Almost Citizens

Puerto Rico, the U.S. Constitution, and Empire

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Introduction

This book tells the story of "almost citizens" – the people of Puerto Rico who were deemed neither citizens nor aliens, and who lived in a land deemed neither foreign nor domestic. For them, citizenship functioned like terrain during war. It was a prize to be won and a field of battle whose strategic value shifted as the fight developed. This book follows the debates about the U.S. Constitution that swirled about them. It tends to the voices of federal judges and elected officials but also follows Puerto Rican politicians, labor organizers, litigants, lawyers, administrators of government agencies, and journalists in Puerto Rico and on the mainland. People in all of these groups had a view of what citizenship should look like, and the idea of citizenship took shape and changed only as they advanced their sometimes competing concepts in the media, in law, and through bureaucratic maneuvers.[1]

The story begins at the very end of the nineteenth century as annexation of the islands that comprise Puerto Rico, Hawai'i, Guam, American Samoa, and the Philippines was bringing millions of people of African, Asian, and indigenous Pacific Island descent under U.S. control. Would these people become U.S. citizens, and if so, what would that citizenship mean? Citizenship at this time did not always or automatically guarantee full rights to participate in public life. Although women were undoubtedly citizens, for example, only four states accorded them suffrage on an equal basis with men. Southern states were driving African American citizens from the ballot box and the public sphere. Among many other examples, Mexican American and Chinese American children were often required to attend segregated schools.[2] Most of those whose rights were thus constrained were nonetheless deemed "Americans." And with the exception of Indians born into recognized tribes, all Americans were also U.S. citizens.

If there was ambiguity about the meaning of citizenship, there was much less ambiguity about whether citizenship would have to be conferred to the people of these annexed territories. The Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments had transformed the Constitution and dramatically

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moved the racially heterogeneous United States toward rights, membership, and equality. I term this new constitutional regime the Reconstruction Constitution. It introduced near-universal citizenship, expanded rights, and eventual statehood. Specifically, all Americans other than Indians, regardless of race, were citizens. All citizens within U.S. sovereignty had full constitutional rights that for men potentially included voting rights. All U.S. lands other than the District of Columbia were or would become states.[3]

For more than three decades these provisions of the Reconstruction Constitution essentially put a halt to the territorial acquisitions that fueled U.S. empire. Before the Civil War, the United States was ever expanding, annexing lands and then killing, displacing, subordinating, or assimilating those already living there. By 1860, U.S. international borders spanned the continent. But from shortly after the Civil War until 1898, the prospect of having to acknowledge so many nonwhite persons as citizens, coupled with expectations that they would hold some key rights and that the annexed lands they occupied would one day become states, had kept the United States government from expanding its borders as an imperial strategy. To annex was to accept the fact under the Reconstruction Constitution that the resident population could one day wield decisive votes in the Electoral College, Congress, and proposals to amend the Constitution. Sharing the widespread racism of their day, most U.S. officials preferred no annexation of lands that held overwhelmingly nonwhite populations to their potential inclusion and participation in national governance.

Beginning in 1898, however, the constitutional legacies of Reconstruction that acted as a restraint on imperial annexation began to unwind. What rights the Reconstruction Constitution guaranteed or acknowledged, and who could or must enforce them, had been hotly debated from the outset. But whatever limits and protections this constitution had applied initially, they narrowed considerably during the late nineteenth century. Declines were steepest for African Americans, a tragedy that has been thoroughly and skillfully told by other historians.[4] This study sits alongside that body of work and recounts the decline of the Reconstruction Constitution along a different dimension: as a durable and consequential constraint on that archetypal imperial form, annexation.

Three decades later the Reconstruction Constitution no longer impeded expansion of U.S. empire's borders. No single, dramatic decision marked the descent of this tradition at odds with unrestrained colonialism, or the triumph of the new imperial doctrine of "territorial nonincorporation." The shift came haltingly, laid out across a quarter century in a string of so-called *Insular Cases*.[5] Aware of the change under way – the movement from a constraining constitutional view of imperial governance of newly acquired lands to a much more flexible vision – Congress was emboldened. It asserted the power to extend or withhold statehood, citizenship, and rights in whatever combinations it chose.[6] Congress devised three novel, hybrid categories: lands that were neither

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foreign nor domestic, nonindigenous people who were neither citizens nor aliens, and domestic citizens who had less than full constitutional rights. The defining trait among the triad was – and still is – uncertainty about their scope and meaning.

Citizenship proved to be a slippery and adaptable concept. As constitutional interpretations changed, U.S. officials and many Puerto Ricans put citizenship to new uses, seizing on its ambiguity and conceptual instability. Initially, islanders and federal officials regularly presented views of citizenship consistent with the Reconstruction Constitution. They envisioned it as an achievable – perhaps inevitable – gateway to rights, belonging, and self-government. As the Reconstruction Constitution declined as a restraint on empire, much of the rhetoric was reversed; citizenship was all but meaningless, a "perfectly empty gift" or even a dishonorable badge of colonial status. Yet, as some perceptive observers realized, citizenship retained vibrancy, even in the context of empire. It was a font of rights, a basis for claims, a means of exclusion, and a powerful symbol of membership.[7]

Almost Citizens expands our understanding of the decline of Reconstruction by considering how the legacy of the Civil War affected empire, and how Reconstruction and its legacies reverberated through imperial ambitions and designs. For example, some accounts of the decline of Northern whites as a resource in the struggle for African American rights point to the imperial turn as a final nail in the coffin. War with Spain and the ensuing expansion in 1898 and 1899 kindled nationalizing and racist impulses that tempered Northern opposition to Southern white supremacy. Cross-sectional reconciliation among whites followed, to African Americans' detriment.[8]

Another body of work, and a growing one, has demonstrated the long half-life of the post–Civil War settlement. Well into the twentieth century, jurists, white supremacists, and African Americans continued to shape and be shaped by Reconstruction's legacies. Some legal doctrines that impeded racial discrimination survived a decade beyond the Supreme Court's approval of segregation in *Plessy v. Ferguson* (1896). Implementation of black disfranchisement and Jim Crow was not complete until the second decade of the twentieth century. The most influential white-supremacist accounts of post–Civil War federal efforts to reconstruct the South appeared in fiction, film, monuments, and academic history long after the 1890s. Conversely, African Americans' own resistance to the solidifying racial caste system never ceased.[9]

In the same vein, these chapters show that well into the twentieth century, fights over the past of Reconstruction and the future of empire were inextricably intertwined.[10] The aftermath of the Civil War provided both Republicans and Democrats with reasons to oppose the imperial turn. Republicans were the party of emancipation. After giving meaning to freedom by sanctifying the Reconstruction Constitution, they had to some extent been constrained by its

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dictates, even at the cost of preventing otherwise desired annexations. At least formally, the party remained committed to African American voting rights, a stand at odds with colonial rule. Democrats denounced Reconstruction as a period of federal tyranny and black misrule. They celebrated its overthrow, which brought them to power throughout the former Confederacy. As members of the party of white supremacy, they abhorred the prospect of statehood, citizenship, and rights for nonwhite residents of the Philippines. And because Democratic dominance in the South remained tenuous, the prospect of national Republicans wielding federal power as colonial masters was also an outrage. Better not to annex such lands than to enter the imperial morass.

The War of 1898 shattered this uneasy truce. Following annexation, Puerto Rican political leaders strategically played on aspects of each party's vision of the Civil War and its aftermath to try to blunt colonial strands in U.S. law and policy. Some appealed to Republicans by casting themselves as racial equals who had struggled for such liberal-democratic ideals as emancipation. Others, courting Democrats, declared that empire was itself a parallel to Reconstruction. Colonial rule in Puerto Rico replicated federal occupation of the South after the Civil War. Democrats must redeem Puerto Rico into home rule.

At the same time, both Republicans and Democrats had reasons to reconcile Reconstruction and empire. Those reasons were rooted in racisms so ingrained among U.S. officials that they could not imagine a world structured otherwise. For the increasing numbers of Republican leaders who drew from the failure of Reconstruction the lesson that racially inferior peoples could not be entrusted with self-government, the methods of white-supremacist Southern Democrats had great appeal. Those Republicans favored imperial governance outside the strictures of the Reconstruction Constitution. Democrats spread Jim Crow and disfranchisement throughout the former Confederacy before they returned to national power in 1913. Thereafter, with their stranglehold on Southern politics all but unbreakable, they increasingly saw empire less as a threat to white-supremacist policies than as a new field for their implementation.

Citizenship occupies a powerful middle ground between officialdom and the populace. As a circulating idea that was also an official category, citizenship provided a language that spanned both domains. Essentially contested and unsettled, it could be customized to a variety of purposes. This book, in its approach, pursues a key goal for scholars of citizenship: it illuminates how modestly situated individuals, powerful actors, and large structural forces all interacted to bring about historical change.[11] Three remarkable Puerto Ricans who sought full citizenship from the United States will be our guides through the shifting political and constitutional landscape; together they illustrate the breadth and versatility of citizenship and its uses. Each initially pursued anticolonial constitutional change when the island was ruled by Spain. Federico Degetau y González was a member of Puerto Rico's liberal cosmopolitan elite. Like many

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of his peers, he sought to mitigate Spanish imperial rule, not to end it. He favored either full integration of Puerto Rico into the Spanish polity as a coequal province, or broad autonomy for Puerto Rico to order its affairs without interference from its Spanish sovereign. Domingo Collazo had more revolutionary aspirations. A typesetter and journalist who emigrated to New York in 1889, he aimed to end Spanish rule in Puerto Rico. He would have preferred to accomplish that by insurrection, but if need be he would accept U.S. annexation. Santiago Iglesias rejected the primacy that Degetau and Collazo gave to the question of whether Spanish, U.S., or island authorities should govern Puerto Rico. His priority was a far-reaching social revolution that would transfer resources and power from island elites to members of the laboring classes. Citizenship and alterations in the government were instrumental, and secondary, to the achievement of this goal.[12]

As these chapters show, Degetau, Collazo, Iglesias, and many others used claims to citizenship and claims based on citizenship to harness governmental power. U.S. officials deployed it to co-opt people and justify coercing them. Cabinet members, judges, elected officials, and perhaps especially midlevel administrators all played prominent, complex, and intertwined roles, inspired by their own ambitions and goals.[13] Where U.S. rule extended, collisions between popular and official visions of citizenship reliably followed.

From the July 1898 arrival of U.S. troops until the first islandwide elections under U.S. rule in late 1900, the law and politics of United States–Puerto Rico relations resembled a tropical storm system. Alliances, legal analyses, and political strategies spawned complex, unstable, and interconnected formations prone to dramatic changes in speed and direction. Initially, leading Puerto Ricans and U.S. officials envisioned a future subject to the Reconstruction Constitution. Puerto Ricans would receive citizenship and rights, and Puerto Rico would eventually become a state. But then Republican president William McKinley determined to annex the Philippines, whose people U.S. lawmakers broadly agreed were too numerous and racially "unfit" for citizenship and statehood.[14]

Indeed, race was all but annealed to citizenship, and both were conjoined with a Court that pursued empire-friendly ambiguity rather than clear defenses or repudiations of the Reconstruction Constitution. This dynamic, of judicial evasion and a powerful undertow of race and racism, recurs in all of the chapters that follow. By late 1900, U.S. War Department administrators and other key nonjudicial officials had set a course toward imperial governance of Puerto Rico and the Philippines. To speak of U.S. empire during these years was to reference these new insular policies, not the long history of continental subjugation.[15] The officials' approach appeared to require renunciation of ideals of Reconstruction, as Democrats demanded and Republicans seemed ready to concede. Degetau, Iglesias, and other Puerto Rican leaders charted alternate routes toward more liberal formulations, but prevailing conditions favored imperialism.

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With the turn toward empire gathering strength, other federal officials hid from the storm, neither hindering the effort nor providing it with explicit constitutional validation. The Supreme Court exemplified this pattern of empire-friendly ambiguity in its 1901 *Insular Cases* decisions, none of which settled islanders' citizenship status or prospects for statehood. The most important of the cases, *Downes v. Bidwell*, had no majority opinion. Justice Edward Douglass White's influential concurrence proposed the new territorial nonincorporation doctrine. But he stopped short of identifying what rights it would or would not guarantee.

Nonetheless, empire rooted in racial hierarchy along the lines set by the War Department seemed at least temporarily safe. By 1901, Degetau was Puerto Rico's first nonvoting representative in Washington. Convinced that deep legal and political currents in the United States ran toward inclusion, he pressed Republicans to recognize Puerto Ricans as U.S. citizens. He focused particular efforts on administrators, whom he perceived as potential agents of legal change. His arguments equated the Puerto Rican racial character with that of white gentlemen such as himself. But highlighting paternalist benevolence in this way also focused attention on the islanders of color, whom he proposed to uplift. Rather than risk reversal, administrators evaded Degetau's claims.

Seeking to force the citizenship question that officials had steadfastly dodged, Degetau aligned himself with Isabel Gonzalez and Domingo Collazo in *Gonzales v. Williams* (1904), the test case for Puerto Ricans' citizenship. Shortly after immigration officials excluded Gonzalez as an undesirable alien, Collazo helped his niece launch her suit. Degetau then weighed in on Gonzalez's side as a friend of the Court. To the disappointment of all three, the Court promulgated empire, once again, through ambiguity. The Court held that Puerto Ricans were not subject to immigration laws as aliens – so it found no need to decide whether they were citizens. Doing this signaled the possibility that they were noncitizen nationals instead.

Although colonial governance of Puerto Rico and the Philippines was firmly in place by late 1904, it operated according to conflicting values, which Iglesias, Collazo, and the Bureau of Insular Affairs within the War Department all gambled could be resolved in their favor. The Court had neither rejected the Reconstruction Constitution as a constraint on empire nor expressly embraced the territorial nonincorporation doctrine. U.S. colonial governance was similarly equivocal.

For the overseers of U.S. empire, ambivalence, ambiguity, evasion, and inconsistency had benefits, which they enjoyed from 1904 to 1910. As federal interactions with mainland labor unrest demonstrated, pretending to uplift workers while condoning unchecked labor exploitation was a sustainable approach. In the same way, promoting decentralized and nonsystematic colonialism was a way to soothe Democrats' fear of centralized power while aligning with white supremacy.

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Support for U.S. colonial rule over insular territories grew increasingly bipartisan after 1910. With Democrats' white-supremacist government in the South seemingly secure from federal intervention, Democrats united with Republicans in support of federally administered imperial white supremacy. Through 1917, the Supreme Court remained unwilling to adopt or reject the constitutionality of permanent colonies containing noncitizen subjects. It thereby implicitly delegated the issue to nonjudicial officials. Congress used this authority to promote colonialism at home, even as Woodrow Wilson demanded democracy abroad. To mitigate the embarrassment of having permanent noncitizen subjects, Congress legislated. It promised eventual independence to the Philippines, and for Puerto Rico it proposed a collective naturalization that foreclosed independence and brought no new rights.

Even as the Supreme Court confirmed after 1917 that the doctrine of territorial nonincorporation had replaced the Reconstruction Constitution as the dominant legal framework for overseas empire, citizenship retained relevance for Puerto Ricans and colonial officials. Nonincorporation determined rights by the status of a place, not of persons; constitutional rights did not apply in full in unincorporated lands, which would not necessarily become states; both outcomes marked Puerto Rico as subordinate and racially inferior. Nonetheless, Iglesias used citizenship to secure mainland labor's gains for islanders and to promote the American Federation of Labor's assertions of authority abroad. Collazo transformed stateside Puerto Ricans' votes into electoral power in New York City. Colonial officials emphasized the expressive significance of citizenship; to counter rising anticolonial sentiment in Puerto Rico, they touted it as a token of national belonging and equality. By 1926, the Court had declared territorial nonincorporation to be binding doctrine, and citizenship, Constitution, and empire had reached an ambivalent, unstable resting place.

The shift across the first quarter of the twentieth century was dramatic. Key leaders had once doubted that the deliberate U.S. turn toward empire could survive its confrontation with the Reconstruction Constitution. Only through a slow and creative process did administrators, elected officials, and judges together forge new and much more ambiguous doctrines to suit the less democratic and more exclusive contours of imperial power.[16] Key Puerto Ricans struggled mightily against the change, and sometimes they were able to bend it to their own purposes. The pages that follow tell that story.

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"American Aliens": Isabel Gonzalez, Domingo Collazo, Federico Degetau, and the Supreme Court, 1902–1905

Little about Isabel Gonzalez suggested that she would present the Supreme Court with momentous decisions about empire, race, and citizenship. Not yet twenty-one years old in 1902 and facing financial hardship, she migrated from San Juan to New York, where she was to meet her uncle Domingo Collazo.

