means.¹⁹ The collapse of Reconstruction and black rights in the face of Ku Klux Klan terrorism, declining northern support, and tepid Supreme Court protections was betrayal.²⁰

Many Democrats took a different view, deemphasizing the 14th and 15th Amendments and portraying Reconstruction as a national tragedy.²¹ On their telling: Tyrannical northern radicals imposed on the postwar South governments of incompetent and barbaric blacks, corrupt northern carpetbaggers, and opportunistic southern scalawags.²² The resultant misrule emptied state coffers and unleashed threats of black sexual violence.²³ That dark chapter only ended when white southern Democrats in the 1870s “redeemed” their states with the help of the Klan, thereby returning the South to clean government and its proper racial order under white men’s rule.²⁴

Recent events both reflected these differences and mirrored the

¹⁸ See, e.g., BLIGHT, *supra* note 7, at 92, 122-23, 309, *passim*; ELLIOTT, *supra* note 7, at 194, 283, *passim*.

¹⁹ PAMELA BRANDWEIN, RECONSTRUCTING RECONSTRUCTION 29 (1999); BRANDWEIN, *supra* note 17, at 34.

²⁰ See, e.g., BLIGHT, *supra* note 7, at 92, 108-09, 122-23, 309-11, *passim*; BRANDWEIN, *supra* note 17, at 7, 10, 18, 182-193; ELLIOTT, *supra* note 7, at 191-195, 295, *passim*; ALBION WINEGAR TOURGÉE, A FOOL’S ERRAND (1880).

²¹ BLIGHT, *supra* note 7, at 4-5, 111-12, 121-22; ERIC FONER, RECONSTRUCTION 590, 609-10, *passim* (1988).

²² BLIGHT, *supra* note 7, at 111-12, 138-39, 394-97 (citing GUNNAR MYRDAL, AN AMERICAN DILEMMA 446-448 (reprint 20th anniversary ed. 1962)); FONER, *supra* note 21, at xix, 609-10; WOODWARD, *supra* note 17, at 51-74; C. VANN WOODWARD, THE STRANGE CAREER OF JIM CROW (commemorative ed. 2001), 56-61.

²³ BLIGHT, *supra* note 7, at 110-12, 394-97; WILLIAM ARCHIBALD DUNNING, ESSAYS ON THE CIVIL WAR AND RECONSTRUCTION viii (reprint 1910) [hereinafter DUNNING, ESSAYS]; WILLIAM A. DUNNING, RECONSTRUCTION, POLITICAL AND ECONOMIC 1865-1867, at 205-210 (reprint 1962); FONER, *supra* note 21, at 609-10; WOODWARD, *supra* note 17, at 51-74; WOODWARD, *supra* note 22, at 56-61.

²⁴ BLIGHT, *supra* note 7, at 4-5, 102, 111-12; FONER, *supra* note 21, at 582, 609-10; WOODWARD, *supra* note 17, at 51-74; WOODWARD, *supra* note 22, at 56-61.

gains that Democrats made in the 1890s in advancing their agenda. After Republicans attempted unsuccessfully to enact the Lodge Bill in 1890-1891, which would have increased federal-election protections for U.S. blacks, that party's national-level efforts on behalf of black rights dropped off precipitously.²⁵ White-supremacist southern Democrats, by contrast, began testing methods for imposing racial caste and locking up political power. In *Plessy v. Ferguson* (1896), the U.S. Supreme Court condoned what would come to be known as the doctrine of "separate but equal," thereby facilitating the extension of Jim Crow regimes throughout southern public life.²⁶ By 1898, two southern states had constitutionalized black disfranchisement, a strategy for securing white-supremacist electorates that would secure Supreme Court acceptance in *Giles v. Harris* (1903) and quickly spread throughout the South.²⁷

At the same time, emerging genres of cultural production provided succor to proponents of white-supremacist accounts of the so-called War for Southern Independence and its aftermath.²⁸ William Dunning published a collection of essays concerning Reconstruction in 1897 that presaged the near-universal condemnation of that federal effort by early-20th-century academic historians.²⁹ The late 1890s also saw the emergence of a school of southern historical fiction – and later movies – that would help build a similar consensus among mainstream whites by the interwar period.³⁰

As Republican President William McKinley's policy of expansionism came to fruition, political leaders from both sides of the aisle responded with new arguments about the place of people of

²⁵ BRANDWEIN, *supra* note 17, at 7, 10, 182-86; ELLIOTT, *supra* note 7, at 248; SCOTT, *supra* note 17, at 87; WOODWARD, *supra* note 17, at 322.

²⁶ *Plessy v. Ferguson*, 163 U.S. 537 (1896); Rebecca J. Scott, *Public Rights, Social Equality, and the Conceptual Roots of the Plessy Challenge*, 106 MICH. L. REV. 777 (2008).

²⁷ SCOTT, *supra* note 17, at 195-97, 200, 259; Richard H. Pildes, *Democracy, Anti-Democracy, and the Canon*, 17 CONST. COMM. 295, 301-02 & n.29 (2000).

²⁸ See JOSEPH T. DERRY, *STORY OF THE CONFEDERATE STATES, OR, HISTORY OF THE WAR FOR SOUTHERN INDEPENDENCE* (1895).

²⁹ DUNNING, *ESSAYS*, *supra* note 23; see also *infra* notes 123, 153, 206, and accompanying text.

³⁰ See *infra* notes 206, 207, and accompanying text.

color within the U.S. nation.³¹ Anti-imperialist³² Democrats' portrayals of the ostensible evils of Reconstruction translated only inexactly into opposition to U.S. empire. Vilification of federal rule worked well, as Representative William Jones of Virginia illustrated with his charge that "no such dangerous and absolute power as" Republican governance of Puerto Rico "was ever before lodged in an irresponsible carpetbag government."³³ But many Democrats' disdain for the 14th and 15th Amendments and concomitant enthusiasm for denying black belonging potentially cut against other anti-imperialist arguments. Thus, Senator William Bate of Tennessee did not mention white-supremacists' exclusions of black U.S. citizens from political and civic life when he warned that Filipinos, reported to be "physically weaklings of low stature, with black skin, closely curling hair, flat noses, thick lips, and large, clumsy feet," "would prove a serpent in our bosom."³⁴

Conversely, some pro-expansion Republicans eschewed emancipationist portrayals of the Civil War as part of depicting

³¹ Imperialism and Anti-Imperialism were diverse political movements, with Democrats and Republicans in both camps. On political diversity among anti-Imperialists, see, for example, ROBERT L. BEISNER, *TWELVE AGAINST EMPIRE* x-xi (1968); José A. Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*, 127 U. PA. L. REV. 391, 416 n.33 (1978) (collecting sources); James A. Zimmerman, *Who Were the Anti-Imperialists and the Expansionists of 1898 and 1899? A Chicago Perspective*, 46 PAC. HIST. REV. 589, 596 (1977). With imperialist Republicans controlling the federal political branches, exigencies of dissent did not push Democrats to stake out imperialist positions. Nonetheless, Democrats were represented among expansionist leaders. See Zimmerman, *supra*, at 596.

³² Empire and anti-imperialism were – as they remain – contested terms. This article takes them as it finds them. Many U.S. commentators asserted that U.S. annexation and governance of Puerto Rico and the Philippines marked a U.S. turn toward empire. A large, self-described Anti-Imperialist movement rose up in response. In both cases, imprecision and disagreement concerning meanings of the terms was rampant. Explication and exploration of those dynamics, while not the project here, provides fertile ground for future work. On existing treatments, see, for example, BEISNER, *supra* note 31, at xv n.*, *passim*.

³³ 33 CONG. REC. app. at 232-35 (1900); Biographical Directory of the United States Congress 1774 – Present, <http://bioguide.congress.gov/biosearch/biosearch.asp> (last visited Sep. 29, 2011).

³⁴ Cabranes, *supra* note 31, at 431-32 (quoting 33 CONG. REC. 3613, 3616 (1900)); cf. MAE NGAI, *IMPOSSIBLE SUBJECTS* 96-126 (2005) (describing racialization of Filipinos); Ngai, *supra* note 3, at 70 (same).

islanders as racial inferiors.³⁵ The Department of War, which the prominent Republican corporate lawyer Elihu Root led and which administered Puerto Rico in 1898-1900, exemplified the dynamic.³⁶ Though Root's Republican Party still formally opposed southern disfranchisement of former slaves and their descendants, Root extended his party's growing abandonment of freedmen's rights by deeming Reconstruction a failed experiment in extending men of color citizenship, suffrage, and equal rights.³⁷ He characterized Puerto Ricans as "as incapable of self-government as children,"³⁸ and one of his immediate subordinates tarred them as akin to "negro illiterates" in the U.S. South.³⁹ 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.⁴⁰ In Puerto Rico, they limited voting to tax-paying and literate men.⁴¹

War Department officials sought to write U.S. control into the civil governments of the territories that they administered. Root argued that Puerto Rico should enjoy U.S. governmental institutions – e.g., a governor, executive agencies, and a legislative chamber – but not elect their members.⁴² At most, he wrote, elected islanders should form a lower legislative chamber.⁴³ Root cited precedents upholding

³⁵ BLIGHT, *supra* note 7, at 335-66; *see also* ELLIOTT, *supra* note 7, at 243-49; SCOTT, *supra* note 17, at 159-66; WOODWARD, *supra* note 22, at 85-96.

³⁶ Sam Erman, *Puerto Rico and the Promise of United States Citizenship: Struggles around Status in a New Empire, 1898-1917*, at 25 (2010) (unpublished Ph.D. dissertation, University of Michigan), available at <http://hdl.handle.net/2027.42/75920>. President McKinley appointed Root to be Secretary of War on August 1, 1899. PHILIP C. JESSUP, ELIHU ROOT 215, 222 (1938).

³⁷ 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 7-10 ([1903?]); THE PLATFORM TEXT-BOOK 140, 162 (C. Vincent comp., 1900).

³⁸ JESSUP, *supra* note 36.

³⁹ Geo. W. Davis, *Report of the Military Governor of Porto Rico on Civil Affairs*, in 1 ANNUAL REPORTS OF THE WAR DEPARTMENT FOR THE FISCAL YEAR ENDED JUNE 30, 1900, at pt. 13, 117 (1902).

⁴⁰ LOUIS A. PÉREZ, JR., CUBA BETWEEN EMPIRES 1878-1902, at 307-12 (1983); WOODWARD, *supra* note 22, at 54-56.

⁴¹ Headquarters, Department of Porto Rico, San Juan, General Order No. 160 (Oct. 12, 1899), MD NARA 350/5A/311/1286:2, at 3-4.

⁴² ELIHU ROOT, THE MILITARY AND COLONIAL POLICY OF THE UNITED STATES 165-68 (1916).

⁴³ *Id.*

congressional discretion vis-à-vis irregular U.S. lands and disfavored U.S. communities.⁴⁴ Assessing judicial review of U.S. actions in Louisiana, Florida, Alaska, the Guano Islands, and Montana, Root found support for congressional discretion.⁴⁵ Cases involving Mormons, slaves, antebellum free people of color, and American Indians had reached similar conclusions.⁴⁶ An opponent of Reconstruction, Root did not add that federal courts had largely acquiesced in extended federal military involvement in the administration of parts of the former Confederacy.

In 1900, Congress enacted legislation along the lines that Root suggested: Puerto Rico's upper legislative chamber, the governor, the heads of the island's agencies, and the island's Supreme Court justices were to be presidential appointees.⁴⁷ Puerto Ricans would elect a lower legislative chamber known as the House of Delegates and a single non-voting Resident Commissioner to represent them in Washington.⁴⁸ Elections were set for the end of the year.⁴⁹

U.S. invasion and annexation also reshaped political battles on the island. During the final three decades of Spanish rule, liberalism and demands for self-governance had come to dominate island politics, the leaders of which embraced a racially inflected paternalism. Men at the forefront of the movement sought and in 1873 secured abolition of slavery and came to seek a wide-ranging autonomy within the Spanish Empire.⁵⁰ Local control of political institutions, they hoped, would end preferences in officeholding for those born in continental Spain and thereby facilitate their own

⁴⁴ On the use of constitutional idioms to justify empire, see Juan R. Torruella, *The Insular Cases: The Establishment of a Regime of Political Apartheid*, 29 U. PA. J. INT'L L. 283, 284-85 (2007); cf. John Hart Ely, *The American War in Indochina Part II: The Unconstitutionality of the War They Didn't Tell Us About*, 42 STAN. L. REV. 1093 (1990) (evaluating potential defenses – including those offered by political actors – of the constitutionality of U.S. actions in Indochina).