Because Puerto Ricans' right to enter the U.S. mainland was still uncertain, immigration inspectors challenged Gonzalez's fitness as an immigrant. They concluded that she was an undesirable alien, implied that Collazo was an inadequate head of household, and denied Gonzales entry. She and Collazo appealed that decision in federal court. They keenly felt the dishonor of being judged undesirable, but asserted in their court case only that Puerto Ricans were citizens, not aliens. That activism and restraint launched what the *New York Times* termed a "test case" on "the status of the citizens of Porto Rico."[1]

It was just the kind of case that Federico Degetau had been searching for. He made it the centerpiece of his second term as commissioner. Despite his inconclusive earlier attempts to clarify Puerto Ricans' status, Degetau still maintained that they were U.S. citizens. Once recognized as such, he insisted, they would have confirmation both that they held broad rights and that their island was on the road to statehood. Gonzalez was represented by Frederic Coudert, the lead attorney from the 1901 *Insular Cases*. In taking her case, Coudert hoped to convince the Court to integrate those narrow, vague, and fractured decisions into a more robust approach to the status of Puerto Rico and Puerto Ricans, albeit one that offered Puerto Ricans few new rights. At the root of this effort was the hope that law, rather than politics, would prevail and determine a more inclusive structure of empire.

The year 1902 started badly for Isabel Gonzalez. Her husband died of tuberculosis several months after she became pregnant for the second time. With an infant already in arms and her brother struggling to support their mother through factory work in New York City, she had few viable options in San Juan. One was to expand her household income through remarriage.

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As she and her family would later craft the story, she pursued this path with a *criollo* named Adolfo Viñals, who had just ended two years of service with the U.S. Army's volunteer Puerto Rican regiment. But before they married, he too migrated stateside to work in a New York City factory.

Gonzalez now faced problems many of her countrywomen shared: poverty, family resources stretched thin by lack of local opportunity, personal honor teetering on a partner's good intentions, sex discrimination, and uncertain citizenship status. The ingredients essential for the test case Degetau and Coudert sought were already in place.[2] Gonzalez faced the constant possibility of setbacks and rebuffs, but she belonged to a family with a sophisticated and well-connected patriarch. And she was also a proud woman, and steadfast when provoked.

Gonzalez left San Juan for New York in mid-1902. She hoped to secure educational opportunities there for her younger sister, and she may also have expected to marry Viñals. Factory work would be a potential way to support herself in the meantime. Steaming away from San Juan, Gonzalez had reason to hope that she would be among the many Puerto Ricans whom Degetau would say had "frequently disembarked unmolested in New York." Her aunt had made a similar journey the year before, migrating to New York and then marrying Domingo Collazo. But on reaching port in New York, Isabel Gonzalez discovered that the rules governing migration to the mainland had changed while she was en route. Previously, although U.S. officials had carefully avoided granting citizenship to Puerto Ricans, they had not treated them as aliens for immigration purposes. That reluctance had sprung in part from concerns that anti-imperialists might use constitutional objections to such a policy to scuttle legislation for Puerto Rico, Hawai'i, and the Philippines.[3]

But enactment of the Philippine Organic Act in July 1902 removed that barrier. The act treated the Philippines much like Puerto Rico. Filipinos were to elect a lower legislative chamber but not their upper chamber or executive; they became "citizens of the Philippine Islands"; and their goods were subject to a tariff on arrival in the United States. In contrast to the tariff on goods from Puerto Rico, however, the one on goods from the Philippines rivaled the tariff on foreign goods and could not be quickly repealed. Although Puerto Rico circulated U.S. currency, the Filipino government could now coin its own money. The act for Puerto Rico was silent on the applicability of most provisions of the Bill of Rights, but the act for the Philippines simultaneously withheld the right to a jury trial on grand jury indictment and statutorily extended many other provisions of the Bill of Rights.[4]

Within weeks of the Philippine Organic Act, the Treasury Department reinstated the immigration policy it had put on hold in 1900. Thenceforth, Puerto Ricans would be "subject to the same examinations as are enforced against people from countries over which the United States claims no right of

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sovereignty." Following the new rules, port officials transferred Gonzalez to Ellis Island.[5]

There Gonzalez confronted a powerful arm of the U.S. administrative state. Exercising both prosecutorial and judicial functions and insulated from most formal judicial review, immigration inspectors on Ellis Island examined as many as 5,000 immigrants a day. Hundreds of inspectors made immigration determinations quickly and summarily. Inspectors sent difficult cases to the Board of Special Inquiry. There, an immigrant's hearing could end in minutes, without aid of legal representation or the chance to see and rebut evidence. And when Gonzalez arrived at Ellis Island she came up against a new commissioner who aspired to more efficient and stringent administration. President Theodore Roosevelt had appointed William Williams commissioner of immigration at Ellis Island several months earlier.[6]

Williams, a well-regarded Wall Street lawyer, doubled the exclusion rate at Ellis Island within his first year. His approach was infused with popular beliefs about morality and proper relations within families. It was also racially discriminatory. Williams described "radical sociological, industrial, racial and intellectual distinctions" between northwestern and southeastern Europeans and warned against policies that would "fill up this country rapidly with immigrants upon whom responsibility for the proper bringing up of their offspring sits lightly." Aggressively enforcing the statutory bar on aliens "likely to become a public charge," he directed inspectors to suspect anyone who arrived with less than ten dollars. They often labeled unmarried mothers and their children as likely public charges. Ellis Island policy dictated that women who were pregnant and not married had to be held for additional investigation. Single women were to be released only if a family member came to claim them. Like many social-welfare policy makers at the time, Williams and his subordinates assumed that women and children were dependents of men, despite the fact that many women were family breadwinners. Such policies had more to do with middle-class respectability than with the economic realities that most working-class women and their children faced.[7]

Pregnant and unmarried, Gonzalez presented to inspectors at Ellis Island as an abandoned woman. She lacked evident membership in an economically self-sufficient man's home and displayed inadequate sexual propriety. She had attempted to evade inspectors' scrutiny by carrying eleven dollars in cash, leaving her two-year-old daughter, Dolores, in the care of her mother in San Juan, and telegraphing ahead to her family in New York to pick her up. But her pregnancy was obvious, and she was held over for a hearing to determine whether she was "going to persons *able, willing and legally bound* to support" her. At the hearing, Gonzalez and her uncle, Domingo Collazo, argued that she was an upstanding, dependent woman in an honorable man's household. She explained her child and pregnancy through her status as a widow. Collazo transformed a missing fiancé into a husband who was not present owing to his work demands. Hedging his bets, Collazo also declared himself "willing to take

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[Gonzalez] and provide for her." Wary inspectors sent Collazo home, urging him to produce the husband, saying, "His wife is here and he should come for her."[8]

Two days later, with Viñals still absent, Hermina Collazo appeared on Gonzalez's behalf. In the exchange that followed, inspectors again presumed a sex-based division of labor. Hermina Collazo explained that both she and her husband worked, but inspectors only inquired about her husband's pay. They questioned her about coming to testify without her husband and sought assurances that "in case this woman is released, you will stand by her and see that she does not get into trouble." The stenographer did not record her name, and the inspectors still insisted that they must see Gonzalez's husband.[9]

Isabel Gonzalez's brother Luis tried a new tack. He cast Isabel Gonzalez as a victim of *rapto*, a Spanish offense akin to breach of promise or seduction. Under Spanish law, a man committed *rapto* by using a promise of marriage to convince a woman who was a virgin to have sex with him. If the woman or her parents brought a successful *rapto* case, the man faced a choice: he could marry the woman and thereby restore her honor, or serve a prison sentence for his crime and pay a fine to compensate the woman for her lost honor. Luis assured the inspectors that his family had taken the necessary steps to restore his sister's honor by the first route. Though Isabel's lover had as yet declined to marry her, Luis vowed: "I have been to the church and have made arrangements and as soon as I have my sister with me, we are going there and are going to have them married. I have also gone to the authorities and told them[,] and everything is waiting for the release of my sister. . . . My aunt . . . has made arrangements and is sure of making a reconciliation . . . and will have them married." Luis apparently believed that this assurance would satisfy inspectors' concerns about Isabel Gonzalez's family's capacity to care for her, but instead the inspectors were indignant. "An arrangement then has been made by which a marriage is to take place without the husband's consent?" they asked. Luis affirmed that this was the case. The inspectors then followed Williams's policy and excluded Gonzalez as an undesirable "alien."[10]

With Isabel Gonzalez in detention on Ellis Island, the case shifted from the agency to the courts. Now, the relationship between Constitution and empire took center stage. In Williams's words, Gonzalez's challenge raised "the very difficult question of constitutional law[:] whether or not a Porto Rican was a citizen of the United States." On 18 August 1902, Collazo swore out a habeas corpus petition for Gonzalez. At about the same time, a friend put her in touch with a lawyer who filed Collazo's petition with the federal Circuit Court for the Southern District of New York. The court promptly paroled Gonzalez pending its decision. Williams hired a private lawyer who performed "exceedingly well." On October 7, Judge E. Henry Lacombe announced his decision. Because Gonzalez "was by birth an alien," she so remained, having not "in some appropriate way . . . since been naturalized." Williams was thrilled. The decision validated his action and the legal analysis undergirding it,

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advanced his racial agenda, and confirmed his authority over peoples from recently annexed lands. Within a week, the secretary of the treasury announced that Filipinos as well as Puerto Ricans would thenceforth "be examined as aliens."[11]

Lacombe's decision, though a loss for Gonzalez, gave her a chance to press the Supreme Court to decide whether those born in Puerto Rico, Guam, and the Philippines were aliens, nationals, subjects, or citizens. Collazo now reached out to Coudert, who had been looking for just such a dispute. Coudert took the case and prepared Gonzalez's appeal to the Supreme Court. The question was no longer whether Gonzalez and her family were "desirable." Instead, the suit would determine whether she was a foreigner. As Coudert saw it, it could also "settle the status of all the native islanders," including Filipinos, "who were in existence at the time the Spanish possessions were annexed by the United States."[12]

Degetau corresponded with Gonzalez's lawyers in early 1903. He then made the risky political decision to join the Gonzalez–Collazo–Coudert collaboration and appear in the case as a friend of the court. If the litigation produced no gains, it would arm the Federales against him. After all, Degetau had already failed to clarify the citizenship status of Puerto Ricans before political, administrative, public, and media audiences, and in two earlier attempted Supreme Court actions. Another failure would isolate him from fellow Republicanos as well. The speaker of the House of Delegates had already derided Degetau's strategy. Congressional support for presidential expansionism showed "that legislative action is not as free from executive influence as one would guess from reading books," he told Degetau. In other words, courts were unlikely to alter Puerto Ricans' status, absent strong legislative guidance. Degetau disagreed. Confident in the "profound respect" of the mainland public for its "judicial institutions," he insisted that a Supreme Court decision could change the situation. He even planned to capitalize on the anticipated favorable ruling by publishing immediately afterward an article in favor of statehood, in the New York *Independent*.[13]

In the meantime, Degetau continued to document instances in which an arm of the U.S. state had treated Puerto Ricans as citizens. At his request, the secretary of Puerto Rico's supreme court certified that U.S. military authorities had administered an oath to Degetau that required citizen-like obligations of national defense and the renunciation of all foreign allegiances common to naturalizations. Degetau also obtained a report of the House Committee on Insular Affairs that recommended Puerto Rico be represented by a congressional delegate of its own. He tracked a case in which the Treasury Department found a Puerto Rican traveler liable for custom duties applicable to U.S. residents, on the logic that Puerto Rico was "part of the United States, at least territorially. The question whether the parties are citizens of the United States is immaterial."[14]

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Isabel Gonzalez and her family had their own motivations to pursue the appeal. Luis sought reunification of his family. On 5 February 1903 he wrote to Degetau from Staten Island, seeking help to return to San Juan, as his mother was unwell. Three months later Luis found another solution. He brought his mother, his younger sisters, and Isabel's daughter to New York. All too aware that unmarried mothers and their children could be excluded, the mother listed herself as married on the ship's manifest and claimed Isabel's daughter as her own. On May 18, Ellis Island officials cleared the ostensible nuclear family members for entry and released them into the care of Luis and his mother's sister, Hermina Collazo.[15]

Isabel Gonzalez strove to secure her own position and improve the status of other Puerto Ricans. Although her voice is absent from the administrative and trial records, other records reveal her decision to transform a dispute over the redemption of her individual honor and her access to opportunity in New York into a test case to win citizenship for all Puerto Ricans. While Gonzalez was out on bond, the *New York Times* later reported, "the young man, who she came here to find, turned up." The two wed, and she became "a citizen of this country through marriage," thus acquiring a right to remain on the mainland. Rather than end her appeal on those grounds, however, Gonzalez hid her marriage and her return to family life. As the named litigant and Coudert's client, she was uniquely positioned to influence his litigation goals, and seemingly did so on a key issue. In mid-1903 Coudert published an article advocating that Puerto Ricans be declared neither aliens nor citizens but nationals instead. Taking Britain and France as models, he wrote that "national" and alien were complements, mutually exclusive yet "together … universally inclusive." Citizenship was narrower: all "citizens must be nationals, but all nationals may not be citizens." This intermediate status resembled the Court's rulings that Puerto Rico was domestic for one purpose yet not part of the United States for another. It also accommodated the justices' declared reluctance to recognize Puerto Ricans as citizens, which Coudert took to be insurmountable. Yet Collazo and Gonzalez rejected the approach, which would make Puerto Ricans full members of no country, "neither flesh nor herring." When Coudert filed his brief several months later, he subordinated the pursuit of the noncitizen nationality to a claim for full citizenship, as Collazo and Gonzalez preferred.[16]

The official record describes Gonzalez largely as immigration inspectors had: dependent, silent, and an object of state policy. Historians have only begun to correct this depiction of Gonzalez as a passive victim of governmental machinations.[17] In reality, Collazo enthusiastically supported Gonzalez's determination. For him, her case offered a chance to engage questions of Puerto Ricans' status in new ways. Moving beyond the world of revolutionary Antillean artisans with whom he had formed political clubs and published newspapers in the 1890s, Collazo began to build ties to island political leaders and acquire a voice in matters of island-mainland relations.

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As he expanded his public role, he pursued a path similar to those already traversed by other Puerto Ricans who had assisted the U.S. invasion. Unlike the former opponents of Spanish rule who had secured official positions in post-annexation Puerto Rico, Collazo built relationships on the mainland and on the island. Thus, as Gonzalez's appeal was pending, he sought favor with Luis Muñoz Rivera, the leader of the Puerto Rican opposition party, by positively reviewing his new book of poetry, *Tropicales*. Collazo then sent Degetau a copy of the review. He described it as part "of a series that I propose to publish and that will take a political character." Degetau reciprocated by sending Collazo his own book, *Cuentos para el viaje*, which Collazo also praised. Soon they had friends in common.[18]

Collazo used the case to cast himself as an expert on U.S. law and politics, and he became a regular contributor for the island newspaper *La Correspondencia*. In one late-1903 piece, he argued that existing doctrine that permitted U.S. "possession of 'dependencies'" was inconsistent with the "institutions" and "democratic . . . spirit" of the United States. Though he had previously told Degetau that the Court would "say that we are not Americans," he now "cherish[ed] hope." The alternative would be degradation. A denial of citizenship would bring Puerto Ricans down to the status of Filipinos, "denied . . . constitutionally protected individual rights."[19] As Collazo saw things, Puerto Ricans lived in institutional limbo, suspended between colony and metropole, alien and national, and citizen and subject.

Whatever the Reconstruction Constitution had once required, the attributes and distribution of citizenship were now unsettled.

The briefs that the Supreme Court received in late 1903 in the *Gonzales v. Williams* appeal laid out competing visions of what the status of Puerto Ricans should be. The lawyers in the case knew that citizenship, Constitution, and empire all involved race. The question was not whether Puerto Ricans were similar to and different from other racialized communities subject to U.S. power, but how.[20]

Solicitor General Henry Hoyt classified Puerto Ricans as functionally equivalent to noncitizen nationals, a people internal to the United States who lacked key political rights. He had made the case against citizenship in his 1901 *Insular Cases* arguments. Now he characterized immigration laws as intended to exclude racial undesirables, and read "alien" to encompass Puerto Ricans. Hoyt thus asked the Court for a narrow decision based on racial difference, which he thought would be consistent with the attorney general's repeated recognition of Puerto Ricans as Americans. As he told the justices,

> [My] proposition by no means is "Once a foreigner, always a foreigner . . . in the new possessions." The proposition simply is, "Once a foreigner, . . . still a foreigner as to certain civil rights, local and peculiar to the home territory and status" . . . [;] although

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now Americans internationally, they retain their former alienage in large degree, and are excluded under the immigration laws.

Reviewing bars to entry by Chinese immigrants, prostitutes, those deemed idiots or insane, paupers, certain diseased persons, and anarchists, Hoyt highlighted Congress's desire to protect the mainland from "dangerous or burdensome" elements. He grouped Puerto Rico and the Philippines together, describing all the islands as remote in space, culture, and "civilization" and suffering problems of climate, "overcrowding," "primitive hygiene," "low . . . standards of living and moral conduct," and the "extreme and willing indigency" that characterized the tropics. The Supreme Court, he concluded, ought to respect congressional intent to protect the mainland from these "evils."[21]

Coudert sought U.S. citizenship and nationality for Puerto Ricans, albeit in a highly discounted form. His brief analogized the United States to France and England, and Puerto Ricans to Europe's colonial subjects, African Americans, American Indians, women, and children. Coudert contended that the transfer of sovereignty over Puerto Rico and of Puerto Ricans' allegiance from Spain to the United States had also effected a transfer of subjection or nationality. If accepted, these points were sufficient to win Gonzalez entry, for existing immigration laws excluded only aliens. But Coudert went further. He repeated the claim that he had presented to the Court in 1901. Consistent with Gonzalez and Collazo's view that Puerto Ricans were citizens as well as nonaliens, he declared that finding Puerto Ricans to be neither aliens nor citizens would be tantamount to reviving *Dred Scott*. Significantly, he did not cast Puerto Ricans as white men who deserved full membership in the national polity. Women and people of color possessed a citizenship similar to the status that other empires bestowed on their subordinated peoples, so a similar recognition of Puerto Ricans as citizens would not impede U.S. imperial designs, he argued.

The question that the *Gonzales* case raised, Coudert contended, was how to adapt the post–Civil War jurisprudence of citizenship to a new problem: "imperialism, i.e., the domination over men of one order or kind of civilization, by men of a different and higher civilization." To distinguish between continental expansion and imperialism, Coudert retold the myth of a vacant West and Southwest. At acquisition, the territories there had contained only American Indians, who did "not long survive contact with civilization," and an "insignificant . . . number" of people "largely of Caucasian race and civilization" whom the nation had absorbed. Puerto Rico, by contrast, had a large, stable population. Unlike the "frontier," where migration had "soon made the new lands thoroughly American[,] . . . the problem of to-day cannot be solved either by extermination . . . nor by assimilation."[22]

What to do with a people whom the nation would not assimilate, exterminate, or exclude? Coudert rejected the placement of Puerto Ricans in

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the "seemingly paradoxical legal category of 'American Aliens,'" which would turn the residents of domestic territories into outsiders. He built on his *Downes v. Bidwell* argument, that the international law of cessions had transformed Puerto Ricans into citizens. Because Puerto Rico was part of the United States under international law, he now added, ruling against Gonzalez "would declare the law of the United States, as expounded by its highest tribunal, to be that there exists under the jurisdiction of the United States a large class of persons who are strangers and aliens here and in every other nation of the globe."[23]

Coudert also appealed to the justices' paternalistic sentiments by playing on concepts of honor and gender. Having forcibly taken her, would the United States leave Puerto Rico, as symbolized by the unwed "Miss Gonzalez . . . an undefined waif, on the sea of political uncertainty?" Or would the United States symbolically marry her, acknowledging that "she belongs to the United States, and may look to it for protection?" This was not only an evocative allegory but also suggestive of a tangible solution: Puerto Ricans could be citizens on the model of other dependents, including women. Doctrines limiting the claims of African Americans, American Indians, and women, among others, could serve as a model for the legal status of residents of the newly acquired territories. Grant citizenship but reduce its power, especially with regard to rights. Coudert saw "no room for quibble as to who are aliens," because congressional "reservation as to political status and civil rights" of Puerto Ricans was consistent with citizenship.[24]

Turning more concretely to case law, Coudert elaborated that citizenship, while widespread, brought few substantive rights. He chose decisions in which the Court had affirmed that men and women born within U.S. jurisdictions were citizens whatever their sex, race, or ethnicity. In the same decisions, the Court had eviscerated aspects of the Fourteenth Amendment that implied that U.S. citizenship carried a substantial array of rights. The *Slaughter-House Cases* (1873) virtually nullified the Privileges and Immunities Clause. *Minor v. Happersett* (1875), a decision about women's suffrage, eliminated voting as a potential federal citizenship right. The Court struck down a federal antidiscrimination law and forbade Congress to regulate private action under the Fourteenth Amendment in the *Civil Rights Cases* (1883). *Wong Wing v. United States* (1896) confirmed that the Constitution guaranteed some individual rights for all people but offered few protections specifically to citizens. Instead, they had to look to their states for the balance of their rights. Coudert could expect the justices to be receptive. In *Plessy v. Ferguson* (1896) and *Giles v. Harris* (1903) the Court had already blocked the invocation of the Fourteenth Amendment as a tool against transparent "caste" distinctions and deliberate African American disfranchisement. When women and people of color complained that their states denied them such rights, the Court increasingly declared itself impotent.[25]

Happily, Coudert contended, the Court's citizenship jurisprudence resembled and improved on that of other empires, notably France. The French

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approach to status helped Coudert delineate what he took to be the central confusion in the case: a failure to distinguish tiers of citizenship and subjection. In France, "the holder of political rights" was the "active" citizen, the status to which the word "citizen" referred in normal U.S. discourse. By contrast, U.S. law recognized as citizens nearly all U.S. nationals regardless of their political rights, including women, children, and African Americans. France also recognized the French nationality of its subordinate peoples, be they minors, married women, "Cochin" Chinese, "Taïti[ans]," or Algerians. But it divided these second-class nationals into two groups. Some, "such as minors, women and incompetents" were "passive citizens," a status identical with "subjection at common law" and carrying "full civil but no political rights." Others, "uncivilized or semicivilized tribes or people who become wholly subject to [French] jurisdiction," were called "subjects." They also received no political rights, and in lieu of traditional French civil rights, they held the traditional private-law rights of their locale. U.S. citizenship offered even less benefit. The Supreme Court had held that most rights deemed civil, except access to federal courts, came through state law and state citizenship and could generally be vindicated only at the state level. Granting Puerto Ricans a form of rights-poor citizenship would follow a model even more flexible than those of other great powers.[26]

According to Coudert, legal history also endorsed the recognition of Puerto Ricans as citizens along these sparse terms. *Dred Scott v. Sandford* (1857), which represented the opposite approach, had been essentially undone and superseded, Coudert argued, by the Civil War and the Fourteenth Amendment. So had the similarly reasoned *Elk v. Wilkins* (1884), which was reversed by the congressional Dawes Act (1887). Fortunately, four decades of Supreme Court decisions that had drained content from the Fourteenth Amendment meant that justices could facilitate imperialism without repeating the mistakes of *Dred Scott*. To render Puerto Ricans eligible for subjection, the Court merely had to declare them to be citizens.[27]

In his friend-of-the-Court brief, Federico Degetau took a dramatically different approach. As a former Spanish citizen, he associated his island with all the markers of male honor, including economic self-sufficiency, martial experience, and exercise of political and civil rights. He did not seek passive citizenship akin to that enjoyed by women and people of color. In fact, his brief barely mentioned female or working-class islanders such as Gonzalez.[28] Instead, he claimed for Puerto Ricans such as himself a robust citizenship associated with white men, civilization, economic and legal opportunities, political participation, and military and tax obligations. Drawing on his experiences with U.S. officials before and during his first term, he asserted that Puerto Ricans already occupied all these roles.

Key to Degetau's argument was his depiction of Puerto Rico as connected to the broader history of U.S. expansion. In a clever but specious analysis, he reasoned that when the Treaty of Paris vested Congress with discretion to

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determine the citizenship status of "native inhabitants" of Spain's former possessions, it referred to "the uncivilized tribes of the Philippine Islands" and not "Spanish citizens born in Porto Rico." Degetau portrayed the liberties Puerto Ricans had enjoyed under Spanish rule as indicative of their capacity for liberal politics, holding that it was a baseline below which no new government should fall. Under Spain, Puerto Ricans had such rights as representation in the national legislature, national citizenship accompanied by constitutional protections, "the same honors and prerogatives as the native-born in Castille," and broad autonomy.[29] But his attempt to conflate the status of *criollos* and *peninsulares* was more aspirational than real. It demanded that he ignore the long – and long-resented – history of Spanish favoritism toward the *peninsulares*.

Furthermore, Degetau located Puerto Ricans atop imperial-racial hierarchies within the United States. He claimed that Puerto Ricans differed from such disparaged groups as Filipino "*tribes*," "*Mongolians*," and the "*uncivilized native tribes* [of] *Alaska*." Though Puerto Ricans shared with American Indians struggles to define simultaneously the status of their people and their land, Degetau saw an unbridgeable divide in how the U.S. approached the two groups. American Indians could become U.S. citizens by renouncing tribal allegiances, which Puerto Ricans could not do because they had no foreign or tribal allegiance to renounce. Without explicitly mentioning Puerto Rico's former slaves and their descendants, Degetau implied that the island's political class shared with mainland Republicans a commitment to emancipation.[30] Puerto Ricans also resembled the French and the Mexicans who had been incorporated into U.S. citizenship in the nineteenth century after the Louisiana Purchase and the Treaty of Guadalupe Hidalgo.

Degetau used familial metaphors to assert the rights of Puerto Ricans, even when doing so came at the expense of other colonized peoples. He noted that President McKinley, using language that could have described a marriage contract, had Cubans grant their "honest submission" in order to receive from the United States "support and protection." In language suggestive of the relationship of parent and child, McKinley had Filipinos swear to "recognize and accept the supreme authority of the United States." By contrast, prospective Puerto Rican officeholders (including Degetau himself) had renounced their allegiance to Spain and agreed to "'support and defend the Constitution of the United States against all enemies home or foreign,'" thereby effecting "a plain renunciation of all foreign allegiance and an explicit acceptance of the duties of citizenship."[31] The oath invoked male realms of political rights and participation by speaking of defending the nation, holding political office, and upholding the Constitution. Taken together, Degetau's comparisons implied that Cuba had agreed to receive protection from the United States like a wife and the Philippines had accepted the authority of the United States like a child, but Puerto Rico had sworn allegiance to and taken up the defense of the United States like a man.

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Degetau reminded the Court that the Foraker Act had envisioned Puerto Ricans as the beneficiaries of most U.S. laws. If they were not citizens, they would instead be disadvantaged by federal requirements of citizenship for ship captains, bank directors, and prosecuting litigants in the Court of Claims. He also emphasized that islanders paid U.S. taxes, swore allegiance to the Constitution, and were close to having a congressional delegate.[32]

Degetau's depictions of the best of the mainlanders and islanders as equals reinforced his core constitutional claim. By making Puerto Ricans into citizens of the U.S. territory of Puerto Rico, the U.S. political branches had activated the Fourteenth Amendment's Citizenship Clause at two separate levels. First, because the 1901 *Insular Cases* deemed the political branches to have made Puerto Rico U.S. territory, Puerto Ricans were "born . . . in the United States" and thus were U.S. citizens. Second, Degetau reprised his claim that the Foraker Act had both naturalized Puerto Ricans as U.S. citizens and made them citizens of Puerto Rico. Together, U.S. and Puerto Rican citizenship formed the "double allegiance" and "double citizenship" envisioned by the Fourteenth Amendment's recognition of most U.S. peoples as "citizens of the United States and of the state wherein they reside." Otherwise, Puerto Rican citizenship would be an alternative to U.S. citizenship, which would violate other laws. For example, mainlanders who relocated to Puerto Rico would, on becoming Puerto Rican citizens, be "deprived by Congress of their United States citizenship" in contravention of the Fourteenth Amendment bar on "'any law which shall abridge the privileges and immunities of citizens of the United States.'" Similarly, U.S. law would purport to define the status of aliens (Puerto Ricans) vis-à-vis another sovereign (Puerto Rico) in contravention of international law.[33]

Degetau's arguments asked the Court to consider him, an accomplished civil servant, rather than Gonzalez, an unmarried working-class mother, as the model for Puerto Rican citizens. "I myself, a native citizen of Porto Rico, could not be entitled to represent, in a political capacity, the hundreds of citizens of the United States, born or naturalized in the mainland, who have given me their suffrages, if I were an alien" rather than a citizen. Closing on a personal note, he reprised an earlier gambit: "If I were an alien, I could not have attained the highest honor in my professional career, that of taking, as a member of the bar of this Honorable Court, the oath to maintain the Constitution of the United States, this oath being incompatible with allegiance to any other power."[34]

At oral argument, on 4 December 1903, the Supreme Court appeared to agree with Coudert and Degetau, at least in part. According to one observer, Chief Justice Melville Fuller dismissed the contention that Degetau's admission to the Court's bar was "by courtesy" rather than "by right." As a result, the solicitor general all but conceded that Puerto Ricans could not be aliens.[35] Degetau's argument was largely successful. The justices were willing to consider that

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someone such as Degetau could be a U.S. citizen, or at least a semblance of one. Yet obviously, more than Degetau's individual status was at stake. As all parties in the case appeared to agree, Puerto Ricans and perhaps Filipinos held a common status under U.S. law. If Degetau was a citizen, then Gonzalez and perhaps very many Filipinos were citizens too. Once again, the specter of the Philippines and the racist underpinnings it invoked haunted and materially inflected the deliberations.

As Coudert rose to address the Court, it remained uncertain whether the justices believed that islanders were citizens. He sought to cast the alternative as a monarchical "subjection" best known to U.S. law through its association with *Dred Scott*.[36] But Justice William Day objected. The most recent appointee to the Court, Day had dealt with questions of law and empire as chairman of the Treaty of Paris negotiating commission. He had stood behind the assertion to Spanish negotiators that the United States could be trusted to treat Puerto Ricans honorably, notwithstanding the treaty provision giving Congress full discretion over their status. He now opposed attaching the monarchical term "subject" to U.S. insular peoples. Instead, he proposed the medieval term "liegemen," which applied to vassals who owed loyalty to a superior. Apparently he wanted to reject Coudert's proposal that the Court recognize a relatively modest version of citizenship and thereby avoid creating either subjects or new rights for Puerto Ricans. Although Day was reluctant to acknowledge explicitly that the Court had drained much meaning from citizenship, he had no qualms about how the United States treated women, people of color, or colonized peoples. Functionally, Coudert reiterated, it did not matter whether Puerto Ricans were "liegemen, nationals or subjects, all of which terms are absolutely identical as far as the law is concerned." The Court had to choose: reintroduce "subjects" into U.S. law, which Coudert disfavored, or extend Puerto Ricans citizenship.[37]

On 4 January 1904, Chief Justice Fuller announced the unanimous decision. First, the Court rejected Hoyt's assertion that Puerto Ricans were "aliens." "We . . . cannot concede . . . that the word 'alien,' as used in the [immigration] act of 1891, embraces the citizens of Porto Rico." Reviewing the Treaty of Paris and Foraker Act, Fuller explained that the United States had made "the nationality of the island . . . American" and integrated Puerto Rico into the nation. In Puerto Rico, the United States had created a civil government with heads named by the president, implemented congressional oversight, established a U.S. district court, nationalized Puerto Rican vessels, and extended most federal laws to the island. While finding that the Treasury guideline under which Gonzalez had been held was invalid as applied to Puerto Ricans, the Court did not address whether Congress could resurrect similar rules by statute. For now, Puerto Ricans had "freedom of locomotion" everywhere subject to U.S. jurisdiction.[38] They could freely migrate from the island to the mainland.

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As to whether Puerto Ricans were citizens, nationals, subjects, or liegemen, Fuller wrote: "We are not required to discuss . . . the contention of Gonzales's counsel that the cession of Porto Rico accomplished the naturalization of its people; or that of Commissioner Degetau, in his excellent argument."[39] Having struck down the Treasury Department position that Puerto Ricans were aliens, the justices joined the numerous administrators who found it more profitable to evade clarification of the citizenship status of Puerto Ricans than to deny islanders this or that right.[40]

As Coudert would write several years later, the government's "determined opposition" to citizenship for Puerto Ricans had all but assured the Court would go no further. Its strategic silence rested on the possibility of a status somewhere between citizen and alien – what the *Nation* magazine termed "'nationals' of the United States" akin to "natives in the French colonies, or our own Indians." The justices avoided openly contradicting the widely held belief that U.S. citizenship and nationality were coextensive, while leaving lawmakers and administrators room to maneuver in governing new territorial acquisitions. As in *Downes v. Bidwell*, vagueness proved valuable to the Court as it sought to adjust constitutional democracy to empire. While Collazo complained that the Court "decided" in its opinion "that it had not decided anything," many read its indecision as an invitation to resolve the matter politically and administratively.[41] The decision created a vacuum to be filled by bureaucratic and legislative decisions and discretion. For the time being, it seemed that politics would drive law, and not the other way around.

Administrators and lawmakers could find much to celebrate in the government's loss, but the litigants and advocates who secured the favorable judgment had won at best a partial victory. The decision solidified Coudert's reputation as a leading lawyer of U.S. empire, but the clarification of Puerto Ricans' and Filipinos' status that he had sought still eluded him. And the decision was bittersweet for Gonzalez and Collazo. Although it facilitated the reunification of their extended family, it damaged their honor, which rested on being either a dependent in an adequate household or its head. Immigration inspectors had declared that neither Gonzalez nor Collazo occupied such a station, a conclusion that the Court's decision did not revise. Worse, the justices had declined to declare that Puerto Ricans were citizens by right. Indeed, the decision potentially put citizenship further out of reach. Some officials read federal naturalization statutes as applicable only to aliens. Under such a reading, the declaration that Puerto Ricans were not aliens left them with no path to citizenship.[42] For Degetau, who had campaigned on promises of winning citizenship for Puerto Ricans and, through that step, constitutional rights and the recognition of Puerto Rico as a territory on the road to statehood, the basic dilemma continued. In fact, clarification of the islanders' citizenship status now seemed further out of reach than ever.