⁴⁵ Memorandum 34-60 (no date), MD NARA 350/5A/197/1444:9. *But cf. id.* at 58-59 (discussing South Carolina and the “post-nullification period of 1841”).

⁴⁶ *Id.* at 34-60.

⁴⁷ Foraker Act, Pub. L. No. 56-191, 31 Stat. 77 (1900).

⁴⁸ *Id.*

⁴⁹ FERNANDO BAYRON TORO, *ELECCIONES Y PARTIDOS POLÍTICOS DE PUERTO RICO (1809-1976)*, at 115 (1977).

⁵⁰ GONZALO F. CÓRDOVA, *RESIDENT COMMISSIONER, SANTIAGO IGLESIAS AND HIS TIMES* 26-27 (1993); SUÁREZ FINDLAY, *supra* note 5, at 13, 54-55.

ascendance to such posts and the patronage networks that accompanied them.⁵¹ These aspirations mirrored their view of island society. As movement leader Luis Muñoz Rivera explained, they envisioned Puerto Ricans as a “gran familia” in which metaphorical fathers from a “directing class” of largely white landowners, professionals, and merchants, would “order and command” metaphorical children, the racially mixed laboring “masses.”⁵² In the short term, they expressed dissatisfaction with the existing political system through tactics such as withdrawing in protest from scheduled elections.⁵³ Although they made some gains in these years, the strategy was not without risks.⁵⁴ Some party members, for instance, faced brutal repression in 1887 at the hands of an island’s governor whom officials in Madrid quickly recalled upon learning of his tactics.⁵⁵

Working against the backdrop of a Spanish political system that could reward coalition-making and following a long Puerto Rican tradition of winning at-least-temporary gains during periods of Spanish foment and uprisings, Muñoz Rivera sought to take advantage of a war for independence from Spain in Cuba by leading many co-partisans into an alliance with a Spanish monarchical party in 1896-1897.⁵⁶ Though the move won Muñoz Rivera and his allies a promise of rapid autonomy, it struck a minority within their coalition as an unacceptable betrayal of republican principles.⁵⁷ In response, these autonomists – including the most prominent leader of color on the island, José Barbosa, and arguably the top legal mind there, Federico Degetau y González – split with Muñoz Rivera to

⁵¹ DAVID ORTIZ, JR., PAPER LIBERALS 21-22 (2000); Astrid Cubano-Iguina, *Political Culture and Male Mass-Party Formation in Late-Nineteenth-Century Puerto Rico*, 78 HISP. AM. HIST. REV. 631, 641-42 (1998).

⁵² JULIAN GO, AMERICAN EMPIRE AND THE POLITICS OF MEANING 66-68 (2008) (quoting Luis Muñoz Rivera, LA DEMOCRACIA, Apr. 24, 1896); CÓRDOVA, *supra* note 50, at 26-33; SUÁREZ FINDLAY, *supra* note 5, at 57 (citing ANGEL G. QUINTERO RIVERA, PATRICIOS Y PLEBEYOS 46-78, 193-229 (1988)).

⁵³ GO, *supra* note 52, at 73-76.

⁵⁴ *Id.*

⁵⁵ CÓRDOVA, *supra* note 50, at 25; OLGA JIMÉNEZ DE WAGENHEIM, PUERTO RICO 186 (1998), 186.

⁵⁶ CÓRDOVA, *supra* note 50, at 32-36; A.W. MALDONADO, LUIS MUÑOZ MARÍN 20 (2006); WAGENHEIM, *supra* note 55, at 106-88.

⁵⁷ MALDONADO, *supra* note 56, at 20; WAGENHEIM, *supra* note 55, at 187.

create a competing autonomist party.⁵⁸

In 1897, after coming to power, Muñoz Rivera's allies in Spain fulfilled their promise. Facing pressure to quell the ongoing Cuban revolution, they extended Puerto Rico – and Cuba – a wide-ranging Charter of Autonomy.⁵⁹ In elections under the Charter's near-universal manhood suffrage, Muñoz Rivera and his allies won in a landslide, including winning many votes from among racially mixed working classes.⁶⁰ With Spain already at war with the United States, Muñoz Rivera took office at the head of the island's new cabinet-like Council of Secretaries on July 17.⁶¹ Eight days later U.S. troops came ashore.⁶²

For Muñoz Rivera and his allies, U.S. invasion hit like a hurricane, washing away, leaving unscathed, and wholly upending aspects of the landscape. The tenuous Spanish commitment to Puerto Rican autonomy disappeared⁶³ even as Muñoz Rivera's and Barbosa's political alliances emerged largely intact. The United States moved to center stage in island debates. Muñoz Rivera's position eroded as U.S. military authorities moved to make themselves the locus of state power. On February 5, 1899, they placed the civil government under the U.S. Governor General's direct control.⁶⁴ Muñoz Rivera and his colleagues resigned in protest, opening offices for Barbosa's co-partisans, including Federico Degetau, who secured

⁵⁸ BAYRON TORO, *supra* note 49, at 108; CÓRDOVA, *supra* note 50, at 53-54; WAGENHEIM, *supra* note 55, at 187.

⁵⁹ CÓRDOVA, *supra* note 50, at 54-55.

⁶⁰ CÓRDOVA, *supra* note 50, at 58; SUÁREZ FINDLAY, *supra* note 5, at 55; ADAPTATION OF THE ELECTORAL LAW OF JUNE 26, 1890, TO THE ISLANDS OF CUBA AND PORTO RICO 5 (Div. of Customs & Insular Affairs, War Dep't trans., 1899).

⁶¹ Geo W. Davis, *Report of Brig. Gen. Geo. W. Davis, U.S.V., on Civil Affairs of Puerto Rico. 1899*, in 1 ANNUAL REPORTS OF THE WAR DEPARTMENT FOR THE FISCAL YEAR ENDED JUNE 30, 1899, at 477, 486 (1899); *Apertura de las camaras*, EL LIBERAL, July 18, 1898.

⁶² Cabranes, *supra* note 31, at 395 n.5.

⁶³ On Spanish reluctance to grant autonomy, see PEDRO A. CABÁN, CONSTRUCTING A COLONIAL PEOPLE 7 (1999).

⁶⁴ Headquarters, Department of Porto Rico, General Order Nos. 12 (Feb. 6, 1899) and 15 (Feb. 9, 1899) [hereinafter General Order No. 15], in 4 LAWS, ORDINANCES, DECREES, AND MILITARY ORDERS HAVING THE FORCE OF LAW, EFFECTIVE IN PORTO RICO, MAY 1, 1900, H.R. DOC. NO. 60-1484, at 2191-2193 (1909).

one of the four top civilian positions on the island.⁶⁵

Soon after Spain and the United States formalized U.S. annexation of Puerto Rico via the Treaty of Paris in April 1899, Muñoz Rivera and his allies reconstituted themselves, into the Partido Federal.⁶⁶ With island opponents like Degetau having benefited by working with U.S. officials on the island answerable to Republicans in Washington, Federales developed affinities for ideas associated with Democrats, whose presidential candidate, William Jennings Bryan, campaigned in 1900 as an anti-imperialist.⁶⁷ Flirting with white supremacy, Muñoz Rivera joined Democrats in crafting arguments in which the 13th but not the 14th and 15th Amendments received recognition and in which the key post-emancipation political struggle involved white rather than black rights. Drawing on a metaphor of polity as family, Muñoz Rivera advocated a Puerto Rican “emancipation” that would have “Porto Rico be a brother in the [U.S.] family and not a slave.”⁶⁸ And in an argument likely to remind island leaders of how Spanish authorities in Madrid had in 1887 recalled their tyrannical governor once they learned of his misdeeds, he predicted that federal authorities “will not consent to the enslavement of the whites after spilling so much blood to prevent the enslavement of the blacks.”⁶⁹ U.S. rule in Puerto Rico, he added, also betrayed the legacy of an earlier foundational U.S. conflict: the Revolutionary War. Islanders would boycott Washington Day, he explained, because though they supported “the liberal principles upheld by Washington,” they were “subjected to a degrading, depreciating inferiority, . . . denied citizenship, [and] not protected by a constitution.”⁷⁰

On July 4, 1899, Barbosa and his colleagues also reconstituted

⁶⁵ Headquarters, Department of Porto Rico, General Order No. 17 (Feb. 20, 1899), MD NARA 350/5A/21/168:6 [hereinafter General Order No. 17]; General Order No. 15, *supra* note 64; CABÁN, *supra* note 63, at 167.

⁶⁶ Treaty of Peace between the United States of America and the Kingdom of Spain, Dec. 10, 1898, 30 Stat. 1754; PROGRAM DEL PARTIDO FEDERAL ([1899?]), *available at* CIHCAM 6/L3.

⁶⁷ PLATFORM TEXT-BOOK, *supra* note 37, at 155.

⁶⁸ Luis Muñoz Rivera to friends on the island (no date), in *Luis Munoz Rivera*, SAN JUAN NEWS, Feb. 14, 1899, 1, *available at* MD NARA 350/5A/21/168:7.

⁶⁹ *Id.*

⁷⁰ *Spain Preferred to Our Neglect*, DIARIO DE PUERTO RICO, Feb. 24, 1900, *available at* CIHCAM 12/L2.

themselves into a political party, which they called Republicano.⁷¹ In addition to building on their ties to mainlanders in Puerto Rico, that embrace reflected Barbosa's experiences on the mainland two decades earlier.⁷² After becoming the first person of color to attend the island's Jesuit seminary, Barbosa studied medicine at the University of Michigan in 1877-1880.⁷³ While there, he recalled facing relatively little racial prejudice as a man of color and had become familiar with the Republican Party. Though the Republican Party had then been a much stronger advocate of emancipation, Reconstruction, and black rights than it had become by 1898, Barbosa and other Republicanos like Degetau saw mainland Republicans as potentially sympathetic to instilling a liberal order in post-emancipation Puerto Rico.⁷⁴

Turning to the election ahead, Republicanos nominated Degetau to be their representative in Washington as Resident Commissioner.⁷⁵ Degetau promised to hold the United States to the "basic principles of the Constitution" guaranteeing 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."⁷⁶

Degetau's platform drew on emancipationist depictions of the U.S. Civil War and downplayed regional divisions within the United States. Under "monarchical and centralized" Spain, he claimed,

⁷¹ TO THE PEOPLE / AL PAÍS ([1899?]), available at CIHCAM 22/L1.

⁷² On subsequent nurturing of ties to mainland Republicans, see INFORME DE LOS DELEGADOS DEL PARTIDO REPUBLICANO DE PUERTO RICO ANTE LA CONVENCION NACIONAL REPUBLICANA CELEBRADA EN CHICAGO, EN 21 DE JUNIO DE 1904, at 4-12 (1904), available at CIHCAM 6/L8.

⁷³ THE ENCYCLOPEDIA OF THE SPANISH-AMERICAN AND PHILIPPINE AMERICAN WARS 44 (Spencer C. Tucker ed., 2009); Miriam Jiménez Román, *Un hombre (negro) del pueblo: José Barbosa and the Puerto Rican 'Race' Toward Whiteness*, 1-2 CENTRO 8, 8, 16 (1996); *Various Topics*, 9 U. MICH. CHRON. 18, Oct. 27, 1877.

⁷⁴ CÉSAR J. AYALA & RAFAEL BERNABE, PUERTO RICO IN THE AMERICAN CENTURY 54 (2007); Jiménez Román, *supra* note 73, at 16.

⁷⁵ See *infra* note 101 and accompanying text.

⁷⁶ Degetau to correligionarios (Sep. 5, 1900), in *Candidatos o candiditos*, EL DIARIO, Sep. 11, 1900, available at CIHCAM 22/L2 ("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"); Erman, *supra* note 36, at 25.

“patriotism . . . involve[d] a tension between love of region and submission to . . . national life.”⁷⁷ Ignoring portrayals of Reconstruction as federal tyranny, Degetau claimed that U.S. “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.”⁷⁸

No doubt aware that non-whites were treated in the United States as “citizens of an inferior condition,”⁷⁹ Degetau sought reassurance in the history of the U.S. Constitution, especially a whiggish recounting of the postbellum history of U.S. rights.⁸⁰ The Civil War and 13th Amendment abolished slavery. Despite worries that southern U.S. society “‘was not prepared’ for the life of law,” he wrote, the United States had “not dared to deprive slaveholders or freedmen of the privileges and immunities of the Constitution” that were contained in its 14th Amendment.⁸¹ Today, he added, American Indians, heterogeneous European-Americans, and Chinese-Americans, among others, also enjoyed these rights.⁸²

For those unimpressed by the chance to resemble U.S. blacks facing ever-harsher disfranchisement measures and Jim Crow laws, Degetau also portrayed Puerto Ricans as Latin coauthors with Anglo-Saxons of democracy.⁸³ “Latins,” he wrote, affirmed “the existence of the individual as the center of juridical relations,” unified diverse peoples within a single state through common laws,

⁷⁷ ASAMBLEA REPUBLICANA. CELEBRADA EN SAN JUAN, PUERTO RICO. LOS DÍAS PRIMERA Y DOS DE JULIO DE 1899, at 29 (1899) (“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 absorven [sic] la vida nacional toda”).