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Aware that the narrative told in *Gonzales v. Williams* (1904) had denied that Gonzalez was an appropriately dependent woman and that Collazo was a sufficiently independent man, the two moved on interconnected tracks to undo and rework the dishonor that U.S. officials had imposed on them. Both tried to adjust the public record to portray themselves as honorable. Their initial efforts to do so were more than a year in the making. On 1 September 1902, twelve days after her parole from Ellis Island, Gonzalez had given birth to her second daughter, Eva. The birth certificate listed Eva's mother as Isabel Viñals, formerly Isabel Gonzalez and now married to Eva's official (though most likely not biological) father, Adolfo Viñals. It declared that the new family made its home at Collazo's address. Whatever the truth of Domingo Collazo's and Luis Gonzalez's initial testimony to Ellis Island officials, Isabel Gonzalez and her family had within several weeks ensured that the official birth record corroborated their claims. Later, when the *New York Times* reported the day after the Court's ruling that Gonzalez was a woman who "had come here in search of a man who had promised to marry her and had failed to keep his promise," one of Gonzalez's lawyers ensured that the paper also announced her marriage. The article thus adapted a familiar Puerto Rican *rapto* narrative, of honor threatened and restored.

Collazo also turned to the press to restore his reputation. He secured repeated coverage of himself as a "well-to-do" uncle who gave immigration inspectors "guaranteed assurances" that Isabel Gonzalez would receive "support as a member of [his] family."[43] Subsequent years bore out Collazo's claims to be an honorable man who supported dependent female relations. He acted as a mentor to his niece's new husband, provided him a place of business, and opened his house to Gonzalez's relations. Within a few years, Collazo's household was supporting four female dependents.[44]

For Gonzalez, maintaining the stable and economically successful family that her honor demanded remained a public performance and a private struggle. In the years immediately after her case, Gonzalez did remain honorably dependent. She set up a household with Viñals in Staten Island, began raising her daughters Eva and Dora there, and she named the son she and Viñals had Adolfo Junior, after his father. To shore up her reputation, she permitted the *New York Daily Tribune* to publish a letter in her name that reminded readers of her detention "at Ellis Island as an 'alien likely to become a public charge,'" then boasted that the "forecast of my 'jailers' has not as yet been fulfilled." But the defiance masked vulnerability. In addition to young Adolfo, she and Viñals had a daughter who died in infancy. When Viñals's mother relocated to New York, it was the Collazos, rather than her son and Gonzalez, who were able to take her in. Eventually Viñals abandoned his marriage and his son and returned to Puerto Rico, leaving Gonzalez in the dishonorable station of an unmarried mother. By 1910 Dora was in an orphanage and Eva had joined the Collazo household. According to family lore, both changes were the result of economic desperation. Redemption came piecemeal, and incompletely. First,

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Gonzalez met Juan Torres, a *criollo* clerk who had recently arrived in New York from Spain after a stint as a manager and salesman for the Singer (Sewing) Machine Company in the Dominican Republic. Like Gonzalez, Torres was separated from a spouse who lived in Puerto Rico and was the custodial parent of their child. In 1912 or so Gonzalez removed Dora from the orphanage and had a son with Torres, named Juan Eduardo. When Gonzalez married again in 1915, she and Torres each claimed the respectable (and nonbigamous) status "widowed." By this time the Collazos appear to have informally adopted Eva. Beginning in 1915, census records describe Eva as the Collazos' daughter rather than their niece. It now became possible for Isabel Gonzalez to present herself as the matriarch of a properly constituted family. When Luis Sanchez Morales, a prominent Republicano, remembered the case in print decades later, he praised Gonzalez's willingness to be a judicial "guinea pig" and described her long marriage and the many children and grandchildren to whom she devoted herself.[45]

Descendants recall that Gonzalez occupied such a role throughout the remainder of her life. Yet this too took effort, as reflected in her descendants' protectiveness about her history and their recollections of the shock one child received late in life on learning that the man who had raised him was not his biological father. Gonzalez's compromises and tribulations during her first decade as a nonalien in New York had far-reaching consequences.

In the immediate aftermath of her case, Gonzalez attempted to use the language of honor to shore up her family by continuing to appeal to Degetau as if he were her patron. She knew that Degetau had offered to help her brother pursue his studies. Signing a letter with her maiden name, she now asked Degetau to become the symbolic head of her needy household: "One reason I came to the United States was for the education of a little sister who I today have by my side and who I would like to place in one of these colleges of poor students in which many of our countrymen are placed" (Fig. 4.1). Gonzalez displayed a complicated, even paradoxical mix of independence and dependence. Her dependence on Degetau implicitly rested on an absence of husbands and fathers. And in seeking his male protection, she sought for her sister an education that would promote the sister's economic independence.[46]

Some months later, Isabel Gonzalez and Domingo Collazo wrote together, this time to secure a public voice for Gonzalez. In letters to the *New York Times* written in Gonzalez's name, they criticized the Supreme Court ruling in her favor for its willful blindness to a betrayal. Although the general at the head of the U.S. invasion of Puerto Rico had "proclaimed to the wide winds his 'liberating' speech," they wrote, his words were "nothing but bitter mockery and waste paper." Instead of recognition as "full-fledged American citizens," Puerto Ricans received "the actual incongruous status – 'neither Americans nor foreigners,' as it was vouchsafed by the United States Supreme Court apropos of my detention at Ellis Island for the crime of being an 'alien.'" In making this claim, Gonzalez and Collazo built on analogies that had been drawn on the mainland between annexation and

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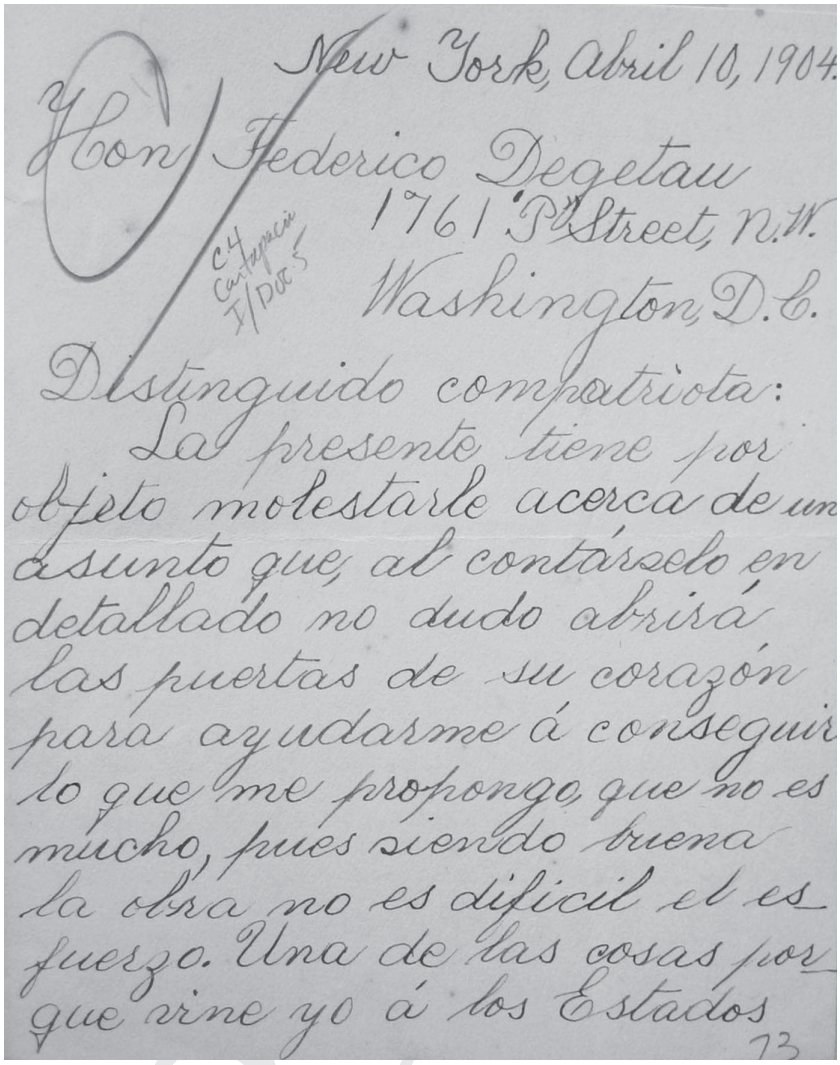
New York, abril 10, 1904.
Hon Federico Degetau
1761 "P" Street, N.W.
Washington, D.C.
Distinguido compatriota:
La presente tiene por
objeto molestarle acerca de un
asunto que, al contárselo en
detallado no dudo abrirá
las puertas de su corazón
para ayudarme á conseguir
lo que me propongo, que no es
mucho, pues siendo buena
la obra no es dificil el es-
fuerzo. Una de las cosas por-
que vine yo á los Estados
73

FIGURE 4.1 Letter from Isabel Gonzalez to Federico Degetau, 10 Apr. 1904, Centro de Investigaciones Históricas, Colección Ángel M. Mergal 5/I/5. Page one (above) and page four (below).

elopement (Fig. 4.2). But the romance between the United States and Puerto Rico had ended in a breach of promise much like the *rapto* that Gonzalez's brother had described to immigration officials in 1902. Having deceived Puerto Ricans and deprived them of one honorable status, Spanish citizenship, the United States was obliged to extend Puerto Ricans a new honorable status, U.S. citizenship. But instead, the island's predicament

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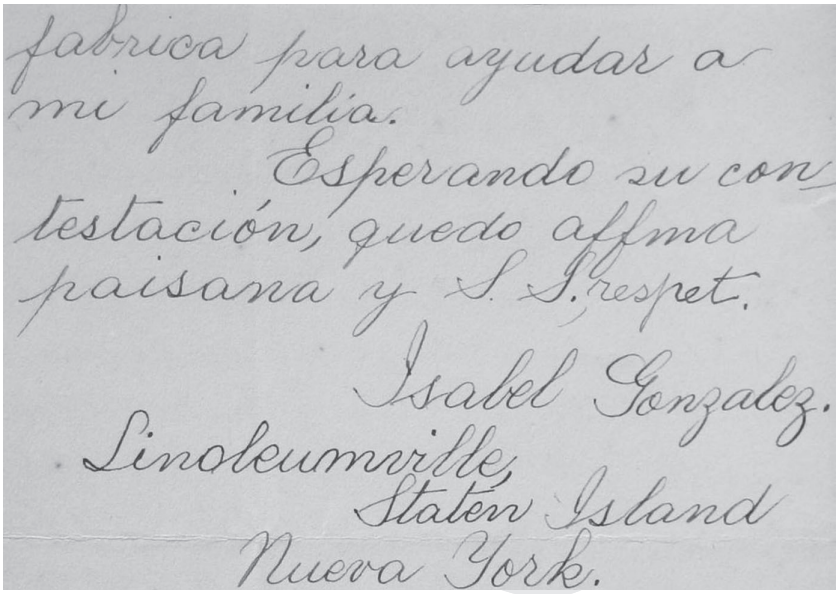
fabrica para ayudar a
mi familia.
Esperando su con
testación, quedo affma
paisana y S. S. respet.
Isabel Gonzalez.
Linoleumville,
Staten Island
Nueva York.

FIGURE 4.1 (cont.)

became the basis of investigations into Gonzalez's honor. In using this romantic metaphor to protest U.S. policies in Puerto Rico, Gonzalez and Collazo sought restoration of the "liberties and franchises" that constituted the active, male citizenship advocated by Degetau in her case. Their implicit claim was that, harmed like a woman, Puerto Rico ought to be recompensed like a man.[47]

Collazo also used the *Gonzales* case to comment publicly in his own name on Puerto Ricans' status. In letters to the editor of the *New York Times*, he declared that the decision left islanders in the position of amnesiacs "who have forgotten who they are." "If they ceased to be Spanish citizens and have not been Americans citizens [*sic*], what in the name of heaven have they been?" he asked. A new test case was not the answer, for "unless ... something extraordinary and unforseen [*sic*] happens to enable the highest tribunal to settle the question," the Supreme Court would leave Puerto Ricans' citizenship status "in suspense."[48]

Republicanos such as the speaker of the House of Delegates, Manuel Rossy, agreed that any continuation of Degetau's judicial strategy would be misguided. Rossy had expected Degetau to fail even before the justices issued their decision in the *Gonzales* case. "If the Supreme Court could make U.S. citizens of the inhabitants of a country based just on ... annexation," Rossy reasoned, with implicit reference to the Philippines, the United States "would have to concede citizenship to whatever upstart or enemy that it happened to annex." Consistent

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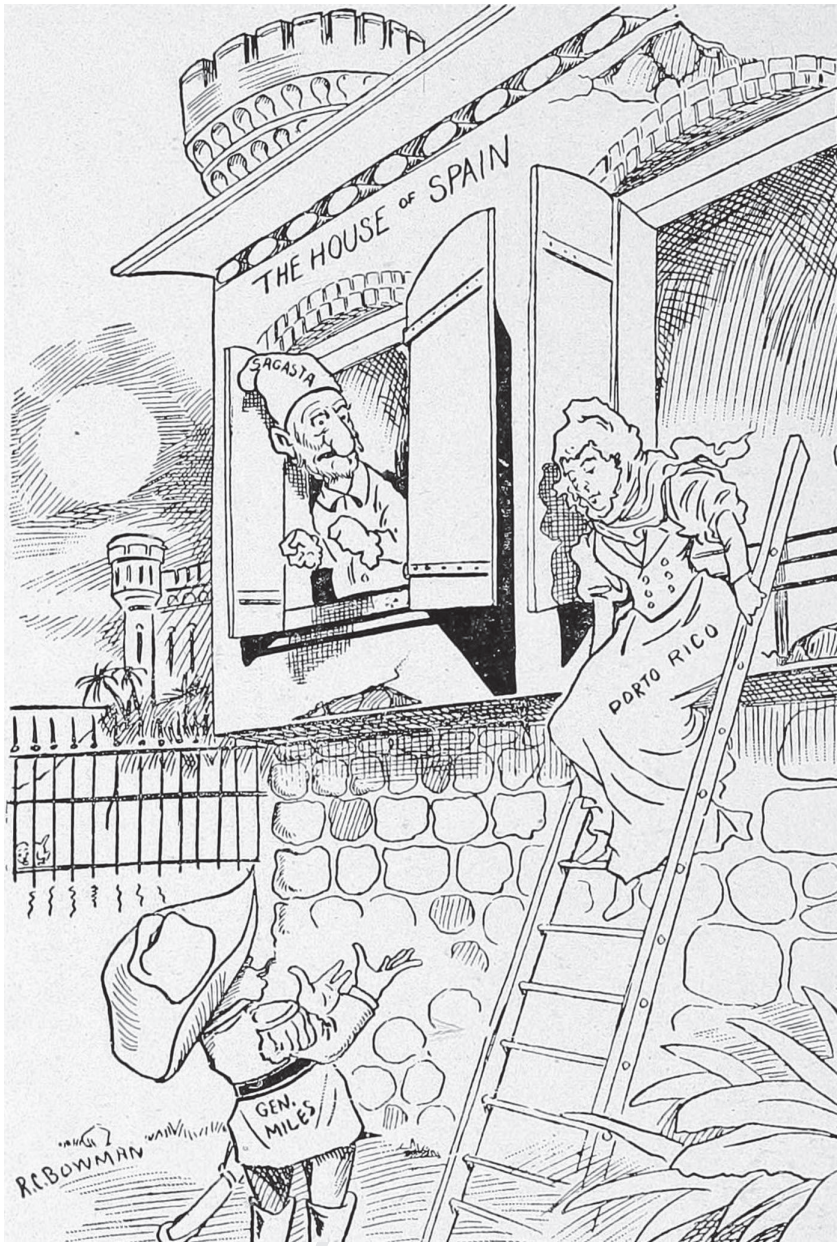

FIGURE 4.2 Detail from R.C. Bowman, "She Can't Resist Him," *Minneapolis Tribune* (third quarter 1898), as reproduced in *Cartoons of the War of 1898 with Spain from the Leading Foreign and American Papers* (Chicago, 1898, 158. Courtesy of Internet Archive. The cartoon's original caption read, "It looks more like an elopement than an abduction." Clockwise from top left, the figures are Sagasta in the House of Spain, Porto Rico, and Gen. Miles.

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with the view that Puerto Ricans should sit atop the racial ladder rather than seek to dismantle it, he claimed that this policy would mean that the United States "would not form a true nation, because germs destructive of its sovereignty would arise within it." Instead, he claimed, citizenship could be created only through federal legislation. Rossy remained optimistic that Republicanos could secure citizenship and perhaps eventual statehood through the party's alliance with U.S. Republicans. He and other Republicanos formalized plans to select and send delegates to the 1904 Republican National Convention.[49] This strategy emerged from a long tradition in island politics of striking a balance between principles and expediency, which sometimes meant forging partnerships with metropolitan parties.

Degetau was not convinced by this strategy. If Republicans planned "to keep us indefinitely as a dependency," he announced, he would not join them. Continuing to place his bets on securing a clarification of Puerto Ricans' status, Degetau stayed in Washington to play his remaining cards. Presumably because *Gonzales* had not come out as he had anticipated, he told the *Independent* that he would have to delay his article advocating statehood for Puerto Rico. Degetau nonetheless embraced the decision as "a stepping stone to a more decided recognition of the rights of Puerto Ricans in the United States." Republican support for eventual Puerto Rican statehood could depend on whether "the Supreme Court declares us American citizens," he believed. In an attempt to drum up a new test case, Degetau wrote the Board of Election Commissioners in Chicago about the voting rights of Puerto Ricans there. Board attorney William Wheelock replied that he had recently refused to register Puerto Ricans because he considered them noncitizens. *Gonzales*, he said, "carefully avoid[ed]" the "question of citizenship." Degetau could not challenge the decision in court because the board had no record of the identities of the aspiring voters. Degetau won floor privileges, though still no vote, in the House of Representatives, but because the Senate refused to act, he remained a resident commissioner rather than a delegate. He found a "peculiar indefiniteness" in this status: "in the language of the law, only a 'resident commissioner'" yet "with functions similar to those of a Delegate." Using his new powers, he introduced a bill to declare islanders to be citizens, but it promptly died in committee.[50]

When Degetau finally returned to San Juan in late June 1904, his political isolation was palpable. Republicanos moved ahead with their incorporation into the Republican Party despite his objections. As he predicted, the Republican Party was unwilling to back citizenship and territorial government for Puerto Rico; when Republicanos proposed such a plank for the party platform, the Republican National Convention rejected it. Degetau dismissed the two votes extended to Puerto Rico at the convention as a decision to "put Puerto Rico . . . *on the colonial basis*." Hawai'i and the Philippines also received two votes; other U.S. territories – even "Indian Territory" – got six.

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Worse yet, U.S. Republicans actually embraced a "continuation of the present state of economic and political affairs" when they bragged of having "'organized the government of Porto Rico'" so that "'its people now enjoy peace, freedom, order, and prosperity.'"[51]

Battle lines within the Partido Republicano sharpened. Mateo Fajardo emerged as Degetau's main opponent for nomination as resident commissioner. A onetime member of the Puerto Rican Section of the Cuban Revolutionary Party in New York, Fajardo had joined the U.S. invasion of Puerto Rico alongside Collazo as part of the Puerto Rican Commission, but unlike Collazo he had stayed on the island. He became a Republicano and in 1902 was elected mayor of Mayagüez. When Fajardo apologized for U.S. Republican policies, claiming that "'before governing ourselves we should prove that we know how to do it,'" Degetau announced that the choice for Republicanos was between himself, a man who was "fighting for our citizenship," and Fajardo's cynical embrace of U.S. Republican colonialism. Nonetheless, Republicanos nominated Fajardo.[52]

The Federales sensed an opportunity. Like Fajardo, they favored politics over courts, but they rejected Fajardo's plan to influence Congress from within the U.S. Republican Party. Instead, they advocated a more confrontational approach, partly in an attempt to appeal to those Republicanos who were unhappy with their lack of power in their party and opposed to collaboration with U.S. Republicans. Resentment among island-born politicians over Spain's unwillingness to make government posts on the island available to Puerto Ricans remained fresh. That U.S. rule had not brought more and better government posts to islanders was particularly aggravating. To recruit these restless Republicanos, the Federales reconstituted themselves as an umbrella party, the Partido Unionista. Their platform was inclusive, seeking self-government, be it as a state of the Union, a U.S. territory, or an independent nation. Soon the Unionistas' ranks swelled.[53]

On November 8, the political landscape in Puerto Rico diverged yet further from Degetau's ideal. Fajardo lost. Voters chose Unionista Tulio Larrinaga as resident commissioner and placed the House of Delegates in Unionista hands. They would dominate Puerto Rican politics for the next two decades. At the imperial center, by contrast, Republican president Theodore Roosevelt won reelection and the Republican Party remained in control of Congress.[54]

Even as a lame duck, Degetau continued his pursuit of citizenship for Puerto Ricans. It was the topic of his final speech on the floor of the House of Representatives. He also launched a new test case on behalf a Puerto Rican job candidate, Juan Rodríguez, whom the Board of Labor Employment at the Navy Yard in Washington, DC, had declined to consider. Navy Yard rules stated that "no applicant will be registered unless . . . he is a citizen of the United States," so the application appeared to raise the question that the *Gonzales* Court had reserved. President Roosevelt had tried to avoid such problems by declaring that "birth or naturalization in Porto Rico" would also suffice. But as

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government lawyers would soon declare, Roosevelt's rule could be read as inapplicable to the job that Rodríguez sought. After the assistant secretary of state concluded that "as Mr. Rodríguez is not a citizen of the United States he is not eligible for registration," the board denied Rodriguez's application. Degetau returned to the courts to demand that the Washington Navy Yard board consider Rodríguez on his merits. On December 12, the Supreme Court of the District of Columbia denied the petition, and Degetau and Rodríguez appealed.[55]

Degetau implicitly acknowledged the appeal of Coudert's earlier arguments when he filed his brief on Rodriguez's behalf before the court of appeals in mid-February 1905. Having presumed in *Gonzales* that Puerto Ricans were either aliens or citizens, Degetau now expressly rejected the suggestion that Puerto Ricans be recognized as noncitizen nationals. But having learned that federal judges might rule otherwise, he also aimed to make citizenship more attractive to them by taking up Coudert's proposal that the Court recognize islanders as holding a basically inconsequential form of citizenship. He wrote that Congress had made most federal statutes, including many that referred to citizens and "not . . . 'nationals,'" applicable in Puerto Rico. Congress treated Puerto Ricans as citizens. Because the Supreme Court had "declared that Porto Rico is a territory of the United States," he asserted, Puerto Ricans were citizens under a federal statute declaring "'all persons born in the United States [with irrelevant exceptions] to be citizens of the United States.'" Despite his earlier portrayals of Puerto Ricans as independent male citizens, Degetau now deployed Coudert's depiction of citizenship as widely distributed and relatively modest in its implications. Degetau told the court that, unlike France or Spain, "our constitution is not based on the principle of the sovereignty *of the nation*." It is "'we the people'" who "'ordain and establish'" it, he stated. But universal citizenship did not mean universal rights, Degetau assured the court. Citing the "'minors and married women'" who were citizens, he acknowledged "that political privileges are not essential to citizenship." The Court of Appeals for the District of Columbia lifted a page from *Gonzales* and ruled for Rodríguez. Rather than address Degetau's arguments, it held that President Roosevelt's instruction, that those demonstrating Puerto Rican citizenship "will not be required to show further evidence of citizenship," applied in this case as well.[56]

Five years of work had produced little progress on Degetau's promises to secure Puerto Ricans citizenship, full constitutional protections, traditional territorial status, and a path to statehood. Rather, the United States had consolidated a colonial regime in Puerto Rico on his watch. Statehood seemed less likely in 1905 than it had in 1899. When Degetau's wife made plans to visit her aristocratic family in Spain, she applied for a passport as a "resident of an insular possession" by marriage rather than as a U.S. citizen. In subsequent years, Degetau largely retired from politics. Still, he counted among his greatest

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accomplishments "the high distinction of appearing before the U.S. Supreme Court" to seek for Puerto Ricans the "definition of our *status* as American citizens."[57]

And yet Degetau's claims did win islanders concrete gains, including nonalien status, passports, a voice in Congress, free migration throughout U.S. lands, and access to federal civil service and Navy Yard jobs.

Isabel Gonzalez and Domingo Collazo also achieved mixed results. When federal officials impugned their honor, the niece and uncle advanced a powerful counternarrative. Still, the official story shapes perceptions of the family even today. The extended family had greater success overcoming federal obstacles to their reunification. As to status, Gonzalez and Collazo won a partial victory. It remained a point of pride that they had clarified that Puerto Ricans were not aliens, but a sore point that Puerto Ricans had yet to be recognized as citizens. Commentary on Puerto Rican affairs bearing Gonzalez's name occasionally emerged in subsequent years, and Collazo continued to be a leading voice within the Puerto Rican diaspora. His focus shifted from courts back to politics, which increasingly meant election work on the mainland and ties to the Partido Unionista.

Yet something important had been lost. From 1902 to 1904, Gonzalez, Collazo, and Degetau had put their faith in law and adjudication. They had approached judges and administrators with concrete legal disputes, asking them to settle legal claims that other federal officials would not. They had counted on bureaucracies and especially courts to follow legal principles. Afterward, Gonzalez disparaged the justices and Collazo abandoned his test cases for electoral politics. Yet Degetau kept the faith. With Degetau's retirement in 1905, Puerto Ricans lost their most fervent advocate for pursuing legal strategies to win U.S. citizenship. Maybe the political turn that Degetau's successors took would prove more successful.

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ACKNOWLEDGMENTS

1. Sam Erman, "*Puerto Rico and the Promise of United States Citizenship*," PhD diss., University of Michigan, 2010, iii–viii; Sam Erman, "Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1898–1905," *Journal of American Ethnic History* 27 (Summer 2008): 26–27; Sam Erman, "Citizens of Empire: Puerto Rico, Status, and Constitutional Change," *California Law Review* 102 (2014): 1181n.

INTRODUCTION

1. This understanding of "concepts" of citizenship derives from Rebecca J. Scott and Jean M. Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge, MA, 2014); Rebecca J. Scott, "Public Rights, Social Equality, and the Conceptual Roots of the Plessy Challenge," *Michigan Law Review* 106 (2008): 777–804.
2. Katie Anastas and James Gregory, "Timeline and Map of Woman Suffrage Legislation State by State 1838–1919," Mapping American Social Movements through the 20th Century, http://depts.washington.edu/moves/WomanSuffrage_map.shtml; Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888–1908* (Chapel Hill, NC, 2000), 5–6, 9–22; Plessy v. Ferguson, 163 U.S. 537 (1896); Joy Ann Williamson, Lori Rhodes, and Michael Dunson, "A Selected History of Social Justice in Education," *Review of Research in Education* 31 (2007): 195–224.
3. On Reconstruction, equality, and the peculiar status of Washington, DC, see Kate Masur, *An Example for All the Land: Emancipation and the Struggle over Equality in Washington, D.C.* (Chapel Hill, NC, 2010). For ease of exposition and because I have uncovered little use by those I study of the District of Columbia as a precedent for empire, I do not discuss implicit citizenship in the national capital as an alternative to citizenship in a state or future state.
4. Classic examples include W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860–1880* (Oxford, 1935); Eric Foner,

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Reconstruction: America's Unfinished Revolution, 1863–1877 (New York, 1988); C. Vann Woodward, *Origins of the New South, 1877–1913*, rev. ed. (Baton Rouge, LA, 1999 [1951]). See also Richard White's synthesis of Reconstruction and the Gilded Age, *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age* (Oxford, 2017). Among many works on the Civil War and Reconstruction amendments as a constitutional moment or second founding, see Bruce Ackerman, *We the People: Transformations* (Cambridge, MA, 2000).

A century after the U.S. imperial turn, scholars have taken their own turn toward empire. For an early example, see Amy Kaplan, *The Anarchy of Empire in the Making of U.S. Culture* (Cambridge, MA, 2002). No such turn was required for scholars already working on territories acquired by the United States in 1898–1899. See, for example, Christina Duffy Burnett and Burke Marshall, eds., *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Durham, NC, 2001); José Trías Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, CT, 1997). Modern scholars also see longer-term origins to U.S. empire than did some contemporaries. See Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Governments, 1784–1912* (Pittsburgh, 1968); Sarah H. Cleveland, "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs," *Texas Law Review* 81 (Nov. 2002): 1–284; David Reynolds, *America, Empire of Liberty: A New History* (London, 2009). On 1898–1899 as an imperial turn, see Bartholomew H. Sparrow, *The* Insular Cases *and the Emergence of American Empire* (Lawrence, KS, 2006), 3–9, 40; Juan R. Torruella, *Global Intrigues: The Era of the Spanish-American War and the Rise of the United States to World Power* (San Juan, PR, 2007); Walter Lafeber, "The 'Lion in the Path': The U.S. Emergence as a World Power," *Political Science Quarterly* 101 (1986): 705–718. For a recent canvass of scholarship attempting to define colonialism, empire, or imperialism, see Paul A. Kramer, "Power and Connection: Imperial Histories of the United States in the World," *American Historical Review* 116 (Dec. 2011): 1349 and n. 3. For a court-focused work on the imperial turn, see Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, DC, 2001).

5. On the term *territorial nonincorporation*, see Christina Duffy Burnett, "Untied States: American Expansion and Territorial Deannexation," *University of Chicago Law Review* 72 (Summer 2005): 799–800 and n. 8. For works defining and listing the *Insular Cases*, see, for example, Sparrow, *Insular Cases*; Christina Duffy Burnett, "A Note on the *Insular Cases*," in Burnett and Marshall, *Foreign in a Domestic Sense,* 389. On the post-1897 U.S. turn toward long-term nonsettler colonialism, see Charles R. Venator-Santiago, *Puerto Rico and the Origins of US Global Empire: The Disembodied Shade* (New York, 2015); Lanny Thompson, *Imperial Archipelago: Representation and Rule in the Insular Territories under U.S. Dominion after 1898* (Honolulu, 2010), 23–25.
6. By contrast, Krishanti Vignarajah portrays a rapid judicial settlement in favor of the new approach. See Vignarajah, "The Political Roots of Judicial Legitimacy: Explaining the Enduring Validity of the *Insular Cases*," *University of Chicago Law Review* 77 (2010): 790.
7. As Robert W. Gordon observes in his article "Introduction: J. Willard Hurst and the Common Law Tradition in American Legal Historiography," to declare oneself a

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practitioner of legal history is to envision certain phenomena to be "*distinctively legal*" (*Law & Society Review* 10 [Fall 1975]: 10). Studying how relative outsiders to law engaged with unquestionably legal institutions, actors, and content provides one way to mitigate the artificially narrowed vision that can otherwise result. It does so without risking the conflation between law and power or authority that Naomi Mezey perceives in scholarship on legal consciousness and the everyday: see "Out of the Ordinary: Law, Power, Culture, and the Commonplace," *Law & Social Inquiry* 26 (2001): 153. See also Dave Cowans, "Legal Consciousness: Some Observations," *Modern Law Review* 67 (2004): 928–958.

8. Accounts that focus on politics include Xi Wang, *The Trial of Democracy: Black Suffrage and Northern Republicans, 1860–1910* (Athens, GA, 2012), 216–266; Woodward, *Origins of the New South*, 324–325. For examples from cultural history, see David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, MA, 2001), 291, 345; Nina Silber, *The Romance of Reunion: Northerners and the South, 1865–1900* (Chapel Hill, NC, 1993), 178–185. As the first study to conjoin the twentieth-century constitutional histories of empire and Reconstruction, *Almost Citizens* takes an approach whose promise has been expounded in Burnett, "Untied States"; Juan R. Torruella, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal* (Río Piedras, PR, 1985); Sanford Levinson, "Why the Canon Should Be Expanded to Include the Insular Cases and the Saga of American Expansionism," *Constitutional Commentary* 17 (2000): 241–266; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, MA, 2005).
9. On legal doctrines hostile to racial discrimination that survived *Plessy v. Ferguson* (1896), see Pamela Brandwein, *Rethinking the Judicial Settlement of Reconstruction* (Cambridge, 2011); Richard H. Pildes, "Democracy, Anti-Democracy, and the Canon," *Constitutional Commentary* 17 (Summer 2000): 295–319. On twentieth-century implementation of black disfranchisement and Jim Crow, see C. Vann Woodward, *The Strange Career of Jim Crow* (Oxford, 2001 [1955]); Perman, *Struggle for Mastery*. Glenda Elizabeth Gilmore's groundbreaking *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896–1920* (Chapel Hill, NC, 1996) describes early twentieth-century activism by African American women. On white Southerners' post-1898 cultural productions, see, for example, W. Fitzhugh Brundage, *The Southern Past: A Clash of Race and Memory* (Cambridge, MA, 2005). On post-1898 Civil War remembrance, see, for example, Thomas J. Brown, "Civil War Remembrance as Reconstruction," in *Reconstructions: New Perspectives on the Postbellum United States*, ed. Thomas J. Brown (Oxford, 2006), 207, 218.
10. On the general trend toward a "longer" Reconstruction, see Thomas J. Brown, "Introduction," in Brown, *Reconstructions*, 7.
11. Within the booming literature on citizenship, any selection of works discussing or illustrating its promise is necessarily partial. Consider Laurent Dubois, *A Colony of Citizens: Revolution & Slave Emancipation in the French Caribbean, 1787–1804* (Chapel Hill, NC, 2004); Scott, *Degrees of Freedom*; Hilda Sabato, "On Political Citizenship in Nineteenth-Century Latin America," *American Historical Review* 106 (Oct. 2001): 1290–1315; Martha S. Jones, *Birthright Citizens: A History of*

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Race and Rights in Antebellum America (Cambridge, 2018); Patrick Weil, *The Sovereign Citizen: Denaturalization and the Origins of the American Republic* (Philadelphia, 2013). On citizenship facilitating governmental authority, see Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998); Myriam Cottias, "Gender and Republican Citizenship in the French West Indies, 1848–1945," *Slavery and Abolition* 26 (Aug. 2005): 233–245; Kunal M. Parker, "State, Citizenship, and Territory: The Legal Construction of Immigrants in Antebellum Massachusetts," *Law and History Review* 19 (Autumn 2001): 583–643. Works on the contingent and constructed nature of citizenship include Peter Sahlins, *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca, NY, 2004); Frederick Cooper, Thomas C. Holt, and Rebecca J. Scott, "Introduction," in *Beyond Slavery: Explorations of Race, Labor, and Citizenship in Postemancipation Societies* (Chapel Hill, NC, 2000), 1–32; Emmanuelle Saada, *Empire's Children: Race, Filiation, and Citizenship in the French Colonies*, trans. Arthur Goldhammer (Chicago, 2012). On display and performance of citizenship, see Caryn Cossé Bell, *Revolution, Romanticism, and the Afro-Creole Protest Tradition in Louisiana 1718–1868* (Baton Rouge, LA, 1997). A classic work that predefines citizenship, and then measures people and polities against it is T. H. Marshall, *Citizenship and Social Class and Other Essays* (Cambridge, 1950), 1–75. On the dangers of presupposing what citizenship meant in undertaking historical scholarship, see William J. Novak, "The Legal Transformation of Citizenship in Nineteenth-Century America," in *The Democratic Experiment: New Directions in American Political History*, ed. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton, NJ, 2003), 85–119.