⁷⁸ *Id.* (“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”).

⁷⁹ F. Degetau y Gonzalez, *Puerto-Rico ante el Congreso*, EL PAÍS, Mar. 16, 1900, available at CIHCAM 18/L2.

⁸⁰ For an overview of ascriptive strands in the history of U.S. citizenship, see ROGERS M. SMITH, *CIVIC IDEALS* (1997).

⁸¹ F. Degetau y Gonzalez, *Por honor y por deber*, EL PAÍS, Mar. 22, 1900, available at CIHCAM 18/L2 (“‘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”).

⁸² Degetau, *supra* note 79; see also *La constitución Americana*, EL PAÍS, Apr. 17, 1900, available at CIHCAM 12/L2; *La constitución de los Estados Unidos*, EL PAÍS, Apr. 23-24, 1900, available at CIHCAM 12/L2.

⁸³ See, e.g., *supra* notes 26-27 and accompanying text; cf. NEIL FOLEY, *THE WHITE SCOURGE* (1997) (discussing struggles over racial characterizations of Mexican Americans).

and developed the notion of separation of powers.⁸⁴

Degetau would soon tell mainland audiences that leading – implicitly white – men in both Puerto Rico and the mainland had struggled for common liberal-republican ideals like individual rights, democracy, and – most importantly in Degetau’s telling – emancipation.⁸⁵ Where U.S. southerners had fought a bloody war to preserve slavery even as Lincoln had “recommended a gradual abolition with indemnification,” Degetau would claim, Puerto Ricans inspired by Abraham Lincoln’s claim that “the Declaration of Independence . . . gave liberty . . . to the world for all future time” had sought “immediate abolition of slavery with indemnification . . . or without it.” Similarly, he would write that free Puerto Ricans read *Uncle Tom’s Cabin* and prayed for slaves, but 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[]nstrous crime than our legal victims.”⁸⁶ By contrasting “our” to slaves, Degetau associated Puerto Ricans with whiteness, not blackness or slavery. Then judging mastery worse than slavery – a claim predicated on overlooking realities of slave experiences – he scrubbed the voices and travails of those once held in bondage from his depiction.

By this time, Degetau’s campaign was benefiting from his party’s alliance with the Federación Regional de los Trabajadores de Puerto Rico.⁸⁷ Founded in 1898 by Spanish-born carpenter Santiago Iglesias, the Federación Regional was a San Juan based coalition of urban craft unions.⁸⁸ Then a proponent of political neutrality for labor, Iglesias had opposed an alliance with Republicanos.⁸⁹ He had lost that fight, later recalling: “[t]hat Dr. Barbosa was a prominent

⁸⁴ *La constitución Americana*, *supra* note 82 (“latinos”; “la existencia del individuo como centro de relaciones jurídicas”).

⁸⁵ See, e.g., Jacob H. Hollander et al., Discussion, in 3 PUBLICATIONS OF THE AMERICAN ECONOMIC ASSOCIATION, 3d SER. 342, 347-50 (1902); FEDERICO DEGETAU, THE POLITICAL STATUS OF PORTO RICO 4-7, 9-15 (1902); Erman, *supra* note 36, at 24-76.

⁸⁶ Federico Degetau, *The Porto Ricans as Soldiers and as Legislators*, PHILA. REC., May 23, 1901, available at CIHCAM 12/L2 (quotes).

⁸⁷ SANTIAGO IGLESIAS PANTÍN, 1 LUCHAS EMANCIPADORAS (CRÓNICAS DE PUERTO RICO) 117-22 (2d ed. [Imprenta Venezuela] 1958) (1929).

⁸⁸ *Id.* at 92-93.

⁸⁹ *Id.* at 117-22.

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.”⁹⁰ In response, Iglesias had formed a splinter labor organization, the *Federación de Trabajadores Libres*.⁹¹

As the November 1900 elections approached, both Iglesias and Federales faced grave challenges. About two months before the polls were scheduled to open, Unionistas asked U.S. officials in Washington to overturn districting decisions by U.S. officials on the island.⁹² Unlike in 1887, however, leaders in the metropolitan capital were unwilling to reverse their subordinates.⁹³ Federales next faced extralegal violence, unchecked by island officials, at the hands of mostly working-class residents of San Juan who supported Republicanos and the *Federación Regional*.⁹⁴ These pro-Republicano laborers – whom Iglesias perceived to be motivated by their status as “of the race of color” – also attacked Iglesias and his colleagues with impunity.⁹⁵ In late September, Iglesias fled to New York.⁹⁶ As November elections for the House of Delegates and Resident Commissioner neared, the violence against Federales intensified, until they faced nearly daily attacks in and around San Juan.⁹⁷ In early November, Federales withdrew from the elections in protest.⁹⁸ They cited “lack of protection for our right to vote and the manifest

⁹⁰ *Id.* at 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”).

⁹¹ *Id.* at 117-22.

⁹² In AG/OG/CG/179/justicia, ciudadanía octubre 1898, L. M. Rivera, see Governor Allen to Assistant Secretary Hill, Sep. 8, 1900; John Hay to [Governor Allen], Oct. 3, 1900; Hill to Governor Allen, Sep. 7, 1900; see also Foraker Act, Pub. L. No. 56-191, 31 Stat. 77, 82-83 (1900); *Se consumó la injusticia: nueve contra dos*, LA DEMOCRACIA, Sep. 6, 1900, at 2.

⁹³ See sources cited *supra* note 92.

⁹⁴ CABÁN, *supra* note 63, at 168; IGLESIAS, *supra* note 87, at 178; MARIANO NEGRON PORTILLO, LAS TURBAS REPUBLICANAS 1900-1904, at 38, 75, 77, 81, 87, 90, 93, 108-09, 112-17, 125, 127-32, 138-39, 158-99, 208.

⁹⁵ IGLESIAS, *supra* note 87, at 177-78, 188, 197; NEGRON PORTILLO, *supra* note 94, at 87, 138-39.

⁹⁶ CÓRDOVA, *supra* note 50, at 80; IGLESIAS, *supra* note 87, at 198; William George Whittaker, “The Santiago Iglesias Case, 1901-1902: Origins of American Trade Union Involvement in Puerto Rico,” 24 *AM.* 378 (1968).

⁹⁷ NEGRÓN PORTILLO, *supra* note 94, at 81, 87, 93, 108-09, 127-32, 138-39, 158-99.

⁹⁸ CABÁN, *supra* note 63, at 167-68.

partiality of [U.S. officials] in favor of the Republican[o] Party.”⁹⁹ Unlike Spanish officials before them, U.S. officials did not respond with concessions.¹⁰⁰ Two days later, Republicanos ran unopposed in the November 6 elections, sweeping the House of Delegates and electing Degetau Resident Commissioner.¹⁰¹

II. “WE STUDY HISTORY AND SEE . . . THE SCANDALS OF THE SOUTH REPEATED,” 1900-1908

Federales did not have to wait long for a new electoral opportunity, for once Degetau reached the mainland, his lobbying and litigation strategy quickly unraveled. While Degetau found myriad opportunities to seek citizenship for and assert the capacity of his people before agencies, Congress, and the mainland public, he made little progress.¹⁰² He failed to convince mainlanders to judge Puerto Rico on its best men or secure confirmation that Puerto Ricans were U.S. citizens.¹⁰³

The Supreme Court proved equally unaccommodating. In a series of *Insular Cases* concerning the status of annexed peoples and places, it skirted the constitutional questions, including whether the 14th Amendment prescribed U.S. citizenship for all non-tribal U.S. peoples.¹⁰⁴ The most important of those cases, *Downes v. Bidwell* (1901), held that Puerto Rico was not part of the United States for purposes of the constitutional prescription that “all duties . . . be uniform throughout the United States” and therefore that the United States could both hold Puerto Rico and impose tariffs on mainland-

⁹⁹ *Id.*, at 168 (quoting U.S. DEP’T OF STATE, FIRST ANNUAL REPORT OF THE GOVERNOR OF PORTO RICO 47 (1901)).

¹⁰⁰ *Id.*, at 167-68; IGLESIAS, *supra* note 87, at 178; NEGRON PORTILLO, *supra* note 94, at 75, 77, 93, 105, 125, 127-32, 135, 138-39, 158-99, 209.

¹⁰¹ BAYRÓN TORO, *supra* note 49, at 115-16; CABÁN, *supra* note 63, at 168.

¹⁰² Erman, *supra* note 36, at 77-195.

¹⁰³ *Id.* For more on Degetau’s efforts and disappointments, see Burnett, *supra* note 1; Sam Erman, *Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1895 to 1905*, 27 J. AM. ETHNIC HIST. 5 (2008) [hereinafter Erman, *Meanings*]; Erman, *supra* note 36, at 24-140; Sam Erman, *Citizens of Empire: Federico Degetau, Puerto Rican Status, and the U.S. Order, 1898-1905* (manuscript on file with author).

¹⁰⁴ See sources cited *supra* note 103.

island shipments.¹⁰⁵ The companion case, *DeLima v. Bidwell*, by contrast held that Puerto Rico “was not a foreign country within the meaning of the tariff laws” enacted prior to 1900.¹⁰⁶ Further adding to uncertainty concerning the meaning of *Downes*, no opinion in the case garnered five votes.¹⁰⁷ And Justice Edward White’s concurrence – which was the most important opinion in the case – proposed the new and ambiguous doctrine of territorial non-incorporation that eventually became – as it remains – binding constitutional law.¹⁰⁸ He reasoned that unlike prior territories Puerto Rico had not been incorporated by Congress or by treaty into the Union, so the constitution did not apply there in the same way.¹⁰⁹ Yet he offered few details as to how specific constitutional provisions applied to unincorporated territories.¹¹⁰

Three years later, Degetau appeared as amicus curiæ in *Gonzales v. Williams* (1904), a case in which a Puerto Rican litigant asked the Court to reject the argument that Puerto Ricans were noncitizen U.S. nationals.¹¹¹ Her lawyer had also asked the justices to recognize Puerto Ricans as U.S. citizens in a companion case to *Downes*, there arguing that holding otherwise would repeat the mistake in the Dred Scott case of finding that “under the Constitution” some U.S. peoples were “something different and apart from the rest of humanity.”¹¹² Such “views,” the lawyer had added, “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.”¹¹³ Nonetheless, in *Downes* and *Gonzales* the Court declined to reach the issue.¹¹⁴ Afterward, Republicanos and

¹⁰⁵ U.S. CONST., art. I, § 8; *Downes v. Bidwell*, 182 U.S. 244 (1901).

¹⁰⁶ *DeLima v. Bidwell*, 182 U.S. 1, 200 (1901)

¹⁰⁷ *Downes*, 182 U.S. 244 (1901).

¹⁰⁸ See *Downes*, 182 U.S., at 287 (White, J., concurring); *Balzac v. Porto Rico*, 258 U.S. 298 (1922); *Boumediene v. Bush*, 553 U.S. 723, 755-64 (2008); Erman, *Meanings*, *supra* note 103, at 14-15, 40-43.

¹⁰⁹ See *Downes*, 182 U.S., at 287-344 (White, J., concurring).

¹¹⁰ See *id.*

¹¹¹ See *Gonzales v. Williams*, 192 U.S. 1, 12 (1904); Appellant’s Brief at 38, *Gonzales*, 192 U.S. 1 (Nov. 30, 1903) (No. 225).

¹¹² Brief for Plaintiffs in Error at 95, *De Lima v. Bidwell*, 182 U.S. 1 (Jan. 7, 1901) (No. 456).

¹¹³ Brief for Plaintiffs in Error at 99, *De Lima*, 182 U.S. 1 (Jan. 7, 1901) (No. 456).

¹¹⁴ *Downes*, 182 U.S. 244 (1901); *Gonzales*, 192 U.S. 1 (1904).