12. Unlike Degetau, Collazo, and Iglesias, most island men were impoverished, unorganized, nonvoting agricultural laborers. Puerto Rican women had even less access to electoral politics and formal leadership. See Yamila Azize, *La mujer en la lucha* (Río Piedras, PR, 1985); Astrid Cubano-Iguina, "Political Culture and Male Mass-Party Formation in Late-Nineteenth-Century Puerto Rico," *Hispanic American Historical Review* 78 (Nov. 1998): 631–662; Eileen J. Suárez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870–1920* (Durham, NC, 2000).
13. On the value of studying midlevel actors, see Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton, NJ, 2001); Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (Cambridge, 2008). Despite Stephen Skowronek's memorable phrase, the turn-of-the-twentieth-century federal government was not solely dominated by "courts and parties." Although Skowronek observed the uneven influence of administrative institutions in this period when he introduced the courts-and-parties formulation in *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge, 1982), the concept has had enduring influence as an impediment to perceiving the full scope of administrative influence in the U.S. state. See Richard R. John, "Rethinking the Early American State," *Polity* 40 (2008): 332. Jerry L. Mashaw, "Federal Administration and Administrative Law in the Gilded Age," *Yale Law Journal* 119 (2010): 1365, offers a corrective to American political development accounts of muscular administration emerging only in the 1930s.
14. 32 Cong. Rec. 436.

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15. A growing body of work demonstrates the extent to which the late nineteenth-century United States was an empire engaged in settler colonialism. The harvest season has been particularly bountiful in the field of American Indian history. See, for example, Jeffrey Ostler, *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee* (Cambridge, 2004); Andrew Denson, *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830–1900* (Lincoln, NE, 2004); Margaret D. Jacobs, "Maternal Colonialism: White Women and Indigenous Child Removal in the American West and Australia, 1880–1940," *Western Historical Quarterly* 36 (Winter 2005): 453–476; Richard White, "The American West and American Empire," in *Manifest Destinies and Indigenous Peoples*, ed. David Maybury-Lewis, Theodore Macdonald, and Biorn Maybury-Lewis (Cambridge, MA, 2009), 203–224; Steven Sabol, *The Touch of Civilization: Comparing American and Russian Internal Colonization* (Boulder, CO, 2017); Philip P. Frickey, "Doctrine, Context, Institutional Relationships, and Commentary: The Malaise of Federal Indian Law through the Lens of *Lone Wolf*," *Tulsa Law Review* 38 (2002): 5–36; Symposium on Settler Colonialism and the American West, *Journal of the West* 56, no. 4 (Fall 2017). Other works address additional communities, including those evident in the titles of Gunlög Fur, "Indians and Immigrants—Entangled Histories," *Journal of American Ethnic History* 33 (Spring 2014): 55–76, and Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York, 2007).
16. Law and judges were never entirely subservient to the causal power of politics. As Paul Frymer contends in "Law and American Political Development," *Law & Social Inquiry* 33 (Summer 2008): 779–803, American political development (APD) scholars have tended to underestimate the institutional nature of courts. Thomas M. Keck adds that regime theory scholars too often presume that governing coalitions dictate judicial results; see Keck, "Party Politics or Judicial Independence? The Regime Politics Literature Hits the Law Schools," *Law & Social Inquiry* 32 (Spring 2007): 517. On the prior scarcity of APD work concerning the judiciary, see Reuel Edward Schiller, "'Saint George and the Dragon': Courts and the Development of the Administrative State in Twentieth-Century America," *Journal of Policy History* 17 (Jan. 2005): 110–124. Keith E. Whittington calls for a better understanding in APD of how law influences judges, in "Once More unto the Breach: PostBehavioralist Approaches to Judicial Politics," *Law & Social Inquiry* 25 (Apr. 2000): 613. For a foundational account of the Court as a political institution, see Robert A. Dahl, "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker," *Journal of Public Law* 6 (1957): 279–295. See also Barry Friedman, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (New York, 2009). On judges facing situations in which competing political pressures leave them free to choose among a range of options, see, for example, Keck, "Party Politics," 517–518; Vignarajah, "Political Roots."

1898: "THE CONSTITUTIONAL LION IN THE PATH"

1. A. T. Mahan, *The Interest of America in Sea Power, Present and Future* (Boston, 1897), 137–172, 224–225, 234, 256, 302–314; *The World Almanac* (New York, 1891), 16, 232; *The World Almanac and Encyclopedia* (New York, 1898), 51, 335.
2. Mahan, *Interest in Sea Power*, 302–314.

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66. Iglesias de Pagán, *El obrerismo*, 195, 205; *Twenty-Second Annual Convention of the American Federation of Labor*, 88, 155; Iglesias, *Luchas*, 1:261; Kirwin R. Shaffer, *Black Flag Boricuas: Anarchism, Antiauthoritarianism, and the Left in Puerto Rico, 1897–1921* (Urbana, IL, 2013), 49.
67. Iglesias, *Luchas*, especially 1:268–269, 299–300; Ángel Silén, *Apuntes para la historia*, 61–62; Whittaker, "The Santiago Iglesias Case," especially 383–385, 388–389, 392; *Twenty-Second Annual Convention of the American Federation of Labor*, 226, 15–16, 78–79, 133.
68. Barbara Y. Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (Cambridge, 2010).
69. *Twenty-Second Annual Convention of the American Federation of Labor*, 112, 219.
70. Draft, [Federico Degetau] to Pedro Besosa, 6 Sept. 1902, CIHCAM 3/VI/49 ("compromiso de honor"; "me obligan á solicitar de nuevo de mis correligionarios el honor de ser su candidato, y del cuerpo electoral el de ser reelegido para continuar la labor emprendidad [*sic*] en favor de nuestra ciudadanía americana; de la admisión de Puerto-Rico en la Unión como un Territorio organizado para ser en día no lejano uno de tantos Estados"); *Informe de los delegados del Partido Republicano de Puerto Rico ante la Convención Nacional Republicana celebrada en Chicago, en 21 de junio de 1904* ([San Juan?], PR, 1904), CIHCAM 6/L8, 5–6; Copy, [Federico Degetau] to Teodoro Moscoso, 2 Oct. 1903, CIHCAM 4/V/309; Ramón Lebrón to Federico Degetau, 10 Oct. 1902, CIHCAM 3/VI/57; Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico (1809–1976)* (Mayagüez, PR, 1977), 119–121; Negrón Portillo, *Turbas republicanas*, 149, 151.

"AMERICAN ALIENS": ISABEL GONZALEZ, DOMINGO COLLAZO, FEDERICO DEGETAU, AND THE SUPREME COURT, 1902–1905

1. "Porto Rican Test Case," *New York Times*, 3 Nov. 1903, 6. I thank Christina Ponsa and Veta Schlimgen for sharing helpful research in progress.
2. On the subjective process by which harms may give rise to disputes, see William L. F. Felstiner, Richard L. Abel, and Austin Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming," *Law & Society Review* 15, no. 3/4 (1980–1981): 641–654.
3. Federico Degetau to Secretary of Treasury, 5 Oct. 1902, CIHCAM 3/VI/56; Domingo Collazo to Federico Degetau, 27 Aug. 1903, CIHCAM 18/L1; Transcript of Record, No. 225, Gonzales v. Williams, 192 U.S. 1 (27 Feb. 1903), 3–6; Luis Gonzalez to Federico Degetau, 5 Feb. 1903, CIHCAM 3/VII/35; Isabel Gonzalez to Federico Degetau, 10 Apr. 1904, CIHCAM 5/I/5; "Porto Ricans Not Aliens," *New York Times*, 5 Jan. 1904, 8; "Porto Rican Test Case."
4. Philippine Bill of 1902, secs. 4, 1–2, 5, 7, 32, 76–84, 32 Stat. 691, 692, 691, 693–694, 710–711 (1902); 35 Cong. Rec. 2096; Act of March 8, 1902, sec. 2, 32 Stat. 54, 54; J. H. Hollander, "The Finances of Porto Rico," *Political Science Quarterly* 16 (Dec. 1901): 553.
5. Circular No. 97, 2 Aug. 1902, in *Circular Instructions of the Treasury Department Relating to the Tariff, Navigation, and Other Laws for the Year Ended December 31, 1902* (Washington, DC, 1903); Transcript of Record, *Gonzales*, 3–6.

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6. Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill, NC, 2003); Louis Anthes, "The Island of Duty: The Practice of Immigration Law on Ellis Island," *New York University Review of Law and Social Change* 24 (1998): 563–600; Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill, NC, 1995), 141, 144–148, 184, 196–197; Secretary to the President to William Williams, 1 Apr. 1902, William Williams Papers, New York Public Library, box 1; "Williams Regains Immigration Office," *New York Times*, 19 May 1909, 2.
7. William Williams, Outline of Address Delivered to the Senior Class of Princeton in November, 1904, William Williams Papers, New York Public Library, box 6, folder 4; Immigration Act of 1891, 26 Stat. 1084, 1084 (1891); Salyer, *Laws Harsh as Tigers*, 147, 141–148, 154, 184, 196–197; John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925* (New Brunswick, NJ, 1955); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA, 1999); Alan M. Kraut, *Silent Travelers: Germs, Genes, and the Immigrant Menace* (Baltimore, MD, 1995), 57; Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, NJ, 2009); Anthes, "Island of Duty," 565–566, 581–582, 587–589; Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York, 1982); Lee, *At America's Gates*; Secretary to the President to Williams, 1 Apr. 1902; Linda Gordon, "Social Insurance and Public Assistance: The Influence of Gender in Welfare Thought in the United States, 1890–1935," *American Historical Review* 97 (Feb. 1992): 19–54; Joanne L. Goodwin, "'Employable Mothers' and 'Suitable Work': A Re-Evaluation of Welfare and Wage-Earning for Women in the Twentieth-Century United States," *Journal of Social History* 29 (Winter 1995): 253–274. Like Roosevelt, Williams was a Republican.

   Kunal M. Parker explores the relationship between migration, dependence, and status in the context of state law in *Making Foreigners: Immigration and Citizenship Law in America, 1600–2000* (Cambridge, 2015).
8. Salyer, *Laws Harsh as Tigers*, 147, included the italics in the first quotation, which Salyer took from the "Rules for Registry Division." The other quotations are from Transcript of Record, *Gonzales*, 192 U.S. 1, 4–5. See also Manifest for the S.S. *Ponce*, Arrival at Port of New York, 18 May 1903, 78, Ellis Island Archives.

   A history of how U.S. empire building transformed, combined, and was itself shaped by island and mainland notions of honor could be a book in itself. By identifying such overlapping dynamics here, I hope to encourage legal historians to take up the project and incorporate the United States more fully into the transnational history of honor. On diverse notions of honor among Puerto Ricans subject to U.S. rule, see Eileen J. Suárez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870–1920* (Durham, NC, 1999). Aside from Findlay, modern scholarship has largely overlooked the similarities that contemporary U.S. officials denied between Latin American honor dynamics and mainland realities. To the extent that historians of the United States once emphasized honor, they did so in relation to the antebellum South. The classic account is Bertram Wyatt-Brown's *Southern Honor: Ethics and Behavior in the Old South* (New York, 1982). It proposed an opposition between honor and law that did not withstand scrutiny from cultural legal

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historians. See Ariela Gross, "Beyond Black and White: Cultural Approaches to Race and Slavery," *Columbia Law Review* 101 (2001): 688. Today, honor figures little in most histories of the United States, notwithstanding the examples discussed in Angela M. Hornsby-Gutting, "Manning the Region: New Approaches to Gender in the South," *Journal of Southern History* 75 (Aug. 2009): 667–669. By contrast, myriad works on Latin America describe pervasive honor-infused clientelism. See Emanuel Pfoh, "La formación del Estado Nacional en América Latina y la cuestión del clientelismo político," *Revista de Historia de América* 136 (Jan.–Dec. 2005): 129–148; Barbara Schröter, "Clientelismo político: ¿Existe el fantasma y cómo se viste?" *Revista Mexicana de Sociología* 72 (Jan.–Mar. 2010): 141–175; Manuel Marín, "El cacique protector," *Historia Social* 36 (2000): 21–34. Other, at times overlapping work identifies class-differentiated conceptions of honor and delineates the roles of law and legal institutions in constructing and contesting honor. See Sueann Caulfield, Sarah C. Chambers, and Lara Putnam, eds., *Honor, Status and Law in Modern Latin America* (Durham, NC, 2005); Lyman L. Johnson and Sonya Lipsett-Rivera, eds., *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America* (Albuquerque, NM, 1998); Karl Monsma, "Words Spoken and Written: Divergent Meanings of Honor among Elites in Nineteenth-Century Rio Grande do Sul," *Hispanic American Historical Review* 92 (2012): 269–302.

9. Transcript of Record, *Gonzales*, 192 U.S. 1, 5–6.
10. Ibid., 2, 5–6. Findlay, *Imposing Decency*, 9–10, 20, 24–25, 40–47, 55, 74, 81, 85–86, 91–100, 120–121; Eileen J. Findlay, "Courtroom Tales of Sex and Honor: *Rapto* and Rape in Late Nineteenth-Century Puerto Rico," in Caulfield, Chambers, and Putnam, *Honor, Status and Law*, 205; Jesse Hoffnung-Garskof, *Racial Migrations: New York City and the Revolutionary Politics of the Spanish Caribbean, 1850–1902* (Princeton, NJ, forthcoming), chs. 2, 5; Rosa E. Carrasquillo, *Our Landless Patria: Marginal Citizenship and Race in Caguas, Puerto Rico, 1880–1910* (Lincoln, NE, 2006), 99–100. Puerto Rican women were sometimes able to use a seduction and the need for an honor-restoring marriage to overcome parents' disapproval of a proposed marriage. Despite such bounded opportunities for women's autonomy, honor norms were more often instruments of women's discipline and subordination. Given that many Puerto Rican couples entered into long-term consensual unions without formally marrying, Domingo Collazo's account of Isabel Gonzalez's "husband" may be better understood as translation than deception. Astrid Cubano Iguina has observed how gendered concepts and legal categories that have different implications for men and women developed in tandem in late nineteenth-century Puerto Rico; see "Legal Constructions of Gender and Violence against Women in Puerto Rico under Spanish Rule, 1860–1895," *Law and History Review* 22 (2004): 531–564.
11. William Williams to Henry Burnett, 26 Aug. 1903, DC NARA 85/151/4~340/394/19045; In re Gonzalez, 118 F. 941, 941 (C.C.S.D.N.Y. 1902); Secretary of Treasury to Secretary of War, 13 Oct. 1902, MD NARA 350/5A/1444-6; "Porto Ricans Not Aliens," 5 Jan. 1904; Transcript of Record, *Gonzales*, 192 U.S. 1, 1–8; William Williams to Commissioner General of Immigration, 24 Aug. 1903, DC NARA 85/151/4~340/268/19045.
12. William Williams to William Anderson, 2 Sept. 1903, DC NARA 85/151/5~340/97/19045; Transcript of Record, *Gonzales*, 192 U.S. 1, 7, 1–2, 8–14; Domingo Collazo to José Pérez Losada, 19 Dec. 1928, in "Debemos los puertorriqueños tener un poco

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de mas cuidado con la verdad histórica de nuestras cosas regionales – dice Domingo Collazo," *El Imparcial*, 24 Dec. 1928, CIHCAM 18/L1 ("expresa solicitud"); Appellant's Brief, No. 225, *Gonzales*, 192 U.S. 1 (30 Nov. 1902), 3; Williams to Commissioner General, 24 Aug. 1903; D. Collazo, "Desde Nueva York," *La Correspondencia de Puerto Rico*, 19 Dec. 1903, 1; Petition of Federico Degetau, Resident Commissioner from Porto Rico, *Gonzales*, 192 U.S. 1 (n.d.); Brief Filed by Leave of the Court by Federico Degetau, Resident Commissioner from Porto Rico, as Amicus Curiæ, No. 225, *Gonzales*, 192 U.S. 1 (Nov. 1903); Frederic Coudert to Federico Degetau, 20 Apr. 1903, CIHCAM 4/II/144.