Federales largely agreed that relief would come, if at all, from Congress.¹¹⁵

Degetau's failures in 1900-1904 created an opportunity for Muñoz Rivera and other Federales. Because island politics – like those on the mainland¹¹⁶ – were rooted in patronage, capitalizing on the opportunity meant convincing potential adherents of influence that the Partido Federal could win elections and secure offices for its members. Addressing both concerns, Federales portrayed themselves as pursuing policies – confrontations with U.S. officials who worked against Puerto Rican interests – that destined them for electoral success and made them likely – once in power – to expand the number of offices open to Puerto Ricans.

In late 1902, Muñoz Rivera and his colleagues announced to leading mainlanders and Puerto Ricans 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.”¹¹⁷ Quoting French writer Paul de Rousier'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.”¹¹⁸ Without such outside agitation, the newspaper implied, Republicanos could not win or hold power. To

¹¹⁵ See, e.g., *El señor Degetau dio una conferencia en Ponce*, LA DEMOCRACIA, Aug. 1, 1904, 2; Manuel Rossy to Federico Degetau, Jan. 26, 1904, CIHCAM 4/VIII/14. On the development, legacy, and doctrinal implications of the anomalous status of Puerto Rico and the *Insular Cases*, see, for example, AYALA & BERNABE, *supra* note 74, at 177, *passim*; EFRÉN RIVERA RAMOS, THE LEGAL CONSTRUCTION OF IDENTITY (2001); BARTHOLOMEW H. SPARROW, THE *INSULAR CASES* AND THE EMERGENCE OF AMERICAN EMPIRE 80, *passim* (2006); JUAN R. TORRUELLA, THE SUPREME COURT AND PUERTO RICO (1985); WELKE, *supra* note 2, at 38-39; FOREIGN IN A DOMESTIC SENSE (Christina Duffy Burnett & Burke Marshall, eds., 2001); Christina Duffy Burnett, *Untied States: American Expansion and Territorial Deannexation*, 72 U. CHI. L. REV. 797 (2005). For more on Gonzales, see Burnett, *supra* note 1; Erman, *Meanings*, *supra* note 103.

¹¹⁶ See, e.g., Scott C. James, *Patronage Regimes and American Party Development from “The Age of Jackson” to the Progressive Era*, 36 BRIT. J. POL. SCI. 39 (2005).

¹¹⁷ *American Politicians*, P.R. HERALD, Nov. 1, 1902, at 243; see also *A Complete Farce*, P.R. HERALD, Nov. 8, 1902, at 257; P.R. HERALD, Aug. 27, 1901, at 2; P.R. HERALD, Sep. 7, 1901, at 1.

¹¹⁸ *American Politicians*, *supra* note 117.

emerge from the “appalling tyranny” within the Reconstruction analogy, Puerto Rico needed a new federal policy.¹¹⁹ “Washington will flow down a thundering torrent of justice,” the *Herald* envisioned, “sweeping away” U.S. officials on the island.¹²⁰ “The south peacefully overcame its wretched exploiters,” the *Herald* asserted, and “Puerto Rico will also overcome hers.”¹²¹

The approach had benefits. As Degetau failed to win gains under a Republican administration, the Democratic Party became more attractive. Aware that Democrats celebrated so-called southern “Redeemers,” Federales portrayed their own 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 – refashioned Federales into a legitimate, temporarily displaced political class. Because Democrats remembered Reconstruction as a regrettable departure from white rule, it also provided them a framework through which they might see Federales sympathetically, as oppressed whites ready to govern a local population of color. And the analogy aligned Federales’ and Democrats’ constitutionalist concerns, portraying the problems of Puerto Rico and the Reconstruction-era South as rooted in federal impositions on states and territories of constitutional structures that oppressed local populations, violated principles of federalism, and facilitated federal tyranny.¹²²

The newspaper’s discovery of a Puerto Rican Reconstruction also offered arguments to influential Puerto Rican politicians. If Federales were destined to follow southern redeemers to power, they were best positioned to provide future government positions. With its emphatic references to tyrannical mainland carpetbaggers who

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Speaking to Congress years later, then-Resident Commissioner Muñoz Rivera would recall, “For 16 years we have endured this system of government . . . We did not lose hope, because, the . . . Democratic [Party] was encouraging us by its declarations.” 53 CONG. REC. 7471 (1916).

would be swept from power during Federales' redemption, the paper also implied that Federales' policies would open new government positions to Puerto Rican control and occupancy.

Though the Reconstruction analogy appealed to mainlanders who embraced a white-supremacist interpretation of Reconstruction – many of whom also deprecated large swathes of the Puerto Rican population in racial terms – it did so without explicitly demeaning islanders of color. The *Herald* did not have to remind readers of Muñoz Rivera's successes during Spanish rule in securing autonomy for Puerto Rico through an instrumental alliance between republican autonomists and a Spanish monarchical party. Moreover, the reference in the paper's Reconstruction analogy to officials from the metropole tyrannizing locals was calculated to recall for Puerto Ricans the Spanish-era resentment of island liberals and autonomists toward the outsized role continental Spaniards had once played in the Puerto Rican state. It thus aimed to align all Puerto Ricans – regardless of race, and despite the racism of Federales' imagined Democratic allies – against U.S. officials.

At the same time, political difficulties beset Federales' equation of Reconstruction-era Alabama and contemporary Puerto Rico. The analogy thrust Federales into a still-live debate over the meaning of the Civil War. Though Republican commitment to Reconstruction had dimmed in 1902, the party was unlikely to embrace depictions of itself as tyrannical. And as the *Herald's* recourse to a foreign author as its authority reflected, the canonization of white-supremacist accounts of Reconstruction was not yet complete. Columbia historian William Dunning, for instance, had yet to publish his most thorough treatment of Reconstruction or spawn the historical school bearing his name that were together to forge a historiographical consensus around portrayals of Reconstruction as a tragic error. And the most influential fictional representations of that view were also yet to issue. Federales' Reconstruction analogy thus depended heavily on Democratic national power at a time of recent and repeated

Republican electoral successes.¹²³

If Democrats came to power, their support for Puerto Rican self-government was also far from certain. Colonial officials would then be Democratic appointees rather than Republican “carpetbaggers.” And while many Democrats had initially opposed U.S. annexation of Spanish lands, they had often done so because they feared the influx and incorporation of Filipinos – whom they presumed to be racial inferiors – into the United States.¹²⁴ Four years later, the United States had established colonial governance there that multiple *Insular Cases* had left largely undisturbed.¹²⁵ Federales’ Reconstruction analogy also equated Puerto Rican politicians with southern whites despite many white-supremacist Democrats’ doubts as to Puerto Ricans’ racial provenances.

The argument faced challenges among island voters as well. Once in power, Republicanos had moved to extend near-universal manhood suffrage to a Puerto Rican population that the 1899 census described as 38% “Colored.”¹²⁶ Federales risked alienating these electors by symbolically aligning themselves with Democrats, the party of white supremacy. And though Muñoz Rivera portrayed himself as able to advance Puerto Rican causes through instrumental alliances with metropolitan parties that did not share his beliefs, Republicanos disagreed. Arguing that Muñoz Rivera had been too cozy with the Spanish before 1898 and with white supremacists afterward, José Barbosa charged that Muñoz Rivera was for *los blancos* – the whites – and *los españoles* – the Spaniards.¹²⁷ Coming from a man of color, a proponent of broad male suffrage, and the

¹²³ DUNNING, *ESSAYS*, *supra* note 23; ELLIOTT, *supra* note 7, at 181, 306-307; FONER, *supra* note 21, at xix-xx; WOODWARD, *supra* note 17, at 431-433, 441-443; WOODWARD, *supra* note 22, at 54-56, 77-81. On early examples of what would become full-throated literary defenses of the Redemption, see the above-cited sources. Another foundational figure in the Dunning school, John W. Burgess, published his *Reconstruction and the Constitution 1866-1976* in 1902. FONER, *supra* note 21, at xix-xx. On Republican political dominance after 1900, see, for example, GERARD N. MAGLIOCCA, *THE TRAGEDY OF WILLIAM JENNINGS BRYAN* 6, *passim* (2011).

¹²⁴ Cabranes, *supra* note 31, at 415-35.

¹²⁵ For works defining and listing *Insular Cases*, see, for example, SPARROW, *supra* note 115; Christina Duffy Burnett, *A Note on the Insular Cases*, in *FOREIGN IN A DOMESTIC SENSE*, *supra* note 115, at 389.

¹²⁶ OFFICE DIRECTOR CENSUS OF P.R., WAR DEPARTMENT, *REPORT ON THE CENSUS OF PORTO RICO, 1899*, at 56 (1900); CABÁN, *supra* note 63, at 180-82.

¹²⁷ Jiménez Román, *supra* note 73, at 17.

head of what purported to be the Republicano “party of the men of color” and “of Lincoln,”¹²⁸ the charge had the potential to wound. Leading Federales were particularly vulnerable to such attacks given their histories of promoting themselves as politically elite “sons of Spain” ready to lead racially diverse island masses.¹²⁹ Compounding the problem, Democrats ignored the 14th and 15th Amendments and vilified black equality, voting, and officeholding as “monstrous” perversions corrosive to the political and social order.¹³⁰ With such stances sure to alienate many islanders, Federales substantially abridged racial strands in the indictments of Reconstruction that they deployed. But as the *Herald’s* reference to stirring up former slaves illustrated, it could be hard to cleanse the source material of these racial underpinnings.

A series of articles in *La Democracia* – an island paper that Muñoz Rivera founded – illustrated the challenge.¹³¹ In February 1903, *La Democracia* charged that unchecked extra-legal political violence had left the island town of Humacao in “the same situation in which New Orleans found itself in 1872-1874, when the most debased *carpe[re] baggers* dominated.”¹³² Tying the ostensible misrule in post-Civil War Louisiana to a Republican administration and to a desire to control political offices that many islanders agreed ought to go to local men, *La Democracia* elaborated: The “author of the anarchy was President [Ulysses S.] Grant,” who sought to lock up the state’s electoral votes and to unseat its senator.¹³³ Republicans moved to capture the governorship, drawing on federal troops to ensure that only allies entered the electoral assembly.¹³⁴ That “assembly of

¹²⁸ SUÁREZ FINDLAY, *supra* note 5, at 142-43 (quoting, *inter alia*, LA DEFENSA and EL ÁGUILA).

¹²⁹ SUÁREZ FINDLAY, *supra* note 5, at 58 (quoting, *inter alia*, Luís Muñoz Rivera, 22 de marzo, LA DEMOCRACIA, Mar. 22, 1892).

¹³⁰ BLIGHT, *supra* note 7, at 101.

¹³¹ CÓRDOVA, *supra* note 50, at 26-33.

¹³² *El jurado de distrito de Humacao*, LA DEMOCRACIA, Feb. 17, 1903 (“Se halla Puerto Rico en la misma situación en que se encontró Nueva Orleans en los años de 1872 á 1874, en que los *carpe[re] baggers* mas envilecidos, dominaron”).

¹³³ *La historia se repite*, LA DEMOCRACIA, Feb. 18, 1903 (“El autor de la anarquía fué el presidente [sic] Grant”).

¹³⁴ *Id.*

adventurers” then replaced the sitting governor with a “negro named Pinchba[c]k, . . . who had been a cook on a steamboat[and] employed in a casino.”¹³⁵ Pinchback quickly arranged for another Republican to become the permanent governor.¹³⁶ Government and private property soon collapsed, until “honorable citizens tired of the anarchy” clashed with “troops and negro police . . . , and there was in the streets of the city a true battle.”¹³⁷ Finally, Republicans proposed “that those who opposed [the new governor’s] black Parliament be declared bandits,” and “[e]ventually, all those protected by the government were *carpet baggers*.”¹³⁸

For Federales, the anecdote was double-edged. There was much value in a dramatic tale of national Republicans and local northern transplants employing violence to usurp control of a southern government to disastrous, unsustainable effect. But the story – predicated as it was on blacks’ political incapacity – also conveyed a potentially counter-productive message. When the paper returned to the topic seven months later, it distanced itself from these racial strands, now identifying a difference between 1873 New Orleans and 1903 Humacao: “here the blondes of the North seek to imitate the blacks of the South.”¹³⁹ Hardly a ringing endorsement of black political capacity, the odd substitution also deprived the analogy of force. In white-supremacist portrayals of Reconstruction – including that to which *La Democracia* here referred – the central sin of the North was elevation of an unfit race to positions of authority over natural white superiors. Stripping “monstrous” black misrule from its deployment of the account left the paper to retell a fable divorced from its moral.

As Federales regrouped in 1900-1904 and Republicanos fractured in the face of Resident Commissioner Degetau’s failed policies, Iglesias moved to reestablish himself as a top Puerto Rican labor

¹³⁵ *Id.* (“asamblea de aventureros”; “un negro de nombre Pinchbak, . . . que había sido cocinero de un vapor, empleado en una casa de juego”)

¹³⁶ *Id.*

¹³⁷ *Id.* (“ciudadanos honrados se cansaron de la anarquía”; “tropas además de la policía de negros . . . , y hubo en las calles de la ciudad una verdadera batalla”).

¹³⁸ *Id.* (“que declarase bandidos á los que se oponían al Parlamento negro de Kellogg”; “En cambio, los protegidos del gobierno eran todos los *carpet baggers*”).

¹³⁹ See *Los instrumentos de venganza*, LA DEMOCRACIA, Sep. 16, 1903.

leader.¹⁴⁰ While in New York, Iglesias had arranged a meeting with the President of the powerful American Federation of Labor, Samuel Gompers.¹⁴¹ A proponent of craft-based unions who was no racial progressive, Gompers offered his support to Spanish-born Iglesias's effort to organize island craft workers outside the auspices of the racially marked *Federación Regional*.¹⁴² Upon returning to Puerto Rico, that support, tireless organizing, and confrontations with Republican officials calculated to position them as anti-labor helped Iglesias transform his *Federación Libre* into the dominant labor organization in Puerto Rico.¹⁴³

Hoping to capitalize on Republican frustration and division, Federales reconstituted themselves as the inclusive *Partido Unionista*.¹⁴⁴ Their foremost goal – to be achieved through more confrontational means than Republicanos had deployed – was Puerto Rican control of the Puerto Rican state, be it as an independent Puerto Rican nation, an autonomous U.S. territory, or a state of the union.¹⁴⁵ Their ranks soon swelled, augmented in part by Iglesias's support.¹⁴⁶ In late 1904, *Unionista* candidates won the resident commissionership and control of the island's House of Delegates, launching an electoral coalition that would dominate

¹⁴⁰ See *Habla Degetau*, *LA DEMOCRACIA*, Aug. 24, 1904; *Párrafos del Manifiesto del señor Degetau*, *LA DEMOCRACIA*, Sep. 2, 1904, at 4; *Porto Rico Nominations*, *WASH. POST*, Oct. 11, 1904, at 4.

¹⁴¹ IGLESIAS, *supra* note 87, at 202-03; REPORT OF PROCEEDINGS OF THE TWENTIETH ANNUAL CONVENTION OF THE AMERICAN FEDERATION OF LABOR HELD AT LOUISVILLE, KENTUCKY, DECEMBER 6TH TO 15TH INCLUSIVE, 1900, at 64-65 ([1900]) [hereinafter 1900 REPORT OF PROCEEDINGS].

¹⁴² 1900 REPORT OF PROCEEDINGS, *supra* note 141, at 119; Susan Roth Breitzer, *Race, Immigration, and Contested Americanness: Black Nativism and the American Labor Movement, 1880-1930*, 4 *RACE/ETHNICITY* 269, 270-72 (2011); William George Whittaker, *The Santiago Iglesias Case, 1901-1902: Origins of American Trade Union Involvement in Puerto Rico*, 24 *AM. 378*, 380 (1968); Samuel Gompers to Santiago Iglesias, Oct. 1, 1901, SGL 46/578; Samuel Gompers to Santiago Iglesias, Sept. 12, 1901, SGL 46/283.

¹⁴³ See Erman, *supra* note 36, at 123-29, 198-205; see also Whittaker, *supra* note 142.

¹⁴⁴ See *Asamblea para constituir la Unión de Puerto Rico*, *P.R. HERALD*, Mar. 5, 1904, at 1317; *Ponce viene á "LA UNIÓN," LA DEMOCRACIA*, Aug. 1, 1904, 1.

¹⁴⁵ See CABÁN, *supra* note 63, at 184-85; see also Erman, *supra* note 36, at 182-84.

¹⁴⁶ See, e.g., BAYRÓN TORO, *supra* note 49, at 124; IGLESIAS, *supra* note 87, at 309-11; *Ponce viene á "La UNIÓN," supra* note 144; *infra* note 147 and accompanying text.

island politics for two decades.¹⁴⁷ On the national stage, however, Republicans retained control of the presidency and both houses of Congress, showing little inclination to extend Puerto Ricans greater self-government.¹⁴⁸

The next four years gave Unionistas additional reasons to deploy Reconstruction analogies. In 1904-1908, Unionistas extracted few meaningful concessions from Republicans, making Democrats appear ever more attractive as potential allies.¹⁴⁹ And with their common Republican enemy vanquished, Iglesias's coalition and the largely elite Unionista leadership found themselves increasingly at odds and soon in direct electoral competition.¹⁵⁰ With Iglesias and his emphasis on the promise rather than perils of broadly distributed freedom outside their alliance, Unionistas faced one less internal obstacle to full embrace of white-supremacist portrayals of postbellum federal policies.

At the same time, new and compelling versions of white-supremacist depictions of Reconstruction gained national audiences. Having published the best-selling *Leopard's Spots* three years earlier, Thomas Dixon released his most popular and enduring work, *The Clansman*, in 1905.¹⁵¹ The two novels had as their theme what Dixon described as "the awful suffering of the white man during the dreadful reconstruction period."¹⁵² In 1907 the academic historian William Dunning released his *Reconstruction, Political and Economic 1865-1877*, which was to inspire a generation of scholarship depicting Reconstruction as "an era of corruption presided over by unscrupulous 'carpetbaggers' from the North, unprincipled

¹⁴⁷ See BAYRÓN TORO, *supra* note 49, at 123-126, *passim*.

¹⁴⁸ See CABÁN, *supra* note 63, at 187; L. David Roper, Composition of Congress since 1867, <http://arts.bev.net/roperldavid/politics/congress.htm> (last visited Jan. 18, 2012).

¹⁴⁹ See CABÁN, *supra* note 63, at 187.

¹⁵⁰ See, e.g., *Consejo Ejecutivo*, UNIÓN OBRERA, Aug. 21, 1906, at 2; *En campaña*, UNIÓN OBRERA, Aug. 31, 1906, at 2; *En campaña*, UNIÓN OBRERA, Sep. 15, 1906, at 2; *En campaña*, UNIÓN OBRERA, Oct. 2, 1906, at 2.

¹⁵¹ BLIGHT, *supra* note 7, at 394-97; Maxwell Bloomfield, *Dixon's "The Leopard's Spots": A Study in Popular Racism*, 16 AM. Q. 387, 387, 392 (1964).

¹⁵² BLIGHT, *supra* note 7, at 394 & n.20 (quoting THOMAS CRIPPS, *SLOW FADE TO BLACK* 44 (1993) (quoting RAYMOND ALLEN COOK, *FIRE FROM THE FLINT* 140 (1968))).

Southern white ‘scalawags,’ and ignorant freedmen.”¹⁵³

III. “WE HAVE HAD . . . WHAT I TERM A ‘CARPETBAG GOVERNMENT,’” 1909-1912

After Unionistas and Republicans both retained their respective holds on power in 1908 elections, Unionistas faced the prospect – for the fifth year running – of failing to convince officials in Washington to expand island home rule.¹⁵⁴ With few hopes for imminent reforms from Republican-dominated Washington, they drew attention to their cause by using one of the few levers of state power under their control. On March 16, Unionista lawmakers refused to pass an island budget.¹⁵⁵ Doing so left Puerto Rico with no funds authorized for the year ahead.¹⁵⁶ To prevent a government shutdown, the U.S. political branches would have to act.

Reaction was swift. Republican President William H. Taft told Congress that since 1898 “Porto Rico has been the favored daughter of the United States,” receiving U.S. largesse and political education.¹⁵⁷ The crisis, he wrote, demonstrated that “we have gone somewhat too fast in the extension of political power to them.”¹⁵⁸ In response, he recommended reviving War Department oversight responsibilities for the island.¹⁵⁹

As legislators turned to Taft’s proposals in summer 1909, some

¹⁵³ FONER, *supra* note 21, at xix; *see also id.* at xx, 609-10; BLIGHT, *supra* note 7, at 358 (arguing that James Ford Rhodes’s *History of the United States from the Compromise of 1850*, which was completed in 1906, set the stage for Dunning’s reinterpretation of Reconstruction).

¹⁵⁴ *See* BAYRÓN TORO, *supra* note 49, at 131-33; Roper, *supra* note 148.

¹⁵⁵ Regis Post to Secretary of the Interior, Mar. 17, 1909, in S. REP. NO. 61-10 (1910); W. F. Willoughby et al. to Secretary of the Interior, Mar. 29, 1909, in S. REP. NO. 61-10 (1910); 44 CONG. REC. 2340-46 (1909); Luis Muñoz Rivera et al., [Brief of Mar. 29, 1909,] in 44 CONG. REC. 4337-47 (1909); *Comisión de la cámara en Washington*, LA DEMOCRACIA, Apr. 2, 1909, at 1.

¹⁵⁶ *See* sources cited *supra* note 155.

¹⁵⁷ Wm. Taft to Senate and House of Representatives, May 10, 1909, in S. REP. NO. 61-10 [hereinafter Taft to Senate & House]; 44 CONG. REC. 2340 (1909).

¹⁵⁸ Taft to Senate & House, *supra* note 157.

¹⁵⁹ *Id.*; Chauncey M. Depew, *Porto Rico: Speech on the Effort of the Porto Rican House of Delegates to Coerce Congress by Refusing to Pass Appropriation Bills, July 9, 1909*, in 7 ORATIONS, ADDRESSES AND SPEECHES OF CHAUNCEY M. DEPEW (1910); *id.*, at 1898; *La cuestión de Puerto-Rico*, LA DEMOCRACIA, May [24?], 1909, at 2; Biographical Directory, *supra* note 33.

Democrats charged that U.S. rule in Puerto Rico represented a return to Reconstruction-era Republican misrule in the U.S. South.¹⁶⁰ 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.

The United States, he charged, had instituted "another specie of the same genus in Porto Rico."¹⁶¹

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."¹⁶² The Republican Governor of Puerto Rico would soon go further, charging that it was Muñoz Rivera's "political machine" that reprised the "condition [that] existed in our Southern States during the days of 'reconstruction'"¹⁶³ when "those qualified to participate in self government"¹⁶⁴ were "prevented from having any voice."¹⁶⁵

Though the Reconstruction analogy had drawbacks for islanders, Unionistas embraced it, especially Domingo Collazo.¹⁶⁶ A mainland-

¹⁶⁰ See, e.g., 44 CONG. REC. 2459-76, 2927-28, 4337-47 (1909); Depew, *supra* note 159.

¹⁶¹ 44 CONG. REC. 2459-76 (1909).

¹⁶² *Id.*, at 2927-28.

¹⁶³ Colton to Edwards, Mar. 2, 1910, MD NARA 350/5B/21/3377-57 [hereinafter Colton, Mar. 2, 1910].

¹⁶⁴ Cablegram, Colton to Edwards, Mar. 1, 1910, MD NARA 350/5B/341/3377-49.

¹⁶⁵ Colton, Mar. 2, 1910, *supra* note 163.

¹⁶⁶ See D. Collazo, *Give the Devil His Due*, LA DEMOCRACIA, May 2, 1908, 1; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, July 27, 1908, 2; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Aug. 1, 1908, 2; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Aug. 17, 1908, 2; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Nov. 13, 1908, 2; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, July 27, 1909, at 1; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Oct. 23, 1909, 1; *La comisión de la Cámara*, LA DEMOCRACIA, Apr. 16, 1909.

based columnist for *La Democracia* and a participant in Unionista lobbying efforts, Collazo was also the uncle of Isabel Gonzalez, the Puerto Rican litigant in *Gonzales v. Williams*.¹⁶⁷ In 1902, he had supported legal strategies like those Degetau had pursued by helping Gonzalez launch her case.¹⁶⁸ Seeing Democratic ascendance as Puerto Ricans' best hope for positive change, he now made politics his focus.¹⁶⁹

Unfortunately for Unionistas like Collazo, Democratic opposition to Reconstruction was rooted as much in white supremacy as federalism. Those like Democratic Representative James Slayden of Texas, who saw Puerto Ricans as racially inferior "mongrels," were unlikely to accept Collazo's comparison of Puerto Ricans to Reconstruction-era southern whites.¹⁷⁰ When Republican Senator and Former Secretary of War Elihu Root turned the debate from Republican misrule to Puerto Ricans' purported political incapacity, Collazo appeared to recognize the futility of telling Democrats that Puerto Ricans were as politically capable as Reconstruction-era southern whites. Instead he launched ad hominem attacks on Root.¹⁷¹

Even as Unionistas embraced disparaging portrayals of Reconstruction rooted in white supremacy, they sought to distance themselves from what they portrayed as a vicious, counterproductive U.S. racism that operated extra-legally, was alien to Puerto Rico and its heritage, and impeded island aspirations for home rule. *La Democracia* thus reported on savage U.S. lynchings, campaigns against them, and blacks' civil-rights efforts.¹⁷² The

¹⁶⁷ See Transcript of Record at 1, 4-6, *Gonzales*, 192 U.S. 1 (Feb. 27, 1903) (No. 225); sources cited *supra* note 166. The Supreme Court misspelled Gonzalez's name. I follow the spelling that she used in signing her name, including omitting the accent mark. See Erman, *Meanings*, *supra* note 103, at 27 n.1.