13. Manuel Rossy to Federico Degetau, 12 May 1903, CIHCAM 4/II/176 ("no es tan libre la acción legislativa del influjo de la acción ejecutiva como nos habíamos figurado leyendo lo que dicen los libros"); Draft, [Federico Degetau] to Manuel Rossy, 20 Feb. 1901, CIHCAM 2/VII/47 ("el respeto profundo"; "instituciones judiciales"); Charles E. Le Barbier and Orrel A. Parker to Federico Degetau, 12 Jan. 1903, CIHCAM 3/VII/6; Coudert to Degetau, 20 Apr. 1903; Brief Filed by … Federico Degetau, *Gonzales*, 192 U.S. 1, 2; Argument of Frederic R. Coudert Jr., Esq., on Behalf of the Petitioner-Appellant, *Gonzales*, 192 U.S. 1 (7 Dec. 1903), 73; Herminio Diaz to Federico Degetau, 5 Jan. 1904, CIHCAM 4/VIII/3; Petition of Federico Degetau, *Gonzales*, 192 U.S. 1; Hamilton Holt to Federico Degetau, 5 Nov. 1903, CIHCAM 4/VI/342; Hamilton Holt to Federico Degetau, 12 Nov. 1903, CIHCAM 4/VI/354; Hamilton Holt to Federico Degetau, 19 Nov. 1903, CIHCAM 4/VI/364; [Hamilton Holt] to Federico Degetau, 27 Nov. 1903, CIHCAM 4/VI/379.
14. Robert B. Armstrong to Collector of Customs, 9 Dec. 1903, CIHCAM 4/VII/11; Brief Filed by … Federico Degetau, *Gonzales*, 192 U.S. 1, 25–26; Copy, [Federico Degetau] to Teodoro Moscoso, 2 Oct. 1903, CIHCAM 4/V/309; "El Sr. Degetau: Su conferencia de anoche," newspaper unknown, 5 Aug. 1903, CIHCAM 18/L1; H.R. 3540 [Rep. No. 8], 58th Cong., 2d sess., 14 Dec. 1903, CIHCAM 4/VI/358; C. H. Keep to Federico Degetau, 11 Nov. 1903, CIHCAM 4/VI/352; R. B. Armstrong to Federico Degetau, 9 Dec. 1903, CIHCAM 4/VII/9; C. H. Keep to Melchior et al., 10 Nov. 1903, CIHCAM 4/VI/351; Manifest for the S.S. *Lorraine*, Port of New York, 24 Oct. 1903, PCLVANY M237/La Lorraine. My account of this dispute builds on Christina Duffy Burnett, "'They Say I Am Not an American … ': The Noncitizen National and the Law of American Empire," *Virginia Journal of International Law* 48 (2008): 691–692.

    Seeking confirmation of what he had earlier told President Roosevelt was a civil service decision classifying Puerto Ricans as citizens, Degetau also reached out to the recent chief of the Civil Service Record Division, George Leadley. Leadley responded that no such opinion had been published. Geo. Leadley to Federico Degetau, 29 Mar. 1904, CIHCAM 4/IX/26; Geo. Leadley to Bonifacio Sánchez, 7 Apr. 1903, CIHCAM 4/II/124; Draft Petition for Mandamus, no. 1504, Rodriguez v. Bowyer, 25 App. D.C. 121 (n.d.), CIHCAM 6/III/56; Transcript of Record, No. 1504, *Rodriguez*, 25 App. D. C. 121 (31 Dec. 1904), 1–2, CIHCAM 6/V/32. For Degetau's inquiries to the Census and the Bureau of Navigation, see Translation of Extract from "Special Instruction for the Enumerators of Department Number 2," n.d., CIHCAM 2/IV/15; Draft, Federico Degetau to Clarence Edwards, 20 June 1903, CIHCAM 4/III/222; Edgard Mc[?] to Federico Degetau, 27 June 1903, CIHCAM 4/III/230; Charles Magoon to Federico Degetau, 8 July 1903, CIHCAM 4/IV/239; Brief Filed by … Federico Degetau, *Gonzales*, 192 U.S. 1, 38; E. Cha[?] to Federico Degetau, 15 June 1903, CIHCAM 4/

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III/217. On an Ellis Island inquiry, see [Illegible] to Frederico Degetau, 14 Dec. 1903, CIHCAM 4/VII/23.

15. Gonzalez to Degetau, 5 Feb. 1903 ("estudiar . . . en algo"; "en muy mala posición"; "deseo de su buen corazón me allude [sic]"); Manifest for the S.S. *Ponce*, 18 May 1903, 78.
16. "Porto Ricans Not Aliens," 5 Jan. 1904; Frederic R. Coudert Jr., "Our New Peoples: Citizens, Subjects, Nationals or Aliens," *Columbia Law Review* 3 (Jan. 1903): 13–32; Porto Rican Vote Pledged to Bryan," *New York Times*, 1 Aug. 1908, 2; Veta R. Schlimgen, "Neither Citizens nor Aliens: Filipino 'American Nationals' in the U.S. Empire, 1900–1946," PhD diss., University of Oregon, 2010, and Christina Duffy Burnett, "Empire and the Transformation of Citizenship," in *Colonial Crucible: Empire in the Making of the Modern American States*, ed. Alfred W. McCoy and Francisco A. Scarano (Madison, WI, 2009), 332–341. Appellant's Brief, Gonzales v. Williams, 192 U.S. 1. On naturalization by marriage, see Act of Feb. 10, 1855, 10 Stat. 604, reenacted in *Revised Statutes of the U.S.* (1878), sec. 1994; Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Los Angeles, 1998), 15–44 and n1.
17. On the legal stories about Gonzalez that judges, lawyers, and inspectors crafted from the testimonies witnesses strategically provided them, see Burnett, "'They Say I Am Not an American'"; Éfren Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, DC, 2001). On legal stories more generally, see Barbara Young Welke, *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1865–1920* (Cambridge, 2001), 234–245.
18. Collazo to Degetau, 27 Aug. 1903 ("de una serie que me propongo publicar, y que tomarán carácter político"); Mariano Negrón Portillo, *Cuadrillas anexionistas y revueltas campesinas en Puerto Rico, 1898–1899* (Río Piedras, PR, 1987), 27–28; James H. McLeary, *First Annual Register of Porto Rico* (San Juan, PR, 1901), 59, 67; D. Collazo to Federico Degetau, 21 Nov. [1903], CIHCAM 6/I/42; D. Collazo, "Cosas Literarias de Puerto Rico: 'Tropicales,'" newspaper unknown, n.d., CIHCAM 18/L1; [Matter?] to Federico Degetau, 21 Oct. 1903, CIHCAM 4/V/327; B. Díaz to Federico Degetau, 6 Oct. 1903, CIHCAM 4/V/312.
19. Collazo, "Desde Nueva York," 19 Dec. 1903 ("posesión de 'dependencias'"; "instituciones"; "espíritu . . . democrático"; "se les niega . . . los derechos personales protegidos por la Constitución"; "podemos acariciar la esperanza"); Collazo to Degetau, 21 Nov. [1903] ("nos dirá *once again* la Corte Suprema que no somos americanos"); Porto Rican Exile, "Correo de Nueva York," *La Democracia*, 6 Aug. 1910, 1.
20. Racial analogies and comparisons integrated and reintegrated communities into racial hierarchies whose changeability underlay their resilience. Law reinforced and altered racial hierarchies by defining racial groups and enforcing their subordination or elevation. Las was also centripetal, privileging analogies and comparison and widely understood to form a unified, rational whole. Such traits encouraged fitting new racialized communities into one or another doctrinal form already applicable to another community. Law and race thus operated as potential exceptions to what Karen Barkey describes as the general structure of empire as a hub connected by spokes to distinct peripheries, few of which have substantial connections to each other or are subject to common forms of governance. See *Empire of Difference: The*

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Ottomans in Comparative Perspective (Cambridge, 2008), 1, 9. On classical legal thought, including its depiction of law as a rational whole, see Morton J. Horwitz, *The Transformation of American Law 1870–1960: The Crisis of Legal Orthodoxy* (New York, 1992); Thomas C. Grey, "Langdell's Orthodoxy," *University of Pittsburgh Law Review* 45 (1983): 1–53; Duncan Kennedy, "Toward an Historical Understanding of Legal Consciousness: The Case of Classical Legal Thought in America, 1850–1940," *Research in Law and Sociology* 3 (1980): 3–24; Stephen A. Siegel, "Francis Wharton's Orthodoxy: God, Historical Jurisprudence, and Classical Legal Thought," *American Journal of Legal History* 46 (2004): 422–446. On race as relational, alterable, resilient, consequential, and shaped and enforced by law with respect to late nineteenth- and, especially, early twentieth-century U.S. residents of Mexican descent, see Natalia Molina, *Fit to Be Citizens? Public Health and Race in Los Angeles, 1879–1939* (Berkeley, CA, 2006); Julie M. Weise, *Corazón de Dixie: Mexicanos in the U.S. South since 1910* (Chapel Hill, NC, 2015).

21. Brief for the United States, No. 225, *Gonzales*, 192 U.S. 1 (n.d.), 37–38, 41, 57–58, 55–60.
22. Appellant's Brief, *Gonzales*, 192 U.S. 1, 32, 3–4.
23. Ibid., 4–5, 3, 6–7, 13–21, 28, 32; Brief for Plaintiffs in Error, No. 507, *Downes*, 182 U.S. 244 (2 Jan. 1901), 84, 82, 85–91, 93; Opening Argument of Mr. Coudert, *Downes*, 182 U.S. 244 (8 Jan. 1901), 9, 41–42. On the changing substance and prominence of international law and its relationship to U.S. empire, see Benjamin Allen Coates, *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century* (Oxford, 2016).
24. Appellant's Brief, *Gonzales*, 192 U.S. 1, 12, 15, 10, 13–27, 36–39. On judicial paternalism, see Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America* (Chapel Hill, NC, 1985). *Rapto* was not part of U.S. law, but as Grossberg recounts, U.S. justices had come of age in a legal culture that enforced a civil action for breach of contract to marry.
25. Appellant's Brief, *Gonzales*, 192 U.S. 1, 18–28; Slaughter-House Cases, 83 U.S. 36 (1873); Minor v. Happersett, 88 U.S. 162 (1875); Civil Rights Cases, 109 U.S. 3 (1883); Wong Wing v. United States, 163 U.S. 228 (1896); United States v. Wong Kim Ark, 169 U.S. 649 (1898); Plessy v. Ferguson, 163 U.S. 537 (1896); Giles v. Harris, 189 U.S. 475 (1903); Rebecca J. Scott, "Public Rights, Social Equality, and the Conceptual Roots of the *Plessy* Challenge," *Michigan Law Review* 106 (Mar. 2008): 777–804; Richard H. Pildes, "Democracy, Anti-Democracy, and the Canon," *Constitutional Commentary* 17 (Summer 2000): 295–319; Pamela Brandwein, *Rethinking the Judicial Settlement of Reconstruction* (Cambridge, 2011).
26. Appellant's Brief, *Gonzales*, 192 U.S. 1, 6, 35–36, 33–34, 1–7, 22–24, 27–28, 37. See also Argument of Coudert, *Gonzales*, 51–53, 62–65; Brandwein, *Rethinking the Judicial Settlement* .
27. Appellant's Brief, *Gonzales*, 192 U.S. 1, 6, 38–39, 25, 28–32; Scott v. Sanford, 60 U.S. 393 (1857); Elk v. Wilkins, 112 U.S. 94 (1884); Dawes Act, 24 Stat. 388 (1887); Patrick Weil, *How to Be French: Nationality in the Making*, trans. Catherine Porter (Durham, NC, 2008).
28. Brief Filed by … Federico Degetau, *Gonzales*, 192 U.S. 1, 33. In "Evaluating Legality: Toward a Cultural Approach to the Study of Law and Social Change,"

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Law & Society Review 37 (June 2003): 323–368, Idit Kostiner observes that the activists she studied initially saw law as an instrumental means both to achieve particular material ends and to empower marginalized people; most attempted to alter societal views more broadly only after discovering the limits of the former strategies. By contrast, in following his vision of paternalistic leadership, Degetau focused on instrumentalism and changing the views of the U.S. public but did not seek to empower marginalized people by bringing them to law.

29. Treaty of Peace between the United States of America and the Kingdom of Spain, 10 Dec. 1898, 30 Stat. 1754, 1759; Brief Filed by . . . Federico Degetau, *Gonzales*, 192 U.S. 1, 30, 18, 19–22, 27–29, 36. Degetau's brief gives the source of the nested quotation as "Zamora y Coronado, 'Legislación Ultramarina,' Tomo I, p. 255–257."
30. Brief Filed by . . . Federico Degetau, *Gonzales*, 192 U.S. 1, 28, 19–20, 33–36. Degetau's brief gives the source of the quotation as "Foreign Relations of the United States, 1898. Correspondence with the United States Peace Commissioners, p. 961."
31. Brief Filed by . . . Federico Degetau, *Gonzales*, 192 U.S. 1, 25–26. The source of the nested quotation is Degetau's own certificate.
32. Ibid., 21–22, 33–34, 37–41; Foraker Act, sec. 14, 31 Stat. 77, 80 (1900).
33. U.S. Constitution, am. XIV, sec. 1; Brief Filed by . . . Federico Degetau, *Gonzales*, 192 U.S. 1, 13, 12, 34. The source of the nested quotations is the *Slaughter-House Cases*, 83 U.S. 36, 77 (1873).
34. Brief Filed by . . . Federico Degetau, *Gonzales*, 192 U.S. 1, 39, 43.
35. Pedro García Olivieri, Letter to Editor, "Puerto Rico en la Corte Suprema Nacional," *Puerto Rico Herald*, 12 Dec. 1903, 1127 ("por cortesía"; "por su derecho"). According to War Department law officer Charles Magoon, insular residents could not be considered aliens following the decision to preempt Degetau's passport test case by providing them consular protection. See MD NARA 350/5A/5507-1.
36. Argument of Coudert, *Gonzales*, 192 U.S. 1, 54–55, 49–56.
37. Ibid.; Annex 1 to Protocol No. 22, 10 Dec. 1898, in *A Treaty of Peace between the United States and Spain: Message from the President of the United States, Transmitting a Treaty of Peace between the United States and Spain, Signed at the City of Paris, on December 10, 1898*, S. Doc. No. 62, pt. 2, 55th Cong., 3d sess. (1899), 261–262.
38. *Gonzales*, 192 U.S., at 12, 10, 8–15; "Porto Ricans as 'Aliens,'" *Chautauquan* 36 (Dec. 1902): 233. Multiple factors that the Court cited as indicating integration of Puerto Rico into the United States did not apply to U.S.–Philippines relations. Philippines Organic Act of 1902, 32 Stat. 691.
39. *Gonzales*, 192 U.S., at 12.
40. On courts and constitutional outliers, see Thomas M. Keck, "Party Politics or Judicial Independence? The Regime Politics Literature Hits the Law Schools," *Law & Social Inquiry* 32 (2007): 528; Keith E. Whittington, "Once More unto the Breach: PostBehavioralist Approaches to Judicial Politics," *Law & Social Inquiry* 25 (2000): 613; Michael J. Klarman, *From the Closet to the Altar: Courts, Backlash, and the Struggle for Same-Sex Marriage* (Oxford, 2012), 205.
41. F. R. Coudert to Clarence Edwards, 14 Dec. 1909, MD NARA 350/5A/2333-3; "The Week," *Nation*, 7 Jan. 1904, 2; D. Collazo, Letter to Editor, "Nationality of Porto Ricans," *New York Times*, 13 Sept. 1904, 8. I thank Christina Ponsa for

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alerting me to Collazo's letter. See Burnett, "'They Say I Am Not an American,'" 660, 670, 710.

Neal Kumar Katyal and Thomas P. Schmidt use the term "generative avoidance" to describe the phenomenon of reserving constitutional questions in ways that create new constitutional norms, in "Active Avoidance: The Modern Supreme Court and Legal Change," *Harvard Law Review* 128 (2015): 2109–2165. Keith Whittington, *Political Foundation of Judicial Supremacy* (Princeton, NJ, 2007), 72, suggests that general articulations of constitutional visions by the Supreme Court may at times be of more moment than the specific judgments the Court issues. William J. Novak, "The Myth of the 'Weak' American State," *American Historical Review* 113 (June 2007): 767–768, observes that law is a creative source of power that operates both within and beyond courts. But Cass Sunstein, "Beyond Judicial Minimalism," *Tulsa Law Review* 43 (2008): 839, implicitly places judicially minimalistic reasoning and holdings in opposition to judicial activism.

Some early twentieth-century legal scholars included *Gonzales* among the *Insular Cases*: Pedro Capó Rodríguez, "The Relations between the United States and Porto Rico," *American Journal of International Law* 13 (1919): 483–525; Quincy Wright, "Treaties and the Constitutional Separation of Powers in the United States," *American Journal of International Law* 12 (1918): 64–95. Many modern scholars would agree that it belongs there. See Bartholomew H. Sparrow, *The* Insular Cases *and the Emergence of American Empire* (Lawrence, KS, 2006); Rivera Ramos, *Legal Construction of Identity*; Christina Duffy Burnett, "A Note on the *Insular Cases*," in *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, ed. Christine Duffy Burnett and Burke Marshall (Durham, NC, 2001), 389–392.