¹⁶⁸ See, e.g., Transcript of Record, *supra* note 167, at 1. On Collazo's aspiration that Puerto Ricans secure U.S. citizenship, constitutional rights, and traditional U.S. territorial status, see D. Collazo, *Desde Nueva York*, LA CORRESPONDENCIA DE P.R., Dec. 19, 1903, at 1; D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Aug. 17, 1908, at 2.

¹⁶⁹ See, e.g., *infra* note 178 and accompanying text.

¹⁷⁰ 44 CONG. REC. 2927-28 (1909); Biographical Directory, *supra* note 33.

¹⁷¹ Collazo, *Metropolitanas*, *supra* note 166; Biographical Directory, *supra* note 33.

¹⁷² D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Feb. 12, 1909, at 2; *11 negros linchados*, LA DEMOCRACIA, June 23, 1908, at 1; *Un negro linchado*, LA DEMOCRACIA, Feb. 22, 1909, at 1; *Piden*

newspaper 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.”¹⁷³ And Collazo condemned racial prejudices as “imbecile preoccupations,” declaring that “[t]he humanity is equal in all parts.”¹⁷⁴

Yet, Unionistas found themselves entangled in mainland racism. Collazo’s Reconstruction analogies implicitly argued not that all races were equal but that most – or at least leading – “white” Puerto Ricans could be trusted to control island affairs. Similarly, *La Democracia* argued that mainlanders mischaracterized some Puerto Ricans as non-white and misperceived other Puerto Ricans who were not white as threats to governance of the island. “If there were not people of African blood in Puerto Rico or there were few,” one piece concluded, “we would have had enough white people to organize a state before now.”¹⁷⁵

On July 15, Congress enacted Taft’s proposal and returned the island to the jurisdiction of the War Department.¹⁷⁶ Despite this apparent defeat, Unionista leaders reported that they had won important congressional allies during the fight.¹⁷⁷ And were Democrats to become the majority party, Collazo had already insisted, Puerto Ricans would secure the “political rights and privileges” of the traditional U.S. “territorial form of government”

justicia, LA DEMOCRACIA, June 14, 1909, at 1; *Victimas de lynch*, LA DEMOCRACIA, June 16, 1909, at 2.

¹⁷³ *El problema del color*, LA DEMOCRACIA, July 23, 1909, at 3 (“no hay la cuestión de ‘el color’”; “En ningún otro pueblo está tan arraigado el prejuicio del color como en los Estados Unidos”) (citing as the source of the quotation “John A. MacDonal” in the “HERALDO ESPAÑOL”).

¹⁷⁴ D. Collazo, *Metropolitanas*, LA DEMOCRACIA, May 1, 1909, 2 (“preocupados imbeciles”) (quoting *Topics of the Times*, N.Y. TIMES, Apr. 19, 1909, at 8); D. Collazo, *Metropolitanas*, LA DEMOCRACIA, Apr. 24, 1909, at 2 (“La humanidad es igual en todas partes”).

¹⁷⁵ *El problema del color*, *supra* note 173 (“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”).

¹⁷⁶ See 44 CONG. REC. H. Bills 315 (1909).

¹⁷⁷ D. Collazo, *Metropolitanas*, LA DEMOCRACIA, July 29, 1909, at 1; *A manera de epílogo*, LA DEMOCRACIA, Aug. 2, 1909, at 1.

and “an autonomous regime.”¹⁷⁸

IV. “THE SAME SAD REASON OF WAR AND CONQUEST WHICH LET LOOSE OVER THE SOUTH,” 1913-1917

Political landscapes shifted in 1913 when Democrats came to control the federal political branches for only the second time since the Civil War. Unionistas could now seek to capitalize on their imagined Reconstruction-based alliance with Democrats and thereby test Collazo’s equation of Democratic ascendance with Puerto Rican gains. At the same time, Unionistas came to face a challenge at home from a newly powerful organized-labor movement in which Santiago Iglesias prominently featured. Opposed to reforms that would increase the authority of the island political class with whom unionized workers often clashed, Iglesias rejected both Degetau’s portrayals of a shared U.S.-Puerto Rican history of enlightened emancipations by leading men in each locale and Muñoz Rivera’s recourse to portrayals of Reconstruction aimed at vilifying northern colonialism rather than local racial and economic hierarchies. Claiming that remnants of slavery remained to be eradicated, he instead sought continued U.S. administrative rule in Puerto Rico.

The fate of Puerto Rico in the House of Representatives lay in the hands of the Committee on Insular Affairs, and its recently elevated chair, William Jones of Virginia.¹⁷⁹ 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 Republican imperialism.¹⁸⁰ In 1900, he had savaged Republicans for withholding U.S. citizenship from Puerto Ricans, “seven-tenths of [whom] belong to the Caucasian race” and for instituting imperial rule that eclipsed

¹⁷⁸ Collazo, *Metropolitanas*, *supra* note 166 (“derechos y privilegios políticos”; “la forma territorial de gobierno”; “un regimen autonómico”).

¹⁷⁹ Jones gained his chairmanship following Democratic gains in the House in 1910.

¹⁸⁰ Andrew Montague, Address, in WILLIAM ATKINSON JONES (LATE A REPRESENTATIVE FROM VIRGINIA) MEMORIAL ADDRESSES DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES 13, 14 (1919).

Reconstruction in its “irresponsible carpetbag government.”¹⁸¹ By 1914, the gap between Democrats and Republicans on Puerto Rican policy had narrowed. After a decade and a half of relatively peaceful governance of Puerto Rico, Republicans in charge of island affairs had come to believe that the good will to be gained from a modest expansion of self-government outweighed its risks.¹⁸² Conversely, many Democrats, whose party now controlled offices administering Puerto Rico, had come to see value in continuing a substantial federal role on the island. Leading members in each party thus now agreed that Puerto Rico was a permanent U.S. territory ready only for a modest expansion of self-government.¹⁸³ On February 24, 1914, Jones introduced a bill similar to those proposed by prominent Republicans during the prior administration.¹⁸⁴ Under it, Puerto Ricans would be collectively naturalized as U.S. citizens, gain an almost wholly elected island senate, and have an appointed governor with an absolute veto.¹⁸⁵

Jones’s committee hearings reflected the narrowing partisan divide.¹⁸⁶ Some Democrats who opposed prior Republican imperial policies, like Representative Jacob Baker of New Jersey, still claimed in 1914 that “[b]y 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.”¹⁸⁷ But with Democrats now administering colonial Puerto Rico, others in the party took more flexible lines. Secretary of War Lindley Garrison, for example, described Puerto

¹⁸¹ 33 CONG. REC. app. 232-35 (1900).

¹⁸² See, e.g., *Hearings Upon the Bill Proposing to Amend the Present Organic Law of Porto Rico Before the H. Comm. on Insular Affairs*, 61st Cong. 1-47, 242 (1910), available at MD NARA 350/5A/339/3377-28.

¹⁸³ Cf. *infra* notes 222-227 and accompanying text (revealing widespread support for such a bill in 1916).

¹⁸⁴ See 51 CONG. REC. 3874 (1914); see also, e.g., Erman, *supra* note 36, at 233-39.

¹⁸⁵ See *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* (1914), available at MD NARA 350/5A/340/3377-157 [hereinafter 1914 HOUSE HEARINGS]; *El Bill de Pto-Rico*, LA DEMOCRACIA, Feb. 26, 1914; *El Bill de Pto-Rico*, LA DEMOCRACIA, Feb. 27, 1914, 1; *El Bill de Puerto Rico*, LA DEMOCRACIA, Mar. 7-10, 1914, at 1.

¹⁸⁶ See 1914 HOUSE HEARINGS, *supra* note 185, at 49-60.

¹⁸⁷ *Id.*, at 71.

Ricans as U.S. “denizens,” “people not citizens of the United States.”¹⁸⁸ 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 also taught a less emancipationist lesson than that Baker advocated. Thus Representative Horace Towner of Iowa bracketed Puerto Rican status questions in order to insist that the island would never gain independence from the post-Civil War United States: “we have never allowed any part of our territory to get away from us, and the probabilities are that we never will.”¹⁸⁹

On March 11, new Bureau of Insular Affairs law officer Felix Frankfurter sent Congress a memo reviewing recent federal decisions and laws.¹⁹⁰ Precedents involving Cuba, Hawai‘i, the Panama Canal Zone, and the Dominican Republic, he argued, established that U.S. relations with dependent locales – including, presumably, whether to impose a tariff – were “matters solely for congressional competence.”¹⁹¹ That remained true, he elaborated, whatever the mix of constitutional rights, citizenship, and self-government that the United States put in place there.¹⁹²

¹⁸⁸ *Id.* at 34-35

¹⁸⁹ *Id.* at 57.

¹⁹⁰ *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 (1914)*, 20-24 [hereinafter 1914 SENATE HEARINGS], available at MD NARA 350/5B/488/3377-216.

¹⁹¹ *Id.* (citing *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)). That legislating for Puerto Rico would not tie Congress’s hands concerning tariffs removed debate over the bill from the ongoing fight over protectionism. See, e.g., Karen Schnietz, *Democrats’ 1916 Tariff Commission: Responding to Dumping Fears and Illustrating the Consumer Costs of Protectionism*, 72 BUS. HIST. REV. 1 (1998) (explaining that tariffs were a key political issue, with Democrats supporting lower tariffs – including on sugar – while Republicans favored protection); CÉSAR J. AYALA, *AMERICAN SUGAR KINGDOM* 48-73, *passim* (1999) (examining complexities of setting tariffs on raw and refined sugar, the former of which was an input of the latter and both of which were produced domestically, in unincorporated territories and overseas during these years).

¹⁹² 1914 SENATE HEARINGS 20-24, *supra* note 190.

Unionistas found themselves in a bind. They recognized both that U.S. citizenship would all but foreclose eventual Puerto Rican independence and that in U.S. officials' views, "American citizenship for Porto Ricans does not suggest the most remote intention on the part of the United States to ever grant statehood to [the Puerto Rican] people." Collective naturalization, they told Congressional committees, would make islanders "citizens of an inferior class" and Puerto Rico "perpetually a colony, a dependency." Congress responded, the *Washington Star* reported, by declining to pass a bill.¹⁹³

While Jones's bill pended in January 1915, non-union laborers in Bayamón left the sugar fields to demand higher wages. The strikes quickly spread throughout the island, drawing in more than 20,000 workers before ending in late February and March. Workers sought a share of the profits that materialized as World War I shortages drove up sugar prices. Seeing an opportunity, Santiago Iglesias, who remained a top leader of the island's largely urban and craft-based organized-labor movement, campaigned to expand island unionization to the vast majority of island workers who toiled in the fields. He and his colleagues stepped forward to provide advice and encouragement and also founded a Socialist Party that quickly became a force in island politics.¹⁹⁴

The emergence of Iglesias and the organized-labor movement as a potential political force in Puerto Rico meant a new interpretation of the relationship of U.S. rule to the legacy of the Civil War. According to public statements by Iglesias and his colleagues, the choice between home rule and continued U.S. oversight was one between U.S. "good government" and a Unionista rule akin to racial

¹⁹³ 1914 HOUSE HEARINGS, *supra* note 185, at 53-54, 5, 9, 33, 62, 66-67; 1914 SENATE HEARINGS, *supra* note 190, at 4, 8-9, 16, 19, 36, 50-55; CÓRDOVA, *supra* note 50, at 117; *see also* Taft to Iglesias, Apr. 15, 1912, in A PEOPLE WITHOUT A COUNTRY (1912) available at CDO:2; Cabranes, *supra* note 31, at 464; *Porto Ricans Hope for U.S. Citizenship*, WASH. STAR, Jan. 9, 1916, available at MD NARA 350/5B/492/3377A-4.

¹⁹⁴ Concerning the events described in this paragraph, *see Report of the Governor, in FINAL REPORT AND TESTIMONY SUBMITTED TO CONGRESS BY THE COMMISSION ON INDUSTRIAL RELATIONS 11150-53 (1916) [hereinafter FINAL REPORT ON INDUSTRIAL RELATIONS]; id.* at 11165-68 (reproducing Iglesias to Gompers, Feb. 22, 1915); AYALA, *supra* note 191; CÓRDOVA, *supra* note 50; GERVASIO L. GARCÍA & A.G. QUINTERO RIVERA, DESAFÍO Y SOLIDARIDAD 60-64 (1991).

slavery.¹⁹⁵ 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.”¹⁹⁶ Relief had come only with U.S. forces, and still Unionistas saw workers as “the slave in America,” aiming to “strangle . . . blessed [U.S.] freedom” so that the “modern Porto Rican slaveholder . . . [could] walk tranquilly through these towns.”¹⁹⁷ But now, Iglesias argued, Puerto Rican workers had stepped onto the historical path previously tread by white mainland and European workers. They related to their employers like so “many thousands of serfs” in Europe,¹⁹⁸ he wrote, faced “the same calamities, intermissions, and crises suffered by [the] American labor movement about forty years ago,”¹⁹⁹ and were destined to “mathematically repeat[]” the “history” of progress of those prior generations.²⁰⁰ In the meantime, Iglesias insisted, islanders’ freedom remained incomplete.

Back in Washington, Muñoz Rivera continued using Reconstruction analogies to seek liberalization of U.S. colonial rule in Puerto Rico. Having failed in the 1913-1915 congressional term to secure such reforms from the newly Democratically controlled federal political branches, Unionistas moderated their positions to focus on winning progress toward home rule.²⁰¹ On January 25, 1916, Chairman Jones introduced a new bill. It proposed to naturalize Puerto Ricans collectively; provide the governor a qualified veto backed up, in cases of legislative override, by an absolute

¹⁹⁵ Santiago Iglesias, *The People and Their Civil and Political Rights* (1912) (unpublished version on file at CDO:2); see also CORDOVA, *supra* note 50, at 118; La Unión Obrera Central, *Los obreros contra Herminio Díaz Navarro* (Sep. 2, 1912) (unpublished version on file at CDO:2).

¹⁹⁶ Iglesias, *supra* note 195; see also CORDOVA, *supra* note 50, at 118; La Unión Obrera Central, *supra* note 195.

¹⁹⁷ Iglesias, *supra* note 195; see also CORDOVA, *supra* note 50, at 118; SUÁREZ FINDLAY, *supra* note 1, at 141-42; La Unión Obrera Central, *supra* note 195.

¹⁹⁸ Copy, Santiago Iglesias and Abraham Peña to William Taft, Nov. 27, 1909, CDO:1.

¹⁹⁹ 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, at 40-42 (1909).

²⁰⁰ *Id.*

²⁰¹ *Porto Ricans Hope for U.S. Citizenship*, *supra* note 202.

presidential veto; and create a wholly elective island legislature.²⁰²

Appearing before Congress in 1916 in support of greater self-government for Puerto Rico, Muñoz Rivera and a colleague appealed to Democratic legislators by arguing that Puerto Rico had been treated like the postbellum South: “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.]”²⁰³ The men potentially overreached, however, when they claimed that Puerto Ricans “are the southerners of the twentieth century,” a remark that the *Record* did not record occasioning applause or amusement.²⁰⁴

In making their Reconstruction-based argument, Unionistas had reason to be optimistic. White-supremacist portrayals of Reconstruction had gained wide acceptance among mainstream whites since Muñoz Rivera and his colleagues had deployed it in 1902.²⁰⁵ Thomas Dixon’s works remained influential, and new academic histories in the tradition of William Dunning were underway.²⁰⁶ Cinema, too, provided fertile ground for popularization of these views, most notably in D.W. Griffith’s groundbreaking adaptation of Dixon’s *The Clansman* into *Birth of a Nation* (1915), which profoundly and enduringly shaped popular conceptions of Reconstruction.²⁰⁷

Yet, the fragility of the analogy was also evident. For instance the notorious white-supremacist Mississippian on the Senate Committee on Pacific Islands and Porto Rico, James 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

²⁰² H.R. REP. NO. 64-77 (no date), available at MD NARA 350/5B/489/3377-243.

²⁰³ 53 CONG. REC. 7471-73 (1916).

²⁰⁴ *Id.*

²⁰⁵ See WOODWARD, *supra* note 17, at 456-68.

²⁰⁶ See BLIGHT, *supra* note 7, at 394-96; FONER, *supra* note 21, at xix-xx & nn.1-2 (collecting sources).

²⁰⁷ BLIGHT, *supra* note 7, at 395-97; ELLIOTT, *supra* note 7, at 308 (noting that President Wilson had a Ph.D. in history from Reconstruction historian John Burgess’s institution, Johns Hopkins, and affirmed the account of events in *The Birth of a Nation*).

our government.”²⁰⁸ 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.”²⁰⁹ But given that it was likely “the Porto Ricans are going to be held against their will,”²¹⁰ he was also 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.”²¹¹ Unwilling to abandon either commitment, Vardaman embraced neither. Instead, he supported the Jones Bill, with its naturalization provision signaling permanent U.S. retention of the island and only a modest expansion of self-government.²¹²

Though Reconstruction analogies could be double-edged for Unionistas, recourse to other aspects of U.S. history created opportunities for opponents to depict Reconstruction-era events to Unionistas’ detriment. Take the objection of Democratic Representative James Davis of Texas that Puerto Ricans might be 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.”²¹³ The comparison of contemporary Puerto Rico to colonial Massachusetts seemed to argue for island home rule. But then, in testimony before Congress, the Democratic governor of the island compared islanders to Reconstruction-era blacks. Davis took the hint:

Mr. Davis. . . . We have had that situation with the

²⁰⁸ 54 CONG. REC. 2250 (1917); *Government for Porto Rico: Hearings before the Committee on Pacific Islands and Porto Rico United States Senate, 64th Cong., 1st sess., on S. 1217 A Bill to Provide a Civil Government for Porto Rico and for Other Purposes*, at ii (1916), available at MD NARA 350/5B/489/3377-255 [hereinafter 1916 SENATE HEARINGS]; see also, e.g., WOODWARD, *supra* note 17, at 375.

²⁰⁹ 54 CONG. REC. 2250 (1917).

²¹⁰ *Id.*

²¹¹ 1916 SENATE HEARINGS, *supra* note 208.

²¹² 54 CONG. REC. 2250 (1917). For an example of a prominent House member who doubted Puerto Rican racial capacity, see, Cabranes, *supra* note 31, at 481 (discussing comments by former Speaker of the House Joseph Cannon);

²¹³ *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* (1916), available at MD NARA 350/5B/489/3377-245.

negroes. I have seen 500 negroes standing in a cabin, all waiting for their sack of flour. . . .

[Governor] 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.²¹⁴

Reconstruction here not only intervened temporally between U.S. colonial rule in Puerto Rico and the U.S. Revolution, but also conceptually, as an obstacle to attempts to equate the two. That obstacle was overcome in Davis's case through a portrayal of contemporary Texas that eschewed explicitly white-supremacist arguments like those above in favor of embracing another bogeyman that Democrats commonly associated with Reconstruction: federal intrusion into local affairs. Opposing federal disfranchisement of Puerto Ricans during a House floor debate without repudiating disfranchisement of blacks in his home state, Davis asserted:

[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.]²¹⁵

²¹⁴ *Id.*

²¹⁵ 54 CONG. REC. 4170 (1917).

Santiago Iglesias came to join Unionistas in support of the bill. Appearing before Congress that year, he focused on violence that workers suffered and on what he perceived to be the favoritism of U.S. officials on the island toward corporations during strikes. Of late, he reported, “conspiracies of the corporation, politicians and local governmental officials” had led to five deaths and violations of expressive rights.²¹⁶ Lacking support among U.S. officials in Puerto Rico or the island’s political class, Iglesias sought to turn distant arms of the federal state against his opponents on the island. As a result, he evaluated the section of Jones’s bill “granting American citizenship to the Porto Ricans (collectively)” to be its “greatest and most important part.”²¹⁷ Such citizenship, he wrote American Federation of Labor President Samuel Gompers, would preserve congressional jurisdiction by ensuring continued U.S. sovereignty. U.S. citizenship also could strengthen Iglesias’s hand in seeking protection from officials on the mainland for workers against island officials.²¹⁸ As Iglesias elaborated to a congressionally created Commission on Industrial Relations, U.S. citizenship should mean federal protections that Puerto Ricans did not yet enjoy and that would benefit Puerto Rican workers in particular:

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.”²¹⁹

Iglesias did not identify specific statutory provisions that U.S. citizenship for Puerto Ricans would trigger, instead appearing to

²¹⁶ Santiago Iglesias, Report, in 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, at 166 (1916) [hereinafter 1916 Iglesias Report].

²¹⁷ *Id.* at 172-73.

²¹⁸ Santiago Iglesias to Samuel Gompers, Apr. 20, 1914, CDO:2; Santiago Iglesias to Samuel Gompers, March 7, 1917, CDO:3.

²¹⁹ FINAL REPORT ON INDUSTRIAL RELATIONS, *supra* note 194, at 11091; *see also id.* at 11113. On Iglesias’s strategy in 1916, see 1916 Iglesias Report, *supra* note 216, at 164; Erman, *supra* note 36, at 230-77.

envision that U.S. citizenship would help Puerto Rican workers claim a wide variety of federal protections.²²⁰ In a letter concerning strikes in Puerto Rico, Gompers exemplified the approach, complaining to President Wilson that “the action of government agents . . . denied the workers the fundamental rights of free citizens.”²²¹

In 1916, Jones’s bill had supporters in most quarters. The President, Secretary of War, and Governor of Puerto Rico all backed it as, as did its Democratic sponsors in Congress.²²² The bill had many features similar to those that recent Republican Secretary of War Jacob Dickinson had favored. And it would recognize islanders as U.S. citizens and liberalize their government as Republicanos had long sought.²²³ Though far from Unionistas’ ideal, they supported the bill as the best achievable alternative.²²⁴ Iglesias and his newly rising labor movement also argued that they were better off with the bill than without it.²²⁵

On February 16, 1917, with U.S. entry into World War I looming, the Secretary of War nudged Congress to act, writing the bill’s main handler in the Senate that “[t]he whole moral dominance of the . . . United States in the American Mediterranean is involved in our treatment of the people of Porto Rico.”²²⁶ Two weeks later, as the legislative session wound to a close, the political branches enacted

²²⁰ For more on Iglesias’s view of U.S. citizenship as a basis for making demands on U.S. officials, see Erman, *supra* note 36, at 230-77. On differences in applications of federal statutes to U.S. citizens and noncitizen U.S. nationals, see Federico Degetau’s argument to that effect in Brief for Appellant, *Rodriguez v. Bowyer*, 25 App. D.C. 121 (1905) (No. 1504), CIHCAM 6/VI/33.

²²¹ Samuel Gompers to Woodrow Wilson, Apr. 29, 1916, CDO:2 (quoting Gompers’s March 16 letter).

²²² *El Bill Jones*, LA DEMOCRACIA, July 28, 1916, at 1; Copy, Interview with the Governor (Beckwith trans., 1916), MD NARA 350/5B/492/3377A-7, *original printed in* LA DEMOCRACIA, Feb. 5, 1916.

²²³ Jones Act, Pub. L. No. 368, 39 Stat. 951 (1917); H.R. DOC. NO. 61-615 (1910), *available at* CDO:1; CABÁN, *supra* note 63, at 209.

²²⁴ 53 CONG. REC. 7470-71 (1916) (remarks of Res. Com’r Luis Muñoz Rivera of P.R.); *El Bill Jones*, LA DEMOCRACIA, Jan. 27, 1916, at 4; *El Bill Jones es superior a la ley Foraker*, LA DEMOCRACIA, Feb. 11, 1916, at 2.

²²⁵ Santiago Iglesias to Samuel Gompers, Mar. 7, 1917, CDO:3.

²²⁶ Newton Baker to John Shafroth, Feb. 16, 1917, MD NARA 350/5B/489/3377-327.