On women, dependency, and citizenship, see Adam Winkler, "A Revolution Too Soon: Woman Suffragists and the 'Living Constitution,'" *New York University Law Review* 76 (Nov. 2001): 1456–1526; Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998); Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, MA, 2000); Nancy F. Cott, "Marriage and Women's Citizenship in the United States, 1830–1934," *American Historical Review* 103 (Dec. 1998): 1440–1474; Linda K. Kerber, "Toward a History of Statelessness in America," *American Quarterly* 57 (2005): 728–749; Martha S. Jones, "*All Bound Up Together": The Woman Question in African-American Public Culture, 1830–1900* (Chapel Hill, NC, 2007).

42. See, for example, Paul Charlton, Memorandum Regarding Naturalization of Residents of the Philippine Islands, with draft of proposed bill, 13 Feb. 1906, MD NARA 350/5A/5507-6. The challenge to individual honor mattered because honor was a measure of conformity with associated codes of conduct and a measure of hierarchical social standing capable of influencing other criteria, such as race, wealth, femininity, manliness, and authority. The failed attempt to secure citizenship for all Puerto Ricans mattered for a similar reason. Loyalty to one's people and principles as well as to one's associates demonstrated honor and was required by it. On these aspects of honor in the United States, see Wyatt-Brown, *Southern Honor*; Nicole Etcheson, "Manliness and the Political Culture of the Old Northwest, 1790–1860," *Journal of the Early Republic* 15 (Spring 1995): 59–77; Kenneth S. Greenberg, *Honor and Slavery: Lies, Duels, Noses, Masks, Dressing as a Woman, Gifts, Strangers, Humanitarianism, Death, Slave Rebellions, the Proslavery Argument, Baseball, Hunting, and Gambling in the Old South*

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(Princeton, NJ, 1996); Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton, NJ, 2000). On honor in Latin America, see Johnson and Lipsett-Rivera, *Faces of Honor*; Caulfield, Chambers, and Putnam, *Honor, Status and Law*.

43. "Porto Ricans Not Aliens," 5 Jan. 1904; "Are Not Citizens," *Star* (Reynoldsville, PA), 15 Oct. 1902, 6; Collazo, "Nationality of Porto Ricans"; "The Forgotten Island,"*Commoner* (Lincoln, NE), 23 June 1905, 14; "Every Encroachment Important," *Commoner* (Lincoln, NE), 30 Sept. 1904, 3; State of New York Certificate and Record of Birth of Eva Gonzalez Vinals, 8 Sept. 1902, No. 35785, NYCMA; Transcript of Record, *Gonzales*, 192 U.S. 1, 4. A search of the New York Municipal records has not revealed a marriage certificate. The birth certificate used the anglicized "Vinals."
44. Adolfo Vinals, Letter to Editor, "Commerce with Latin America," *New York Tribune*, 19 Feb. 1905, 7; *N. Bolet-Peraza, Memoratissimus* (n.p., 1907?), 52–53; *Trow's General Directory of the Boroughs of Manhattan and Bronx City of New York for the Year Ending August 1, 1910*, vol. 123 (New York, 1909), 1513, Ancestry.com; *The Trow (Formerly Wilson's) Copartnership and Corporation Directory of the Boroughs of Manhattan and the Bronx City of New York* (New York, Mar. 1909), 634; 1910 Census I/12/619/13A/Manhattan, NY.
45. Isabel Gonzalez, Letter to Editor, "'Citizenship for Porto Ricans,'" *New-York Daily Tribune*, 25 Nov. 1906, 13; Luis Sánchez Morales, "El famoso caso de ciudadanía de Isabel Gonzalez," *Almanaque puertorriqueño asenjo* (San Juan, PR, 1937), 97 ("conejillo de Indios"); 1915 Census 8/15/New York, NY/48; 1904 Census 34/19; 1904 Census 35/55; Death Certificate of Maria Vinal, 29 May 1905, NYCMA Richmond/rn 573/1322798, https://familysearch.org/ark:/61903/1:1:2W59-YSF; 1910 Census 1/619/12/13A/Manhattan, NY; 1915 Census 8/19/New York/48; Acta de Matrimonio de Adolfo Viñals Jiminez y Maria Luisa Pacheco Santiago; List 2 of Manifest for SS *Caracas*, 21 Mar. 1910, PCLVANY T715/1433; 1910 Census 1/1638/35/9A/Bronx, NY; Juan F. Torres Hinkson, Registration of Puerto Rican Citinez [*sic*], American Consulate, Puerto Plata, DR, 8 Jan. 1908, DC NARA, RG 59, U.S. Consular Registration Certificates, 1907–1918, Certificate Number: 4001-4500, no. 4126, Ancestry.com; Manifest of SS *Montserrat*, 11 Dec. 1902, PCLVANY T715/1387; Birth Record of Jose Torres y Davila, 17 Dec. 1902, Registro Civil, 1805–2001, Departamento de Salud de Puerto Rico, municipio de Bayamón, volumen de nacimientos abr. 1894–feb. 1904/398, https://familysearch.org/pal:/MM9.3.1/TH-1-159372-859255-83?cc=1682798; Acta de Nacimiento de Sabina Concepción Feliciano Davila, 29 Mar. 1908, Registro Civil, 1805–2001, Departamento de Salud de Puerto Rico, municipio de Bayamón, volumen de nacimientos 1907–1908, 272, https://familysearch.org/ark:/61903/1:1:QV1Y-2JYZ; 1920 Census PR/San Juan/Santurce/24/28; Marriage Certificate of Juan Frank Torres and Isabel Gonzalez, NYCMA Manhattan/cn 28024/1614231, https://familysearch.org/ark:/61903/1:1:24QZ-6FH; 1915 Census 18/23/New York/11.
46. Gonzalez to Degetau, 10 Apr. 1904 ("Una de las cosas por que vine yo á los Estados Unidos fue por la educación de una hermanita que hoy tengo á mi lado, y que desearía poner en uno de esos Colegios de pobres en los que están poniendo muchos de nuestros paisanos"); Gonzalez to Degetau, 5 Feb. 1903.
47. Isabel Gonzales, "What Porto Rico Demands," *New York Times*, 20 Dec. 1905, 10; Isabel Gonzalez, "Sauce for Goose and Gander," *New York Times*, 5 Aug. 1905, 6.

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Like Coudert, Gonzalez drew lessons from other colonial experiences, and like Degetau she complained that the United States treated civilized Puerto Ricans with less dignity than other empires treated their natives. Isabel Gonzalez, "Where England Shows Tact," *New York Times*, 3 Sept. 1905. When lobbying for a Puerto Rican naturalization bill in 1906, secretary of war and future president William Howard Taft characterized the Court as classifying Puerto Ricans as "neither citizens . . . nor aliens." See correspondence collected at MD NARA 350/5A/5507-11. Although Collazo later wrote that "'Isabel Gonzales' was only a penname" for himself, the same article quoted a letter from the secretary of Boston's Anti-Imperialist League that investigated the matter and labeled Gonzalez a separate and "valuable correspondent." Porto Rican Exile, "Correo." For a discussion of narratives of Puerto Rican women's rescue as justification for colonial projects, see, for example, Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico* (Berkeley, CA, 2002), 15.

48. Collazo, "Nationality of Porto Ricans"; D. Collazo, Letter to Editor, "The Plight of Porto Rico," *New York Times*, 24 Oct. 1904, 8.
49. Manuel Rossy to Federico Degetau, 26 Jan. 1904, CIHCAM 4/VIII/14 ("Si el Tribunal Supremo pudiera declarar ciudadanos americanos á los habitantes de un país por el mero hecho de la . . . anexión"; "tendrían que conceder la ciudadanía [a] cualquier advenedizo ó enemigo que por azares de la vida hubiese necesidad de anexar ó conquistar"; "no formarían una verdadera nación, porque llevarían dentro de sí los gérmenes destructores de su propia soberanía"); *Informe de los delegados del Partido Republicano de Puerto Rico ante la Convención Nacional Republicana celebrada en Chicago, en 21 de junio de 1904* ([San Juan?], PR, 1904), CIHCAM 6/L8; [Federico Degetau] to Joseph Babcock, 30 May 1904, CIHCAM 5/I/35. For examples of Puerto Rican media coverage of *Gonzales*, see "Puerto Ricans Admitted," *Puerto Rico Herald*, 9 Jan. 1904, 1188; "Puerto Rico ante la Corte Suprema," *Puerto Rico Herald*, 9 Jan. 1904, 1191; "Porto Ricans Not Aliens," *San Juan News*, 6 Jan. 1904, 1. On Federales' agreement that Congress and not the courts was the only way to gain citizenship, see "El señor Degetau dio una conferencia en Ponce," *La Democracia*, 1 Aug. 1904, 2; "Conferencia del Sr. Degetau," *La Democracia*, 8 July 1904, 1.
50. Degetau to Moscoso, 2 Oct. 1903 ("mantenernos como una dependencia indefinidamente"; "el Tribunál [sic] Supremo nos declara ciudadanos americanos"); "Puerto Ricans Admitted"; W. Wheelock to Federico Degetau, 14 Jan. 1904, CIHCAM 4/VIII/11; Federico Degetau, *The Constitution and the Flag in Porto Rico: Why the Porto Ricans Are Proud of Their Regiment: Speech of Hon. Federico Degetau of Porto Rico in the House of Representatives, Thursday, January 19, 1905* (Washington, DC, 1905), CIHCAM 6/L10; *Informe de los delegados*, 4–12; Manuel Rossy to Federico Degetau, 2 Dec. 1903, CIHCAM 4/VII/3; title unknown, *Evening Star*, 11 Dec. 1903, CIHCAM 18/L1; José de [?]man [Semilez?] to Federico Degetau, 7 Jan. 190[4], CIHCAM 3/V/4; "Recognition of Porto Rico," *Washington Post*, 12 Dec. 1903, 3; "Chicago Secures Big Convention," *Chicago Daily*, 13 Dec. 1903, 1; Draft, [Federico Degetau] to Mr. Henry, [June 1904], CIHCAM 5/II/8; Franklin Mooney to Federico Degetau, 2 June 1904, CIHCAM 5/II/5; Hamilton Holt to Federico Degetau, 25 Feb. 1904, CIHCAM 4/VIII/40; W. W. Wheelock to Federico Degetau, 26 Feb. 1904,

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CIHCAM 4/VIII/41; "Delegate from Porto Rico," *New York Times*, 3 Feb. 1904, 6; H.R. 11592 (2 Feb. 1904); 38 Cong. Rec. 1543, [Bills] 307; 39 Cong. Rec. [Bills], 87.

51. "Habla Degetau," *La Democracia*, 24 Aug. 1904, 5 ("colocó á Puerto Rico … *on the colonial basis*"; "Territorio indio"; "incluyendo … indios"); platform of National Republican Party, quoted in "Párrafos del Manifiesto del señor Degetau," *La Democracia*, 2 Sept. 1904, 4 ("Hemos organizado el gobierno de Puerto-Rico y sus habitantes ahora gozan de paz, libertad, orden y prosperidad"); *Informe de los delegados*, 19–21; "D. Federico Degetau y González," *La Democracia*, 24 June 1904, 2; "Platform of Republican Party, 1904," in *Republican Campaign Text-Book* (Milwaukee, 1904), 485–488.
52. "Párrafos" ("que 'antes de gobernarnos debemos probar que sabemos hacerlo'"; "luchando por nuestra ciudadanía"); A. Navarrete to Federico Degetau, 30 Sept. 1904, CIHCAM 5/II/17; Negrón Portillo, *Cuadrillas anexionistas*, 16–17; "Puerto Rican Commissioners Accompanying General Miles's Army" (photograph), *Harper's Weekly*, 13 Aug. 1898, 800; *Second Annual Report of the Governor of Porto Rico, Covering the Period from May 1, 1901, to July 1, 1902* (Washington, DC, 1902), 86; Harold J. Lidin, *History of the Puerto Rican Independence Movement*, vol. 1 (Hato Rey, PR, 1981); "Candidatura republicana," *La Democracia*, 19 Sept. 1904, 1; "Porto Rico Nominations," *Washington Post*, 11 Oct. 1904, 4.
53. "Candiditos [*sic*] á Washington," *La Democracia*, 6 July 1904, 1; Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898–1932* (Boulder, CO, 1999), 182–187; "Asamblea para constituir la Unión de Puerto Rico," *Puerto Rico Herald*, 5 Mar. 1904, 1317; "De cómo puede hacerse la unión," *Puerto Rico Herald*, 9 Jan. 1904, 1191; "Ponce viene á 'la Unión,'" *La Democracia*, 1 Aug. 1904, 1.
54. Fernando Bayrón Toro, *Elecciones y partidos políticos de Puerto Rico* (1809–1976) (Mayagüez, PR, 1977), 125–126; L. David Roper, "Composition of Congress since 1867" (2009?), www.roperld.com/personal/politics/congress.htm.
55. Brief for Appellant, No. 1504, *Rodriguez*, 25 App. D.C. 121 (n.d.), CIHCAM 6/VI/33; Transcript of Record, No. 1504, *Rodriguez*, 25 App. D.C. 121, 7, 3–11; Degetau, *The Constitution and the Flag in Porto Rico*; Brief for Appellees, No. 1504, *Rodriguez*, 25 App. D.C. 121 (4 Feb. 1905), 11–13, CIHCAM 6/VI/34. The secretary of state was a lawyer. Merrill E. Gates, ed., *Men of Mark in America*, vol. 1 (n.p., 1905), 274.
56. Brief for Appellant, *Rodriguez*, 25 App. D.C. 121; Rule 5 of the Civil Service Commission, quoted in "Porto Rican Eligible," *Washington Post*, 8 Mar. 1905, 6; "The Legal Record," *Washington Post*, 8 Feb. 1905, 9; *Rodriguez*, 25 App. D.C. 121 (1905). The brief gives as the respective sources of the nested quotations the Constitution's preamble and "Monsieur de Cogordan, in his book on French Nationality." Degetau's vision of universal U.S. citizenship seemingly encompassed Filipinos as well as Puerto Ricans.
57. Passport Application of Ana Moreno Viuda de Degetau, 29 Apr. 1914, PAHIPRP 1913–1914/14/1103; William Jennings Bryan et al., *El paso de Mr. Bryan por San Juan* (n.p., 1910), 24–25 ("la alta distinción recibida del Tribunal Supremo de los Estados Unidos"; "la definición de nuestro *status* como ciudadanos americanos"); [Federico Degetau] to Pedro Salazar, 16 June 1909, CIHCAM 10/II/26; Draft, Federico Degetau to Julio Gonzalez Pola, 6 Dec. 1910, CIHCAM 5/IV/15. Degetau initially succeeded but ultimately failed to use

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litigation to expand his political movement, garner support for it, and leverage his other political tactics. See John D. Skrentny, "Law and the American State," *Annual Review of Sociology* 32 (2006): 231, suggesting the possibility of these benefits of litigation.

RECONSTRUCTING PUERTO RICO, 1904–1909

1. William R. Merriam, *Census Reports*, vol. 1 (Washington, DC, 1901), xxii; *Thirteenth Census of the United States Taken in the Year 1910: Abstract of the Census* (Washington, DC, 1913), 21; S. N. D. North, *Population of Oklahoma and Indian Territory 1907* (Washington, DC, 1907), 7. In 1907 Oklahoma became a state, with a census-recorded population that was by then somewhat larger than that of Puerto Rico.
2. For work describing and theorizing the slow emergence of powerful, autonomous agencies from a U.S. state largely constituted by political parties and courts, see Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York, 1982). See also Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA, 1993); Peter H. Argersinger, "The Transformation of American Politics: Political Institutions and Public Policy, 1865–1910," in *Contesting Democracy: Substance and Structure in American Political* History, *1775–2000*, ed. Byrn E. Shafer and Anthony J. Badger (Lawrence, KS, 2001).
3. Samuel Gompers, "President Gompers in Porto Rico," *American Federationist*, Apr. 1904, 293–294; David Montgomery, "Workers' Movements in the United States Confront Imperialism: The Progressive Era Experience," *Journal of the Gilded Age and Progressive Era* 7 (Jan. 2008): 14; Carlos Sanabria, "Samuel Gompers and the American Federation of Labor in Puerto Rico," *Centro Journal* 17 (Spring 2005): 140–161.
4. Samuel Gompers, "President Gompers in Porto Rico," *American Federationist*, Apr. 1904, 293–294; Elihu Root to Lyman Abbott, n.d., quoted in Dana G. Munro, *Intervention and Dollar Diplomacy in the Caribbean 1900–1921* (Princeton, NJ, 1964), 113, 54–63, 101–106; Montgomery, "Workers' Movements," 14; David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925* (New York, 1987), 5–6; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, MA, 2005), 213–214. On the long history of U.S. involvement in trans-Panama transportation projects, including "the creation of the Panama Canal Zone – a colony in everything but name," see also Aims McGuinness, *Path of Empire: Panama and the California Gold Rush* (Ithaca, NY, 2008), 195.
5. *Report of Proceedings of the Twenty-Fifth Annual Convention of the American Federation of Labor* (Washington, DC, 1905), 17, quoted in Montgomery, "Workers' Movements," 20–21; Joseph Bedford, "Samuel Gompers and the Caribbean: The AFL, Cuba, and Puerto Rico," *Labor's Heritage* 6, no. 4 (1995): 10–11, 22–23; Samuel Gompers to Santiago Iglesias, 16 Oct. 1907, CDO:1; [Samuel Gompers?], [title unknown], *American Federationist* 15 (Dec. 1908): 1070, CDO:1.

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