Jones's bill into law.²²⁷

V. CONCLUSION

For two decades, Luis Muñoz Rivera's Unionista political coalition dominated Puerto Rican politics, equated U.S. colonial rule with depictions of U.S. Reconstruction as a regrettable error, and demanded Puerto Rican "Redemption" into home rule. Unionistas eschewed more emancipationist legal legacies of the U.S. Civil War within which the Constitution prescribed that all non-tribal U.S. peoples be U.S. citizens and that all U.S. lands be or soon become states. On Muñoz Rivera's view, U.S. citizenship and eventual statehood were only valuable to the extent that they brought islanders self-government.²²⁸ In choosing white supremacy over emancipation, Muñoz Rivera reflected and anticipated mainland U.S. public opinion. During the two decades preceding the Jones Act, such views became increasingly widespread in white U.S. popular culture, including among prominent Republicans in Congress, the executive agencies, and the Puerto Rican government.

Nonetheless, emancipationist depictions and legal legacies of the Civil War remained. In 1900-1904, Federico Degetau won island-wide office and aligned with certain prominent U.S. jurists by arguing that under the constitutional order created by the Civil War and Reconstruction Amendments, U.S. annexation transformed Puerto Ricans into U.S. citizens with full constitutional protections and into residents of a homeland that would become a state. Aiming to win Puerto Ricans membership in the U.S. empire-state, he mixed together white-supremacist and emancipationist depictions of the Civil War to portray the end of slavery as an accomplishment

²²⁷ Jones Act; cf. MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS* (2000) (advocating greater attention to the role of foreign relations in legal change); Derrick A. Bell, Jr., Comment, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980) (suggesting that legal change favorable to those with limited power often results from temporary convergences of their interests with those of more powerful decision makers).

²²⁸ See, e.g., 1914 HOUSE HEARINGS, *supra* note 185, at 56-60 (displaying Muñoz Rivera's willingness to accept immediate statehood in lieu of potential independence).

common to leading, largely white men in Puerto Rico and the United States. The struggles of former slaves to secure and define “freedom” received little mention.²²⁹

Taking a different approach a dozen years later, the head of the island organized-labor movement, Santiago Iglesias, sought mainlanders’ support for Puerto Rican workers by arguing that the promise of emancipation on the island had not been fulfilled. On his account, laborers remained half slaves while landowners retained too many masterly prerogatives. Though this view bore striking similarities to those that had once inspired Reconstruction, Iglesias did not draw on that historical reality, which had already been largely superseded in mainland white popular culture by a legend that depicted the rise rather than the fall of Reconstruction as a national tragedy. Instead, he compared island workers to U.S. and European laborers of yesteryear.

Emancipationist legal legacies also continued to have force in the U.S. Supreme Court. In a series of *Insular Cases* concerning peoples and territories annexed in 1897-1899, the justices proved unwilling to embrace explicitly the idea that the United States could hold lands as colonies and their residents as non-U.S.-citizen subjects.

Yet within evasions were seeds of abandonment. By responding to claims by Puerto Ricans with productive ambiguity, the Supreme Court implicitly gave Congress a free hand. As jurists like Felix Frankfurter came to appreciate, this unwillingness to hamper U.S. imperial governance shaped law. Rather than vindicate an emancipationist legal legacy of the Civil War – and thereby create a precedent that courts might later heed – the political branches legislated in ways consistent with the existence of U.S. colonies and colonized peoples. In 1922, the Supreme Court capped this constitutional transformation with its unanimous decision in *Balzac v. Porto Rico*.²³⁰ There, the Court unequivocally embraced the territorial non-incorporation doctrine that Justice White had

²²⁹ For dynamic accounts of the construction of freedom, see, for example, FREDERICK COOPER ET AL., *BEYOND SLAVERY* (2000); FONER, *supra* note 21; cf. BRANDWEIN, *supra* note 19 (discussing post-emancipation debates over meanings of slavery).

²³⁰ *Balzac v. Porto Rico*, 258 U.S. 298 (1922); see also WELKE, *supra* note 2, at 38-39; *supra* note 24.

propounded in *Downes v. Bidwell* (1901).²³¹ That doctrine denied some U.S. lands eventual statehood and those resident there all but fundamental constitutional rights.²³²

Although white-supremacist legacies of the Civil War gained traction among mainland whites across 1898-1917, Muñoz Rivera and his colleagues were not ultimately able to reap substantial benefits from their Reconstruction analogies. In 1900-1904 – when Muñoz Rivera and the Democratic Party were out of power, Republicans administered Puerto Rico in cooperation with a local party led by a man of color, and political violence appeared common – the analogies had seemed promising. Equations between contemporary Puerto Rico and the Reconstruction-era U.S. South potentially crystallized affinities between Unionistas' concern with achieving self-government and Democratic demands that the U.S. federal structure accommodate their home rule while cabining Republican federal power. By 1917, when Democrats controlled political Washington, Unionistas' Reconstruction analogy depended upon outrage at federal rule by any party of any U.S. land where a local white population stood ready to control the government. But many mainlanders did not perceive Puerto Ricans – even elite Puerto Ricans – to be fully white. And with the choice reframed as one between governance by federal-level white Democrats or by locals with more ambiguous racial provenances, white-supremacist Democrats became unreliable allies.

Mechanics of patronage politics also undercut Unionistas' attempts to win Democratic support for Puerto Rican home rule. Democrats' opposition to Reconstruction had helped them lock up political control of southern states, their electoral-college votes, and their federal and local offices. Muñoz Rivera's envisioned "Redemption" would not achieve these ends. As Democrats had experienced since 1913, it was colonial governance rather than home rule that opened positions for members of their party. Unlike during Reconstruction, when federal administrators in the U.S. South were

²³¹ *Balzac*, 258 U.S. 298 (1922); SPARROW, *supra* note 115, at 197-203; TORRUELLA, *supra* note 115, at 184.

²³² See, e.g., Burnett, *supra* note 115, at 799, 808.

strongly associated with the Republican Party, both parties exercised periodic control over such contemporary constituencies for U.S. colonialism as the War Department and presidentially appointed officials within the island government.²³³

The years in which Puerto Ricans drew on varied portrayals of the Civil War and its aftermath to seek to guide U.S. imperial policy were ones in which that imperial policy also became an occasion for mainland officials to alter and shore up their depictions of post-1860 events. By 1898, a Republican Party known for its embrace both of emancipationist portrayals of the Civil War and of black rights had seen increasing numbers of members abandon these commitments in favor of a sectional reconciliation among whites predicated on white southern Democrats' disparagement of Reconstruction and accompanying steadfast opposition to federal guarantees of black rights. Republican support for the U.S. turn toward empire accelerated this process, as many Republicans turned to white supremacy to justify U.S. colonization of overseas peoples.²³⁴

For Democrats, 1898 was a complex opportunity. While Republicans were in power, Democratic white supremacy and support for states' rights dovetailed, allowing them to oppose both the incorporation of peoples of color and federal rule over distant lands. Once in power, though, they did not "redeem" Puerto Rico as they claimed to have done the former Confederacy. Instead, and despite having long downplayed blacks' citizenship, they passed legislation showcasing Puerto Rican receipt of that status.

Democrats did so, in part, because the U.S. citizenship that Puerto Ricans received in 1917 differed markedly from that envisioned two decades earlier by those who embraced emancipationist legal legacies of the Civil War. Puerto Ricans received few constitutional privileges and immunities as a result of their new status.²³⁵ Racial equality was also not forthcoming, as they

²³³ On political consequences of the "Redemption," see, for example, FONER, *supra* note 21, at 587-601, 609-10.

²³⁴ See, e.g., *supra* note 17 (collecting sources).

²³⁵ See, e.g., Paul Charlton to Secretary of War, Dec. 21, 1909, MD NARA 350/5B/180G/1286-11 (reporting that the "only rights which a citizen . . . acquires by reason of his federal citizenship" "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).

faced varying degrees of Jim Crow on the mainland and even in U.S. military installations on the island.²³⁶ And as the Supreme Court would make explicit five years later in *Balzac*, islanders' U.S. citizenship did not signal a full extension of U.S. constitutional rights to islanders or eventual statehood for their island.²³⁷ The status in which Degetau had seen such promise two decades earlier came to produce much less.

As the Jones Act of 1917 reflected, the development of U.S. rule in Puerto Rico did not fit easily within preexisting portrayals and legal legacies of the U.S. Civil War. Although the Jones Act extended U.S. citizenship to Puerto Ricans, that status bore little resemblance to the U.S. citizenship to which those with emancipationist interpretations of the Civil War had once aspired. Yet, extension of any citizenship to Puerto Ricans sat uneasily with Democrats' relentlessly derogative portrayals of Reconstruction, which steadfastly downplayed all recognition of black belonging.²³⁸ And where a return to home rule ostensibly justified "Redemption," the Jones Act extended islanders only a modicum of self-government.

Competing portrayals and legal legacies of the U.S. Civil War shaped and were shaped by the U.S. turn toward empire. In propounding U.S. tutelage of non-tribal peoples on the basis of their ostensible racial inferiority, Republicans departed considerably from key emancipationist constitutional commitments, a reflection of Democratic successes in shaping the legal lessons to be drawn from the Civil War and its aftermath. In responding, Democrats faced a choice: reconcile around shared white supremacy or continue opposing Republicans for their denials of home rule to a southern population – in this case, Puerto Rico. In a reflection of their

On the value of U.S. citizenship for Puerto Ricans in immigration, de-annexation, and mainland-voting contexts, see Erman, *supra* note 36, at 288.

²³⁶ BERNARDO VEGA, MEMOIRS OF BERNARDO VEGA 85-88 (César Andreu Iglesias ed., Juan Flores trans., 1984); Jiménez Román, *supra* note 73, at 20; *El problema del color*, *supra* note 174. On Spanish as a partial shield against Jim Crow, see Jesse Hoffnung-Garskof, *The Migrations of Arturo Schomburg: On Being Antillano, Negro, and Puerto Rican in New York 1891-1938*, 21 *J. AM. ETHNIC HIST.* 3, 36-37 (2001).

²³⁷ *Balzac*, 258 U.S. 298 (1922).

²³⁸ See WELKE, *supra* note 2.

increasing stranglehold on southern politics and concomitant declining need to insist upon local autonomy as a universal first principle, Democrats took the former route. In doing so, they implied that the so-called Redemption was exceptional, the rare instance where a multi-racial region merited home rule. Puerto Rico, with its substantial population of former slaves and their descendants, they decided, did not similarly qualify.

Ultimately, portrayals and legal legacies of Reconstruction that emphasized racial equality, substantive citizenship, and home rule defined the U.S. turn toward empire less than did white Republicans and Democrats' shared commitments to Anglo-Saxon superiority.²³⁹ As a result, Muñoz Rivera's, Degetau's, and Iglesias's portrayals of Puerto Ricans of color as objects of white control, foils for white liberalism, or class members transforming to whites share a common – and perhaps fatal – acknowledgement of existing island blackness. Even Muñoz Rivera's embrace of white-supremacist depictions of Reconstruction proved inadequate. That was so because across two decades of U.S. rule a combination of Republican arguments, Democratic actions, and Puerto Rican political leaders' observations revealed a key relationship between the U.S. past and its future. Empire was not Reconstruction. Or at least not its tragic legend.

Empire was, of course, part of what followed the Civil War and withdrawal of federal troops from the former Confederacy. As Unionista efforts and the responses of U.S. officials reveal, debates over U.S. imperialism in 1898-1922 helped shape what came to be the dominant depictions and legal legacies of the Civil War and its aftermath. That war, postbellum emancipationist projects, their rollback, and the U.S. imperial turn were interrelated, oft-overlapping chapters of what came to be the more-than-half-century-long tragedy of the reconstruction of the U.S. nation around white supremacy.

²³⁹ Cf. Desmond King & Robert C. Liebman, *Finding the American State: Transcending the "Statelessness" Account*, 40 *POLITY* 368, 377 (2008) ("By keeping the federal government silent in policy areas where national action might enhance African-American rights, Southerners and their allies in national politics managed to turn the illusion of national statelessness into a fearsome coercive apparatus at the state and local level.").

APPENDIX: LIST OF ABBREVIATIONS

AG/OG/CG/_/_	Archivo General de Puerto Rico, Oficina del Gobernador, Correspondiente General, Caja, Expediente
CDO:_	El Centro de Documentación Obrera Santiago Iglesias Pantín, Microfilm Collection, Roll
CIHCAM _/_/_	Centro de Investigaciones Históricas, Colección Angel M. Mergal, caja, cartapacio, documento
CIHCAM _/L_	Centro de Investigaciones Históricas, Colección Angel M. Mergal, caja, libro
MD NARA, 350/_/_/_	Maryland National Archives and Records Administration, Record Group 350, Series, Box, File
SGL _/_	Library of Congress, Samuel Gompers Letterbooks, 1883-1924, volume, page
WWP, NYPL	William Williams Papers, New York Public Library